



Ref: BSEC-1-24-5514

Nicole D'Rozario
Coroner's Registrar
Coroners Court of Victoria
65 Kavanagh Street
SOUTHBANK VIC 3006
via email: cpuresponses@coronerscourt.vic.gov.au

Dear Ms R'Dozario

Response to Coronial Recommendations – Angus Collins

I refer to your letter of 12 August 2024 regarding Coroner David Ryan's findings and recommendations – COR 2023 000641.

The Department extends its sympathy to the family and friends of Mr Collins.

The Coroner's recommendations

Pursuant to section 72(2) of the *Coroners Act 2008* (Vic), Coroner Ryan Coroner Ryan made the following recommendations in the Finding:

- i. That the Department of Transport and Planning consult with relevant authorities to formulate and implement a public safety campaign to highlight the risks that exist at intersections between left turning vehicles and cyclists that are travelling straight ahead, and to clearly set out the law as to who has right of way.
- ii. That the Department of Transport and Planning consider amending its contract arrangements for road works carried out pursuant to a Worksite Traffic Management Plan so that serious risks to the safety of road users (including cyclists) which are identified in a Road Safety Audit are required to be "closed" by an independent road safety auditor, not the contractor that has been retained to carry out the works.

Response to Recommendation 1 – Public safety campaign

The Coroner's Recommendation has been partly implemented and will continue to be implemented

- a) The Department supports this recommendation and work is underway to implement it, in addition to several other initiatives that support the safety of vulnerable road users, particularly when intersecting with trucks.
- b) The *Construction Trucks and Community Safety* project is a multi-stakeholder, multi-year initiative that will be finalised by the end of this year with the delivery of a final training video for truck drivers. The project is premised on improving the safety of vulnerable road users around construction trucks.

- c) The project has included several initiatives to address the safety of vulnerable road users including:
- i. **Contract clauses** – Major Victorian projects including West Gate Tunnel, Metro Tunnel and North East Link require vulnerable road user protective features to be fitted to Heavy Vehicles. Types of features specified in these contracts include side underrun protection, blind spot minimisation, left turn audible alarms and conspicuity markings on heavy vehicles. The Level Crossing Removal Program has adopted similar requirements recently and other road projects also apply these requirements on a risk basis.
 - ii. **Traffic Management Planning** – Contract clause and guidance to support better temporary traffic management design and plans for pedestrian, bicycle rider and motorcycle movements during changed traffic conditions.
 - iii. **Driver training** – Three construction industry facing safety topic kits (Toolbox talks) have been developed to support industry to deliver on the truck driver training model clauses included in the contracts. They aim to make truck drivers more aware of how to drive safely near pedestrians, bike riders and motorcyclists and includes blind spot awareness and left turning. A truck driver training film is currently being finalised, to further support the truck driver training clause delivery.
 - iv. **Route selection Tool** – The Human Impact Route Assessment (HIRA) tool helps examine the safety of available route options and heightens the priority of protecting the safety of vulnerable road users when planning truck routes between work sites and other locations e.g. where tunnelling creates a lot of fill to be disposed of. The HIRA is available online and is also included as mandatory for use in some contract clauses.
 - v. **Public education campaign** – There were over 3 million impressions via digital and outdoor communications and publicity aimed at increasing awareness and understanding in the community of sharing the road with trucks, including blind spots and left turn safety for bicycle riders and motorcyclists, and challenges faced by truck drivers. The digital campaign was delivered in English, Hindi, Punjabi, Chinese Simplified, Arabic and Vietnamese. The campaign was in market from 5 February 2024 to 3 March 2024.
- d) The public education campaign will be reviewed and extended to further enhance the community's awareness of risks associated with sharing the road with construction trucks and left turning trucks. Further promotion is planned via statewide social media engagement. DTP will work with the Transport Accident Commission (TAC) to promote and support this campaign.
- e) Further, the Department is currently undertaking a review of left hand turn road rules where bicycle riders are heading straight ahead and drivers are turning left. Research and consultation exercises have been completed.
- f) Upon completion of the review any changes that are approved for implementation would require communications to be developed, to educate the public on the road rules related to left turning vehicles when bicycle riders are going straight ahead.

Response to Recommendation 2 – Amending contract arrangements

An alternative to the Coroner's recommendation will be considered

- a) The Department acknowledges the Coroner's comments regarding the close-out of Road Safety Audit recommendations by a contractor.
- b) The Department is considering an alternative to the Coroner's recommendation which aligns with the principle of the Coroner's recommendation to provide a higher level of assurance for closing out audit recommendations.
- c) Road safety audits are undertaken to identify safety issues so that those who are responsible for delivering the particular outcome (conceptual design; preliminary plans; detailed plans; traffic management schemes; or constructed works) can take these findings into account and make necessary changes.
- d) The Department's current *Road Safety Audit Policy and Procedure* and Victorian Infrastructure Delivery Authority's (VIDA's) suite of infrastructure contracts sets out the proposed course of action (audit recommendation close-out) to address any deficiencies or concerns identified in a road safety audit report.
- e) The role of a road safety auditor is to independently consider risks separate to the contractor or road agency that has requested the audit.
- f) Closing out audit findings is outside the role of a road safety auditor, and the road safety auditor is not the appropriate party to perform this function due to the following considerations.
 - i. The role of the auditor is to identify risks and make recommendations for all risks and hazards and include appropriate mitigation measures. In the case of Design and Construct contracts, it is the contractor that reviews the auditor recommendations and carries out the appropriate measures to mitigate risk.
 - ii. The party responsible for engaging an auditor is responsible for the project and managing its road safety risks.
 - iii. The road safety auditor will not be aware of the constraints of the project which include the project's budget, scope, timelines, governance and previous decisions and is therefore not in a position to agree to close-out options.
 - iv. Requiring auditors to close-out responses would put additional responsibility onto the auditor which could result in potential adverse impacts including an overly conservative approach to identification of risks, mitigation measures which may be impractical to implement, increased insurance costs and reduced willingness of industry to undertake audits on larger projects.
- g) To address the Coroner's concerns, the Department will review its *Road Safety Audit Policy and Procedure* to consider and include additional technical review or assurance steps as appropriate at the road safety audit close-out stage. The assurance process will consider if a review should be done by another party (not the contractor) of whether the proposed close-out measures and treatments would effectively address identified road safety risks. This risk-based process will consider:
 - i. the risk level assessed (from negligible to extreme) by the road safety auditor;
 - ii. the proposed course of action by the contractor, in particular where the contractor may have chosen a lower level of engineering control or treatments than recommended by the auditor;

- iii. the road safety audit stage;
 - iv. the nature of the work environment, including the timeliness of response; and
 - v. roles and responsibilities between the contractor, VIDA and DTP to provide further technical review of close-out recommendations.
- h) The review will also consider project governance and process changes to ensure verification of audit close-out action implementation is considered.
- i) Along with the above review, DTP will communicate any changes to the *Road Safety Audit Policy and Procedure*, and consequently VIDA's infrastructure works contracts, to road safety auditors and industry stakeholders.
- j) Given the additional technical review requirements and potential need for new systems, the Department may require additional resources to support the risk-based close-out process.

Please do not hesitate to contact Mr Marcelo Vidales, Head of Road Safety Victoria, [REDACTED] if you have any questions about the contents of this letter or if you require any further information.

Yours sincerely



Paul Younis
Secretary

Date: 03 December 2024