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JURISDICTION: Darwin

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FINDING OF: Mr Greg Cavanagh SM

**CATCHWORDS:** **Jockey, fall from horse during Darwin cup, horse baulking at crossing; Darwin Turf Club, Thoroughbred Racing NT.**

**REPRESENTATION:**

Counsel Assisting: Ms Peggy Dwyer

Counsel for Darwin Turf Club  
and Thoroughbred Racing  
Northern Territory: Ms Jodi Truman

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IN THE CORONERS COURT  
AT DARWIN IN THE NORTHERN  
TERRITORY OF AUSTRALIA

No. D0127/2013

In the matter of an Inquest into the death of  
**SIMONE KATE MONTGOMERIE**  
**ON 5 AUGUST 2013**  
**AT ROYAL DARWIN HOSPITAL**

**FINDINGS**

Mr Greg Cavanagh SM:

**INTRODUCTION**

1. Darwin Cup Day, held annually at the Fannie Bay Turf Club since 1956, is the largest racing event in the Northern Territory and is the highlight of the Darwin Cup Carnival, which runs through July and August. It is an event attended by thousands of Territorians and interstate visitors and is ordinarily a wonderful day out for families and friends and the racing community. Tragically on 5 August 2013, Darwin Cup Day was marred by the death of Simone Montgomerie, a talented young jockey who lost her life after falling from her horse during Race 6, the second last race of the afternoon.
2. Ms Montgomerie was highly respected and much loved. She grew up in a family who loved and trained horses and from a very young age she adopted that as her passion. She was also a gifted jockey and after completing her apprenticeship and moving to the Northern Territory, she was recognised as a rising star in the competitive world of horse racing.
3. The role of the Coroner is set out in the *Coroners Act NT* (“the Act”). Pursuant to section 34, I am required to make the following findings:

“(1) A coroner investigating –

(a) a death must, if possible, find –

- (i) the identity of the deceased person; and
- (ii) the time and place of death; and
- (iii) the cause of death; and
- (iv) the particulars needed to register the death under the Births, Deaths and Marriages Registration Act; and
- (v) any relevant circumstances concerning the death ...

4. Section 34(2) of the *Act* operates to extend my function as follows:

“A coroner may comment on a matter, including public health or safety or the administration of justice, connected with the death or disaster being investigated.”

5. Additionally, I may make recommendations pursuant to section 35(1), (2) & (3). Section 25(2) is particularly relevant and provides:

“A coroner may make recommendations to the Attorney-General on a matter, including public health or safety or the administration of justice connected with a death or disaster investigated by the coroner.”

6. There is no issue in this case in relation to the identity of Ms Montgomerie, nor as to the time and place of her death or the physical cause of death. The area for investigation in the Coroner’s Court focused on the “relevant circumstances concerning the death”, including the circumstances of Ms Montgomerie’s fall from Riahgrand, the horse that she rode in Race 6, whether appropriate safety standards had been complied with in the lead up to that race, and whether there is any more that can be done to minimise the risk of such a terrible accident occurring in the future.

7. In order to fulfil my statutory obligation to make the findings required by section 34(1), including consideration of the broader circumstances surrounding the death, I had tendered in evidence the following: the brief of evidence and additional documents including an autopsy and toxicology report (Exhibit 1); supplementary brief of evidence (exhibit 2); birth

certificate for Simone Montgomerie (Exhibit 3); Map for Fannie Bay racecourse (Exhibit 4); Darwin Racing media release dated 19 March 2014 (Exhibit 5); Form on performance of Riahgrand from Racing Services Bureau (Exhibit 6); Statement of Brett Dixon dated 29 September 2014 (Exhibit 7); all available race footage from 5 August 2013 (Exhibit 8) and the NT Worksafe statement by Andrew O'Toole (Exhibit 9).

8. I heard oral evidence from Senior Constable Susan Campbell; Lee Ann Twomey, Racing Steward; Troy Walsh, a former jockey and current President of the NT Jockey's Association; Raymond O'Toole, CEO of Thoroughbred Racing NT; David Hensler, Chairman of Stewards; Craig Moon, Wayne Davis, Stephen Baster, Scott Hillebrand and Barry Huppatz, Jockeys who rode in Race 6; David Sharpe, Track Manager at the Darwin Turf Club in 2013; Kevin Ring, National Occupational Health & Safety Officer of the Australian Jockey's Association; Robert Hamilton, a part-time steward in 2013; Gary Clark, a horse trainer and former jockey, who trained Riahgrand, Peter McGauran, the Chief Executive of the Australian Racing Board; Jamin Farebrother, the vet in attendance at the race course on Darwin Cup day, who inspected Riahgrand before and after Simone's fall on 5 August 2013, and Brett Dixon, Chairman of the Darwin Turf Club.
9. Ultimately, for reasons I elaborate on below, I was able to be comfortably satisfied that Ms Montgomerie fell from Riahgrand in Race 6 because it had an extreme and unusual reaction to the pedestrian crossing that was at that time positioned around 200-metres before the finishing line. The horse balked or shied to the left and then appeared to try and stop before lurching forward again, and not even the most gifted of riders, as Ms Montgomerie was, could stay seated. Although horses have been known to balk or shy at crossings, necessitating a range of measures to try and blend them into the rest of the track, this reaction from the horse was very exceptional and unexpected.

10. I heard evidence from representatives of the Darwin Turf Club (DTC) and Thoroughbred Racing Northern Territory (TRNT), and they impressed me as people who are dedicated to ensuring that the sport they love is as safe as possible for its participants. I commend DTC for making the proactive decision to remove the 200 metre crossing after Ms Montgomerie's accident since that cautious approach was warranted, but given the bizarre circumstances of this accident and the lengths that had been taken to ensure the crossing was maintained before 2013, I am not critical that it wasn't done beforehand. I accept without hesitation that Ms Montgomerie's death has been devastating for the close knit racing community in the Territory and those who gave evidence before me have approached this inquest in a spirit of cooperation that speaks to their genuine concern for Ms Montgomerie and her family and the desire to learn from this tragedy to ensure there is no repeat.

## **BACKGROUND**

11. Simone Montgomerie was born on 1 September 1986 in Streaky Bay in South Australia. Peter Montgomerie, Simone's father, was a horse trainer and Ms Montgomerie loved being around horses and going to the track with her father. She rode from a very early age and enjoyed pony club, competing successfully in hacking competitions through her teenage years. At the age of 16, Simone started a school based apprenticeship in horsemanship and stable work, and began riding in track work, before being offered an apprenticeship as a jockey by a South Australian horse trainer.
12. In November 2009, Ms Montgomerie moved with her young daughter to Darwin to be with her parents. She completed her apprenticeship and commenced employment with a Darwin based horse trainer, Gary Clark. Throughout the course of the inquest I learnt how successful Ms Montgomerie had been during her career in Darwin. She was regarded by her fellow jockeys, as "a very competent rider" and someone with "a fantastic

ability” (Trans, 30.9.14 at 89) and she was the lead apprentice rider in 2013 (Moon, 30 September 2014, p 58).

13. Mr Clarke had come to know the Montgomerie family well and he considered Simone to be a very good worker and a gifted rider. His respect for her was obvious, particularly from the following evidence he gave (Trans, 1.10.14):

“I actually had a big stable of horses and I actually had three or four (inaudible) and even if some of the adult male riders were having troubles with a horse, you know, I’d put her on just to show them up that she could handle them and they couldn’t. She was very good “

### **EVENTS OF 2013**

14. The Darwin Cup of 2013 began early on Saturday morning with the first of seven scheduled races and was, as usual, an extremely popular event. In the first 5 races, in which a total of 46 horses had competed, the day proceeded without incident and there were no “issues, concerns or complaints” received in relation to the track (evidence of Brett Dixon, statement at [60]).
15. Tracks around Australia differ in composition and the Darwin race track is composed of a sand and oil base that is well suited to the tropical wet climate. On 5 August, the standard of the track was regarded as good and reasonably fast (David Shrap; Lindsay Lane).
16. Ms Montgomerie had competed in race one and was booked to race in the two last races of the day, Races six and seven. Race 6, scheduled to be a sprint over a 1000m course, commenced at 3.30pm with nine jockeys, including Ms Montgomerie on Riahgrand, the seven year old gelding who took number 5 in the race.
17. Ms Montgomerie led from the beginning and she was clearly on track to win the sprint. In the home straight with approximately 200 metres to go until the finishing line, and galloping as fast as it could, Riahgrand baulked, or

stepped abruptly to the left and appeared to try and stop, before lurching forward again. No jockey could have stayed on board a horse that made such an extreme movement at that speed and Ms Montgomerie was dislodged and fell hard onto the ground. The position at which Riahgrand baulked was also the location of a public pedestrian crossing located approximately 200 metres from the finishing line that leads across the track from the public areas to the car park and assorted marquees in the centre area of the track.

18. The extraordinary movements of Riahgrand were detailed by a number of the witnesses who gave evidence at inquest, and I have viewed the available video footage myself. The actions of the horse were described by the various witnesses using different vocabulary including baulking, ‘fly bucking’, shortening of stride and trying to stop. Brett Dixon, Chairman of the Board of the Darwin Turf Club, described the incident as follows (Statement, par 71]:

“[I]n all my years and experience of racing, I have never seen a horse behave that way. I have seen horses shy away if they see something unfamiliar, or even attempt to skip over something they perceive as a hazard, but Riahgrand did not shy away or even attempt to skip over. The way Riahgrand appeared to behave was to attempt to have dug his heels into the dirt and tried to stop. It was totally bizarre”.

19. Immediately after the fall, St John’s Ambulance members entered the track and assisted with first aid. Since an ambulance follows every race, trained paramedics were on the scene within minutes and two doctors present within the crowd were able to assist. Sadly, Ms Montgomerie was unconscious after the fall and in spite of the efforts of professionals, including cardio pulmonary resuscitation (CPR), bag mask ventilation and drug therapy, there was nothing that could be done to save her life. Upon arrival at Darwin Hospital further resuscitation efforts proved futile and Ms Montgomerie was declared deceased at 4.30pm.
20. An autopsy conducted by forensic pathologist Dr Terence Sinton confirmed the cause of Ms Montgomerie’s death as blunt chest trauma caused by the

fall from the horse at high speed. Ms Montgomerie never recovered consciousness after the initial fall.

**What caused the horse to react?**

21. While there was no doubt as to the physical reaction of Riahgrand that caused Ms Montgomerie to fall, particularly since the events were captured on video footage from a number of different angles, there was discussion at inquest as to whether I could be satisfied on the balance of probabilities that the horse was reacting to the crossing located near the finishing line.
22. On behalf of the DTC and TRNT it was suggested that although Riahgrand might have baulked at the crossing, there were other possible explanations for his reaction, and evidence was given that horses can be distracted by various objects including marquees or flags, or even beer cans glinting in the sun. Mr Dixon, Chairman of DTC, told the Court that it was probably the crossing that caused Riahgrand to baulk in the strange way that he did, but it was possibly something else, such as the gap in the hedge near the crossing. Mr David Hensler, currently the Chairman of Stewards, said that he had “seen horses react to reflection on the winning post, the mirrored winning post on the track ... [and] the shadow of the light poles on the outside of the track” (Trans, 29.9.14).
23. Although I cannot completely discount the possibility that another variable was responsible for the baulking and stopping action of the horse, ultimately I am comfortably satisfied on the balance of probabilities that it was the crossing. There are a number of reasons why I reach that conclusion, including:
  - (i) First, when I viewed the video footage of the race tendered in evidence, the crossing was clearly visible to me at the point at which Riahgrand reacted.

- (ii) Second, the timing of the incident and the proximity to the crossing would suggest, on a balance of probabilities, that it was the crossing.
- (iii) Third, the experienced jockeys who gave evidence, most of whom have ridden on racetracks all over Australia, were of the opinion that Riaghrand had baulked at the crossing.
- (iv) Fourth, I heard the evidence of Troy Walsh, who had ridden in the Darwin Cup a number of times and had a personal experience of one horse baulking at the 200 metre crossing and another jumping it, both times when Mr Walsh was in the lead.
- (v) Fifth, I heard evidence from Mr Walsh and Mr Hamilton, consistent with what I observed in the video footage, that the sun shining on the track at particular times of the day makes it much more visible.
- (vi) In the Steward's report written by four stewards after interviewing relevant persons, including jockeys riding in the race, track rakers and the Facilities manager, the conclusion was reached that (Report, Folio 46, p 5):

“It appears most likely that Riahgrand which was leading at the time sighted the slightly different texture on the track where the public cross the track at the 165m “crossing”. Riahgrand did so one stride prior to the crossing. When it did so it attempted to stop, ‘balk’ thereby throwing the jockey forward and dislodging her. We highlight the point that Riahgrand was leading at the time as it may have been the case if it was back in the field that it would have simply followed the other runners, whereas while it was out in front it had nothing to guide it. It is of note that after the incident Riahgrand galloped riderless with the field past the wining post and when it came to the second crossing it jumped that crossing”.

- (vii) Mr Peter McGauran gave evidence that there was “no question” in his mind that the crossing had been the cause of Riagrand's reaction in Race 6, because (Trans, 1.10.14):

“For a start it’s too much of a coincidence to believe that at that point the horse would react and, secondly, it’s very well known that crossings are an issue that causes horses to change stride (inaudible) a different footing underneath or they visually see a variation in the track and, thirdly, every jockey will tell you that have steadied their horse if they can think of it with all the hustle and bustle of a race as they go across some crossing.”

(viii) Finally, although Riahgrand had trained at the Darwin Race track, he had never actually raced in Darwin before 5 August 2013. Since the crossing is only marked out on race day, the first time Riahgrand would have seen it would have been in Race 6, when he was out in front, ridden by Ms Montgomerie (evidence of Gary Clarke, 1.10.14).

24. In coming to the conclusion that the crossing caused Riahgrand to react, I have taken into account the evidence that horses are unpredictable and possess vision and perception characteristics different to human beings. Yet that does not override the remaining evidence, from those with years of first hand knowledge of the racing conditions, that is probably the crossing that cause Riahgrand to react when and how he did.
25. I accept that even though horses are known to sometimes balk at or jump crossings, the actions of Riahgrand on this occasion were, as Mr Dixon said, “totally bizarre” and they could not have been predicted by those managing the race track.

### **The horse Riahgrand**

26. Riahgrand is a racehorse that was bred by Simone’s father, Peter Montgomerie, and owned by a syndicate. At the time of the 2013 Darwin Cup, he had had a start in around 35 races, several in Victoria but most in South Australia. When Gary Clark took over as trainer in mid 2013, Riahgrand was ridden on the track in Darwin, but he had never raced at Fannie Bay until the 2013 Darwin Cup.

27. During the inquest I heard evidence to suggest that although Riahgrand could be nervous and highly strung, there was nothing to suggest that he was exceptionally difficult or unsuitable to race. He had no stewards warnings or embargos on him, and none of the people who rode him at training sessions, including Ms Montgomerie, raised any concerns. Mr Clarke said of him (statement at par [12], adopted in oral evidence, 1.10.14):

“I would describe Riahgrand as a normal racehorse. I wouldn’t say he was calm but he’s not as bad as some horses I’ve had. Riahgrand gets frightened at things a little bit more easily than a lot of other horses. He’s just one of those horses. I couldn’t give any specific examples of times he’s reacted as a nervous way but I will say that a lot of horses including Riahgrand can get nervous if they see something that’s new or that they’re not used to.”

28. In oral evidence Mr Clark spoke of Riahgrand in the following terms:

“COUNSEL ASSISTING: On a scale of 1 to 10, if 1’s the least nervous and 10’s the most, where would you put Riahgrand?”

MR CLARKE --- About 7, 7 to 8.

COUNSEL ASSISTING: But in your view was he still a horse that was suitable to be ridden in races?

MR CLARKE --- ---100 per cent. Well, one of the stewards’ jobs ..it pretty like a policeman. A policeman pulling up a car ... He gets a yellow sticker and he goes back over the pits. Well, pretty much is what a steward does. If he thinks a horse is unsafe in any way he has to go back to the trials until he’s safe again.”

29. It is significant that Riahgrand continued to race after Ms Montgomerie’s death and there have been no further incidents reported, nor any subsequent stewards warning or embargos (Exhibit 6).

### **Was the risk created by the crossing known to the Darwin Turf Club?**

30. It is well known that one of the things that makes horse racing dangerous is that horses are unpredictable animals and can react to things that humans may not perceive of as a risk.
31. I was assisted by a number of excellent articles in the Coronial brief of evidence that refer to the visual and cognitive capacity of horses. Horses are intelligent animals, but they conceptualise things differently to humans and other species and “we cannot expect them to instantly accept new situations that are, to us, just the same as the previous ones” (Hanggi, E, “The Thinking Horse: Cognition and Perception Reviewed, *AAEP Proceedings*, Vol 51, 2005p 254). Some horses have a strong startle reaction and can react intensely to things that are objectively of no danger (Gorecka et al, “A note on the habituation to novelty in horses: handler effect, *Animal Science Papers and Reports*, V 25 (2007) No 3, 143-152). Horses have monocular vision, allowing them to see different things through each eye, and binocular vision, allowing them to focus on things with both eyes at the same time (Emslie, T, “Horse Vision and Eyesight”) and they can switch between the two. Because of way horses’ eyes are positioned on the side of the head, they can see nearly a full circle around them, but have small blind spots directly in front and behind when their heads and neck are straightened. The unique combination of those visionary and cognitive capacities mean that horses can be spooked by objects or actions that might not be obviously frightening to human observers or horse riders.
32. One of the hazards that horses are known to react to on the race course are crossings that are created to allow humans and vehicles to traverse the track between races. As a result, efforts are made at tracks around Australia to minimise the visibility of crossings. Exactly what is done depends on the composition of the track, the position of the crossing and the level of traffic at the race. For turf tracks, for example, grass clippings may be raked over

the crossing between races. For tracks like the Fannie Bay Race Course, made of sand and clay, the track must be specially maintained during the year and on race day.

**Was the risk appropriately managed?**

33. After a careful review of the available written and oral evidence, I was able to conclude that the general hazard caused by crossings had been drawn to the attention of management at the Darwin Turf Club, and had been appropriately managed in response. I was greatly assisted by the evidence of Troy Walsh, a retired jockey who has held the position of President of the NT Jockey's Association and President of the National Australian Jockey's Association since 2009. He is obviously passionate about the safety of jockeys and in his role as President he raises issues of concern to jockeys to the stewards and Turf Club officials, and attempts to resolve them.
34. Drawing on his experience, Mr Walsh informed the court that crossings on tracks can cause horses to sometimes stop, step sideways or jump the crossing, making it important to try and minimise visibility. He had a personal experience of that in 2008 when a horse he was riding in the Cup baulked at the final crossing before the finishing line, and in 2009 when his horse jumped the crossing. On both occasions he was in the lead so his horse could not take comfort from seeing other horses deal with the crossing in front.
35. On 9 August 2010, Mr Walsh sent an email to Kevin O'Toole, the CEO of TRNT regarding his concerns about the crossing at the 200 metre mark creating "quite a rise, a bit like a speed bump about 1 Mtr wide right across the track and a rise of about 6 inches" (email, 9.8.2010). The email was sent at 8.37am, and at 9.10am that morning Mr O'Toole replied, letting Mr Walsh know that he was "onto it" and was trying to get the bobcat to shave off the top of the crossing so he could rectify the situation as soon as possible. A follow up email at 11.03am was sent to inform Mr Walsh that

the bobcat would not be available until the next day, but the situation would be sorted out then.

36. On 7 October 2011, Mr Walsh sent a group email that included Mr O’Toole and Mr Kevin Ring, the National Occupational Health and Safety Officer for the Australian Jockey’s Association, informing them of issues raised the night before at the jockey’s Annual General Meeting (AGM). In that email he wrote:

“This only happens over carnival and particularly cup weekend, near the 200mtrs in the straight the public cross this area, many horses try and jump this area (this happened to me a few times on Brett’s horses and cost him the rose bowl one year) due to the incidents and marks on the track from people crossing. This is only a concern cup weekend so maybe we can work this one out closer to the carnival”.

37. Again Mr Walsh received a reply from Mr O’Toole in a timely fashion, letting him know that he would look into his concerns as soon as possible. In oral evidence, Mr Walsh told the court that Andrew O’Toole is someone who is genuinely interested in hearing from him about jockey welfare, and who is prepared to respond to issues no matter how big or small. Furthermore, Mr Walsh gave evidence that the Jockey’s Association and the DTC and TRNT have a good working relationship with each other. He was particularly impressed with Mr Brett Dixon, whom he said had a very good relationship with the Jockey’s Association and was genuinely concerned about jockey welfare.
38. In expressing his view as to what had caused Riahgrand to baulk in Race 6, Mr Dixon told the Court (Trans, 1.10.14):

“it’s probable that it could have been the crossing. It’s probable that it could have been the gate in the hedge possibly. Less likely from own point of view is that a flag was waving or whatever along those lines or a can or whatever. I suppose for me it’s either the crossing or maybe the hedge but I can’t be sure. I don’t know. I’ve just never seen a horse react like that. We had that crossing there, like I said, since 2004. We’ve probably had in excess of 1,000 horses race

across that crossing and the worst thing from concerns of others has been that they've jumped or skipped and that's why it remained as far as we're concerned from a DTC point of view at a low risk hazard, the same as a lot of the other low risk hazards around the course ....”.

39. When the circumstances of this case are reviewed, it is evident that prior to Darwin Cup of August 2013, it was reasonable for management at DTC to regard the crossing at the 200 metre mark as a hazard that could be appropriately managed with the regime that had put in place, involving maintenance throughout the year, and particular up keep on race day.
40. In his comprehensive statement, Mr Dixon elaborates on the action taken by DTC to deal with that perceived hazard throughout the year, and on race day, including:
  - Daily track inspections by the Track Manager;
  - “Dragging” the track each day after track work with a diamond harrow to give the track an overall consistent appearance;
  - “Rotovating” the track each Monday using a special machine known as a rotorvator to turn up or “fluff” the track, which creates a cushion effect;
  - On race day, dragging the track with the diamond harrow after every second race and after the final race of every race day;
  - A track upgrade twice a year to ensure that the ‘cambers’ (the slight slope in the track where the outside is higher than the inside) are correctly laid, in order to reduce the effects of centrifugal force. This involves grader trimming and folding of the track in order to loosen the material, and application of sand and used oil-based substance to provide the cushion for racing;
  - Consulting with TRNT in relation to maintenance and condition of the track;

- On race days, checking the track very early in the morning, after track work, at about 8am and also prior to the commencement of the day of racing;
  - On the two race days of the Darwin Cup Weekend when the former 200 metre mark crossing was in place, there was a significant amount of additional foot traffic and DTC would ensure that there were additional DTC track and Facilities staff permanently located at the crossing to rake it between each race. On 5 August 2013 there were three people employed whose responsibility for the day was to work at the crossing and to ensure that the area blended with the remainder of the track to the extent possible.
41. It was obvious that the staff of the Turf Club and particularly Mr Dixon, are very mindful of safety concerns and are committed to ensuring the sport of racing in the Territory is as safe as it can be. The actions taken with respect to the crossing prior to this tragic accident are consistent with a careful, committed approach to management.
42. In coming to that conclusion, I am fortified by the evidence of Kevin Ring, the National Occupational Health and Safety Officer for the Australian Jockey's Association. As part of his role he is required to travel to every State and Territory in Australia visiting Racing bodies and tracks, including Fannie Bay. He referred to the fact that crossings on the sand and oil Darwin track can become more compact than the rest of the track, causing an obvious difference in texture and colour, even when the track is raked. When he inspected the Fannie Bay track in June/July of 2013 he had no concerns.

### **Regulation of horse racing in Australia and the NT**

43. As the evidence in this inquest demonstrated, horse racing is an inherently dangerous sport. Mr Hensler, currently Chairman of Stewards, commented that (Trans, 29.9.14):

“People say that jockey is the most dangerous job in the world. It's the only job where an ambulance follows when they compete, so I think it just highlights how unpredictable horses can be and it's a dangerous game being a jockey”.

44. Mr Troy Walsh, who was a jockey for over 10 years and loves the sport, had broken his neck and endured nine operations as a result of injuries he sustained. Mr Kevin Ring, a former Jockey and the National Occupational Health & Safety Officer of the Australian Jockeys Association since 2009, suggested that it was the “second most dangerous sport or industry in the world” with the first being North Sea fishing. Indeed, sadly I note that in the period between the finish of this Inquest hearing and today’s handing down of my findings, not one but two female jockeys have died in falls during races (viz Queensland and South Australia).
45. In his comprehensive statement Mr Peter McGauran, the Chief Executive of the Australian Racing Board, sets out the regulatory regime governing thoroughbred racing in Australia. The sport is governed by the Australian Racing Board Limited (ARBL), a non profit organisation whose role is to establish, amend and administer the Australian Rules of Racing. Those Rules are the standard governing all racing events in Australia, and cover a range of areas including Stewards, registration, race meetings, licensing, syndicates, offences and penalties.
46. The members of the ARBL are the Principal Racing Authorities (PRA) from the States and Territories of Australia, each with their own set of local rules which govern racing in their unique jurisdictions. In the Northern Territory, the PRA is Thoroughbred Racing Northern Territory.
47. There are no Australian racing rules or standards that govern track design and maintenance. Tracks around Australia differ significantly in their composition and design (including surface type, length and width) depending on the local conditions. Race tracks must have crossings to allow

vehicle and pedestrians access across the track at certain times, and there are no rules or regulations that dictate where those crossings must be.

48. After a thorough review of the circumstances surrounding Ms Montgomerie's death I could find no evidence that there had been any related breach of legislative provisions, nor of the policies, procedures and guidelines that exist to regulate racing at the local and national level.
49. One of the main reasons the sport is dangerous is that horses are intelligent animals with a mind of their own and it is impossible to always predict what they are going to do. Racehorses present particular challenges, since they are highly conditioned, well fed, including on supplements to keep up their energy and nutrition, and highly strung (see, for example, evidence of Gary Clark, 1.10.14). DTC and TRNT have learnt from Ms Montgomerie's death that even when regulations are complied with, and reasonable precautions taken, tragic accidents can still occur and may reveal further opportunities to improve on safety. From Ms Montgomerie's death, members of those organisations identified an opportunity to improve safety by removing the crossing at the 200 metre mark and DTC did so in a timely fashion, although it was not obligated to do so by any local or National law.

#### **Action taken by Darwin Turf Club and Thoroughbred Racing Northern Territory after the race**

50. Ms Montgomerie's death was devastating to the close knit racing community in the Territory. Although jockey's are competitive on the track they share a camaraderie and respect for each other, and they work closely with trainers and other staff involved in administering racing.
51. In the wake of Ms Montgomerie's death there were a number of investigations that took place to try and determine the cause of Riahgrand's actions, and whether anything could be done to minimise the risk of a similar tragedy in the future. A Steward's Inquiry took place, as is required, and the findings were made available to Brett Dixon on 19 August 2013. NT

Worksafe also conducted an investigation and made its report available in May 2014. I accept without hesitation the evidence of Mr Dixon that “in between those investigations and decisions, it was a constant focus for DTC and TRNT that all attempts be made to reduce any anxiety associated with the possible causes for this accident as much as possible” (statement at par 81).

52. Although there are no regulations governing where to place crossings, I heard evidence that satisfied me that there is good reason not to put a crossing in the last stage of the race, and very few race tracks in Australia do so. Mr Hamilton, who has had over 10 years experience as a steward, gave evidence that he did not think that crossings should be in the last stage of the race, explaining that (Trans, 1.10.14):

“[t]hey’re going to the winning line. Look, any part of a race is a dangerous part of the race but when you’re coming down the finish line, you’ve turned into the straight and whips are coming out, people are going for it, they see the money, white fever, whatever. I just don’t think – I think that’s a dangerous part of the track. That if there’s any hazards just we need to get to rid of them and (inaudible)”

53. Mr Clark, an experienced horse rider and trainer, told the Court:

“I can’t say that it [the crossing] caused the fall but I think it could be a low percentage safety hazard. I think that particular crossing is in a bad position. It’s on the home stretch and at that point horses can be starting to get tired. Also the horse will be running very hard and it’s the worst point in the race when a horse might change its stride or try to jump something because of the fatigue and speed.”

54. Peter McGauran provided a statement to Polcie advising that:

“I’m not qualified to offer an expert opinion on behalf of the ARB on the subject of track crossings and my comments are by way of background information only. I’m an administrator, not a track designer or manager however it’s my personal observation the track crossing should, if circumstances permit, be positioned past the post or if that’s not practically possible the furthest distance back from

the winning post where horses are not under the same degree of pressure as they are in the latter stages of the race.”

55. In oral evidence, Mr McGauran explained that he knew of only two tracks in Australia where the crossing was towards the finishing line and he reiterated the view that they should not be positioned there. He offered an opinion that he “doubted there’s anybody in racing in whatever capacity would not be aware that crossings are best located, given that they’re unavoidable in a significant number of race tracks across Australia, to a point where the horse is under the least pressure and where it’s at its slowest speed”.
56. After this year reviewing all aspects of the race track, and consulting with TRNT, particularly the stewards, a decision was made to move the relevant crossing (previously approximately 200 metres before the finish line) to a location of 70 metres past the winning post. A media release announcing the decision was issued on 19 March 2014. As a result the crossings for the 2014 Darwin Cup were located:
  - a. at 45 metres after the winning post, permitted to be used by Licensed and Authorised persons only.
  - b. At 70 metres past the winning post, as a pedestrian crossing
  - c. At the 1400 metre mark, as a vehicle crossing.
57. Although some complaints were received by patrons that the relocation of the crossing caused them some inconvenience, the Darwin Turf Club was adamant that it would not be using the 200 metres again.
58. Had it not been for the action taken to remove the crossing at the 200 metre mark, I would have made a recommendation to that effect. I commend DTC and TRNT for moving so quickly on that issue, and for adopting an attitude that minimises risks to the extent possible, and puts safety above convenience. I intend to make a recommendation to the Australian Racing

Board that it puts in place a written Protocol advising PRA's in each State and Territory that crossings should be avoided in the final stages of a race.

### **Safety vest worn by Simone was subsequently repealed from sale**

59. One issue explored briefly during the inquest concerned the recall of the Safety vest worn by Ms Montgomerie at the time of her fall. The Australian Rules of Racing (AR.87B) require every rider to wear a safety vest which meets a standard prescribed by order of the Board. Ms Montgomerie wore a vest called a 'Tipperary Ride Lite', which, although legally sold in Australia prior to 2013, has since been found to fail appropriate safety standards. In early 2013, Peter McGauran, Chief executive of the ARB, made arrangements for the protective capabilities of the vests to be tested by a company called Human Impact Engineering (HIE), during which the basic deficiencies were revealed.
60. On 5 December 2013, the ARB approved changes to the Australian Racing rules governing the use of safety vests to ensure that they met a higher standard in Australia. That eliminated the standard under which Tipperary Vest was self-certified and vests now have to be certified under legitimate standards approved by the ARB.
61. Evidence suggests that Ms Montgomerie would have sustained fatal injuries even if the vest had met national standards. Nevertheless, I applaud the initiative taken by Mr McGauran in introducing batch testing and higher standards for apparel that is vital to ensure the safety of jockeys in their dangerous trade.

### **CONCLUSION**

62. I received evidence from Mr Dixon that DTC is constantly reviewing safety at the track and would like to eliminate the use of crossings altogether if possible. To that end, the Club recently made application to the NT Government for financial assistance to install underpasses (or tunnels) that

would obviate the need for visible crossing. I appreciate that this is a costly measure and that crossings are only required for a short period each year. I do not intend to make a formal recommendation to the Government, but I commend the initiative taken by DTC and I express the hope that it is given serious consideration as the negotiations continue.

63. Simone Montgomerie is the cherished daughter of Lee-Anne and Peter Montgomerie and I offer my sincere condolences to the Montgomerie family. I was grateful for their presence during the inquest, and also for the support and assistance that was given to them by members of the close knit community involved in racing in the Northern Territory.

## **FORMAL FINDINGS**

64. As a result of evidence adduced at the public inquest, and pursuant to section 34 of the *Coroner's Act*, I find as follows:

- (i) The identity of the deceased was Simone Kate Montgomerie born on 1 September 1986 at Streaky Bay, South Australia, Northern Territory, Australia.
- (ii) The probable time of death was 4.30pm hours on 5 August 2013. The place of death was Royal Darwin Hospital in the Northern Territory.
- (iii) The cause of death was blunt chest injury arising from a fall from a horse.
- (iv) The particulars required to register the death:
  - 1. The deceased was Simone Montgomerie.
  - 2. The deceased was of not of Aboriginal descent.
  - 3. The deceased was a jockey.

4. The death was reported to the coroner by Dr Sandra Brownlea.
5. The cause of death was confirmed by post mortem examination carried out by Dr Terence Sinton.
6. The deceased's mother is Lee-Anne Montgomerie and her father is Peter Montgomerie.

## **RECOMMENDATIONS**

### **To the Australian Racing Board**

65. That the ARB articulates and implements a written Protocol for the assistance of Principal Racing Authorities (PRA's) in each State and Territory, advising against crossings being positioned in the final stages of a race.

Dated 1 December 2014

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GREG CAVANAGH  
TERRITORY CORONER