



CORONERS COURT OF QUEENSLAND

FINDINGS OF INQUEST

CITATION: **Inquest into the death of Damon Edward McCoy**

TITLE OF COURT: Coroners Court of Queensland

JURISDICTION: NORTHERN

FILE NO(s): 2016/3018

ABRIDGED FINDINGS DELIVERED ON: 5 February 2021

PUBLISHED FINDINGS DELIVERED ON: 10 June 2021

DELIVERED AT: CAIRNS

HEARING DATE(s): 11 August 2020, 11 February 2020, 10-12 November 2020, 17 December 2020

LAST SUBMISSION: 28 May 2021

FINDINGS OF: Nerida Wilson, Northern Coroner

CATCHWORDS: Coroners: inquest, re-open findings; motor vehicle collision, identity of driver.

REPRESENTATION:

Counsel Assisting the Coroner: Mr J. Crawfoot

Counsel for McCoy Family: Mr H. Walters i/b Connolly Suthers Lawyers

Counsel for Nick Rogers: Mr S. Moon i/b Chris Trevor & Associates lawyers

Contents

Publication.....	4
Reopening of coronial investigation	4
The Inquest	5
Witnesses appearing at Inquest	5
Relevant Legislation	6
Standard of Proof	6
The material and evidence	7
The circumstances of death.....	7
Damon McCoy.....	7
Family concerns	8
Drivers Licence Status and Criminal History	9
Events of 21 July 2016	9
First to attend the scene of accident	14
Post mortem examination and toxicology results	15
Nick Rogers – Search and Medical Treatment.....	17
Nick Rogers knowledge of events.....	19
Reconciliation of snap chat message log.....	21
Police Forensic Crash Unit Investigation and Report	22
Forensic Crash Unit Peer Review	25
Weather	26
Headlights.....	26
Seatbelts	27
Photographs of injuries	27
DNA testing	27
Fingerprint examination	28
Forensic value of windscreen.....	28
Characteristics of fatal rollover crashes	28
Forensic Crash Unit – Crash Analysis Report.....	29
Evidence of Noel Pickering.....	30
Additional investigation and submissions post inquest.....	39
Identity of the driver	41
Further evidence regarding the identity of the driver	42
Conclusions and Findings.....	43
Referrals.....	44
Acknowledgements	44
Condolences	44
Corrections	44
Findings required by s. 45	45
Identity of the deceased.....	45
How he died.....	45
Place of death.....	46
Date of death–	46
Cause of death -	46

Publication

Section 45 of the *Coroners Act 2003* ('the Act') provides that when an inquest is held, the Coroner's written findings must be given to the family of the person in relation to whom the inquest has been held, each of the persons or organisations granted leave to appear at the inquest, and to officials with responsibility over any areas the subject of recommendations. These are my 47 page findings in relation to Damon Edward McCoy. They will be distributed in accordance with the requirements of the Act and published on the website of the Coroners Court of Queensland.

Reopening of coronial investigation

1. On 28 August 2018 I issued written 20A findings without inquest (Coroners Findings and Notice of Completion of Coronial Investigation) into the death of Damon Edward McCoy.
2. I found that Damon Edward McCoy died due to multiple injuries sustained in a single vehicle motor vehicle collision on Claraville Road at Croydon on 21 July 2016.
3. At the time of the crash there were two occupants in the vehicle (Damon McCoy and Nick Rogers) and I found that the identity of the driver remained undetermined.
4. Damon McCoy's parents (Mr Michael and Mrs Noeleen McCoy) made an Application to the State Coroner to re-open the coronial investigation to resolve, if possible, who was driving at the time of the crash. Mr And Mrs McCoy were of the view that the available evidence supported a finding that their son was not driving at the time of the crash.
5. The State Coroner granted the Application to re-open and the matter was transferred to me for further investigation.
6. Upon further review of all material I determined that an Inquest should be held as it was not possible to determine the identity of the driver otherwise. The inquest provided an opportunity to call witnesses and additional evidence.
7. I herewith formally set aside my findings of 29 August 2018 and provide my revised findings and reasons below.

The Inquest

8. The pre-Inquest conference originally listed for 24 April 2020 was delisted following operational changes to all Queensland Courts with regards to COVID-19.
9. The following issues were set for Inquest at the pre-Inquest conference on 11 August 2020
 1. The findings required by section 45(2) of the *Coroners Act 2003* namely:
 - (a) the identity of the deceased person;
 - (b) how the person died; and
 - (c) when the person died; and
 - (d) where the person died, and
 - (e) what caused the person to die.
 2. The identity of the person driving the vehicle at the time of the collision.

Witnesses appearing at Inquest

10. A total of twenty (20) persons were called to provide oral evidence at Inquest over three days on 10,11 and 12 November 2020, they were:
 1. Sergeant Scott Ezard
 2. Senior Constable Leisa Vagg
 3. Sergeant Melissa Buckle
 4. Gary Ryan
 5. Senior Constable Callum Fahey
 6. James Barnes
 7. Senior Constable Mark Comley
 8. Michael McCoy
 9. Jacob Pointon
 10. Anna Stratford
 11. Thomas Kidd
 12. Kera Archer
 13. Thomas Clyne

14. James Gilmartin
15. Maddison Lee
16. Noel Pickering
17. Donna Rogers
18. Dr Leslie Griffiths
19. Dr Tony Mallett
20. Nick Rogers

Relevant Legislation

11. Pursuant to s.45 of the *Coroners Act 2003* I must, if possible, make findings as to:
 - a) Who the deceased person is;
 - b) How the person died;
 - c) When the person died;
 - d) Where the person died; and
 - e) What caused the person to die
12. I must not include within those findings any statement that a person is, or may be:
 - a) Guilty of an offence; or
 - b) Civilly liable for something.

Standard of Proof

13. The particulars a Coroner must if possible find under section 45 (*Coroners Act*), need only be made to the civil standard but on the sliding *Briginshaw* scale. That may well result in different standards being necessary for the various matters a Coroner is required to find. For example, the exact time and place of death may have little significance and could be made on the balance of probabilities. However, the gravity of a finding that the death was caused by the actions of a nominated person would mean that a standard approaching the criminal standard should be applied because even though no criminal charge or sanction necessarily flows from such a finding, the seriousness of it and the potential harm to the reputation of that person requires a greater degree of satisfaction before it can be safely made.
14. The paragraph above was specifically contemplated by the Court of Appeal with apparent approval. The Court went on to state:

Two things must be kept in mind here. First, as Lord Lane CJ said in R v South London Coroner; ex parte Thompson, in a passage

referred to with evident approval by Toohey J in Annetts v McCann: ...an inquest is a fact finding exercise and not a method of apportioning guilt ... In an inquest it should never be forgotten that there are no parties, there is no indictment, there is no prosecution, there is no defence, there is no trial, simply an attempt to establish facts. It is an inquisitorial process, a process of investigation quite unlike a trial where the prosecutor accuses and the accused defends, the judge holding the balance or the ring, whichever metaphor one chooses to use. Secondly, the application of the sliding scale of satisfaction test explained in Briginshaw v Briginshaw does not require a tribunal of fact to treat hypotheses that are reasonably available on the evidence as precluding it from reaching the conclusion that a particular fact is more probable than not.”.

The material and evidence

15. The material and evidence compiled for this coronial investigation is extensive and comprises the coronial file; a coronial brief of evidence; the oral evidence of witnesses; and the inquest transcript. Final submissions were delivered orally by all Counsel on 5 February 2021.
16. In these findings I do not refer to the totality of the material and evidence and refer only to that material and evidence sufficient to provide the reasons for my findings.

The circumstances of death

17. Mr Damon Edward McCoy was born on 7 December 1995 and died from multiple injuries sustained in a motor vehicle accident at or about 6.30pm on 21 July 2016. He was then aged 20 years.
18. The crash occurred approximately 27km south of the township of Croydon, Queensland.
19. Damon McCoy and another, Mr Nick Michael Rogers, were both occupants of a vehicle described as a 2000 Toyota LandCruiser utility 79 Series single cab, VIN number JTELB71J107004679. The registration of this vehicle was cancelled 17 August 2015. As at the date of cancellation the vehicle was registered in the name of Rainscourt Grazing Co Pty Ltd. The associated Queensland registration number was 546 FMD (although unregistered at the time of these events).

Damon McCoy

20. Damon McCoy is the only son of Mr Michael McCoy and Mrs Noeleen McCoy, and younger brother to sister Aysha.

21. The McCoy's are graziers. They own and operate cattle properties including Rainscourt Station near Richmond, and Prospect Station near Croydon.
22. Damon was a station hand at Prospect Station and played a significant and developing role in the family cattle business. I am left with the impression of a young man who was reliable, trustworthy, industrious, happy and a 'give you the shirt of your back type', and much more.
23. He was described as 6" tall and strong. The station manager Mr Pointon said he was the only person he knew that could lift a 100kg 'lick block' on his own.
24. Damon is described by his father as a "*talented, healthy, compassionate, respectful, polite young gentleman, popular and funny... and a bit naughty, he loved life and was loved by everyone who knew him, especially his family*".
25. Those present for the Inquest could not help but be moved by the quiet dignity of Damon's grieving family. In the words of his father "*to lose one of your own gives a whole new meaning to the word pain. It changes you as a person. It changes the whole family dynamic because the suffering is relentless, and contrary to what people think, it doesn't get easier. It actually becomes more difficult to live with because it is impossible to comprehend, especially when that person is such a huge cog in the family wheel*".

Family concerns

26. The issues raised by the McCoy family insofar as they are relevant to the inquest are summarised as follows:
 - That Damon was not driving at the time of the collision.
 - Nick was a domineering personality who would have persuaded Damon to let him drive the station vehicle, and had the propensity to drive dangerously;
 - A snapchat video sent by Damon to his friend Anna Stratford depicted Damon in the passenger seat (indicating Nick was driving);
 - Forensic opportunities were lost by police to properly examine the crash scene including the potential for DNA on the windscreen, which was not removed by police from the crash site;
 - The ignition key remained in the on position however the dash lights were off;

- That Damon may have been dragged to the location where he was found and that his body positioning was 'staged', including the placement of Damon's Akubra hat over his face in which he was found by his father Michael McCoy.

27. The family concerns are each addressed within these findings.

Drivers Licence Status and Criminal History

28. Transport and Main Road driver licence checks have identified that at the time of this collision, Damon McCoy was the holder of a Queensland open driver licence expiring 07/04/2018. He was recorded as having a single traffic violation for failing to stop at a red light in 2014.
29. There is nil recorded criminal history for Damon McCoy.
30. Transport and Main Road driver licence checks have identified that at the time of this collision, Nick Rogers was the holder of a disqualified Queensland driver licence. This disqualification period commenced 25/02/2016 for a period of 30 months as imposed at the Gladstone Magistrate Court. He has extensive traffic history dating back to 2007 primarily consisting of exceeding the speed limit and failing to display L and P plates.
31. Nick had a recorded criminal history including convictions primarily associated with the possession and production of dangerous drugs and matters unrelated to these proceedings.

Events of 21 July 2016

32. On 21 July 2016, Nick Rogers arranged with Mr Michael McCoy (Damon's father and station owner) to have the day off to collect his personal effects from Tabletop Station where he had been most recently employed. Nick had not long come over to Prospect Station to take up a role as a station hand.
33. Sometime between 1:30 PM and 2:00 PM that day Damon located his father at the house on Prospect Station and advised him that Nick did not have a driver's licence and could not travel to Tabletop on his own. Mr McCoy senior was not aware that Nick did not have a drivers licence and advised Damon that he should go with Nick and to take the Ford F250 station vehicle. Damon told his father that Nick was fuelling the Toyota LandCruiser in preparation for the trip. Mr McCoy advised Damon against using the Toyota LandCruiser because it was unregistered. He asked

Damon to take the Ford F250 and requested that Damon phone him and let him know when they were coming home. Mr McCoy expected Damon home around 7.00PM for dinner.

34. There was also some discussion between father and son about fixing the cylinder of a hydraulic RAM or hoist (a piece of machinery used to close doors on a double deck cattle trailer) that required parts and repair. [I use the terms RAM and hoist interchangeably to reflect the same piece of equipment]. The RAM was already loaded in the tray of the Toyota Landcruiser and Mr McCoy agreed they should go to Croydon to check for parts in their travels that day. Mr McCoy expected Nick and Damon would load the RAM into the F250 truck.
35. It is accepted as fact that Nick Rogers was disqualified from driving for a period of 30 months on 25 February 2016, the disqualification was operative on 21 July 2016.
36. Damon and Nick departed Prospect Station together in the Landcruiser. Michael McCoy says this is contrary to the arrangement he made for the boys to take a Ford F250 station truck and he remained unaware until after they departed the property that they took the Landcruiser. I accept Mr McCoy's evidence on this point.
37. The registration for the Landcruiser had been cancelled as at 17 May 2016. The Landcruiser had just undergone significant maintenance and servicing, including an engine rebuild (to the value of approximately \$20,000), and was ready for a roadworthy inspection, which had yet to take place. I accept that the vehicle was in roadworthy condition at the time of the collision notwithstanding that it had yet to undergo a formal roadworthy for registration.
38. Sometime after they departed, Damon's father saw that the F250 truck remained in the shed. Mr Jacob Pointon, also employed at Prospect station, (and the partner of Mr McCoy's daughter), told Mr McCoy he saw Nick driving from the property in the Landcruiser with Damon, and overheard a conversation between Nick and Damon during which Damon advised Nick that they were to take the Ford F250. Nick indicated that he had just filled up the Toyota and was ready to go. Jacob heard that Nick was unwilling to shift the RAM from the Landcruiser into the F250 truck.
39. I accept the evidence in this regard and **find** that Nick Rogers was driving the Toyota Landcruiser on or about 2.00pm on 21 July 2016 when he and Damon McCoy departed Prospect Station.

40. The trip to Tabletop Station required travelling through the township of Croydon, population 258 people (according to the 2016 census) and located 155 kilometres south east of Normanton in the Gulf of Carpentaria.
41. Sometime soon after 3:00 PM Damon and Nick attended the Croydon Club Hotel and purchased a 6 pack of 'Dark and Stormy' mixed spirits. They remained at the hotel for no more than 5 minutes and Damon's bank records confirm that the purchase of alcohol occurred at 3:19 PM.
42. The bartender who served Damon during that transaction, Ms Rio-Marie Farnell, recalled Damon getting out of the driver seat of the LandCruiser. Nick remained in the passenger seat for a short period before getting out and entering the bar. The bartender saw Damon return to the driver's seat and Nick return to the passenger seat and then travel north on Sircom Street (towards Tabletop Station).
43. I accept and find that Damon McCoy was driving the Landcruiser at the time he and Nick arrived at the Croydon Club Hotel soon after 3:00 PM and that Damon was also driving when leaving the hotel after completing their purchase.
44. The only reasonable inference that I can draw is that sometime after leaving Prospect Station and before arriving in the township of Croydon, Nick and Damon swapped as drivers.
45. At around 4:00 PM the manager of Tabletop Station Mr Thomas Kidd saw Nick and Damon arrive and observed Nick get out of the driver's seat as they pulled up outside the gate near his shed. He had a brief conversation with them and was aware they attempted to find parts to fix the hydraulic RAM. They did not stay for long and Mr Kidd does not know what time they departed or who was driving upon departure. I accept Mr Kidd's evidence in entirety.
46. I accept and find that Nick Rogers was driving the Landcruiser at the time he and Damon arrived at Tabletop Station at around 4:00 PM.
47. The only reasonable inference I can draw is that Nick and Damon swapped as drivers when leaving Croydon the first time and prior to arriving at Prospect Station. I am unable to determine who was driving upon departure from Prospect Station.
48. Nick and Damon drove back to Croydon and stopped off at the Croydon supermarket and purchased chocolates, a 'V' energy drink, a 'Dare' milk drink, tobacco and cigarettes. The receipt for that transaction indicates a time stamp of 5:19PM on 21 July.

49. Damon and Nick then returned to the Croydon Club Hotel just prior to 5.30pm. The same bartender (Farnell) had previously completed her shift and returned to the hotel around 5.30PM and saw Damon and Nick who told them they had only just arrived 5 minutes prior.
50. The bartender who served them on this (second) occasion, Ms Keira Archer gave evidence that she could see through the door of the hotel Damon exiting the driver side of the Landcruiser after they pulled in, and she saw Nick exiting the passenger side. That evidence was not challenged. I accept Ms Archers evidence.
51. I find that Damon was driving the Toyota LandCruiser when he and Nick arrived at the Croydon Club Hotel just prior to 5.30 pm on 21 July 2016.
52. Ms Archer gave evidence that Nick and Damon ordered rum and ginger ale mixed spirits. She engaged them in general conversation and used Damon's phone to Bluetooth music to the hotel speakers. They (Nick and Damon) had a game of pool during which she heard Damon say to Nick "*hurry up and beat me at this game we need to get going*". She saw them leave the hotel by the pool room door. She did not observe who drove away.
53. Ms Archer later received a phone call between 9.30 and 10.00pm (from Mr McCoy) enquiring about Damon's whereabouts.
54. Ms Archer was an entirely credible witness and I have reconciled any discrepancy in her estimate of time against the unchallenged evidence of the time of the supermarket transaction and the evidence of Rio Marie Farnell placing Damon and Nick at the hotel just before 5.30pm.
55. Farnell noted that Damon and Nick consumed two drinks, played a game of pool and left and they closed the side doors when they walked out of the hotel because the (western) sun was shining into the bar area into the eyes of the staff.
56. Mr Thomas Clyne who saw Damon and Nick inside the pub, was sitting on the veranda of the hotel having a beer at the time the men departed the hotel. He observed the LandCruiser travelling east down Brown Street and could see the passenger side of the vehicle. He saw Nick with his arm out of the passenger window. Nick waved to him and said "*g'day Tom*". In oral evidence Mr Clyne deposed not to have a view of the driver but presumed it was Damon because he had seen both together in the pub prior (and Rogers was in the passenger seat).

57. Sometime around 6:00 PM a group of people sitting on the front porch of a house in Sircom Street Croydon saw the Landcruiser drive past them (only metres away), out of Croydon towards Claraville Road. Those people included Mr Alec Logan Hollis, Mr James Gilmartin and Mr Anthony Styan.
58. Mr Logan Hollis heard someone yell out something like 'hi' which drew his attention to the Toyota Landcruiser travelling south on Sircom Street. He saw and heard people call out and wave from both the passenger side and driver's side windows, however was unable to identify the occupants of the vehicle.
59. Mr James Gilmartin saw the Landcruiser Ute travelling south on Sircom Street and observed a person (that his friend 'Basha' told him was Damon) driving the ute, and he positively identified Nick in the passenger seat. He heard Nick yell out 'oi' (in greeting). He deposed the driver's window was down and he saw Nick in the passenger seat leaning forward and across the driver (Damon), waving at him.
60. I was impressed with Mr Gilmartin as a witness and I accept his recollection as accurate. Mr Gilmartin demonstrated his recall in voice and gesture when indicating Nick leaning across Damon in the driver's seat as they passed by the Sircom Street address.
61. Mr Styan also heard someone in a white four-wheel drive 'sing out to them' on the porch and witnessed Nick leaning forward and waving. He could not recall what seat he was in.
62. I accept and find that Damon was driving at the time he and Nick departed the Croydon Club Hotel along Sircom Street heading out of town, sometime around 6:00 PM.
63. Mr Gilmartin and Mr Clyne made their observations close in time to each other, and independent of each other and both placed Nick in the passenger seat.
64. I find that at all material times whilst Nick and Damon were in the township of Croydon, that is during their arrival and departure on both occasions during the day and early evening of 21 July 2016, Damon was driving the Landcruiser. The eyewitness accounts are accepted by me.
65. Further, Damon was sufficiently concerned to raise with his father earlier that day his awareness that Nick did not have a driver's licence (and therefore inadvisable to drive in town).

66. In any event the evidence of all witnesses is congruent on this point and there is no evidence that positively places Nick in the driver's seat whilst they were in the Croydon township. There are three eyewitness accounts (Clyne; Archer and Gilmartin) that positively place Nick in the passenger seat in Croydon. I therefore find that Damon was driving from the time he and Rogers left the pub soon after 6.00pm and drove via Sircom Street heading out of town towards the Claraville Road.
67. A witness, Mr Noel Pickering, gave evidence that he saw Nick and Damon in the Landcruiser driving past the local (refuse) dump, located just two or so minutes out of the township. That evidence, if accepted, would posit Mr Pickering as the last to see Damon and Nick (after the eyewitness from Sircom Street) before the accident. Before I turn to the evidence of Mr Pickering I intend to traverse the circumstances as to how the Damon was discovered deceased and the Queensland Police Forensic Crash Unit Investigation.

First to attend the scene of accident

68. Damon was expected back at Prospect Station for dinner at around 7.00PM (or soon after). When he had not returned by 7.00PM, Damon's father tried unsuccessfully to contact Damon on his mobile phone. Mr McCoy thought that Damon had been delayed and was not concerned at that time.
69. By 10:00 PM Mr McCoy was concerned and contacted the Croydon Hotel and was advised that Damon and Nick had left 'hours ago'. Mr McCoy assumed that they must have broken down and he decided to go and look for them.
70. Mr McCoy located the LandCruiser Ute at around 11:30 PM on the Claraville Road, 17 kilometres south of Croydon. He saw the upright vehicle pointed west and the front wheels in the table drain (which was full of water from recent rains). The headlights of the vehicle were off and the engine was not running. The key was in the 'on' position. Mr McCoy was the first person at the scene.
71. Mr McCoy located his son on the road lying on his back with one leg raised and his right arm on his chest. Damon had no visible injuries He knew that Damon had already passed away.
72. Nick was not at the scene and Mr McCoy called his wife Noeleen who was located at Rainscourt Station. She then placed a call to Triple0 at approximately 12:07 AM on 22 July.

73. Mr James Barnes was the Director of Nursing at the Croydon Primary Health Care Clinic on call the night of the accident. He took a call from the communication centre and deployed with the on-call operation services officer (who assumed the role of Ambulance Driver at the Health Care Centre), to the scene of the accident. Upon arrival Mr Barnes saw Damon lying on the road and a devastated and shocked Mr McCoy kneeling beside his son. Damon's Akubra hat was placed over his face and Mr McCoy told Mr Barnes he put the hat over Damon because to cover his open eyes, because he couldn't keep looking at them. Mr Barnes conducted preliminary observations and confirmed that Damon was deceased. Mr Barnes waited for police to arrive.
74. The Croydon police arrived at the scene at about 12:40 AM.
75. Damon's body was positioned northeast of the vehicle and approximately 15 metres from the vehicle. No drag marks or footprints were located near Damon. The road was in good condition. Mr Barnes advised SES personnel who arrived before police not to disturb the scene. SES commenced walking the road in search of Nick.
76. Based on his experience attending other fatal motor vehicle accidents Mr Barnes opined that *"My opinion would have been that – that just looking at the tyre marks up near the ambulance, which crossed back and forth over each other, it was my opinion that the car had lost control. How or why I don't know. But – and then had rolled quite some distance and that Mr McCoy would have been thrown out of the car"*.
77. Mr Barnes later told Sergeant Ezard that it took four (4) people to lift Damon into the ambulance. Mr Barnes identified that Damon was in a 'ragdoll' orientation when located, without any marks on the roadway between vehicle and location where he was located, supporting the view that Damon had been ejected from the vehicle as opposed to being extracted by Nick and either carried or dragged from the vehicle. Nurse Barnes in his statement *"After lifting the deceased I would say it would be extremely difficult for a single person to be able to remove him on their own and carry him without leaving any drag marks"*.

Post mortem examination and toxicology results

78. A post-mortem examination was undertaken by a Pathologist in Cairns on 26 July 2016. The examination was observed by a Senior Staff Specialist Forensic Pathologist. I extract the relevant information from the autopsy report as follows:

Cause of death

Disease or condition directly leading to death

- 1a. **MULTIPLE INJURIES**
due to or as a consequence of
- b. **Motor vehicle accident**

Final summary of Pathologist

This 20-year-old Caucasian male was found dead on the road following a motor vehicle accident. At the time of autopsy, it had not been determined if he was the driver or a passenger who had been ejected from the vehicle. His BMI was 32 (RR 19-24) and his heart weighed 410 g (expected weight between 303 and 383 g). He had a variety of injuries - fractures of his 1st to 3rd left ribs, his left clavicle, a dislocation of his left femoral head and there was extensive bleeding into his retroperitoneal tissues and into his pelvis. Blood vessels in his cerebrum and cerebellum were also congested and he also had a small amount of subarachnoid blood over his cerebellum. This combination of injuries – a cerebral haemorrhage, fractured ribs and clavicle, dislocated femoral head and retroperitoneal bleeding is sufficient to be the cause of his death. Toxicology showed the presence of alcohol, paracetamol and Δ^9 tetrahydrocannabinol.

Toxicology

Body cavity blood

Alcohol 28 mg/100 ml
Paracetamol 2 mg/kg
 Δ^9 tetrahydrocannabinol (THC) 0.007 mg/kg
No other drugs detected.

Vitreous humour

Alcohol 27 mg/100 ml

Urine

Alcohol 38 mg/100 ml

Immunoassay was NEGATIVE for amphetamines, benzodiazepines;

barbiturates, cocaine; metabolites, opiates and monoacetylmorphine but POSITIVE for cannabinoids.

79. I accept and adopt the conclusions of the Pathologist for the purpose of these findings.

Nick Rogers – Search and Medical Treatment

80. A co-ordinated ground and air search commenced to locate Nick. Queensland Police, the Queensland 510 rescue helicopter, State Emergency Service personnel and many local people, including Mr Pickering galvanised into action to locate Nick.
81. Nick was located the following day at about 4:54 PM on 22 July 2016, approximately 6-8 km east of the crash site in bushland. He was confused, disoriented, dehydrated and sunburned. He was not wearing clothes and he had a large graze on his left collar bone and his upper left shoulder blade leading through to the middle of the shoulder blades. He had numerous cuts and abrasions to both of his shins.
82. At about 5.00pm on 22 July Mr Barnes received news at the Croydon Clinic that Nick Rogers had been located. He attended the location again in company with the same ambulance driver. Upon arrival Mr Barnes saw the Rescue 510 helicopter on site and treating Nick.
83. He saw Nick was vomiting up water that was given to him by a member of the search party. Rescue 510 medical staff were trying to insert a canula in his arm. He was “*completely dazed*” and he kept “*opening his mouth with water flowing out*” Mr Barnes noted him to be completely naked and have extensive sunburn “*like a beetroot*”. Mr Barnes had never seen anyone “*as sunburnt as that.*”
84. Nick was airlifted to the Cairns Hospital for further treatment at about 10:30 PM on 22 July 2016 and he was discharged on 5 August 2016.
85. A specimen of Nick’s blood was taken for toxicology analysis at 9.30pm on 22 July 2016 indicating the presence of THC at 0.008mg/kg. Testing for alcohol and other drugs returned a negative result.
86. A significant issue regarding the nature of injuries identified over Nick’s left shoulder assumed importance when trying to determine if they were indicative of a seatbelt injury, and therefore place him in the passenger seat at the time of the collision.

87. The Queensland Police in an effort to obtain photographs later attended on Nick at the Cairns Hospital. The Officer took some photographs of Nick's injuries however acquiesced to a family request not to roll Nick while he was sleeping. That foreclosed the possibility of obtaining comprehensive photographs of injuries to the back or rear of Nick's body, and the opportunity was lost to obtain the best evidence. The QPS did not make any further attempt to photograph the injuries at a later date. A comprehensive set of photographic images of all injuries sustained by Rogers may have assisted to determine whether Nick was wearing a seatbelt at the time of the collision and in turn, who was driving at the time of the collision.
88. As the identity of the driver was the sole issue in dispute at Inquest, the absence of whole of body photographs of the sole survivor (which may have conclusively included or excluded seatbelt injuries) should be the subject of review and significant scrutiny by the Queensland Police.
89. The only relevant photograph was taken at / by the hospital during the trauma assessment and survey. That photograph combined with the trauma survey hospital records, the evidence of Dr Mallett and Dr Griffiths, and 'seatbelt' evidence provided by the vehicle inspector form the basis for a findings that the totality of the evidence is not incompatible with a finding that Nick was wearing a seatbelt at the time of the collision.
90. Dr Mallett undertook the Tertiary Trauma Survey upon Nicks admission to the Cairns Hospital. Dr Mallett recorded the results in the hospital record. Dr Mallett gave evidence at Inquest, including the injuries sustained by Nick to the left shoulder and supraclavicular region
91. Dr Mallett's evidence can be summarised as follows:
- The initial trauma survey (the visual inspection by the doctor and his written record) records a friction mark on Nicks left shoulder;
 - Nick had an undisplaced fracture of the occipital bone on the left side;
 - Nick had contrecoup injury to right frontal lobe, suggesting an impact from the opposite side (left)
 - Confirmation of a partial to mid-thickness burn. Dr Mallett would not have expected sunburn to cause that level of injury. He's not seen sunburn with that depth of injury before.
 - The injury was described as sustained to the left shoulder, supraclavicular region
 - Dr Mallett distinguished between injuries expected in lateral (side to side) vs. linear force in motor vehicle accidents;

- Nick did not have any injuries associated with linear force seatbelt injury (which I understood from the evidence to be across the waist or abdomen);
 - The shoulder injury had a smooth and even surface as distinct from gravel that would tend to have more “*issue disruption*”, “*divot [and] chunks taken out*”;
 - The injury extended over his back;
 - Depth of burn is usually established 48-72 hours after. Therefore, at the time of the injury they can look better, but by day six they can look “*significantly worse with deeper injuries*”;
 - If the forces are atypical then an atypical injury pattern will result
92. In relation to the ‘friction burn’ Forensic Medical Officer Dr Griffiths in his oral evidence at inquest (with reference to the photograph taken during the trauma survey) opined the delineation of the “*friction burn*” injury was “*almost a straight line*” which in his opinion was “*uncharacteristically straight if it were sunburn*”.
93. I **find** it is more probable than not that Nick’s left shoulder and clavicle region injuries were sustained when wearing a left passenger seatbelt at the time of the collision. The nature of those injuries cannot otherwise be explained as either sunburn; gravel rash or grazing from climbing under a barbed wire fence (as was variously explored at inquest).

Nick Rogers knowledge of events

94. Nick sustained neurological damage in the collision and his memory and cognitive function has been affected. Expert evidence as to the current state of Nick’s function was not obtained or sought for Inquest. It was generally accepted that the injuries sustained in the collision compromised his memory and that subsequently he was a poor historian.
95. The Rockhampton Forensic Crash Unit spoke with Nick on 18 August 2016. He was present with his mother. The interview and transcript were tendered at Inquest.
96. Neither Nick nor his mother made any disclosure about the interaction and communication that occurred with Noel Pickering at the Cairns Hospital (in July) with respect of Nick being the passenger.
97. When interviewed by police, Nick denied driving at any time on 21 July 2016.

98. I do not accept Nick's evidence. I accept the direct eyewitness account of:
- Jacob Pointon, that Nick was driving when he and Damon left Prospect, and
 - Thomas Kidd, that Nick drove into Tabletop Station.
99. Nick was called to give evidence at inquest and had little or no independent recollection of relevant or material events. I was not assisted by Mr Rogers evidence at Inquest. I do not accept his evidence that he was not driving at any time on 21 July, and it is disingenuous to say so when he otherwise claims to have little or not recall of events.
100. Nick Rogers was driving when he and Damon departed Prospect Station.
101. The drivers swapped sometime before entering the township of Croydon, placing Damon in the driver's seat when attending the Hotel for the first time.
102. Damon drove away from the Hotel and out of town and the drivers then swapped en-route to Tabletop Station placing Nick Rogers in the driver's seat.
103. Nick was the driver of the vehicle on at least two occasions during the course of the day of 21 July.
104. Police interrogation of Rogers phone records reveal the last SMS text message sent from his phone was at 6.12pm on 21 July. The text was therefore sent after departure from the Croydon Hotel (10 minutes after leaving the hotel and after passing the dump and within 16-18 minutes prior to the accident occurring). It is more probable than not that Nick sent the text message when a passenger in the vehicle. (I also note that the last text was sent at around the location that mobile signal is lost on the Claraville Road).
105. On 18 April 2019 Mrs Donna Rogers provided a statutory declaration for civil proceedings formally declaring that she spoke with Noel Pickering at the Cairns Hospital during Nick's admission and that Pickering told her that he last saw Nick and Damon leaving town in the Toyota on 21 July 2016 and Nick was sitting in the passenger seat and waved his hat at him on way past.
106. In his oral evidence Pickering accepted all aspects of his conversation with Donna Rogers (as deposed by her) save for telling her that Nick was a passenger, which he denies.

Reconciliation of snap chat message log

107. Anna Stratford received a snap chat video from Damon (opened by her at 5.55PM) and showing Damon in the passenger seat of the vehicle singing and laughing and someone else was driving.
108. Ms Stratford was able to show police the timestamp on the snapchat when she attended to provide her statement. Ms Stratford maintains that the snapchat was sent by Damon to her at 5.55pm and is therefore evidence they were in the vehicle at 5.55pm.
109. Police also captured a snapchat message log between Ms Stratford and Aysha McCoy on 22/07/2016. Within the content, Ms Stratford advises that she had been in contact with Damon McCoy by the means of a snapchat video the previous day. In response she was asked by Aysha to review the video to assist in identification of the driver. I extract the relevant aspects below:

Stratford *"I last heard from him around 5.55pm yesterday (21/07/2016). He sent me a snapchat of him and that other guy in the ute singing to some tunes. I snapped him back and we had a convo for a while then he just stopped replying"*

Aysha *"Hey can you replay that snap? We don't know who was driving. Do you think you would be able to tell from the snap?"*

Stratford *"It won't let me replay it. I'm trying to remember who he was with but I don't know his name or anything"*
110. The evidence bears out that the snapchat was sent by Damon at 3.14pm on the 21st July – reflecting his snapchat log which is the most accurate information available to the Court.
111. I accept that Ms Stratford may have opened the snapchat at 5.55PM.
112. The video of Damon in a passenger seat of the vehicle at 5.55PM does not align to other evidence that Nick and Damon were in the vehicle at that time. Damon and Nick were at the Croydon Hotel at 5.55pm and they purchased last drinks at 6.00pm before Damon drove out of town.
113. The only reasonable inference is that Damon sent the snap chat to Ms Stratford per the timestamp on his call log at 3.14pm as evidenced on Damon's call log which is on or about the time the men were en-route from

the Croydon Hotel to Tabletop Station. There is no dispute that Nick was driving when they arrived at Tabletop.

114. Anna Stratford's mother told police that Anna told her that she could not remember where Damon and Nick were seated or who had hold of the steering wheel. Ms Stratford in oral evidence said she was unsure how her mother arrived at that conclusion. Her mother was not called to give evidence.
115. Ms Maddison Lee also received a snap chat message and a text from Damon. She opened it at 8.00pm on 21 July 2020. She recalls an image inside the vehicle and despite the lack of details due to poor quality image she puts Damon in the passenger seat and another person as driving. I accept Ms Lee's recollection but am unable to reconcile the time the snap chat was sent to her.
116. The last snap chat sent from Damon's phone was to a Jayden Pickering at 5.22 pm at or about the time Damon was purchasing goods at the Croydon store.

Police Forensic Crash Unit Investigation and Report

117. Senior Constable Lisa Vagg then based in the Forensic Crash Unit at Cairns was tasked with the crash investigation. I extract the relevant aspects of the report:
118. The scene examination was described as in the following terms:

Claraville Road, Mittagong is a wide dirt roadway. Where the incident occurred the roadway is orientated in a north-east/south-west direction. It is speed limited to 100km/h. This section of the roadway is a gazetted unfenced roadway that travels through the Mittagong Station. The area had sustained heavy rainfall on the 15th July recording 48mm of rain in the Croydon Township. And a further 12.2mm of rainfall on the 19th July. Evidence of this rainfall was observed on the night of the incident with the spoon drains running on both sides of the roadway filled with water. This water obscured the first response officer's view of the extent of the incident.

The tyre marks left by the white Toyota utility were observed to fail to negotiate the sharp left hand bend and enter the spoon drain running parallel on the north east side of the roadway. The driver's side tyre marks are observed to enter into the spoon drain before

the vehicle is steered back across the roadway veering into the spoon drain that runs parallel with the south-west lane.

First response officers have then observed a large gouge mark at the edge of the south-west bound lane it appears to be the trip point for the Toyota. It has rolled several times with the two occupants, being unrestrained, ejected from the vehicle during the roll over. The vehicle has come to a complete stop on all four tyres. Its front tyres were in the spoon drain on the north-east side of the roadway facing west. Debris was located on the roadway spanning outwards from the gouge mark to the final resting place of the vehicle.

The deceased was located 15 meters north east of the vehicle. Nick ROGERS decamped from the scene and was not located until approximately 22hrs after the incident had occurred.

119. The results of the mechanical inspection of the Landcruiser were as follows:

On the 31st August 2016 Police mechanic Garry RYAN attended the Normanton Police holding yards to inspect the white Toyota utility involved in this incident. As a result of the inspection of the vehicle RYAN was of the opinion that the vehicle was in a satisfactory mechanical condition at the time of the inspection with no defects noticed that could have been contributory to the cause of the incident. All throttle linkages were intact and operating with no binding noticed in its operation.

120. The investigating officer concluded that the following factors could be excluded as contributing to the cause of the accident:

Alcohol and drugs – toxicology reports have returned for Damon showing he had 28mg/100mL alcohol in his system, 2mg/kg Paracetamol and 0.007mg/kg tetrahydrocannabinol at the time of the incident. Nick was located 22hrs after the incident occurred and his blood was seized by police for testing it showed Nick had no alcohol detected and 0.008mg/kg tetrahydrocannabinol when the blood was seized. Police are of the opinion that it is highly likely that Damon McCOY was driving at the time of the incident and although he had both alcohol and drugs in his system it was not an amount that would contribute to him being under the influence of alcohol or liquor at the time of the incident. However, the combination of both

THC and alcohol could have contributed to his handling abilities of the vehicle.

Mobile phone distraction – where the incident occurred has limited to no mobile reception. Police downloads of Damon's phone indicate that it was last used to send a snap chat to Jayden PICKERING at 5:22pm around the time that Damon used his eftpos card at Croydon Supermarket.

121. Senior Constable Vagg provided the following preliminary opinion:

The investigating officer is of the opinion that the cause of the incident is the driver has failed to negotiate a left hand bend. It is unclear the reason why this may have occurred. The driver has then over corrected in an attempt to get the vehicle back onto the roadway and in so has commenced veering across the roadway where they have over corrected to a point where the vehicle has tripped and rolled. This rolling has ejected both occupants causing multiple injuries to Damon McCOY which killed him.

Police have completed an investigation into which occupant was driving at the time of the incident. Witnesses have seen both Damon and Nick driving at different times during the events of the day, however the last person observed to be driving was Damon as they drove south on Sircom Street. Neither were wearing a seatbelt at the time of the incident and were ejected out of the vehicle. Police have spoken to medical staff at Croydon Hospital regarding the injuries sustained by Nick ROGERS, they were of the opinion that the contracoup and subdural haematoma head injury sustained by Nick was consistent with him being the front seat passenger. Due to the witnesses and the injuries sustained by ROGERS police are of the opinion that it is highly likely that Damon McCOY was driving at the time of the incident.

Police have made investigations into the cause of the vehicle failing to negotiate the left hand bend. There are no witnesses of the actual incident. The section of roadway where the incident occurred is an unfenced gazetted road which travels through Mittagong Station. The vehicle was checked for animal strikes however none were located. However it cannot be ruled out that the driver was attempting to avoid a beast or another vehicle on the roadway.

Downloads of the occupants phones show that Damon McCOY's last snapchat video/image was sent to Jayden PICKERING at 5:22:15pm, the same time Damon was making a transaction at the Croydon Supermarket. Police have spoken to Jayden who does not recall the video footage or image that was received by Damon on the day of the incident. The last snapchat message sent to Anna STRATFORD from the decease phone was at 3:14:55pm therefore no snapchat was sent to her at 5:55pm as alleged in her statement.

Nick ROGER's phone was severely damaged and unable to be downloaded by police.

122. The investigating officer concluded as follows:

After investigating this matter, I am of the opinion that:

- a) A single vehicle traffic crash occurred on Claraville Road, Mittagong a gazetted, unfenced, dirt road.*
- b) There had been heavy rainfall in the region a few days before the collision leaving water in spoon drains running alongside the roadway.*
- c) The weather is not believed to be a contributing factor however the excess rainfall in the spoon drains could have contributed to the handing of the vehicle by the driver.*
- d) Neither occupant was wearing a seatbelt at the time of the incident and consequently were ejected during the roll over.*
- e) It is highly likely that Damon McCOY was the driver of an unregistered Toyota Utility travelling south west on Claraville Road.*
- f) As it approached a sweeping left hand bend the vehicle has failed to negotiate this bend taking the corner wide and over correcting into the opposite side of the roadway before over correcting again and causing the vehicle to roll several times ejecting both the passenger and the driver.*
- g) At the time of the incident Damon had alcohol and drugs in his system however was not under the influence of either.*
- h) Speed was unable to be determined.*

Forensic Crash Unit Peer Review

123. To ensure as much new information as possible was available for the Inquest I requested a review of the original Forensic Crash Unit Investigation.

124. Sergeant Scott Ezard the Officer in Charge of the Forensic Crash Unit at Cairns provided a report which was tendered as part of the coronial brief.
125. Sergeant Ezard attended Croydon in August 2020 to examine the scene and interview witnesses and to piece together the movements of Damon and Nick on 21 July 2016 in effort to assist the coronial investigation.
126. I have extracted from that report the information relevant only to my findings under each of the headings below.

Weather

Checks against Bureau of Meteorology identified that for the seven days prior to 21/07/2016, Croydon Township recorded 60.2ml rainfall with nil rainfall either 20 or 21 July 2016.

127. Checks conducted against Geoscience Australia records that on 21/07/2016 sunset occurred at 6:13pm. Civil Twilight occurred at 6:36pm.

Headlights

128. Mr Michael McCoy noted the LandCruiser headlights to be off when he arrived at the scene.
129. Sergeant Ezard provides a possible reason as follows:

- *The vehicle was found with the headlights off. As the vehicle passed witness Pickering, the vehicle headlights were observed to be off. Considering that the travel time between the dump when last observed by Pickering between 5:45 and 6:10pm and the crash location being approx. 15 minutes travel time, depending upon the actual time of the collision, that it was potentially still twilight when the crash occurred between 6:00-6:25pm. Therefore it is a consideration that they had not turned the vehicle lights on prior to the collision occurring.*
- *It cannot be excluded that sun may have been a contributing factor that prevented the driver from observing the approaching bend. This is considered as a potential causal factor for the following reason. (Dashcam-2 sun)*
- *Scene photographs show that the driver has entered the bend, allowing the vehicle to enter the spoon drain on the Croydon bound*

side of the roadway. It wasn't until this point, that there has been steering input in effort to return the vehicle to the roadway.

Seatbelts

130. A police mechanic Mr Garry Ryan confirmed that examination of the vehicle and seatbelts during an inspection on 23 August 2016:
- concluded that the left hand (passenger) seatbelt was in the “worn position” and that the right hand (driver) seatbelt was “not in the worn position” at the time of the incident.
 - The drivers side seatbelt was not serviceable at the time of the collision;
 - The passenger side seat belt was serviceable at the time of the collision;
 - The passenger side seat belt was hanging through the passenger window over the outside of the door.

Photographs of injuries

131. On 26 July 2016 an officer attended to Cairns morgue in company with Sergeant Scott Ezard and took a series of photographs of Damon. (There is no suggestion on the evidence that Damon exhibited injuries akin to seatbelt injuries).

DNA testing

132. A scenes of crime officer collected samples of DNA from areas of visible staining on the driver's headrest, steering wheel and passenger headrest. Presumptive testing on stains on both headrests returned positive for blood. These samples were then taken back to Mt Isa and lodged. These samples were sent for analysis on 28 July 2016.
133. The relevant scenes of crime officer has since retired, and in his stead Sergeant Buckle provided evidence that the DNA samples from the drivers headrest and the steering wheel matched Nick Rogers.
134. The evidence before the inquest is that Nick sustained cuts and abrasions during the crash, and that the vehicle rolled a number of times before coming to rest on all 4 wheels. It is probable that Nick's blood came into contact with various surfaces inside the vehicle during the rollover, and / or that contact was made with the relevant sites in his efforts to exit the vehicle. Either way the positive DNA match on the headrest and steering wheel does not establish that Nick was driving the vehicle at the time of the collision.

Fingerprint examination

135. No latent fingerprints were found on the vehicle.

Forensic value of windscreen

136. The Officer in Charge of Cairns Scenes of Crime provided evidence regarding the viability of any DNA being present on the windscreen (the windscreen was left at the scene in a spoon drain and the McCoys are concerned that valuable DNA evidence was lost as a result).

137. In response, Sergeant Melanie Buckle advised *“I’ve confirmed this with one of the Scientific Officers. The exposure to water particularly for that period of time would remove/destroy/degrade any DNA. Even dried stains would be lost. There is also the issue with contamination from the mud and debris which would inhibit DNA”*.

138. I am satisfied that there was no loss of potential DNA evidence as a result of not seizing and examining the windscreen in the first instance. I am concerned however that the windscreen was not removed by crash unit examiners from the scene and taken to a holding yard for inspection. Even if DNA was unavailable, as a significant component of the vehicle the windscreen, should have been retained until the conclusion of the investigation and made available for testing or examination if required.

Characteristics of fatal rollover crashes

139. Sergeant Ezard provided to the inquest a report examining data associated with rollovers including statistics associated with occupant fatality rates either as a driver or passenger, with or without a seatbelt fitted, and ejection rates of occupants with or without a seatbelt fitted.

140. As the driver seatbelt had not been worn, and the passenger seatbelt was being worn, the statistics clearly support that an unrestrained occupant is at a much higher rate of death (72%) and nearly three-quarters of all fatalities in utilities are the drivers. (National Highway Traffic Safety Administration 2002)

“Ejected occupants are five to eight times more likely to be killed in a rollover crash than occupants who remain in the vehicle” (Funk.J, 2007)

141. Video footage of testing of vehicle rollovers to capture the movement of restrained and unrestrained occupants was provided by Sergeant Ezard to the court depicting the violent dynamics of unrestrained occupants in a vehicle rollover.

Forensic Crash Unit – Crash Analysis Report

It became apparent at the conclusion of evidence at Inquest that a crash analysis had not been undertaken, such analysis likely to yield important information including speed calculations.

142. Sergeant Ezard conducted a further site visit to Croydon and produced a Crash Analysis report dated 26 December 2020. That report was peer reviewed by a crash investigator on 17 January 2021.

143. The objective of the analysis was as follows:

- A Critical Curve Speed Analysis to determine the maximum speed a vehicle can travel throughout the bend without loss of control.
- To determine the speed loss through the roll phase.
- To identify how many times the vehicle rolled.
- Analyse the bend to determine if installation of an advisory speed limit should be considered.

144. This analysis was based on the following information:

- (a) Forensic Map of the Scene
- (b) Police Photographs
- (c) First Response Officer Notes (GPS coordinates and measurements)
- (d) Friction Supply Report
- (e) Lateral Demand Testing
- (f) Vehicle Specifications (Redbook)
- (g) Site Inspection

145. Sergeant Ezard provided the following conclusions and opinion:

- I. The site inspection concluded that a left-hand bend would generate an anti-clockwise rotation of the vehicle.
- II. The gouge mark (marked “1-tyre rut” in the report) was identified to be 60mts beyond the bend. Given the proximity of the bend to the scene evidence gathered by first responders, the author is satisfied that an inference can be drawn that the loss of control could be attributed to

the vehicle speed exceeding the available friction throughout the bend. This has then resulted in the vehicle commencing to slip and rotate.

- III. That the Toyota Landcruiser was travelling in a westerly direction when it commenced to yaw and rotate in an anti-clockwise rotation.
- IV. That a critical curve speed analysis identifies a vehicle can traverse the bend using the centre of the roadway up to a speed ranging between 127km/hr and 139km/hr.
- V. That a critical curve speed analysis identifies a vehicle can traverse the bend using the apex of the bend up to a speed ranging between 141km/hr and 155km/hr. (The calculated speeds relate specifically to the available data obtained during testing that was conducted during the site inspection December 2020 and does not take into consideration atmospheric and road conditions experienced on 21/07/2016)
- VI. A vehicle would safely navigate the bend at the posted speed limit of 100km/hr.
- VII. The vehicle was travelling between 63km/hr and 71km/hr during the roll phase at the commencement of the first gouge mark.
- VIII. That the vehicle rolled between three and five revolutions over a distance of 40 metres

154. The crash analysis bears out that the speed of the vehicle at the time of the crash can be estimated in a range between 127km and 155km depending on the whether the driver took the apex of the bend, or the centre of the roadway. The evidence as to speed and the methodology used to calculate was not contested at inquest.

155. I am unable to make any precise findings as to the speed the vehicle was travelling at the time of the crash however based on the calculations provided by Sergeant Ezard I **find** that vehicle was travelling at a speed exceeding 100 kilometres per hour.

156. The gazetted speed limit on that section of the Claraville Road is 100km.

157. Annexed to these findings below are photographs extracted from the crash analysis report depicting the bend in the road.

Evidence of Noel Pickering

154. Mr Noel Pickering is a resident of Croydon. He provided his version of events to police for the first time on 10 April 2017 some 9 months after the

fatal collision. A witness statement prepared by Queensland Police is derived from the information he provided and is dated 22 May 2017.

155. Mr Pickering's evidence bears scrutiny for the following reasons:
- he was the last to see Nick and Damon in the Landcruiser (approximately 20 minutes prior to the crash),
 - he lays claim to identifying the driver, and
 - he is the last to see Damon alive.
154. Sometime between 5.30pm and 5.45pm on 21 July 2016 Mr Pickering drove past the Croydon Hotel and saw Damon and Nick standing on the footpath of Sircom Street drinking and talking, and observed the Landcruiser parked on the street.
155. He was driving to his nearby rental property to collect rubbish to take to the local dump.
156. Later, and while in his vehicle at the intersection of the Croydon dump and the Claraville Road, sometime between 6.00pm and 6.10 pm, he saw a Toyota Landcruiser pass by. In evidence he deposed to seeing Damon in the passenger seat and Nick driving.
157. Mr Pickering says that he was no more than 5-8 metres from the vehicle and could clearly identify Damon as closest to him. His recollection is the vehicle was travelling at approximately 60 kilometres per hour. (I note that stretch of road is zoned as 100 kilometres per hour).
158. In his oral evidence at Inquest Mr Pickering deposed he arrived at the Croydon dump " *yeah six o'clock, quarter to six, yeah I didn't look at me time though*" and that quarter to six "*would be the earliest*" (he arrived at the dump).
159. In his oral evidence Mr Pickering places his departure from the tip between 6.00pm and 6.05pm, although it also could be between 6.15pm and 6.20pm.
160. I emphasise Mr Pickering's evidence because it is of such importance that if accepted, Noel Pickering is the last person to see both Nick and Damon prior to the accident, and therefore the last to see Damon alive. If accepted, Mr Pickering's evidence would conclusively put Nick in the driver's seat leaving Croydon approximately 20 minutes before the fatal collision.

161. A number of aspects of Mr Pickering's evidence trouble me. The anomalies that present themselves with regard to Mr Pickering's evidence are as follows:
- i. His presentation to police on 10 April 2017 some (9) months after the fatal accident to provide the information that Nick was driving was unannounced, unexpected, and unsolicited by police.
 - ii. The version Mr Pickering provided to police was contrary to eyewitness versions that Damon was driving the vehicle just 2 to 3 minutes prior.
 - iii. Police commenced recording the information (6) minutes after Mr Pickering walked into the police station.
 - iv. Mr Pickering did not take contemporaneous notes of the relevant events 9 months prior, and yet he recalled seeing Nick and Damon at the Croydon Hotel after 5.30 as he drove through town, and then again at the Croydon dump turnoff between 6.00pm and 6.10pm when he says they passed him in the Landcruiser.
 - v. He also deposed in his oral evidence to consuming "*8 or 10 cans of scotch before going to bed*" that evening upon returning to his residence after the dump run.
162. Mr Pickering's recall of his own movements on 21 July as provided to police are precise to within minutes. His evidence if accepted would place him at the dump intersection within the narrow timeframe that it is accepted Nick and Damon drove by.
163. My view of Mr Pickering's evidence differs to submissions made at the conclusion of inquest by Counsel Assisting and Mr Moon, (that his timing were imprecise and changeable and for that I reason I should find his evidence unreliable). My appreciation of the evidence is to the contrary although I arrive at the same view regarding the unreliability of his evidence.
164. Mr Pickering's recall of those times is extraordinary, if not implausible, noting the passage of some (9) months before coming forward to police, and without the benefit of any contemporaneous notes (and having consumed a significant quantity of alcohol that evening). When asked by Officer Comley 9 months after the event what time he was coming out of the dump, Mr Pickering replied "*Not long after 6, but around that, 5, 10 minute around that time*".
165. This precision was uncharacteristic of Mr Pickering's oral evidence where, when challenged about his timings and recollection he sarcastically replied that "*I don't look at me watch*" "*Well if it ever happens again I'll make sure*

I've got me watch on me face". Those responses are indicative of a person who was not vigilant about time.

166. Mr Pickering's presentation in April 2017 was the first occasion Officer Comley was aware of any version that contradicted that Damon was the driver of the vehicle at the relevant time;
167. No other person in the previous 9 months had come forward with such a version and Officer Comley deposed he would have investigated those versions if had knowledge of them.
168. During oral evidence at inquest Mr Pickering deposed that on the morning of 22 July 2016, he had missed calls from his brother Trevor overnight. Unaware of the accident, Mr Pickering then either:
 - a) contacted his brother by phone (in the evidence he gave in response to Counsel Assisting on this point) or,
 - b) drove to his brother's nearby house in Croydon early the next morning (in the evidence he gave to Mr Moon of Counsel on this point) to find out why he had been trying to call.
169. Both a) and b) above conflict with the version Mr Pickering provided in April 2017 to police, that his brother was in Georgetown at the time.
170. His brother Trevor, who was also the Mayor of Croydon, informed him that there had been a crash out of town and that Damon had died. Trevor told Noel he contacted him around 1.00AM because *"I wanted you to go and sit with Mick because his son got killed in a car crash last night."* To that Noel responded *"Well that wouldn't have been any good to me because I was pissed"*
171. To that shocking news, Mr Pickering did not tell or make any reference to his brother that he saw Damon and Nick drive by him the evening before. Within short time Mr Pickering could hear the rescue helicopters and set about equipping himself to search for Nick.
172. At Inquest Mr Pickering provided the following reasons for not telling his brother he was likely the last to see the men:

Mr Moon: *Did you mention to your brother, Trevor, at that stage that you'd seen – you'd seen these boys go past you at the dump?---*

Pickering: *No.*

Mr Moon: *Not at all.*

Pickering: *Why would I want to mention that to him?*

Mr Moon: *I'm asking you, sir?---*

Pickering: *No.*

Mr Moon: *All right. So you become aware that the traffic – that it was a fatality at that stage when you spoke to your brother?---*

Pickering: *Yeah.*

Mr Moon: *And you didn't say, "Geez, Trev, I saw those boys drive past me"?---*

Pickering: *No.*

Coroner: *You've, in fact, had a discussion with your brother - - -?---*

Pickering: *Yes.*

Coroner: *in person the next day where he says, "The young lad's been in an accident, one of them is dead", and you stand there, right in front of your own brother, and do not mention a word about the fact that - - -?---*

Pickering: *That's true.*

Coroner: *why not*

Pickering: *It never came up*

173. The next opportunity for Mr Pickering to disclose his unique knowledge of events as last to see was immediately after Nick Rogers was located (Mr Pickering played a pivotal role in the search) when townsfolk and police gathered at the Croydon Hotel that evening. When asked by Mr Moon if he spoke to a police officer, Mr Pickering replied "*only that night at the pub, I'd had quite few, I said to the Sergeant, no the Constable, I'm going home and I'll see you all later*".

Mr Moon: *was there conversation between you and the police officer about finding Mr Rodgers*

Mr Pickering: *only finding him nothing else*

174. While at the pub and in the thick of the intensity of the fatal collision and the subsequent recovery of Rogers, events causing rupture within the small outback community, Mr Pickering said absolutely nothing to police about seeing the boys Landcruiser drive by him at the dump just minutes before the fatal crash.
175. The only logical inference I can draw as to Mr Pickering's failure to supply that information at first opportunity, was that he did not in fact see Nick and Damon pass by him at dump and that he has pulled together a version with the benefit of hindsight.
176. Mr Pickering has not produced any of the people he says he spoke to (prior to speaking with Mr Michael McCoy) between the date of accident 21 July 2016, and the date he attended the police station April 2017, who can attest, verify or corroborate that he told them he saw the men pass by him at the dump and that Nick was driving despite ample opportunity within the four and a half years since the accident.
177. There could also be no basis upon which Mr Pickering could form a view that it was 'common knowledge' that Nick was driving at the time of the accident.
178. The prevailing immediate sense based on all the evidence, was that Damon was driving at the time. The police investigation concluded that Damon was driving. Damon's own father some nine (9) months later in discussion with Mr Pickering advised him that legal proceedings were underway because 'the vehicle was unregistered and Damon was driving' It is implausible that Mr Pickering thought everyone knew Nick was driving.
179. Within short time of the fatal crash Mr Pickering attended a local rodeo or campdraft event where he says he became involved with a discussion with complete strangers ("*a big mob of us standing around*") about who was driving the vehicle. They apparently held a view that Damon was driving, and Mr Pickering corrected the information and advised them it was Nick. Mr Pickering cannot recall who he was speaking to or provide any other information about that encounter.
180. Within four weeks of his son's death (and after the above conversation at the camp draft), Mr McCoy asked Mr Pickering to take him to the location where Nick was found on 22 July. Mr Pickering was pivotal in locating Nick who was found in the bush at around 5.00pm on 22 July, approximately 8 kilometres from the crash site. Mr Pickering was in immediate proximity on a quad bike when Nick was found and having played such a significant role he was armed with unique insight regarding the topography and location.

181. Initially Mr Pickering deposed to telling Mr McCoy that Nick was driving during that site visit. I categorically reject that evidence.
182. Mr McCoy gave evidence Pickering did not make any such disclosure during the site visit 4 weeks after the crash and heard for the first time from Pickering almost 9 months after the collision later that Nick was the driver. Mr McCoy requested Pickering immediately provide a statement to police. I accept the evidence of Mr Michael McCoy.
183. During the site visit Mr Pickering made **no** disclosure to Mr McCoy that he saw Nick and Damon drive past the tip prior to the accident, or that Nick was driving, or any other relevant information as last to see (despite deposing he told “everyone else”).
184. Mr Pickering was questioned extensively on this point during the inquest and ultimately the following best sums up his reasons for not doing so:

Coroner: *Mr Pickering, Mr McCoy has given his evidence and he's in court today. My recollection of that evidence is that he did not hear from you, when he went to visit the site where Nick Rogers was located, that Nick was driving?---*

Pickering: *No. Like I said, I probably didn't mention it because he had more things on his mind at the time.*

Coroner: *....what I'm trying to understand is why you didn't, at a much earlier point in time, particularly given the opportunities that you had, either see Mr McCoy – speak to Mr McCoy when you were out in the field with him later doing the – helping him understand where Nick Rogers was found, or pick up the phone at any time and say, “Michael, I saw something, it's probably important. You need to know this”?---*

Pickering: *Well, I don't really know why I didn't. He was – he was going – probably going through a lot of grief and I didn't want to sort of – you know? So – and I couldn't - - -*

Coroner: *what I'm failing to understand, Mr Pickering, is that you, yourself, at the very outset of your evidence today, really had a sense that you were likely to have been the last in time to see those boys and never once have you conveyed that until you had a discussion many, many months later to the deceased boy's father?---*

Pickering: *Yeah. I don't know how it come up but I told everyone else and, yeah, I just never got around to - - - Because I was – I was hardly always home, never home much, like I said, I work away here and there and when I get home, you know, I've got other things to do, you know, and I – everything was sort of passing by and, you know, I didn't want to bring that up, you know?*

185. Ultimately Mr Pickering's statement to police was proffered after a conversation he had with Mr Michael McCoy two weeks or so weeks prior to him attending the police station in April 2017.

186. During the conversation that triggered Pickering to disclose the information to police, Mr McCoy apparently told Mr Pickering there was a court case and legal proceedings were underway because the vehicle was unregistered and Damon was driving. Mr Pickering told police in April 2017 that he responded to Mr McCoy after hearing that news was as follows:

“the young fella wasn't fucking driving, and he said are you sure, and I said when he come pass the dump he wasn't driving, he said would you give me a statement, I said no skin off my nose, I was just telling the truth, so whatever happens happens you know”.

187. Nick Rogers was airlifted to the Cairns Hospital and his admission and treatment coincidentally overlapped with Mr Pickering's travel to Cairns to collect family members from the Cairns airport. Mr Pickering used the opportunity check on Nick in hospital. Without notice he attended the hospital, located Nick's room and met with his very grateful mother Donna. They had not met before. They had a brief discussion during which Mrs Rogers thanked Mr Pickering for rescuing her son.

188. Mrs Rogers gave oral evidence at inquest. A statutory declaration (prepared for unrelated proceedings) signed by her on 18 April 2019 (almost 3 years after the collision) was exhibited to the inquest brief. The contents of that statutory declaration and / or the information provided contained within it was not previously disclosed by Mrs Rogers to police and was provided to her solicitors only.

189. The encounter between Mrs Rogers and Pickering primarily traversed the circumstances in which Nick had been located and Mr Pickering provided Mrs Rogers with the details known to him. She deposed that during the conversation Mr Pickering told her Nick was a passenger when he saw Nick and Damon 'leaving town in the old Toyota' and Nick 'waved his hat at him as they drove past'.

190. Mr Pickering in his oral evidence accepted all aspects of the conversation with Mrs Rogers, save that Nick was not driving, which he denied saying to Mrs Rogers.
191. Mrs Rogers, in oral evidence, was asked by Counsel Assisting if Mr Pickering had at any time when speaking with her in the hospital, mentioned 'the tip'. She replied "no". The conversation between Mr Pickering and Mrs Rogers is the first occasion (known to this coronial investigation) wherein Mr Pickering disclosed any knowledge of the Nick / Damon's movements that day. Mr Pickering volunteered to Nick's mother that he saw them leaving town and that Nick was in the passenger seat and waved to him with his hat.
192. Mr Pickering did not convey to Mrs Rogers that he saw Nick and Damon drive past the tip (dump) immediately prior to the accident (the evidence he recalled with precision 9 months after the collision, and at Inquest some four and a half years later).
193. I accept Mrs Rogers evidence as to the nature and content of her conversation with Mr Pickering including that Mr Pickering told her Nick was in the passenger seat. Despite the passage of time Mrs Rogers recollection is plausible.
194. Mrs Rogers recalls Mr Pickering's detail regarding the time Nick was located, how far he was located from the crash site, the methodology used by Mr Pickering to follow Nick's footsteps. That information was conveyed to her within days of the collision and has largely been corroborated (independently at inquest). Mrs Rogers would or could not have otherwise known about Mr Pickering eye witness account of events had he not divulged them to her. It is also accepted on the evidence that Mr Pickering did in fact see Nick and Damon in the township of Croydon prior to him attending the dump. The evidence also bears that Nick was waving at people as they drove down the street away from the pub when Damon was driving in keeping with the personality of Nick as presented on the day.
195. Counsel Assisting the Inquest put to Mr Pickering that he came forward to give a version of events to assist Mr Michael McCoy – to that Mr Pickering responded "no".
196. In his police statement Mr Pickering says he did not come forward earlier because he was not aware of any controversy about who was driving. As I have already indicated, that contradicts his evidence about the occasions he discussed the matter prior to his police statement (including at a camp-

draft just weeks after Damon's death when the group he was drinking were speculating about the driver, and other conversations he has been privy to, including at the local pub).

Additional investigation and submissions post inquest

197. On 5 February 2021 I delivered abridged oral findings, and I placed on the record my finding that Damon McCoy was driving the vehicle at the time of the collision.
198. I held open the investigation for the sole purpose of obtaining a Cellebrite report which was noted by Mr Walters to not be annexed to the statement of Senior Constable Musemeci (Electronic Evidence Technician), previously distributed to the parties by our office.
199. The Cellebrite report represents a further full extraction of Damon's mobile telephone. As transpired the download provided additional information (likely due to updated technologies since the original download by police), including an Instagram data transaction was prior to Damon's death.
200. A statement obtained from Senior Constable Musemeci a communications technician explained this entry on the report as likely background data activity, operating as a refresh function that drains mobile data. I am therefore satisfied the matter cannot be taken further and the entry in the report is not indicative of an Instagram 'post' or message or file sent from Damon's mobile telephone. That was confirmed when Sergeant Ezard also had the opportunity to review Damon's Instagram account on Anna Stratford's phone after receiving the updated Cellebrite report.
201. In efforts to establish access to Damon's Instagram accounts to verify what if any posts had been uploaded by him at the relevant time enquiries were firstly made with family, via their solicitors, who indicated they did not have access to Damon's Instagram account. Sergeant Ezard then contacted Anna Stratford who assisted and provided her phone and Damon's account for viewing.
202. On 19 May 2021 Counsel Assisting the Inquest wrote to legal representatives for the McCoy family and Nick Rogers advising he did not intend to make submissions regarding the new Cellebrite material beyond those made at the conclusions of the Inquest on 12 November 2020, although invited further submissions on that matter from those with

standing by Friday 28 May (prior to issuing and uploading inquest findings onto the Coroners Court website).

203. On 28 May 2021 the Office of Northern Coroner received written submissions from Connolly Suthers lawyers on behalf of the McCoy family objecting to the opinion evidence of Dr Leslie Griffiths (Forensic Medical Officer) that a seatbelt demarcation could be identified in Dr Mallet's tertiary trauma photograph and that Dr Griffiths evidence proceeded on an incorrect presumption (that the mark identified by him was on the front of Rogers body). I note those submissions were unsolicited and without leave of the Court.
204. The submission (summarised by me), is that Forensic Medical Officer Dr Griffith should be recalled for the purpose of putting to him the evidence of Dr Mallet, (who followed Dr Griffiths in the order of witnesses), as Dr Griffiths hypothesis (that a seatbelt demarcation could be identified from the tertiary trauma assessment photograph) could not be drawn from the established facts on the state of the evidence (the location of the marks on Rogers body) and / or within his expertise.
205. I dismiss the Application to recall Dr Griffiths and the supporting submissions on grounds that:
 - a) Dr Griffiths expertise as a Forensic Medical Officer was not challenged at Inquest;
 - b) At all times Dr Griffiths was engaged to provide a forensic opinion as to the nature of the injuries sustained by Damon McCoy and Nick Rogers and to provide an opinion as to whether those injuries could in any way correlate to seatbelt injuries or establish the seating position of each person ;
 - c) By the time Dr Griffiths gave oral evidence on 12 November 2020 he was seized of Counsel Assisting's communication referencing the trauma survey and the relevant photograph. Having re-read exhibit A4.2 and Dr Griffiths response to Counsel Assisting, in conjunction with the premise of questioning on this point by Counsel Assisting at Inquest I am left in no doubt that his hypothesis was consistent with the available facts, and known to him.
 - d) Counsel for the McCoy family had the opportunity to cross examine on and challenge the hypothesis raised by Dr Griffiths (or others) at inquest and posit alternatives to Dr Griffiths;
 - e) No Application to recall Dr Griffiths was made by Counsel for the McCoy family at the conclusion of Dr Mallet's evidence;

- f) Counsel for the McCoy family did not raise these matters or invite me to consider them in closing submissions at fall of the evidence or at any time prior to me delivering abridged findings.

Identity of the driver

206. I do not accept the evidence of Mr Pickering that he saw the Landcruiser drive by him at the intersection of the Croydon tip sometime at or soon after 6.00pm on 21 July 2016.
207. I reject and do not accept the evidence of Mr Pickering that he saw Nick Rogers driving the Landcruiser at any time on 21 July 2016.
208. Mr Pickering is either mistaken as to that fact or has deliberately misled authorities as to these critical issues. It is possible that Mr Pickering response to Mr McCoy (that Damon was not driving) during a phone call which traversed highly personal and sensitive matters nine months after the fatality and against a background of other court proceedings was to in some way (misguidedly) comfort or reassure Mr McCoy. Mr Pickering then found himself caught up in the story and was required to follow through with that version, including for these proceedings.
209. I cannot reconcile how it is that Mr Pickering was able to provide almost precise detail about time date and place some nine months after the fatality to police.
210. I accept the evidence of Mr Clyne and Mr Gilmartin both of whom place Nick in the passenger seat from the Croydon hotel and driving down Sircom Street. Mr Gilmartin is the last person in time to identify Damon driving, and place Nick in the passenger seat.
211. I give significant weight to Mr Gilmartin's evidence. He provided unequivocal credible evidence on this point.
212. Ms Archer understood when Damon and Nick arrived at the Hotel around 5.30pm that it was a flying visit and that they needed to get back to Prospect. Damon was heard to tell Nick to hurry up and beat him at the pool game so they could get going. Damon was expected back at the station for dinner sometime around 7.00pm or soon after. Damon needed to leave Croydon no later in order to meet those expectations.
213. Damon was pushing it to make their destination at the expected time. I formed a view that Damon's sense of responsibility provided the impetus

for him to move Nick along. Mr Michael McCoy expected Damon by 7.00pm and attempted to contact Damon at 7.00pm to check where he was. Damon knew time was of the essence.

214. I find that Damon remained as the driver from the time he departed the Croydon Hotel to the scene of the accident, some 27 kilometres, during the period of approximately 18-19 minutes driving time. Damon McCoy was the driver at the time of the fatal accident.
215. I find it improbable that Nick and Damon swapped drivers between the hotel and the site of the accident. It was implausible they swapped drivers between the hotel and the dump turnoff (which would have been essential to corroborate Mr Pickering's evidence).

Further evidence regarding the identity of the driver

216. The evidence of Nicks DNA located on the headrest of the driver's seat and the steering wheel does not support a finding that Nick was driving at the time of the accident for two reasons:
- I. the mechanism of the collision involved the vehicle rolling (a washing machine effect) some 3 to 5 times before coming to rest on all four tyres and / or;
 - II. Nick extricated himself from the vehicle by either the driver's side or through the cavity created by the missing windscreen which may reasonably explain the contact.
217. Damon's injuries and manner of ejection are suggestive of him not wearing a seatbelt. He bore no injuries either typical, or atypical, suggestive of wearing a seatbelt. The driver's side seatbelt was incapable of being operated at the time of the crash. It was not in the worn position upon mechanical inspection. indicative of not being worn and retraction mechanism was disabled. The rational and logical inference is that Damon was ejected in the rollover.
218. Nick Rogers injuries bore injuries described as a 'friction burn' over the posterior and anterior left shoulder and left clavicle region. Those specific injuries or indications cannot otherwise be explained as either sunburn or gravel rash.
219. A Forensic Medical Officer when referring to a relevant photograph during the course of the inquest pointed to a straight lateral mark over Nicks left shoulder. In combination, the injuries noted during the Tertiary Trauma

Survey, and by the FMO, could reasonably be explained as injuries consistent with restraint by a seatbelt upon application of a lateral force. The passenger side seatbelt was fully retracted, the retraction mechanism was not damaged and was in the worn position.

- 220. Mr Rogers left side skull fracture is not inconsistent with a 'B' pillar injury and contracoup brain injury
- 221. At the requisite standard of proof, the evidence supports a finding that Nick was restrained by a left side (passenger) seatbelt at the time of the collision.

Conclusions and Findings

- 222. I find that Damon Edward McCoy died on 21 July 2016 as a result of the effects of multiple injuries sustained in a motor vehicle accident when as a driver he misjudged a bend on the Claraville Road, a gazetted unfenced roadway, approximately 27 kilometres southwest of the township of Croydon. He was driving an unregistered 2000 Toyota LandCruiser utility 79 Series single cab, VIN number JTELB71J107004677, owned by Rainscourt Grazing Co Pty Ltd previously bearing registration plates 546 FMD.
- 223. That section of road is speed limited to 100 kilometres per hour and the accident occurred when the vehicle whilst exceeding a speed of 100 kilometres per hour entered a spoon drain full with water on the side of the road. Mr McCoy attempted to correct the vehicle and return it to the roadway which caused a rollover event during which the vehicle rolled between 3 and 5 times. Mr McCoy was ejected from the vehicle. Mr McCoy was not wearing a seat belt and died instantly from non survivable injuries.
- 224. The only passenger in the vehicle, Nick Michael Rogers survived the accident and it is more probable than not that he was wearing a seatbelt at the time of the accident. He extricated himself from the vehicle via either the driver side or through the windscreen cavity which had blown out in the rollover. Nick Rogers was found almost 24 hours after the accident 8 kilometres from the accident site severely sunburned, dazed, confused, dehydrated and naked.
- 225. I cannot exclude that the setting sun in the west may have been a contributing factor preventing Mr McCoy from observing the approaching bend. The accident occurred at or prior to 6.30PM on 21 July 2016.

226. Damon's death is not suspicious and I find there was no interference with his body prior to being located by his father Mr Michael McCoy on the roadway at about 11.30PM on 21 July 2016.

Referrals

227. I refer the coronial brief of evidence to Queensland Police Service Prosecutions because I have identified the possible commission of an offence by Nick Rogers in relation to driving whilst disqualified.

Acknowledgements

228. I acknowledge and thank Forensic Crash Unit Investigator Sergeant Scott Ezard for his comprehensive review and investigation reports. He has at all time extended professionalism and courtesy to this court and to the McCoy family in his endeavours to illicit the best and most accurate information to assist the coronial investigation. He has returned to Croydon on two occasions to fulfil coronial directions and has undertaken re-enactments and calculations which have ultimately assisted the coronial investigation.

229. I acknowledge and thank Counsel Assisting this inquest Mr Joseph Crawfoot for his presentation of the evidence, and for his assistance to the Inquest, and for the quality of his submissions, as I do Mr Walters of Counsel, and Mr Moon of Counsel and I add, that the respect amongst all at the Bar table, and the approach to this very difficult and tragic matter, has ensured the dignity of these proceedings.

Condolences

230. I offer my warmest and sincerest condolences to Damon's parents Mr Michael and Mrs Noeleen McCoy, and Damon's sister Aysha, and Damon's immediate family. Damon's life was tragically short. I am aware that words are simply insufficient to convey the enormity of this tragedy and Damon's loss. He is irreplaceable. I am aware that my findings will offer no solace, however I trust that the sincerest condolences that I can offer on behalf of the Coroners Court for your devastating loss will be received, as they are intended.

Corrections

231. On Friday 5 February 2021 I read an abridged version of these findings and reasons into the court record during which I inadvertently incorrectly stated Damon's date of birth and the distance of the crash site from

Croydon. I have corrected those errors within body of these findings. They do not alter reasons or my findings.

Findings required by s. 45

Identity of the deceased – Damon Edward McCoy

How he died –

Damon Edward McCoy died on 21 July 2016 as a result of the effects of multiple injuries sustained in a motor vehicle accident when as a driver he misjudged a bend on the Claraville Road, a gazetted unfenced roadway, approximately 17 kilometres southwest of the township of Croydon. He was driving an unregistered 2000 Toyota LandCruiser utility 79 Series single cab, VIN number JTELB71J107004677, owned by Rainscourt Grazing Co Pty Ltd previously bearing registration plates 546 FMD.

That section of road is speed limited to 100 kilometres per hour and the accident occurred when the vehicle whilst exceeding a speed of 100 kilometres per hour entered a spoon drain full with water on the side of the road. Mr McCoy attempted to correct the vehicle and return it to the roadway which caused a rollover event during which the vehicle rolled between 3 and 5 times. Mr McCoy was ejected from the vehicle. Mr McCoy was not wearing a seat belt and died instantly from non survivable injuries.

The only passenger in the vehicle, Nick Michael Rogers survived the accident and it is more probable than not that he was wearing a seatbelt at the time of the accident. He extricated himself from the vehicle via either the driver side or through the windscreen cavity which had blown out in the rollover. Nick Rogers was found almost 24 hours after the accident 8 kilometres from the accident site severely sunburned, dazed, confused, dehydrated and naked.

I cannot exclude that the setting sun in the west may have been a contributing factor preventing Mr

McCoy from observing the approaching bend. The accident occurred at approximately 6.30pm or just prior to. The death is not suspicious and there was no interference with Mr McCoy's body prior to being located by his father Mr Michael McCoy on the roadway at 11.30PM.

Place of death – Claraville Road CROYDON QLD 4871
AUSTRALIA

Date of death– 21 July 2016

Cause of death - 1(a) Multiple injuries
1(b) Motor vehicle accident

I close the inquest.

Nerida Wilson
Northern Coroner
CAIRNS
5 February 2021

The blue circle identifies the location of the deceased at the crash site based upon the GPS point recorded by first responders. The yellow arrow identifies the westerly direction that the vehicle was travelling prior to the crash. The green oval identifies the bend that the vehicle is reported to have lost control



This photo was taken during a site inspection. It shows the approach to the bend. The yellow arrow shows the polished track along the centre of the roadway. The red arrow shows the apex of the bend where vehicles cut in towards, when navigating this bend.)

