



NEW SOUTH WALES STATE CORONER

Name of Deceased: Yong Jin Ko, Po Poon; Yuet Kwai Agnes Hui Poon, Dillon Poon, Dennis Tin , Jenny Tin, Minh Loi Truong, Wan Lee, Han Fie Tjoe , Heeki Kim, Langton Mali and John Pitomaki.

File Number:

Hearing Dates: 9 June 2011

Location of Inquest: Newcastle Court House

Date of Finding: 11 August, 2011

Coroner: Magistrate M. Buscombe , Deputy State Coroner

Representations:

- Sergeant K. Moir appeared to assist the Coroner

Introduction

- 1 In the period 4 May and 10 May 2010, six people lost their lives while engaging in the recreational pursuit of rock fishing in the vicinity of Snapper Point in the Munmorah State Conservation area in NSW. Yong Jin Ko died on 4 May 2010 and the following persons died on 9 May 2010 ; Po Poon; Yuet Kwai Agnes Hui Poon, their son Dillon Poon, and their friends Dennis Tin and Jenny Tin.

- 2 The deaths of so many people in a short space of time and at a proximate location prompted this Court to hold an inquest into their deaths and the deaths of a number of other relatively recent fatalities where the persons concerned were engaged in rock fishing . Those fatalities occurred in the Wollongong, Central Coast and Sydney areas. The deceased's from the Wollongong area are: Minh Loi Truong, Wan Lee, Han Fie Tjoe and Heeki Kim. The deceased from the Central Coast area was Langton Mali. The deceased from the Sydney area was John Pitomaki.

- 3 It will be seen that the manner and cause of death in each instance is clearly established. The evidence also establishes that there are some common factors present in the circumstances of the deaths examined. The primary focus of the oral evidence given to the inquest concerned what is being done at the moment to reduce the number of deaths of people involved in rock fishing and what, if any thing, might be done in the future to reduce the number of deaths occurring during such activities.

- 4 I will initially review the evidence concerning each of the individual deaths the subject of the inquest before reviewing the oral evidence concerning

the safety issues and possible recommendations, before making a number of recommendations.

- 5 Clearly rock fishing is a popular recreational past time in NSW and Australia generally. According to a submission I received from Surf Life Saving NSW, in the last 5 years there have been 45 reported rock fishing deaths in NSW; (Exhibit 14). In recent times a Coroner in Victoria and one of my brethren in NSW have conducted inquests into rock fishing deaths, highlighting the safety issues concerning rock fishing.

The evidence concerning the death of Yong Jin Ko (DOB 16/3/1944)

- 6 Mr Ko was 66 years of age at the time of his death. He had come to Australia from Korea with his wife and son some 15 years earlier. His wife and son had returned to Korea in 2006. Mr Ko had a passion for rock fishing.
- 7 The evidence reveals that between 11am on 2 May and 6 am on 4 May 2010 he attended at Snapper Point, Frazer Park within the Munmorah State Recreation Reserve. The area is very popular with rock fishers, however, it is also well known for being very dangerous. A memorial with the names of some of those who have lost their lives there has been placed at the top of Snapper Point.
- 8 At 6am on 4 May 2010 two other persons who were intending to commence rock fishing in that area did so and noticed Mr Ko's fishing gear about 10 to 15 metres from them and on a higher rock platform. At the time those two persons did not think anything untoward had occurred. They left the immediate area around 9am.
- 9 A further fisher attended the area about 10am and saw Mr Ko's gear and became concerned that the owner of the gear may have fallen into the water, and spoke to the two fishers who had originally been near the deceased's gear. Those persons then became concerned and examined

the deceased's fishing gear and noticed that there was a rod in a concrete rod holder 2 metres from the water's edge and next to the rod was a pair of smashed reading glasses. The witnesses looked over the edge of the rock platform and saw a blue baseball cap lying on a small rock ledge below the rod and glasses. The police were then called.

- 10 Detectives attended the location. The Westpac Rescue Helicopter attended the location as well as a Water Police vessel. Mr Ko was located face down in the water 250m from the shore about 1 kilometre to the south of the headland. Mr Ko was found to be fully clothed with no significant injuries.
- 11 A certificate of analysis suggests that the deceased had consumed some alcohol prior to going fishing, although the reading does not suggest that it was a significant quantity. It is not known if Mr Ko was a good swimmer. It is thought by the investigating police that the deceased may have entered the water in one of two ways: his line may have become snagged and he attempted to remove the snag and has tripped and fallen into the water, or an unexpected large wave has washed him into the water.
- 12 In relation to Mr Ko an autopsy was performed on 5 May 2010. The direct cause of death recorded in the Autopsy Report by Dr A. Eastman was that of drowning. The deceased had suffered bruises and abrasions consistent with a fall suggesting that the deceased drowned after falling into the water at the rock platform at which his fishing gear was located.

Finding in relation to Mr Yong Jin Ko

- 13 I find that Mr Yong Jin Ko died between 11am on 2 May and 6 am on 4 May 2010 at Snapper Point, Frazer Park within the Munmorah State Recreation Reserve. The cause of his death was that he drowned after falling off the rock platform on which he was engaged in rock fishing. The precise cause of his fall is unknown, however, the two most likely causes

are that he fell while endeavouring to free his snagged fishing line or his fall was caused by an unexpected large wave.

The evidence concerning the deaths of Po Poon; Yuet Kwai Agnes Poon, Dillon Poon, Dennis Tin and Jenny Tin

- 14 Mr P Poon, (DOB 10/1/47), Mrs Poon, (DOB 20/06/49) and their son Mr D Poon, (DOB 27/7/84) together with other family members, migrated to Australia in 1991 from Hong Kong. All three were said to be in excellent health. Mr P Poon was retired but considered to be a strong swimmer. Mrs Poon was not able to swim while Mr D. Poon was able to swim but was not as strong a swimmer as his father. All three were said to be very keen fishers and Mrs Poon kept a fishing log, detailing the locations, weather, sea conditions, temperatures and catch for each occasion that they went fishing. They were clearly experienced fishers.
- 15 Mr Tin (DOB 11/2/1954) and Mrs Tin (DOB 18/12/1951) migrated with other family members from Hong Kong to Australia in 1990. Both were described as being in good health and were very fond of fishing and would regularly go fishing with their friends the Poons. The Poons and the Tins resided in the northern suburbs of Sydney.
- 16 The evidence reveals that about midday on 9 May 2010 the Tins and the Poons met at the Poon family residence at Carlingford and travelled to the Catherine Hill Bay area with the intention of fishing from a rock ledge known as "Flat Rock".
- 17 Mr Karl Jones told police that he attended Mooney Beach around 10am on 9 May with the intention of going surfing. He observed a large swell and decided that it was too dangerous to surf. He left the beach returning at around midday when he considered the conditions were manageable. About 1pm he noticed the sea swell crashing over the rocks at Flat Rock. About 2pm whilst walking along Mooney Beach he saw a group of 5 persons carrying fishing equipment matching the description of the

deceased. There is other evidence before the Court suggesting that the swell on 9 May was very substantial, although not uncommon for the area.

- 18 A group of 5 persons walking along the beach carrying fishing equipment was also observed by Mr Scott Williams. He had seen the group at the beach on prior occasions. The description of the group matched that of the deceased.
- 19 In the early hours of 10 May 2010 family members of the Tin and Poon families became concerned that they had not returned from rock fishing. About 9am on 10 May 2010 James Tin, the Tin's son, contacted the Munmorah Conservation area park office and raised the alarm in relation to his parents and the Poons. He did not at that stage know where the group had gone fishing but believed that they had gone fishing in the Catherine Hill Bay area as it was an area that was popular with the Poons and the Tins.
- 20 The Poon's vehicle was located about 12.40pm on 10 May 2010. At 3.50pm an officer of the National Parks Service located fishing rods, buckets and back packs on a rock shelf known as "Flat Rock". That equipment was found directly in front of a popular spot known as Gropers Hole. Two fish were found in the fishing bag and their head lamps were still in the back packs. Three fishing rods were found and they each had a line in the water. In shallow water just off the flat rock a pink and white shoe and a life ring, known as an Angel Ring, was also located. Angel Rings are large circular flotation aids which have been installed at some fishing locations.
- 21 Shortly after the finding of the fishing equipment, the body of Mrs Tin was located in shallow waters a short distance to the south of where the property had been located.
- 22 A land and sea search was then conducted until 9.20pm, when it was suspended due to poor visibility and sea conditions. The search resumed

at 6am on 11 May 2010. At 10am police divers commenced an under water search of the area surrounding Flat Rock. About 10.50am the bodies of Mr P Poon , Mr D Poon and Mr Tin were located. They were located fully clothed and lying next to each other and a blue fishing rod was located nearby.

- 23 To date Mrs Poon's body has not been located despite extensive searching. Extensive checks of phone , financial and travel checks together with other evidence, establishes that there is no doubt Mrs Poon is deceased.
- 24 There is evidence from Mr Vincent Chan, a close friend of both the Poons and the Tins, and someone who had been on numerous fishing trips with them at Flat Rock, that they would always check the weather before leaving and that if the swell was greater than 1.5metres they would not go because of the danger. Their regular routine was to leave Sydney around 1pm and fish into the night leaving the area around 11pm. Mr Chan told police that in recent trips Mr P. Poon had been moving closer to the surf in terms of his fishing location and was becoming a bit complacent, fishing on the edge of the rock platform near to the breakers.
- 25 The evidence suggests that the Poons and the Tins were experienced fishers.. Mrs Poon kept a diary of their fishing expeditions. By way of example, Mrs Poon had recorded the following in her diary:
- “Snapper Head Point, west wind, 8 knots. Started heading there after 2.30pm but the waves were very large, within 3 hours the swell went from 1.3m to 2.4m. The large waves washed all the way up to where we were standing. Extremely dangerous.”
- 26 The nearest Department of Environment, Climate Change and Water's offshore wave rider buoy to Catherine Hill Bay is in Sydney. The Sydney Wave rider buoy recorded a significant wave height of between 1.31m and 1.54m between 1pm on 9 May and 1am on 10 May 2010. This was an

averaged figure. The largest individual maximum wave height for the same period was recorded as 2.76m at 4pm on 9 May 2010.

- 27 I received evidence by way of a report of Dr W.L. Peirson, (Exhibit 9) , Director of the Water Research Laboratory at the University of NSW dated 4 February 2011. That report concluded that there were a number of factors on the afternoon of 9 May 2011 which would have greatly increased the danger associated with rock fishing in the Catherine Hill Bay area. Those factors were the incoming tide, the presence of a long swell period, which according to the report, means that there is more energy contained within individual waves. The highly grouped nature of the long swell period suggested that the waves may have been intermittent and unexpected.
- 28 The autopsy report on Mrs Tin by Professor T. J. Lyons recorded the direct cause of death as drowning.
- 29 The autopsy report in relation to Mr Tin, prepared by Dr. K. Nadesan, reported the direct cause of death as "consistent with drowning".
- 30 The autopsy report in relation to Mr P. Poon prepared by Dr K. Nadesan recorded the direct cause of death as drowning.
- 31 The autopsy report in relation to Dillon Poon prepared by Dr M. de A. Samarasinghe recorded the direct cause of death as drowning.

Findings in relation to Po Fong Poon, Yuet Kwai Agnes Hui Poon, Dillon Poon, Dennis Tin and Jenny Tin

- 32 In relation to Po Fong Poon, Yuet Kwai Agnes Hui Poon, Dillon Poon, Dennis Tin and Jenny Tin, I find that each of them died on 9 May 2010 , that the cause of death was drowning while engaging in rock fishing in the Munmorah State Recreation Reserve. While precisely how they came to

be in the water is not known, the evidence suggests that most if not all were swept into the water by an unexpected large wave.

The evidence concerning the death Langton Mali

33 Mr Mali was originally from Zimbabwe but had made his home in Australia. He had first gone rock fishing with his friend, Sandile Nizmande in 2009. He and Mr Nizmande resided in Sydney. While on their first rock fishing trip they were told about what was said to be a good fishing spot near Avoca Beach on the Central Coast. They set off for that area early on the morning of 19 February 2010. It is apparent from the evidence in the police brief that the location was Winnie Bay in Copacabana.

34 According to Mr Nizmande, when they first arrived at the area he did not consider that the conditions were rough, although he did notice that at times a larger wave would come through and wash onto the rocks. After fishing at the area for about 3 hours they decided to move to a different location. Another fisherman, Tom Lyons, was fishing near where they were fishing. Mr Nizmande in his statement to police said that he saw Mr Mali walk towards his fishing rod and then heard the other fisherman shouting and pointing and he then saw Mr Mali in the water about 3 metres from the rocks. Mr Nizmande described what he then saw as follows: "The waves were going past Langton and hitting the rocks which made a second wave go back towards the sea after the waves hit the rocks. This caused Langton to get washed out to sea further." He observed Mr Mali trying to float and keep his head above water. The other fisherman emptied out a 2 litre plastic water bottle and threw it to Mr Mali and told him to hang on to it.

35 Mr Nizmande phoned 000 and tried to explain where they were but was uncertain of the exact location, and appears he initially said that they were

at Terrigal which is some distance from the exact location. He lost sight of Mr Mali prior to the arrival of rescue personnel.

36 Mr Lyons described the area where Mr Mali and his friend were fishing as follows: "They were fishing directly on the end of a point so as the ocean was directly below them. It was about a 2 metre drop to the ocean. Directly behind them was a rock crevice which is only about two feet wide. They would have jumped over this to get to where they were. I saw that the swell that day was big. I observed waves to be crashing into the rock shelf."

37 Mr Lyons witnessed Mr Mali being washed into the ocean. He observed him to turn his back on the ocean after he had wound his line in. He also observed him to be bare footed. He saw a large wave come up over the rock shelf and strike Mr Mali on the back of the legs knocking him to the ground. He was then washed down into the crevice. Mr Lyons said he observed Mr Mali while in the water being knocked into the rocks by the waves and he was unable to climb up the rocks due to their steepness and the size of the swell. It was at that point that Mr Lyons emptied his plastic water bottle and threw it to Mr Mali to use as a floatation device. If Mr Mali had had available to him a proper floatation device he may well have been saved.

38 Mr Lyons in his statement referred to the difficulties in communicating to the 000 operator the location due to poor mobile phone coverage. By the time the rescue helicopter and jet ski arrived on the scene Mr Mali was facedown in the water about 20ms off shore. He was unable to be revived.

39 The autopsy report prepared by Professor T. J. Lyons stated: "The circumstances surrounding this death are consistent with a water immersion drowning. There are often few or no features at autopsy in drowning. There was moderate over-inflation of the lungs, a feature consistent with drowning."

40 I note it appears from the police brief of evidence that there was a sign in English only warning people not to swim in the area because of possible sewerage effluent. There was no signage in relation to the dangers of being on the rocks or rock fishing.

Finding in relation to Mr Mali

41 In relation to Mr Mali I find that he died on 19 February 2010 by drowning while engaging in rock fishing at Winnie Bay near Copacabana Beach.

The evidence concerning the death of John Pitomaki (16/5/65)

42 Mr Pitomaki was a 44 year old man from the Cook Islands who had made Australia his home. Around 1pm on 27 May 2009 he attended Little Bay Beach in the Sydney area. He was in the company of his friend John Hosea. According to family members, Mr Pitomaki was an experienced fisherman who was familiar with the area concerned.

43 Mr Hosea told police that they initially fished that day on the rocks located on the southern headland near to Little Bay Beach. Mr Pitomaki decided to then fish on the northern headland and Mr Hosea remained on the southern headland.

44 Mr Pitomaki walked along the beach to the eastern-most point of the northern headland onto a flat stone out-crop, which is a few metres above sea level. Mr Jian Wen Zhu was also fishing in the general area, but not at the spot where Mr Pitomaki fished, as he was of the opinion it was too dangerous at that location. He saw Mr Pitomaki standing on the out-crop for approximately 2 to 3 minutes when he was hit from the south by a wave and swept from the rocks. He was last seen by Mr Zhu attempting to swim towards the rocks. Mr Zhu did not have a mobile telephone with him so he ran to a nearby golf course to raise the alarm. The Westpac Air Rescue helicopter which was based in Little Bay was despatched. It located Mr Pitomaki's body about 150 metres south west of the northern headland. It

was apparent when his body was retrieved that Mr Pitomaki was deceased. He was found with a length of fishing line tangled around his right lower leg.

- 45 The post mortem report in relation to Mr Pitomaki was prepared by Dr M. M. Orde. The report gave the direct cause of death as drowning. There were multiple non-lethal injuries to the torso and limbs, in keeping with having been caused by Mr Pitomaki having been washed against the rocks, and possibly trying to climb the rocks to get out of the water.
- 46 In terms of signage there was one sign on the beach warning in English, and with symbols, that there was no lifesaving service, and that the area was slippery and contained submerged rocks. There were no signs on the access paths to the location.

Finding in relation to Mr Pitomaki

- 47 In relation to Mr Pitomaki I find that the cause of death was drowning which occurred on 27 May 2009 while rock fishing at Little Bay.

Evidence concerning the death of Minh Loi Truong (DOB 10/10/1977)

- 48 Mr Truong was a 33 year old male of Vietnamese background who lived in Marrickville, Sydney.
- 49 Mr Ho Duy Minh Pham, a friend of Mr Truong's, told police he and Mr Truong left Marrickville around 5pm on 5 July 2009 to go fishing in Heritage Park , Port Kembla. Mr Pham told police they decided to fish there because they thought it would be safer than Hill 60, another location in the Port Kembla area.
- 50 Mr Pham told police that they fished for about 2 hours and decided to pack up to go, when Mr Truong saw a squid. Mr Truong walked to the edge of the rocks to try to take possession of the squid. Mr Pham said he saw a

big wave coming and said that to Mr Truong. The next thing Mr Pham saw was Mr Truong being washed off the rocks. He saw Mr Truong try to grab at the rocks. Mr Pham took off his belt and threw it to Mr Truong and told him to grab it but Mr Truong was unable to do so. Mr Truong tried to grab the rocks but the waves washed him away from them. Mr Pham then called called 000.

51 Mr Pham in his statement to police said; "I panicked and I was trying to get Loi out of the water with my belt I forget (sic) to look for the life saver." The significance of that statement is that within a short distance of where Mr Truong was swept from the rocks was an Angel Ring flotation device mounted on a wooden poll.

52 According to police, the seas were of a heavy swell at the time which hampered rescue efforts. Police attended in a water police vessel and the CHC Rescue Helicopter from Bankstown Airport also attended the scene. A paramedic on board the helicopter at one stage sighted a body face down in the "white wash" from the water but lost sight of it a short time later. The search activities continued for a week and on 8 July 2009 Police Divers located a pair of black nylon pants and a wallet belonging to Mr Truong on the eastern break wall at Port Kembla Harbour approximately 100m north of the last sighting of Mr Truong. At the relevant time there was no warning signs present at the location.

53 Mr Truong's body has not been recovered.

Finding in relation to Mr Truong

54 In relation to Mr Truong I find that he died on 5 July 2009 with the cause of death being drowning which occurred while rock fishing at Heritage Park, Port Kembla.

The evidence concerning the death of Wan Uk Lee

- 55 Mr Lee was 71 years of age and of Korean background but had made his home in Australia since 1976.
- 56 Mr Lee's son, Dennis Lee, told police in his statement that he and his father, together with another friend, Mr Sang Pyo Park travelled from Sydney to Kiama Heights for a fishing trip around 4pm on 2 March 2009. They arrived at Kiama around 6pm and considered that the waves at Kiama Heights were too dangerous, so they checked other areas in the vicinity but also considered that those areas were unsafe.
- 57 At around 8pm they proceeded to Hill 60 at Port Kembla. Mr Lee and his son had not been to that location before but Mr Park had. They located a flat platform area and decided to fish there. Apparently there were other fishermen at the location. At one point Mr Dennis Lee heard one of the other fishermen say, "Big one coming". Mr Dennis Lee turned and tried to run to what he considered "the safe area". He was struck by a wave, causing him to fall backwards. His father tried to grab him but he was swept into the ocean. Mr Dennis Lee recalled hitting his head at one point and that he felt his father's hand "breeze past" his, and that he could not find his father. Mr Dennis Lee said he was swimming for about 15 minutes when he saw Ambulance and Police Officers back near where he was swept into the water and he began to swim towards them. He was pulled from the water by the rescue helicopter.
- 58 Mr Dennis Lee said that he and his father had many years of fishing experience.
- 59 There is evidence from other eye witnesses in the police brief about how dangerous the sea was at that time at the location at which Mr Lee was fishing. Those persons stood further back from the edge of the rock platform while fishing and observed that Mr Lee and his friends stood at the edge of the platform. One of those witnesses, Ms Elaine Aukuso described seeing a large wave wash two of the Asian fishermen into the sea, this clearly being a reference to the two Mr Lees.

- 60 Ms Aukuso using Mr Park's phone , contacted 000 and police were on the scene in a matter of minutes. A short time later the emergency helicopter arrived and rescued Mr Dennis Lee from the water. The search for Mr Lee continued and his body was located at 12.10 am and he was clearly deceased.
- 61 The evidence establishes that the location where Mr Lee was swept into the ocean is called Honeycombe Rocks. It is a rock platform approximately 50ms wide and drops steeply to the water. It is apparently a popular fishing spot but is open to the southerly sea swell. It is clear from the evidence that rock fishing that night at that location was very dangerous.
- 62 Currently there are a number of warning signs in different languages at Hill 60 along with 6 Angel rings in different locations , two of which are now on solar powered posts so that they glow in the night. The glowing rings were installed in 2010.
- 63 The autopsy report in relation to Mr Lee was prepared by Dr G McBride. The direct cause of death detailed in that report was described as "consistent with salt water drowning".

Finding in relation to Mr Wan Uk Lee

- 64 In relation to Mr Lee I find that he died on 2 March 2009 and the cause of death was by drowning and that occurred while he engaged in rock fishing at a Honeycombe Rocks near Hill 60 in Port Kembla .

The evidence concerning Mr Heeki Kim

- 65 Mr Kim was a 41 year old male of Asian background.

- 66 The evidence reveals that at about 6pm on 28 May 2010 Mr Kim together with Jae Joon Hwang and Ju Lee attended an area at a location north of the Little Blowhole at Kiama to go rockfishing. Mr Hwang told police that he had fished at that location about 10 times in the last 12 months and on two of those occasions Mr Kim had been fishing with him. On the night concerned, Mr Kim wore a head torch, a long sleeve bright coloured t shirt and jacket, long pants and sand shoes. According to Mr Hwang Mr Kim was considered to be a good swimmer. The area is known as Friars Cave
- 67 Mr Hwang told the police that they made their way to the top of the rocks with Mr Hwang leading the way, Mr Lee behind him and Mr Kim bringing up the rear. Mr Hwang said that on getting to the top of the rocks he stood there for a while looking at the bay to check to see if it was safe to fish. They then started to head along the top of the rocks towards their fishing spot.
- 68 Mr Hwang said that he and Mr Lee got to the rock platform. Mr Kim was climbing down to the platform and Mr Hwang heard Mr Kim say , "The waves seem big." There was then a long pause and Mr Hwang next saw Mr Kim's bucket and back pack falling down the rocks into the water and Mr Kim's head lamp was also seen in the water. Mr Hwang called out to Mr Kim but received no response.
- 69 Mr Hwang called 000 and the police attended. Mr Kim's body was found by search and rescue police shortly thereafter.
- 70 A statement was also taken by police from Mr Lee who had never been rock fishing before. Mr Lee said he had known Mr Kim for about 10 years and he was a strong swimmer. Mr Lee's statement was in similar terms to that of Mr Hwang.
- 71 The evidence is that the Bureau of Meteorology had issued a severe weather warning for the area at the time of the incident.

72 The evidence before me suggests there were no warning signs in the vicinity of the location of Mr Kim's death at the time.

73 The Autopsy Report in relation to Mr Kim was prepared by Dr. G. A McBride. The direct cause of death was recorded as "consistent with salt water drowning".

Finding in relation to Mr Kim

74 In relation to Mr Kim I find that he died on 28 May 2010 by drowning which occurred when he was attempting to undertake rock fishing at a location known as Friars Cave near Kiama.

The evidence concerning the death of Mr Han Fie Tjoe (DOB 3/6/66)

75 Mr Tjoe was 43 year old man of Indonesian origin who had made his home in Australia.

76 The evidence reveals that Mr Tjoe, with a number of friends, travelled from Sydney and arrived at Hill 60 in Port Kembla around 8pm on 4 April 2010. They proceeded to fish from a rock platform at that location. Two of Mr Tjoe's friends snagged their lines and walked away from the edge of the platform to fix their lines. One of those friends, Mr Bolang, described seeing a number of waves hit the platform where Mr Tjoe was. One of those waves was estimated to be 2metres high and break over Mr Tjoe. The evidence is to the effect that the wave knocked Mr Tjoe into the water. Mr Bolang said that at that stage it was very dark and he had difficulty in seeing what was occurring. He ran and retrieved a nearby Angel Ring and threw it to where he believed Mr Tjoe might be. He said that he stayed on the edge of the platform for about 15 minutes calling out Mr Tjoe's name but did not see or hear anything.

- 77 Another friend of Mr Tjoe's who was with him that night, Mr Basar Simanullang, described the conditions as follows: "The water was very rough and there were big waves crashing". Mr Simanullang described himself as an experienced fisherman. His description of what caused Mr Tjoe to be washed into the water was similar to that of Mr Bolang. Mr Simanullang said that he heard Mr Tjoe at one point call out for help in Indonesian. Mr Simanullang told police they had only been fishing for about 5 minutes before Mr Tjoe was washed into the ocean.
- 78 When police arrived at the scene they could see a torch being waved in the water and someone calling out, but could not understand what was being said. The police were advised by Mr Tjoe's friends that he was not wearing a life jacket and was not a strong swimmer. Two of the police who arrived at the scene, no doubt bravely given the conditions, dived into the water in an attempt to rescue Mr Tjoe. They located a torch after swimming some distance. Shortly thereafter they located Mr Tjoe who was floating on his back but he appeared to be deceased. In the circumstances it was impossible for the police to attempt resuscitation. Mr Tjoe's body was retrieved from the water by the rescue helicopter.
- 79 The evidence reveals that the precise location where Mr Tjoe was fishing is known as Honey Comb Rocks at Hill 60 Port Kembla. It is said to be an extremely popular location with rock fishers. The rock platforms at that location were observed to be very slippery. At the time of Mr Tjoe's death there were no signs warning of the danger associated with fishing in the area. The evidence suggests that there are now warning signs affixed to the rocks in the Hill 60 area warning of the dangers and the signs are in a number of different languages.
- 80 The evidence suggests that Mr Tjoe at the time of being washed into the ocean wore only sandals.
- 81 The External Examination Report in relation to Mr Tjoe recorded the direct cause of death as sea water drowning.

Findings in relation to Mr Tjoe

82 I find that Mr Tjoe died on 4 April 2010, that the cause of death was drowning and it occurred while he was rock fishing.

Common factors in the deaths the subject of the inquest

83 There are some common factors associated with the deaths that have been the subject of the inquest. A number of the deaths have occurred common areas highlighting the dangerousness of the locations concerned. It is apparent from the evidence before me that the areas in the Munmorah Conservation Reserve where Mr Ko, the Poons and the Tins died are very dangerous areas in which to engage in rock fishing. Similarly the area known as Hill 60 in Port Kembla is a particularly dangerous area in which to rock fish.

84 All of the deceased persons were persons who were born overseas and had come to this country to make their home. They were all persons of non Anglo-Celtic background . The need to communicate the relevant safety messages to persons who are of non Anglo-Celtic background is something that was highlighted in the evidence before me.

85 A number of the deceased considered themselves, and were considered by others, to be experienced rock fishers and to be strong swimmers. This highlights, in my opinion, the inherent dangerousness associated with rock fishing, given that those said to be experienced and good swimmers can still lose their lives when engaging in this activity.

86 None of the deceased wore life jackets while rock fishing .

87 The majority of deaths appear to have occurred during the night when visibility was poor. They also have occurred when the sea conditions have

been particularly dangerous, highlighting the need for people to check and obey weather warnings.

The evidence and submissions I received on what is currently being done in relation to safety and rock fishing and what might be recommended to try to reduce the number of deaths that occur during engagement in that activity

- 88 I heard evidence from Leading Senior Constable Bailey who has worked in the coastal suburbs of Sydney for many years and has also been active in surf life saving. In both roles he has attended many hundreds of rescue operations in the coastal suburbs around Sydney. He has also, since 1986, worked with southern Region Westpac Life Rescue Helicopter Service. He has attended a hundred or more drowning or immersion incidents. The majority of those incidents that he has attended have been incidents that have resulted in the death of persons swept from rocks whilst rock fishing or from sinking or overturning boats.
- 89 According to Senior Constable Bailey, in terms of the hundreds of incidents he has attended, the chance of survival of persons washed into the water from rock ledges was greatly increased if the persons concerned had some ability to swim and wore or had available to them a floatation device.
- 90 Senior Constable Bailey has observed an increase in the number of rock fishers using life jackets. He also informed the court that a number of rock fishers in recent years have been saved by "Angel Rings". According to a submission received from the NSW Department of Primary Industries, the Australian National Sports Fishing Association (ANSA) has implemented an Angel Ring program which has seen the installation of more than 110 Angel Rings at popular rock fishing locations along the NSW coast. According to the submission, 44 lives have been saved using such devices. The installation of more Angel Rings is proposed.

- 91 Senior Constable Bailey also gave evidence about another portable inflation device called a Stormy Rescue Device which in his opinion, because of its portability and ability to be thrown closer and more accurately to someone in the water, might be thought to have some advantages over the Angel Ring. Certainly I can see potential benefit based on the evidence that I heard, in people engaging in rock fishing taking such a device with them, especially given that it would seem not practical to have an Angel Ring at every place where rock fishing occurs.
- 92 Other suggestions touched upon by Senior Constable Bailey in his evidence were: the need for a large media government campaign to educate the public on the dangers of rock fishing. The need for warning signs in multiple languages to be erected near access ways to the more common rock fishing locations, particularly within national parks. He expressed the opinion that a separate licence to engage in rock fishing be introduced requiring that an exam be passed before the licence be granted.
- 93 Mr Bailey also raised the need for the installation of Emergency Beacons at relevant locations along the coast given that there is poor mobile phone coverage in a number of areas. This was also stressed in other submissions and evidence I received.
- 94 I also heard evidence from Mr Malcolm Poole. He is the Chairman of the Recreational Fishing Alliance, (the Alliance), in NSW. The Alliance is a voluntary organisation which represents fishers in NSW and works co-operatively with other relevant organisations, including government organisations, in relation to safety and other issues. The Alliance is an umbrella organisation which includes Australian National Sports Fishing Association, (NSW), the NSW Fishing Clubs Association, the Council of Freshwater Anglers and the Underwater Spearfishing and Free Divers' Association.

95 In his evidence he made a number of relevant points that I wish to record. It may seem trite, but I think in the context of this inquest it was a point well made, when Mr Poole said in relation to rock fishing; "It's not just about catching fish, it's about making sure you stay safe on rock platforms." He outlined in some detail the activities the Alliance has been involved in, in attempting to get across to those involved in rock fishing, the need for care when engaging in the activity. He detailed in his evidence the DVD that the Alliance has produced which is in four languages and which can be accessed freely from the Safe Fishing Website. It is also available on U-Tube. The DVD is entitled, "Don't Put Your Life on the Line, Rock Fishing Safety." I have watched the DVD and it contains important safety information that all those who engage in rock fishing should be aware of. I commend it to all those engaged in rock fishing. Mr Poole further outlined the workshops that the Alliance has participated in, particular targeting Australians of Chinese, Korean and Vietnamese background, seeking to increase the awareness of fishers from those communities of the inherent dangers in rock fishing and the safety precautions that should be taken by anyone engaging in rock fishing.

96 Mr Poole in his evidence referred to the fact that in his opinion in New South Wales, as I understood his evidence, it would be advisable to have one government department responsible for all aspects of fishing, including safety aspects. He expressed his view in the following way: "One of the other problems that we currently have in New South Wales is, New South Wales Fisheries is a natural resource manager, and it manages fishing activity by input and controls. We don't actually have a government department that actually manages fishing as an activity or a recreation or a sport. So it's really hard. Fisheries have done really well to try and support our initiatives in these areas, but it's – you're sort of torn between several locations, several people. Maritime delved into the process last year, or the year before I should say, when they looked at the reforms and life jackets for boating. Department of Sport and Rec have dabbled in it through their Water Safety Taskforce. Certainly Surf Life Saving, we try and work together on all these things. But, yeah, New South Wales Fisheries, I think,

we need a home for fishing, in essence, I suppose the point I'm making, so that we have more, be able to retain a bit more inter-linkages with government agencies. It's hard to sort of say, "Well, I want to go here to a Minister and push our point," rather than go there."

- 97 Mr Poole also made the important point that it is not just those engaged in fishing who walk on rock platforms on the coast of NSW and anyone doing so needs to take appropriate safety precautions. As I understood Mr Poole's evidence, the Alliance strongly suggests that those involved in rock fishing wear a life jacket when doing so, and saw it as a matter for government whether or not it should be mandatory to do so.
- 98 Mr Poole gave evidence, which was supported by another witness, Mr Bradstreet, that attempts to have erected warning signs and to install Angel Rings at particular locations were the subject of protracted negotiations with particular local government authorities. One of the difficulties, according to Mr Poole is that a number of different authorities may need to be consulted in relation to the installation of such safety measures.
- 99 Mr Poole stressed in his evidence his opinion that the most important preventative measure that can be undertaken is the education of those involved in rock fishing with the inherent dangers in the sport and the safety precautions that should be taken by those who do engage in it.
- 100 Mr Poole detailed that the Alliance, after the deaths of the Poons and the Tins, engaged in attempts to increase publicity in the Australian/Chinese community about the dangers of rock fishing. Mr Poole also referred to the fact that more signage at relevant locations is something that is to be pursued, but recognised that resources and funding govern what can be done.
- 101 In further submissions received from Mr Poole he drew my attention to a recent invention of an inflation device which can be clipped to a user's

waist which is called, as I understand it, an EFD and is specifically said to have been designed for rock fishers. I have little information about the device available to me at this stage, but obviously such a device would appear to be of very real importance for rock fishers.

- 102 I also heard evidence from Ms Jessie Wong who is the Managing Director of Multicultural Marketing and Management. That organisation specialises in communications with Australians of non Anglo-Celtic origins in particular those of Arabic, Chinese or Vietnamese background. Ms Wong's organisation has been engaged by the NSW Department of Sports and Recreation and the Alliance to assist in conducting information campaigns targeting particular ethnic communities about the safety issues associated with rock fishing. I do not propose to review here all of the activities undertaken. Obviously the amount of activities that can be undertaken is dependant upon the funding available. As at the date of the evidence before me, the last workshop that was provided by Ms Wong was in September 2010 and none were scheduled for this year. According to Ms Wong's evidence, one such workshop had been held in Gosford and one in the Hill 60 area in Port Kembla, but the remaining workshops had been held in the Sydney area.
- 103 Ms Wong suggested a number of recommendations which are contained in Exhibit 13 before me and to which I have had regard.
- 104 I also heard evidence from Anthony Bradstreet who is the Public Safety and Education Co-ordinator of Surf Lifesaving Australia. Surf Life Saving Australia is the peak body for coastal safety and rescue around Australia. He gave evidence that under the Federal Government's Saving Lives in the Water Plan funding was provided to develop educational activities in consultation with the Australian National Sportsfishing Association and the Alliance. He detailed the educational activities engaged in by Surf Life Saving Australia noting that the funding comes through the Commonwealth's Department of Health and Ageing.

105 In his evidence and in submissions I received from the organisation he represents, he identified a number of factors said to be involved in what is described as the drowning chain. One factor was that people drown because they have a lack of knowledge, disregard or misunderstanding of the hazard. Another factor is that people drown because of uninformed or unrestricted access to a hazard. His organisation is involved in working with relevant government bodies to conduct audits of particular areas of coast, and the need for appropriate signage at particular locations warning of the dangers. He gave evidence that there was a perception amongst those involved in Surf Life Saving Australia that amongst some local government authorities there was a reluctance to erect warning signs at particular locations, from a fear that by doing so, the relevant authority may incur liability in relation to any accident that occurred at the location. This is similar evidence to that given by Mr Poole from the Alliance.

106 In a submission I received from Surf Life Saving NSW dated 14 June 2011 the following appears:

“There were 2 separate comments at the June 9th inquest regarding the perception that ‘some’ Council authorities are reluctant to implement ‘best-practice’ water safety signage or public rescue equipment as it may be deemed to increase liability.

SLNSW has no written evidence of this, however verbal feedback from our National Coastal Safety Manager and one of our Branch CEO’s, both who work closely with Councils regarding coastal risk, suggests that for ‘some’ Councils this is a real concern and is impacting their planning.”

107 The evidence I have heard about what is perceived to be the approach taken by some local government councils to the erection of signage and safety devices has caused me concern, and one of the recommendations I am shortly to make arises from that evidence.

108 On the issue of life jackets, Mr Bradstreet gave evidence that Surf Life Saving Australia supports any measure that would increase the number of persons who wear life jackets when they engage in rock fishing. The submissions of the Department of Primary Industries raise some concerns about the use of life jackets and suggest that they may in certain circumstances, hinder a person from getting away from the impact area, i.e., rocks where there is wave activity.

109 In his evidence Mr Bradstreet touched upon the clear need to ensure consistency of signage at relevant locations.

110 I received into evidence a submission from Surf Life Saving NSW and other submissions on behalf of Surf Life Saving Australia which I have given consideration to.

111 I referred earlier to a submission I received from the Department of Primary Industries and I have received a further submission from that Department since I heard the evidence. I have had regard to both submissions .

112 The departmental submissions I have received since the hearing of evidence address the recommendations made to the then Minister for Industry and Investment in inquests held in Glebe earlier this year by Deputy State Coroner Magistrate MacMahon, in relation to rock fishing deaths that occurred in the Bondi area in 2009 and 2011. His Honour's findings and recommendations were brought down on 25 February 2011.

113 His Honour's recommendations were in the following terms:

That research be undertaken under the authority of the Department to:

1. Identify the demographic groups most at risk of drowning related to rock fishing fatalities, and

identify and assess the effectiveness of all educational, enforcement and engineering safety methods currently used to prevent such fatalities.

2. That the results of such research be used to develop a rock fishing safety program for NSW.

114 In its submissions, the Department of Primary Industries identifies the work it is undertaking in addressing the recommendations made by His Honour. The Department says in its submission that the research it is undertaking to address the issues raised by His Honour, "will then guide the development of an enhanced rock fishing safety program for NSW." Clearly that is something which those who gave evidence and put submissions to me seek. By way of example, a submission I received from Surf Life Saving NSW contains the following: "The main barrier in effectively addressing the rock fishing problem is a lack of a structured state-wide strategy, with consistent leadership and alignment across all stakeholders (emergency services, government, land managers, NGO's)" That submission is similar to the evidence of Mr Poole's which I set out earlier.

115 The Department says that the research that it is undertaking as a consequence of His Honour's recommendations will include the review, amongst other things, of the issue of the mandatory use of life jackets, the emergency marker system highlighted in the submissions in particular of the Life Saving bodies, coastal risk assessments and signage standards. The additional departmental submissions do not indicate to me how long the research and the review that is being undertaken by the Department will take. Given the issues of public safety involved I can only express the view that the research and review should be completed as expeditiously as possible.

Recommendations

- 116 I endorse and incorporate here the recommendations made to the then Minister for Industry and Investment by His Honour Deputy State Coroner Magistrate McMahon in the inquests he held into rock fishing deaths earlier this year.
- 117 The terms of His Honour's recommendations are wide and many of the issues highlighted by the evidence before me, would seem to fall within the terms of his Honour's recommendations which I have adopted. I consider it appropriate though, given some of the issues that have arisen in the evidence before me, to make specific recommendations to the Department of Primary Industries, that it consider the following specific issues in developing an enhanced rock fishing safety plan for NSW.
- 118 To consider whether the time taken for local government authorities and other relevant agencies, to approve the erection of appropriate warning signs and the provision of safety devices in relevant locations is an acceptable time period. To consider what steps can be taken to speed up the process involved in approving the erection of such warning signs and flotation devices.
- 119 To consider what is the most appropriate portable flotation device that should be carried by those involved in rock fishing. The Department ought consider whether or not it should be compulsory for any such device to be in the possession of a person who engages in rock fishing.
- 120 To consider whether the level of funding available to organisations such as the Alliance and Surf Life Saving NSW for education campaigns about the dangers of rock fishing, particularly for campaigns directed at Australians of a non Anglo-Celtic background is sufficient.

Deputy State Coroner

Mark Buscombe

Magistrate Mark Buscombe

11/8/11