ANNEXURE C

Report of an Inquiry by a Conduct Division
of the Judicial Commission of NSW
in relation to
Magistrate Jennifer Betts

21 April 2011

IN THE RYDE LOCAL COURT

ROADS AND TRAFFIC AUTHORITY OF NSW (Plaintiff

٧

MS AMY COOPER (Defendant)

BEFORE: Magistrate Jennifer Betts

On Thursday, 26 June 2009

Mr Castle for the appellant Ms Cooper Mr Eurell for the respondent

1	HER HONOUR: Yes.
2 3 4	MR CASTLE: Could I mention matter number one on the applications list, your Honour? Matter of Amy Cooper.
5 6 7	HER HONOUR: Yes, RTA appeal?
8 9	MR CASTLE: My name is Castle.
10 11 12	HER HONOUR: Yes, I understand there are two RTA appeals. I'll deal with those both, now.
13 14 15	MR CASTLE: Your Honour, this is a request for referral to the traffic (indistinct) rehabilitation offender's program.
16 17	HER HONOUR: (Indistinct)
18 19	MR CASTLE: In that case, could I request an adjournment for two weeks?
20 21 22	HER HONOUR: Representation from the RTA?
23 24	MR EURELL: I appear for the (indistinct) E-u-r-e-l-1.
25 26 27 28	HER HONOUR: Your client um, is on a P2 licence. I don't know what the record is, but ah, at least on this occasion um, incurred 9 points - two speeding matters.
29 30 31	MR CASTLE: One - one was on a - on a double demerit weekend, your Honour.
32	HER HONOUR: No excuse, is it?
34 35 36	MR CASTLE: Ah, madam, my client does have fairly pressing reasons - reasons for a licence.
37 38 39 40 41 42	HER HONOUR: Won't do it - where she does a traffic attendance in the program 15 times. Won't get it. Okay. It makes a mockery of the demerit point system if young people especially (indistinct) think because they need to get to university or school, or whatever; public transport is here, available.
43 44 45	MR CASTLE: University and work, your Honour.
46	HER HONOUR: So what? We all do. Okay.

1 2	MR CASTLE: Um, your Honour normally (indistinct)
3 4 5	HER HONOUR: P-plate drivers are subject to 7 points for a P2 licence. Your client has got 9, two speeding matters.
6 7 8 9	MR CASTLE: Ah, one of them was on a double demerit weekend. I appreciate that the first double demerit was
10 11	HER HONOUR: You have said that twice.
12 13 14	MR CASTLE: Yes, well, I think it's fairly significant, your Honour.
15 16	HER HONOUR: No, it's not.
17 18	MR CASTLE: It's - it's a
19 20	HER HONOUR: Twice, she has been in and out of
21 22	MR CASTLE: (Indistinct)
23 24 25 26	HER HONOUR: Don't talk to me when I'm talking to you, okay? Double demerit points are well advertised. But two times your client has been caught exceeding the speed limit on a provisional 2 licence. Does she want to kill
27 28 29	somebody? MR CASTLE: Um
30	THE CHAPTER SIN
31 32 33	HER HONOUR: The two (indistinct), one of those is a double demerit points period. "So what" is what I am going to say to her when she gets in the witness box.
34 35 36	MR CASTLE: She heard
37 38 39 40 41	HER HONOUR: She will need to explain to me why she blatantly committed those two offences and disregarded her need for a licence, because that's exactly what she has done.
42 43 44 45	MR CASTLE: My client is before the court, your Honour. If your Honour is not prepared to adjourn, I'm happy to have the matter dealt with now. It appears that
46 47	HER HONOUR: I'll hear evidence from Ms Cooper to tell me exactly the situation behind these two offences. Then I

1 2	may consider any further application you wish to make.
3	MR CASTLE: Do you want me to call Ms Cooper?
5 6	HER HONOUR: Yes. Ms Cooper - Amy Cooper. Just come up to the witness box, thank you, ma'am.
7 8	MR CASTLE: Can I tender some testimonials, your Honour?
9	HER HONOUR. ALL LALL
10	HER HONOUR: Not at the moment. Just come up to the
11	witness box, thank you, ma'am. Just remain standing there,
12	thank you. Now, before giving evidence do you wish to give
13	evidence on oath to god or do you wish to make an
14	affirmation which is a promise to tell the truth.
15	MC COOPER O III I O I
16	MS COOPER: Oath to God.
17	
18	<amy cooper,="" sworn:<="" td=""></amy>
19	
20	HER HONOUR: Okay, just take a seat, thank you, Ms Cooper.
21	Please speak up loudly and clearly towards that microphone
22	in front of you.
23	
24	MS COOPER: Thank you.
25	
26	HER HONOUR: Now the ah, RTA file will be marked
27	exhibit 1.
28	
29	MR EURELL: I tender that.
30	
31	EXHIBIT #1 RTA FILE
32	
33	HER HONOUR: Thank You. Yes thank you, Mr Castle? Kathy
34	just bring it straight here, don't worry about where the
35	exhibits go. Yes, Mr Castle?
36	
37	<examination-in-chief by="" castle:<="" mr="" td=""></examination-in-chief>
38	
39	MR CASTLE: Q. Could you please tell the court your full
10	name and address?
11	A. My name is Amy Cooper. I live at 18 Horton Street,
12	Linley Point.
13	
14	Q. And you are the defendant in this matter?
1 5	A. Yes, I am.
16	
17	Q. The applicant in this matter. Um, on the 14th of
. 20	6/6/09 4 A COOPER x (Mr Castle)

1 2 3	March 2009 you were convicted of driving a vehicle at more than
4 5 6 7 8	HER HONOUR: Q. There was a camera offensive - offended - the camera detected offensive speed on 14 March 2009 in the Eastern Distributor at Darlinghurst, north-bound, travelling at 97 in an 80 zone? A. Okay. I was not aware that I was speeding at the
9 10	time.
11	Q. Why not?
12 13 14 15	A. Um, because I would have been driving up from Windsor at which point the speed kilometre limit is 100 kilometres an hour, and then I would set the cruise control on whatever the speed limit was, but then, you know, after
16 17	driving for a certain period of time
18	Q. This is the Eastern Distributor
19	A. Yep.
20	
21	Q okay. This isn't the city.
22 23	A. Yes, I know, but you can still continue
24	O. (Indistinct) I know, but you're the one responsible
25	Q. (Indistinct) I know, but you're the one responsible for how fast the car goes.
26	A. Yes, that's correct. And then after driving for that
27 28 29	period of time, just - you just keep going, and then I was not aware of speeding at 100 kilometres per hour.
30	Q. 97 in an 80 is what the camera got you at, okay.
31	Those signs clearly say 80. Did you see the signs?
32 33	A. I don't know.
34	Q. Of course you didn't. You don't know that you saw the
35	signs. You have to establish evidence to my satisfaction
86	that you are a fit and proper person to have a licence.
37	The explanation for this does not cut it, okay?
88	A. Okay.
19	0 411
.0 1	Q. All right? A. Yes.
-2	A. res.
.3	Q. You can't use the cruise control defence because there
4	isn't one there. You are the one who has the control of
5	the vehicle. Okay, you are now in the city. Get the
6	cruise control off. You are the one who can see the
7	speedometer right in front of you. You are the one who has
	· · · · · · · · · · · · · · · · · · ·

your eyes opening out to see what the speed limit signs are 1 2 because they do change, especially on major roads like 3 that, from 100 to 110 to 100 to 80 to 90 whatever. 4 I'm not allowed to do 110. 5 6 Q. Yes, I know you're not. 7 Α. I'm only a P-plate driver. 8 9 I know, but you've done 97 in an 80 zone, okay? 10 That's why you are here today and you are blissfully 11 unaware that you have committed an offence. 12 concern to me. 13 I know. I'm aware that I have committed an offence. 14 The reason I'm here is because I've been told that I have 15 to come to court because of these things. 16 17 Q. You are the one that has lodged an appeal. You have to establish that you are a fit and proper person to have 18 19 your licence restored to you. 20 I am a fit and proper person. 21 22 No, you're not. I'm saying (indistinct) on one 23 offence, okay. You've got two speeding offences within a 24 month of one another. 25 Α. Okay. 26 27 Q. That's very poor, isn't it? Okay. 28 I don't believe so. Α. 29 30 Now let's talk about the first one. On 14 March you drove from Windsor. It was on speed - what do you call it? 31 32 The cruise control. Why didn't you look at the signs? 33 You have to vary it as you go through, so you adjust 34 and then you speed up again during a certain time, and the 35 speed limit doesn't stay at 80 the whole way through. 36 37 Get rid of the cruise control, because you have to 38 establish yourself a pattern of driving so you have control instead of thinking the car is going to drive itself, 39 because the cruise control is not (indistinct), you are, 40 okay. So I suggest quite clearly - I've got a cruise 41 42 control on the cars I have. I don't use it. I want to be in control. That's lazy driving. That's just not a good 43 excuse, okay. So you struck out on that one. Okay, the 44 45 next one, 11 April --46 Α. The one --47

- 1 Q. Hang on. Hang on. I'll have a look, okay? 2 Α. Okay. 3 4 It's not good, is it? 5.04pm on Saturday, the 11th of 5 April, Victoria Road, Rydalmere, 79 in a 60 zone. 6 hell is going on there? 7 Okay. The road on Parramatta changes from a 60 zone 8 to a 70 zone. 9 10 It is never a 79 zone, is it? Or an 80 zone, is it? 11 Do you agree with that? 12 May I continue? 13 14 I'm asking you the question. Is it; it's not anything 15 other than a 70 zone from Parramatta to the city on 16 Victoria --17 The point where I was --18 19 No, just answer that question. It's never more than 70, is it? 60, 70, school zone is 40. Okay, so why were 20 21 you doing 79? 22 I was aware that um - the point where I was I thought 23 was a 70 zone. There's very limited signing in that area. 24 25 Q. So that's why you do 79? The point where I was caught was when I was going down 26 27 a slope. I was unaware that I had raised above, you know, the limit, and then when the police caught me at the bottom 28 29 of the hill they said that I was doing 79 which I just 30 thought was very odd, but um, it was also right before I changed to a 70 zone. It was about 500 metres away. 31 32 That's half a kilometre. You've got no idea about the 33 34 road rules, do you, ma'am? You've got no idea that your 35 responsibility is to ensure that you and only you comply 36 with the road rules when you are behind the wheel of your It is not a hill, like you're going to be racing down 37 38 It's a slight slope, okay. Now, 79 - 81 to 79 is 39 what the police got you at, okay. They put 79 on the 40 ticket, the lesser amount. That's still way above the 70 zone if you thought it was a 70 zone, right. 41
- zone, the area in which you were caught speeding.
 (Indistinct) 70 zone, 500 metres up the road. That's a
 half kilometre. That does not condone your actions. Why
 weren't you in a position to understand you were travelling
 at 79? Once again, ignoring the signs; you didn't see the

47 60 zone sign. They are there.

1 Α. They are very sparse. 2 3 0. They are there, ma'am, okay. And you are the one who 4 has got the speedometer right in front of you. You don't 5 seem to want to look at it. You've got every excuse under 6 the sun. You're responsible for these two - two offences; 7 nobody else. 8 I admit that I'm responsible for them. Α. 9 10 It clearly demonstrates to me - that your own answers 11 clearly demonstrate to me, that you have got no 12 (indistinct). It's the hill that has caused you to commit 13 the offences - the sign 500 metres up the road saying 70 14 which allows you to go to 79! No way. You should go back 15 to school. Look at the handbook. Better still, go to the 16 morgue and see dead bodies caused by speeding. Maybe then 17 you might start looking at the speedometer, keeping an eye 18 out for the signs which are there. Sparse or not, they are 19 Do you understand where I'm coming to? 20 À. Yes, I do. 21 22 I don't give a licence back to young people because 23 they want to have it back for their own convenience. 24 You've got to demonstrate why - there's nothing exceptional 25 in any of these offences. In fact, your explanation leaves 26 a lot to be desired. It clearly demonstrates to me you just don't have a clue about your responsibilities, okay. 27 28 Why do you need a licence? 29 Because I've lots of responsibility. I help out --30 31 Don't we all? Don't we all? You've got two speeding offences within one month of each other very early in your 32 33 driving career. That's not good enough. What do you do 34 for a living? 35 I look after children. Α. 36 37 Q. Where at? 38 Α. Gladesville. I'm a coordinator at a centre. 39 40 Q. You live at Linley Point? 41 Α. Yes. 42 43 Q. So that's not too far to get a bus? 44 Α. Not at 6.30 in the morning. 45 46 Q. There's buses at 6.30 in the morning. 47 Α. From Linley Point?

44

45

46

47

They want me to consider carefully what you are

playing the devil's advocate here, because the community

have a right just as much as you do in relation to your

saying to me, not have somebody who willingly, knowingly

A. I also have --

7 8 9

- Q. Big deal. It's three months.
- A. I also have other commitments at my church in Mosman and other --

12 13

- Q. Once again, it's a public transport trip away, isn't it?
- A. And other commitments at the church in Castle Hill.

15 16 17

18

19

20

14

- Q. Once again it's another difficulty you have created for yourself. Why do we have a demerit point system, ma'am? You tell me.
- A. To ensure well, I think first of all most it's a revenue raising thing, but to make sure --

212223

24

25

26

Q. No, no, no. Exactly. Mr Castle has put his head in his hand. That's disgusting response. That's the newspaper response, okay. You've committed two offences. Why shouldn't you pay a fine for committing those two offences --

27 28 29

30

31

32 33

34

35

36

37

38

39

40

41 42

43

44

45 46

47

A. I agree --

Shut-up, please, ma'am. I'm going to talk to you now and you listen hard. That response is another black mark against you, okay - "Revenue raising". That is the most ridiculous thing any person can say to anybody else. right? Why, in smaller points? I will tell you. It's pretty simple. To act as some sort of checking mechanism for all of us to ensure that we keep to the road rules when we are behind the wheel of a car, to make sure we're going to be safe drivers, and if we're not safe drivers, if we inadvertently are not concentrating and have one offence, we'll have three points deducted, or whatever the points And then we know "Okay, for me I've got nine more to I must make sure - my licence is very important to me. I must make sure I do not lose it. But more importantly, I don't want to kill somebody out there on the road." the reason why we have demerit points, okay. understand now? Forget about revenue raising; that's a disgusting response. Gee, if I had the power to increase

```
1
          it, I would. Three months' inconvenience, and you think
  2
          you're god's gift, do you?
  3
               No, I don't.
  4
  5
               Well why are you here wasting my time, because that's
  6
          exactly what you are doing. You've got no idea. You have
          clearly demonstrated that by your own answers you've got no
 7
          idea why we have road rules. You seem to think you're
 8
 9
          exceptional. You're not.
10
               I don't.
          Α.
11
12
               Your explanations are pitiful.
                                               I don't mean to
          embarrass you, but they are pitiful, and that answer there,
13
          I think everybody was thinking "My god, what is this young
14
          lady doing? Putting herself deeper and deeper in a ditch?"
15
          Exactly, you don't. Okay, so you work at Gladesville.
16
          live at Linley Point, so that's not a massive journey.
17
         Okay, church commitments; unfortunately other people are
18
         going to have to help you out there. You don't deserve to
19
         be on the road. And hopefully you are going to learn how
20
         important your licence is to you, which obviously you
21
         didn't think about on 14th of March when you had your
22
         cruise control on going through the Eastern Distributor, or
23
         did you, on Victoria Road at Rydalmere, think about the
24
25
         consequences of the possibility of losing your licence?
         Double demerit points. You were aware of that.
26
27
         Easter time.
28
         Α.
              (Indistinct).
29
30
              You are a very, very foolish young lady. If you don't
         get the message now, after today, you never will. Do you
31
32
         understand where I'm' coming from?
33
              I do. Yes, I do.
34
35
         Q.
              Do you see any merit in your own application?
36
         Α.
              No.
37
38
         HER HONOUR:
                       Mr Castle, any other questions you wish to
39
         ask Ms Cooper?
40
41
         MR CASTLE:
                      There are other reasons for my client
42
         retaining her licence which are --
43
44
         HER HONOUR:
                       Well, she can tell me.
45
46
         MR CASTLE:
                      Q.
                           Do you attend university?
47
         Α.
              Yes, I do.
```

1 MR CASTLE: (Indistinct) your Honour. 2 3 HER HONOUR: Q. Where's your university? 4 At Macquarie Uni. Α. 5 6 Q. Yeah, a bus trip away, isn't it? It is. 7 Α. Not exactly. 8 9 It is a bus trip away. You might have to get two buses - get the bus from Linley Point down Burns Bay Road 10 into Gladesville street, Hunters Hill, then you hop on the 11 12 Easy. Fair dinkum. If you were born 80 years ago you'd have to walk 20 miles to school every day. Gosh 13 14 knows how you're going to be treated. 15 At ah, night-time, late at night, there is no public 16 transport --17 18 Q. There's a train, isn't there? 19 -- at 11 o'clock at night. 20 21 Yeah, I know, but other arrangements have to be made. You have - you knew about all these commitments when you 22 blatantly drove well in excess of the speed limit you 23 thought it was, let alone the actual speed limit of 60. 24 You knew full well of your commitments and you didn't 25 care, you didn't think of them and now you're asking me 26 27 to think of them. No, I'm not going to, because I have no guarantee you're not going to continue to offend again 28 because you just think "revenue raising". That's a pitiful 29 30 response. 31 They are there to protect us, but I believe that the Α. 32 demerit point system --33 Shut your mouth because I don't think it's going to do 34 Q. any good. Mr Castle is really aiming for you to be quiet. 35 You have your own views on that. The speed cameras are 36 They do pick up people who offend who breach the 37 there. 38 law. 39 Α. That's right. 40 41 Q. They have to pay fines. 42 Α. (Indistinct). 43 44 Um, your Honour, I'd like you to take into MR CASTLE: 45 account --46 47 Any further questions, because she needs to HER HONOUR:

1 be cross-examined. 2 3 MR CASTLE: No, no further questions, your Honour. 4 5 HER HONOUR: Yes, any cross-examination, Mr Bueraa? 6 7 MR BUERAA: No, thank you, your Honour. 8 9 HER HONOUR: Yes, thank you, Ms Cooper. You certainly 10 have not demonstrated to me any great due regard for the 11 road rules at all. You put your head in your hands when 12 she said "revenue raising". I mean, she is a forthright 13 young woman but a very selfish one. 14 15 MR CASTLE: It is a general public consensus, I believe, your Honour, if it's not shared by you. I'd like you to 16 17 take --18 19 HER HONOUR: What merit is there? 20 21 MR CASTLE: -- I'd like you to take into account, your Honour, that my client has held a licence for two years. 22 23 She's had two offences. They were both committed --24 25 HER HONOUR: In a month. Within a month. 26 27 MR CASTLE: -- committed in close proximity of each other 28 and - and - and --29 30 HER HONOUR: And the explanation is given. 31 32 MR CASTLE: -- I'd ask you to accept they are an 33 aberration. 34 35 HER HONOUR: No, they weren't. 36 37 MR CASTLE: Your Honour, you've --38 39 HER HONOUR: Oh, Mr Castle, really. I know you are doing 40 your job. They are not an aberration. You heard the - your client's own evidence in relation to them. 41 "Cruise control"; "didn't even notice it was an 80 zone". 42 43 Your Honour has come to the conclusion that my 44 MR CASTLE: client is not a fit and responsible person to hold a 45 licence, your Honour. My client did - has offered and 46 sought to be - um, to participate in the traffic 47

re-offenders program. Um, and it might be --

HER HONOUR: She can do that voluntarily. It won't change my decision. She has clearly demonstrated --

MR CASTLE: I think she needs actually an order from the court to attend, your Honour.

HER HONOUR: No, solicitors can send off their clients before they plead guilty. She can voluntarily take herself off there. She would not get a licence back from me even if she did it, okay. It may be helpful for her to do it. That just sheets home the common sense that we all should have in relation to the dangers of drink and driving and speeding and any other offence out there. Your client's own evidence in relation to these two offences leaves a heck of a lot to be desired, and I think that was clear for you as well as me, and hopefully now her. Not good enough.

MR CASTLE: Well I've - I've --

 Now why is it that young people seem to think that since they live one suburb away from where they work that that inconvenience is going to be too great for them to bear? Welcome to the real world. We are spoilt, this generation, very, very spoilt. She seems to think she is hard done by by incurring 9 points - "it's the car's fault", "it's the hill", "huge hill in Victoria Road"; I don't think so. That's never going to be an explanation. Double demerit points - she was aware of it. It was Easter time. No merit whatsoever.

I'm not satisfied on the evidence that Ms Cooper is fit and proper person to have a licence. Accordingly, the suspension of the appeal is dismissed. Suspension of three months will take place as of now, the 26 of June 2009. That means you must not drive until after 25th September 2009.

MR CASTLE: Your Honour, may - may I ask that the suspension start um --

HER HONOUR: The appeal is dismissed now - now --

MR CASTLE: It's just, my client --

HER HONOUR: -- 5 to 10.

```
1
          MR CASTLE:
                       -- my client drove here, your Honour.
  2
  3
          HER HONOUR:
                        If she has driven to court today, she is a
  4
          very, very foolish young lady.
  5
  6
          MR CASTLE:
                        I did --
  7
 8
          HER HONOUR:
                        She'll have to arrange somebody else to drive
 9
          the car.
                    It's taking place as of now, 5 to 10.
10
11
          MR CASTLE:
                       As you please, your Honour.
12
13
          HER HONOUR:
                        Ms Cooper, where did you park your car?
14
          We'll escort you to make sure you don't drive it.
15
16
          MR CASTLE:
                       I don't think that will be necessary.
17
18
          HER HONOUR:
                        Well, I hope not. The police around here
19
          always catch the persons who only drive for the first and
20
          only time, driving while suspended. Ms Cooper, you are not
21
          to drive --
22
23
         MR CASTLE:
                       I'll wait - I'll wait - I'll wait - I'll wait,
24
         with my client.
25
26
         HER HONOUR:
                        -- as of now. Ms Cooper, stand up, thank you,
27
         ma'am.
28
29
         MS COOPER:
                       I'm more then understand, that I'm not to
30
         drive now.
31
32
                        Not to drive as of now for a period of three
         months, okay? If you drive while suspended - I'm talking
33
         to you; please stand up. I can't see your eyes at all.
34
35
         Very important things I need to say to you, okay.
36
         get caught driving while suspended, it carries
37
         consideration of a jail sentence.
38
39
         MS COOPER:
                       Yes.
40
41
         HER HONOUR:
                        Okay. It also carries a minimum period of
         disqualification for 12 months, so do not be tempted at all
42
43
         to drive for any reason for the next three months.
44
45
         MS COOPER:
                       (Indistinct).
46
47
         HER HONOUR:
                               Now, why you drove to court today when
                       Okay.
    .26/6/09
                                      A COOPER x (Mr Castle)
```

this appeal was pending I do not know, but certainly do not be tempted to drive home. You'll have to make other arrangements. MS COOPER: I shall. Yes, thank you, very much now, Mr Castle. HER HONOUR: MR CASTLE: Thank you, your Honour. HER HONOUR: You are excused.