



Coroner's Court of Western Australia

RECORD OF INVESTIGATION INTO DEATH

Ref: 51/19

*I, Evelyn Felicia VICKER, Coroner, having investigated the disappearance of **John (Jack) Edward CARTER** with an inquest held at the **Coroner's Court, Court 83, Central Law Courts, 501 Hay Street, Perth, on 1 October 2019** find the death of **John (Jack) Edward CARTER** has been established beyond all reasonable doubt, and that the identity of the deceased person was **John Edward CARTER** and that death occurred on **10 December 1965 in the ocean off Sugar Loaf Rock, Cape Naturaliste**, in the following circumstances:*

Counsel Appearing:

Senior Constable Craig Robertson assisting the Coroner.

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INTRODUCTION

On 10 December 1965 John (Jack) Edward Carter (Mr Carter) was fishing at Sugar Loaf Rock with his wife when a wave swept him into the sea. He surfaced and appeared to be swimming strongly until another wave slammed him into a rock protruding from the water. Immediately following the second incident Mr Carter's body was noted to be limp and face down in the water.

It was not possible to rescue Mr Carter and by the time help had been summonsed he had disappeared beneath the waves. He was never seen again.

The inquest into this matter was held in Perth as there were no available relevant witnesses, other than the most recent investigation report writer. The documentary evidence comprised of the brief of evidence, Exhibit 1, Attachments 1 to 11 and the public notice of inquest dated the 11 September 2019. The report writer, Detective Sergeant Brian Connelly, gave oral evidence from the papers in the Missing Person's brief.

Long Term Missing Person's Project (LTMP)

In 2017 it was established there were a number of files relating to the long term disappearance of people who had been in Western Australia at the time of their reported disappearance. Some of the disappearances occurred at a time when there was limited or no jurisdiction for a coroner to examine the circumstances of a suspected death.

Section 23(1) of the Coroners Act 1996 WA (the Act) allows the State Coroner to direct an investigation into a suspected death in certain circumstances without a body, for the purposes of allowing a coroner, under section 23(2), to establish beyond all reasonable doubt that death has occurred. The investigation must be done by way of inquest and will attempt to clarify how the death occurred and the cause of the death. This effectively brings the suspected death into the ambit of s 25 of the Act and allows registration of the death under the *Births, Deaths and Marriages Registration Act 1998*.

The reported number of LTMP made it unrealistic for the Office of the State Coroner (OSC) to absorb those matters into the already long outstanding inquest list in a timely manner. A plan was proposed for a project to clear the backlog of LTMP files once it had been determined the matters fitted the circumstances set out in s 23(1) of the Act. That is, the State Coroner or delegate had reasonable cause to suspect the person had died and the death was a reportable death (s3 of the Act).

In 2018 funds were approved for a coroner to work exclusively on the LTMP cases, on a part-time basis for twelve months, as a separate listing from the OSC general inquest list. This followed a pilot project of four inquests conducted in 2018.

In 2019 a coroner was appointed for that project with the support of an in-house Coronial Investigation Squad (CIS) police officer as Counsel Assisting (CA).

Work on the files indicated a number of disappearances related to specific areas for Western Australia such as the Kimberley, around Kununurra or Broome, and Albany. For these matters it was decided that, while there is always a preference for inquests to be held in the communities to which they relate, especially for Indigenous communities where there is an emphasis on oral history, resources would not be effectively utilised for all matters to be heard in the place of the disappearance. Instead matters related to outside the Perth metropolitan area were considered from the perspective of the best availability of relevant witnesses. Where there were no witnesses available in the relevant area of disappearance the matter would be held in Perth for the purposes of hearing the relevant evidence.

In the case of Mr Carter there were no available witnesses in the place of disappearance by the time of the inquest and, while I am satisfied Mr Carter has a number of descendants, it has not been possible to make contact with any of those family members. This matter was therefore heard in Perth and the only information available for Mr Carter's personal circumstances were those that were recorded at the time of his disappearance.

The anticipated outcome of the LTMP project was that by June 2020 the majority of LTMP matters would be resolved and that future missing persons' files would be dealt with in the normal course of OSC business.

THE DECEASED

Mr Carter is recorded as being born on 1 January 1904 at Jarrahwood in Western Australia. His wife, Phyllis Christina Carter (Mrs Carter) advised the police in 1965 that Mr Carter was employed at the Ilmanite Mine in Capel, and on the date of his disappearance he was on annual leave from his employment. They lived in Capel.

Mrs Carter advised that she and Mr Carter had married in Busselton on 11 September 1928, when Mr Carter would have been 24 years of age and Mrs Carter younger, at approximately 17-18 years of age. They were still married at the time of his disappearance and Mrs Carter had had 9 children.¹

The missing person report (MPR) completed on 20 December 1965² recorded for later identification purposes that Mr Carter was missing the first thumb joint of his left hand, that he had a large scar over his right chest and an appendix removal scar. Mrs Carter reported him as both healthy and physically 'normal'.

While it is apparent from the police report relatives of Mr Carter were involved in the search for him following his disappearance, it is not clear whether these were children or other family relatives. The OSC has been unable to establish contact with any descendants or relatives of Mr Carter and unfortunately Mrs Carter is, not unexpectedly, now deceased. There appears to be no other information available about Mr Carter, other than the fact he and his wife frequently went fishing at the same spot as the one they chose on 10 December 1965, and they both enjoyed fishing. Mr Carter was 61 years of age.

Mrs Carter advised the police Mr Carter had started his annual holidays on 15 November 1965 and on 10 December 1965 had driven to Sugar Loaf Rock, described as a fishing spot near the Naturaliste Light House, in their car to spend the day fishing. Mrs Carter estimated the time as approximately 12.30 pm when they arrived at their fishing spot.

¹ Exhibit 1 Tab 5

² Exhibit 1 Tab 3

DISAPPEARANCE

Mrs Carter described³ she and her husband selected their fishing spots, with her husband choosing to fish from a ledge closer to the water than her own.

She estimated she was approximately 16 feet above the water while Mr Carter was about 10 feet above the water. She described the sea as being reasonably calm, though the water was choppy, and the wind was blowing with a land breeze which took their lines out to sea. This was a spot from which they had frequently fished and, although they were aware of the fact the waves would sometimes break over the rocks, the waves had not on any occasion caused them any great concern. Mr Carter was wearing his usual fishing clothes of navy shorts and a grey flannel shirt.⁴

Mrs Carter estimated that approximately an hour and a half after they commenced fishing they were joined by another person on the rocks whom they had not known before, Thomas Edward Turner (Mr Turner) and, although their estimates of time are different, the facts as related by both Mrs Carter and Mr Turner support the proposition Mr Carter was swept into the sea sometime around 6 pm on 10 December 1965.

Mr Turner, now deceased, in his statement given to police at the time⁵ estimated he met Mr and Mrs Carter in the early afternoon of Friday 10 December 1965. He described himself as fishing with the Turners all afternoon before having a cup of tea and something to eat at approximately 4 pm.

Following having something to eat and drink Mr Turner described the three of them as continuing to fish and that Mr Carter was at approximately the same level as himself, 15 feet above the water, with Mrs Carter higher.

Mrs Carter estimated the time as being a little earlier and does not refer to them having anything to drink, which is not surprising in the circumstances in which

³ Exhibit 1 Tab 5

⁴ Exhibit 1 Tab 3

⁵ Exhibit 1 Tab 6

her statement was taken. Mrs Carter estimated Mr Turner was fishing below her husband in a depression in the rocks closer to the water. Mrs Carter noted there had been two bigger waves than usual crashing onto the rocks and as a result her husband moved his fishing gear back from where he had put it, however returned to the same spot to fish.

Mrs Carter described that a short while later, without any warning, a big wave struck her from behind, however without enough force to knock her over. She said she immediately turned to see what was happening with the two men and Mr Turner recalled her calling out "Look out". Mr Turner realised a wave must be coming over the rocks and he held onto a small rock close to where he was fishing. He did not see Mr Carter at that point.

Mr Turner described the wave had hit him and washed his feet from under him, but he managed to retain his grip on the rock until it had passed. He noted at the same time that Mr Carter was swept from where he had been standing on the rock, and Mrs Carter noted Mr Carter was sliding down the rock face below where he had been standing, with his hands above his head. She believed he was trying to throw himself backwards as his arms were also being thrown backwards. She described him as keeping on sliding until he went into the water and under the sea.

Both Mrs Carter and Mr Turner described that on the wave receding they observed Mr Carter come to the surface and swim away from the rocks as she was calling out for him to do. Mr Turner believed Mr Carter appeared to be well although he was close to rocks protruding from the water with a gap between them. Mr Turner ran to get a life buoy after telling Mrs Carter what he was going to do and making her promise not to attempt to go into the water after her husband.

Mrs Carter noted her husband was swimming in the vicinity of the two rocks in the water for approximately 3 minutes before he turned onto his back to rest, at which time he was about 60 feet from where she was positioned on the rock face. At that point she estimated he was between six to eight feet from the two rocks in the water. Mrs Carter stated her husband only rested for about thirty seconds before he turned onto his stomach and started to swim again. She noted the current was

very strong and he did not seem to be moving away from the rocks. After he had been swimming for approximately 3-4 minutes she noted another big wave pick him up and throw him face first into the rocks near which he was swimming. She saw him go face down into a rock and then roll off the rock into the water and disappear. She estimated he was under the water for a few seconds before he came back to the surface, but at this point he was floating face down and not moving.

As Mr Turner returned with the life buoy he observed a wave catch Mr Carter and throw him against a rock which appeared to render him unconscious. He observed another wave then lift Mr Carter over the rock before he vanished under water and floated back to the surface face down, either unconscious or dead.

By this time Mr Carter was too far away for the life buoy to be useful and obviously Mrs Carter was extremely distressed. Mr Turner took Mrs Carter out of sight and then returned to where he had last seen Mr Carter and attempted to haul him in with a heavy fishing line to tow him to the shore. He was unsuccessful in snagging Mr Carter and so he and Mrs Carter left to inform police and obtain help.

Mrs Carter and Mr Turner then drove to a farmhouse on Cape Naturaliste Road to obtain help from the Busselton Police.

Both Mrs Carter and Mr Turner described the wave which had swept Mr Carter from his fishing spot as a “freak wave”.

Once at the farm of Mrs Miles the police were contacted and at 6.40 pm Sgt Savage of Busselton Police Station received a telephone call from Mrs Miles advising the police that a man had been washed from Sugar Loaf Rock and was floating in the channel.⁶

⁶ Exhibit 1 Tab 4, 8

INVESTIGATION

Following the report to the Busselton Police Station of Mr Carter's accident, Sergeant Savage and Constable Gray attended at the farmhouse to obtain details of the incident from Mrs Carter and Mr Turner. The two police officers then sought the input of two local "skin" divers and the group arrived at Sugar Loaf Rock at 7.35 pm on the 10 December 1965.⁷

A search was commenced however due to the failing light had to be suspended until the next day. The divers and police returned to the same spot at 4.30 am on 11 December 1965 and the search was continued. Several miles of coastline were patrolled without any evidence of Mr Carter, while the two divers made a brief search of the seabed, but again had to abandon the search, this time due to rough water conditions.

On Sunday 12 December 1965 the services of six divers were utilised and the conditions were better. They systematically searched the seabed, but were unable to find any trace of Mr Carter. Volunteer searchers and Police searched the coastline on foot several miles in either direction from the Sugar Loaf Rock point, but still did not find any trace of Mr Carter. The search was continued through Monday 13 until Friday 17 December 1965 by Constable Woke of Busselton Police Station and relatives of Mr Carter, however, he could not be located. The coastline was searched from the south end of Smith Beach to a point several miles north of Sugar Loaf Rock as being the most likely area he may have been washed ashore. The search was suspended on the Friday without result.⁸

The missing person report (MPR) was completed by Constable Woke on the 20 December 1965 and forwarded to the Regional Office. The original papers would have been maintained at the Busselton Police Station in 1965 as there was no central collection point for missing person's information at that time.

⁷ Exhibit 1 Tabs 2, 4

⁸ Exhibit 1 Tabs 2, 4

The papers disclose a request for information from Busselton Police by Sgt Foley of the then existent Missing Persons Unit (MPU) in June 1984 for further information to be provided to the MPU, however, it was discovered the occurrence books for that period had been destroyed before 1984. The only records were those available from the District Office which did not provide any further information.

A search by MPU in July 1984 did not locate any further information with respect to any record for Mr Carter's death.⁹

Continued checks between 1999, 2002-2004 and July 2009 indicated further enquiries with the electoral roll, banking institutions and social services both in Western Australia and eastern states did not record any information with respect to Mr Carter. In February 2016 Mr Carter's disappearance was entered onto the National Missing Persons Victim System without further finalisation.

The information with respect to Mr Carter was compiled from the existing MPR by Detective Sergeant Connelly in December 2018 without further investigation. The OSC has been unable to contact any descendants of Mr Carter and there is no record of the registration of his death with the Registrar General for Births, Deaths and Marriages 1998.

HAS DEATH BEEN ESTABLISHED?

Mr Carter was 61 on 10 December 1965 and in 2019 would have been 115 years of age. If he was still alive that fact would definitely have been recorded and I am satisfied on Mr Carter's age alone he is deceased.

Further, the circumstances surrounding his death satisfy me beyond a reasonable doubt that Mr Carter died on 10 December 1965 in the waters off Sugar Loaf Rock sometime after 6 pm as the result of drowning. It is highly likely he was unconscious due to injury, and drowned as a result of being in the water at that time. The statements provided by Mrs Carter and Mr Turner, while slightly different in detail with respect to time and positions on the rock face, certainly

⁹ Exhibit 1 Tabs 2, 8

independently support the death of Mr Carter as a result of being swept from the rock face from which he was fishing by a freak wave. Mr Turner was also swept off his feet by the same wave.

While Mr Turner managed to maintain a grip on a rock, Mr Carter was swept into the water and surfaced swimming strongly. It is likely he was uninjured physically at this point although physiologically his system would have been extremely stressed. He was observed by both Mrs Carter and Mr Turner to be swimming in an attempt to move away from rocks close to where he had surfaced. Mr Turner left the immediate vicinity in order to obtain a life buoy, and as he returned with the life buoy observed another wave sweep Mr Carter into the nearest rock following which he was swept over the rocks into the channel. Both Mrs Carter and Mr Turner then observed Mr Carter to be limp, unmoving, and face down. I have absolutely no doubt on those eye-witness accounts that Mr Carter had been seriously injured when he was swept onto the rock in the water and then lifted over the rocks into the channel.

I am unable to determine whether Mr Carter was deceased at that point or died within the next few moments as the result of inhaling water in an unconscious state.

Nevertheless I am satisfied that Mr Carter then died as a result of drowning, regardless of what other injuries he may or may not have had.

While searches of the sea bed in the 48 hours following his disappearance failed to reveal any trace of Mr Carter, and searches along the coastline did not indicate his body had been washed ashore, I am satisfied he was by then deceased.

I am satisfied beyond all reasonable doubt that Mr Carter became immersed in the channel off Sugar Loaf Rock and was swept either under rocks or out to sea into deep water.

MANNER AND CAUSE

I am satisfied beyond all reasonable doubt that Mr Carter suffered two immersions around about 6 pm on 10 December 1965 and that he was not in a position to survive his second immersion following having been injured when a second wave slammed him into a rock protruding above the water.

The fact that Mr Carter was not found floating on the surface satisfies me Mr Carter drowned at the time of the incident whether or not he was injured. The physiology of immersion is such that the scenario as related by Mrs Carter and Mr Turner is destined to result in death by drowning.¹⁰

I find occurred by way of Misadventure.

CONCLUSION

The papers available, whilst sparse, make it clear there is no apparent motive for Mr Carter to have voluntarily disappeared, nor is there any suggestion that that was a possibility. Mr and Mrs Carter enjoyed fishing and frequented the same location a number of times where they had enjoyed thoroughly satisfying recreational fishing. Mrs Carter indicated they were aware of the difficulty with waves sweeping people from the rocks, and this was indicated by her recounting the fact Mr Carter moved his fishing gear further up the rock face following two larger than normal waves.

The wave in question took Mrs Carter unawares, although she does not appear to have been in the direct line of its full force. Unfortunately, Mr Carter and Mr Turner both seem to have been in the exact path of the freak wave against the rock face from which they were fishing and Mr Carter, despite Mrs Carter's warning, was not in a position to secure himself against the moving water.

The initial immersion of Mr Carter under the water does not appear to have significantly affected him and the description from both Mrs Carter and Mr Turner

¹⁰ Inquest into the Suspected Death of Jiaolong Zhang (Inquest No. 44/17)
Inquest into the suspected death of John Edward CARTER (144/2019)

was that he appeared to be swimming without difficulty, although Mrs Carter was concerned the current appeared to prevent him moving away from the danger of the rocks protruding above the surface of the water.

Unfortunately, once in the water Mr Carter was extremely vulnerable to the wave movement and Mrs Carter observed him to be slammed into a rock face and washed into the channel. Following this he was unmoving and was undoubtedly unconscious, if not already deceased.

This was a tragic ending for Mr Carter's family following a productive life and apparently enjoyable annual leave including an activity both he and his wife enjoyed together.

I accept Mrs Carter and Mr Turner did everything in their power in the circumstances with which they were confronted to assist Mr Carter, but the conditions were too dangerous for anyone else to enter the water. I am satisfied that by the time Mr Turner and Mrs Carter left the vicinity of Sugar Loaf Rock Mr Carter was already deceased and somewhere close to the sea bed. What happened to him from that point in time is only speculation. This was a very tragic occurrence for any family, particularly such a large family directly before Christmas 1965.

I am satisfied beyond all reasonable doubt Mr Carter died in the water off Sugar Loaf Rock on 10 December 1965, sometime after 6 pm.

E F Vicker
Coroner
14 November 2019