



# MAGISTRATES COURT *of* TASMANIA

## CORONIAL DIVISION



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### **Record of Investigation into Death (Without Inquest)**

*Coroners Act 1995  
Coroners Rules 2006  
Rule 11*

I, Duncan Fairley, Coroner, having investigated the deaths of Ethan Charles Rushton and Christopher Peter Kearnes

**Find, pursuant to Section 28(1) of the Coroners Act 1995, that:**

1. **Ethan Charles Rushton died on 2 January 2016 at the East Tamar Highway Mowbray Link Junction, Launceston in Tasmania.**

At the time of his death Mr Rushton was a single man and was employed as a farm hand. He was born in Launceston, Tasmania on 2 August 1998 and was aged 17 years.

Mr Rushton died as a result of multiple severe trauma consistent with a motorcycle accident.

2. **Christopher Peter Kearnes died on 2 January 2016 at the Launceston General Hospital, Launceston in Tasmania.**

At the time of his death Mr Kearnes was single and was in receipt of disability support benefits. He was born at Launceston, Tasmania on 27 May 1984 and was aged 31 years.

Mr Kearnes died as a result of severe trauma, including a ruptured and transected aorta, consistent with a motorcycle accident.

#### **Circumstances Surrounding the Deaths:**

Shortly before 8pm on Saturday 2 January 2016, Ethan Charles Rushton was the rider in charge of a black 2009 Kawasaki motorcycle which was proceeding in a northerly direction on Holbrook Street, Invermay. Christopher Peter Kearnes was the pillion passenger. Both men were wearing Australian Standards approved motorcycle helmets. The vehicle was observed travelling along Holbrook Street, a residential zone with a speed limit of 50 km/h, at a speed in excess of 100 km/h. The Kawasaki motorcycle had been recently stolen from a garage at the rear of a residence situated at 34 Taylor

Street, Invermay. How the motorcycle came to be in the possession of Mr Rushton and Mr Kearnes is not known.

Mr Rushton and Mr Kearnes were next observed travelling at speed in a northerly direction along the walking track situated on top of the levee bank, which runs parallel to the East Tamar Highway. I observe that the walking track can be accessed via the northern end of Holbrook Street. A witness, also travelling in a northerly direction on the highway, observed the motorcycle and its riders. The witness estimates the motorcycle was travelling at between 120 km/h and 130 km/h as it was pulling away from his vehicle which was proceeding at the speed limit of 100 km/h.

As the motorcycle neared the northern end of the walking track Mr Rushton and Mr Kearnes were confronted by two pedestrians pushing an infant in a stroller. Adjacent to the north western end of Hope Street the motorcycle left the walkway, proceeded across a grassed area and onto the south bound Mowbray Link slip lane. Mr Rushton then manoeuvred the motorcycle into the parallel slip lane which takes traffic onto the north bound lane of the Highway. It is apparent that Mr Rushton intended to proceed onto the western side of the East Tamar Highway, however, in order to do so the motorcycle was required to traverse the south bound lanes.

At the same time a white 1984 Toyota Hilux dual cab utility, driven by Patrick Wilcox, was travelling at approximately 80 km/h in a southerly direction through the Mowbray Link Junction. For reasons which remain unknown the motorcycle has proceeded onto the Highway, directly into the path of Mr Wilcox's utility vehicle. The motorcycle and its two occupants collided with the front of the Toyota Hilux. The damage sustained by both riders and motorcycle was catastrophic.

Emergency services personnel attended and Mr Kearnes was transported by ambulance to the Launceston General Hospital. Mr Rushton was pronounced deceased at the scene by Tasmania Ambulance paramedics. Due to the nature and extent of his injuries Mr Kearnes died shortly after arriving at the hospital.

In his comprehensive report the Tasmania Police crash investigator, Senior Constable Rybka, concluded that Mr Wilcox was operating his vehicle in a safe and proper manner. Further, that while there were a number of mechanical defects apparent in the Toyota Hilux, they did not contribute in any material fashion to the resultant collision. I accept Senior Constable Rybka's opinions. Mr Wilcox could not have avoided the collision given the manner in which Mr Rushton maneuvered the motorcycle. I further observe that evidence was obtained during the investigation which indicates Mr Wilcox had not consumed alcohol or any illicit substances, such that they might have affected his driving ability. Further, he was not using his mobile device immediately prior to the incident. I am satisfied that Mr Rushton's actions were the sole causative factor in relation to the crash.

Post mortem examinations were performed by Dr Terrence Brain (Pathologist) at the Launceston General Hospital on 5 January 2016. Dr Brain determined that the cause of Mr Rushton's death was multiple severe trauma consistent with a motorcycle accident. Dr Brain determined that the cause of Mr Kearnes' death was severe trauma, including a ruptured and transected aorta, consistent with a motorcycle accident. I accept those opinions. Analysis of samples taken during both post mortem examinations confirmed the presence of illicit substances. Cannabis was identified in Mr Kearnes' blood samples. Both methylamphetamine and cannabis were detected in the blood samples obtained from Mr Rushton. It appears likely that the ingestion of illicit substances has played a role in the incident.

**Comments and Recommendations:**

I extend my appreciation to Senior Constable Rybka for his high quality investigation and report. Having reviewed all of the evidence gained during the comprehensive investigation into the crash I am satisfied that the circumstances do not necessitate the making of any recommendations or further comments pursuant to section 28(2) of the *Coroners Act 1995*.

In conclusion, I convey my sincere condolences to the families of Mr Rushton and Mr Kearnes.

**Dated:** 6 November 2017 at Launceston Coroners Court in the State of Tasmania.

**Duncan Fairley**  
**Coroner**