



MAGISTRATES COURT *of* TASMANIA

CORONIAL DIVISION

Record of Investigation into Death (Without Inquest)

*Coroners Act 1995
Coroners Rules 2006
Rule 11*

I, Robert Webster, Coroner, having investigated the death of Todd Anthony Clark

Find, pursuant to Section 28(1) of the Coroners Act 1995, that

- a) The identity of the deceased is Todd Anthony Clark;
- b) Mr Clark died as a result of an injury sustained in a single motor vehicle crash;
- c) Mr Clark's cause of death was a catastrophic traumatic brain injury; and
- d) Mr Clark died on 20 December 2022 at the Royal Hobart Hospital, Hobart in Tasmania.

Introduction

This investigation concerns a fatal single motor vehicle crash that occurred on Tasman Highway at Orford at approximately 6:40pm on Saturday, 17 December 2022. At the time of the crash the road was dry, the weather was fine and visibility was clear. The road surface at the scene of the crash was constructed of an aggregate bitumen mix that was in good condition with no visible surface defects. The prescribed speed limit was 60 km/h.

The crash involved a silver Ford Focus registered number 642CD7 (Queensland registered) (the vehicle) which was being driven by Mr Clark. Mr Clark was the only occupant of the vehicle at the time of the crash.

In making the above findings I have had regard to the evidence gained in the investigation into Mr Clark's death which includes:

- The Police Report of Death for the Coroner;
- Tasmanian Health Service (THS) Death Report to Coroner;
- Affidavit as to identity;
- Report of the Forensic Pathologist Dr Andrew Reid;

- Affidavit of the Forensic Scientist Neil McLachlan-Troup of Forensic Science Service Tasmania;
- Medical records obtained from East Coast Health;
- Medical Records obtained from Bundall Medical Centre and Gold Coast University Hospital;
- Medical records obtained from the THS;
- Affidavit of Lynn Mackin;
- Affidavit of Lyndell Roots;
- Affidavit of Kurt Rogers;
- Affidavit of Christine Wessing;
- Affidavit of Jonathan King;
- Affidavit of Dorota Swiderdki;
- Affidavit of Abby Wilson;
- Affidavit of Isabel Roth;
- Affidavit of Craig Shepherd;
- Affidavit of Sergeant Adam Archer;
- Collision analysis report of Senior Constable Kelly Cordwell;
- Crash scene plan;
- Affidavit of First-Class Constable Rebecca Turner; and
- Photographs, body worn camera footage and forensic evidence.

Background

Mr Clark was 47 years of age (date of birth 15 February 1975), separated and in receipt of a disability support pension at the date of his death. He was, at that time, living with his sister. Mr Clark was the youngest of two children to Lynn Mackin and Glenn Clark. He had an older sister Nicole.

The family initially lived at Midway Point in southern Tasmania before moving to Albury-Wodonga when Mr Clark was about three years of age. He completed his first year of school at Lavington Primary School before the family moved to Queensland. There he completed primary school at Palm Beach Primary School before moving to Merrimac High School. He left school in year 9 to take up a cabinet making apprenticeship which he completed. He enjoyed surfing and water skiing.

It was at around about this time that his parents divorced and Mr Clark lived with his father but stayed in regular contact with his mother. Mr Clark was a regular cannabis user through his teenage years and he would smoke cannabis daily. In his late teens he would attend parties regularly and consume alcohol.

When he was 18 years of age Mr Clark met Rose Siu and they commenced a relationship. They married in 2005 and had four children who are now aged 23, 20, 18 and 14. The family moved to Tasmania in 2000 where Mr Clark gained employment as a carpenter. It was during this time he began having seizures which were controlled by medication. The seizures were believed to be due to epilepsy and it was at this time he first received a disability support pension.

In 2010 Mr Clark and his family moved to Queensland and subsequently they moved to a number of locations within Queensland, New South Wales and Victoria. Over time his mental health declined and he spent some time in a facility in Southport in Queensland. It was during this period that Mr Clark and his wife separated. After this Mr Clark moved between Tasmania and Queensland for a short time before he returned to Queensland for extended periods primarily due to court hearings in relation to custody arrangements with respect to the couple's children.

In October 2020 Mr Clark was the victim of a serious head injury as a result of an assault while he resided in Queensland. He was placed in a coma. The head injury consisted of five fractures to his skull. Thereafter his mother says his depression worsened.

Mr Clark had chronic lower back pain and was prescribed a number of medications to relieve the pain. He was also being treated for epilepsy and was prescribed a number of medications to control his seizures. A note recorded in the medical records in August 2022 indicated he had not had a seizure for the preceding 14 years. The THS records indicate he was investigated for seizures in April 2010. Those records also indicate a number of overdoses that is three in 2008 and one in 2007. In 2007, 2008 and 2009 there is evidence of drug seeking behaviour and the need for Mr Clark to enter detoxification due to alcohol and substance abuse. It seems though in more recent times Mr Clark was more settled and was compliant in taking his seizure medication.

There is also mention of the brain injury in his medical records as result of the assault in 2020 in which Mr Clark sustained a traumatic head injury. As result of the assault and the injury he suffered severe headaches which were sometimes described as migraine headaches. Some of the medications he was prescribed were prescribed to treat the headaches. It does not appear the head injury had any impact on his ability to converse clearly nor did it effect his motor skills although the medical records suggest it impacted on his psychological and emotional well-being.

Ms Mackin describes her son's driving behaviour as reckless. She would not let him drive when she was in the car with him.

Ms Mackin says she had booked a trip on the Spirit of Tasmania for 1 July 2023 for Mr Clark and her to travel around the mainland together for three months. She says he was looking forward to this and they had discussed some of the places they both wanted to visit. Ms Mackin had also spoken to her son on the Thursday evening prior to his death and she says he seemed to be in good spirits.

Circumstances Leading to Death

Lyndell Roots is the licensee of the Tandara Hotel at Triabunna (the hotel). She was working in the bar on 17 December 2022. A customer, who she had not seen before and who was later identified as Mr Clark, came into the bar at approximately 12:30pm and started drinking beer. He got some change for the jukebox and also had a can of Jim Beam and cola. She also saw him going in and out of the smoking area. She went into the kitchen to prepare meals for the Bistro at around 5:30pm and when she came out at 6:30pm she noticed Mr Clark had left.

Mr Rogers knew Mr Clark for about six months prior to Mr Clark's death. He was aware Mr Clark had not had a drink of alcohol for about six months. Mr Rogers was with his father when they spoke to Mr Clark at the hotel. Because Mr Clark had not had an alcoholic drink for about six months Mr Rogers recommended that he consume beer rather than Jim Beam. Mr Rogers says Mr Clark appeared to be in pretty good spirits. When Mr Rogers and his father left at about 3:30pm Mr Clark still appeared to be in a pretty good mood. Mr Rogers later learned that two females were teasing Mr Clark after Mr Rogers had left the hotel and this made Mr Clark angry.

Subsequently Mr Clark was seen doing a burnout in his vehicle in the car park outside the smoking area of the hotel. He nearly lost control of his vehicle and just avoided hitting the smoking area barrier before driving off down the highway at high speed towards Orford.

As Mr Clark drove in a general southerly direction through Orford he lost control of the vehicle on exiting a right sweeping bend. His vehicle collided with a culvert on the north bound side of the road, and thereafter it collided with a timber fence before becoming airborne. The vehicle then collided with a brick fence before coming to rest against the front of the house at 65 Tasman Highway Orford.

Police attended and found the vehicle at the front of the residence with the rear of the vehicle resting against a window and in a slightly elevated position. Mr Clark was still situated in the driver seat and was described as being in a critical condition. Tasmania Ambulance Service attended as did officers from the Westpac Rescue Helicopter. Mr Clark was extricated from the vehicle and treated by attending ambulance personnel prior to being

airlifted to the Royal Hobart Hospital where he subsequently passed away as a result of the injuries sustained in this crash.

Investigation

Sergeant Peters and Constable Lamont secured the scene and closed the road to traffic. Senior Constable Cordwell of Accident Investigation Services attended the crash scene at around 9:00pm on 17 December 2022. She located a series of tyre marks and damage which she marked. She completed a number of measurements and prepared a scene diagram. The vehicle was towed to the Hobart police compound for further examination.

Tasman Highway in the crash vicinity has a single lane to traffic travelling south to Orford and a single lane for traffic travelling north to Triabunna. The southbound lane is 3.2 m wide and northbound lane is 3 m wide. The lanes are divided by double continuous parallel white lines and they are bordered by painted edge lines, gravel and grass edges. There are residential homes on both sides of the road and a table drain on the western side of the northbound lane. Incident marks commenced near the driveway to 86 Tasman Highway.

The vehicle had sustained significant damage to the front including bumper bar, grille, headlights and engine components. There was an indentation from a pole, off centre to the driver's side, which is consistent with an impact with the fence posts. Some timber from the fence was embedded in the engine. The driver's side rear of the vehicle had significant impact damage to the roof, boot and rear driver's side door. The driver's seat belt had been cut by emergency services, consistent with it having been worn at the time of the crash. There were burn marks on the webbing of the driver's seatbelt which is again consistent with it having been worn at the time of the crash. The driver and passenger airbag had deployed.

Mr Craig Shepherd from the Department of State Growth examined the vehicle on 11 January 2023. He is a qualified automotive mechanic with in excess of 18 years' experience in the automotive industry. He found the tread depth measurements on both front tyres insufficient at the time of inspection and therefore he considered the vehicle was not roadworthy at the time of the crash. Senior Constable Cordwell says given the road and weather conditions were fine at the time of the crash she does not believe the insufficient tread depths contributed to the collision. I agree.

The right-hand curve the vehicle was negotiating prior to the crash was analysed to establish the critical curve speed¹ for a southbound vehicle. The speed was calculated to be 118 km/h.

¹ This is the maximum notional speed a southbound vehicle, under normal road conditions, could have negotiated the curve and travel wholly within its lane at, without the centrifugal force on the vehicle exceeding the frictional force generated by the tyres, causing a loss of control.

Senior Constable Cordwell then calculated the speed of the vehicle by analysing the tyre scuff marks left on the road surface as the vehicle was in yaw.² From her calculations Senior Constable Cordwell was satisfied the vehicle, at the commencement of the yaw marks, was travelling at a speed of approximately 150 km/h. The speed was well in excess of the critical curve speed. It was noted that inspection of the inside of the vehicle identified the speedometer needle stuck on a reading of 118 km/h and the tachometer indicated approximately 2600 rpm. In some instances such devices can become locked due to impact damage. This vehicle collided with a fence, the ground, a brick wall and then a house. Senior Constable Cordwell says it is not possible to determine which impact caused the vehicle's instruments to lock at this speed and the reading in isolation is not sufficient to establish a speed at the time of the crash. She therefore determined the speed was 150 km/h at the commencement of the slide and it fell to 118 km/h further into the incident. Senior Constable Caldwell concluded excessive speed for the corner was the primary cause of this collision.

Toxicology returned a blood alcohol concentration (BAC) of 0.119 g of alcohol in 100 mL of blood. There were also therapeutic levels of clonazepam (a benzodiazepine used to treat epilepsy), oxycodone (an opioid used treat moderate to severe pain) and citalopram (an antidepressant) found together with a low therapeutic level of lacosamide (used to treat seizures) and sub therapeutic levels of paracetamol and ketamine (which were used by treating paramedics). Mr McLachlan-Troup says the BAC alone has the potential to impair driving performance and increase relative crash risk 5 to 12 times that of a driver with nil blood alcohol. In addition to alcohol other central nervous system (CNS) depressants were identified namely clonazepam and oxycodone. CNS depressants may potentially cause driving impairment due to their propensity to cause symptoms such as sedation, drowsiness, sluggishness, slowed reflexes, staggering gait, disorientation and decreased inhibitions.

The forensic pathologist, Dr Andrew Reid, says in his report of 23 February 2023 the cause of death was catastrophic traumatic brain injury. He goes on to say the *“possibility of a seizure contributing to loss of motor vehicle control cannot be excluded. Post-mortem neuropathology examination would not assist in determining this issue.”* He noted there was no relevant cardiac medical history or peri-mortem clinical evidence of a sudden cardiac event. He noted alcohol and multiple prescription drugs were present and the possibility of a physiological impairment, due to the concentration of alcohol contributing to the circumstances in which

² Yaw is a term applied to sideways movement of a vehicle, indicating the rear wheels have begun to track outside the path of the front wheels, or outside their normal path. Such marks are identified by striations within the tyre mark, these marks are angled toward the direction of side slip.

the cause of death arose, could also not be excluded. I accept Dr Reid's opinion as to the cause of death.

Comments and Recommendations

There is no evidence that the weather and/or road conditions contributed to this crash. Likewise the roadworthiness of the vehicle did not contribute to this crash and no other vehicle was involved. I am satisfied this very tragic crash was principally caused by excessive speed. Mr Clark's driving ability was also impaired by his consumption of alcohol and prescribed medication namely clonazepam and oxycodone which depress the CNS. Even though Dr Reid could not rule out a seizure being a cause of the loss of driving control I think on the balance of probabilities this is unlikely given the medical history that Mr Clark did not suffer from any seizures for approximately a decade prior to the crash. Further there is no evidence to support a theory that Mr Clark committed suicide. The evidence is at his last general practitioner's mental health assessment, some 16 days prior to the crash, Mr Clark had no suicidal thoughts and/or attempts and nor did he exhibit any compulsive behaviour. The evidence of his mother and his friend indicate in the days to hours leading up to the crash Mr Clark was in a good mood. I find Mr Clark was angry with other patrons at the hotel which is exhibited by the manner in which he drove out of the car park. He then drove at very high speed under the influence of alcohol and prescribed medication and this has led to the crash which resulted in the injuries from which he passed away some three days later.

I extend my appreciation to Constable Kelly Cordwell for her very thorough investigation and report.

The circumstances of Mr Clark's death are not such as to require me to make any comments or recommendations pursuant to Section 28 of the *Coroners Act 1995*.

I convey my sincere condolences to the family and loved ones of Mr Clark.

Dated: 31 July 2024 at Hobart, in the State of Tasmania.

Magistrate Robert Webster
Coroner