



LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

STANDING COMMITTEE ON JUSTICE AND COMMUNITY SAFETY
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Submission Cover Sheet

Inquiry into Dangerous Driving

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**THE LEGISLATIVE ASSEMBLY FOR
THE AUSTRALIAN CAPITAL TERRITORY**

**GOVERNMENT RESPONSE TO THE CORONER'S INQUEST INTO THE DEATH OF BLAKE
ANDREW CORNEY**

Presented by

Chris Steel MLA

Minister for Transport and City Services

May 2022

Overview

On 15 November 2021, Her Honour Chief Coroner Lorraine Walker released her findings and recommendations arising from the Inquest into the death of Blake Andrew Corney.

The Inquest found that on 28 July 2018, Blake died as a result of catastrophic head injuries sustained in a motor vehicle collision that occurred at the intersection of Monaro Highway and Mugga Lane, Hume in the ACT. The collision was caused when a 16 tonne tipper truck driven by Mr Akis Livas, collided with the right rear side of the stationary vehicle in which Blake was a back seat passenger.

Coroner's recommendations and key issues

The *Coroners Act 1997* (ACT) requires a coroner to comment upon any matter of public safety that arises in connection with an inquest. Within the findings, Chief Coroner Walker made 10 recommendations. The recommendations primarily relate to the collection, sharing and management of information about medical issues that may affect a person's ability to safely drive a motor vehicle; and vehicle technologies such as Autonomous Emergency Braking (AEB) and Fatigue and Distraction Detection Technologies that may prevent or reduce the severity crashes such as the one that killed Blake Corney.

The Chief Coroner's recommendations are:

Recommendation (i): That the Minister for Transport and City Services considers legislative amendment to mandate that health practitioners notify the RTA (*Road Transport Authority*) when the health practitioner has reasonable cause to believe that a patient is suffering from an illness, disability or deficiency that is likely to endanger the public if the patient drives a heavy vehicle at the time of completing a medical assessment in support of a heavy vehicle licence application, and with an ongoing obligation at any point at which the health practitioner is provided with information reasonably causing him or her to form that belief.

Recommendation (ii): That if necessary to support recommendation one, the ACT Government continue, and if necessary, increase funding of the Fitness to Drive Medical Clinic.

Recommendation (iii): That the ACT Government mandate that independent health examinations be conducted for those applying for certain classes of heavy vehicle licence, including an obligation for the applicant to allow the assessor access to the applicant's medical history for a period deemed appropriate.

Recommendation (iv): That the RTA (*Road Transport Authority*), ACT Police and Fitness to Drive Medical Clinic review their information sharing processes and produce a memorandum of understanding to facilitate information sharing where it would assist with the determination of driver licensing matters in respect to heavy vehicle licences, facilitated by legislative change, if necessary.

Recommendation (v): That the ACT Government considers forms of incentivisation that may encourage the uptake by trucking operators in the ACT of vehicles fitted with AEB (*Autonomous Emergency Braking*) systems or FDDT (*Fatigue and Distraction Detection Technology*), including but not limited to preferencing contractors who have voluntarily adopted such technology and registration discounts.

Recommendation (vi): That the ACT Government consider funding a public safety campaign informing the community about medical conditions which may affect their driving ability including the requirement to declare these conditions to Access Canberra.

Recommendation (vii): That the Minister of Transport and City Services pursue the early implementation of the requirement for mandatory AEB (*Autonomous Emergency Braking*) systems in heavy vehicles throughout Australia, pursuant to the Memorandum of Understanding for The Effective Delivery of Heavy Vehicle Regulatory Services In The Australian Capital Territory Between The National Heavy Vehicle Regulator And The Australian Capital Territory Road Transport Authority.

Recommendation (viii): That the Minister of Transport and City Services pursue early consideration of the suitability of fatigue and distraction detection technology for mandating in heavy vehicles throughout Australia, pursuant to the Memorandum of Understanding for The Effective Delivery of Heavy Vehicle Regulatory Services in The Australian Capital Territory Between The National Heavy Vehicle Regulator And The Australian Capital Territory Road Transport Authority.

Recommendation (ix): That the Australian Trucking Association be provided with a copy of these findings and be invited to deliver training and education to its members and member associations addressing:

- the need for drivers and employers to obtain all information about a driver's medical and driving history which may be relevant to a driver's suitability to drive a heavy vehicle; and
- the availability of collision avoidance technologies including AEB (*Autonomous Emergency Braking*) and FDDT (*Fatigue and Distraction Detection Technology*) and the potential benefits in voluntary adoption of such technologies.

Recommendation (x): That the Royal Australasian College of Physicians and the Royal Australian College of General Practitioners be provided with a copy of these findings and be invited to deliver training and education to their members regarding the national medical standards for driving.

ACT Government response to the recommendations and key issues

Overarching comments

The ACT Government, along with the whole ACT community, expresses its sorrow at the passing of young Blake Corney. The tragic loss of someone so young affects everyone, but the reality of his passing will always be felt most by his family. The ACT Government expresses sincere condolences to Blake's parents, Andrew Corney and Camille Jago, and to his brother, Aiden.

Blake Corney was the innocent victim of a road accident that should not have happened. The ACT Government commits to strengthen our ongoing efforts to improve road safety, to prevent further serious accidents of this kind in future.

The ACT Government is committed to Vision Zero – that means no deaths or serious injuries on our road transport network. Vision Zero acknowledges that deaths and serious injuries on our roads are preventable; they are not an inevitability. It is a bold target, but if we all work together, it is possible to reduce road deaths and serious injuries to zero, and for the community to avoid the terrible heartbreak and costs associated with them. Vision Zero is the central philosophy guiding our approach to road safety.

Under Vision Zero, the *ACT Road Safety Strategy 2020-2025* and *ACT Road Safety Action Plan 2020-2023* include a number of key focus areas, including one for vulnerable road users. The term 'vulnerable road user' includes pedestrians, cyclists and motorcyclists but extends to other road users who have specific characteristics that make them vulnerable, such as children.

In pursuit of Vision Zero, we have prioritised the Safe System approach to road safety. The Safe System approach provides the technical methodology and policy framework for achieving Vision Zero. The Safe System approach means that efforts must be made to manage the combined effects of the speeds at which we travel, the safety of the vehicles we use, and the level of protection provided by our roads. These focus areas work together to not only minimise the number of crashes, but to ensure that when crashes do occur, they do not result in death or serious injury. The Safe System approach focuses on safe speeds, safe vehicles, and safe people and behaviours. To achieve Vision Zero, we need to design and maintain a safe road system with appropriate speed limits, while promoting responsible driving and safer vehicle choices.

We are committed to investing in evidence-based road safety measures while being innovative in policy approaches to road safety and advances in road transport technology. Over the past 10 years, the ACT Government has implemented a number of road safety measures aimed at saving lives and reducing injuries, including education and awareness activities and regulatory reform. The implementation of these measures has helped us to achieve an overall trend of a reduction in fatalities and serious injuries on ACT roads. The ACT continues to maintain a lower number of road fatalities per capita than the national average. However, minimising the risk of road trauma requires constant vigilance, and there is still more to do to reach zero injuries or fatalities.

The ACT Government has also sought to drive change at a national level and had screening for common health conditions for heavy vehicle drivers listed for discussion by Infrastructure and Transport Ministers at the February 2022 meeting of Infrastructure and Transport Ministers. The ACT has sought, and received, support from the Commonwealth and other states and territories to strengthen health assessments for heavy vehicle drivers and for earlier adoption of advanced safety technologies for heavy vehicles. In February, Infrastructure and Transport Ministers met and agreed to the National Transport Commission considering health screening for heavy vehicle drivers. In March, Autonomous Emergency Braking was mandated nationally for new heavy vehicles and will commence in November 2023.

Government response to recommendations

The Government thanks Her Honour, Chief Coroner Walker and all of those who participated in the inquest into Blake's death. This difficult work assists us in making changes to prevent tragedies like Blake's death from occurring in the future.

The following is the Government's response to the Chief Coroner's specific recommendations.

Recommendation (i): That the Minister for Transport and City Services considers legislative amendment to mandate that health practitioners notify the RTA (*Road Transport Authority*) when the health practitioner has reasonable cause to believe that a patient is suffering from an illness, disability or deficiency that is likely to endanger the public if the patient drives a heavy vehicle at the time of completing a medical assessment in support of a heavy vehicle licence application, and with an ongoing obligation at any point at which the health practitioner is provided with information reasonably causing him or her to form that belief.

AGREED

The ACT Government agrees to consider this recommendation and is pursuing legislative amendments to the Territory's road transport legislation to deliver it. This will introduce a mandatory notification requirement for health practitioners, or certain health practitioners, to notify the road transport authority of relevant medical conditions where reporting would be in the interests of road safety to protect the public.

The Government is working closely with stakeholders to consider these reforms and is working through a number of identified policy issues to ensure legislative changes are compliant with the Territory's coexisting human rights, anti-discrimination and health privacy laws. Reforms requiring mandatory health reporting will engage and limit applicant's rights to recognition and equity before the law (s 8), privacy (s12) and fair process (s 21) of the *Human Rights Act 2004* and limitations will need to be appropriately explored and justified.

Consultation will explore the appropriate consequences for non-compliance and establish a clear framework that will assist health practitioners and drivers licence holders or applicants understand their rights and obligations once changes come into effect.

The Government notes that the intent of the Chief Coroner's recommendation is to identify drivers who, due to suffering illness or disease, may not be safe to continue driving. It is important that these drivers are identified in advance of their involvement in incidents which can have serious consequences on the ACT road network. The ACT Government looks forward to working closely with stakeholders, including key professional and representative bodies, to ensure legislative change achieves a reduction in road trauma.

Recommendation (ii): That if necessary to support recommendation one, the ACT Government continue, and if necessary, increase funding of the Fitness to Drive Medical Clinic.

NOTED

Where a medical examination is required by the road transport authority, this can be provided by a doctor or allied professional practitioner of the driver's choosing. Where there is a need for specialist clinicians to assess an identified illness, disability or deficiency, an individual can obtain a report from a professional with that specialist expertise addressing their fitness to drive.

In circumstances where there are multiple medical conditions, unclear medical standards or an individual does not wish to be reviewed by their own doctor, a referral can be made by Access Canberra (as a delegate of the Road Transport Authority) to the Fitness to Drive Medical Clinic for assessment. This clinic is delivered within Canberra Health Services.

The Fitness to Drive Medical Clinic provides a valuable adjunct service to the role of primary health care providers. It ensures that drivers with medical issues can be assessed and, if necessary, removed from driving for the safety of themselves and the Canberra community. Drivers who drive while medically unfit present a significant road safety risk to all road users. In acknowledging the road safety benefits provided by the clinic, \$250,000 was provided through the ACT Road Safety Fund as a one-off strategic grant for the 2018 calendar year to support the continuation of the service and shorten waiting lists.

The clinic will continue to accept referrals and manage the more complex driver assessment cases as they arise. The work of the clinic may increase with mandatory reporting and a higher level of awareness in the community and this will be monitored and managed going forward.

Recommendation (iii): That the ACT Government mandate that independent health examinations be conducted for those applying for certain classes of heavy vehicle licence, including an obligation for the applicant to allow the assessor access to the applicant's medical history for a period deemed appropriate.

AGREED IN PRINCIPLE

The Government has mandated health examinations for those applying for a heavy vehicle licence (classes medium rigid and above). Applicants must undertake the health examination at their own, or their employer's, expense and provide the results to Access Canberra. This

applies for new licence applicants and those transferring from interstate. This change came into effect in February 2022.

Many factors can affect the medical fitness of a person to safely operate a vehicle. This has significant bearing on the relevant period and aspects of a licence applicant's medical history that may need to be considered by an assessor. Further consideration is needed to obtain the correct balance between upholding the safety of road users on public roads, and the privacy, discrimination and reputation principles in health and human rights legislation.

Prior to the introduction of health assessments for heavy vehicle driver licence applicants, the Government made two amendments to driver licence applications in response to this recommendation:

- a) amended the application to upgrade a licence to a heavy vehicle licence (medium rigid and above) to include a self-declaration of medical fitness;
- b) added a question on sleep disorders to the driver licence medical health assessment form for light vehicle drivers and the commercial medical health assessment form for heavy and public vehicle drivers to act as a prompt for health professionals when making their assessment.

As with the recommendation about health practitioners reporting driver medical issues to the road transport authority, including an obligation for the applicant to allow the assessor access to the applicant's medical history for a period deemed appropriate raises privacy and human rights considerations which must be reasonable and justified. These arise in relation to the privacy of medical records and if an assessor needs access to prior medical history, or just certain reports or medical records, to perform a periodic medical assessment.

The road transport authority has the power to require a driver licence holder, or applicant, to provide information about an illness, injury or incapacity, the effects of treatment (including the taking of a drug) for any illness, injury or incapacity or provide any documents in the person's possession or control relevant to their medical fitness to hold a driver licence. Further, the road transport authority can require an applicant to provide a report of the examination or other evidence of compliance with the required medical standards and refer that report to an authorised medical reviewer for assessment of the person's medical fitness to hold a driver licence. Any obligation for the applicant to allow the assessor access to the applicant's medical history for a period deemed appropriate must be considered alongside the existing powers of the road transport authority. These issues will be explored when progressing this consideration.

Further, the Government is considering introducing regular periodic commercial medical assessments for heavy vehicle licence holders.

Recommendation (iv): That the RTA (*Road Transport Authority*), ACT Police and Fitness to Drive Medical Clinic review their information sharing processes and produce a memorandum of understanding to facilitate information sharing where it would assist with the determination of driver licensing matters in respect to heavy vehicle licences, facilitated by legislative change, if necessary.

AGREED

A Memorandum of Understanding between Transport Canberra and City Services Directorate, Access Canberra, ACT Policing and the Fitness to Drive Medical Clinic is being finalised. Under the formalised arrangements, representatives from the Fitness to Drive Medical Clinic, Access Canberra, the Driver Assessment Rehabilitation Service and other experts as required will meet fortnightly. This will help to achieve continuity of action, better outcomes and regular review of cases. These improved information-sharing mechanisms have already commenced prior to the formalisation of the Memorandum of Understanding. This has better connected the expertise of the Fitness to Drive Medical Clinic with licensing decision making.

Quarterly meetings are now held to address process and delivery issues and other matters not directly related to management of cases. These meetings are also attended by ACT Policing, Transport Canberra and City Service Directorate and a GP liaison representative. Membership of both meetings is controlled to protect confidentiality and ensure open and frank discussions.

Recommendation (v): That the ACT Government considers forms of incentivisation that may encourage the uptake by trucking operators in the ACT of vehicles fitted with AEB (*Autonomous Emergency Braking*) systems or FDDT (*Fatigue and Distraction Detection Technology*), including but not limited to preferencing contractors who have voluntarily adopted such technology and registration discounts.

AGREED

Heavy vehicle operations in the ACT are closely tied to national practice. There are currently about 2,200 heavy buses and trucks registered in the ACT with an average age of approximately 11 years. The ACT heavy vehicle population is about 0.5% of heavy vehicles nationally, and around 40% of heavy trucking activity in the ACT comes from vehicles registered in other jurisdictions around Australia.

The ACT Government has made representations to the Commonwealth to seek the early implementation of autonomous emergency braking and fatigue and distraction detection technology in Australia. Minister Steel has made representations both at the Infrastructure and Transport Ministers' Meetings and also in writing to the Deputy Prime Minister, as the Chair of the Infrastructure and Transport Ministers' Meetings and the responsible Commonwealth Minister. These representations specifically referenced the Chief Coroner's recommendations and sought a response in relation to early consideration of mandating fatigue and distraction detection technology in Australia. Minister Steel also proposed that Infrastructure and Transport Ministers' Meeting members consider adding a project for the National Transport Commission to evaluate current development of fatigue and distraction detection technology, and whether this is appropriate for mandating for heavy vehicles.

On 24 February 2022, the Assistant Minister to the Deputy Prime Minister, the Hon Kevin Hogan MP, signed Australian Design Rule 97/00. This mandates autonomous emergency braking for most heavy vehicles. The technology will be mandatory for new models from

1 November 2023, all new buses from 1 November 2024, and all new goods vehicles over 3.5 tonnes GVM from 1 February 2025.

The Government is exploring the possibility of establishing a scheme to promote the uptake of fatigue and distraction detection technology in ACT heavy vehicles. Given the small size of the ACT heavy vehicle fleet, and the fact that a significant proportion of heavy vehicle activity in the ACT involves vehicles registered outside the ACT, incentivisation and uptake needs to be progressed nationally to drive real improvement in this area.

The ACT Government is assessing options to further encourage the uptake of autonomous emergency braking and fatigue and distraction detection technology in heavy vehicles through the procurement activity of the ACT Government. The inclusion of autonomous emergency braking or fatigue and distraction detection technology in heavy vehicles as an element in ACT government procurement decisions is expected to be implemented in a phased way. This will initially focus on heavy vehicles purchased by the ACT Government, followed by consideration of requirements for ACT Government contractors. The Government will also take up opportunities to more rapidly adopt safety technologies in ACT Government heavy vehicles such as buses through the use of lease arrangements where possible.

Recommendation (vi): That the ACT Government consider funding a public safety campaign informing the community about medical conditions which may affect their driving ability including the requirement to declare these conditions to Access Canberra.

AGREED

The ACT Government has developed a public education campaign specifically addressing medical conditions that affect driving. This promotes the requirement to inform Access Canberra if a person's driving may be affected by medical issues. Elements of this campaign are running across March and May 2022. Early implementation of the medical condition campaign provides an opportunity to evaluate its effectiveness and guide future campaigns as needed.

This campaign is just one of many road safety education and awareness campaigns delivered through the year in conjunction with road safety partners such as ACT Policing. This ensures consistent messaging and enables information to circulate through a variety of channels to a wider Canberra audience.

The Government has also sent a letter to all ACT heavy vehicle licence holders, heavy vehicle licence assessors and industry bodies advising of recent changes and reminding them of the requirement for licence holders to notify Access Canberra of any medical condition that may impair their ability to drive safely.

Recommendation (vii): That the Minister of Transport and City Services pursue the early implementation of the requirement for mandatory AEB (*Autonomous Emergency Braking*) systems in heavy vehicles throughout Australia, pursuant to the Memorandum of Understanding for The Effective Delivery of Heavy Vehicle Regulatory Services In The

Australian Capital Territory Between The National Heavy Vehicle Regulator And The Australian Capital Territory Road Transport Authority.

Recommendation (viii): That the Minister of Transport and City Services pursue early consideration of the suitability of fatigue and distraction detection technology for mandating in heavy vehicles throughout Australia, pursuant to the Memorandum of Understanding for The Effective Delivery of Heavy Vehicle Regulatory Services In The Australian Capital Territory Between The National Heavy Vehicle Regulator And The Australian Capital Territory Road Transport Authority.

AGREED

Under the Memorandum of Understanding between the ACT Government, Access Canberra, and the National Heavy Vehicle Regulator, vehicle standards are the responsibility of the National Heavy Vehicle Regulator. Additionally, as outlined under recommendation (v), autonomous emergency braking for heavy vehicles is now mandated under Australian Design Rule 97/00.

The ACT Government has engaged with the National Heavy Vehicle Regulator to encourage promotion of fatigue and distraction detection technology. These discussions and consultations will continue to explore options to support the uptake of fatigue and distraction detection technology systems in ACT heavy vehicles.

Recommendation (ix): That the Australian Trucking Association be provided with a copy of these findings and be invited to deliver training and education to its members and member associations addressing:

- a) the need for drivers and employers to obtain all information about a driver's medical and driving history which may be relevant to a driver's suitability to drive a heavy vehicle; and
- b) the availability of collision avoidance technologies including AEB (*Autonomous Emergency Braking*); and FDDT (*Fatigue and Distraction Detection Technology*) and the potential benefits in voluntary adoption of such technologies.

Recommendation (x): That the Royal Australasian College of Physicians and the Royal Australian College of General Practitioners be provided with a copy of these findings and be invited to deliver training and education to their members regarding the national medical standards for driving.

AGREED

The ACT has written to the Australian Trucking Association and the medical colleges providing copies of the findings and recommendations of the Chief Coroner's report.

Minister Steel met directly with the Australian Trucking Association to discuss the Chief Coroner's report. The Minister presented concerns raised by the Association through this meeting about current national requirements for assessing fitness to drive to the Deputy Prime Minister, and to an Infrastructure and Transport Ministers' Meeting. Based on these concerns and the Chief Coroner's advice, Minister Steel requested that screening requirements for sleep disorders, diabetes and cardiovascular disease be included in the Accessing Fitness to Drive guidelines.

On the basis of the ACT's advocacy, the National Transport Commission will now undertake a review into screening for these conditions to be considered for inclusion in the guidelines in future.

In response to the letters to the Royal Australasian College of Physicians and the Royal Australian College of General Practitioners, both of these organisations have proactively and positively responded. Both Colleges have developed additional educational content for their members on medical assessments of drivers.

Further actions taken by ACT Government

The findings of the Coronial Inquest did not specifically indicate that there were problems with the road or the intersection that contributed to the incident which killed Blake Corney. However, the ACT Government has committed to upgrade the intersection between Mugga Lane and the Monaro Highway by grade separation, with Mugga Lane and Tralee Street being connected with a flyover over the top of the Monaro Highway.

Design work on this upgrade is underway with construction expected to start in late 2024. The Monaro Highway Upgrade program will also deliver safety improvements and intersection upgrades at other key locations along the Monaro Highway. This is consistent with the Safe Systems approach, which seeks to promote safety on our roads through a combination of actions targeting speeds, road infrastructure and driver behaviour.

Conclusion

The ACT Government acknowledges the tragic death of Blake Corney on 28 July 2018 and the effect that his loss has had on his family, friends and community.

The ACT Government thanks the Chief Coroner for the practical and actionable recommendations, and has proactively begun work to respond to them. The Government recognises the work of all those who have provided support to Blake's family during the difficult coronial inquiry. We also thank Blake's family for their brave advocacy on road safety issues and commitment to ensuring that other families do not experience the same trauma as a result of road accidents.

Work will continue across Government and with the community to bring about the changes in practice, processes and regulations needed to achieve Vision Zero and prevent serious accidents of this kind in future.