



Coroner's Court of Western Australia

RECORD OF INVESTIGATION INTO DEATH

Ref 85/19

*I, Evelyn Felicia VICKER, Coroner, having investigated the disappearance of **Hajime NAGAI** with an inquest held at the **Coroner's Court, Albany Court House, Stirling Terrace, Albany, on 10 December 2019**, find the death of **Hajime NAGAI** has been established beyond all reasonable doubt, and the identity of the deceased person was **Hajime NAGAI** and that death occurred on **11 March 1995, in the seas off Salmon Beach, Esperance**, in the following circumstances:*

Counsel Appearing:

Senior Constable Craig Robertson assisting the Coroner.

TABLE OF CONTENTS

INTRODUCTION.....	2
Long Term Missing Persons Project (LTMP).....	2
THE DECEASED	4
Salmon Beach.....	5
DISAPPEARANCE.....	6
INVESTIGATION	8
HAS DEATH BEEN ESTABLISHED?	9
MANNER AND CAUSE	10
CONCLUSION	11

INTRODUCTION

On 11 March 1995 Hajime Nagai (Mr Nagai) and a female friend, Rie Sekou (Ms Sekou) were on rocks on the western end of Salmon Beach, west of Esperance, when Mr Nagai slipped from the rocks into the sea. He was unable to gain traction on the rocks to climb out and eventually disappeared beneath the waves. Mr Nagai was never seen again and no trace of him was ever located.

The inquest into the disappearance of Mr Nagai was held in Albany with a videolink to the Esperance Courthouse where a witness to Mr Nagai's disappearance, Gary Herbert (Mr Herbert), is still resident. The evidence comprised the documentary papers in the brief of evidence, exhibit 1, tabs 1-23 and the Public Notice of Inquest dated 12 November 2019 as exhibit 2. Oral evidence was heard from Mr Herbert and Sergeant John Cook outlined police investigations from the Missing Person Report (MPR) compiled at the time.¹

Long Term Missing Persons Project (LTMP)

In 2017 it was confirmed 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 no or limited 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*.

¹ Exhibit 1, tab 6

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 approval was given 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 of 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 disappearance. Instead matters where the disappearance occurred in places other than the Perth metropolitan area were considered from the perspective of the best availability for relevant witnesses.

In the case of Mr Nagai, the only relevant witness still available in Esperance was Mr Herbert and, as this was the only matter for Esperance it would have necessitated the use of restricted resources for a single sitting in Esperance. Mr Herbert was prepared to go to the Esperance Courthouse and provide evidence by way of videolink to Albany Courthouse. This allowed for the matter of Mr Nagai to be held in the Albany Courthouse along with other matters from the Albany area. Sergeant Cook had attended in Albany, at his own volition, for another Albany listing and was prepared to outline the police investigations concerning Mr Nagai in 1995.

Mr Nagai, while a Japanese national, had been resident in Australia for 11 months at the time of his disappearance in Esperance in 1995. Both Mr Nagai's family in Nagasaki and the Japanese Consulate had been involved with the circumstances surrounding his disappearance in 1995,² but enquiries with Border Force in 2019 indicated Mr Nagai is still listed as being onshore in Australia³ due to his death not having been registered in Australia. Hence the decision to complete an inquest pursuant to section 23 of the Act to allow a coroner to provide the Registrar General the particulars needed to register the death (section 25(1)(d)) as a matter of public interest.

The anticipated outcome of the Long Term Missing Person project was that by June 2020 the majority of outstanding LTMP matters would be resolved and that future missing person files would be dealt with in the normal course of the OSC usual business.

THE DECEASED

Mr Nagai was born in Nagasaki, Japan, on 11 September 1971 which made him 23 years of age when he disappeared on 11 March 1995.⁴ Unfortunately the papers do not reveal any other information about Mr Nagai prior to his arrival in Australia in 1994.

Mr Nagai is recorded as arriving in New South Wales on 28 April 1994 on a working holiday visa valid until 28 April 1995.⁵

Mr Nagai's father, Shojirou Nagai, still resides in Nagasaki and provided dental information with respect to his son which may be useful in the event of the discovery of future unidentified remains.⁶

Mr Nagai's address while in Australia was recorded as 34 Highfield Road, Lynfield, New South Wales, but he had arrived on holiday in Esperance, Western Australia

² Exhibit 1, tabs 12 and 17

³ Exhibit 1, tab 22

⁴ Exhibit 1, tab 16

⁵ Exhibit 1, tabs 2 and 16

⁶ Exhibit 1, tab 12

on 10 March 1995 where he and two friends were staying at the backpackers lodge.⁷

He was travelling with a 19 year old female friend, Ms Sikou, and a 25 year old friend, Takayuki Shinoda (Mr Shinoda) who was a keen photographer.

Salmon Beach

Salmon Beach is a beach west of Esperance on the south coast of Western Australia where it is recognised the conditions can be extremely dangerous.⁸ It is a rocky coastline, dispersed with beaches, experiencing big swells and king waves which make the rocks bordering the beaches extremely slippery. Signs were in place advising people the rocks were dangerous, and Mr Herbert noted that at the time of Mr Nagai's fall there were signs before you walked down onto the beach.⁹

There were certainly signs leading down to the beach from the carpark, and the manager of the backpackers lodge where the three friends were staying advised police he had warned the three that the coast was dangerous, especially fishing from the rocks, and he was confident all three tourists were capable of reading English.¹⁰

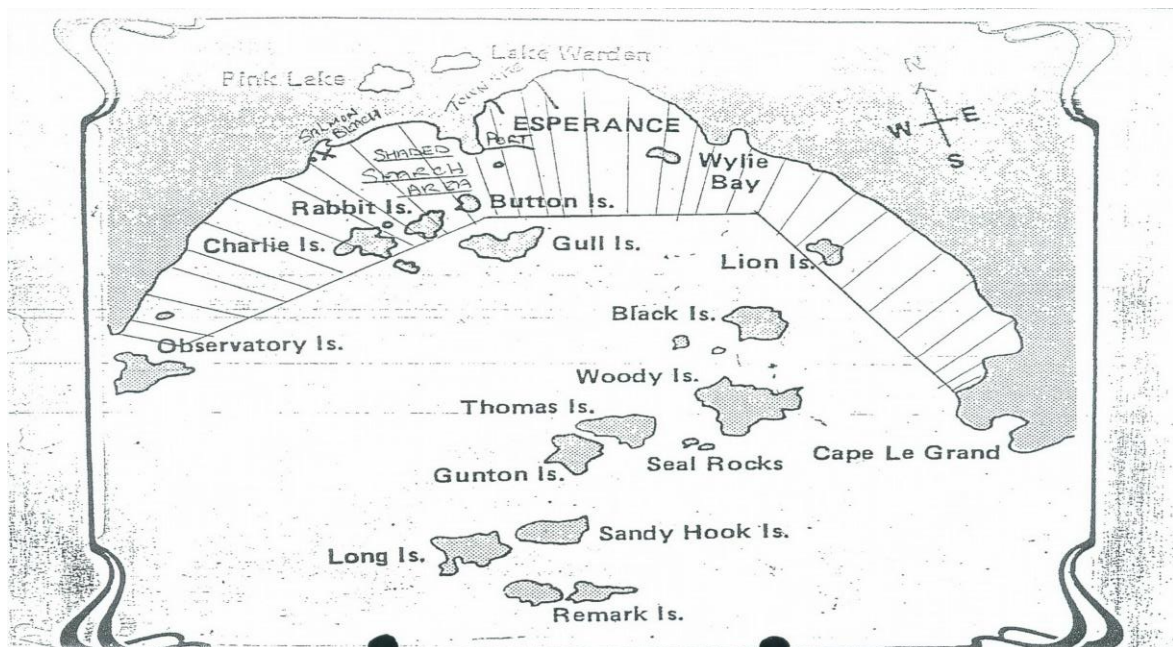


Exhibit 1, tab 14 : Map of location with search area marked

⁷ t.10.12.19, p.5

⁸ t.10.12.19, p.5

⁹ t. 10.12.2019, p.6 : Exhibit 1, tab 6

¹⁰ Exhibit 1, tab 4

DISAPPEARANCE

On 11 March 1995 Mr Nagai and his two friends decided to explore the Esperance coast and Mr Nagai and Ms Sikou wished to fish, while Mr Shinoda wanted to take photographs of the coastline. Mr Shinoda drove Mr Nagai and Ms Sikou out along Twilight Beach Road and dropped them at Salmon Beach to fish, while he drove on to take photographs before returning to collect them.¹¹

Ms Sikou stated she and Mr Nagai were dropped at Salmon Beach at about 12.30 pm and walked onto the rocks at the western end of the beach where Mr Nagai intended to fish.¹²

Ms Sikou stated they put their belongings down on the rocks and she then turned away from Mr Nagai to put on her swimming costume. When she turned back towards the water she saw Mr Nagai slipping down the rocks into the water. Ms Sikou did not mention any sound, either of a wave or Mr Nagai calling out, to cause her to turn around. She then saw Mr Nagai come out of the sea back onto the rocks, briefly, but he could not get hold of the rocks before being knocked back into the water by the waves.¹³

Ms Sikou stated she jumped into the water to help Mr Nagai, but was not able to reach him and struggled to get back out of the water herself. At one point she noticed Mr Nagai had managed to get onto the rocks and clear of the water, but was then again washed into the water by the next wave. She did not believe he showed any signs of injury, but thought it likely he would have had scratches on his body and legs from his attempts to get out of the water.

At the same time Mr Herbert was driving along Twilight Beach Road towards Esperance townsite with some friends, including Lee Stevens (Mr Stevens). Mr Herbert was only 17 years of age and Mr Stevens was 16 years of age at that time, but they were both residents of Esperance and were used to the water. As they drove towards Salmon Beach they noticed someone in the water, near the

¹¹ Exhibit 1, tab 8

¹² Exhibit 1, tab 9

¹³ Exhibit 1, tab 9

rocks on the western side of the beach and Mr Herbert stopped his car to see what was happening.¹⁴

Once they had stopped Mr Herbert stated he could see a person in the water near the rocks with a female standing opposite him on the rocks. He believed it was obvious the person in the water was in trouble. Mr Herbert also saw Mr Nagai washed onto the rocks by a wave which left him kneeling on the rocks, however, the next wave came through and washed him back into the water.

Mr Herbert and Mr Stevens then ran down onto the beach to see if they could help. Mr Herbert collected his boogie board from the boot of his car in case he could use in an attempt to rescue Mr Nagai. By the time Mr Stevens reached the beach he noted Ms Sikou was still in danger of being washed into the water. He observed Mr Nagai to be approximately 5 to 10 metres out into the sea. He also noted some very jagged rocks close to Mr Nagai in the water. Mr Stevens did not actually see Mr Nagai attempting to swim, rather just treading water.¹⁵ He also noted Mr Nagai disappeared under the waves approximately two minutes after he had reached Ms Sikou. He considered the water to be extremely dangerous at times.

Mr Stevens went down to the water's edge and brought Ms Sikou back up to a safe area, while Mr Herbert watched the wave patterns to try and determine the best time to jump into the water with his board in an attempt to rescue Mr Nagai. Mr Herbert described the conditions as there being a very big swell, with the water churning underneath with a massive undertow and waves coming in rapidly in sets of five.¹⁶

By this time Ms Sikou estimated Mr Nagai had been in the water for approximately 20 minutes and she believed he was extremely tired.¹⁷ Mr Herbert confirmed Mr Nagai was originally trying to swim, but the undertow was dragging him out, and the current towards the rocks, before he appeared to stop trying to swim.

¹⁴ Exhibit 1, tab 10

¹⁵ Exhibit 1, tab 11

¹⁶ t. 10.12.19, p.5

¹⁷ Exhibit 1, tab 9

Mr Herbert explained that by the time he had managed to manoeuvre down to the water and pick an appropriate time to go into the sea he could no longer see Mr Nagai in the water as he had disappeared out of sight. He made the decision it was not sensible he go into the water unless he could actually see Mr Nagai.¹⁸ Mr Herbert remained beside the water for approximately 30 minutes after Mr Nagai disappeared before he and Mr Stevens decided the appropriate course of action would be to go and obtain help. They took Ms Sikou with them.¹⁹

INVESTIGATION

Esperance Police received a telephone call at 12.50 pm on 11 March 1995 advising them a man had slipped off the rocks at Salmon Beach and was in the ocean approximately 200 metres from the shore. Police attended the scene while emergency services were notified and procedures implemented via the Sea Rescue Group for a search and rescue effort. Divers were also deployed to the area.

Esperance was experiencing adverse weather conditions with the sea running a 3 to 4 metre swell, being whipped up by 15 to 20 knot south easterly winds. The water was described as white and choppy with poor visibility.²⁰ Due to the dangerous conditions the divers conducted a preliminary underwater search only, and were called out of the water at 2.38 pm. The land and sea searches continued until dark at 5.30 pm. They were rescheduled to resume at 6.00 am the following morning.

Following the initial search for the remainder of the day on 11 March 1995, comprehensive land, sea and air search were continued twice daily through 12 to 17 March 1995 as a recovery operation. The search was conducted to coincide with the tide during daylight hours.

¹⁸ Exhibit 1, tab 10

¹⁹ Exhibit 1, tabs 9 and 10 and 11

²⁰ Exhibit 1, tab 5 and 6

The air search was terminated on Friday 17 March 1995 after the morning search, while the land and sea search continued until Sunday 19 March 1995. Esperance Police calculated that approximately 20 people were searching each day.²¹

Mr Nagai's father had arrived in Esperance on 16 March 1995 and was provided with his son's belongings.

No trace of Mr Nagai has been located. All checks relating to later banking details were negative and there is no record of any person using Mr Nagai's name ever leaving Australia.

HAS DEATH BEEN ESTABLISHED?

The combined evidence of Mr Herbert and Mr Stevens satisfies me, beyond all reasonable doubt, that Mr Nagai is dead and died on 11 March 1995 in the seas off Salmon Beach at approximately 12.30 pm.

The evidence is that Mr Nagai slipped from the rocks and thereafter attempted to climb back onto the rocks a number of times before being swept back by the waves. At one point he was seen to be clear of the waves, however, was shortly thereafter swept back into the water.

While Mr Herbert and Mr Stevens did not actually see Mr Nagai fall into the water, Ms Sikou, who was with him on the rocks said she turned her back and when she turned towards the water again she could see him slipping down the rock-face and into the water. Her statement does not comment on hearing any sound although some of the police reports do refer to her hearing him calling out for help.

Ms Sikou was clear Mr Nagai appeared alert and orientated for the first part of his difficulties, but thereafter she could tell he was extremely tired, and Mr Stevens did not believe Mr Nagai was actively swimming, but rather treading water.

²¹ Exhibit 1, tabs 4 and 5

Any fall into cold water unexpectedly can be destabilising, in and of itself.²² The fact Mr Nagai appeared to have disappeared under the water a number of times would have been extremely physiologically taxing. He probably survived for as long as he did due to the fact he was young and fit. However, the coastline along the south coast of Western Australia is extremely dangerous with hidden rocks under water, and the swell and waves creating considerable undertows with strong currents.

There is no evidence of any reason for Mr Nagai to voluntarily disappear, or that he intended to do himself harm. All of the evidence strongly points to Mr Nagai drowning as he struggled in the waves after falling from the rocks.

I am satisfied beyond all reasonable doubt Mr Nagai drowned very soon after his final immersion and was swept under the water and either into the rocks or out to sea.

MANNER AND CAUSE

I am satisfied beyond all reasonable doubt Mr Nagai suffered a number of immersions at around about 12.38 pm on 11 March 1995 and that he did not survive. Whether he was injured or otherwise, I am satisfied Mr Nagai drowned.

The fact Mr Nagai was not found floating on the surface satisfies me he drowned at that time and would have remained in the area of the sea bed subject to water movement. Whether he remained intact and later surfaced out to sea is unknown, but it is equally as likely he was swept out into deeper water and his body never surfaced in a recognisable form.

I find death occurred by way of Misadventure.

²² Inquest into the suspected death of Jiaolong ZHANG & death of Chunjun LI (F/No: 3031/2015 & 3033/2015) delivered 16 March 2018

CONCLUSION

Losing anybody when they are young and healthy and at the beginning of their life is always a tragedy. The fact this young man was a visitor to the area must make it especially hard for his family that he died so far away from home.

Death by drowning when rock fishing is unfortunately a very common occurrence along the south coast of Western Australia. It is a hazardous coast, known to the locals, who still take risks and endanger themselves. It is not clear Mr Nagai and Ms Sikou understood the risk they were taking, although I accept there are signs, and they had been warned of the dangers of the rocky coast.

The fact the danger may not have been fully appreciated is possibly demonstrated by Ms Sikou apparently standing on the rocks while she changed into her bathing costume at the time Mr Nagai slipped and fell into the water, followed by her entering the water herself without seeking assistance.

Ms Sikou's attempt to rescue her friend was heroic, but she is extremely lucky to have survived, and I commend Mr Herbert and Mr Stevens for pulling her further away from the water and themselves being prepared to enter the water to rescue Mr Nagai had he still been visible.

It must have been a truly traumatic event for Ms Sikou, Mr Herbert and Mr Stevens to realise Mr Nagai was beyond their help and they needed to go and obtain assistance in an attempt to recover him.

I thank Mr Herbert for being prepared to relive the terrible circumstances of 11 March 1995 in his home town so many years later. Mr Herbert provided first hand and invaluable information to the inquest.

E F Vicker
Coroner

31 March 2020