JURISDICTION	: CORONER'S COURT OF WESTERN AUSTRALIA
ACT	: CORONERS ACT 1996
CORONER	: MICHAEL ANDREW GLIDDON JENKIN
HEARD	: 7 MAY 2020
DELIVERED	: 14 MAY 2020
FILE NO/S	: CORC 1310 of 2019
DECEASED	: RAE, THOMAS DOMINIC

Catchwords:

Nil

Legislation:

Nil

Counsel Appearing:

Sergeant L. Housiaux assisted the Coroner.

Case(s) referred to in decision(s):

Nil

Coroners Act 1996 (Section 26(1))

RECORD OF INVESTIGATION INTO DEATH

I, Michael Andrew Gliddon Jenkin, Coroner, having investigated the disappearance of **Thomas Dominic RAE** with an inquest held at the Perth Coroner's Court, Court 85, CLC Building, 501 Hay Street, Perth, on 7 May 2020, find the death of **Thomas Dominic RAE** has been established beyond all reasonable doubt, and the identity of the deceased person was **Thomas Dominic RAE** and that death occurred on or about 7 July 2019, at Shelley Beach, Coomalbidgup, in the following circumstances:

Counsel Appearing:

Sergeant L Housiaux assisted the Coroner

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INTRODUCTION

- 1. Thomas Dominic Rae (Mr Rae) was 25-years of age when he went missing, whilst fishing off rocks at Shelley Beach¹ in Esperance. For the reasons set out below, I find that his death occurred, on or about 7 July 2019, by accident, as a result of immersion in water (drowning).
- 2. On 25 February 2020, the State Coroner determined that on the basis of the evidence contained in a police report with respect to the Mr Rae's disappearance, that she had reasonable cause to suspect that he had died and that his death was a "*reportable death*".²
- **3.** Accordingly, pursuant to section 23(1) of the *Coroners Act 1996* (WA), the State Coroner directed that the suspected death be investigated.^{3,4} In accordance with that direction, I held an inquest into the suspected death of Mr Rae, on 7 May 2020. Members of Mr Rae's family attended the inquest by means of a telephone link.
- **4.** Senior Constable Matt Gulland, the police investigating officer gave oral evidence at the inquest, and provided the Court with a report into Mr Rae's disappearance and suspected death.⁵
- 5. Attachments to the police report included statements from relevant witnesses and information relating to the search for Mr Rae. The brief of evidence, which comprised two volumes, also included extensive information about Mr Rae's medical history.
- 6. The inquest focused on the circumstances surrounding Mr Rae's disappearance and the issue of whether he was deceased.

¹ I have adopted this spelling on the basis of Sen. Cont. M Gulland's evidence, see: ts 07.05.20 (Gulland), p16 ² Section 3, *Coroners Act 1996* (WA)

³ Section 23(1), *Coroners Act 1996* (WA)

⁴ Direction by State Coroner, contained in letter to Commr. of Police (25.02.20)

⁵ Exhibit 1, Vol. 1, Tab 2, Report ~ Sen. Const. M Gulland

MR RAE

Background^{6,7,8}

- 7. Mr Rae was born on 14 September 1993⁹ and lived with his family in Dalyup, about 35 km west of Esperance, until 27 December 2018. On that date, he moved to Castletown, a suburb of Esperance. He lived in a rented unit in a complex in Esperance, and also owned a unit in the same complex that he rented out.
- 8. Mr Rae was employed at a local supermarket as a checkout operator. He was described as a friendly, cheerful and approachable person, who was always smiling. Mr Rae enjoyed outdoor activities such as fishing and sport, including: football, tennis and running.

Health issues¹⁰

- **9.** Apparently as a result of oxygen deprivation at birth, Mr Rae had a mild intellectual impairment. He was registered with the Disability Services Commission, but he lived independently.¹¹
- 10. Over time, Mr Rae received a number of mental health diagnoses including: anxiety, depression, bipolar affective disorder and mixed affective disorder.¹² However, at his last psychiatric review on 15 January 2019, he was assessed as having no psychiatric illnesses.¹³
- **11.** Mr Rae presented to Esperance Hospital (EH) in February 2013 with septic arthritis, following a knee injury at work. He presented again in August 2014, when he was treated for an injured forearm after reportedly being stabbed during an altercation at work.¹⁴ On 16 October 2015, Mr Rae saw his GP and had stitches after a workplace accident in which he sustained a cut to his left forearm.¹⁵

⁶ Exhibit 1, Vol. 1, Tab 2, Report - Sen. Const. M Gulland, p11

⁷ Exhibit 1, Vol. 1, Tab 25, Victimology Report

⁸ Exhibit 1, Vol. 1, Tab 21, Rae family media release (16.07.19)

⁹ Exhibit 1, Vol. 1, Tab 1, P100 - Report of Death

¹⁰ Exhibit 1, Vol. 1, Tab 2, Report - Sen. Const. M Gulland, pp11-12

¹¹ Exhibit 1, Vol. 2, Report - Dr A Marangou, Genpar Medical Services (13.11.19)

¹² Exhibit 1, Vol. 2, GP records - Genpar Medical Services, p2 & Letter (16.01.17)

¹³ Exhibit 1, Vol. 2, Report - Dr S McCormack, Consultant Psychiatrist (11.01.19)

¹⁴ Exhibit 1, Vol. 2, Report - Dr P Glackin, Esperance Hospital (08.11.19)

¹⁵ Exhibit 1, Vol. 2, Medical records - Genpar Medical Services, pp11-12 (16.10.15)

- **12.** On 31 October 2016, Mr Rae was seen by his GP after he had "*lost control*" two days earlier and damaged his father's house. Mr Rae reported auditory hallucinations and he was commenced on the antipsychotic olanzapine, and referred to a community mental health service.¹⁶
- **13.** Mr Rae was seen by visiting psychiatrists in Esperance on 8 November 2016 and 13 December 2016 respectively. One of the psychiatrists noted that Mr Rae may have been taken advantage of at his workplace and that he had a case manager through the Disability Services Commission. ^{17,18}
- 14. The psychiatrist who saw Mr Rae in December 2016, concluded that it was likely he had a depressive illness in the context of significant stress in the workplace, and that acting out in anger was a major symptom. Mr Rae was prescribed escitalopram (an antidepressant), and lorazepam (a benzodiazepine), to be used as required for agitation, as required. His antipsychotic medication, olanzapine, was to be ceased after two weeks.¹⁹
- **15.** On 6 January 2017, Mr Rae presented to EH and was diagnosed with worsening symptoms of depression with psychotic features. He reported suicidal ideation with a solid plan and had threatened to "*blow up*" his father's home.²⁰ He was admitted to EH as a voluntary patient and diagnosed with mixed bipolar affective disorder, anxiety and depression.²¹
- **16.** During his admission, Mr Rae's depressive symptoms settled, but he developed hypomania with elevated and disinhibited mood. His antidepressant medication was reduced, and a mood stabiliser (sodium valproate) and the antipsychotic, olanzapine were added. Following his discharge from hospital, Mr Rae was managed by a community mental health service for about 12 months.²²
- **17.** A worker's compensation claim completed by Mr Rae's GP on 25 January 2017, noted that Mr Rae was depressed with suicidal ideation, and had reported workplace bullying in October 2016.²³

¹⁶ Exhibit 1, Vol. 2, GP records - Genpar Medical Services, pp9-10 (31.10.16)

¹⁷ Exhibit 1, Vol. 2, Report - Dr M Samuel, Consultant Psychiatrist (08.11.16)

¹⁸ Report - Dr S McCormack, Consultant Psychiatrist (13.11.16)

¹⁹ Exhibit 1, Vol. 2, Report - Dr S McCormack, Consultant Psychiatrist (13.11.16)

²⁰ Exhibit 1, Vol. 2, Report - Team Leader, Esperance Community Mental Health (06.01.17)

²¹ Exhibit 1, Vol. 2, Discharge summary - Esperance Hospital (17.01.17)

²² Exhibit 1, Vol. 2, Report - Dr P Glackin, Esperance Hospital (08.11.19)

²³ Exhibit 1, Vol. 2, WorkCover WA: First Certificate ~ Dr A Marangou (25.01.17)

- 18. On 10 February 2017, Mr Rae was found to have a benign malformation in his brain (intra-ventricular arachnoid cyst).²⁴ Such cysts are usually congenital, but may occur as a result of trauma. Small cysts are generally asymptomatic, but larger cysts can cause symptoms and require neurosurgical management.²⁵
- **19.** Mr Rae saw his GP on several occasions between February 2017 and July 2017. During this period, his mental state and mood appeared to be stable and he resumed full-time work. He denied suicidal ideation and his level of anxiety improved dramatically.^{26,27,28}
- **20.** Mr Rae was discharged from the community mental health service on 20 December 2017 with a diagnosis of mixed affective disorder. His treatment plan was that he continue taking his medication for 12 months, and then be reviewed by a visiting psychiatrist, with a view to stopping medication altogether, if he was stable.²⁹
- **21.** On 24 January 2018, Mr Rae saw his GP after taking his mood stabiliser once a day instead of twice daily. His speech was rapid at times and he was told to take his medication as directed. When he was reviewed by his GP on 28 March 2018, he was stable and taking his medication as prescribed.³⁰ When Mr Rae saw his GP on 7 January 2019, it was noted that he had allegedly assaulted his father on 26 December 2018, and would be appearing in court in relation to the matter on 8 January 2019. Although his speech was agitated, he denied low mood. He was given a prescription for the antidepressant, escitalopram, and a mood stabiliser (sodium valproate).³¹
- **22.** When Mr Rae was reviewed by a visiting psychiatrist on 15 January 2019, he said there had been a build-up of tension between himself and his father over a long period, and this had culminated in a physical altercation. The reviewing psychiatrist concluded that Mr Rae did not have any psychiatric illnesses and there was no indication for medication, and Mr Rae was discharged from the community mental health service on 12 February 2019.^{32,33}

²⁴ Exhibit 1, Vol. 2, Imaging report – Sir Charles Gairdner Hospital (10.02.17)

²⁵ See: <u>https://www.hopkinsmedicine.org/health/conditions-and-diseases/arachnoid-cysts</u>

²⁶ Exhibit 1, Vol. 2, WorkCover WA: Final Certificate - Dr A Marangou (28.07.17)

²⁷ Exhibit 1, Vol. 2, GP records - Genpar Medical Services, pp9-10 (31.10.16)

²⁸ See also: Exhibit 1, Vol. 2, Report - Dr S McCormack (16.03.17): "Tom stated he is feeling good".

²⁹ Exhibit 1, Vol. 2, Letter (21.12.17) & Client plan (20.12.17) - Community Mental Health Esperance

³⁰ Exhibit 1, Vol. 2, GP records - Genpar Medical Services, p3 (24.01.18) & (28.03.18)

³¹ Exhibit 1, Vol. 2, GP records - Genpar Medical Services, p2 (07.01.19)

³² Exhibit 1, Vol. 2, Report - Dr S McCormack, Consultant Psychiatrist (16.01.19)

³³ Exhibit 1, Vol. 2, Letter - Mr P Harris, Esperance Community Mental Health (12.02.19)

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23. Mr Rae last saw his GP on the 16 April 2019. On that day, he presented with right knee pain and was advised to take paracetamol and anti-inflammatories. There was no mention of any mental health concerns at this appointment.³⁴



Photo 1: Aerial view of Shelley Beach (Photo taken by Police drone)



Photo 2: View of rocks at Shelley Beach (Photo taken by Police drone)

³⁴ Exhibit 1, Vol. 2, GP records ~ Genpar Medical Services, p1 (16.04.19)

DISAPPEARANCE^{35,36,37}

- 24. At about 9.40 am on 7 July 2019, Mr Rae and his friend, Mr White, drove to an area known as Shelley Beach, Coomalbidgup to go fishing. They had gone fishing in this general area on a number of occasions in the previous 18-months, and had fished at the same spot the week before.
- **25.** Shelley Beach is a small stretch of beach about 200 metres long, approximately 72 km west of Esperance. The area is characterised by steep cliffs and the beach is protected by a headland on the western side.
- **26.** On 7 July 2019, there was a light breeze and a two to three metre swell.³⁸ Waves were crashing on the shore causing a substantial amount of sea water to flow over rocks near the shoreline. The rocks near the shoreline are covered with black algae, and become extremely slippery when wet (see Photos 1 and 2).
- 27. After Mr Rae and Mr White had fished from the beach for about 40 minutes, Mr Rae climbed onto rocks about 50 metres away. He returned a few minutes later and said he wanted to fish from that area.
- **28.** Mr White was very apprehensive about fishing from the rocks, because he knew it was dangerous to do so and neither he, nor Mr Rae were experienced rock fishers.
- **29.** Mr Rae walked off in the direction of the rocks with his fishing gear, and Mr White lost sight of him as Mr Rae moved behind a rocky outcrop. About 10 minutes later, Mr White, who had stayed at the beach fishing, decided to check on Mr Rae.
- **30.** Mr White walked to the area of rocks where he assumed Mr Rae had been fishing. Mr White found one of Mr Rae's fishing rod and a packet of fish bait resting on the rocks. There was no sign of Mr Rae.

³⁵ Exhibit 1, Vol. 1, Tab 2, Report - Sen. Const. M Gulland, pp2-4

³⁶ Exhibit 1, Vol. 1, Tab 3B, Statement ~ Mr D White, paras 32-87

³⁷ ts 07.05.20 (Gulland), pp6-8

³⁸ Exhibit 1, Vol. 1, Tab 18, Bureau of Meteorology, coastal waters forecast (07.07.19)

THE SEARCH

Initial search at the scene^{39,40,41,42,43}

31. Mr White searched the rocks in the area where Mr Rae was thought to have been fishing, and then ran to the beach carpark to see if Mr Rae had gone to his car. At about 11.55 am, Mr White sent a text message to his partner, telling her what had happened, and continued searching for Mr Rae. Mr White's partner and Mr White's father arrived at Shelley Beach to help search for Mr Rae at about 1.05 pm.

The police search begins^{44,45}

- **32.** At 12.10 pm on 7 July 2019, Senior Constable Gulland and First Class Constable Tonkin were advised that Mr Rae had gone missing off rocks at Shelley Beach. At about the same time, the Police Operations Centre advised the Water Police and the Esperance Volunteer Search and Rescue Group (VSR). Meanwhile, arrangements were made for police divers and jet-skis from Surf Life Saving WA (SLSWA) to be made available to assist the search, by first light on 8 July 2019.
- 33. By the time Officers Gulland and Tonkin arrived at Shelley Beach, volunteers from the Esperance unit of the State Emergency Service (SES) were searching the beach and the area around the rocks, where it was thought Mr Rae had been fishing. Police searched Mr Rae's vehicle but found nothing of significance and a land and sea search continued until last light on 7 July 2019.
- **34.** As the search got underway, police made enquiries about whether search aircraft were available, but rotary and fixed wing aircraft were already tasked with other jobs. A jet aircraft that was available was deemed unsuitable given the nature of the search. Senior Constable Gulland expressed the opinion that the lack of aircraft did not impede the search for Mr Rae.

³⁹ Exhibit 1, Vol. 1, Tab 2, Report - Sen. Const. M Gulland, p3
⁴⁰ Exhibit 1, Vol. 1, Tab 3B, Statement - Mr D White, paras 87-100
⁴¹ Exhibit 1, Vol. 1, Tab 3A, Statement - Mr J White, paras 10-79

⁴² Exhibit 1, Vol. 1, Tab 3C, Statement ~ Ms V Child-Keitel White, paras 13-46

⁴³ ts 07.05.20 (Gulland), pp5-6

⁴⁴ Exhibit 1, Vol. 1, Tab 2, Report - Sen. Const. M Gulland, pp3-6

⁴⁵ ts 07.05.20 (Gulland), pp9-11 & 15

Timeframe for survival^{46,47}

- **35.** Mr Rae was not a strong swimmer^{48,49} and on 8 July 2019, police consulted with Dr Paul Luckin, a consultant anaesthetist based in Queensland and an expert in search and rescue operations. Dr Luckin advised that if Mr Rae had been swept off rocks and had survived, his "*time frame for survival*" was a maximum of six hours.
- **36.** However, on the basis that Mr Rae had been swept off rocks and into the sea, it was Dr Luckin's view that:

There is a high probability that death occurred within a few minutes of entering the water, as a result of the psychological effects of sudden cold-water immersions, the lack of a life jacket, and the physical impact of being swept against the rocks of the impact zone.

37. Dr Luckin's assessment considered factors including: the sea temperature was only about 16.5° Celsius, Mr Rae's body shape and the fact that he was not wearing a lifejacket when he was last seen, and time which had elapsed since he had gone missing, including the fact that during the night, there was no radiant heat from the sun and it was difficult to see oncoming waves, which increased the risk of drowning.

The search operation^{50,51}

- **38.** Over the following nine days, between 8 and 16 July 2019, police coordinated an extensive sea and land search, in an unsuccessful attempt to locate Mr Rae. The following resources were deployed:
 - i. *SES foot patrols*: teams of SES members, assisted by police, conducted searches of 16 km of coastline during the 10 days of the search.
 - **ii.** *Rescue vessels*: two rescue vessels from the VSR, two jet skis from SLSWA and a vessel from the Department of Transport conducted sea searches on days one, two and three of the search operation.

⁴⁶ Exhibit 1, Vol. 1, Tab 14, Timeframe for Survival Assessment - Dr Luckin (08.07.19)

⁴⁷ ts 07.05.20 (Gulland), p12

⁴⁸ Exhibit 1, Vol. 1, Tab 3B, Statement ~ Mr D White, paras 112-113

⁴⁹ Exhibit 1, Vol. 1, Tab 25, Victimology Report

⁵⁰ Exhibit 1, Vol. 1, Tab 2, Report ~ Sen. Const. M Gulland, pp4~9

⁵¹ Exhibit 1, Vol. 1, Tab 4, Police briefing sheets (07-16.07.19)

- **iii.** *Police drone*: a police drone equipped with video recording equipment searched the shoreline and ocean on day two of the search.
- **iv.** *Police divers*: police divers were deployed on days two and three of the search and were assisted by jets skis from SLSWA. A total of 84 hours of searches were conducted of the rocks and shoreline around the area where Mr Rae was last seen.⁵²
- v. *Police vehicle patrols*: during the 10 days of the operation, police conducted numerous searches of vehicle and walking tracks in the area.
- **39.** It was decided to make one further effort to locate Mr Rae and at 8.00 am on 16 July 2019, volunteers from the SES conducted a search from Shelley Beach to 11 Mile Beach. They also searched the area around Butty Head. Police suspended the search operation at 5.00 pm on 16 July 2019.
- **40.** The search operation attracted significant media interest and social media was inundated by posts relating to Mr Rae. On 14 August 2019, a member of the public reported a decomposing body on the beach near the whale tail sculpture in Esperance. The remains were subsequently identified by a veterinarian and by Dr Cooke from the State Mortuary, as the remains of a kangaroo.^{53,54}
- **41.** Despite an extensive land and sea search over a period of 10 days, no trace of Mr Rae was found.⁵⁵ Senior Constable Gulland said that in his opinion, all of the resources that he required to conduct the search were made available to him.⁵⁶
- **42.** Having carefully considered all of the available evidence in this case, I am satisfied that every effort was made to locate Mr Rae as soon as police became aware that he was missing.

⁵² Exhibit 1, Vol. 1, Tab 12, Water Police Dive Squad Post Operational Report (03.09.19)

⁵³ Exhibit 1, Vol. 1, Tab 2, Report ~ Sen. Const. M Gulland, p13

⁵⁴ ts 07.05.20 (Gulland), pp12-13

⁵⁵ Exhibit 1, Vol. 1, Tabs 5, 6 & 8, Search maps, Trackplus Pro data and PU5 search area tracking data

⁵⁶ ts 07.05.20 (Gulland), p9

POLICE INVESTIGATION

Enquiries by Police^{57,58}

- **43.** Police conducted an extensive investigation into Mr Rae's disappearance. Enquiries with various State agencies (including missing persons units) and Commonwealth agencies including Centrelink and Medicare proved fruitless.
- **44.** The last transaction on Mr Rae's Members Equity bank account occurred on 7 July 2019, and there were no transactions on any of his other bank accounts after his disappearance. Police enquiries identified that no social media posts were made by Mr Rae after his disappearance.
- **45.** Detectives based at Esperance interviewed Mr White and concluded that no criminality was involved in Mr Rae's disappearance. There have been no sightings of Mr Rae, nor has there been any contact from him, since he went missing on 7 July 2019.

Conclusion reached by police investigator

46. At the conclusion of his investigation, it was Senior Constable Gulland who expressed the opinion that Mr Rae had fallen from rocks at Shelley Beach into the ocean whilst fishing, and subsequently drowned.^{59,60} I note that members of Mr Rae's family reached the same conclusion.⁶¹

⁵⁷ Exhibit 1, Vol. 1, Tab 2, Report - Sen. Const. M Gulland, p12

⁵⁸ ts 07.05.20 (Gulland), pp11-12

⁵⁹ Exhibit 1, Vol. 1, Tab 2, Report - Sen. Const. M Gulland, p13

⁶⁰ ts 07.05.20 (Gulland), pp14-15

⁶¹ ts 07.05.20 (Rae), p19

HAS DEATH BEEN ESTABLISHED?

- **47.** In my view, the evidence establishes beyond all reasonable doubt, that Mr Rae died on or about 7 July 2019 in the vicinity of Shelley Beach, Coomalbidgup.
- **48.** In reaching that conclusion, I have had regard to the following facts, established by the evidence:
 - i. Mr Rae and Mr White went fishing at Shelley Beach at about 9.40 am on 7 July 2019;
 - **ii.** Mr Rae told Mr White he was going to fish from some rocks at Shelley Beach;
 - iii. When Mr Rae went to fish from rocks at Shelley Beach, there was a swell of two to three metres and the rocks in the area where Mr Rae was fishing were extremely slippery and treacherous;
 - iv. Mr Rae was not wearing a lifejacket and was considered to be a poor swimmer;
 - v. about 10 minutes after Mr Rae had started fishing from rocks at Shelley Beach, Mr White went to check on him, but found no trace;
 - vi. a survival expert considered that Mr Rae's timeframe for survival after entering the water, was a maximum of 6 hours. However, the survival expert considered that there was a high probability that Mr Rae had died within a few minutes of entering the water;
 - vii. an extensive land and sea search over a ten-day period failed to find any trace of him; and
 - viii. since 7 July 2019, there have been no sightings of Mr Rae, and no contact of any kind from him, since that date.

CAUSE AND MANNER OF DEATH

- **49.** After carefully considering the available evidence, I have concluded that Mr Rae was swept from rocks whilst fishing at Shelley Beach, Coomalbidgup, and that he subsequently died in the ocean from immersion (drowning).
- **50.** It is the case that Mr Rae had experienced mental health issues and had been variously diagnosed with: anxiety, depression, bipolar affective disorder and mixed affective disorder. He had also experienced periods of suicidal ideation and been prescribed anti-depressants and mood stabilising medication.
- **51.** However, a visiting psychiatrist who assessed Mr Rae on 15 January 2019, found he had no psychiatric illnesses and did not require medication and Mr Rae was discharged from the community mental health service that had been supervising his care on 12 February 2019.
- **52.** Mr Rae's mood in the six-month period prior to his death was described as "*really good*"⁶² and he appeared to be happy and in good spirits on 7 July 2019.^{63,64} In the absence of any evidence that he intended to take his life, I find that Mr Rae's death occurred by way of accident.

CONCLUSION

- **53.** Mr Rae was 25-years of age when he went missing whilst fishing from rocks at Shelley Beach near Coomalbidgup. In my view, the evidence in this case leads to the inescapable conclusion that he died on 7 July 2019 from immersion (drowning), after being swept into the ocean.
- **54.** Once again, this case highlights the dangers of fishing from rocks without a life jacket or a harness tethered to a strongpoint. I would urge all those contemplating fishing from shoreline rocks in Western Australian to ensure they take appropriate precautions before doing so.

MAG Jenkin Coroner 14 May 2020

⁶² Exhibit 1, Vol. 1, Tab 3B, Statement ~ Mr D White, paras 10-11

⁶³ Exhibit 1, Vol. 1, Tab 3C, Statement - Ms V Child-Keitel White, para 6

⁶⁴ Exhibit 1, Vol. 1, Tab 3B, Statement ~ Mr D White, para 35