

CITATION: *Inquest into the death of Neil Arthur McNab* [2014] NTMC 032

TITLE OF COURT: Coroner's Court

JURISDICTION: Darwin

FILE NO(s): D0188/2013

DELIVERED ON: 30/12/2014

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HEARING DATE(s): 26 and 27 November 2014

FINDING OF: Mr Greg Cavanagh SM

**CATCHWORDS:** **Accidental death, ultralight aircraft crash, dangers associated with flying such aircraft.**

**REPRESENTATION:**

*Counsel:*

Assisting: Jodi Truman

Judgment category classification: B

Judgement ID number: [2014] NTMC 032

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

No. D0188/2013

In the matter of an Inquest into the death of  
**NEIL ARTHUR MCNAB**  
**ON 27 OCTOBER 2013**  
**AT BUSHLAND ADJACENT TO**  
**WETHERBY RD, GIRRAWEEEN, NT**

**FINDINGS**

Mr Greg Cavanagh SM:

**Introduction**

1. Neil Arthur McNab (“Mr McNab”) was a 55 year old man who was born in Darwin and was the second eldest of five (5) children. He was a hardworking man, and a trusting and loyal person, who was a good friend to many. He created a successful earthmoving business as a sole trader and was a plant operator-excavator by trade. In 1998 he met his wife, Lee McNab, whom he married in 2007. They were well known as a very close and loving couple.
2. Mr McNab was a recreational pilot of ultralights. On 27 October 2013, Mr McNab went flying with Steve (Charles) Braddy in an ultralight that he was purchasing from Mr Braddy. This was the first time that Mr McNab had flown this particular ultralight. During the course of that first flight Mr McNab made a left hand turn to do a “fly-by” of his own property. Shortly after this turn Mr McNab was described by witnesses to “fall out of the sky”. His ultralight crashed into nearby bushland adjacent to Wetherby Road, Girraween in the Northern Territory. Several neighbours witnessed the crash and responded immediately to render assistance. St John

Ambulance also attended but Mr McNab was unable to be revived and was pronounced dead at the scene.

3. This death was reportable to me pursuant to s.12 of the *Coroners Act* (“the Act”) because it was unexpected and appeared to have resulted from an accident. A public inquest was not mandatory; however I exercised my discretion to hold a public inquest into the death in accordance with my powers under s.15(2) of the Act.
4. The inquest was held on 26 and 27 November 2014. Ms Jodi Truman appeared as Counsel assisting. A total of six (6) witnesses were called to give evidence at this inquest, namely; Senior Constable Syndee Galati, Joshua Cross, Raymond McLean, Steve (Charles) Braddy, Dieter Sedlbaur, and Rick Duncan.
5. A brief of evidence containing various statements, together with numerous other reports, police documentation and miscellaneous records were tendered at the inquest (exhibit 1) together with the deceased’s medical records (exhibit 2). Public confidence in Coronial investigations demands that when police (who act on behalf of the Coroner) investigate deaths that they do so to the highest standard. I thank Senior Constable Syndee Galati for her investigation.
6. Pursuant to section 34(1)(a) of the Act I am required to find if possible:
  - i. The identity of the deceased person;
  - ii. The time and place of death;
  - iii. The cause of death;
  - iv. The particulars needed to registered the death under the Births, Deaths and Marriages Registration Act;
  - v. Any relevant circumstances concerning the death

7. I note that section 34(2) of the Act also provides that I may comment on a matter including public health or safety connected with the death being investigated. Additionally, I may make recommendations pursuant to section 35 as follows:
  - (1) A Coroner may report to the Attorney General on a death or disaster investigated by the Coroner.
  - (2) 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.
  - (3) A Coroner shall report to the Commissioner of police and Director of Public Prosecutions appointed under the Director of Public Prosecutions Act if the Coroner believes that a crime may have been committed in connection with a death or disaster investigated by the Coroner.

## **Background**

8. Neil Arthur McNab was the second eldest of five (5) children to Neil James McNab and Fay Sloan who are both now deceased. He was born in Darwin on 18 March 1958 and was in fact a twin. Although he travelled all over Australia undertaking work, he lived in Darwin his entire life. It was his home. His parents separated when he was young and thereafter he lived with his mother, whilst his remaining siblings lived with his father. As a result Mr McNab was estranged from his father until his father was diagnosed with cancer, at which time he visited his father before he passed away. He was close with his twin sister Sandra and his youngest brother Danny who both travelled to Darwin to be present at this inquest.
9. Mr McNab left school at year 7 level. Upon leaving school he assisted his step father in his fishing business and then, at the age of 14, he commenced

working with his step father in his earth moving business, learning the trade. Mr McNab had two (2) children, namely his son Kelly and his daughter Kylie, both from previous relationships. Over the years however his contact with his children was limited.

10. In 1998, the deceased met his wife, Lee McNab (nee Gage). They were married in 2007. It appears from the evidence that the couple shared a very close and loving relationship and were known to be inseparable. Mrs McNab assisted her husband to start his own earthmoving business which was extremely successful. Although Mr McNab had low literacy skills as a result of having left school at such an early age, he was very mechanically minded and could read plans and schematics; excelling in his field. He worked on numerous jobs throughout Australia in construction and mining and was well regarded in the earthmoving industry. In fact, Mr McNab was one of the few people who had the skill to grader trim without the use of a laser.
11. I received evidence that Mr McNab was a hardworking man who was well known as a very trusting and loyal person. It is clear that he created a very successful business and pushed himself, with the love and support of his wife, to improve his written skills over the years. Likewise it is clear that he was a very loving and supportive husband and shared a close relationship with his step-son and his step-son's two young children, to whom he was "Poppy".

### **Deceased's involvement with ultralights**

12. Mr McNab held a Student Pilot Certificate with "The Australian Ultralight Federation Incorporated" ("AUF") since 21 June 1995. In 2005, he commenced flying lessons in Darwin at the MKT air strip situated at 110 Jenkins Rd, Noonamah. He initially commenced flying an Airborne Edge X 582, which is a line of Australian 2-seat ultralight trikes. His flying instructor was David Eakins and Mr McNab completed his competencies

over a period of 6 months, attaining his pilot's licence to fly a weight shift micro-light in May 2006.

13. Mr McNab purchased his first ultralight; an Airborne Edge X 582, from his instructor Mr Eakins. He still owned that ultralight at the time of his death. He was known to be very careful in the maintenance and servicing of his ultralight and enjoyed recreational flying a great deal. He obtained, and kept current, his pilot's licence initially with Recreational Aviation Australia Inc. ("RA-Aus"). However that licence expired in 2011. Thereafter Mr McNab kept his licence with the Hang Gliding Federation of Australia Inc. ("HGFA"). He continued to keep his licence with HGFA and undertook the required bi-annual flight checks.
14. For a number of years he flew his ultralight regularly, but in the few years prior to his death his flying time had reduced. Prior to this crash, Mr McNab had not flown since March 2012. On that occasion he was with an instructor completing the required flying hours to maintain his licence with the HGFA. On that occasion he had flown an Airborne Edge X Classic, which is an ultralight similar in performance to the Airborne Edge X 582 that he owned.
15. In October 2013 Mr McNab decided to purchase a new ultralight after becoming aware that Steve (Charles) Braddy's Airborne Edge XT-912 was for sale. Mr Braddy's ultralight was only 1 year old. The parties agreed on a price of \$50,000 and Mr McNab made payments of \$37,500 prior to his death. It appears that Mr McNab and Mr Braddy had known each other for some time and Mr McNab had in fact helped Mr Braddy grade the airstrip at the rear of Mr Braddy's residence in Howard Springs.
16. Both the Airborne Edge X 582 that Mr McNab owned, and the Airborne Edge XT-912 that Mr Braddy owned, are classified as weight shift micro-lights. This is a reference to the manner in which the ultralight is

controlled. In basic terms they are a powered hang-glider and are commonly referred to as trikes or ultralights.

17. The evidence establishes however that there are significant performance differences between the Airborne Edge X 582 and the Airborne Edge XT-912. The wing span of the Airborne Edge XT-912 is smaller, thus creating a greater “roll response”. This means that the Airborne Edge XT-912 will turn more quickly than the Airborne Edge X 582. In addition the 4 stroke engine of the Airborne Edge XT-912 has a higher rate of acceleration and a higher speed at which the engine will stall, compared to the 2 stroke engine of the Airborne Edge X 582.
18. The Airborne Edge XT-912 also has an engine that rotates in an opposite direction to the Airborne Edge X 582. This results in opposite torque which means that the body of the Airborne Edge XT-912 rolls to the right instead of the left, which is opposite to that of the Airborne Edge X 582. This difference in the roll of the ultralight would have become very obvious to Mr McNab when he accelerated to gain altitude prior to the crash.

### **Events of 27 October 2013**

19. On 27 October 2013 Mr McNab and Mr Braddy both departed from the airstrip at the rear of Mr Braddy’s residence in Howard Springs. Mr Braddy was flying the gyrocopter that he had recently purchased. Mr McNab was flying the Airborne Edge XT-912 that he was purchasing from Mr Braddy. This was in fact the first time that Mr McNab had flown the Airborne Edge XT-912. He was therefore not familiar with the operational differences.
20. The plan that day was that both men would fly over Mr McNab’s residence at Girraween and then head to the MKT airstrip where the Airborne Edge XT-912 would have a mechanical inspection which was required before ownership could be transferred between the two men.

21. The weather on 27 October 2013 was fine and dry. The Bureau of Meteorology (“BOM”) records indicate that the wind was calm and there was no rain registered for the 24 hours prior, nor at the time of the crash. Statements from other persons flying in the area at the same time were tendered into evidence and they record no issues with the weather conditions that day.
22. Mr McNab had a Go-Pro recorder running on the Airborne Edge XT-912 whilst he was flying. That recording was also tendered into evidence. The recording lasts for 5 minutes and 26 seconds and stops just as the Airborne Edge XT-912 nears a block belonging to one of Mr McNab’s neighbours. It is estimated that the recording stops within approximately a minute or two before the crash.
23. A number of persons saw Mr McNab and Mr Braddy flying that day. Mr Braddy was seen to fly over Mr McNab’s residence first and complete one loop before heading towards the MKT airstrip. The Go-Pro footage taken of his flight shows him undertaking gentle manoeuvres and no sharp turns until he begins to descend to fly over his own block. I received evidence that upon nearing his neighbour’s block, Mr McNab was seen to make a left hand turn towards his own block. He was then observed to make a sharp turn at the rear of his own block and it was at that time that he appeared to “fall out of the sky” and crash.
24. Most sadly, Mr McNab’s wife was one of the person’s watching him fly at this time. She recalled that she too thought her husband was flying lower than usual immediately prior to the crash and she thought he was flying too low. Upon seeing the crash, a number of persons including Mrs McNab made contact with 000 seeking emergency assistance before racing to the scene.

## **Cause of Death**

25. Initial first aid was attempted by a number of persons at the scene shortly after the crash site was located. Cardio-pulmonary resuscitation (“CPR”) was continued until St John Ambulance (“SJA”) officers arrived. Unfortunately all attempts at resuscitation were, and had been, unsuccessful. There were nil signs of life. Dr Malcolm Johnston-Leek, who attended with SJA officers, pronounced Mr McNab deceased at the scene.
26. An autopsy was performed at the Royal Darwin Hospital (“RDH”) on 28 October 2013 by Dr Terence Sinton. Dr Sinton recorded the significant injuries at autopsy to include the following:
  - 26.1 Lacerations, abrasions and bruising variously to the face, front of the trunk and to both legs;
  - 26.2 Blood over the external surface of the brain (both subdural and subarachnoid haemorrhage) with further blood deeply inside the brain (ventricular haemorrhage);
  - 26.3 Fractures to the facial skeleton;
  - 26.4 A broken neck;
  - 26.5 Severe damage to the throat (hyoid bone fracture);
  - 26.6 Severe bruising to both lungs with a further severe laceration to the left lung;
  - 26.7 A ruptured liver;
  - 26.8 A ruptured spleen;
  - 26.9 Avulsion of the left kidney from the posterior abdominal wall;
  - 26.10 Severe fracturing of the right shoulder;

- 26.11 Severe fractures to both legs;
  - 26.12 A fractured sternum (breast bone);
  - 26.13 Multiple fractured ribs on both sides of the chest.
27. Whilst Dr Sinton noted that Mr McNab also suffered from mild enlargement of his heart (cardiac hypertrophy) along with mild atheromatous coronary artery disease (coronary atherosclerosis), it is clear that the cause of death was multiple injuries as a result of the crash.

### **Investigation into the cause of the crash**

28. As noted previously the weather on the day of this crash was fine and dry. During the course of his recorded statement with police, Mr Braddy himself noted that the conditions were “*very calm, beautiful in the sky*” and were good conditions for flying. The autopsy findings of Dr Sinton did *not* reveal any evidence of Mr McNab suffering any type of significant or acute health condition immediately prior to the crash which may have contributed to the crash.
29. Whilst police investigated the crash, assistance was sought from RA-Aus in relation to determining the cause. RA-Aus is a not for profit organisation that self-administers single and two seat aircraft under 600kg maximum take-off weight. They do this by authority of the Civil Aviation Safety Authority (“CASA”). Whilst there is no mandate, RA-Aus also investigates all fatal accidents involving such aircraft upon request from either the Australian Transport Safety Bureau (“ATSB”), Police or the Coroner. According to the information provided to me RA-Aus does this with the intention of assisting to prevent similar occurrences.
30. An aircraft of the type that Mr McNab was flying at the time of this crash, namely the Airborne Edge XT-912, can be registered with either RA-Aus or HGFA. HGFA is a sporting body that administers hang gliders, para-gliders and weight shift micro-lights by authority of CASA. If an aircraft is

registered with either organisation then the pilot must hold a pilot certificate (i.e. licence) issued by the same agency before operating the registered aircraft. I received evidence that this is, in the main, a compliance and administrative requirement but there are differing standards of training between RA-Aus and HGFA.

31. As previously noted, Mr McNab had previously held a pilot certificate with RA-Aus. However that certificate expired on 22 July 2011. He was then a member and certified with HGFA from 13 March 2012 until the date of this crash. Although it appears that on an administrative compliance basis, Mr McNab should therefore not have been flying an ultralight which was not registered with HGFA, I do not consider that failure to have had anything whatsoever to do with the circumstances of his death and I make no further comment in relation to that issue. It is simply not relevant to the matters before me.
32. In accordance with the request from police, Mr Dieter Sedlbaur from RA-Aus attended Darwin to assist with the investigation. He arrived on 28 October 2013 and attended the crash scene (which had been secured) to examine the wreckage. After the wreckage was moved to the Forensics Section at the Peter McAulay Centre, Mr Sedlbaur carried out further forensic examinations for the purpose of preparing a report. That report was issued by RA-Aus and tendered into evidence (exhibit 1). Mr Sedlbaur also gave evidence before me.
33. Mr Sedlbaur carried out a careful examination of the aircraft itself. He noted that the aircraft had been destroyed in the crash with the wing section and fuselage separating; only remaining attached by a rigging wire. He noted that the initial point of contact had been the leading edge of the right hand side wing approximately 2.5metres from the wing's centre with a tree at approximately 8 metres in height. Thereafter impact with the ground was initially right hand side down with the right hand main wheel being the first point of contact followed by the nose wheel.

34. Mr Sedlbaur noted there was no evidence of fatigue, corrosion or pre-existing faults. All breaks and fractures to the aircraft were consistent with sudden impact forces which would have been sustained in the crash. Mr Sedlbaur also inspected the engine and noted there appeared to be no evidence to suggest any modifications and the engine mount appeared to have been in good condition prior to the accident. He noted that the internal mechanical components had suffered no damage in the crash and he was able to turn the engine over.
35. Mr Sedlbaur noted that the engine controls, namely throttle and choke cable, were damaged but appeared to have been in good working order prior to the crash. The ignition leads and all other ignition components appeared to have been in good condition prior to impact. Overall it was Mr Sedlbaur's findings that the engine had only done just over 50 hours and appeared to have been in "near new" condition.
36. Mr Sedlbaur gave further evidence that the aircraft was considered to be in an airworthy condition prior to impact, the weight and balance of the aircraft was also not considered to be a contributing factor and there was sufficient fuel for the proposed flight with no contaminants found upon analysis. He stated that all parts for the aircraft were accounted for and therefore it was determined that the aircraft had not suffered an in-flight break up.
37. Mr Sedlbaur conducted an assessment of the wreckage pattern and stated that in his opinion the aircraft was in a very steep turn to the right immediately prior to the crash and had not recovered from that manoeuvre prior to impact. He noted that the distance from the initial point of contact 8 metres up a tree, and the subsequent point of impact on the ground, was within metres. He stated that this indicated a high vertical speed component at time of impact and opined that all these factors support the assertion that the aircraft stalled as a result of excessive "angle of bank".

38. Mr Sedlbaur explained that angle of bank is a reference to the turning of the aircraft where the wing is rolled to a desired angle in relation to the horizon. He explained that in a turn the total vertical component of lift, which is the force generated by the wing as it passes through the air, is reduced. Therefore, if a pilot takes no further action the aircraft will begin to descend. If the pilot increases the angle of attack of the wing this prevents the aircraft descending. When the amount of vertical component of lift equals the force of weight, the aircraft will remain in a level turn. Mr Sedlbaur noted that if sufficient lift force cannot be generated then an aircraft would have a greater propensity to slip sideways downwards in the direction of the turn and this may occur long before achieving 90° angle of bank.
39. Mr Sedlbaur noted that in terms of this particular flight it was clear that Mr McNab was flying below 500 feet above ground level (“AGL”). This was significant as the Civil Aviation Orders 95.32 provide certain requirements for flights below 500 feet AGL. Where the flight path is over closely settled areas Civil Aviation Orders 95.32 requires that the aircraft be operated at a height of “no lower than 1,000 feet AGL” and at a height from which the aircraft can glide clear of the closely settled area. Mr Sedlbaur noted that the intended flight path on this occasion was over a closely settled area and was not complying with these Orders.
40. Given all of the matters investigated by Mr Sedlbaur his report outlined what he thought were the “Likely Final Scenario/s” and noted as follows:
- 2.4.1 Factors involved in this accident include the physical differences between aircraft types. The pilots own aircraft was similar but was powered by a lower performance output 2-stroke engine in addition to being outfitted with a different performance wing.

- 2.4.2 Generally when changing to operate a different performance aircraft, pilots may elect to fly with another more experienced on type pilot, who could then endorse the pilot on the operational and performance differences.
- 2.4.3 In general terms the performance differences of the two trikes may only become apparent when performing manoeuvres outside normal operations.
- 2.4.4 The pilot elected to conduct a tight turn over his property and at that point may have realised this trike did not respond in the same manner as his own trike would have.
- 2.4.5 Eye witnesses reported there was an increase in engine noise just prior to the crash. This may have resulted when the pilot applied full power in an attempt to regain control. Discussion with the manufacturer of both trikes regarding handling and performance, confirm the difference of flight characteristics. When full power was applied to the pilot's personal aircraft which was fitted with a Rotax 582 two stroke engine, a slight roll to the left would be provoked as a result of engine torque. Conversely, in the accident aircraft, fitted with a Rotax 912, the application of full power would provoke a roll to the right, and due to the higher power output of a 912, would be a significantly stronger reaction.
- 2.4.6 Further consideration must be given to the altitude chosen for operations by the pilot. There is no operational reason to fly below 500 feet AGL unless one is in the process of take-off or landing, which was not the case.
- 2.4.7 Consideration must therefore be given to the possibility the pilot was attempting to conduct a "beat up" over his property. Any manoeuvre conducted below 500 feet AGL carries with it a

commensurate danger due to insufficient height to recover in the event of an emergency, whether from engine performance or aircraft manoeuvre.

2.4.8 It is a possibility that the pilot elected to operate at the chosen altitude and manner in order to attract attention from persons known to him on the ground, and show off his new aircraft. In an attempt to do a tight turn or orbit over his property the combination of unfamiliar handling, different power performance in conjunction with the low altitude, turned a relatively safe manoeuvre of stable banking into an over-banking situation from which recovery was not possible given the available height.

2.4.9 Both eye witnesses reported seeing the surface of the upper wing and both wingtips from the ground just prior to impact. Although applying full power, the pilot was unable to regain control and impacted with timbered terrain, contacting a sizeable tree 8 metres above the tree base, prior to impacting the terrain”.

41. Ultimately it was the findings of Mr Sedlbaur that:

“Poor airmanship and decision making by the pilot contributed to the accident”.

### **Complications in investigation into the cause of the accident**

42. One of the complications in the investigation of this death was the changing version of events given by Mr Steve (Charles) Braddy about what had happened on the day of the crash. Mr Braddy initially told police in his recorded conversation with them on 29 October 2013, i.e. some two (2) days after this death, that he did not have his Go Pro on at the time of this crash (tp.56.3):

GALATI ...Um – all right Steve, we’ve just got a few more questions that we wanna ask you. Um – your Go Pro, did you have that on with you ---

BRADDY: No –

GALATI: --- that day?

BRADDY: - it was in the chopper but – ah – it was in the chopper from the trip before and – with a dead battery”.

43. Then, *on 12 November 2014 in excess of 12 months after this death, Mr Braddy had a solicitor make contact with Counsel Assisting to advise he did in fact have footage available from his Go Pro. During his evidence, Mr Braddy attempted to give an explanation as to why he had told the police the Go Pro was “dead” (tp.24.2):*

MS TRUMAN: You agree that you were asked during the recorded conversation as to whether you had a Go Pro on during the course of your flight? ---Yes.

Did you have a Go Pro on during the course of your flight? ---Yes.

Can you recall what you told police when you were asked directly that question? ---I didn’t think I had it going, or something similar.

MS TRUMAN: Your Honour, page 56 of the recorded conversation.

Officer Galati says this to you:

‘Um, alright Steve, we’ve just got a few more questions that we want to ask you. Um, your Go Pro, did you have that on with you? ---No.

That day? ---It was in the chopper but ah - it was in the chopper from the trip before and with a dead battery.’

Do you remember saying that? ---I can't remember now. It's too long ago.

Well you advised his Honour a moment ago that you had got a copy of the audio-visual of your recorded conversation? ---Yes.

And you'd considered that? ---Yes.

And you had the transcript; correct? ---Yes.

Do you agree with me that during that audio recorded conversation with the police, you were asked directly about the Go Pro and you told police that you did not have it on; it was in the chopper, but it had a dead battery? ---If that's what I put down, yes.

Was that true? ---It's a - it's a year ago or something. It's - I can't remember exactly what I said.

Mr Braddy, was that true? ---I - it was going. I didn't think it was going. I've got a few of those SD cards and I put it into my reader and it was a blank SD card. And I assumed I hadn't turned it on because every other time I fly, I forget to turn it on or I forget to turn it off.

So when you told police directly that in fact it was in your chopper but it was with a dead battery, that was not true? ---I thought that was the case, because I took it out and put it in my computer, pulled the card out of it and mixed it up with another card and put it in the - the reader and it come up blank and the camera had a dead battery when I got there. I had to charge it up again. So - - -

When did you do all of that?--- - - - I must have turned it on and it must have recorded, and at the end of the day I - it's - the battery's run out and I just assumed that there was - I forgot to turn it on and the battery was still flat. I've got lots and lots of recordings where I forget to turn

it on and forget to turn it off - well not recordings of turning it on - that I could possibly show you.

Do you remember speaking to a Mr Michael O'Connor shortly after the events had occurred where people realised there had been this crash? --- It's all very vague.

THE CORONER: Do you know Mr Michael O'Connor? ---Yes.

MS TRUMAN: Do you recall in fact telling Mr O'Connor on the very day that this crash occurred that you had your Go Pro and you in fact provided it to him at that time? ---I don't recall.

You don't recall that? ---No.

THE CORONER: We've got a sworn affidavit from Mr - - -

MS TRUMAN: Your Honour, Mr Mike O'Connor gave a statement to the police; folio 13.

THE CORONER: And says exactly that, does he?

MS TRUMAN: Paragraph 34, your Honour.

THE CORONER: Thank you.

MS TRUMAN: Do you agree that you have subsequently found the footage of the Go Pro taken on 27 October 2013?---Could you ask me that again, please?

Do you agree that you have found the footage that was taken from your Go Pro of your flight on 27 October 2013? ---Yes.

When did you find that footage? ---A couple of weeks ago or something; a week and a half.

How did you find that footage? ---My printer died and I pulled it out from under the - the thing and the SD card fell out from underneath.

And what did you do when you found that footage? ---Well I didn't - I thought - didn't know what was on it. I just plugged it in and saw what was on it and - and sent it to the Coroner's office when I found it.

Well I want you to tell his Honour exactly what you did when you realised that you had that footage, please, sir?---What I did? I told my friend down the back there that I've got this and - - -

THE CORONER: Who's that? ---Tony Crane.

Tony Crane. He's a solicitor? ---Yes.

I can see him there. I know him? ---Yeah.

Go on. You told him, and? ---And he said, 'No holds barred, just - you've got to send it to the Coroner'.

MS TRUMAN: Did you contact Mr Crane on the day that you found it, or after finding it? ---Same day I think.

And if Mr Crane made contact with me on the 12th of November this year, would that be the day you say to his Honour you found it? ---Yes, I - yeah.

Why didn't you make contact with the police, who were investigating the matter, to advise them that despite telling them directly that you did not have footage on, in fact your Go Pro had a dead battery; why didn't you go directly to them with this footage?---Well I figured I'll hand it in here, everyone's going to get it.

44. I do not accept Mr Braddy's evidence in this regard. It makes no plausible sense. Mr Braddy did not simply say to police that he did not "think" he had it with him or that he had no footage. He in fact provided a detailed

response as to its location being on his “chopper” and having a “dead battery” from “the trip before”. This was patently untrue. His evidence that he did not “recall” what he said to Mr O’Connor immediately after events also leads me to the conclusion that he was not telling me the truth in his evidence.

45. As to the issue of telling the truth, shortly after commencing his evidence before me, Mr Braddy stated that he had in fact told the police a “porky pie” (tp.23.2). Mr Braddy stated that he did not tell the truth to police when he told them how he damaged the wing of the ultralight. I note that the term “porky pie” is a Cockney/English rhyming slang word for “lie”. After considering the evidence given by Mr Braddy about this issue, I consider that the word “lie” is the more apt description for what he did. Mr Braddy lied to the police.

46. Mr Braddy was asked (and responded) as follows in his recorded conversation with the police (tp.52.5):

GALATI: Um –Steve have you had any issues with the trike?

BRADDY: No, not at all. Oh – yeah – um – I got a split in the prop.

47. In addition (tp.53.8):

GALATI: So when you received the damage – ah – when you got damage to the – ah – prop, anything else damaged?

BRADDY: It split on the seam, just one and I was just doing the check, that’s another thing you do, you spin your prop when you’re doing all the – the checks and you gotta spin that in one – one direction etc. All the stuff I went through with Neil. Um – there was a split right on the seam there that they laminated together, right near the hub and I wasn’t game to fly it home – home with a split in it so I rung a mate and he come and picked me up and I went home and got the truck and took the wing off it and put it all on the truck and sent it off to

Bowie and – ah – they sent me two of my other blades back and one new one ‘cause they needed the others to balance with it.

48. And further (tp.54.5):

GALATI: Yep. Steve was there an incident where the trike’s flipped on you?

BRADDY: Nah.

GALATI: Okay. Um – um – did you replace the wing, the skin on the wings here?

BRADDY: The wing?

GALATI: Yep.

BRADDY: Yeah that’s another wing.

GALATI: The skin on it too, is that what it’s called? The –

BRADDY: Yep

GALATI: You had?

BRADDY: Yeah.

GALATI: When did you do that?

BRADDY: Um – oh – it was a fair while ago. Ah – I don’t know what we’ll get from this. It’s – it’s all in the other book.

GALATI: It doesn’t have to be an exact date, just an approximate time that ---

BRADDY: Yeah it’s all in the book.

GALATI: --- when you would have –

CURRIEZ: So what was the reason for replacing the – the skin?

BRADDY: Oh – cause I dropped a bloody log through the bloody thing.

CURRIEZ: You dropped a log?

BRADDY: Hmmm.

CURRIEZ: How did that happen?

BRADDY: Oh – I hit my tree with a bobcat.

CURRIEZ: Oh –

GALATI: Is there anything else that you've had to replace or change on the – the – um – trike?

BRADDY: Nah, that's it. The prop was the scariest one."

49. By his own admission, although continuing to seek to downplay his conduct, Mr Braddy was not being truthful in his responses to the police. The evidence makes clear that Mr Braddy had in fact crashed his ultralight on his block and lied to the police about that event. Mrs Lee McNab also had a contemporaneous record in her diary of a crash involving Mr Braddy occurring on 1 December 2012 which resulted in her husband being called and providing assistance. I accept the evidence of Mrs McNab (and the other neighbours who also provided statements to police about a crash) over the evidence given by Mr Braddy.
50. Although Mr Braddy admitted to not having been truthful to police, I find that even during his evidence before me he continued to attempt to explain away his conduct and in fact initially sought to allege that he had in fact told the police of his crash but did it at a time when the audio was no longer recording.

51. In his attempts to explain away his behaviour, he stated initially (tp.28.8):

THE CORONER: What's the porky pie you're referring to that you told the police in the recorded interview that you now say was a porky pie?---I said I dropped a bit of wood or something on the wing. I didn't want to tell anyone I'd crashed it when I was a green pilot, but I'm not so worried about that now. I go back to the club and talk to other pilots that have been out there for a while, and they tell me - laugh about incidences they've had so - but when I was a green pilot, I was a bit - didn't want anyone to know. I ordered a new wing and didn't let them know that I put a wing on the ground.

52. He then went on and sought to further justify this conduct as follows (tp.29.3):

MS TRUMAN: Do you remember telling police about having put a log through the wing? ---Yes, that's what I just mentioned a moment ago.

So that's the porky pie? ---Yes.

Page 55, about point 3, your Honour.

'So what was the reason for replacing the - the skin? ---Oh, 'cause I dropped a bloody log through the bloody thing'.

Curries, question:

'You dropped a log? ---Hm?

How did that happen? ---Oh, I hit my tree with a bobcat'.

Is that the porky pie? ---That's right.

THE CORONER: And why did you tell that lie? ---It was when I started, when I first got the wing, I didn't want to tell the manufacturer where I bought it from that I'd crashed the plane. I felt a bit - a new

pilot and I didn't want everyone taking the mickey out of me, sort of thing, so I made a little bit of a story up where I just damaged the wing and got another one and I sort of stuck to that story and then - and as I mentioned before, flying a couple of years now and talking to the other aviators out at the club and they all laugh about some incidents they've had and I don't feel so bad about that anymore, but when I first did it, and I was just brand new at it, I sort of tried to hide it.

MS TRUMAN: So you weren't telling the porky pie to the police because they were investigating a crash that had happened in your ultralight that you knew had previously been in a crash? ---Can you tell me all that again? I lost - - -

I'm suggesting to you, sir, that in fact the real reason you told what you call a porky pie - and I say is in fact a lie - is because you knew the police were investigating a crash in your ultralight, and you'd already had a crash in that ultralight. That's the reason you lied to the police? - --It - it's all in the log books where the wing was replaced and everything. I - there's no hiding that.

But you did. That's what you sought to do? ---Like I just explained a minute ago, I felt embarrassed about it, being a new pilot. That's - that's all it was. But Neil was there just after I did it. He knew the right story, and he helped me put the new wing on it. He knew that plane backwards.

53. Mr Braddy also sought to allege that he had in fact told police about the accident despite it not being in his recorded statement with them. Initially he stated as follows (tp.23.9):

MS TRUMAN: Did the transcript appear to be an accurate reflection of what was depicted in the audio-visual recording? ---Yes.

Do you now withdraw your accusation, sir, that the transcript appeared to have been missing quite a lot of material actually discussed at the time of the recorded statement? ---It wasn't on the recording, but after watching it, I remembered - because it was video - I didn't know it was video - I remember the three of us were standing up when I - so it's not on the recording, so it had obviously stopped. Because we were all sitting down while it was being recorded, and I remember the three of us standing up when I said further.

THE CORONER: What did you say further? ---I actually hit the tea tree scrub with the left of the wing, which I was a bit embarrassed about and didn't tell anyone. And I also mentioned that Neil - two times I mentioned this - that Neil helped me put the new wing on. Brand new wing. And the wing on them is a separate piece. It's not like a fixed wing plane where you bang the wing, you might hit the fuselage. It's a separate bit on top holding a bolt and it's - it was a complete brand new wing that cost me 11-odd thousand dollars.

54. Mr Braddy went on to detail his allegation even further as follows (tp.27.9):

MS TRUMAN: Is it your evidence, sir, that you say in your evidence today that after you finished your recorded conversation with officer Galati and officer Curries, that you told them, when the recording had finished, about that incident? ---Yes.

You say that you discussed that with them? ---I - I certainly remember telling them two times.

And when you say 'two times', where were you when you had those conversations? ---We were all standing up. And I think we might have been just walking out of the interview room or - or about to or something.

And you said it to officer Galati and officer Curries? ---Yes.

They were both present? ---Yes.

Can you tell his Honour what you recall telling them at that time?---  
About where I damaged the corner of the wing and where Neil - the -  
the bit I said two times where Neil helped me put the new wing on,  
when I - when it turned up from Airborne.

55. It was not until both police officers involved in the investigation returned to court to refute the evidence of Mr Braddy that he finally conceded that he “may” be incorrect about his evidence (tp.35.5):

THE CORONER: Now Mr Braddy, you’re still under oath. Just take a seat for a second? ---Yes, sir.

The police officers conducted an audio record of conversation with you, during which they asked you about incidences and accidents with that plane, didn’t they? ---Yes.

And you know the answers you gave on that audio conversation indicate that you only told them about the propeller, and you said no to anything else. That’s on the audio. And they asked you about anything else. Now you say, after the end of the sit down audio, you had a further conversation that was not recorded where you told them not once, but twice, of the crash you had where you had to replace the wing. Now they say that didn’t happen. And they say they would have immediately turned back and put the audio machine back on if you had have told them that. Understand? ---Yes.

Now are you sure, on your oath, that you had that conversation with them at the end of the audio conversation?---Well when I read the transcript and I thought I’d said that, that’s why I sent them a letter asking if I could hear it, because - but you know, it’s a year earlier. I -  
I - if - - -

You sound a bit confused. Are you saying to me now that you're not sure? You think you did, but you're not sure? ---I thought I did, but I'm not sure, yeah. It's - it's a year ago.

56. This evidence was given at a time when it was patently obvious that he had never told police about that crash. I do not accept his explanations about why he did not tell the police about this crash and I do not believe he was a witness of truth.
57. It is extremely unfortunate that Mr Braddy did not tell the truth about these events. This is not simply because of his failure to comply with his promise to tell the truth and therefore breach his declaration under the *Oaths, Affidavits and Declarations Act*, but also because on the evidence before me the fact of that crash was a complete "red herring", as it appears that any damage that was caused to the ultralight in the earlier crash had nothing to do with the crash resulting in Mr McNab's death.
58. During the course of her investigation, Snr Const. Galati arranged for an engineering report to be provided by Mr Rick Duncan who is a Director of AirBorne WindSports Pty Ltd. This is the company that manufactures the Airborne Edge XT-912 ultralight. Mr Duncan prepared a report that was tendered as part of exhibit 1 and also gave evidence before me.
59. Mr Duncan attended Darwin on 10 and 11 March 2014 and inspected the wreckage and also the crash site. He also considered the Go Pro footage that Mr McNab had recorded prior to the crash. Mr Duncan noted that a replacement wing had been sent by AirBorne WindSports Pty Ltd to Mr Braddy on 20 December 2012. This appears to be related to the crash that Mrs McNab became aware of, and recorded in her diary, on 1 December 2012.
60. Whilst noting certain difficulties in inspecting the wreckage *after* it had been removed from the crash site, Mr Duncan summarised the damage observed to the wing to have been as follows (p.3):

- The wing has a major impact on the Right Hand Side at mid-span. The impact is more than likely with the tree of approximately 300 mm diameter which was pushed over during impact.
- The wing has severe damage resulting from impact with the ground and or trees.
- NT Police specifically asked about the struts of the aircraft. (Struts are the tubes from the control frame to the leading edge). There is no evidence of any structural failure of the struts or fittings.

61. Following his investigation and assessment, Mr Duncan formed the opinion that there was “no evidence that the aircraft sustained any in-flight structural failure”. He noted that the “impact damage ... indicates a high rate of horizontal speed suggesting that the wing was intact prior to impact with the trees”. Mr Duncan went on to state that (p.4):

“If an in-flight structural failure had occurred the wreckage would tend to cover a small area due to a more vertical descent. The wreckage was spread out over an area of approximately 25m with a large portion of the wing being caught up in the tree”.

62. Mr Duncan identified the various differences that would be noticed by a pilot going from the lower powered Airborne Edge X 582 and the higher powered Airborne Edge XT-912 which included (p.4):

- Pitch pressures would be found to be significantly lighter. (Pitch pressure is the physical load applied to the controls to pull the nose down to increase speed).
- The rate of acceleration would be found to be greater.
- Velocity Never to Exceed (Vne) is easily achieved with lower exertion of force on the controls.

- The roll response would be found to be faster.
- Due to the higher power and the engine rotating in the opposite direction the engine torque is more noticeable and instead of rolling the aircraft to the left as power is increased, the aircraft is rolled to the right on the XT912. The higher power also increased engine torque roll rate.

63. Mr Duncan considered carefully the Go Pro footage, the witness accounts and also his findings from inspection of the wreckage and the crash site. Ultimately his opinion of the cause of the crash was as follows (p.5):

“It is highly likely that the pilot not being familiar with the aircraft and the subsequent low altitude of the first manoeuvres caught the pilot off guard and the trees were impacted during recovery from the high-banked turn.

Had the pilot familiarised himself with the aircraft earlier at higher altitude it is (sic) be unlikely that the accident would have occurred”.

## **Comments**

64. The passing of Mr Neil McNab, who was so dearly loved and respected by those who knew him, is very sad for his friends and family but also for the wider community as a whole. It is clear he made a significant contribution to this community through his hard work and determination. His loss is therefore greatly felt. He was however involved in a hobby that is generally known to be dangerous. Ultralight accidents and/or deaths are unfortunately not rare. The structure of an ultralight is such that if control is lost it is difficult to recover and there is not a great deal of protection for the pilot and/or any passenger. This danger is significantly increased the lower the altitude at the time that control is lost.
65. I am satisfied however that in all of the years that he flew ultralights; Mr McNab knew well these risks, but he loved his hobby and he loved to fly.

On this particular day however it appears that the risk he took was too great. Being unfamiliar with the performance of the new ultralight and at an altitude that was too low, he simply was unable to re-gain control after performing a manoeuvre. I am satisfied that it was as a result of pilot error that this death occurred and that it was an accident.

It is important to note that it is a serious matter that Mr Braddy did not tell police the truth when he spoke to them during his recorded conversation. The matters that he failed to tell police about have resulted in additional investigation being carried out unnecessarily, but more importantly resulted in significant increased distress to Mr McNab's loving wife and family. Why someone who portrayed themselves to police as an apparent friend of the deceased would do this to the family of the deceased is inexplicable. Mr Braddy should be roundly criticised for such conduct.

### **Formal Findings**

66. On the basis of the tendered material and oral evidence given at this inquest, I am able to make the following formal findings:
  - i. The identity of the deceased was Neil Arthur McNab who was born on 18 March 1958 in Darwin in the Northern Territory of Australia.
    - ii. The time and place of death was at approximately 8.30am on Sunday 27 October 2013 at bushland adjacent to Wetherby Road, Girraween in the Northern Territory of Australia.
    - iii. The cause of death was multiple injuries from an ultralight crash.
    - iv. Particulars required to register the death:
      - a. The deceased's full name was Neil Arthur McNab.

- b. The deceased was not of Australian Aboriginal or Torres Strait Islander descent.
- c. The cause of death was reported to the Coroner.
- d. The cause of death was confirmed by post mortem examination carried out by Dr Terence Sinton on 28 October 2013.
- e. The deceased's mother was Fay Sloan and his father was Neil James McNab, who are both deceased.
- f. At the time of his death the deceased was self-employed operating an earthmoving business and was a plant operator-excavator by trade.

**Recommendations**

67. I have no recommendations arising from this inquest.

Dated this 30 day of December 2014

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GREG CAVANAGH  
TERRITORY CORONER