



Coroner's Court of Western Australia

RECORD OF INVESTIGATION INTO DEATH

Ref: 9/20

*I, Evelyn Felicia VICKER, Coroner, having investigated the disappearance of **Ngoolbu Wallaby** with an inquest held at the **Coroner's Court, Court 2 Broome Court House, Hamersley Street, Broome, on 29 January 2020** find the death of **Ngoolbu Wallaby** has been established beyond all reasonable doubt, and the identity of the deceased person was **Ngoolbu Wallaby** and that death occurred **during February 1977 at a place unknown between Christmas Creek Station and Fitzroy Crossing** 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
DISAPPEARANCE.....	5
INVESTIGATION	6
Unidentified remains.....	7
HAS DEATH BEEN ESTABLISHED?.....	7
MANNER AND CAUSE	8
CONCLUSION	9

INTRODUCTION

On or about 1 February 1977 Ngoolbu Wallaby (Mr Wallaby) was at Christmas Creek Station when he advised a group of elders he intended to walk to Fitzroy Crossing along Christmas Creek. When he did not appear in Fitzroy Crossing in a reasonable timeframe he was reported to the Police as missing. There is no record of his ever being seen or heard from again.

The inquest into the disappearance of Mr Wallaby was held in Broome. The documentary evidence comprised the brief of evidence, Exhibit 1 Tabs 1-26 and the Public Notice of Inquest dated 31 December 2019 as Exhibit 2. Oral evidence was heard from now retired Senior Sergeant David McAlpine (Mr McAlpine) by way of telephone link from Thailand, who compiled the original Missing Person Report (MPR) into the disappearance of Mr Wallaby when he was a police constable in Fitzroy Crossing in 1977,¹ and Senior Constable Peter Smith who spoke to a report he had prepared from the missing person file for the purposes of an inquest.²

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 these had occurred at a time when there was limited or no jurisdiction for a coroner to investigate 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 s 23(2), to establish beyond all reasonable doubt that death has occurred. The investigation must be 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 3

² Exhibit 1 Tab 2

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 (s 3 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 approved 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 the 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 outside the Perth metropolitan area were considered from the perspective of the best availability for relevant witnesses.

In the case of Mr Wallaby it was hoped inquiries while in Broome for other matters would provide relevant witnesses. This did not occur directly, however, witnesses in other matters certainly made comments with respect to the general disappearance of people in remote areas and elevated levels of suspicion of foul play where bodies were not readily located if there had been prompt and efficient searches.

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

THE DECEASED

Records indicate Mr Wallaby was born on 1 July 1900, which would make him about 76 years of age when he disappeared in February 1977. Almost nothing is known about Mr Wallaby other than he had been employed as a gardener at the Fitzroy Crossing Hospital, and also was known by nicknames of "Sam" or "Horrible".³

Mr Wallaby was a traditional Aboriginal man with tribal scarring and an elder in his community.⁴ Mr Wallaby was reported as missing by Mr Charles Brooking, (Mr Brooking) another elder from Fitzroy Crossing although their relationship is unclear.

Officially Mr Wallaby has no known siblings, wife or children, however a grand-daughter was later identified⁵ and there is reference in the original missing person report (MPR) that he was married in the "tribal manner".⁶ His grand-daughter, Rita, is resident at Mindi Rardi Community near Fitzroy Crossing⁷ where there is a suggestion there are other family members of Mr Wallaby although their actual relationships are not clarified.

The police did not have a record of any offences for Mr Wallaby⁸ which made the recording of his history even harder because there was also no medical or dental information for him.⁹

Other than the above there is no information with respect to Mr Wallaby, and I suspect the record of him being a gardener may have related to when he was younger.

³ Exhibit 1 Tab 2, t. 29.1.2020, p.4

⁴ Exhibit 1 Tabs 3 and 4

⁵ Exhibit 1 Tab 2

⁶ Exhibit 1 Tab 3

⁷ Exhibit 1 Tab 15

⁸ Exhibit 1 Tab 3

⁹ Exhibit 1 Tab 11

The information from Mr Brooking was that Mr Wallaby had travelled to Christmas Creek Station from his community at Fitzroy Crossing in January 1977 to participate in men's business. He was usually resident around the Fitzroy Crossing communities.

DISAPPEARANCE

The information available from the MPR¹⁰ and the general police report¹¹ indicated Mr Wallaby remained at Christmas Creek Station with other elders during men's business and at its conclusion on approximately 1 February 1977, informed the other elders with whom he had travelled from Fitzroy Crossing that he wished to return to his community in Fitzroy Crossing, by foot along Christmas Creek.

This appears to have been a distance of about 40 miles or approximately 60 kilometres. The other elders do not appear to have raised any objection to his proposed course of action, however, were cognisant of the fact that he should be returning to his Fitzroy Crossing community.

After allowing for what the elders believed was an appropriate amount of time for him to return, without his return, the elders from his community reported him as missing through Mr Brooking.¹²



¹⁰ Exhibit 1 Tab 3

¹¹ Exhibit 1 Tab 5

¹² Exhibit 1 Tab 5

INVESTIGATION

Mr Wallaby's disappearance was reported to the Fitzroy Crossing Police Station on 14 February 1977, but it does not record that any search was undertaken. The view of the elders appeared to be that Mr Wallaby had perished along the way due to his age and the length and difficulty of the trip. It was not known which precise track he would have used, although it was generally agreed there were tracks along Christmas Creek.

An implication Mr Wallaby had turned up at Strelley Station, Port Hedland, was investigated¹³ but Port Hedland police reported in the negative in November 1977. The tribal elders at Strelley Station stated they did not know Mr Wallaby or know of Mr Wallaby in Port Hedland.¹⁴

In evidence, Mr McAlpine stated he could no longer recall why there was not a search for Mr Wallaby when he was reported as missing, but believed it likely to have been the extent of the area indicated for a comprehensive search. As he pointed out it just was not viable for the available police resources to search the required area.¹⁵ In addition, there was not great concern expressed by the elders as communicated to the two well respected and significant police aides at Fitzroy Crossing. Mr McAlpine was not aware that the information back from Strelley Station was that Mr Wallaby was not located or known.

Further inquiries between 1977 and 1978 through the District Office in Broome indicated all elders were of the belief that Mr Wallaby was deceased.¹⁶

Inquiries in 1999 indicated Centrelink did not have any record relating to Mr Wallaby.¹⁷ Checks in 2015 indicated he was not known to any government agency.¹⁸

Inquiries by Senior Constable Smith in 2018 attempting to locate relatives for Mr Wallaby did produce a number of family members in the Fitzroy Crossing

¹³ Exhibit 1 Tab 5

¹⁴ Exhibit 1

¹⁵ t. 29.1.20, p. 5-7

¹⁶ Exhibit 1 Tab 17-24

¹⁷ Exhibit 1 Tab 9

¹⁸ Exhibit 1 Tab 10

area and he located Rita Wallaby at the Mindi Rardi community as being Mr Wallaby's grand-daughter.¹⁹ CA was unable to speak with Ms Wallaby but local police had indicated previously she had no objection to an inquest or use of his name in court.²⁰

Further inquiries with government agencies and facilities still indicated no record of Mr Wallaby despite the fact he had been recorded as being a pensioner, as well as a gardener.²¹

Unidentified remains

In 1996 Dr Margolius examined skeletal remains which had been discovered in the vicinity of Anna River Crossing. The remains were examined by the Forensic Anthropologist Alanah Buck, and Doctors Margolius and Buck were satisfied the skeletal remains were not those of Mr Wallaby, but belonged to a female aged somewhere between 20 and 40 years. They appeared to have been where they were located for approximately 50 years.²²

HAS DEATH BEEN ESTABLISHED?

Had Mr Wallaby been alive in 2020 he would have been approximately 120 years of age. I am satisfied Mr Wallaby did not reach that age and therefore am satisfied beyond all reasonable doubt Mr Wallaby is no longer alive.

Further, I am satisfied beyond all reasonable doubt Mr Wallaby was deceased sometime during February 1977 during his trip from Christmas Creek Station back to Fitzroy Crossing. Apart from the unverified rumour he was at Strelley Station, there has been no evidence which would indicate Mr Wallaby survived his trek from Christmas Creek Station in February 1977.

¹⁹ Exhibit 1 Tab 13

²⁰ t. 29.1.20, p.9

²¹ Exhibit 1 Tab 4

²² Exhibit 1 Tab 7

Although there is no evidence of any search through those areas from Christmas Creek to Fitzroy Crossing I appreciate that for those tribal Aborigines travelling by foot it was a well-travelled route, and it is likely that if Mr Wallaby had been alive, but incapacitated in some way his remains would have been located. I am satisfied it is more likely Mr Wallaby either suffered a medical emergency, or some form of misadventure overtook him which ultimately resulted in his death away from the well-travelled routes. It is entirely possible he chose to “go bush” to die, although there is no mention of him appearing frail or weak, other than his very respectable age of 76.

The elders reporting him missing did not report any searches and it would seem they were satisfied that having failed to return to Fitzroy Crossing he had died due to the length of the journey and his age.²³

Contact with Mr Wallaby’s grand-daughter for the purposes of holding an inquest did not indicate she had any other view than her grand-father had disappeared and died. I am sure that if there had been any indication Mr Wallaby survived the trip, although arriving belatedly, there would have been some indication through the elders.

Overall, I am satisfied beyond all reasonable doubt Mr Wallaby set out from Christmas Creek Station to Fitzroy Crossing at the beginning of February 1977 and died in some way along the journey.

MANNER AND CAUSE

I am unable to determine what caused Mr Wallaby’s death or exactly how he died.

While I am satisfied beyond all reasonable doubt that he died during his walk from Christmas Creek Station to Fitzroy Crossing, it is impossible to determine whether his death was as a result of natural causes, an accident, or a combination of both. It is also entirely possible that something untoward

²³ Exhibit 1 Tabs 15, 16, 24

occurred at the hand of third parties, although there is equally no evidence available which would support that conclusion.

Mr Wallaby was an acknowledged tribal elder involved in men's business on behalf of his community. He was perfectly entitled to return alone by foot if that was his wish. I am sure he had much more knowledge of the desirability and risks involved in that course of action than I could possibly appreciate.

Overall I make an Open Finding as to the manner of Mr Wallaby's death.

CONCLUSION

There is no evidence on file to suspect Mr Wallaby had an ulterior motive for disappearing during his walk from Christmas Creek Station to Fitzroy Crossing following men's business during January 1977.

The fact he was involved in men's business and advised the other elders he wished to return to Fitzroy Crossing by foot, and they agreed without protest, would indicate it was acknowledged his choices were his own to make.

He clearly relished the thought of a trek through his country on his own and I can only respect his choices.

E F Vicker
Coroner
13 May 2020