

CORONERS COURT OF SOUTH AUSTRALIA

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INQUEST INTO THE DEATHS OF NAN LESLEY WALKER, IAN REX WALKER AND SUZANNE MARY SKEER

[2026] SACC 20

Inquest Findings of her Honour Deputy State Coroner Kereru

25 June 2026

CORONIAL INQUEST

Examination of the cause and circumstances of the deaths of three occupants of a vehicle that collided with another vehicle which had crossed onto the wrong side of the road. The Inquest explored the circumstances that led to the driver of the vehicle on the wrong side of the road being issued a learners permit notwithstanding being diagnosed with medical conditions, and the mechanisms by which such conditions are identified in the application process.

Held:

1. Nan Lesley Walker, aged 77 years of Millicent, died at Suttontown on 28 November 2020 as a result of multiple injuries.
2. Ian Rex Walker, aged 80 years of Millicent, died at Suttontown on 28 November 2020 as a result of multiple injuries.
3. Suzanne Mary Skeer, aged 55 years of Millicent, died at Suttontown on 28 November 2020 as a result of multiple injuries.
4. Circumstances of death as set out in these findings.

Recommendations made.

Counsel Assisting: MR M KIRBY

**Interested Party: DEPARTMENT FOR INFRASTRUCTURE AND TRANSPORT & LIMESTONE COAST
LOCAL HEALTH NETWORK**

Counsel: MS A HAINES - Solicitor: CROWN SOLICITOR

Witness: DR D DE SILVA & MR S GILBERT

Counsel: MS A HAINES - Solicitor: CROWN SOLICITOR

Witness: DR R HUGHES

Counsel: MR A KALALI - Solicitor: AVANT LAW

Hearing Date/s: 18/02/2025-20/02/2025

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**INQUEST INTO THE DEATHS OF
NAN LESLEY WALKER, IAN REX WALKER
AND SUZANNE MARY SKEER
[2026] SACC 20**

Introduction

- 1 This Inquest related to a collision that occurred between two vehicles on the Princes Highway at Suttontown in November 2020 which claimed the lives of three people. Each of those people were travelling in the same vehicle. Concerns were raised about the health of the driver of the other vehicle and the Inquest explored whether there were defects in the process of issuing his licence.

Content of these findings

- 2 In determining what factual findings to make, I have proceeded on the basis of an assessment of the evidence and what is clear on the balance of probabilities. Where I express a fact, I do so on the basis that, after consideration of the whole of the evidence, I am satisfied that that fact has been established as more likely than not.
- 3 I warn myself concerning a vital consideration in the assessment of the evidence and any potential criticisms of witnesses in this Inquest, namely, hindsight bias.
- 4 A description of ‘hindsight bias’ is given in the Australasian Coroners Manual, namely:

The tendency after the event to assume that events are more predictable or foreseeable than they really were. What is clear in hindsight is rarely as clear before the fact. If it were, there would be far fewer mistakes made. It is an obvious point, but one that nonetheless bears repeating, particularly when Coroners are considering assigning blame or making adverse comments that might damage a person’s reputation ...

Hindsight, of course, is a very useful tool for learning lessons from an unfortunate event. It is not useful for understanding how the involved people comprehended the situation as it developed. The distinction needs to be understood and rigorously applied.

- 5 To assess the actions of those involved with an assumption of knowledge of outcome works an unfairness.
- 6 Applying that principle to the current matter, it is apparent that if the driver of the vehicle that crossed onto the wrong side of the road had not been issued a licence, then the collision would not have occurred. However, those dealing with that question were required to assess the risk of that occurring without the knowledge of what was to transpire. I am very mindful of this warning when considering the evidence in this Inquest and I will assess the actions of those involved on the basis of the information and risks that presented to them at the time.
- 7 I do not propose to recount all the evidence I heard in this Inquest in these findings. I will focus on explaining the evidence I heard in order to determine the issues I am required to resolve, and to achieve the legislative purpose; to ascertain the cause and circumstances of the deaths.

Those involved

- 8 Ian Walker, or Ned as he was known, was born on 20 March 1940. His wife Nan was born on 19 October 1943. They were married for 59 years and were approaching their 60th anniversary at the time of their deaths. They had lived in the Millicent community for about 33 years.
- 9 Suzanne Skeer was their daughter, born on 10 December 1964. Mrs Skeer herself was married with children and grandchildren of her own.
- 10 Mr and Mrs Walker would affectionately fight with each other but were a happy couple. They have been remembered by their children, their grandchildren and their siblings as loving parents who were caring, warm and involved, both in the lives of their family as well as their community. They would watch their grandchildren play netball and have extended family over for Sunday night dinners. Mrs Walker was quoted by her daughter Kerri-Lee as saying, 'I may not have much but I'm the richest person in the world as I have my family'.
- 11 They were popular figures in the South Australian and Western Australian horse racing industry and were well-regarded in their community.
- 12 Mrs Skeer and her husband were also very loved members of their family. Together they had moved into their dream home in the months before her death and purchased a caravan for travelling holidays. Mrs Skeer was known as the loud and crazy aunty to some of her nieces and nephews. She was looking forward to the birth of her sixth grandchild. Her daughter Amy described her as a second mum to her children. She taught them to knit, she hosted sleepovers with them and had a generally close and loving relationship.

The collision

- 13 On 28 November 2020, Mr and Mrs Walker were travelling with Mrs Skeer from Millicent to the Mount Gambier Hospital for Mr Walker to have some scans performed, as he had been unwell. Mrs Walker was driving their Ford Territory. Mr Walker was in the passenger seat and Mrs Skeer was in the rear.
- 14 At about 12:30 pm they were in the vicinity of Suttontown on the Princes Highway. As they approached the crest of a hill, they encountered a Toyota LandCruiser travelling in the opposite direction, but in their lane.
- 15 That LandCruiser was being driven by a young person, TB, who had held a learner's permit since 29 July 2020 and had completed 42 hours of driving time at the time of the accident. His mother held a full licence and was in the passenger seat, fulfilling the supervisor role. There were three other people in that vehicle.
- 16 Mrs Walker moved out of the path of the oncoming vehicle, which put her onto the wrong side of the road. TB then appeared to have appreciated that he was on the wrong side of the road and corrected himself back into the correct lane, directly into Mrs Walker's path. The two cars then collided.
- 17 Mr and Mrs Walker, together with Mrs Skeer, were killed instantly. In the LandCruiser, one of his passengers, his cousin, sustained serious harm. Three other passengers sustained harm. TB sustained a nose bleed.

Cause of death

- 18 Post-mortem examinations in relation to each of Mr and Mrs Walker and Mrs Skeer were conducted by senior consultant forensic pathologist, Dr Karen Heath. In each case, these examinations were limited to external inspection, CT scan and toxicological analysis.
- 19 In relation to Mr Walker, Dr Heath found rib, vertebral, scapula, pelvic, femur, fibular and foot fractures. There were bilateral pneumothoraces and disruption of the chest wall with large haematomas, as well as a ruptured left hemidiaphragm. In accordance with Dr Heath's conclusion,¹ I find that Mr Walker's death was as a result of multiple injuries.
- 20 In relation to Mrs Walker, Dr Heath found subarachnoid haemorrhage, rib, sternal, maxillary, femoral, tibular, fibula, patella, ramus, sacrum and humerus fractures. There were bilateral haemothoraces and a left pneumothorax. There were traumatic pneumatoceles. There were pulmonary contusions. There was a mediastinal haemorrhage around the left pulmonary hilum. There was splenic haematoma. Dr Heath found evidence of coronary artery disease and aortic calcification. In accordance with Dr Heath's conclusion,² I find that Mrs Walker's death was as a result of multiple injuries.
- 21 In relation to Mrs Skeer, Dr Heath found rib, sternal, clavicular, humerus, acetabulum and ramus fractures. There were bilateral haemothoraces, bilateral pneumothoraces and pulmonary contusions. There was an abdominal wall laceration with a right flank haematoma. In accordance with Dr Heath's opinion,³ I find that Mrs Skeer's death was as a result of multiple injuries.

TB

- 22 TB was born in 2004 and was 16 years old at the time of the collision. He had been diagnosed with a number of medical conditions from an early age and was under the care of a general practitioner, a psychologist and a paediatrician.
- 23 In TB's medical records, his developmental delays were well documented.⁴ I heard evidence from TB's mother, whom I will refer to as Mrs B. She was able to provide a more descriptive general background into TB's early life, and how his medical conditions developed, evolved, and affected him. She described some of his hyper-focused behaviour, which included hours sorting and organising toy trains. She explained that his inability to maintain focus and attention only presented itself with things that TB did not want to do or that did not interest him, such as schoolwork, household chores, and personal grooming.
- 24 Dr Daham de Silva was TB's treating paediatrician. He gave evidence at the Inquest. He described his impressions of TB's attention and focus, which appear to be in alignment with Mrs B's evidence, as mainly problematic in a learning environment. He explained that TB found it most difficult to concentrate on tasks that he found boring at school. As is often associated with these conditions, TB also had difficulties with sleep.

¹ Exhibit C2b

² Exhibit C2a

³ Exhibit C2c

⁴ Exhibit C35

- 25 Dr de Silva gave evidence that TB's conditions were moderate in severity. He explained however that, in his experience, developmental delays and attention-deficit hyperactivity disorder (ADHD) were things that could improve over time. Therefore, the earlier assessments of TB when he was aged between 7 and 10 years old were not necessarily an accurate guide for his level of functioning as a teenager at the time of the collision.
- 26 The medical conditions reported by TB and Mrs B to a medical practitioner proximate to the accident in question were: Autism Spectrum Disorder, ADHD, Tourette's Syndrome, behaviour problems, and developmental delays.⁵
- 27 When interviewed following the collision, TB explained:
- Ahm, I was driving at the spot yeah ahm going a hundred and I started to lose focus, started to ahm go on the other lane, the other vehicle was coming up as well, it looked like they tried to avoid and I panicked and tried to get in the lane, yeah, crash happened.
- ...
- Yeah I don't know what I was doing, I was zoning out and ah, I ... inaudible ... like here before I tried to correct myself and get back on the road and then obviously it happened here, I think.⁶
- 28 TB later explained to police that he had, in fact, found himself on the wrong side of the road and then was trying to correct his position when the collision occurred. There was evidence that he had explained that to a police officer and an independent witness at the scene in the immediate aftermath of the collision. TB's aunt, who was in the vehicle, said that after TB had corrected himself back into his own lane, he encountered the other vehicle, which was now in the incorrect lane, likely having tried to avoid colliding into them when they were in the wrong lane.
- 29 TB was prosecuted in the Youth Court for offences arising from the collision. The charges included three counts of causing death by dangerous driving as well as one count of causing serious harm by dangerous driving relating to TB's aunt, and three counts of causing harm by dangerous driving relating to the three other family members in his vehicle.
- 30 These charges proceeded to trial, and after evidence from a number of witnesses, TB was acquitted of the principal charges of causing death by dangerous driving, causing serious harm by dangerous driving and causing harm by dangerous driving, but found guilty of the statutory alternative and lesser charges of four counts of aggravated driving without due care causing death and serious harm, and three counts of driving without due care.

⁵ Exhibit C35 at 195

⁶ Exhibit C29a at 7-8 and 29; Her Honour Judge Eldridge found that these statements were likely the product of shock and so were unreliable

- 31 Her Honour Judge Eldridge gave detailed reasons for her verdict on 22 July 2022. Judge Eldridge sentenced TB on 19 September 2022. Perhaps unsurprisingly, her Honour did not consider that the aims of justice were to be served by imprisoning a young person who had a momentary lapse of judgment with catastrophic consequences. The penalties that her Honour imposed were:

Aggravated driving without due care causing death	Resulting in Mr Walker's death	No conviction Obligation for 12 months Licence disqualification for 18 months To be served concurrently
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Aggravated driving without due care causing death	Resulting in Mrs Walker's death	No conviction Obligation for 12 months Licence disqualification for 18 months To be served concurrently
---	---------------------------------	--

Aggravated driving without due care causing death	Resulting in Mrs Skeer's death	No conviction Obligation for 12 months Licence disqualification for 18 months To be served concurrently
---	--------------------------------	--

Aggravated driving without due care causing serious harm	Resulting in serious harm to TB's aunt	No conviction Obligation for 6 months Licence disqualification for 6 months To be served concurrently
--	--	--

Driving without due care	Resulting in harm to TB's mother	No conviction No penalty No licence disqualification
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Driving without due care	Resulting in harm to TB's sister	No conviction No penalty No licence disqualification
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Driving without due care	Resulting in harm to TB's cousin	No conviction No penalty No licence disqualification
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- 32 The effective head sentence was therefore an obligation for 12 months and a licence disqualification for 18 months.

- 33 In the course of the proceedings, her Honour made specific factual findings that overlap with the issues I am required to determine. As a result, there is no longer any controversy in those issues. I therefore do not intend to revisit those facts, which I consider to have been conclusively determined by her Honour as follows:

It is clear from the evidence that the defendant was ascending the crest of the hill when he momentarily lost concentration and moved briefly to the wrong side of the road. However, it is also clear that, having realised he had drifted on to the incorrect side of the road, he endeavoured to correct the path of the Toyota LandCruiser.

...

The path followed by the Toyota LandCruiser in undertaking this correction is disputed. The prosecution, relying on the evidence of Senior Sergeant Kuchenmeister, maintains the Toyota LandCruiser followed the path of the tyre marks T1 and T2 and then joined with the tyre marks T3 in moving to the point of impact marked 'A' on the Plan. This Plan prepared

by Brevet Sergeant McLaughlin and Senior Sergeant Kuchenmeister indicates that at the point of impact of the vehicles, the Toyota LandCruiser was straddling the double centre line.

I have preferred the evidence of Mr Hall with respect to the tyre marks T1 and T2 and the movement of the Toyota LandCruiser prior to the collision. Furthermore, the information obtained from the Bosch data supported the conclusion reached by Mr Hall, namely that if the steering manoeuvre resulting in T1 and T2 were caused by the Toyota LandCruiser, it would have been recorded on the ADR and no such activity was recorded. Importantly, both Mr Hall and Senior Sergeant Kuchenmeister considered the ADR to be reliable and highly accurate.

I have also indicated my acceptance of the evidence of Mr Hall that after performing in excess of 100 simulations in an effort to determine the point of impact such that the vehicles ended up in their at rest positions, it was likely that the Toyota LandCruiser was positioned in the correct lane parallel to the centre line travelling in a north-westerly direction.

It is not in dispute that at the time of the collision the Ford Territory was in its incorrect lane, travelling in a south easterly direction having swerved to the incorrect side of the road for its direction of travel to avoid the Toyota LandCruiser.

...

Apart from the momentary lapse in concentration, there are no other aspects of poor driving. There was no involvement of excessive speed. The speed limit on the Princes Highway where the collision occurred was 110 km/h. It is accepted by both Senior Sergeant Kuchenmeister and Mr Hall that the likely speed of the Toyota LandCruiser at the time of the collision was 90 km/h, and the speed of the Ford Territory was likely to be in the vicinity of 80 km/h. Whilst counsel for the prosecution made reference to Senior Sergeant Kuchenmeister's evidence as to the perception response times of an ordinary person in an emergency incident, I am unable to draw any conclusion from this evidence.

There was no issue of the unroadworthiness of the vehicles. Mr Troy Sage had conducted an examination of both vehicles and had found them to be in a satisfactory condition and he found nothing mechanically which would have contributed towards or caused the collision.

It was an agreed fact that the defendant has no antecedent history and that he held a permit class 'C' driver's licence having obtained his licence on 29 July 2020. He was authorised to drive with a qualified supervising driver and his mother was fulfilling that role at the time of the collision.

The defendant was familiar with the road and JTC gave unchallenged evidence that on the majority of the 15 or so occasions she had driven to Mount Gambier with her sister and members of their respective families on a Saturday morning, the defendant had driven.

There was no involvement of drugs and alcohol. The prosecution has not established that the fact the defendant had ceased taking his ADHD medication in May 2020 was in any way related to the occurrence of the collision. I accept the evidence of Dr de Silva that the prescribing of medication to sufferers of ADHD was a treatment of choice and a matter to be considered having regard to the level of each individual's functioning and the severity of the condition. He accepted the defendant's neurodevelopmental conditions did not prevent him from obtaining a driver's licence and whilst not being aware of the fact that the defendant had ceased taking Vyvanse, he made no comment on this but rather acknowledged the defendant was seeing a psychologist and his General Practitioner. He also acknowledged his mother at all times acted in his best interests when dealing with his ADHD.

...

There was no suggestion of the involvement of any other vehicles prior to the collision.

There was no evidence of erratic driving by the defendant prior to him drifting onto the incorrect side of the road. Again, I have accepted JTC's evidence that there was little conversation occurring in the vehicle, no music playing and in fact, the defendant's mother held his mobile phone to ensure it did not pose a distraction to him.

...

I am satisfied beyond reasonable doubt that the defendant momentarily lost concentration while driving and whilst ascending the crest in the hill the Toyota LandCruiser moved briefly to the incorrect side of the road.

On the basis of my acceptance of the evidence of Mr Hall, I find that prior to the impact the defendant had corrected his position and had moved to the correct side of the road travelling in a north-westerly direction virtually parallel to the centre of the road. Tragically, in an effort to avoid the Toyota LandCruiser, the driver of the Ford Territory had moved to the incorrect side of the road travelling in a south-easterly direction.⁷

[footnotes omitted]

- 34 I reaffirm that TB was wholly at fault and Mrs Walker (and Mr Walker's illness) made no contribution to the collision; they were entirely innocent. His acquittal of the charged offences and conviction of statutory alternatives related to culpability and legal burden and did not amount to a finding that TB was driving appropriately.
- 35 The cause of TB's lack of focus immediately before the collision was not established in the criminal proceedings. It was not explored in detail during the Inquest as the precise cause is less important for the coronial purposes than that it occurred, and there was likely an identifiable risk of it occurring beforehand, even if the health conditions were not operative on the particular day. In my view, applying the balance of probabilities, it was likely TB's neurological disorders in combination that brought about his momentary lack of focus at a particularly dangerous time.
- 36 I observe that anyone can lose concentration, 'zone out', or become distracted while driving. This is guarded against by criminal offences for driving with a lack of due care or attention. However, the issue that arises in this matter is whether TB's conditions ought to have foreshadowed a greater susceptibility to losing focus while driving and whether that should have resulted in greater attention to the question of his fitness to drive.
- 37 I heard evidence that medication prescribed to TB before the collision caused an increase in aggressive behaviours and so Mrs B ceased administering it to him. He was therefore, at the time of the collision, unmedicated. I heard evidence that in light of the unwanted side-effect, withholding of this medication was not an unreasonable choice on Mrs B's behalf, although she would have been better served by seeking medical input. I will never be able to determine whether the lack of medication played any genuine role in the collision.

Coronial issues

- 38 The issues explored at Inquest were of narrow focus. They primarily arose from two key documents; one being a Centrelink application form completed by TB's mother proximate to the collision for continuation of a carer's allowance, which on its face suggested that TB had a level of disability significant enough for the government to be

⁷ Reasons for the Verdicts of her Honour Judge Eldridge dated 22 July 2022 (MCMTG-21-75)

required to support him and his family. This raised questions of TB’s fitness to drive and whether this had been reported to the Department for Infrastructure and Transport on the other key document; a driver’s licence application completed when he had applied for his learner’s permit on 29 July 2020, or whether there was otherwise some mechanism to identify a driver who presents risk to other road users.

Applying for a learner’s permit

- 39 As I have mentioned, in July 2020 TB applied for a learner’s permit and passed the required theory test with the permit then issuing. I received evidence from the Department for Infrastructure and Transport (the Department) relating to the process of obtaining a learner’s permit or driver’s licence, and in particular the processes surrounding assessment of medical conditions and capacity to drive. The Director of Regulation at the Department, Stuart Gilbert, gave oral evidence during the Inquest.
- 40 In order to obtain a learner’s permit, the applicant must be at least 16 years of age and is required to first pass a theory test.⁸ To attempt the theory test, the applicant is required to complete an application form known as the ‘Driver’s Licence/Learner’s Permit Application’ (the application form).⁹ I received a copy of that form into evidence and I was also advised that the form had changed since the time of this incident, however the medical declaration section remains unchanged. I was advised that there is an online alternative which also encompasses a medical declaration.¹⁰
- 41 Section 7 of the application form contains questions which relate to medical conditions, impairments, disabilities, or medications that may affect driving.¹¹ Those questions are set out as follows:

7. MEDICAL/IMPAIRMENTS

Do you have, or have you ever had any medical condition or suffered from any illness that may impair your competence to drive? YES <input type="checkbox"/> NO <input type="checkbox"/> <small>E.g. cardiovascular disease, diabetes, epilepsy, hearing disorder, neurological disorder, psychiatric disorder, sleep disorder, blackouts, vertigo, frequent fainting or dizziness, high blood pressure, use of or dependency on alcohol or illicit drugs. If you answer YES, please provide details.</small>
<input type="text"/>
Do you take medication for any medical condition that may affect your driving? If you answer YES, please provide details. YES <input type="checkbox"/> NO <input type="checkbox"/>
<input type="text"/>
Do you have a vision or eye condition? E.g. cataracts, glaucoma, monocular vision, diplopia etc., If you answer YES, please provide details. YES <input type="checkbox"/> NO <input type="checkbox"/>
<input type="text"/>
Are you REQUIRED to wear glasses or corrective lenses at all times while driving? If you answer YES, please provide details. YES <input type="checkbox"/> NO <input type="checkbox"/>
<input type="text"/>
Do you have any disabilities or impairments that may affect your driving? E.g. disabled arm, hand, leg or foot; loss of an arm, hand, leg or foot; disabled joint; muscular disorder; deafness or arthritis. If you answer YES, please provide details. YES <input type="checkbox"/> NO <input type="checkbox"/>
<input type="text"/>

⁸ Exhibit C40 at [5]-[6]
⁹ Exhibit C40 at [7]
¹⁰ Exhibit C40 at [10]
¹¹ Exhibit C40 at Annexure 1

- 42 Section 80 of the *Motor Vehicles Act 1959* provides powers to deal with the answers given on this form, as follows:

80—Ability or fitness to be granted or hold licence or permit

- (1) If in the opinion of the Registrar it is desirable that the ability or fitness of an applicant for the issue or renewal of a licence or learner's permit, or of the holder of a licence or learner's permit, to drive a motor vehicle, or a motor vehicle of a particular class, should be assessed, the Registrar may require the person to undergo such assessments or to furnish such evidence of ability or fitness to drive as the Registrar directs.
 - (1a) The Registrar may, with the approval of the Minister, direct that all applicants for the issue or renewal of a licence or learner's permit who are of a particular class, or all holders of a licence or learner's permit who are of a particular class, must undergo such assessments, or furnish such evidence as to ability or fitness to drive a motor vehicle, or a motor vehicle of a particular class, as the Registrar may require.
 - (1b) The Registrar may, in directing a person to undergo an assessment under this section, require that the assessment be undertaken at a particular location or by a particular person or body determined by the Registrar.
- (2) For the purposes of this section, an assessment undertaken to assess a person's ability or fitness to drive a motor vehicle, or motor vehicle of a particular class, must comply with guidelines published or adopted by the Minister by notice in the Gazette and the results of such an assessment must be applied by the Registrar in accordance with any policies published or adopted by the Minister by notice in the Gazette.
 - (2a) If—
 - (a) a person fails to comply with a requirement of the Registrar under this section; or
 - (b) the Registrar is satisfied—
 - (i) after considering the results of assessments or evidence required under this section; or
 - (ii) from information furnished to the Registrar by a health professional or from any other evidence received by the Registrar,
 that a person is not competent to drive a motor vehicle or a motor vehicle of a particular class,
 the Registrar may—
 - (c) refuse to issue a licence or permit to the person; or
 - (d) refuse to renew the person's licence or permit; or
 - (e) suspend the person's licence or permit for such period as the Registrar considers necessary in the circumstances of the case, or until the person satisfies the Registrar, in such a manner as the Registrar directs, that the person is competent to drive a motor vehicle; or
 - (f) remove a classification assigned to the person's licence, or substitute for a classification assigned to the person's licence another classification.
- (3) The Registrar may issue to any person who has been required to undergo assessments, or to furnish other evidence of ability or fitness to drive a motor vehicle, a temporary driving permit authorising that person, subject to such conditions and restrictions as may be specified in the permit, to drive motor vehicles.
- (4) A temporary driving permit has, subject to any conditions and restrictions specified in the permit, effect as a licence.

- (5) A person must not contravene any condition or restriction of a temporary driving permit.
Maximum penalty: \$1 250.

- 43 I observe that this regime relies to a great extent on self-report and will only be effective if the information supplied by applicants is reliable. There is no system of checks and balances, there is no safeguard. I do note the complementary regime under s 148 which requires health professionals to make a formal notification where a patient has a condition that might affect their driving, but that is limited to patients who already have a licence.
- 44 Mr Gilbert gave evidence that the Department’s expectation is that applicants for a licence will discuss their application with their doctor prior to commencing the process.¹² However, that expectation is not contained in any advice to prospective applicants, not even on the application form in the medical section, although Mr Gilbert said where an applicant was unsure they would be encouraged to seek medical advice.¹³ It is concerning that health input is institutionally-assumed without any proper basis for expecting that to be so. I am, of course, not critical of Mr Gilbert, I am critical of the approach the Department takes to medical declarations without establishing any basis for such an approach.

TB’s application

- 45 TB’s application form, which was completed on 29 July 2020, declared the following in respect of medical conditions:¹⁴

7. MEDICAL/IMPAIRMENTS

Do you have, or have you ever had any medical condition or suffered from any illness that may impair your competence to drive? YES NO
E.g. cardiovascular disease, diabetes, epilepsy, hearing disorder, neurological disorder, psychiatric disorder, sleep disorder, blackouts, vertigo, frequent fainting or dizziness, high blood pressure, use of or dependency on alcohol or illicit drugs. If you answer YES, please provide details.

Do you take medication for any medical condition that may affect your driving? If you answer YES, please provide details. YES NO

Do you have a vision or eye condition? E.g. cataracts, glaucoma, monocular vision, diplopia etc.. If you answer YES, please provide details. YES NO

Are you REQUIRED to wear glasses or corrective lenses at all times while driving? If you answer YES, please provide details. YES NO

Do you have any disabilities or impairments that may affect your driving? E.g. disabled arm, hand, leg or foot; loss of an arm, hand, leg or foot; disabled joint; muscular disorder; deafness or arthritis. If you answer YES, please provide details. YES NO

- 46 As a result of this, and in the absence of any advice from a health professional or any other information about TB, the Registrar of Motor Vehicles was not called upon to make any assessment of whether medical advice ought to be obtained. The application was simply granted as it would be with respect to any other person who submitted that information. I cannot criticise that decision as that is the regime that is in place. I will however come to an assessment of whether the regime itself is satisfactory later.

¹² T162
¹³ T147
¹⁴ Exhibit C40 at 25

- 47 Mrs B explained in her evidence that she had gone with TB to apply for his learner's permit, and that he had filled out the application at her direction.¹⁵ She explained that her and TB both had agreed to tick 'no' to all questions under section 7. She said that this was because the potentially relevant questions conclude with the words 'that may impair your competence to drive' or 'that may affect your driving'. Mrs B accepted that conditions such as Autism and ADHD qualify under 'neurological disorders' but maintained that she had formed the view that those conditions would not affect TB's driving.¹⁶
- 48 Mr Gilbert, who is not a medical expert, gave evidence that he would have expected, from a Departmental point of view, that a person with TB's combination of conditions would have ticked 'yes' and then have an assessment about whether the conditions actually do impact driving.¹⁷
- 49 I find that TB's conditions should have been disclosed. The attention-deficit component of the ADHD diagnosis alone had the capacity to affect driving, where constant attention is a key requirement.¹⁸ The consequences of episodes of Tourette's Syndrome, generally, have the capacity to affect the ability to operate a vehicle.¹⁹ I reiterate that the form speaks of conditions that *may* affect driving. It was unwise to determine, without any professional assistance, that no condition needed to be disclosed because it was thought it would not have an impact. It is unfortunate that Mrs B and TB, neither of whom have any medical qualifications or training, were left to be the conclusive decision-makers on the topic of whether TB's combined complex health conditions would have any effect on his driving. I find that it was, more likely than not, decided not to disclose the conditions because doing so would have made the process more difficult. It is clear that Mrs B was trying to be a good mother and support her son. She clearly had no intention that her own family or anyone else's would be involved in a catastrophic incident. She placed reliance on her own faith in her son instead of allowing the process to play itself out and independent advice to decide whether he ought to be driving or not.
- 50 Mrs B explained that her confidence in her son's ability stemmed from her observations of his prior experiences driving motor vehicles on private roads at her parents' farm.²⁰ She said that TB had never shown any inattention when driving, did not require any reminders for checking his speed, other vehicles' positions, or road rules. Mrs B appeared to me to be quite protective of her son, as might be expected. She spoke of his driving abilities in a manner that suggested he was flawless. While it might be considered surprising that TB's first driving indiscretion resulted in a fatal collision, I have no reason not to accept what Mrs B said and there is no evidence that he had in fact driven poorly beforehand. However, a prior incident is not what the application form requires to be declared.
- 51 Mrs B made a personal assessment that he was a good driver. She had no concerns about TB's ability to follow specific road rules without reminder or instruction, as she considered that driving was an interesting activity and he only lost focus during activities

¹⁵ T38

¹⁶ T39 and T40

¹⁷ T157

¹⁸ T76

¹⁹ T76

²⁰ T41

that he did not consider interesting, such as brushing his teeth.²¹ She did not appear to give a great deal of consideration to whether the novel nature of driving might change over time, or whether there was a meaningful difference between driving on a farm and driving on a highway. I am unable to be satisfied that Mrs B was properly placed to assess this question in light of the risks involved.

- 52 Mrs B's evidence revealed that there was a practical benefit to her family in TB obtaining his licence.²² She said that, as the family lived in a rural area without public transport, she felt it was important for him to be able to drive. During school holidays (and likely upon finishing school), he also assisted in the family scaffolding business where his ability to drive was an asset. Beyond TB's desire to drive, there was no doubt some level of importance in a more general sense that TB ultimately obtain his unrestricted licence.

Centrelink-required assessment

Completion of the form

- 53 Mrs B had been receiving a carer's allowance from Centrelink for most of TB's youth. Following his 16th birthday, she was required to complete a 'Carer Payment and/or Carer Allowance Medical Report (SA332a) for a person 16 years or over' (the Centrelink report) in order to continue receiving this allowance.²³ The Centrelink report was comprised of a portion completed by the carer, followed by a portion which was required to be completed by a health professional involved in the treatment of the person needing care. A legally qualified medical practitioner was among the identified appropriate persons.
- 54 To satisfy the health professional component, Mrs B took TB to see Dr Robyn Hughes at the Millicent Medical Clinic on 21 September 2020, just over two months before the collision. Dr Hughes had commenced working at the Millicent Medical Clinic at a capacity of two days a week from June 2020.
- 55 Though TB had been attending the clinic since he was eight weeks old, he had not seen Dr Hughes prior to this consultation. Mrs B gave evidence that TB did not have a regular doctor at the Millicent Clinic, and that 'when you ask to get a report done, they just give you a doctor'.²⁴ Dr Hughes was not aware in advance that the appointment had been made in order to fill out the report.²⁵ Given that, it is unlikely that Mrs B explained to the staff who assisted her to make a booking that the purpose was to obtain an opinion for the Centrelink report. The report includes the following instructions:

Make an appointment with a Treating Health Professional. When you make your appointment, please let the receptionist know you will need this report completed.

The time taken to complete this report may be claimed by the treating doctor under a Medicare Item when included as part of a consultation. You may only be able to claim the consultation fee for other health professionals under private health insurance. If the Treating Health Professional does not bulk bill, your consultation fee may be more because of the extra time taken to complete the report.

²¹ T42

²² T62

²³ Exhibit C35 at 193

²⁴ T34

²⁵ T108

- 60 Specific care questions were also required. Dr Hughes recorded the following answers:
- a. Bowels – continent
 - b. Bladder – continent
 - c. Grooming – Needs help with personal care: Face, hair, teeth
 - d. Toilet use – Needs some help but can do some things alone
 - e. Feeding – Independent (food provided within reach)
 - f. Transfer – Independent
 - g. Mobility – Independent
 - h. Dressing – Needs help but can do about half unaided
 - i. Stairs – Independent up and down
 - j. Bathing – Dependent
- 61 Importantly, in introducing those questions, the form provides the following instructions:

Personal activities for daily living – This is an assessment of personal activities of daily living. For each function, please indicate which best describes the person receiving the care.

The information under each function should be used as a record of what the person does, NOT a record of what the person could do.

The main aim is to establish the degree of independence from any help, physical or verbal, however minor and for whatever reason.

A person's performance should be established using the best available evidence. Asking the person, friends/relatives and nurses will be the usual source, but direct observation and common sense are also important. However, direct testing is not needed.

Usually the performance over the preceding 24-48 hours is important, but occasionally longer periods will be relevant.

Middle categories imply that the person supplies more than 50 per cent of the effort.

Use of aids to be independent is not allowed.

Note: If the person needs to be supervised or prompted to perform certain tasks because of their disability and/or medical condition(s) they are considered to be 'dependent' or 'needing help' depending on the level of assistance they require for the task. This may include people with mental illness, acquired brain impairment or intellectual disability.

- 62 It is clear therefore that, within the regime covered by the report, the requirement to be prompted for activities of daily living assumes more prominence when assessing 'dependence' than that word would otherwise ordinarily convey.
- 63 When presented with the report during her evidence, Dr Hughes explained that it is common, but sporadic, for her as a general practitioner to fill out such reports.³⁰ Dr Hughes explained that the report was filled in by her during the appointment.³¹ She said that she had completed the report through a combination of looking through TB's

³⁰ T109

³¹ T108

existing medical records, and by discussion with Mrs B where required.³² She explained that while she did not have a complete memory of the consultation, she did have a ‘vague memory’ and recalled that TB was not very interactive and was sitting away from her.³³ She was able to give evidence about the kinds of discussions that the questions on the report would have prompted.

- 64 Dr Hughes wrote the comment ‘needs constant care for daily function’. She explained that this would have been information received from TB’s mother.³⁴ Relevantly, the instructions of this report to practitioners indicate that if a person needs to be supervised or prompted to perform certain tasks because of their disability, they are considered to be dependent.
- 65 Dr de Silva reviewed the Centrelink report during these proceedings and said that he agreed that it reflected a proper assessment of TB’s presentation. He cautioned that ‘constant care’ would be limited to the need for reminders rather than actual assistance with the tasks listed.³⁵ He explained that he would probably disagree that TB was dependent in respect of bathing but would have discussed with the carer and patient before completing that question. Since he was not present for the discussion with Dr Hughes, he was not able to answer definitively what that answer properly should have been.³⁶
- 66 In light of Dr Hughes’ and Dr de Silva’s evidence, I am satisfied that the Centrelink report was completed in a reasonable manner and that it reasonably reflected a proper assessment of TB’s conditions and limitations.
- 67 It was submitted that while the state of affairs established by the Centrelink report were ‘bleak’, it needed to be understood in its context and the relatively low threshold required in order to be considered ‘dependent’. For the reasons I have discussed above, I accept that submission. The reality was that TB was largely independent, requiring only prompting to do his daily activities. Mrs B gave evidence that she had told Dr Hughes that the support she provided to TB was not physical support, but that she would constantly need to remind TB to do things such as bathing, brushing his teeth, or changing his clothes, and he would not do these things for days unless reminded.

Obligation under the Motor Vehicles Act

- 68 As I have briefly mentioned above, s 148 of the *Motor Vehicles Act 1959* provides:

148—Duty of health professionals

- (1) Where a health professional has reasonable cause to believe that—
- (a) a person whom the health professional has examined holds a driver's licence or a learner's permit; and
 - (b) that person is suffering from a physical or mental illness, disability or deficiency such that, if the person drove a motor vehicle, the person would be likely to endanger the public,

³² T109, T110 and T131

³³ T107 and T111

³⁴ T130

³⁵ T79

³⁶ T80

the health professional is under a duty to inform the Registrar in writing of the name and address of that person, and of the nature of the illness, disability or deficiency from which the person is believed to be suffering.

- (2) Where a health professional furnishes information to the Registrar in pursuance of subsection (1), the health professional must notify the person to whom the information relates of that fact and of the nature of the information furnished.
- (3) A person incurs no civil or criminal liability in carrying out the person's duty under subsection (1).

69 There was discussion during the Inquest about the extent of this duty. And that is where I commence my assessment, with an observation that this is a *duty*. It is a duty that exists in order to protect the entire community, sometimes at the expense of the individual patient. That is where Parliament has set the balance between protecting a patient and protecting the community. It must always be remembered that driving involves the operation of heavy machinery in inherently risky scenarios such as, for example, moving it in the opposite direction to other pieces of heavy machinery at 100 km/h. Viewed in this rudimentary way, it is clear why there is a strong desire to ensure that any issues that might affect a person's ability to operate a vehicle is identified. While removal of a licence undoubtedly affects a person's life, it is never an impact that outweighs the chance of causing the death of another person, let alone multiple fatalities.

70 I observe that these provisions do not allow for wilful blindness. A medical practitioner must not refrain from asking about driving in order to avoid having to make a report about a patient. Where Parliament has saw fit to impose a *duty*, those subject to the duty must exercise it. In order to exercise it, it is implicit that it must be properly assessed. That this must be considered is made clear by the use of the language 'reasonable cause to believe' which establishes an objective consideration short of subjective belief.

71 At the same time I observe that health professionals are not required to report all patients with a health condition simply out of caution. The professional must decide whether there is reasonable cause to believe that driving would endanger the public. If the answer is yes, then the report must be made. If the answer is no, then the report should not be made.

72 The evidence I heard gave me some cause for concern about the application of the duty in practice, and that it might be understood that the duty only arises when a patient specifically asks whether a condition will affect their driving. The evidence was less than clear about the precise approach taken by those involved, or how the health community appears to approach the duty as a whole.

73 Dr de Silva's last consultation with TB was about five months prior to him obtaining a learner's permit, and he gave evidence that he never had any discussion with TB on the topic. Dr Hughes, though she had not consulted with TB prior to his application for a learner's permit, did conduct his Centrelink report assessment at a time when he held a permit.

74 Dr Hughes was asked about this topic:

Q. Dr Hughes, and I think you've mentioned this in your affidavit, did at any time driver's licence, permit for driver's licence be raised in this consultation with you.

A. No.

...

- Q. Doctor, in your affidavit you've mentioned that you have a standard practice about driving, that's para.6 of your affidavit. I want to ask you about that and just to give us some elaboration. Tell us about your standard practice when driving is raised in a consultation.
- A. It's my usual practice to record the discussion in the patient's file notes or clinical records, because it is a legal issue, it's not a person conversation piece.
- Q. So, if the patient raises it with you, then your practice is to document it.
- A. Correct.
- Q. Are there any examples that you can give this court where you're seeing a patient and you would raise the issue of driving, rather than the patient.
- A. Okay, epilepsy, diabetes, heart conditions, brain injury are standard ones for the fitness to drive, yeah, they're the main ones, yep. Substance abuse, for example.
- Q. So, there are occasions that you would bring up the issue of driving, correct.
- A. Correct.
- Q. And you mentioned a number of those, is completing a Centrelink form one of those.
- A. No.³⁷
- 75 Mrs B also confirmed that there was no discussion about driving during the consultation. She said she did not raise it because she thought the consultation was ‘...just to get the carer’s payment’.³⁸ Dr Hughes said that if she had been made aware that there was a learner’s permit in place, she would have asked for further assessment to be made, noting that this was her first consultation with TB.³⁹
- 76 As I have observed, the Centrelink report established a state of affairs that appeared more drastic on paper than TB’s actual presentation appeared to be. I find it difficult to see criticism in Dr Hughes not making a notification to the Registrar of Motor Vehicles in light of that explanation. In reaching that conclusion I am exercising a high degree of caution in removing any aspect of hindsight bias because it is known that it was a loss of focus that caused the collision, and that is a symptom of the conditions Dr Hughes reported to Centrelink. However, I consider there is room for a reasonable approach to have involved not making a notification on the information Dr Hughes had at the time of her first interaction with TB.
- 77 There was evidence given that a notification was not required until specific enquiries were made for Dr Hughes to satisfy herself that TB held a licence. I do not need to conclusively determine that issue because I have reached a conclusion that the health picture did not present itself so starkly to Dr Hughes that her only reasonable action was to have lodged the notification. However, I do observe that health professionals are unlikely to escape the duty to make a notification on the basis that they made no enquiry of driving status. In order to properly execute the duty, health professionals must enquire about the duty. Failing to make proper enquiries would likely amount to a failure to execute the duty. An analogy might be failing to lodge a mandatory notification of infectious disease because a doctor specifically avoided conducting the relevant test to reach that diagnosis. That would not be an acceptable approach to the requirements.

³⁷ T113-T114

³⁸ T43

³⁹ T139-T140

Subsequent assessment

- 78 Following the collision, SA Police made a notification to the Registrar of Motor Vehicles that TB may not be medically suitable to drive. A delegate of the Registrar directed a medical examination.⁴⁰ This resulted in an assessment by Dr Hughes in February 2021, when she certified that TB did not meet the relevant standard, requires a practical driving test and if a licence was issued, should be issued a licence subject to conditions. In that assessment, Dr Hughes recorded that TB did not meet the relevant medical standard because he was:

Easily bored and loses focus; Variable concentration
Good concentration with video games ⁴¹

- 79 Dr Hughes indicated that any licence should be subject to further assessment by Dr de Silva, including EEG and neurology assessments, a development assessment, a psychological assessment and an occupational therapy assessment for driving.
- 80 Mrs B gave evidence that she disagreed with the outcome and that the conclusion was reached 'against her will' with parts that she 'totally disagree with'.⁴²

Preventability

- 81 It is obvious that if TB had not been issued a licence these three deaths would not have occurred. However, whether the occasions to act differently would have modified that outcome is a more difficult question.
- 82 Had Mrs B directed TB to disclose his conditions on the application form, the Registrar would have likely required an assessment. Had the form been less vague or required less of a judgment call, this was more likely to occur. However, it is entirely unknown what the outcome of that assessment would have been and it is entirely possible that TB would still have been issued a licence, although that is not certain. Applying the balance of probabilities, I am therefore not able to say that disclosure of the conditions would have prevented the deaths.
- 83 Similarly, if Dr Hughes had notified the Registrar of Motor Vehicles about TB's conditions, I am satisfied that further assessments would have been directed. These were likely to have been comprehensive, in line with what Dr Hughes suggested occur after the collision. However, once again, what the outcome of these investigations would have been is not known. Dr de Silva gave a general opinion in evidence that TB's conditions did not make him immediately unsuitable to drive.⁴³ He agreed that conditions such as ADHD, Autism Spectrum Disorder and Tourette's could be of concern for a person's capacity to drive, but said that it was a case by case issue that would depend on each individual's presentation. It is reasonably possible that TB would still have been issued a licence. I am therefore not able to reach a finding that these deaths were preventable.

⁴⁰ Exhibit C40 at [39]

⁴¹ Exhibit C28 at TB4

⁴² T60

⁴³ T82

- 84 That is not to observe that these deaths were acceptable, or that the system cannot be changed to reduce the risk of this happening again, it is merely a reflection that the legal standard to be applied is not met by the evidence.

Recommendations

- 85 Pursuant to section 25(2) of the *Coroners Act 2003* I am required to consider whether there are any recommendations that in the opinion of the Court might prevent, or reduce the likelihood of, a recurrence of an event similar to the event that was the subject of the Inquest or that would otherwise contribute to an improvement in public health and safety.
- 86 I was asked to consider recommendations to modify the application form to have clearer wording about what conditions the Registrar ought to be aware of. I was advised that the Department is open to making changes to remove the ambiguity but saw practical difficulties in listing hundreds of conditions that may impact one's ability to drive. This draws into question whether the Registrar could ever be satisfied about the level of understanding of the person completing the form as to the potential impacts of their health conditions on a task they are yet to have been able to undertake. After considering the proposals quite carefully, I have formed the view that a more fundamental change should be implemented to achieve a markedly safer situation.
- 87 In reaching that conclusion, I was particularly moved by concern that tinkering with the wording of the self-declaration on the application form to try to force honest people into declaring everything, still leaves open the scenario that likely did not arise here; for a person to deliberately not declare conditions in order to make the process easier.⁴⁴ That is particularly tempting when it is known that choosing not to declare will result in the automatic issuance of the permit.
- 88 The fact that driver's licences are subject to a regime of independent theoretical and practical testing is a recognition that the potential dangers involved require more than a self-assessment of the ability to drive. It is unclear to me why then the foundational question of medical fitness to drive so heavily relies on self-reporting.
- 89 The obtaining of a learner's permit is treated as a significant milestone in a young person's life. There is often a great deal of yearning to obtain a permit and then a licence. That yearning does not sit well with a self-reporting regime. There are no safeguards in place to counteract the temptation not to declare a medical condition when making an application for the first issue of a learner's permit. I observe that a failure to report a relevant condition at the outset might lead to it not being reported for many years, if at all. In my view, a safeguard should be put in place, particularly when the expense involved will be minimal compared to the cost that the community bears upon the loss of life. I therefore make the following recommendation to the Minister for Infrastructure and Transport:

One That a requirement be introduced for any applicant for a first-issue learner's permit to be required to be the subject of a certificate from a medical practitioner answering the questions currently contained in section 7 of the application form. There should be an obligation for the medical practitioner to submit the form directly to the Registrar of Motor Vehicles.

⁴⁴ Mr Gilbert accepted that this can occur – see T156

- 90 If this were introduced, it would require every person seeking a learner's permit to first consult their general practitioner, who is already familiar with driving fitness assessments by virtue of their obligation under s 148 of the *Motor Vehicles Act*. This would provide a significant independent reality check and ensure that applicants commence their driving journey with the Registrar having a full and accurate picture. Over time, it will simply become the norm; a young person will visit their general practitioner and receive a clearance in the lead up to lodging their application for a licence.
- 91 The certificate required to be completed by a general practitioner could also contain space for further information to be provided, in particular about whether the practitioner considers that a condition being disclosed might have the capacity to interfere with the safe operation of a vehicle, or whether particular conditions might ameliorate any risk. If that were to occur, the Registrar would be unlikely to require any further medical assessment, as the notification would come in with what is effectively a medical opinion about suitability.
- 92 All of that would come at the cost of a single general practitioner consultation. Every road user would be safer in the knowledge that each person's fitness to drive was assessed by a doctor at the outset of their driving career and is subject to the ongoing reporting obligation as and when conditions develop. The fact that one person's momentary health episode can so easily claim the lives of three other people demonstrates the value in a health certificate step being added to the licence qualification process.
- 93 Given the comments and observations I have made about the duty of health professionals under the *Motor Vehicles Act*, I direct that a copy of these findings be distributed to the Royal Australian College of General Practitioners and the Australian College of Rural and Remote Medicine. They may wish to draw their members' attention to the section and provide advice that it comprises a *duty* to protect all road users that they must consider and exercise when a patient assessment suggests there are grounds to consider a danger.

Condolences

- 94 The Skeers and Walkers lost a large part of their family in an instant, in what must feel like a cruel affair. Accidents happen on roads and those on the road accept that risk. However, that acceptance of risk comes only in light of an assumption that all road users are subject to safeguards to ensure that they have the capacity to obey the rules and act in a safe manner while operating what is effectively a heavy machine. This Inquest has highlighted a flaw in the system of self-reporting that generates an increased risk to all of us on the road. It is my sincere hope that a simple but meaningful change to the application process is introduced to ensure that those who present a higher risk are detected and assessed properly.
- 95 For the loss of Mr and Mrs Walker and Mrs Skeer, there is no outcome that can repair their families. However, the significance of their loss ought to be reflected in the seriousness with which change should be considered.
- 96 I offer my sincere condolences to the extended families and friend networks of the Walkers and the Skeers.

Keywords: Collision; Driver's licence; Fitness to drive; Medical assessments