

Inquest into the death of Ethan Stephenson

Ethan Stephenson died on 7 June 2014. Ethan was skateboarding or walking on the edge of a road on Russel Island when he was struck from behind by a four wheel drive travelling in the same direction.

Coroner John Hutton delivered his findings of inquest on 26 July 2017.

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 departments 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 2a

The Queensland Police Service increase permanent police numbers on Russell Island to keep up with demand. The former officer in charge of the Russell Island Police Station's suggestion of one sergeant and three constables is recommended.

Response and action: implementation of the recommendation is in progress.

Responsible agency: Queensland Police Service.

On 16 July 2018 the Minister for Police and Minister for Corrective Services responded:

The policing response to Russell Island continues to be supported with resources from the Bayside Patrol Group, South Brisbane District and Operations Support Command. In addition to officers stationed within Russell Island Police Division, the island has access to specialist police services within district, regional and central functions which includes Criminal Investigative Branch, Child Protection, Intelligence, Tactical Crime Squad and Road Policing, as well as Redland Bay Police Division and water police.

The resource requirements in response to calls for service, including the need for temporary deployment of general duties staff from the mainland, are monitored in real time by Brisbane Region's District and Regional Duty Officers on a twenty-four-hour basis. The Queensland Police Service continues to monitor police officer numbers and determination of appropriate staffing is made based on operational policing and direct service delivery requirements to ensure a fair and equitable policing service is provided throughout the state.

A review of staffing and resource allocation on Russell Island has been completed. A discussion paper outlining options for optimising service delivery and community safety is currently being prepared for consideration by the assistant commissioner for Brisbane Region.

On 8 January 2019 the Minister for Police and Minister for Corrective Services responded:

The QPS will increase police numbers on Russell Island from two to four officers to optimise community safety and service delivery. The QPS has allocated funding and secured suitable accommodation on Russell Island to facilitate the increase in police numbers.

It is expected the recruitment of the two additional officers and the new accommodation will be finalised in early 2019.

Recommendation 2b

The Queensland Police Service increase speed enforcement activities generally on Russell Island to support any reduction in speed limits on the island implemented by the Redland City Speed Management Committee.

Response and action: the recommendation is implemented.

Responsible agency: Queensland Police Service.

On 16 July 2018 the Minister for Police and Minister for Corrective Services responded:

The Bayside Patrol Group Capalaba Road Policing Unit (CPRU) increased its rostered traffic enforcement activities on Russell Island from one shift per 28-day roster, to two to three shifts per 28-day roster, based on operational requirements. Speed detection and saliva analysis (drug testing) have always, and will continue to be, the CPRU's main focus of enforcement activities on Russell Island.

In addition, regular road safety enforcement operations involving other specialist police units, such as the tactical crime squad, are now conducted more frequently. These regular road safety enforcement operations target the Fatal Five road user behaviours including speeding, distraction and inattention, drink driving, driving tired and seat belts.

The QPS will continue to review options for resource allocation on Russell Island which may allow for increased speed enforcement activities in future.

Recommendation 2c

The Queensland Police Service allocate a vehicle mounted radar to the Russell Island Police Station, and training, to facilitate more effective speed enforcement on the island.

Response and action: the recommendation is implemented.

Responsible agency: Queensland Police Service.

On 16 July 2018 the Minister for Police and Minister for Corrective Services responded:

The Bayside Patrol Group Capalaba Road Policing Unit (CRPU) loaned a mobile radar to the Russell Island Police Station to conduct speed enforcement activities. Specialist vehicle hardware was installed on the police vehicle and is ready for deployment, as soon as the training requirements are completed.

The requalification training requirements for the use of a Lidar mobile radar is underway for the officers attached to the Russell Island Police Station. This is a prerequisite course that must be completed before officers can undertake the subsequent courses and training for the mounted radar in a police vehicle.

The training requirements for the officers on Russell Island will be completed as soon as practicable.

On 8 January 2019 the Minister for Police and Minister for Corrective Services responded:

Russell Island was allocated a vehicle mounted radar. One officer attached to Russell Island is trained and is authorised to use the vehicle mounted radar allocated to Russell Island Police Station. The radar is operated by Russell Island Police Station to undertake speed enforcement activities.

Due to the logistics associated with training for qualification and the time required off the island to undertake this training, the second officer attached to Russell Island Police Station has not been

trained to use the vehicle mounted radar, however this will be subject to further review following the recruitment of the two additional officers on Russell Island.

Recommendation 2d

The Queensland Police Service amend the Queensland Police Service *Traffic manual* to include a time limit for a second alcohol breath test.

Response and action: the recommendation was not implemented.

Responsible agency: Queensland Police Service.

On 16 July 2018 the Minister for Police and Minister for Corrective Services responded:

The *Transport Operations (Road Use Management) Act 1995* sets out the arrangements for police officers who require a person to provide a specimen of breath for a breath test.

A breath test is usually the initial test taken by an officer using a mobile device, often roadside. An officer can request a breath test if the officer reasonably suspects the person was driving in the preceding three hours or was in charge of a vehicle or was involved in an incident resulting in a death, an injury or damage to property. The Act is supported by the Queensland Police Service *Traffic manual* which contains the policies and instructions in relation to operational traffic matters. The chapter of the manual titled 'Authority to breath test' says officers should take a breath test as soon as practicable and within three hours after the event (for example an incident resulting in injury, death or damage to property).

If the breath test is positive, the person may then be required to provide a further specimen of breath for analysis using different equipment. This second test is technically referred to as the *evidential breath analysis*. The initial breath test should not be confused with the evidential breath analysis. The certificate (or report) produced from the evidential breath analysis (as distinct from the initial breath test) is the evidence used to support a charge relating to a person's alcohol concentration.

Unlike the initial breath test, there is no statutory timeframe requirement to perform the evidential breath analysis.

If the certificate generated from the evidential breath analysis was conducted within three hours of the person last driving it can be used as conclusive evidence to support a charge. In cases where analysis is undertaken beyond three hours, the prosecution must call expert evidence as to the concentration of alcohol present in the breath of the person.

The coroner pointed out there is no time limit as to when police must conduct the evidential breath analysis. There is no statutory requirement in the Act setting out a timeframe for the evidential breath analysis. Consequently, there is no timeframe set out in the *Traffic manual* imposing a timeframe. Though as indicated there is a significant impetus for analysis to be undertaken within three hours. However, this may not always be possible.

Imposing a timeframe to obtain an evidential breath analysis in the *Traffic manual* and restricting when law enforcement could obtain a specimen for analysis would be contrary to police efforts to reduce road trauma. It would also encourage offenders to evade police until whatever stipulated time had expired. Not only would this adversely affect enforcement action under the transport legislation it would also adversely affect the prosecution offences such as dangerous operation of a motor vehicle where driving under the influence of alcohol is a circumstance of aggravation.

The Queensland Police Service does not support the coroner's recommendation to impose a three hour limit on obtaining an evidential breath analysis, however the QPS will consider amending the *Traffic manual* to emphasise the importance of having analysis undertaken within a three hour period to ensure the certificate evidence is conclusive and avoid the need for expert evidence.

Recommendation 2e

The Queensland Police Service allocate a saliva drug swab testing device to the Russell Island Police Station, and training, to enable police officers the ability to conduct initial drug tests on drivers, to determine whether it is necessary to escort drivers to the mainland for a blood test.

Response and action: the recommendation was not implemented.

Responsible agency: Queensland Police Service.

On 16 July 2018 the Minister for Police and Minister for Corrective Services responded:

A driver may be arrested or detained under the provisions of the *Transport Operations Road Use Management Act 1995* if their roadside drug or breath test results was positive or if they acted in a manner that would suggest they were under the influence of liquor or a drug (indicia). The driver can then be transported to a police station or place for a blood test which is then sent to the laboratory to test for the presence of liquor or a drug (a place can include a hospital or medical facility).

Currently, there are more than 560 police officers trained and approved to administer a roadside drug test across the state, of which approximately 162 are based in Brisbane Region. The Bayside Patrol Group Road Policing Unit currently has 11 officers trained to administer a roadside drug test. The general duties officers attached to the Russell Island Police Station are not trained and approved to administer a roadside drug test, and the police station is not equipped with a saliva drug swab testing kit. Road policing unit officers across the state are trained and approved to administer roadside drug tests, however, this capability is not extended to general duties teams.

Despite this, the Russell Island Police Station has standard protocols in place to proactively manage situations involving drivers who drive under the influence of liquor or a drug. This involves coordinating with the water police and the Redland Bay Police Station to transport driver/s to the mainland for a blood test and/or the Wynnum Watchhouse for processing. To ensure Russell Island maintains a policing presence, the officers will hand over the driver/s to the Redland Bay Police Station crew attending with the water police, for further processing and investigation.

This recommendation is not supported.

Recommendation 2f

The Queensland Police Service implement a policy that all drivers on Russell Island involved in a serious motor vehicle accident be subjected to an initial road side breath test and saliva drug test.

Response and action: the recommendation was not implemented.

Responsible agency: Queensland Police Service.

On 16 July 2018 the Minister for Police and Minister for Corrective Services responded:

Pursuant to section 5.5(ix) of the *Traffic manual*, a police officer attending a traffic crash has the authority to require the driver/s of any motor vehicle involved in a traffic crash to submit to a roadside breath test and saliva drug test. Furthermore, a police officer attending a traffic crash

where a person has been seriously injured or killed has the authority to test all drivers for the presence of alcohol and drugs.

The Russell Island Police Station does not have the resources available or officers qualified and approved to administer a roadside drug test. Furthermore, drivers involved in serious traffic accidents generally are not able to provide testing on the roadside due to injuries. However, under the relevant legislation, police officers have the authority to transport the driver/s to the hospital on the mainland for a blood test to test for the presence of alcohol or a drug. The officers at Russell Island Police Station coordinate with the water police and the Redland Bay Police Station to transport driver/s to the mainland for a blood test and/or the Wynnum Watchhouse for processing. To ensure Russell Island maintains a policing presence, the officers will hand over the driver/s to the Redland Bay Police Station crew attending with the water police, for further processing and investigation.

This recommendation is not supported.

Recommendation 2g

The Queensland Police Service nominate a police liaison officer to attend each Redland Transport Advisory Group meeting and to liaise with the Russell Island police regarding traffic safety matters.

Response and action: the recommendation is implemented.

Responsible agency: Queensland Police Service.

On 16 July 2018 the Minister for Police and Minister for Corrective Services responded:

The officer in charge of the Bayside Patrol Group Capalaba Road Policing Unit (CRPU) is a founding member of the Redland Transport Advisory Group and attends every meeting. The officer in charge provides feedback from each meeting to all relevant stakeholders which includes the police officers at Russell Island Police Station. The officer in charge is the liaison officer between Redland Transport Advisory Group and the officer in charge of the Bayside Patrol Group.

Some strategies discussed at the Redland Transport Advisory Group meeting include progressing a joint road/traffic operation with CRPU and Queensland Transport inspectors, and further educational and school initiatives in relation to road safety. The South Brisbane District Crime Prevention Unit has also been engaged to provide assistance where required.