

**THIS FINDING IS SUBJECT TO PROHIBITIONS AND RESTRICTIONS ON
PUBLICATION UNDER SECTION 74 OF THE CORONERS ACT 2006**

**IN THE CORONERS COURT
AT DUNEDIN
(IN CHAMBERS)**

**CSU-2020-DUN-56
CSU-2020-DUN-57**

**I TE KŌTI KAITIROTIRO MATEWHAWHATI
KI ŌTEPOTI
(I TE TARI)**

UNDER THE	Coroners Act 2006
IN THE MATTER OF	An inquiry into the death of Ashwini RASIWALA
AND IN THE MATTER OF	An inquiry into the death of Kevin Kum Fike LEE

Date of Findings: 1 June 2023

FINDINGS OF CORONER HO

[1] On 6 February 2020 University of Otago students Ashwini Rasiwala, aged 20, and Kevin Lee, aged 22, fell into the Makarora River and drowned while tramping in Mount Aspiring National Park. A coronial inquiry was opened into their deaths.

Issues

[2] The issues to be determined by this inquiry are the cause and circumstances of Ashwini and Kevin's deaths and whether any recommendations should be made to reduce the chances of further deaths in similar circumstances.

Background

[3] Kevin and Ashwini were flatmates in University accommodation in Dunedin.

[4] Kevin, a New Zealand national, was in his final year of a four year pharmacy degree. He volunteered as a university “Kiwi Host” which involved welcoming and supporting international university students. He was described by one student as a charismatic person who was friendly and welcoming to all. He was heavily involved with a tramping club and had completed multiple walks and tramps around New Zealand. He was a keen photographer.

[5] Ashwini, a French national, had arrived in New Zealand on 28 January 2020 to start her first year of university study. She was creative and also loved photography. Her mother said that Ashwini was not experienced in tramping but was quite athletic and had done indoor rock climbing.

The decision to go tramping

[6] On the afternoon of Tuesday 4 February Kevin uploaded a Facebook post with a photo of Crucible Lake, which is a side trip on the Gillespie Pass Circuit:

Would anyone be keen to join me and my flatmate on a tramp/hike over the rest of the week? Thinking of leaving tomorrow evening/Thursday morning. Where we go will depend on where the weather pushes us, it's looking to clear up in most parts of the South Island.

[7] Nobody took up Kevin's invitation. Kevin and Ashwini left Dunedin on the afternoon of 5 February. They did not advise any friends or family of their intended plans.

[8] A banking transaction and CCTV footage show that Kevin and Ashwini purchased food in Alexandra just after 9 pm. Their precise movements after that time are unknown, but Kevin's car was subsequently found in the Young Valley carpark, near the start of the Gillespie Pass Circuit.

The Gillespie Pass Circuit

[9] The Gillespie Pass Circuit is a multiday, 58 kilometre loop in Mount Aspiring National Park that can be walked in a clockwise or anti-clockwise direction. The circuit is classified by the Department of Conservation (DOC) as an advanced tramping track for experienced parties.

[10] Trampers who enter the Gillespie Pass Circuit on foot do so by following orange markers across farmland from the Young Valley carpark and then walking along the true left¹ of the Makarora riverbank until reaching the confluence of the Young and Makarora Rivers. They then need to cross the Makarora River to its true right to start the circuit proper. As the river frequently changes its course, the crossing point is not signposted, and trampers are encouraged by a DOC sign at the carpark to identify for themselves a safe crossing point.

[11] There are two ways to access the Gillespie Pass Circuit without crossing the Makarora River on foot:

- (a) Trampers can start at the Blue Pools carpark, approximately seven kilometres north of the Young Valley carpark. They cross the Makarora River by bridge near the Blue Pools carpark and then tramp along the Young River Link Track on the true right of the Makarora River to the start of the circuit proper. This adds about two and a half hours to the tramp that would otherwise start at Young Valley carpark.
- (b) Trampers can arrange, and pay for, jet boat transport from Makarora township to the confluence of the Young and Makarora Rivers. They disembark on the true right of the Makarora River to start the circuit proper.

[12] A sleeping mat and sleeping bag was in Ashwini's pack. Kevin's computer at home had open the Gillespie Pass Circuit webpage. This indicates that they were intending to complete a multiday tramp of the circuit.

¹ The left or right side of a river is determined by the direction in which the water is flowing, that is facing downstream, and is referred to as "true left" and "true right" respectively. The Makarora River flows from north to south and so true left is the eastern side and true right the western side.

The weather

[13] On 2 and 3 February there was a significant weather event which impacted heavily on Fiordland and Mount Aspiring National Park. Up to 300 millimetres of rainfall was predicted in a 48 hour period. The weather event meant:

- (a) The Young River Link Track was closed until 4 February. When it reopened, an updated alert on the DOC website and in the Wanaka Visitor Centre warned that the rivers and streams within Mount Aspiring National Park would still be swollen.
- (b) Commercial jet boat operators did not operate on the Young and Makarora Rivers between 3 and 7 February because they were in flood. Hayden Blackburn, a jet boat driver for approximately 15 years, said that the rivers were approximately two metres above normal levels.

[14] The weather on the morning of 6 February was clear and it had not rained for more than 24 hours. However, river levels were still higher than normal and running at twice their background flow. Mr Blackburn deposed that the rivers did not revert to normal flows until 8 February.

Discovery

[15] A tramping party located Ashwini's body on 7 February in the Makarora River about 10 to 40 metres upstream from (north of) the confluence with the Young River. She was partially submerged and entangled in a large tree on the true right of the river. Her tramping pack was located in shallow water in the Makarora River approximately 1.5 kilometres downstream from where her body was found.

[16] A jet boat operator found Kevin's body on 8 February. His leg was extending from the water but the rest of his body was submerged under the tree about five metres downstream of where Ashwini's body was found.

Cause of death

[17] Pathologist Dr Wakefield conducted post-mortem examinations.

[18] Dr Wakefield found a small amount of frothy fluid in Ashwini's proximal left and right main bronchus as well as congested and oedematous lungs. Toxicology was negative for alcohol and cannabis. Dr Wakefield concluded that Ashwini died from drowning.

[19] Dr Wakefield found frothy mucoid in both of Kevin's left and right main bronchi as well as congested and oedematous lungs. Toxicology was negative for cannabis and essentially negative for alcohol.² Dr Wakefield concluded that Kevin died from drowning.

[20] I accept Dr Wakefield's opinion in respect of both causes of death.

What happened?

[21] The standard of proof that applies in the coronial jurisdiction is the civil standard of balance of probabilities. In determining whether something is more likely than not, common sense requires the decision maker to consider the inherent probability of that event occurring.³ The more unlikely something is, the more cogent the evidence must be to persuade the decision maker that it has indeed happened.

[22] As part of my inquiry, I received a report from the Mountain Safety Council New Zealand (MSC) identifying possible contributory factors to Ashwini and Kevin's deaths. The report writers noted that it is rare for one single contributory factor to lead immediately to an incident and it is usually due to several factors.

Weather and river flows

[23] Kevin's Facebook post indicates that he was aware of the bad weather and had been waiting for it to clear before heading out. His internet browser showed he had navigated to the Gillespie Pass Circuit page on the DOC website and was checking the weather forecast.

[24] It is unclear whether Kevin read the alert information on the DOC website about possible swollen river levels or whether he was aware of the potential danger. Kevin was

² Trace alcohol of less than 5 milligrams per 100 millilitres of blood and urine were found. Trace levels of alcohol may be due to means other than deliberate ingestion. As a guide, the legal blood alcohol content for a New Zealand driver aged 20 years or older is 50 milligrams per 100 millilitres.

³ *Braganza v BP Shipping Ltd* [2015] UKSC 17, [2015] 4 All ER 639 at [33]-[35].

a keen trumper but there was no evidence about his river crossing experience. Mr Blackburn stated that the Makarora River can be “quite deceptive and catches a lot of people out” and said that it was not safe to cross when the river was above normal levels.

[25] There is no river gauge at the confluence of the Makarora and Young Rivers but Otago Regional Council does take readings on the north branch of the Young River at the natural dam and also on the nearby Wilkin River at Kerin Forks. These rivers flow through a similar catchment area as the Makarora River and the authors of the MSC report advised that these readings could be extrapolated to determine what the river levels might have been at the Makarora/Young confluence when Kevin and Ashwini likely attempted their crossing on 6 February. If anything, the MSC authors noted that the readings at the other rivers were likely to underestimate the flow because the Makarora River at the Makarora/Young confluence has a larger catchment than the other two rivers, meaning that it would generally take longer to recede.

[26] The records from the Young gauge showed the river height peaking slightly over 3 metres at 10.05 am on 4 February and returning to a flow of 77 centimetres at 10.35 pm on 7 February. The Wilkin gauge peaked at over 4.6 metres at 9.40 am on 4 February and dropped down to 1.3 metres in the evening of 7 February. This indicates that when Ashwini and Kevin likely crossed near the Makarora/Young confluence on the morning of 6 February, the river level would have dropped from its peak but would still have been flowing above normal river height and speed. This is corroborated by Mr Blackburn’s evidence that the rivers did not return to normal flow until 8 February, when jet boat operations resumed; and police observations on 7 February of significant erosion of riverbanks, trees and other debris in the water, and discoloured (rather than clear) water indicating that flows were still above normal running levels.

[27] There is a DOC sign erected at the Young carpark before trampers follow the poled track to the river. It warns trampers not to attempt to cross during high flows.

[28] The most likely scenario is that Ashwini and Kevin entered the Makorara River at or near the end of the poled track with the intention of crossing it to start the circuit proper, but fell into the river before they completed their crossing. It is not possible from the

evidence to determine the discussions which Ashwini and Kevin had before their attempted crossing, including:

- (a) whether they stopped to assess the river conditions;
- (b) if they did assess the river conditions, whether they identified that there was a higher than normal flow; and
- (c) if they did identify that there was a higher than normal flow, the circumstances which led to them concluding that the river was nevertheless safe to cross.

[29] The final point requires further discussion of the pair's experience and other human factors which may have affected their decision making, as follows.

Experience

[30] The MSC authors consider that the state of the river would have warned a person experienced in river crossings that it was unsafe to cross. The water would have been discoloured, the bottom would not have been visible and it is likely that it was flowing faster than walking pace.

[31] Kevin's sister said that Kevin enjoyed tramping and had completed several walks around New Zealand. There is no evidence about whether those included river crossings or whether he had any other river crossing training.

[32] Ashwini's mother said that Ashwini had no particular experience in tramping.

[33] DOC internally classifies the Gillespie Pass Circuit as one intended for "backcountry adventurers", who are expected to have generally moderate to high backcountry skills and experience. DOC regards backcountry adventurers as having the second highest level of risk tolerance among all the categories of visitors that it manages.

[34] The MSC report writers considered that Ashwini was more appropriately categorised as a "vulnerable visitor" at the Gillespie Pass Circuit, being a visitor that did not have the skills, knowledge, fitness or experience of the predominant visitor group for

which the destination is managed. The MSC did not necessarily consider this a risk factor, as Ashwini would have been able to rely on Kevin's experience for planning and decision making for the tramp. However, her inexperience with river crossings and New Zealand tramping conditions likely meant that she was not aware of the warning signs of an unsafe river and instead relied on Kevin's judgement as to whether it was safe to cross, effectively reducing the risk assessment to a single point of failure.

Human factor – “commitment”

[35] Heuristics, or the process by which humans use mental shortcuts to simplify problems and make decisions, are part of how the human brain is wired. Heuristics are an efficient process and are generally beneficial, but the MSC warns that allowing heuristics to drive decision making in an unforgiving environment like the New Zealand backcountry can lead to trouble.

[36] “Commitment”, or “goal oriented”, is a heuristic which describes the human tendency to keep a long term goal in mind to overcome seemingly smaller obstacles along the way. In the context of backcountry adventures, it is important for people to recognise when they are doing something just because they are committed to a goal. The commitment heuristic trap often favours taking the easier, riskier, option to press on towards the goal rather than the harder, less risky, choice to turn back.

[37] As noted above, it is not possible to know whether Ashwini and Kevin correctly assessed the unsafeness of the river crossing. Assuming at the least that the state of the river gave them pause for thought before making what was ultimately a margin call, relevant “commitment” factors may have included:

- (a) a belief that it was much easier to try to walk or swim ten metres to the other side than to add two and a half hours to their journey by walking back one kilometre to their car, driving up to the Blue Pools and walking another seven kilometres down the Young River Link Track back to the same place;
- (b) a reluctance to move Kevin's car to the Blue Pools carpark as that would have required them to return to that carpark at the end of the tramp, thus adding another two and a half hours at the end of their journey; and

- (c) their assessment that they may not have had an additional two and a half hours to add to their day to make it to Young Hut, which would have been their intended night stop, before dusk.

Human factor – “social proof”

[38] Social proof is another heuristic trap. In essence, it suggests that if other people are doing something without negative consequences to their health, then it must be safe.

[39] There is a message on every DOC website page that individuals are responsible for their own choices (“Your safety is your responsibility”). However, evidence that others have chosen a certain path despite clear risk can be more persuasive than signage informing or discouraging people of the risk.

[40] It is likely that Kevin and Ashwini would have been aware that other people had crossed the river here in the past. There was information on DOC’s website about the crossing, a sign telling people that there was a crossing (even if the sign included a warning about the risk of crossing in high flow) and orange DOC markers showing the path to the river. This heuristic may have influenced their decision to continue.

Effect on balance

[41] Both Ashwini and Kevin were wearing packs containing supplies for their intended tramp. It is possible that the packs may have contributed to a loss of balance or footing while they were crossing the river, or provided additional unwanted buoyancy or drag once balance was lost.

Fact findings

[42] I make the following fact findings:

- (a) Kevin was an experienced New Zealand trampler but with unknown experience in river crossings.
- (b) Ashwini was an inexperienced trampler.

- (c) The Makarora River was at higher than normal levels and flowing at a higher than normal rate on the morning of 6 February.
- (d) Kevin and Ashwini decided to cross the river.
- (e) During their attempted crossing, Kevin and Ashwini were swept off their feet and into the river.
- (f) Kevin and Ashwini each drowned as a result.

Findings

[43] I find that Ashwini Rasiwala died from drowning on 6 February 2020 while attempting to cross the Makarora River near the confluence of the Makarora and Young Rivers. The manner of death was accident.

[44] I find that Kevin Kum Fike Lee died from drowning on 6 February 2020 while attempting to cross the Makarora River near the confluence of the Makarora and Young Rivers. The manner of death was accident.

Recommendations

[45] Part of the purpose of a coronial inquiry is to consider whether any recommendations might reduce the chances of future deaths in similar circumstances.

[46] Ashwini and Kevin's deaths raise questions about whether anything can or should be done to warn people about the dangers of crossing at this specific location as well as to generally educate those who might encounter river crossings on their tramps.

Signage at this river crossing

[47] DOC reviewed the sign which Ashwini and Kevin would have encountered on 6 February 2020. It was presented in the same colours and font as other DOC information and wayfinding signs, being gold text in DOC's standard serif font against dark green:



[48] I consider that there were several issues with this sign which meant that the safety information was not presented as plainly and clearly as it could have been, and which meant that readers lacked the appropriate context to determine whether it was safe for them to proceed with the crossing:

- (a) The sign was erected near the carpark and not near the river. It is not possible to see the river from the sign. DOC explained that the sign was located where it was to enable visitors to easily return to their nearby car to make alternative transport decisions if they chose not to cross the river. However, the inability to see the river from that location meant there was no ready reference point against which visitors could compare the warned danger.
- (b) In any event, the sign did not include any context about what would be considered a high river flow or provide any information or tools to assist visitors in assessing whether, when they subsequently encountered the river, there was a high flow. It is impossible for visitors reading only the sign to benchmark the state of the river against what is "normal".

- (c) No information about alternative crossings is presented. Unless exceptionally well researched, visitors encountering the sign are unlikely to know that an alternative exists.
- (d) The safety critical message (“do not attempt to cross during high flows”) is not prominently displayed on the sign such as through red or typical warning colours, use of borders or use of different fonts. The information is presented in the standard DOC design with nothing to indicate the importance of the information contained on it except for an exclamation mark symbol in inverted colours. Further, the sign sandwiches the safety critical message between guidance information (“the track markers are only a general indication of where to cross”) and a request for courtesy (“please respect the landowner’s property”).

[49] As to the latter point, DOC’s 2019 Best Practice Guidelines state that specific hazard warning signs (red and white) should be minimised in the backcountry because visitors are expected to have skills and experience that enable them to recognise hazards and adopt appropriate behaviour. The Guidelines say that the exception to this should be where hazards are not easily recognisable or where vulnerable visitors are present in sufficient numbers to warrant hazard warning signage to compensate for their lower skill and experience level. The Guidelines note that hazard warning signs should be noticeable and readily understood and provide guidance about how this can be achieved, for example by being a shape, size and colour that attracts attention and with large and well spaced text in easily read fonts with a statement of the hazard and an example of possible consequences. To assist specific hazard signs to be compliance-inducing the Guidelines recommend that they be located near the site of the hazard.

[50] It is unclear to me why DOC considers that hazard warning signs should be minimised in the backcountry based on its assumption, possibly erroneous, of visitor skill experience. It is inexperienced river crossers and vulnerable visitors that are most likely to get into trouble, and who would therefore derive the most benefit from hazard warning signs. DOC itself concedes that vulnerable visitors are present at the Young Valley carpark; and Kevin and Ashwini’s deaths show that it is unrealistic to expect visitor

experience levels for any particular track to necessarily align with those anticipated by DOC. This is especially so given:

- (a) DOC's own observation of a considerable increase in visitors to the Mount Aspiring region in the years leading up to 2020, including international visitors who are less likely to appreciate or be equipped to navigate the risks posed by the New Zealand backcountry;
- (b) the prevalence of information outside DOC managed publications (for example, through social media) about backcountry circuits and which do not necessarily carry commensurate warnings about the skill levels or experience needed to safely complete the excursion; and
- (c) the fact that the Makarora river crossing forms part of an established DOC track circuit, and which might give the impression to intending trampers that the condition of the river crossing was more organisationally managed, and therefore safer, than it in fact is.

[51] These issues appear to have now been recognised, at least in part, by DOC. After Ashwini and Kevin's deaths DOC installed two new signs at Young Valley carpark in an attempt to better inform all visitors about the hazards before they start their trip or attempt the river crossing, including less experienced trampers who might be considered vulnerable in this particular situation. The two new signs comprise:

- (a) A green and yellow DOC sign "Access to Young Valley":

This track crosses private land. Please respect the landowner's property.

The Gillespie Pass Circuit requires crossing the Makarora River twice. This river can become impassable after rain.

- (b) A red and white warning sign:



[52] The new signs improve over the old sign in that it now separates guidance and warning information; and the warning sign attracts attention through its use of colour, graphic symbol and the message that fatal consequences have resulted. However:

- (a) The warning sign is still located by the carpark and not the river. There remains a lack of immediate context for trampers to assess the relevant risk.
- (b) There is no information about what constitutes high or fast flow.

Location of warning sign: carpark or river?

[53] DOC's Visitor Safety Manager, Nicholas Sutcliffe, advised that the warning sign would not be appropriate by the river. He raised concerns that the sign could be washed away during flooding or could be interpreted by visitors as indicating a recommended crossing point. He noted that placing the sign in the carpark allowed visitors to immediately select one of the alternative transport options outlined on the sign without having to backtrack. Mr Sutcliffe stated that DOC was confident that the carpark location was close enough to the river for visitors to remember the warning when they reached the crossing point.

[54] The choice of where to erect the danger sign is not binary. It is open to DOC to erect signs at both locations and, if necessary, adapt the language on the second sign to warn that the best crossing point may change with the river flow and that the proximity of the sign to the river does not necessarily indicate the best place to cross. The sign at the carpark is out of context in that it warns of a danger of a natural hazard which the reader cannot see and, at that stage of their journey, has no ability to envision. I therefore do not share DOC's confidence that visitors will, when they reach the river, be able to recall or apply detailed guidance from a carpark sign which would to them have likely been abstract information at the time they encountered it.

[55] I recommend that DOC consider erecting a similar dangerous river crossing warning sign by the river.

Information about high flow: necessary or confusing?

[56] Mr Sutcliffe advised that it is rarely possible to provide a definitive description of what river conditions are safe and unsafe. He says that this will vary between individual trampers. He is concerned that providing objective information about high flows, such as a photograph, would lead visitors to not exercise their own judgement and attempt to cross in conditions that were not safe for them. Mr Sutcliffe says that DOC endeavours to support visitors to make good decisions themselves by providing links on the DOC website to river crossing resources and sharing those resources on social media.

[57] I confess that I do not entirely understand DOC's response to this issue. It seems fallacious to suggest that it is useful to provide educational resources including objective information about river crossings and high flow through the internet and social media but not to provide that same educational resource to the people who are actually standing in front of the river and about to make a judgement about whether that river is safe to cross. It seems to me that an equally useful place to provide that educational resource is on a physical information panel at that hazard rather than relying on visitors to recall information which they might or might not have viewed or committed to memory through an internet search some time prior.

[58] I recommend DOC consider erecting an information panel at or near one of the danger signs containing the same educational information about river crossings and high

river flows. I am conscious that there is a concern about what DOC terms “signage fatigue”, in which visitors are less likely to read and engage with signs if there are too many, but this is less likely to occur if the accompanying information panel is confined to providing the primary indications of an unsafe river crossing, such as those set out DOC’s own webpage for the Gillespie Pass Circuit or the general key points set out at [66](b) below. Consideration could also be given at appropriate locations where there is adequate cellphone coverage of providing a QR code which could link to a webpage providing more detailed information.

Website information update for the Gillespie Pass Circuit

[59] Information about the circuit can be accessed from the DOC webpage.⁴ Immediately displayed on the page are a scenic photograph taken from the circuit and brief information about the current weather, type of track, and the length of and estimated duration to complete the circuit. There is a small map showing where the circuit sits within Mount Aspiring National Park.

[60] There are also three collapsible feature boxes located below this information, titled “description”, “getting there” and “know before you go”. Collapsible feature boxes allow web designers to group more content together on a page without overwhelming visitors. Each box can be individually collapsed or expanded to create an accordion effect.

[61] Following Ashwini and Kevin’s deaths DOC updated the website copy under the “description” box. The following appears in an inset grey box. The new text included by DOC is marked in italics below but is not given any prominence in the website copy:

You should only do Gillespie Pass if you’re experienced with river crossing skills. *All river crossings on this Circuit are challenging. Multiple fatalities have occurred in rivers on this track in recent years.* Be aware rivers can become impassable after rain.

[62] Under the third “know before you go” box, there appears as a subheading under the main heading “Flood and river hazards”:


Makarora River: Be aware that the water in the Makarora River may not show signs of high flow – such as looking discoloured, cloudy or muddy. The river flow may be more dangerous than it appears.

⁴ <https://www.doc.govt.nz/parks-and-recreation/places-to-go/otago/places/mount-aspiring-national-park/things-to-do/tracks/gillespie-pass-circuit/>

Stay safe when crossing rivers

If you plan to cross unbridged rivers, know how to cross safely and be prepared for if you cannot cross.

Do not cross if the river is flooded, you cannot find safe entry and exit points or are unsure it's safe. Turn back or wait for the river to drop. If in doubt, stay out.

[How to cross river safely](#)  [external link to MSC webpage including video]

[63] The authors of the MSC report are unhappy with the placement of this information within the webpage. They say that its placement at the bottom of an accordion of information risk it being overlooked by visitors. I agree that this is safety critical information which should be prioritised in placement over less important information on the same page.

[64] DOC notes that in total river safety messages appear four times on the website page and that there are also river safety messages in the linked brochure. DOC's Senior User Experience Advisor, who specialises in the effective, impactful presentation of digital content considers that the safety information is strongly emphasised on this page.

[65] I do not make any recommendations in relation to the webpage but encourage DOC to continue to ensure that safety critical messages are prominently communicated.

General education about river crossings

[66] MSC has issued the following guidance for those who intend to tramp a track with unbridged rivers:

- (a) Learn how to assess whether a river is safe to cross and how to cross safely. Videos, guides and eLearning courses are freely available on MSC's website at <https://www.mountainsafety.org.nz/learn/skills/river-safety>
- (b) When encountering an unbridged river, stop and assess whether it is safe to cross. Signs that a river is unsafe include:
 - (i) water moving faster than normal walking pace;

- (ii) discoloured, cloudy or surging water;
 - (iii) visible debris in the river such as tree branches;
 - (iv) the sound of rolling boulders on the riverbed.
- (c) Carry a form of emergency shelter such as a tent or tarpaulin so that if a river is assessed as unsafe to cross there is no pressure to cross to get to a hut for shelter.
- (d) Be prepared to turn back or change route to avoid the need to cross a dangerous river.

[67] Those intending to cross rivers as part of their tramp should ensure they have reviewed the above guidance and that they are confident in implementing it.

Restrictions on publication

[68] Pursuant to s 74 of the Act, I make orders prohibiting the publication of photographs of Ashwini Rasiwala and Kevin Lee taken during the investigation into their deaths. I am satisfied that it is in the interests of decency and personal privacy that such photographs should not be published and that there is little public interest in such photographs being published. An infringement of the principle of freedom of expression is accordingly justified.⁵

Procedural matters

[69] These findings are issued pursuant to a determination I made under s 80 of the Act to hold a hearing on the papers rather than an inquest. The s 77 requirements that apply to such a hearing have been satisfied.

⁵ *Gravatt v The Coroners Court at Auckland & ano'r* [2013] NZHC 390.

Condolences

[70] I extend my condolences to Ashwini's family and friends, and Kevin's family and friends, for their loss.


Coroner Ho