



Western

Australia

RECORD OF INVESTIGATION INTO DEATH

Ref No: 46/2017

*I, Evelyn Felicia Vicker, Deputy State Coroner, having investigated the death of **Ali Mohammad SOLTANI** with an Inquest held at Albany Coroners Court, 184 Stirling Terrace, Albany, on 24 November 2017 find the identity of the deceased was **Ali Mohammad SOLTANI** and that death occurred on 26 April 2016 in the seas off Salmon Holes, Salmon Holes Road, Torndirrup National Park, Torndirrup, Albany, and was consistent with Drowning in the following circumstances:-*

Counsel Appearing:

Sergeant L Housiaux assisted the Deputy State Coroner

Mr J Carroll (State Solicitor's Office) appeared for the Department of Biodiversity, Conservations & Attractions (then the Department of Parks and Wildlife, (The Department))

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INTRODUCTION

During the morning of 26 April 2016 Ali Mohammad Soltani (the deceased) was fishing from the rocks at the north east end of Salmon Holes Beach while his brother-in-law and nephew fished from the beach. It was intermittently raining and there was a large swell. He had a rope attached to an anchor bolt on the rocks but it is not clear how it was attached to the deceased. He was not wearing a life jacket.

There is no eye witness account as to how the deceased fell, but at some point the deceased fell from the rocks into the water and his anchor rope broke.

At roughly 1.36 pm two male visitors to the beach were on the lookout towards the south end of the beach when they were told a man had been swept off the rocks into the sea. The two visitors had a pair of binoculars and attempted to keep track of the deceased in the water while calling emergency services. Initially the deceased could be seen moving on the surface of the water below the rocks. He then drifted out to deeper water and disappeared in the waves. He was not seen on the water again.

His body was recovered by police divers the following day floating on the sea floor south of where he had last been seen.

The deceased was 30 years old.

At the time of the deceased's death the Office of the State Coroner (OSC) was in the process of preparing another inquest into the deaths of two men at the Salmon Holes in April 2015 (Mr Li and Mr Zhang). Mr Zhang's body had never been recovered and, in order to establish his death beyond all reasonable doubt, an inquest was mandated by the provisions of the *Coroners Act 1996* (WA) (section 3, section 23 (2)).

In those circumstances it was considered desirable the deaths of both Mr Li and Mr Zhang be examined in the same inquest (section 40), and because the circumstances surrounding those two deaths were so similar to the death of this deceased on 26 April 2016, it was deemed to be in the public interest an inquest into the death of this deceased be conducted during the same week as the inquest into the deaths of Mr Li and Mr Zhang.¹ This allowed a number of expert and other relevant witnesses' evidence to be considered for the purposes of the investigation into all three deaths.

The parts of the evidence relevant to both inquests will be reproduced in this finding to give consistency with the consideration of issues of public safety where rock fishermen (fishers) experience difficulties while rock fishing. Fishers, bystander rescuers and first responders are inevitably exposed to a range of dangers in any attempted

¹ 20-24 November 2017

rescue, quite aside from the emotional trauma all experience.

Those safety issues were largely around the wearing of life jackets when rock fishing and the potential for personal Emergency Positioning Indicator Rescue Beacons (EPIRBs), to assist with recovering both survivors and deceased, the tensions surrounding the provision of anchor rock points by the Department of Biodiversity, Conservations and Attractions (at the time the Department of Parks and Wildlife, to be referred to as the Department), the use of drones in search and rescue (SAR) and, in the specific location of the Salmon Holes, radio and/or digital communication.

The dangers related to rock fishing have been subject to intense public awareness campaigns in Western Australia by Recfishwest,² other recreational bodies and the Department.³

There have been similar campaigns in New South Wales (NSW), South Australia (SA) and Tasmania by National fishing bodies. NSW has also conducted a number of joint inquests into rock fishing deaths.⁴

² Soltani Ex 1, tab 15

³ Soltani Ex 1, tab 14

⁴ Finding by Deputy State Coroner, Magistrate Forbes, delivered 2.7.2015 being the most recent to these deaths.

The evidence during the course of the inquest on 24 November 2017 comprised one volume containing the statements of people witnessing or involved in the events on 26 April 2016, those involved in the search and rescue attempt and the recovery of the deceased.⁵ In addition the evidence, both written and oral of expert witnesses and the numerous organisations involved in any Albany Marine Search and Rescue (AMSAR) effort heard during the week 20-24 November 2017 were considered with respect to the death of this deceased⁶.

BACKGROUND

The Deceased

The deceased had originally arrived on Christmas Island in Australia on 1 December 2011 as an illegal maritime arrival (asylum seeker without Visa). He was recorded as having a birth date of 1 January 1986 in Malistan, Afghanistan through the UN High Commission for Refugees (UNHCR). He was issued with a permanent resident (protection) Visa on 3 December 2012.⁷

The deceased later departed from Australia and returned to Pakistan to marry in May 2015. He returned to Australia in August 2015 while his wife remained in Pakistan. They had no children. The deceased is recorded as living in Langford, Western Australia with no recorded occupation.

⁵ Soltani Ex 1

⁶ Documentary evidence will be footnoted as either Li and Zhang Ex 1 and Ex 2 tabs x Soltani Ex 1 tab Y or by transcript date and page

⁷ Soltani Ex 1 tab 2

The deceased's brother-in-law, Khadim Rahmani (Mr Rahmani), lives in Perth with his family. They socialised with the deceased and were friends.

The deceased enjoyed fishing and had travelled to the Salmon Holes in the Torndirrup National Park on four previous occasions⁸. He had informed Mr Rahmani and his son Mohammed Rahmani (Mohammed) the fishing was rewarding.

On 25 April 2016 the deceased, Mr Rahmani and his son drove to Albany from Perth to go fishing at the Salmon Holes. They all travelled in Mr Rahmani's car and stayed at a motel in Albany overnight, once Mr Rahmani understood it was not legal to sleep on the beach, which had been the deceased's intention.

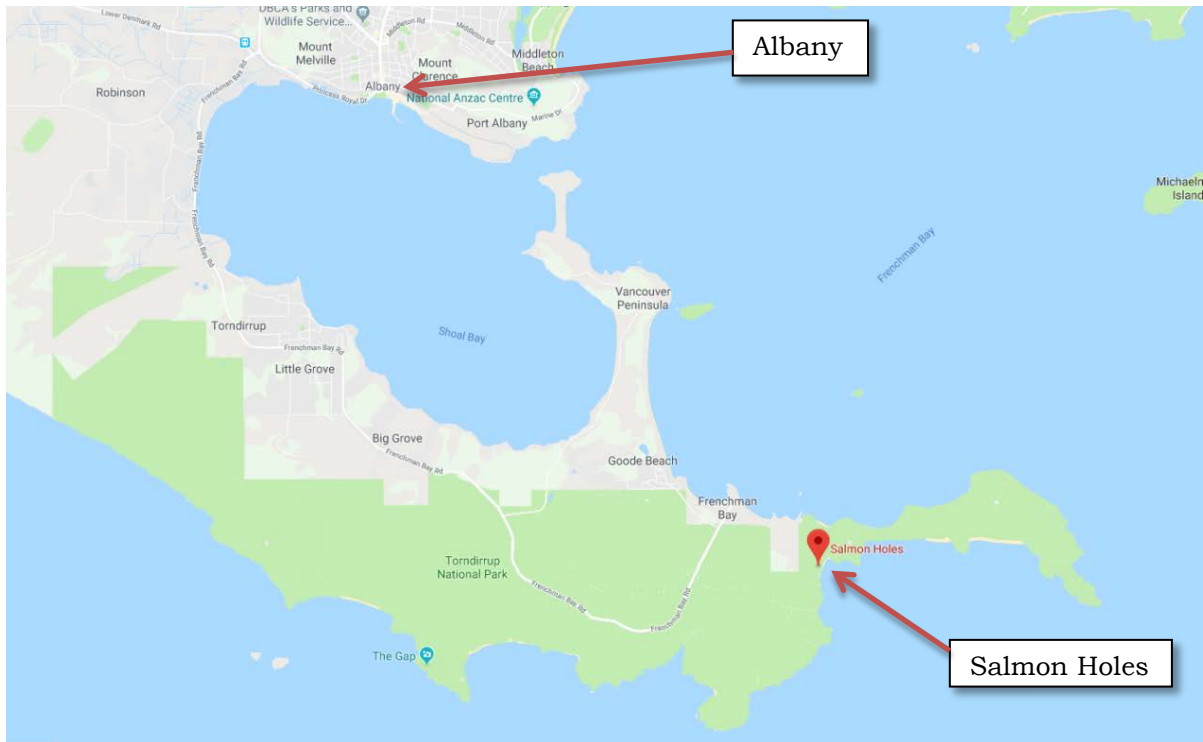
The Salmon Holes

The Salmon Holes is a beach located in the Torndirrup National Park on the southern coast of Western Australia, approximately 19 kilometres south of the Albany CBD.⁹ It is comprised of a white sandy beach surrounded by limestone cliffs and granite stone headlands which are subjected to the full force of the southern ocean. It is access by a paved road which leads to a car park, elevated above the beach, and access down to the beach is by a

⁸ Soltani Ex 1 tab 7

⁹ Soltani Ex 1, tab 2

staircase which has a lookout with a good view over the area. The beach runs roughly north east to south west. The headland to the north east of the beach was the one from which the deceased was fishing prior to his death.



Google Map – Depicting Salmon Holes Location

The Torndirrup National Park is managed by the Department as a conservation reserve protecting Western Australia’s native animals and plants. The Salmon Holes is a recreational site within the National Park and requires the Department to balance the demands of access and enjoyment of lands and waters in the National Park with requirements of visitor safety and the need to ensure the

relative risks are managed in a reasonable and practicable way.¹⁰

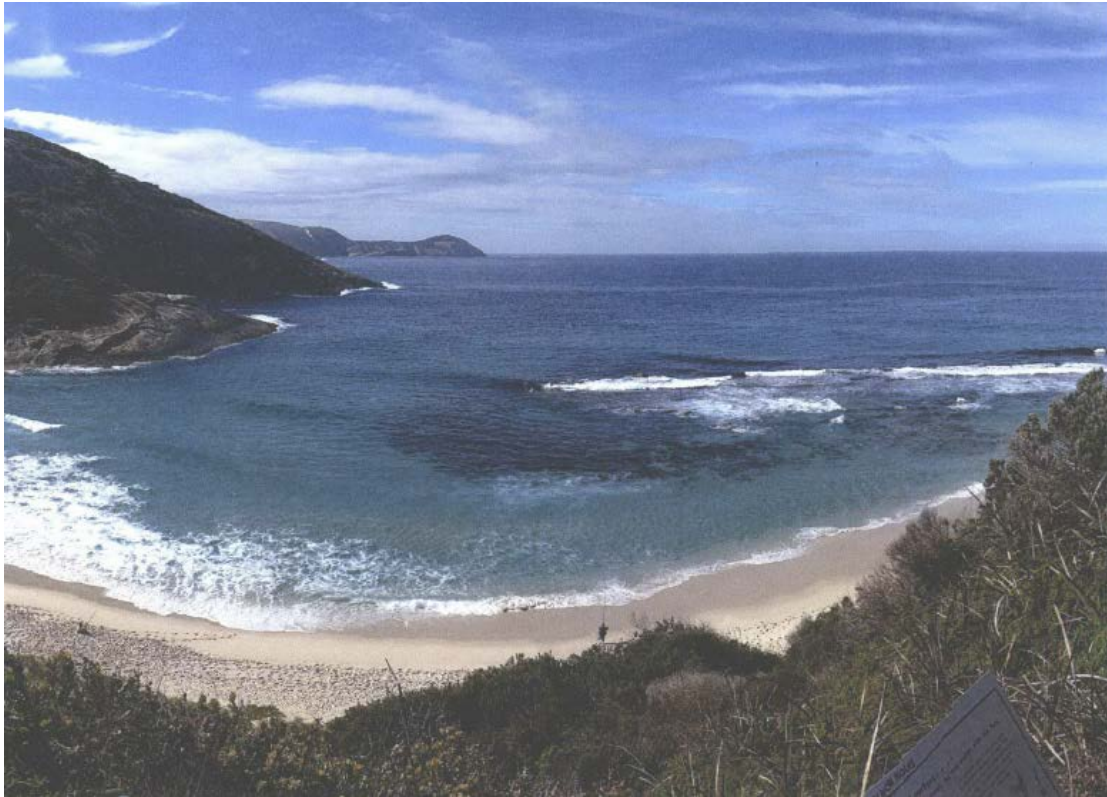


Exhibit 1, Tab 21, Photograph 957 –Salmon Holes Beach

It is generally recognised rock fishing is intrinsically dangerous due to the locations from which fishers choose to fish.¹¹

The coastline of the Torndirrup National Park and Salmon Holes specifically, experiences strong currents, undertow and rocky outcroppings beneath the surface of the water. The headlands generally plunge straight into deep water which is very rough due to the interaction of the ocean swell with the vertical surfaces.

¹⁰ Li & Zhang Ex 2, tab 2

¹¹ Li & Zhang Ex 2, tab 1

Aside from the topography being dangerous, there is added difficulty with the remoteness of the location hindering the timeliness of assistance in the event of any serious life threatening event. Inevitably persons suffering injury or accident will have to rely on their own safety precautions, and the ability of those in their immediate environment in the event of mishap.

The area's geographical remoteness and beauty attract recreational visitors of all sorts, but it is a particularly popular spot for fishing salmon which tend to be abundant, depending on conditions, around the Easter holiday.¹² Salmon can be caught from both the beach and the headlands and it has become an attractive location for people travelling from Perth with a wish to rock fish. It is fished by locals, West Australians, tourists and people from all ethnicities.

The Department has attempted to emphasise the dangers associated with rock fishing, both by way of education on its websites, reflected in the websites of many recreational bodies, as well as the use of extensive signage in numerous locations from the access road, car park, access to the beach and locations along the coast. These signs, while predominantly in English at the Salmon Holes also contain pictorial representations of the dangers.

¹² Li & Zhang Ex 1, tab 20



Exhibit 1, Tab 14, Photograph 6 –Salmon Holes Warning Sign

Information on the numerous websites related to fishing, rock fishing and safety aspects are frequently in multiple languages, particularly a range of Asian languages.¹³ Despite data indicating fishing from beaches is as successful as fishing from rocks, there appears to be a preference for fishers to fish from the rocks, despite an awareness of the danger of falls.

The Department has provided anchor points at some of the more dangerous locations which have recorded a number of deaths. Michael Phillips, Visitor Risk Management Coordinator in the Regional and Fire Management Services Division of the Department, on behalf of the Department,

¹³ Soltani Ex 1 tab 15

indicated the provision of anchor points has caused a great deal of controversy with a concern the Department may be perceived as encouraging a dangerous activity. Experience has shown people rock fish regardless of the danger to themselves and provision of anchor points was seen as the safer option, without undue defacement of a natural asset.

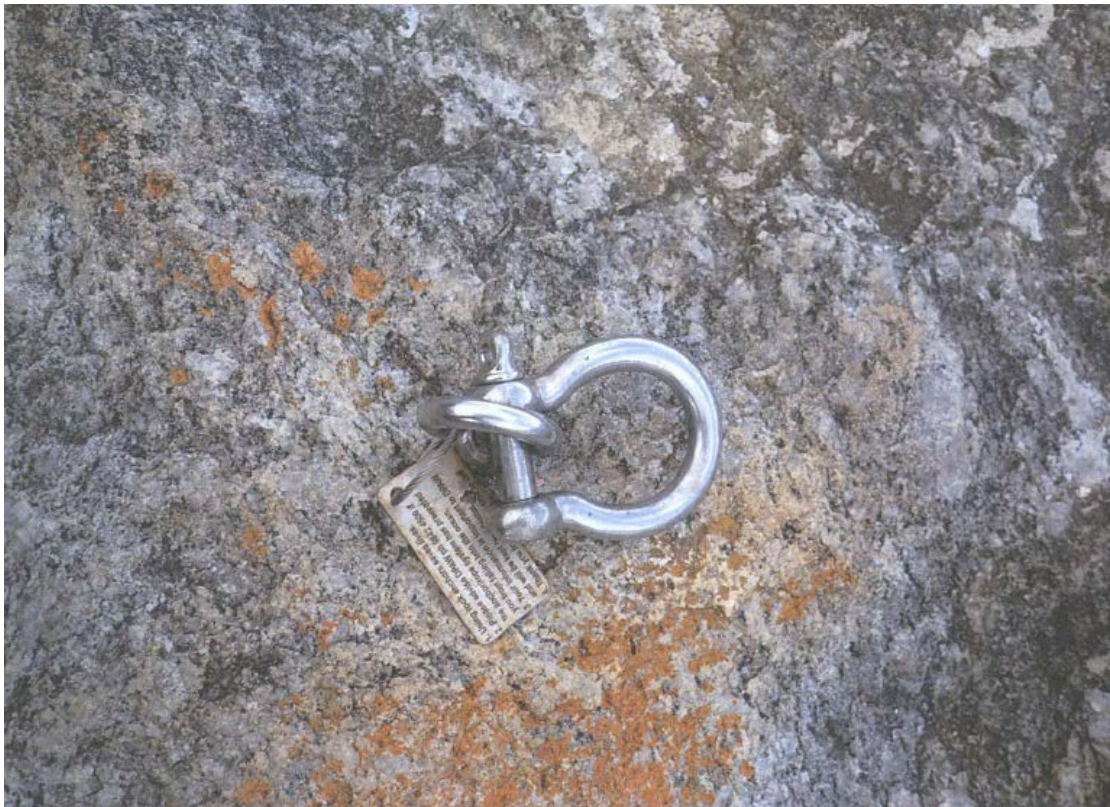


Exhibit 1, Tab 21, Photograph 218 –Salmon Holes Anchor Point

The people who used the anchor points, as reflected by witnesses in these inquests, tended to use the anchor points with good quality rope and effective harnesses. The aim appeared to be not falling into the ocean, rather than any concern about what would happen if they did fall into the water. Whether this acknowledged an awareness that being in the water below these locations was extremely dangerous

is difficult to assess due to some conceptual difficulties with communicating with those who were prepared to give evidence.

Certainly in the event of a fisher falling into the ocean from a rock face there is the difficulty, firstly, of surviving the fall, secondly the lag time before any formal rescue could be implemented in the event immediate responders were not in a position to rescue a fisher, and thirdly survival time for a rescue to occur and communication issues due to the remoteness of the location and adequate satellite coverage.

In an attempt to ameliorate the risk of falls into the ocean, “Silent Sentries” have also been provided by the Department in addition to the anchor points. These are points at which life buoys and rings are available to be thrown to people in the water to help them survive. For these to be effective those in the water need to be in a fit state to reach and hold the buoys. Silent Sentries have been subjected to vandalism in some locations.



Exhibit 1, Tab 2, Page 10 – Silent Sentry

Another initiative funded and implemented nationally by organisations such as Volunteer Marine Rescue (VMR) groups and Recfishwest has also seen the provision of “free for hire” life jackets available from bait and tackle shops located near to popular fishing spots. Mr Allan, the proprietor of Albany Rod and Tackle, advised the court that despite signs offering free life jackets, they were very rarely

utilised.¹⁴ The concept was originally launched as a result of the Nathan Drew Foundation, when a local man drowned without a life jacket.¹⁵

Precise statistics for the number of deaths at the Salmon Holes vary slightly between organisations. Pre 2015 police and Departmental records indicate 12 deaths in 9 incidents between 1974 and 2013,¹⁶ while University of Western Australia (UWA) records pose “*that 15 fishers have lost their lives while fishing at the Salmon Holes in the Torndirrup National Park near Albany*”,¹⁷ without any dates.

The National Coronial Information System (NCIS) recorded 21 deaths in Western Australia, while rock fishing, from 2004 – 2016. This figure did not include the deaths of Mr Li, Mr Zhang or this deceased, which had not been determined at that time.¹⁸

The number of deaths specifically related to rock fishing recorded for the Salmon Holes, taking into account its remoteness and difficult access, prompted the instigation of a survey by UWA researchers in Easter 2015, two weekends before the deaths of Mr Li and Mr Zhang. This was also funded by not for profit organisations such as Recfishwest and VMR groups. The study, although not completed with

¹⁴ † 23.11.17, p223-225

¹⁵ † 24.10.17, p51

¹⁶ Li & Zhang Ex 1, tab 3

¹⁷ Li & Zhang Ex 1, tab 31

¹⁸ Li & Zhang Ex 1, tab 40

additional follow-up, provided some useful beginnings in considering the differences in behaviours and attitudes towards safety amongst fishers at the Salmon Holes in an attempt to assess the most reasonable ways of persuading fishers to have some regard for their own safety when considering rock fishing in this particular environment.¹⁹ The dangers or impact on would be rescuers were not canvassed as part of that survey.

Rescue Groups

Submissions relevant to both Li & Zhang and this inquest were also received from a number of organisations involved in search and rescue operations once a rock fisher had fallen into the ocean in the vicinity of the Salmon Holes. Aside from the psychological trauma for eye witnesses to these events, the emotional and financial cost to all participants in a rescue from the Salmon Holes, usually the recovery of bodies by the time responders were able to access the beach, was significant.

These groups included local WA Police personnel as well as Water Police, staff of the Department involved with the safety and management of these areas, the local St John Ambulance (SJA) personnel, Volunteer Marine Rescue (VMR) crews and the local State Emergency Services (SES)

¹⁹ † 23.11.17, p207

and Department of Fire and Emergency Services (DFES) representatives.²⁰

All these organisations provide significant resources, both financially and personally in the attempt to recover persons ending up in the ocean alive, or their bodies for purposes of family spiritual wellbeing. Many of the people involved exposed themselves to danger and the risk of loss of life in their attempts to recover injured persons or deceased from the water.

These groups all have a particular interest in the safety of rock fishers because it directly relates to their own safety, both physical and emotionally, aside from the emotional and financial cost to the community as a whole.

26 APRIL 2016

Information about when salmon are abundant is dispersed very quickly by social media and fishing sites but it is known to be, depending on the season, around the Easter holiday. By following the information on the fishing sites many people will travel to the Torndirrup National Park when it is known the salmon are running.

Mohammed stated they had all travelled to Albany in his father's car the previous day because they had been told the

²⁰ Li & Zhang Ex 1, tabs 37, 38, 39 & 41

fishing at Salmon Holes was very good.²¹ Mr Rahmani and Mohammed had never been to the Salmon Holes before. The deceased had told Mr Rahmani it was necessary to anchor one's self to the rocks if fishing from the rocks and they had brought ropes with them from Perth, as well as the deceased purchasing one at a service station on the way in. There was no mention of life jackets.

The two men and Mohammed left the motel on the morning of 26 April 2016 to go to the Salmon Holes. Once there they walked down onto the beach where they were observed by Patricia Allan, who was fishing from the beach and had successfully caught four salmon.²²

Ms Allan is an enthusiastic fisher and advised the court she spent every weekday fishing at the Salmon Holes and frequently observed fishers of all ethnicities arriving on the beach to fish. She noted many of them fished from the rocks in quite dangerous conditions and inappropriate clothing. She was concerned they often took their wives and small children onto the rocks despite having no safety equipment harnesses, ropes or life jackets.

Ms Allan advised the court that although she had been fishing at Salmon Holes for approximately 25 years she had rarely gone onto the rocks and only when it was dead calm.

²¹ Soltani Ex 1 tab 8

²² Soltani Ex 1 tab 14

“I wouldn’t go up there any other time”²³

She commented she very rarely saw anybody on the rocks with a life jacket although she saw people on the rocks of all descriptions almost every time she fished.²⁴

On the morning of 26 April 2016 Ms Allan saw the group come down the steps from the car park and told them she was leaving and they should fish in her spot because she had been very successful there. Ms Allan noted two people remained where she was, but the third man walked off towards the rocks. She stated to that person he should not go on the rocks, however, she noticed he went onto the rocks.²⁵

It was evident to Ms Allan Mr Rahmani was not an experienced fisher and he advised the court he did not even enjoy fishing, however, had gone to be with his son and at the behest of the deceased.²⁶ He said the weather was alright when they first arrived, but as the morning progressed it became wet, stormy and he wanted to leave.²⁷ The deceased told Mr Rahmani and Mohammed they must not go onto the rocks because it was not safe with their footwear. Mr Rahmani advised the court the deceased used

²³ t 24.11.2017, p39

²⁴ t 24.11.17, p40

²⁵ t 24.11.17, p39

²⁶ Soltani Ex 1, tab 7

²⁷ t 24.11.2017, p23

one of the ropes they had brought to the beach with them to tie himself to an anchor point on the rock face.

Mohammed stated that his uncle fished most of the time from the rocks on the left side of the beach when looking out towards the sea (north eastern corner).

Sometime around 1.00 pm Mr Rahmani left the beach to travel to a shop to buy some food, bait, hooks and tackle. He left his son on the beach and advised him he must stay there. Mr Rahmani had asked the deceased to come off the rocks to stay with Mohammed but the deceased remained on the rocks.

While Mohammed was attempting to fish from the beach he was concentrating on preparing his fishing rod with bait when someone yelled to him “*your man is dying*”. That man was pointing in the direction of the rocks where the deceased had been fishing.²⁸

Mohammed looked over to where he had last seen his uncle fishing and could not see him. He could not see the fishing reel he had been using either.

The man who told Mohammed his uncle had been swept off the rocks ran with Mohammed up the stairs to the car park where there was a group of people.

²⁸ Soltani Ex 1, tab 8

Visiting Salmon Holes that day as a sightseer was Glenn Greggains from California, with a friend, Kevin Lucas, who was showing him the sights.²⁹ At about 1.00 pm Mr Greggains had been standing on the lookout near the top of the stairs down to the beach for a short time when two women, who were on the lookout with him, turned to him and told him they had seen someone being swept off the rocks and into the water. Mr Greggains looked over to the rocks and could see someone dressed in dark clothing struggling by the water near the rocks. He called out to Mr Lucas and told him he should get on the telephone to contact emergency services.

Mr Lucas looked over to where Mr Greggains was pointing and stated “*Glenn pointed to the sloppiest rock that the waves go up*”³⁰ where he could see a person in dark clothing trying to swim back to the rocks. He saw that person as being about 10-20 metres from the rocks, but only saw him for a very short period of time before he lost view of him in the waves.

Mr Greggains watched the person in the water a little bit longer while Mr Lucas made the phone call, from the car park due to reception, and also obtained some binoculars from their car to try and keep track of the person in the water. Mr Greggains described the man in the water as being dragged by the current in an easterly direction around

²⁹ Soltani Ex 1, tab 10

³⁰ Soltani Ex 1, tab 9

the rocks and out into deep water. By the time Mr Lucas had returned with the binoculars he had lost sight of the deceased.

Mr Greggains estimated he had watched him for about three minutes before he lost sight of him. Mr Greggains did not see the deceased resurface despite sweeping the area with the binoculars until the police arrived approximately 40 minutes later.

First Responders

The call by Mr Lucas was received by the State Police Operations Centre (POC) via St John Ambulance (SJA) at 1.39 pm on 26 April 2016. It advised police that a male had been washed off into the ocean from the rocks near the lookout and gave Mr Lucas' phone number.³¹

POC immediately put a response into operation, part of which was to contact the local police. Under the *Emergency Management Act 2005* WAPol are the dedicated hazard Management Agency for Marine Search and Rescue (MAMSAR) incidents, and the local police station, in this case Albany, becomes responsible as the local Incident Controller. It is the Incident Controller's job to coordinate the emergency response.³²

³¹ Soltani Ex 1, tab 2

³² Li & Zhang Ex 1, tab 20

The issue of being able to alert authorities as to the fact of an emergency is one of the first communication hurdles experienced by people trying to communicate from the Salmon Holes where there is only patchy mobile phone coverage.

Senior Constable Forbes (Forbes) and Constable Roberts (Roberts) in a police vehicle and, Sergeant Richmond (Richmond) and Senior Constable Mitchell (Mitchell) in a traffic vehicle were dispatched to Salmon Holes under Priority 2 (life threatening, lights and sirens operating) attendance. The shift supervisor, who becomes the Incident Controller, also alerted the Albany Volunteer Marine Rescue (AVMR) to coordinate the sea rescue effort.

The traffic vehicle with Richmond and Mitchell was the first to arrive at the Salmon Holes car park where Richmond was approached by Mohammed in a very distressed state. Richmond understood someone known to Mohammed was in the water before Mohammed ran back down onto the beach. Forbes and Roberts arrived to assist.

The police then spoke to Mr Lucas and Mr Greggains who advised that while they had both originally seen the deceased in the water they had lost sight of him in the waves and had not seen him resurface despite scanning the area with the binoculars.

Richmond described the scene at the time as the wind blowing quite strongly with seas ‘white capping’. He estimated the swell to be in excess of two metres with it raining on and off.³³ The rocks comprising the headlands are very slippery when covered in water whether that be from rain, waves or spray.³⁴

Mr Rahmani returned from the shops and saw there was a police car and ambulance present in the car park. He ran down onto the beach to see his son who was very distressed and advised him the deceased had been washed into the water and lost. Mr Rahmani walked out onto the rocks to try and see if he could see the deceased, however, Forbes went down onto the beach and told Mr Rahmani he needed to come and talk to the police. The police were concerned there would be more casualties with the situation evolving. It was Mr Rahmani who told the police the person washed into the rocks was the deceased.

Richmond and Roberts then went onto the rocks to see if they could find any indication as to what had happened. On a rock ledge they discovered a rock bolt, the one closest to the water’s edge, with a red and white rope tied to it.

³³ Soltani Ex 1, tab 11

³⁴ † 23.11.17, p223



Exhibit 1, Tab 21, Photograph 240 – Rope Used

The rope was about 20 metres long with a loop of about 53 centimetres in the rope which had apparently been secured to the deceased and was broken.

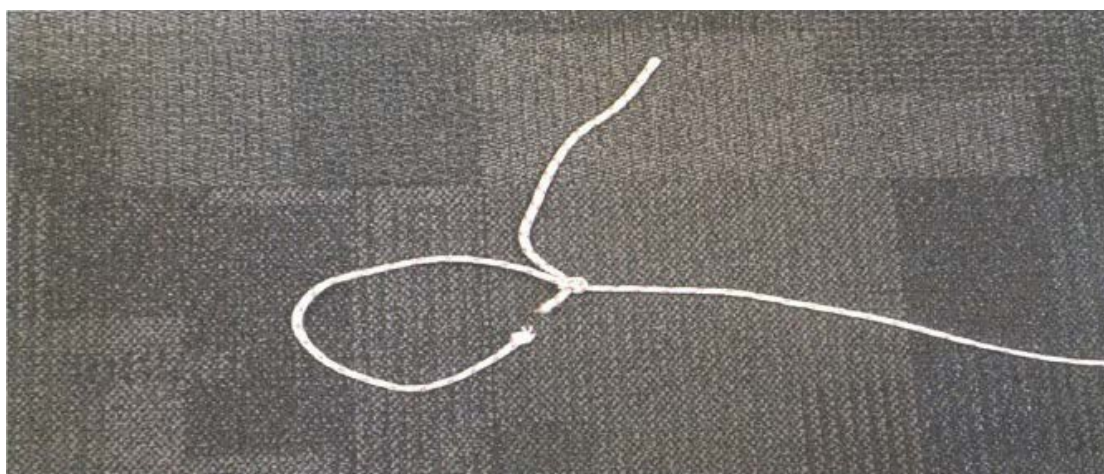


Exhibit 1, Tab 2, Page 6 – Unsecured End of Rope Used

Mr Rahmani confirmed this was the rope the deceased had been using, however, the loop which had broken was not big enough to fit around a person's waist and it was likely it was either attached to his arm or clothing.³⁵

Michael Ficko was the SJA Paramedic on duty at the time the deceased was swept off the rocks and into the water and attended at the Salmon Holes after receiving a call from the State Operations Centre (SOC) to attend at the Salmon Holes due to a person being swept into the water.

Mr Ficko had been employed by SJA WA since January 1997 and was a qualified registered nurse with other qualifications relating to his work with SJA. He had been a critical care paramedic on the RAC Helicopter in Perth, an industrial paramedic trainer and was a mentor and trainer to the volunteers in the Albany region.

During the course of his evidence, relevant to both the incident with Mr Li & Mr Zhang in April 2015 and the incident with the deceased in April 2016, Mr Ficko stated that incidents at the Salmon Holes were always stressful for SJA personnel due to the remoteness of the area and the difficulty with communication.

Paramedics were usually faced with the prospect that by the time they arrived at the Salmon Holes resuscitation efforts

³⁵ Soltani Ex 1, tab 2, tab 11

would be futile unless the person had been recovered promptly from the water.

On 26 April 2016 Mr Ficko attended at the Salmon Holes with the ambulance after the deceased had already disappeared. He suggested the use of a drone in an attempt to track the deceased for the purposes of the AVMR. He was advised the red tape surrounding the operation of drones was too difficult for it to be considered as a viable option.³⁶

Mr Ficko stated he assisted Mr Rahmani return items from the beach to their vehicle in the car park and it appeared Mr Rahmani was quite shocked and dealing with grief in a way Mr Ficko considered to be unusual. Having observed Mr Rahmani in court I suspect he was having difficulty in understanding how the deceased could have exposed Mohammed to such a dangerous scenario, and how he was going to tell his sister in Pakistan of the death.

Mr Ficko described the considerable exposure to stress SJA paramedics and volunteers experience as a result of their attending at these types of incidents, knowing there will likely be an outcome prior to them being able to attend at the beach to assist.

³⁶ † 22.11.17, p146

Search

The first AVMR vessel arrived at the Salmon Holes at 2.28 pm and started a grid search for the deceased. They were joined in the air at 2.38 pm by a fixed wing Cessna 172 from Albany Aviation with only a pilot on board due to the need for a quick response to try and recover the deceased from the ocean before the weather conditions deteriorated.

At 2.49 pm the second AVMR vessel arrived and continued with a search.

The weather conditions started to deteriorate further and the aircraft was stood down at 3.20 pm while the two AVMR vessels continued searching, with one leaving the area at 4.27 pm and the other at 5.30 pm due to the beginning of darkness.

Dr Paul Luckin, a survival expert, was contacted by the police to provide his opinion as to the survivability of the deceased once in the water. At 4.57 pm Dr Luckin advised he thought the short term estimate for the survival of the deceased was very poor and that his prospect of survival was minimal. Dr Luckin did not believe the deceased would survive the night and it was his view the deceased would already be dead.

The search was stood down due to the lack of daylight at 5.35 pm.

The search coordinators then continued with the search operation planned for the following day, 27 April 2016. Due to the input of Dr Luckin arrangements were made for the water police dive squad to attend, the return of the two AVMR vessels with two surf lifesaving jet skis, the Department's fixed wing aircraft and teams of State Emergency Service (SES) personnel to assist as spotters and observers.

On the morning of 27 April 2016 the search continued following a briefing by Richmond at 8.00 am at the AVMR base. There was another briefing at the Salmon Holes car park with the SES search teams, while the fixed wing aircraft commenced search activities.

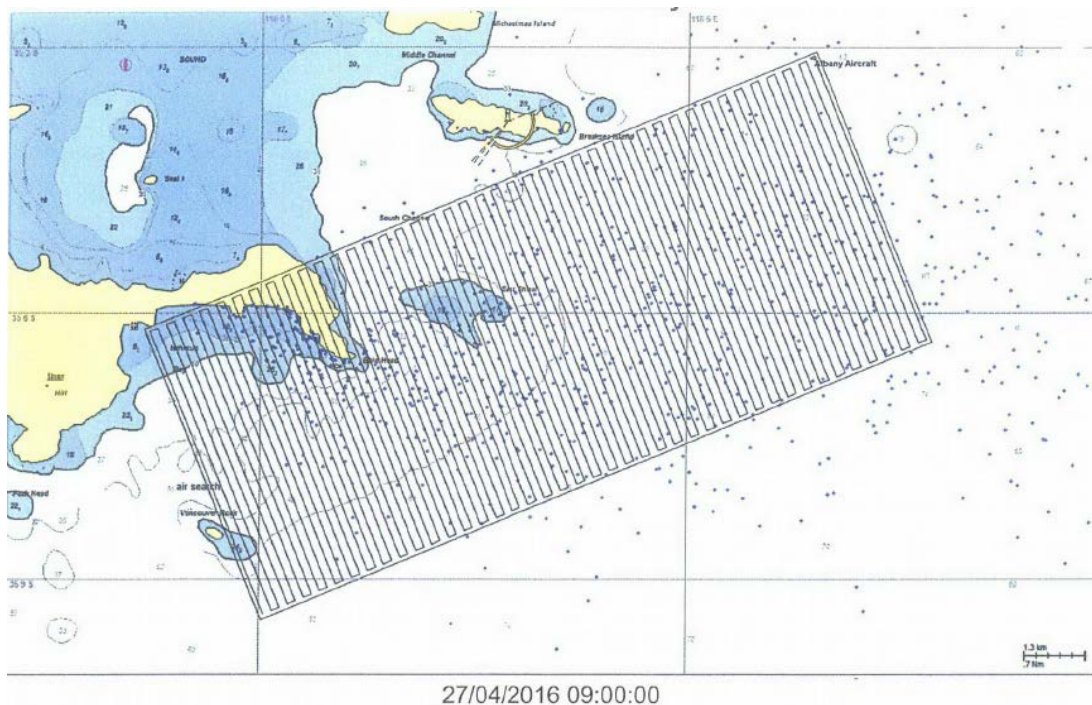


Exhibit 1, Tab 13, Page 2 – Search Area

The water police provided a squad of four divers who travelled down to Albany on 26 April 2016 and attended at the Salmon Holes on 27 April at 9.00 am with the AVMR crews.

Once at the Salmon Holes on the water Senior Constable Peter Murphy (Murphy) estimated the swell was approximately 1.5 metres with an indication the conditions would deteriorate through the day. Murphy entered the water with First Class Constable Baker (Baker) to conduct a search in the area from which the deceased was last known to be.

Murphy descended at 10.11 am and was towed behind a surf lifesaving jet ski. He located the body of the deceased at approximately 11.20 am, floating just above the sea bottom at a depth of 8 metres. The deceased was face down. Murphy tied his lifeline around the waist of the deceased and escorted him to the surface where the deceased was placed on a AVMR vessel for transport to Albany.³⁷

At the Albany Health Campus mortuary the deceased was stripped and examined to see if there was any indication of how he had died, however, there were no external marks or injuries noticeable on the deceased. Nor any evidence to indicate how the deceased had been secured by the rope to

³⁷ Soltani Ex 1, tab 12

the rock bolt. The deceased was formally identified later that day by a friend of four years.³⁸

POST MORTEM EXAMINATION

There was a full post mortem examination of the deceased by Dr Vicki Kueppers on 16 May 2016 in which she noted the deceased's hands and feet were wrinkled, consistent with immersion for a period of time. She could find no evidence of significant underlying natural disease or significant injury. A diagnosis of death by drowning is generally a diagnosis achieved by excluding all other possible explanation by thorough post mortem examination.

Following further internal investigations Dr Kueppers confirmed it was likely the deceased had been exposed to tuberculosis infection as an incidental finding, but that was unrelated to the cause of death. She was satisfied death was consistent with drowning.

There was no other explanation for the death of the deceased and certainly no injuries which would indicate he had been incapacitated in some way, other than the process of drowning.

³⁸ Soltani Ex 1, tab 3

Evidence of Dr Luckin – How People Drown

Dr Luckin is an anaesthetist who has developed a special expertise with respect to the survival of people, both on land and at sea, to assist with directing various search and rescue operations. He is a medical advisor to the Australian Maritime Safety Authority and is also used by the Australian Federal Police to assist in the resources necessary when considering the survivability of people in different environments.

Dr Luckin gave evidence to the inquest by way of video-link to clarify for the court the considerations taken into account when trying to estimate a reasonable survival time for persons in the seas off Albany.

Dr Luckin had provided the Incident Controller with advice on the late afternoon of 26 April 2016 that the deceased would not survive the night if he was on the water, alive. During the course of Dr Luckin's evidence applicable to both this inquest and that of Mr Li and Mr Zhang he outlined his criteria in determining the survivability of people who have suffered submersion in water by describing the various responses to sudden immersion in water.³⁹

Dr Luckin outlined that sudden immersion in water causes a number of physiological responses. He divided the physiological responses into three categories which he used

³⁹ Li and Zhang Ex 2, tab 16 – t 23.11.17, p231 - 248

to determine a person's survivability in particular circumstances.

- ***Respiratory Responses***

The first set of physiological responses were the respiratory responses, divided into an increased respiratory drive, related to the sudden immersion in water causing an increase in the rate of breathing. The colder the water, the more the rate of breathing increased and for people not accustomed to cold water this response could occur in water as temperate as 25°C. This included most Australian waters and certainly those in the vicinity of Albany.

In addition to an increased respiratory drive there was a decreased breath hold time, especially on sudden immersion in cold water which decreased the breath hold time significantly.

Dr Luckin also took into account a gasp response in waters below 15°C which cause rapid and uncontrollable breathing. Dr Luckin advised the lower the water temperature the more marked the gasp response and it may be in the vicinity of 2-3L per breath. *“the initial gasp response on sudden immersion in very cold water causes the individual to breath at close to total lung capacity”* which creates a feeling of suffocation.⁴⁰ He pointed out this is the time of highest risk of immediate drowning. The gasp response promoted the

⁴⁰ Li and Zhang Ex 2, tab 16

feeling of panic and increased the risk of immediate drowning.

This led to over breathing and the fourth respiratory response of reduced carbon dioxide levels. Dr Luckin pointed out a fall in carbon dioxide levels can cause dizziness and confusion, often already suffered by people falling unexpectedly into deep water.⁴¹

- ***Cardiovascular Responses***

In addition to the respiratory responses there are also cardiovascular responses with sudden immersion. This caused wide spread restriction of the surface blood vessels, except the head. Combined with the hydrostatic pressure of water on the body this caused an increased blood flow from the peripheral circulation to the heart. There is then a sudden and marked rise in heart rate and an increase in blood returning to the heart. This caused an increase in blood pressure with a sudden increase in workload on the heart. This carried a risk of sudden heart attack, especially in those who already suffered high blood pressure or coronary artery disease. In addition, the release of stress hormones, adrenaline and noradrenaline, further elevated the heart rate and blood pressure.

⁴¹ Li and Zhang Ex 2, tab 16 & t 23.11.17, p233

Dr Luckin pointed out it is possible for this marked increase in blood pressure to cause bleeding into the brain in the form of a stroke, and separately an arrhythmia of the heart.

Immersion in cold water also caused a diving reflex which is a drop in the heart rate. This is especially the case when a person's face is immersed, or cold water hits the face. This stimulated the vagal nervous system which caused fainting when heart rate and blood pressure, rather than suddenly rising suddenly drop, and blood flow to the brain drops. Obviously dangerous in water. Dr Luckin stated the arrhythmia is thought to be the result of the competing effects of vagal stimulation (driving the heart rate down) and the adrenaline and the noradrenaline (driving the heart rate up). In addition, a sudden rush of water up the nose can also cause the heart to slow suddenly or stop, also the effect of vagal stimulation.

- ***Psychological Responses***

As well as the interaction of the four respiratory responses and three cardiovascular responses, Dr Luckin also took into account the psychological responses of a person suddenly, accidentally, immersed in water and promoting extreme fear and possibly panic. Dr Luckin described panic as decreasing a person's ability to exert any control over their breathing, swimming, and posture in the water, and made death by immediate drowning more likely.

It was essential for a person's survival on sudden immersion in water for the airway to be clear of water during the first seconds following entry into the water when a person is no longer able to hold their breath and is forced to breathe in. Aspiration of water into the lungs resulted in immediate death by drowning or, failing immediate death, respiratory failure.

It was often a contribution of all these responses which affected a person's ability to remain alive for long enough to reach the surface and this depended on their positive buoyance, provided by air in their lungs or trapped in their clothing. In the event of a person reaching the surface alive it was necessary to remain positively buoyant and have air in the airways. Where a person was not wearing a life jacket to assist with their positive buoyance it was likely they would remain under water for some time.

Dr Luckin went on to state the gasp response created an extremely high risk of aspiration of water either from the water or spray, inhibiting effective swimming which relied on coordination of the limbs and breathing.

The reduced carbon dioxide levels caused confusion and the likelihood people would not swim in the right direction, if they are swimming, and increased the likelihood of immediate drowning in conjunction with laryngospasm caused by water entering the upper airway and hitting the

vocal cords. This spasming closed the entrance to the airway and prevented air from entering or leaving the lungs and so obstructed breathing. People deprived of oxygen in this way, and with an elevated carbon dioxide level, lose consciousness and float face down in the water. Death by drowning is both inevitable and rapid in the absence of immediate rescue and resuscitation.

The fact the deceased came to the surface would imply he still retained some positive buoyance. However, after apparently attempting to swim back to the rocks for a period of time it is clear he was swept out to sea.

The fact the deceased's body was located some 200 metres south of where he had been swept off the rocks, floating on the sea floor is consistent with the deceased becoming unconscious, facedown and drowning. The implication being he no longer had enough positive buoyance to remain on the surface. Deceased bodies with no positive buoyance do not float on the surface, but sink and remain floating just above the sea floor, drifting with the water flow until decomposition changes affect the buoyancy of the body.

The fact Murphy had found the deceased in that position was consistent with the deceased becoming unconscious in the waves face down. He became negatively buoyant which caused him to sink to the sea floor.

Dr Luckin advised that even in the absence of injury the successive impacts of being hit by waves on the surface will result in a person becoming unconscious and with their face down in the water they will become negatively buoyant and sink. The fact the deceased was not wearing a life jacket would mean he had no artificial positive buoyance to keep him on the surface of the water and therefore he was invisible to the AVMR vessels and aircraft searching for him on the surface. Once a body has no positive buoyance then survival is not to be expected, and drowning occurs very quickly.

The post mortem examination results made it clear there were no external or internal injuries which would account for the death of the deceased. The only explanation would be that he drowned in a combination of the responses described by Dr Luckin.

The fact the deceased had retained enough positive buoyance to return to the surface after being swept into the water, but shortly thereafter became unconscious and sank below the waves would imply that had he been wearing a life jacket or personal floatation device (PFD) of appropriate specifications, it could have assisted him in remaining alive by holding his head out of the water until he could be rescued and possibly revived.

It would have increased his chances of survival as he would have retained enough positive buoyance to remain on the surface with his face out of water and inhale air and not water. This may have been enough to keep him alive on the surface until the rescue vessels and aircraft were in the area and could have recovered him with a potential for resuscitation.

It was Dr Luckin's analysis of the physiological responses to drowning which caused him to be a very strong proponent of the wearing of fit for purpose and properly maintained life jackets;

*“with a life jacket all of those factors would have played and would have given him a far higher chance of survival through that period, and if his only problem was that he was unconscious, a life jacket that held him on the surface and turned him onto his back with his airway out of the water may well – that alone may have been sufficient to cause his survival. But, certainly, all of those factors would have contributed to a far greater chance of his surviving.”*⁴²

CAUSE AND MANNER OF DEATH

I am satisfied that on 26 April 2016 the deceased, Mr Rahmani and Mohammed travelled to the Salmon Holes from Albany with the intention of fishing for salmon.

⁴² t 23.11.17, p247

Mr Rahmani was an inexperienced fisherman and not particularly enthusiastic. He remained on the beach with his son to fish close to where Mrs Allan had first seen them.

The deceased left Mr Rahmani and Mohammed and went onto the rocks at the north eastern end of the beach, where he used a rock anchor bolt closest to the water to secure himself to the rock face. Whatever happened caused the loop in the rope, which was presumably attached to the deceased, to break. The deceased was swept into the water.

The deceased, although not wearing a life jacket, managed to return to the surface of the water and attempted to swim towards the rocks. Unfortunately, he was unsuccessful and was last seen by Mr Greggains being swept around the rocks and further out to sea after which he disappeared in the waves. The deceased was never seen on the surface of the water again.

I am satisfied the search instituted for the deceased would have recovered him on the surface of the water on the afternoon of 26 April 2016 had he been wearing an appropriate life jacket.

Unfortunately he was not. He drowned and without any positive buoyance floated to the sea bottom where he was recovered by the police divers on the morning of 27 April 2016.

I find death occurred by way of Accident.

SAFETY CONSIDERATIONS WITH RESPECT TO THE DEATH OF THE DECEASED

Rock fishing is recognised as the most dangerous sport in Australia and yet is one where participants frequently take minimal precautions for their own safety and so rely heavily on emergency services and volunteers, often in treacherous conditions when something goes wrong. Due to its remoteness the outcomes for emergency and volunteer services dealing with incidents at the Salmon Holes are usually exhausting with none of the rewards of a positive outcome for rescuers and families. None of those lost at the Salmon Holes over the years have been wearing life jackets.⁴³

Prior to the inquests concerned with rock fishing at the Salmon Holes on 20-24 November 2017, there was divided opinion amongst many of the submissions received from the entities involved with rock fishing as to the desirability of mandatory life jacket regulation.

The resistance to a recommendation concerning the mandatory wearing of appropriate life jackets related to the issue of policing. Following the evidence of Dr Luckin there was little doubt the wearing of an appropriate life jacket would have increased the survivability of the deceased by

⁴³ † 20.11.17, p63

providing him with artificial positive buoyance which would have maintained him on the surface of the water during the remainder of the day light hours on 26 April 2016.

The wearing of an appropriate life jacket would have ensured the deceased's face was held above water, in the event he became unconscious, and so enabled a breathing response to occur in air and assist with his survival. There was no dispute on anybody's evidence the wearing of a life jacket would have assisted first responders out on the water to locate the deceased or his body and bringing him to shore. If he had been located while still alive then the chance of his being successfully resuscitated would have been considerably increased.

While the deceased in this case was recovered the following morning by the police divers, which concluded the search, the wearing of appropriate life jackets is an issue not only in the safety of rock fishers, but also relevant to the safety of all those involved in attempting to save lives when the unthinkable happens and a person falls into the water instead of remaining on the rocks. The policing issue is complicated but regulation will lead to cultural change as it has with motor vehicle seatbelts, bicycle helmets and littering.

The majority of rock fisher witnesses from whom the court heard concentrated their efforts on not ending up in the

water, by some use of anchor points and harnesses, rather than any thought given to their survivability once actually in the water.

In this case the deceased used a rock anchor bolt as provided by the Department, but not an appropriate rope and that alone was not enough to ensure his survival once swept into the water. He was aware of the dangers of fishing from the rocks as related to Mr Rahmani and suggested by Mrs Allan when the group first went down onto the beach.⁴⁴ It is clear the deceased also understood that appropriate footwear should be worn when on the rocks.⁴⁵ It was for this reason he took ropes but dissuaded the two Rahmanis from going with him up onto the rocks.

Mr Rahmani described the weather had been quite good in the morning but as the day progressed so did intermittent rain. This would have made the rocks extremely slippery, quite apart from the action of waves and spray.⁴⁶

The Department has ensured extensive signage at the Salmon Holes and on all access ways there depicting the dangers of rock fishing. While some of the witnesses stated the signs meant nothing to them because they could not read English, Mr Rahmani agreed that despite the signs

⁴⁴ Soltani Ex 1, tab 7 & 14

⁴⁵ † 24.11.17, p21

⁴⁶ † 23.11.17, p223

being in English the pictorial representation of the fact rock fishing is dangerous was clear.

“this is a warning. Of course, it’s obvious it’s a warning sign. Yes. I could understand not this one, but this one is obviously – you know, is - it is self-explanatory what it is stating.”⁴⁷

Mr Rahmani explained that on 26 April 2016 he was just following the deceased and doing whatever the deceased suggested. This included for he and his son to not go onto the rocks because it was dangerous.

Evidence was sought from Dr Barbara Cook with respect to her preliminary research arising out of a survey of rock fishermen over the Easter weekend 2015, shortly before the death of Mr Li and Mr Zhang, and approximately a year before the death of the deceased. The survey was focused upon the attitudes of fishers and their behaviour which may provide a means by which to best communicate with rock fishers as to the dangers associated with that sport, acknowledged to be one of the most dangerous recreational activities in Australia.

Dr Cook’s surveys followed inquests held on the east coast of Australia where the attitudes of rock fishers to the considerable input from various organisations to educating

⁴⁷ † 24.11.17, p28

rock fishers as to the dangers of rock fishing do not appear to have achieved the desired results.⁴⁸

In addition, the inquests heard evidence from James Allan, proprietor of Albany Rods and Tackle who had been in the tackle trade for over 35 years and fished the south coast for over 40 years. Mr Allan gave evidence he provided life vests/jackets (free of charge) to any angler that required one. This was originally funded by Recfishwest in response to the death of a local fisher who drowned falling into the water while rock fishing.

Mr Allan pointed out that even on a calm day the spray from the waves caused the surface of the rocks to react like an ice rink and those on the rocks were likely to slip into the water aside from direct wave action.⁴⁹ In those circumstances the physiological and psychological responses described by Dr Luckin would still apply and the positive buoyance provided by an appropriate and well maintained life jacket would give rescuers more time and opportunity to retrieve a person from the water alive.

Mr Allan stated that although he offered life jackets free of charge his offer was very rarely taken up despite advertising by Recfishwest on its website that various shops will provide life jackets for use free of charge. Mr Allan was of the opinion there was mostly a difficulty with people not local to

⁴⁸ Li & Zhang Ex 1, tab 29 & 30

⁴⁹ † 23.11.17, p224

the area, although Chris Johns, Coordinator AVMR advised the court AVMR had been involved in as many incidents with local fishers as they had with those not local to the area.⁵⁰

For the purpose of these inquests I was particularly interested in the results of an evaluation Dr Cook referred to carried out in California. This recounted an evaluation of results achieved in increasing the wearing of life jackets following education with respect to the wearing of life jackets and mandating the wearing of life jackets. The evaluation revealed that where there was an extensive education campaign with respect to the wearing of life jackets the percentage of people actually wearing life jackets was only elevated from 9% to approximately 11%, whereas once it was made mandatory, regardless of policing, the percentage of people wearing life jackets rose to 70%.

Dr Cook concluded as a result of the UWA pilot survey and review of the literature, “*mandatory, rather than voluntary, use of life jackets as being the most effective means for increasing their use*”.⁵¹

Signs and Education

The coast in Torndirrup National Park is spectacular and rightly attracts many visitors. No one wishes for visitors to be discouraged from visiting due to preventable outcomes.

⁵⁰ † 24.11.17, p51

⁵¹ Li & Zhang Ex 1, tab 31 quoting Journal Public Health Policy 2014 Volume 35, Sub Volume 2 pgs 204-218 Mangione T, Chow W. “*Changing life jacket wearing behaviour; an evaluation of two approaches*”

The Department already provides numerous signs and warnings at the Salmon Holes advising people of the dangers of climbing on the rocks. There are also a number of organisations which extensively cover issues surrounding the education of fishers as to conditions and taking responsibility for their own safety and understanding the relevant conditions with weather and environment.

The provision of anchor points by the Department was the result of much angst as to the tension between safety and allowing people to make some provision for their own safety when it was clear people would fish from the rocks regardless of the dangers.

Overall, the witnesses who used the anchor points did attempt to secure their safety by using tensioned ropes and proper harnesses.⁵² That did not seem to be the situation for this deceased where it is clear the rope he used to secure himself to the most vulnerable rock anchor point was not appropriately tensioned to hold his weight, alongside whatever tension was provided by either his fall or the waves.

The wearing of appropriate life jackets only enhances those efforts and needs to become a focus. Regardless of policing the majority of people will comply with regulation for safety in the desire to be left in peace.

⁵² † 23.11.17, p264

The addition to signs and educational posters and videos of the need to wear life jackets when fishing from the rocks would be an easy addition and not detract from the very impressive information and videos already available.

Life Jackets

There are many types of life jackets available. Practicality, maintenance and financial costs are also considerations for many fishers, but the cost to those fishers, their families and the community when a fisher loses his or her life in circumstances where a life jacket could have saved them is infinitely greater. While there was some reluctance from many of the witnesses to concede life jackets were appropriate, especially for those who could not swim, I have no doubt a majority would wear one if the issue was regulated.

There was a general resistance to the imposition of regulation until reminded of the danger to others in rescue, and the stress to families and bystanders. None of the visiting witnesses had even considered returning to the Salmon Holes and some have not rock fished or even fished anywhere again.⁵³

Dr Luckin was anxious to emphasise that the wearing of an appropriate life jacket extended the time frame for survival, quite aside from the initial positive buoyancy in bringing a

⁵³ † 21.11.17, p135, 24.11.17, p27

person to the surface. It will support a person once on the surface by increasing their chances of breathing in air, protecting them from trauma and increasing their ability to remain on the surface despite injury or swimming ability. It helps a person help themselves if they are in a position to do so. It increases the time frame in which there can be a successful rescue if a person is still alive and increases the recoverability of a deceased for families if not.⁵⁴

Dr Luckin agreed the old fashioned types of life jacket were awkward to wear but pointed out the modern, automatic self-inflating life jackets available in 2017 were convenient to wear to the extent fishers could forget they were wearing one, until it saved their lives.

The life jackets Dr Luckin recommended were those that conformed to Australian Standard 4758.1:2015 and;

- were auto-inflating on impact with the water;
- had a minimum level of 150N;
- were made of retro reflective material, abrasion resistant, incorporated a light and whistle; and
- have the facility to carry a personal emergency positioning indicator rescue beacon (EPIRB) which would also be a desirable piece of equipment.⁵⁵

⁵⁴ † 23.11.17, p243

⁵⁵ † 23.11.17, p246

Communication

Following the deaths of Mr Li and Mr Zhang at the Salmon Holes in April 2015 the local police and AVMR coordinated attempts to improve the difficulty for all organisations involved with MSAR with communication. AVMR provided the Albany Police Station with a VHF radio and hand held marine radios which police could use to communicate with AVMR once on the water.

While this improved coordination it still did not ameliorate the difficulty with public communication from the Salmon Holes due to poor digital coverage for people attempting to contact emergency services, or communication between police prior to obtaining the hand held radios from the Incident Controller located at Albany Police Station.⁵⁶

Following the death of this deceased in April 2016 an emergency telephone was provided at the Salmon Holes in June 2016.

While this did improve communication to emergency services there was an emergency, it did not really alleviate the problem with communication generally between the beach and emergency services.

⁵⁶ † 20.11.17, p38-39, 41



Exhibit 1, Tab 2, Page 10 –
Emergency Phone Installed at Salmon Holes

Following the inquests Mr Johns organised a meeting between entities involved in both the rescue operations to provide me with a submission which would assist the VMR groups, and those they work with, communicate effectively, both generally and very specifically in the Albany area. All parties were very anxious to enhance their cooperation and I thank Mr Johns and all contributors for the submission received.⁵⁷

⁵⁷ AVMR, DFES Marine Services, Albany WAPol, Department of Biodiversity, Conservation and Attractions, Albany Surf Life Saving and VMRWA (WA Association of VMR Groups)

The submission sought recommendations which would;

1. Provide complete mobile coverage at the Salmon Holes and other notorious black spots in WA to reduce delays in 000 calls and reduce turn out times for first responders;
2. Review communication plans State-wide for emergency services for interagency operational response;
3. Ensure incident chain of command protocols and structures are maintained and followed in accordance with established legislation;
4. Provide a marine VHF repeater on Eclipse Island established on Channel 80 with separate infrastructure to the WAPol repeater;
5. Ensure regular exercises of MSAR procedures at local levels; and
6. Ensure post incident debriefs are embedded and carried out for all MSAR incidents.⁵⁸

Some of those practices are already part of the emergency response protocols.

Drones

Sergeant Dave Murphy (Murphy), Albany Incident Controller for the SAR with respect to Mr Li and Mr Zhang, also spoke about the benefits of the use of drones or unmanned aircraft as part of any SAR effort. The ability to record events and relay that to relevant bodies in real time to assist with

⁵⁸ Communication from Chris Johns on behalf of listed contributors following inquest.

search efforts is becoming wide spread. In 2015 Murphy explained WAPol officers were prohibited from using the technology on duty, but recognition of the benefits for police work has seen that position revised and there is now a Police Air Operators Certificate available while training and protocols for use are being established.⁵⁹

The technology allows searchers to put drones in the air in an area, but with an expanded view not available from a vessel, but more immediate than from an aircraft and allows closer and quicker examination of objects of interest in real time.

Murphy also suggested the use of various attachments which could be used to drop, for example a personal floatation device (PFD), to a person in the water, provided they are in a state to use one, or water to someone in the bush.⁶⁰ More recently there have been a number of incidents where drones have proved useful in emergency situations.

By late 2017 the AMSAR crew had obtained a drone to assist in their search and rescue work and Mr Phillips supported the use of drones on lands and parks managed by the Department in a number of functions. He stated that provided all relevant accreditations and regulations were

⁵⁹ † 20.11.17, p45

⁶⁰ † 20.11.17, p46

followed, the Department would support the use of appropriate drones in any SAR endeavour.⁶¹

The most rewarding result for all people involved in any rescue effort is the safe rescue of a person alive, more likely if the person went into the water wearing a PFD, but even the recovery of a deceased person for their family is a benefit. These outcomes would only be enhanced with the ability to use appropriate drones.

Completion of Area Specific Surveys

I understand the completion of the survey undertaken by Dr Cook and the UWA students in 2015 into following years was not finalised due to a lack of funding. I also appreciate the difficulty for non-profit volunteer organisations in allocating funding to these types of endeavours when resources are very short and may well be used for more obvious benefit, such as the purchase of drones to assist with SAR operations.

However, an understanding of the attitudes and behaviours of those risking themselves when rock fishing may assist with how best to target changing those behaviours. The outcome of Dr Cook's literature survey certainly convinced all of those hearing that evidence at the inquest, combined with Dr Luckin's expert input, of the need to ensure, by any means, rock fishers wear life jackets. Resources are tight

⁶¹ † 23.11.17, p287

for all organisations, but the use of student input to collect data should be economical if it be confirmed to be useful, and could be considered by other organisations.

RECOMMENDATIONS

The difficulty with recommendations in this type of matter is finding an entity to whom the recommendations can be directed. This was discussed briefly in the course of Mr Phillips' evidence in representing the Department as a manager of the relevant area. In reality many entities are involved in emergency responses and work together to provide workable outcomes. In this case organisations and government agencies are clearly attempting to work together to implement strategies which will benefit all involved.

In the absence of specific entities to whom a recommendation would apply I have decided to make the recommendations to the Department and to WAPol. Both those organisations had representatives who sat throughout the inquests, provided input and contributed to the issues and submissions made and legislation requires police be involved in all land and sea search operations.

I appreciate the main recommendation will also affect the Department of Transport, Marine Safety,⁶² as well as numerous other bodies and is already being assessed in this State and with respect to proposed NSW discussions

⁶² † 23.11.17, p271

towards regulation by the National Search and Rescue Council, but believe it appropriate the Department and WAPol make the required approaches to those entities based on the recommendations arising out of these inquests on behalf of Western Australia.

I recommend;

RECOMMENDATION No. 1

REGULATIONS BE IMPLEMENTED WHICH MAKE IT A REQUIREMENT ROCK FISHERMEN WEAR LIFE JACKETS WHEN FISHING FROM ROCKS SUBJECT TO WAVE ACTION AND SPRAY ON THE WA COAST;

- A) THOSE LIFE JACKETS TO COMPLY WITH AUSTRALIAN STANDARDS 4758.1:2015 AND SELF-INFLATE ON IMPACT WITH WATER, HAVE A MINIMUM LEVEL OF 150N, ARE MADE OF RETRO REFLECTIVE MATERIAL, ARE ABRASION RESISTANT AND INCORPORATE A LIGHT AND WHISTLE; AND**
- B) ROCK FISHERMEN CARRY A PERSONAL EMERGENCY POSITIONING INDICATOR RESCUE BEACON (EPIRB)**

RECOMMENDATION No. 2

APPROACHES BE MADE TO TELSTRA TO INSTALL A MOBILE PHONE TOWER ON ECLIPSE ISLAND, AFTER SUITABLE SURVEY, TO ASSIST COMMUNICATION IN ALERTING RESPONDERS TO, AND COORDINATING, EMERGENCIES.

RECOMMENDATION No. 3

A MARINE VHF REPEATER BE INSTALLED AND MAINTAINED ON ECLIPSE ISLAND BY DFES ESTABLISHED ON CHANNEL 80 WITH SEPARATE INFRASTRUCTURE FROM THE POLICE REPEATER.

RECOMMENDATION No. 4

THERE BE COLLABORATION IN DEVELOPING RELIABLE COMMUNICATION PLANS UTILISING INTERNATIONALLY APPROVED FREQUENCIES/CHANNEL ALLOCATIONS FOR MARINE SEARCH AND RESCUE OPERATIONS IN LINE WITH THE INTERNATIONAL TELECOMMUNICATIONS UNION (ITU) AND THE AUSTRALIAN COMMUNICATIONS AND MEDIA AUTHORITY (ACMA) STANDARDS.

RECOMMENDATION No. 5

THE REGULATION AND MANAGEMENT OF DRONES FOR EMERGENCY SEARCH AND RESCUE OPERATIONS BE CLARIFIED AND TRAINING AND CERTIFICATION OF COMPETENT PILOTS BE PROMOTED WITHIN SEARCH AND RESCUE GROUPS.

CONCLUSION

The loss of the deceased to his family is significant. Since marrying his wife and returning to Australia without her, her loss is worn by Mr Rahmani and family remaining in Australia. Hopes for a new life for the deceased and his family have been halted.

While Mr Ficko considered the form of Mr Rahmani's shock to be unusual, I am satisfied the loss of the deceased to his family has put considerable emotional burden upon his family. Mr Rahmani appeared very distressed at the danger he suddenly realised his son could have been exposed to. While Mr Rahmani did not understand the dangers before travelling to Salmon Holes, it was clear he believed the deceased had. He was concerned the deceased had not fully appraised Mr Rahmani and his son of the extent of the danger when he advised them against going up on the rocks.

Mr Rahmani was quite adamant that he had not understood the dangers properly. He was not particularly interested in fishing, but believed many in his community were. Mr Rahmani considered the pictorial representations of the dangers on the signs, once he looked at them, were quite clear and he believed the best way for the Australian community to communicate those dangers appropriately to his community would be through the Imans in the communities.⁶³

I extend my sincere condolences to Mr Rahmani, his family, those of the deceased's family and their local communities for their loss of the deceased as part of their community, seeking a new life in Australia.

⁶³ † 24.11.17, p29

I do, however, implore those who are now aware of the dangers of rock fishing to communicate amongst themselves as to the benefits of wearing appropriate and properly maintained life jackets.

In the case of the deceased the fact he surfaced and was seen to be swimming supports the contention that had he been wearing a life jacket, despite the breaking of the anchor rope, he would have survived and probably rescued, before he drowned.

E F Vicker
Deputy State Coroner
23 March 2018