

THE KING v BRENDON HOOPER
COMMENTS ON PASSING SENTENCE

6 OCTOBER 2025
SHANAHAN CJ

Brendon Hooper you have pleaded guilty to one count of offending against s 474.22A(1) of the *Criminal Code* (Cth), which I shall refer to as the "Code", that is possessing or controlling child abuse material obtained or accessed using a carriage service, and one count of failing to comply with reporting obligations contrary to s 33 of the *Community Protection (Offender Reporting) Act* 2005, which I shall refer to as the "CPOR Act". The second matter is a State offence charged summarily by complaint 7483/2024 which I am dealing with today pursuant to s 385A of the *Criminal Code 1924* (Tas). The fact that I am prepared to deal with both of those matters today indicates that the two offences are closely related.

I amended the complaint, being count 2, at the sentencing hearing to read "14 January 2022" in the second line of the description of the offence.

The relevant background in this matter relates to your reporting obligations under the CPOR Act as a result of your conviction in this Court in Hobart on 12 February 2010, including:

- (i) The offence of maintaining sexual relations with a person under the age of 17 years (which involved offending against an ex-partner's 6 year old daughter);
- (ii) Producing child exploitation material (10 photographs of the same 6 year old);
- (iii) Possession of child exploitation material (including 2,968 files, including 2700 cartoon drawings), and
- (iv) Your name was placed on the Register with an obligation to report for seven years following your release from prison.

On 1 August 2012, you were placed on the Queensland Community Protection Offender Register, so you went to Queensland after being released, and were a "corresponding reportable offender" under s 11 of the *Community Protection (Offender Reporting) Act* 2005 (Tas) ("CPOR Act").

Your reporting period was increased from the seven year period imposed by this Court on 12 February 2010 to 15 years. I understand that arose because you were an "existing reportable offender" under s 6 of the *Child Protection (Offending Reporting and Offender Prohibition Order) Act* 2004 (Qld), and given the nature of the offences that you were convicted of in Tasmania, and having stayed in Queensland for more than 14 days, you were required by s 36 of that Act to report for 15 years. The consequence of that is that you currently have a registering obligation until 28 February 2027.

On 3 February 2014 you signed a copy of your "Notification of Reporting Obligations" at the Bellerive Police Station, which marked your return to the Tasmanian legislative regime and your obligations under the Tasmanian Community Protection Offender Register. Your obligations under the CPOR Act were, as a consequence, to continue to report in accordance with that Act until 28 February 2027.

On 28 November 2023, police attended your residence to conduct a check under the CPOR Act. At that time, upon request, you provided police with your Samsung mobile phone, which was searched by police. Police identified an instant messaging and social application called Discord, and discovered that you were signed into the application using an account named "KrazyforKinks", which account had been registered as a member of Discord since 7 January

2022. Your phone was then seized by police pursuant to s 45C(2)(b) of the CPOR Act because you had not reported the username in breach of s 45C(3) of the Act.

Upon inspection, your mobile phone was found to contain seven images comprising child abuse material. These images are the subject of the first count, ie possession of child abuse material obtained or accessed using a carriage service in breach of s 474.22A(1) of the Code.

The seven images were screenshots of a mobile game. The game is incest focussed and allows the player to simulate relationships and sexual intercourse with children. The seven files have been described in the Crown Papers at p 14 and I will not recite the details here. Those files are dated 4 January 2023, 18 February 2023, 21 March 2023, 8 May 2023, 26 June 2023, and two are both dated 22 August 2023.

Count 2 relates to your failure to comply with reporting obligations on 14 January 2022, hence the amendment to the complaint.

Your reporting obligations under s 17(1)(ic) of the CPOR Act required that you provide the Registrar or an authorised person, within seven days, with any changes to relevant details, including, "any email addresses, internet user names, instant messaging user names, chat room user names or any other user name or identity used, or intended to be used, by ... [you] ... through the internet or other electronic communication service and any passwords associated with each of these".

Your Discord account with the username "KrazyforKinks" was created on 7 January 2022. Hence the seven day period within which you were required to provide your details under s 17(1)(ic) of the CPOR Act expired on 14 January 2022, hence the relevant date for the purposes of the second count.

You participated in an electronically recorded interview with police at the Glenorchy Police Station on 9 July 2024. Under caution you made a series of statements including:

- (i) You had downloaded the game I have described and played it for a bit over a year – you heard that the creator had been arrested and you then deleted the game a couple of weeks later out of concern you would get into trouble;
- (ii) The game was an incest story for which you paid \$10 per month, and that payment supported the creator of the game;
- (iii) The game depicted children and underage sexual activity;
- (iv) About three months after you deleted the game, police attended your address and took your Samsung mobile phone, and that suggests that you deleted the game three months before it was seized on 28 November 2023, sometime in August 2023, and I note the last two images saved on your phone were saved on 22 August 2023;
- (v) You said you are attracted to children, and interested in reading and watching incest related content. It is all fiction so you believe no one is being harmed by it;
- (vi) You would take screen shots during the game. You would take them to zoom in on things within the image and would usually delete them straight after;
- (vii) You agreed the phone was yours and was locked with a PIN. You agreed that any screenshots taken on the phone were taken by you. You said you could not recall the content of the pictures – I do not for the purposes of sentencing accept that;

- (viii) You said you understood the game to be child abuse material (and clearly the screenshots by extension fall into that category) but you said you felt it was unfair to be charged for them in addition to accessing the game, and
- (ix) You did not see any harm in fictional pictures.

The maximum penalty on count 1 is imprisonment for 15 years, the mandatory minimum head sentence is imprisonment for four years. Because on the mandatory head sentence a non-custodial sentence is not an "available sentence". I need to say something about the application of that mandatory minimum head sentence.

The mandatory minimum penalty arises in this case because you have previously been convicted in 2010 of a child sexual abuse offence. The offence for which you were convicted in Tasmania in 2010 was a "State or Territory registerable offence". That much is clear when you consider that was the point in time at which you were made subject to registration obligations, and obligations under the CPOR Act. Such "State or Territory registerable offences" are included in the definition of "child sexual abuse offence" at s 3 of the *Crimes Act 1914* (Cth), at paragraph (d) of that definition. That provision was amended on 23 June 2020 and applies to this sentencing disposition.

Further, the definition of "Commonwealth child sex offence" also includes Subdivisions D and F of Division 474, and s 474.22A, the offence charged at count 1, appears in Subdivision D. Thus count 1 is a "Commonwealth child sex offence". The definition of "child sexual abuse offence" at s 3 of the Crimes Act, and at paragraph (a) of that definition, includes a "Commonwealth child sex offence". Thus, a conviction for count 1 is also a conviction for a "Commonwealth child sexual abuse offence" for the purposes of the Crimes Act.

The gravamen of this tour of the Crimes Act and the Code is that you were convicted of "Commonwealth child sexual abuse offences" in 2010 and by your plea to count 1, have now been convicted of a further "Commonwealth child sexual abuse offence".

Section 16AAB of the Crimes Act deals with second or subsequent offending, where a person is convicted of a subsequent "child sexual abuse offence", and sets out a table of mandatory minimum penalties. At Item 24A of that table, where the subsequent offence is an offence against s 474.22A(1), the mandatory minimum term is four years. It is that penalty that applies in this case in respect of count 1.

The maximum penalty for the second count is imprisonment for two years and/or 100 penalty units, which is equivalent to a fine of \$18,100.

Section 16A(1) of the *Crimes Act* conveys the obvious proposition that any sentence I impose be of a severity commensurate with the nature of the offence committed. Section 16A(2) of the Crimes Act sets out relevant factors to which I must have regard, albeit it is not an exhaustive list.

- "(2) In addition to any other matters, the court must take into account such of the following matters as are relevant and known to the court:
 - (a) the nature and circumstances of the offence;
 - (b) other offences (if any) that are required or permitted to be taken into account;

- (c) if the offence forms part of a course of conduct consisting of a series of criminal acts of the same or a similar character--that course of conduct;
- (d) the personal circumstances of any victim of the offence;
- (e) any injury, loss or damage resulting from the offence;
- (ea) if an individual who is a victim of the offence has suffered harm as a result of the offence—any victim impact statement for the victim;
- (f) the degree to which the person has shown contrition for the offence:
 - (i) by taking action to make reparation for any injury, loss or damage resulting from the offence; or
 - (ii) in any other manner;
- (fa) the extent to which the person has failed to comply with:
 - (i) Any order under subsection 23CD(1) of the *Federal Court of Australia Act 1976*; or
 - (ii) any obligation under a law of the Commonwealth; or
 - (iii) any obligation under a law of the State or Territory applying under subsection 68(1) of the *Judiciary Act 1903*; about pre-trial disclosure, or ongoing disclosure, in proceedings relating to the offence;
- (g) if the person has pleaded guilty to the charge in respect of the offence:
 - (i) that fact; and
 - (ii) the timing of the plea; and
 - (iii) the degree to which that fact and the timing of the plea resulted in any benefit to the community, or any victim of, or witness to, the offence;
- (h) the degree to which the person has cooperated with law enforcement agencies in the investigation of the offence or of other offences;
- (j) the deterrent effect that any sentence or order under consideration may have on the person;
- (ja) the deterrent effect that any sentence or order under consideration may have on other persons;
- (k) the need to ensure that the person is adequately punished for the offence;
- (m) the character, antecedents, age, means and physical or mental condition of the person;
- (ma) if the person's standing in the community was used by the person to aid in the commission of the offence--that fact as a reason for aggravating the seriousness of the criminal behaviour to which the offence relates;
- (n) the prospect of rehabilitation of the person;
- (p) the probable effect that any sentence or order under consideration would have on any of the person's family or dependants."

The Commonwealth points to a number of matters in aggravation, these include:

- (i) The nature of the game, focussing as it does on incest and its focus on sex with and by children;

- (ii) The abhorrent content of the seven images, depicting as they do, sexual acts between children and adults, and allows the player to decide how the children are to be sexually abused;
- (iii) The criminality involved in the possession of material that does not depict real children is of a different nature to the criminality involved where real children are depicted but it is not harmless, it has the tendency to normalise exploitative sexual activity involving children, and of course may stimulate a susceptible viewer to engage in sexual activity with real children;
- (iv) The metadata recovered from your phone shows that you were engaged in playing the game on at least the dates that you saved screenshots to your phone and that was not a one off, but rather a course of conduct over the period between the seven images, that is, between 4 January 2023 and 22 August 2023, some eight months;
- (v) You paid to access that material and that supports the industry and the offenders who create it, and
- (vi) You were already subject to reporting requirements under the CPOR Act at the time of your offending.

In mitigation I was told that you are a 46-year-old single man, and you live with your adult nephew in a home. You had previously lived for many years with your parents. You live in a housing commission home, it is a house custom built for those with disabilities. The Department had allowed you to stay in that home, but now that you are necessarily going into custody, given the mandatory provisions relating to sentence, they have advised that you will have to move when your released. It has been a long-term home, and you will have to find housing elsewhere, so you will lose your home as a result of this custodial sentence. I am told you have anticipated that and you accept that outcome.

You maintain a close relationship with your sister and her family, and they have been supportive. I am told that without the support of your sister ,you will struggle.

It was put that you suffered severe depression at the time when you began to engage in this incest game. I was also told that in regards to count 2, the Discord online persona, that you were aware that you breached your reporting obligations, but at the time you self-justified on the basis that it was not a social media identity like Facebook, Snapchat and so on, and at first, you did not accept it as a breach, but you do so now.

I was provided with a report from Dr Jennifer Wright, dated 11 September 2025. Dr Wright is a clinical and forensic psychologist. Dr Wright assesses risk of further offending at paragraph [28] of her report in the following terms:

"In my opinion, the risk of Mr Hooper engaging in a contact sexual offence in the future is low. The risk would increase if he lost the support of his sister, his depression and PTSD be untreated, and/or he have easy and unsupervised access to a potential victim. (i.e. a female child between 7–17 years). If he does engage in further offending, in my opinion he is much more likely to further engage with CEM ... [child exploitation material] ... than to commit a contact sexual offence as he is highly motivated not to do so, and very aware of the harm caused by such actions."

I note the Commonwealth's submission that "Mr Hooper will not always have the support of his sister". I accept Dr Wright's assessment that the lack of such support would increase the

risk factors in respect of further offending. There appears to be at least a moderate risk that you may offend in the future in respect of child exploitation material.

Dr Wright has also provided her opinion in respect of the *Verdins* principles. She expresses the view that your depression impaired your ability to exercise appropriate judgement. She also opines that your alcohol use disorder and paedophilia were also causal contributors to your actions, and concludes that but for your depression, and the associated apathy about your life, she thinks it unlikely that you would have accessed child exploitation material. I am told that you would be most vulnerable to re-offending during a relapse of your depressive illness and you need to be vigilant and have appropriate therapeutic support.

You were open in your engagement with Dr Wright who states that that is rare in members of your cohort. That is reflected in the admissions you made to police at interview. She notes your desire for on-going help, and regards treatment for your major depressive disorder as paramount in this regard.

I am told by Dr Wright that you will find imprisonment difficult, and that your risk of self harm will need to be closely assessed.

I was also told in mitigation that your mother had lifelong challenges with drugs and alcohol and mental health. Ultimately, she committed suicide. Further, that your father also had significant health issues to do with addiction. I am told you have a personal abhorrence of child sexual abuse, despite the fact, of course, that you have been convicted of that. I was told that your adult niece, with whom you are very close, and is now aged in her late 20's, was seriously sexually abused by her stepfather, your brother-in-law. This is a matter that deeply distresses you. You find these issues confronting and distressing, and they add to your own disgust with your own paedophilic tendencies.

I pointed out during submissions in mitigation and earlier, that your focus on anime or cartoon figures does not significantly reduce the risk and harm of your offending.

Some care has to be taken when seeking to apply these labyrinthian sentencing provisions. Whilst a mandatory minimum suggests that a sentence cannot be less than the four years imprisonment, as stipulated at s 16AAB of the *Crimes Act* that is not the case because there are further statutory provisions which allow a court to impose a lesser sentence in some circumstances. These provisions are found at s 16AAC(2) and s16AAC(3) of the *Crimes Act*:

- "(2) A court may impose a sentence of imprisonment of less than the period specified in column 2 of an item of a table in section 16AAA or subsection 16AAB(2) only if the court considers it appropriate to reduce the sentence because of either or both of the following:
- (a) the court is taking into account, under paragraph 16A(2)(g), the person pleading guilty;
 - (b) the court is taking into account, under paragraph 16A(2)(h), the person having cooperated with law enforcement agencies in the investigation of:
 - (i) in relation to any of items 1A to 1E of the table in section 16AAA—the offence or an offence against subsection 80.2H(1) or 80.2HA(1) or Part 5.3 or 5.5 of the *Criminal Code* ; or

- (ii) in relation to any of items 1 to 15 of the table in section 16AAA or any of the items in the table in subsection 16AAB(2)—the offence or a Commonwealth child sex offence.
- (3) If a court may reduce a sentence, the court may reduce the sentence as follows:
 - (a) if the court is taking into account, under paragraph 16A(2)(g), the person pleading guilty--by an amount that is up to 25% of the period specified in column 2 of the applicable item in the relevant table;
 - (b) if the court is taking into account, under paragraph 16A(2)(h), the person having cooperated with law enforcement agencies in the investigation of:
 - (i) in relation to any of items 1A to 1E of the table in section 16AAA—the offence or an offence against subsection 80.2H(1) or 80.2HA(1) or Part 5.3 or 5.5 of the *Criminal Code*; or
 - (ii) in relation to any of items 1 to 15 of the table in section 16AAA or any of the items in the table in subsection 16AAB(2)—the offence or a Commonwealth child sex offence;by an amount that is up to 25% of the period specified in column 2 of the applicable item in the relevant table;
 - (c) if the court is taking into account both of the matters in paragraphs (a) and (b)--by an amount that is up to 50% of the period specified in column 2 of the applicable item in the relevant table."

You are entitled to a discount for pleading guilty in this matter, you have also cooperated with police in the sense of giving an interview and making what appear to be frank admissions. The Commonwealth accepts that your offending is towards the "least serious circumstances" (see p 25, paragraph [19], of the Commonwealth's written submissions.

The process as put by the Commonwealth is that I should first determine a prima facie sentence with the use of the prescribed mandatory minimum as a yardstick, prior to considering any discount. Interestingly, in the context of the extensive legislative regime I am asked to engage in an instinctive synthesis of all relevant factors and reach a head sentence before applying any discount.

You were 44 at the time of the offending and are now aged 46 years. You have not served any time for the current offences. You have three prior convictions for offences against the *Child Protection (Offending Reporting and Offender Prohibition Order) Act 2004* (Qld).

Your prospects of rehabilitation in respect of your interest in child exploitation material appear to be limited given the nature of your interest in children and your repeated offending over a lengthy period.

Considering the matters put to me in mitigation at the sentencing hearing, the nature of the offending and the points put in aggravation, I consider this offending to be at the lower end of the scale. I accept the need for general and specific deterrence. I do, however, also accept that your depression played some part in your offending, and that the *Verdins* principles authorise some discount.

However, I do not accept your account in respect of the victimless quality you attribute to images not involving real children. In that regard I note your earlier offending in 2010 also

involved cartoon drawings, that is, being in possession of child exploitation material that included 2,968 files, including 2,700 cartoon drawings. I consider that you were well aware of the quality of the images that you saved as screenshots. Whilst any offending is regrettable, I note that you had seven images on your phone which is far less than your offending in 2010.

I would begin the process by applying a head sentence on count 1 of 54 months, that is, 4 years and 6 months. However, I take into account the limited operation of the *Verdins* principles in this matter and other matters put in mitigation and thus I would start with an effective sentence of 50 months.

Turning to the statutory discounts under the *Crimes Act*, I would apply a discount of 25% for your plea of guilty. These offences can lead to lengthy trials and your plea was entered at the earliest reasonable opportunity, and I would apply that discount despite the quality of the prosecution case. Doing so, the head term would be reduced by 12.5 months to 37.5 months.

I accept that you made admissions regarding your offending when questioned by police. I accept Dr Wright's observation that this is rare in your cohort. In that regard, I would apply a further discount of 15%. I have calculated 15% of the head sentence of 50 months as 7.5 months. Thus further reducing the head sentence from 37.5 months to 30 months imprisonment.

On count one, I would sentence you to a period of 30 months' imprisonment and fix a non-parole period of 15 months.

Turning to the second count, the Commonwealth submits that your breach of the reporting obligations under the CPOR Act warrants a term of imprisonment. I accept that submission because otherwise those provisions would be undermined.

The nature of your breach on the second count is related to your offending in respect of count one. The two are related, albeit the offending in respect of the State offence is to be separately recognised.

I would impose a sentence of imprisonment of 4 months in respect of the second count and make that term concurrent with the term of imprisonment imposed on count 1.

Where a person is convicted on both a federal offence and a State offence, the Court must impose a separate head sentence and non-parole period for each offence. In that regard, in relation to the State offence, I would impose a non-parole period of four months. On count 1, the federal offence, I sentence you to 30 months' imprisonment with a non-parole period of 15 months. On count 2, the State offence, I sentence you to 4 months imprisonment with a non-parole period of 4 months. The terms are to be served concurrently.

Having done so, I now need to identify when the separate sentences should commence. I order that the term of imprisonment on the State offence, count 2 is to commence immediately, and given that it is to be served concurrently with the term of imprisonment for the Commonwealth offence, that term is also to commence immediately. The date that both offences commence will be today, which is 6 October 2025.

I also need to make an recognisance order under s 20(1)(b) of the Crimes Act. The Court orders the release of Brendon Hooper (the defendant) under s 20(1)(b) of the *Crimes Act 1914*, after

serving 15 months of the 30 month term of imprisonment, upon the defendant giving security by recognisance of \$500 to comply with the conditions that the defendant:

- (a) Be of good behaviour for a period of 15 months; and
- (b) Be subject to the supervision of a probation officer (Deputy Commissioner, Community Correctional Services and Sex Offender Management, or his or her nominee); and
- (c) Obey all reasonable directions of the probation officer (Deputy Commissioner, Community Correctional Services and Sex Offender Management, or his or her nominee); and
- (d) Not travel interstate or overseas without the written permission of the probation officer (Deputy Commissioner, Community Correctional Services and Sex Offender Management, or his or her nominee); and
- (e) Undertake such treatment or rehabilitation programmes that the probation officer (Deputy Commissioner, Community Correctional Services and Sex Offender Management, or his or her nominee) reasonably directs; and
- (f) Report to the Hobart Community Corrections Centre, located at 75 Liverpool Street, Hobart within two clear working days upon release from custody; and
- (g) Report to and receive visits from a Community Corrections Officer or Officers; and
- (h) Notify an officer at the specified Community Corrections Centre of any change of address or employment within two clear working days after that change.

I understand that the Registrar appointed under the *Community Protection (Offenders Reporting) Act 2005* has already registered your name and that you are to continue to report until 28 February 2027. I hereby make an order pursuant to s 6 of the *Community Protection (Offenders Reporting) Act 2005* that your name continue to be registered for a further 15 years which would extend your registration until 28 February 2042. Further, that you are to comply with the reporting obligations under that Act unless, in the future, the Court is satisfied that you no longer pose a risk of committing a reportable offence.

I warn you that if you should breach any of the conditions of the sentence I have imposed, you can be brought back to this Court and re-sentenced.

The Court orders that pursuant to s 23ZD of the *Crimes Act 1914*, upon the application of the Director of Public Prosecutions, the following items are forfeited to the Commonwealth:

- 1 A Samsung Galaxy S21 mobile phone – IMEI 357315230300791.