

Mr Devine, you have pleaded guilty to one count of dangerous driving. You have also pleaded guilty to the summary offences of evade police with aggravated circumstances and driving whilst disqualified.

You committed these offences on 13 October 2018. At that time, you were subject to a court ordered disqualification, which had been imposed on 7 June 2018 for offences, which included evading police with aggravated circumstances, and which were committed on 1 March 2018. You were also subject to a community service order and a probation order, which had been imposed as part of that sentence. Finally, you were at large, having failed to appear in court in breach of bail with respect to a charge of dangerous driving alleged to have been committed at the same time as the evade police. You had been committed to this Court in respect of that charge. You eventually pleaded guilty to that charge, and were sentenced on 31 January 2019 by the Chief Justice to 22 months' imprisonment, commencing on 17 October 2018.

The driving relevant to this case commenced at about 6.20 pm, when you were seen driving a vehicle at Bridgewater by police in two separate police vehicles. One of the vehicles attempted to intercept you by travelling behind you and activating its emergency lights and sirens. You failed to stop, and attempted to avoid interception by travelling between the suburban street that you were on and the East Derwent Highway, through a vacant block connecting the two roads. At one point, your vehicle became airborne as it travelled over a mound of dirt on the block, before it entered the highway. This manoeuvre obviously resulted in your vehicle travelling across two pedestrian footpaths. Your speed through this part of the journey was in excess of 80 km/h. The limit in this built up residential area is 50 km/h.

After reaching the highway, you increased the speed of your vehicle to in excess of 100 km/h. At one point, you crossed into the path of an oncoming vehicle as you overtook another vehicle. The oncoming vehicle was forced to brake and take evasive action to avoid a collision. Further along the highway, you crossed a double white line on a bend while overtaking three motorcycles at speed. Again, you did this in the face of oncoming traffic. The oncoming vehicles, which included a police vehicle, were forced to brake to avoid collision. At this point, you were travelling in excess of 100 km/h despite a speed limit of 80 km/h.

You then travelled over the Bowen Bridge towards Glenorchy. As you were leaving the bridge, you travelled onto the wrong side of the road at an estimated speed of 120 km/h. Your vehicle was unstable and wobbling. A woman driving a vehicle in the opposite direction, on the correct side of the road, was forced to brake suddenly and drive onto the grass verge in order to avoid collision with you. Her father and three month old son were passengers in her vehicle. Your vehicle was not seen again until it was located by police at an address in Glenorchy some hours later.

You were arrested by police one week later, after a further episode of evading police and driving while disqualified. When interviewed about this incident, you denied having driven the relevant vehicle.

I regard this as a serious case of dangerous driving. The driving occurred over a considerable distance, approximately 15 kilometres, and lasted for a total time of 15 minutes. It occurred in residential built-up areas and on major arterial roads and a highway. It is a matter of real

concern that you endangered the lives of police and other road users. You also put yourself at considerable risk. On a number of occasions, you drove directly into the path of oncoming traffic at considerable speed. Head-on collision was only avoided by evasive action taken by other drivers. Further, the driving occurred in the context of your attempt to escape from police. This added an aspect of desperation to your conduct, which I have no doubt increased the inherent danger involved in your driving. General deterrence and denunciation of such conduct are important sentencing considerations.

You are 22 years of age and were 21 when you committed these offences. Prior to the sentence imposed on 7 June 2018, you had been convicted of a number of other traffic offences, including driving whilst disqualified and driving with an illicit drug present in blood. Your previous driving had also been the subject of infringement notices from time to time. I am told that at the time of committing this and your earlier crimes, you were using methylamphetamine. You started to take drugs as a perceived means of dealing with a difficult relationship breakdown. Your counsel says that you are now older, that you have realised that you cannot continue to break the law, and have decided that you want to change your life. He asks me to accept your plea of guilty as an indication that you are prepared to take responsibility for your past conduct. You have young children and you claim that this motivates you to achieve rehabilitation. Of course, your counsel also acknowledges that your plea was entered at a late stage of the proceedings. The prosecutor asserts that it was in response to a strong prosecution case, because the police, who originally recognised you driving, knew you well. The case was due to proceed to trial last year but you failed to appear in court. Despite these matters, I think that you should receive some credit for the plea. It has avoided a trial which would have been of some length, required a number of members of the public to give evidence and, of course, would have utilised precious court time, in circumstances where that time is in short supply because of the current health crisis. This does increase the utilitarian value of the plea. However, I am not convinced that the plea is evidence of a genuine commitment to rehabilitation. After you were released on parole in late 2019, you committed a number of further offences which led to the imposition of a further term of imprisonment and the revocation of parole. I hope you have developed a true commitment to reform. You are still a young person. However, in order to achieve rehabilitation, you must first deal with the consequences of your past conduct, and show that you have a genuine commitment to reform. I will provide another opportunity for release on parole, in order to support this commitment, if it is demonstrated by you. However, the persistence of your offending does require some emphasis on personal deterrence.

Given that you are presently serving the sentence imposed by the Chief Justice, together with a concurrent sentence imposed in April 2020 by the Magistrates Court for the offending while you were on parole, it is necessary to have regard to the principles of totality. Although I am dealing with conduct which is completely separate to that to which the other sentences relate, I must ensure, particularly having regard to your young age, that the overall period in custody is not unduly crushing. Accordingly, although the objective seriousness of your offending requires imposition of a significant term of imprisonment, I will modify the head sentence and make provision for early release on parole in order to reflect these considerations.

The orders I make are as follows:

- 1 You are convicted of the crime and the offences to which you have pleaded guilty.

- 2 For the offence of evading police with aggravated circumstances, you are sentenced to 6 months' imprisonment, which will be served cumulatively upon the sentence of 7 months' imprisonment imposed by the Magistrates Court on 16 April 2020. You will not be eligible for parole until you have served one half of that sentence. Further, I impose a driving disqualification of two years, which will commence on the date of your actual release from prison. I understand that it may, therefore, operate concurrently with the disqualification imposed by the Chief Justice, at least for some time.
- 3 For the crime of dangerous driving and the offence of disqualified driving, I impose a global sentence of 18 months' imprisonment. You will not be eligible for parole until you have served one half of that sentence. This sentence will be served cumulatively upon the sentence imposed in respect of the evade police charge. Further, I impose a global driving disqualification of 18 months, which will operate cumulatively upon the disqualification imposed for the evade police charge. Hence, the overall disqualification in respect of all offences, which are subject to this sentence, is an aggregate period of three years and six months commencing on the date that you are released from prison.
- 4 For the purposes of s 92A(3) of the *Sentencing Act*, I specify the following:
 - (a) The total term of imprisonment which you are liable to serve in respect of all of the above sentences imposed by me today is 2 years, commencing from the end of the said 7 month sentence, which is 22 July 2020.
 - (b) Having regard to the provisions of s71 of the *Corrections Act* 1997, the total period that you must serve before you become eligible for parole is the aggregate of the minimum terms relating to each of the said sentences, which is a period of 12 months. This non-parole period is cumulative upon the minimum term of the sentence imposed by the Magistrates Court, which expires on 22 July 2020. The aggregate non-parole period of 12 months will therefore commence on that date.
 - (c) By way of comment, I observe that the effect of this order is that the aggregate sentence and non-parole period operate concurrently with the sentence of imprisonment imposed by the Chief Justice. I have taken this course in order to moderate the overall time that you spend in custody, having regard to your age and the principles of totality. Further, had I made the sentence cumulative upon that imposed by the Chief Justice, the effect of s 71 would have been that the non-parole period imposed by me would have been automatically backdated to the end of the non-parole period relevant to that sentence. Having regard to the history of this matter, that would have resulted in an inappropriate and unrealistic outcome.