

## Inquest into the death of Cameron Brandt Cole

Cameron Brandt Cole was working on a mine site in on 14 August 2009 and was present when a truck towing a trailer with a mixed load of equipment arrived at the site. He was crushed by a heavy steel pipe rack that fell from the flatbed trailer after the chains and load binders restraining a load of five pipe racks were released.

State Coroner Terry Ryan delivered his findings of inquest on 11 September 2015.

The Queensland Government responds to recommendations directed to government agencies at inquests by informing the community if a recommendation will be implemented or the reason why a recommendation is not supported.

The department named in this response will provide implementation updates until the recommendation is delivered. Further information relating the implementation of recommendations can be obtained from the responsible minister named in the response.

### Recommendation 3

The Queensland Government consider whether the *National load restraint guide* applies to the operation of vehicles on land that is not a public place and, if not, take steps to ensure that its application is extended under relevant chain of responsibility legislation, including the Heavy Vehicle National Law (Queensland).

Response and action: the recommendation is agreed to in part and implementation is complete.

Responsible agency: Department of Transport and Main Roads.

On 11 February 2016 the Minister for Main Roads, Road Safety and Ports and Minister for Energy, Biofuels and Water Supply and the Minister for Transport and the Commonwealth Games responded:

The Department of Transport and Main Roads will work cooperatively with the National Transport Commission to consider the potential for the broader application of the *National load restraint guide* and how chain of responsibility could be applied.

The National Transport Commission will consider suggested changes to the guide as part of its current review of the guide and will work with the department in considering the application of the Heavy Vehicle National Law chain of responsibility provisions and their appropriate coverage.

The Department of Transport and Main Roads and the National Transport Commission will consider whether amendments to the Heavy Vehicle National Law (HVNL) are necessary as part of the Heavy Vehicle National Law maintenance program, in consultation with participating jurisdictions. This issue would be considered as part of the 2016-17 Heavy Vehicle National Law maintenance program.

**On 8 July 2016 the Minister for Main Roads, Road Safety and Ports and Minister for Energy, Biofuels and Water Supply and the Minister for Transport and the Commonwealth Games responded:**

The Department of Transport and Main Roads examined the *National load restraint guide* and determined the guide does not apply to the operation of vehicles on land that is not a public space. However, section 111 of the HVNL prohibits a person from driving a heavy vehicle on a road if the

heavy vehicle or its load do not comply with the loading requirements applying to the vehicle. If an offence against section 111 is committed, chain of responsibility parties listed under section 183(2), such as employers, consignors and loaders, are also taken to have committed an offence unless they can demonstrate they have taken reasonable steps to prevent the offence. While the *National load restraint guide* does not extend to areas that are not a public place, drivers, operators and other parties also have obligations under workplace health and safety legislation that extends to places other than roads.

The Queensland Government is taking steps to ensure that chain of responsibility provisions under the HVNL are strengthened. On 7 April 2016 the Transport and Infrastructure Senior Officials' Committee (TISOC) endorsed amendments to the HVNL relating to chain of responsibilities requirements and obligations. In particular, the HVNL Amendment Bill 2016 introduces a primary duty of care on parties in the chain of responsibility to ensure so far as is reasonably practicable, the safety of the party's transport activities relating to the vehicle. The amendments to the HVNL focuses the attention of those involved in transport operations on establishing and maintaining culture and systems that are safe. This will enhance the general safety obligations under the HVNL.

The National Transport Commission is undertaking a comprehensive review of the load restraint guide to ensure it remains contemporary, nationally consistent, efficient, effective and aligned with agreed policy.

Transport and Infrastructure Council consideration of the load restraint guide is delayed from November 2016 to May 2017. This remains in line with commitments to finalise the *National load restraint guide* in 2017.

**On 14 May 2017 the Minister for Main Roads, Road Safety and Ports and Minister for Energy, Biofuels and Water Supply responded:**

The Heavy Vehicle National Law and Other Legislation Amendment Bill 2016, containing amendments aligning chain of responsibility provisions with work health and safety principles, was introduced into the Queensland Parliament in September 2016.

The National Transport Commission will present recommendations of the *Load restraint guide* review for consideration by ministers at the November 2017 Transport and Infrastructure Council meeting. It is expected that the revised *Load restraint guide* will be finalised and released in early 2018.

The implementation of the national chain of responsibility provisions in the Heavy Vehicle National Law and Other Legislation Amendment Bill 2016 are anticipated for implementation in mid-2018.

**On 26 February 2018 the Minister for Transport and Main Roads responded:**

No further action has been taken since this recommendation was last updated, pending enactment of the amendments which align the chain of responsibility provisions with work health and safety principles. Enactment of these amendments is expected to occur in mid-2018.

**On 26 February 2019 the Minister for Transport and Main Roads responded:**

The *Load restraint guide 2018* and the *Load restraint guide for light vehicles 2018* were released on the National Transport Commission [website](#) in February 2018. They are practical guides for ensuring load restraints are fit for purpose and that safe loading practices are implemented in compliance with the law.

The National Transport Commission carried out public consultation of the draft *Load restraint guide* from June to August 2017, prior to the release of the final guides. Based on the public comment and the requirement to provide legal force to the performance standards as recommended by the HVNL Maintenance Advisory Group, a decision was made to move performance standards out of the *Load restraint guide* and prescribe them in a regulation under the HVNL.

The load restraint performance standards are now prescribed in the *Heavy Vehicle (Mass, Dimension and Loading) National Amendment Regulation 2018* which commenced on 1 October 2018.

Further amendments to the HVNL include amendments to the chain of responsibility provisions, to provide that every party in the heavy vehicle transport supply chain has a duty to ensure the safety of their transport activities. In practical terms, this primary duty represents an obligation to eliminate or minimise potential harm or loss, including in the way loads are restrained, by doing all that is reasonably practicable to ensure safety.

The HVNL only applies to heavy vehicles on those roads and spaces which are open to or used by the public and are used for driving motor vehicles. Where heavy vehicles are used exclusively in areas not covered by the HVNL, workplace health and safety legislation applies to require that vehicles are loaded safely. However, if a load is prepared for transport on a public road, or has travelled on a public road, then the new primary duties provisions under the chain of responsibility amendments apply.