

IN THE CORONERS COURT
OF VICTORIA
AT MELBOURNE

Court Reference: 1465/11

FINDING INTO DEATH WITHOUT INQUEST

Form 38 Rule 60(2)

Section 67 of the Coroners Act 2008

I, JOHN OLLE, Coroner having investigated the death of STUART BULLAS

without holding an inquest:

find that the identity of the deceased was STUART THOMAS BULLAS

born on 24 November 1987

and the death occurred on (between) 25 April 2011

at Intersection Sydney Road and Phoenix Street, Brunswick, Victoria 3056

from:

1 (a) MULTIPLE INJURIES

Pursuant to Section 67(2) of the Coroners Act 2008, I make these findings with respect to the following circumstances:

1. Stuart Bullas was aged 23 years at the time of his death. He lived at 1/296 Hope Street, Brunswick West.
2. The coronial brief has fully addressed the tragic circumstances of Stuart's death.
3. Stuart and his younger sister were raised by his parents in their family home at Coburg. He lived independently from 2009. He achieved Year 12 qualifications and worked in hospitality for several years after leaving school.
4. His father detailed a normal upbringing. Stuart had a keen interest in music. A passionate drummer who played a variety of instruments.
5. Stuart played in various bands at venues in his local area. He had retained a large circle of friends from his school years and made new friends in adulthood. He socialised easily and was well liked.

6. Stuart was a light drinker during the week, but enjoyed alcohol on the weekends. He retained a friendship with a former girlfriend who had moved to Perth, though each were committed to living their own lives.

Circumstances

7. On the evening of his death, Stuart was attending a "Bucks Party" with friends. The celebration was into its second day and had seen heavy consumption of alcohol. At about 10.45pm the group were walking in a westerly direction along Sydney Road. They approached the Phoenix Street intersection (the intersection).
10. A prime-mover/semi-trailer (the vehicle) driven by Tony Hayward was waiting to enter Sydney Road from Phoenix Street. It was facing a "Give Way" sign. When a gap in the traffic presented Mr Hayward moved the vehicle into Sydney Road, however was unexpectedly required to stop due to heavy traffic congestion. The trailer of the vehicle was stationary across the intersection blocking the path of pedestrians. Most of the young men walked behind the vehicle. Stuart chose to duck under the trailer.
9. A witness believes Stuart struck his head on the undercarriage before the vehicle moved. In any event, Mr Hayward commenced to turn, driving over Stuart. The vehicle immediately stopped and emergency services called. Lay witnesses performed CPR until the ambulance arrived, however Stuart had sustained fatal injuries.
11. Stuart was not encouraged by his friends to climb under the trailer. He did so of his own volition. It was a tragic decision made whilst under the influence of alcohol. I concur with the conclusion of the coronial investigator:

"Given Paul Hayward was in the process of turning his vehicle to the right, there was no way he could have possibly have seen Stuart walk under the semi-trailer, even if he were of a mind to be on the lookout for such an unusual event. I can find no fault in the actions of Paul Hayward regarding the collision.

*At the time of the collision the weather was fine and clear the road surface was dry, visibility was good due to ample street lighting and the level of traffic was moderate."*¹

¹ Summary coronial investigator Inquest Brief.

12. Stuart was a well adjusted young man, loved by family and friends. He sustained fatal injuries, having made a momentary error of judgement, whilst under the influence of alcohol.
13. Paul Hayward bears no responsibility for the tragic circumstances of Stuart's death.

Post Mortem Medical Examination

14. On 26 April 2011, Dr Michael Burke, Forensic Pathologist with the Victorian Institute of Forensic Medicine, performed an external examination only on the body of Stuart Thomas Bullas. Dr Burke found the cause of death to be multiple injuries.

Comments:

Pursuant to section 67(3) of the **Coroners Act 2008**, I make the following comments connected with the death:

1. The coronial investigator has recommended that protective guard or railing known as under-run protection bars could have prevented Stuart's death. The bars run along the length of the trailer on either side, between the top of the under carriage down to approximately 200mm above the road surface.

Leading Senior Constable Brilliant, states:

"While the primary purpose of the bar is to prevent smaller vehicles such as motorcycles, cars and bicycles from entering the cavity underneath the trailer in the event of a "T-bone" or "side-swipe" style collision, the bars will also deter and/or prevent pedestrians crawling or walking under the trailer in similar circumstances to that of the deceased.

*This item is already manufactured by several companies in both steel and lighter weight aluminium. They are readily available and can be retrospectively fitted to virtually any semi-trailer or B-double combination."*²

At my request the Coroner's Prevention Unit (CPU)³ have researched the prevalence of similar circumstances and/or the appropriateness of the recommendation made by Leading Senior Constable Brilliant.

² Statement Leading Senior Constable Anthony Brilliant.

³ The Coroners Prevention Unit is a specialist service for coroners created to strengthen their prevention role and provide them with professional assistance on issues pertaining to public health and safety.

Heavy vehicle underrun incidents

A heavy vehicle underrun crash occurs when a passenger car, motorcycle, bicycle or pedestrian slides underneath the front, side, or rear end of a heavy commercial vehicle.

Each year in Australia, approximately 35 people are killed in heavy vehicle underrun crashes, with most victims being car occupants. Pedestrian deaths are difficult to quantify, a previous estimate has been 5-7 deaths annually in Australia. Front underrun is the most common scenario and accounts for around 75% of all underrun trauma, while side underrun accounts for 15%. These figures are likely to increase given an expected doubling of the freight transport task by 2020.⁴

Side underrun protection for trucks

It was S/C Brilliant's belief that Mr Bullas' death could have been prevented had a side guard been installed on the semi trailer.

Current situation

At present, there is no legislative requirement for heavy vehicles in Australia to be fitted with side underrun protection. From January 2011 however, front underrun protection is mandatory for new rigid and articulated heavy commercial vehicles of NC category (a Gross Vehicle Mass greater than 12 tonnes) and all existing vehicles are required to be fitted by January 2012.⁵ An estimated 10 lives will be saved annually in Australia due to the fitting of front underrun protection.

A Regulation Impact Statement (RIS) for underrun protection was released by the Australian Government in July 2009, with the aim of determining whether government intervention towards new vehicle construction was necessary to reduce underrun crashes.⁶ The RIS did not recommend that side or rear underrun protection be mandated on a cost-benefit basis, however mandatory front underrun protection was deemed appropriate.

⁴ Information obtained from: Australian Government Department of Infrastructure, Transport, Regional Development and Local Government. *Regulation Impact Statement for Underrun Protection*. July 2009.

⁵ Vehicle Standard (Australian Design Rule 84/00— Front Underrun Impact Protection) 2009. Also see: *New Truck Safety Rule to Save Lives*. Media Release 16 September 2009. Retrieved from: http://www.minister.infrastructure.gov.au/aa/releases/2009/September/AA398_2009.aspx

⁶ Australian Government Department of Infrastructure, Transport, Regional Development and Local Government. *Regulation Impact Statement for Underrun Protection*. July 2009.

The voluntary uptake of underrun protection has been described as poor. This is largely due to the competitive nature of the industry, the costs being borne by the vehicle manufacturer which are then passed onto the operator and consumer, and because the safety benefits are ultimately to other road users.

Victoria and Australia's road safety strategies

In relation to safer heavy vehicles, Victoria's Road Safety Strategy *Arrive Alive 2008-2017* states:

Heavy vehicles with improved seatbelt systems, improved cabin strength and better underrun protection have the potential to improve safety for all road users. These improvements could be achieved through the introduction of Australian Design Rules for heavy vehicle cabin strength, and front, rear and side underrun protection.

The *National Road Safety Strategy 2011-2020* makes no specific reference to side underrun protection.

Other industry views

The Transport Industry Safety Group of Victoria's *Buying a Safer Truck* publication (2005) includes reference to the importance of front, side and rear underrun protection.

A 2010 report by the NRMA supports the adoption of side underrun protection for heavy vehicles in Australia.⁷ RACV also appear to support the uptake of side underrun guards.⁸

2. The Australian Government has previously investigated options for improving the uptake of underrun protection for heavy vehicles in Australia. While front underrun protection has since become mandatory, there are no existing requirements for side or rear underrun protection to be fitted.

⁷ NRMA. *The safety needs of heavy vehicles in Australia*. A report prepared by NRMA Motoring & Services, March 2010.

⁸ RACV. *Vehicle crash compatibility*. Retrieved 13 April 2012 from: <http://www.racv.com.au/wps/wcm/connect/internet/primary/my+car/car+safety/safety+advice/vehicle+crash+compatibility>

3. The value of side underrun protection in improving the safety of road users such as car occupants, motorcyclists, cyclists and pedestrians, has been recognised for a considerable period of time.
4. While side underrun protection is not generally designed to address the type of incident that sadly led to Mr Bullas' death, it may nevertheless have served a role in preventing him from entering beneath the stationary trailer.
5. I have been made aware of the Regulation Impact Statement for Underrun Protection released by the Australian Government in July 2009, including the decision not to mandate side underrun protection for heavy vehicles on a cost-benefit basis. Despite this outcome, the uptake of side underrun guarding among heavy vehicles in Australia should continue to be promoted.

Recommendations:

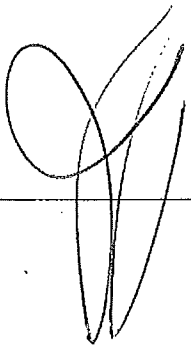
Pursuant to section 72(2) of the Coroners Act 2008, I make the following recommendations connected with the death:

1. That the Department of Infrastructure and Transport (Commonwealth) further investigate and adopt appropriate measures to improve the uptake of side underrun protection among commercial heavy vehicles in Australia to reduce the incidence of road trauma resulting from side underrun events.

I direct that a copy of this finding be provided to the following:

Senior next of kin;
Investigating Member
Department of Infrastructure (Commonwealth);

Signature:



JOHN OLLE
CORONER
30 April 2012

