

SOUTH



AUSTRALIA

FINDING OF INQUEST

An Inquest taken on behalf of our Sovereign Lady the Queen at Adelaide in the State of South Australia, on the 29th day of April 2002 and the 17th day of May 2002, before Wayne Cromwell Chivell, a Coroner for the said State, concerning the death of Nigel Richard Feeney.

I, the said Coroner, find that, Nigel Richard Feeney aged 42 years, late of 12 Glenroy Avenue, Beaumont, South Australia died at Gonyah Beach, 25kms south-west of Coffin Bay via Port Lincoln, South Australia on the 7th day of October 1999 as a result of salt water drowning.

1. **Introduction**

- 1.1. Nigel Richard Feeney was a 42 year old accountant who lived in Beaumont, a suburb of Adelaide.
- 1.2. Mr Feeney and his family, and two other families had been staying at Coffin Bay. On Sunday, 3 October 1999, the three families travelled to Gonyah Beach in the Coffin Bay National Park. The death of Antal Maglai occurred on the same day.
- 1.3. Senior Sergeant Hank Swalue, the Officer In Charge of the Port Lincoln Police Station, described Gonyah Beach as follows:

'To locals Gonyah Beach is a well known and popular fishing spot but extremely dangerous for swimming.'

(Exhibit C20a, p1)

- 1.4. At about 2:30pm, Michael Harvey (aged 12), Steven Harvey (aged 40) and James Feeney (aged 13) went into the surf on 'boogie boards'.

- 1.5. James Feeney only stayed in the water for a few minutes and then returned to shore. Mr Harvey described what happened as follows:

'About 5 minutes later I said to Michael we had better go as the wind had changed to a north-easterly and we had started to drift. Michael caught the next wave into the beach. I then started to drift out to sea. I didn't feel I was in a rip but I was suddenly in deep water. I started paddling but I kept going out. I put up my hand and yelled out to the others on the beach that I was in trouble. I would say I was about 50 metres from the shore.

I saw Nigel come into the water and swim out to me. For approximately 5-10 minutes we both kicked and paddled to the wave break line and then we would drift back out. We did this 2 or 3 times.

I could see Mark on the beach with a rope around his waist. I saw James swimming out to us with the other end of the rope. James locked arms with Nigel. I was on top of the board. Nigel was hanging on to me. Mark pulled us into the break line but Nigel lost hold of James. James swam back to us and Mark pulled us in again. At the break line, the force of a wave knocked James and he drifted to the left of me (I was facing the beach) about 20 metres. I told Nigel to leave me and go and get James.

Nigel swam towards James. I then lost vision of both of them. I then drifted to the right about 30-40 metres. All of a sudden I got into a channel and a wave pulled me in. The water was then shallow enough for me to walk into the beach. I would say Nigel and I were out there for about 15-20 minutes. I walked onto the beach and looked up and I couldn't see Nigel on the beach.'

(Exhibit C6a, p2-3)

- 1.6. Mr Mark Thomson, the third male adult in the group, had been fishing. He described what he observed as follows:

'At around 2:15pm I heard everyone yelling. I saw one of the adults in the group, Stephen Harvey, in the water on a 'boogie board'. He was out in the rip in the water and was in difficulty, and I would guess he was out about forty metres. I could see that he was in trouble because he was waving his arms.

I could not really describe where we actually were on the beach but I would say we were about one kilometre from where the track meets the beach.

I gave my fishing rod to Sam Harvey, one of the children, and ran to the point which was about fifty to sixty metres from where I was fishing. As I ran to that point, another adult, Nigel Feeney, took his glasses off and shoes off and ran into the water and swam to where Stephen was in trouble.

Nigel got to Stephen and grabbed the board with him and they started working it back in to the beach. That took about fifteen minutes but they couldn't get back in. I told my wife to get a rope from the car. I tied the rope around my waist and tried to move towards them to throw them the rope.

As they were trying to come in, James Feeney who is the son of Nigel Feeney, grabbed the rope and swam it out to them. He got the rope out to them. I just walked backwards

slowly dragging all three of them in. A wave crashed and knocked the rope from James' hands. James managed to grab the rope again and they all had hold of the board. Another wave broke and they were all split up.

Stephen and Nigel were still on the board. James wasn't and looked like he was in trouble. Nigel then left the board and swam towards James. James managed to swim to shore, but Nigel looked like he tired and got sucked out further. Stephen Harvey seemed to get washed in close to the beach. Once Stephen got close enough to shore to walk, I got the rope and saw Nigel further out. I could just see his head bobbing in the water and could see him getting taken out further by the wash.

He started to drift to my left as I was looking at the beach. I was chest high in the water with the rope at this stage. I lost sight of Nigel for a couple of minutes as he was a long way out by then, but a short time later I saw him again and I could see him floating. I could see his shorts and shirt but I could not see his head.

The wash eventually brought him in to my chest height in the water. I could see him face down in the water. I managed to get hold of him and then Stephen and I dragged him ashore.

I pumped his stomach with my hands. I was helped by Nigel's wife Hazel. We cleared his airways and pumped his heart and I gave him mouth to mouth for about fifteen minutes, but we couldn't revive him. Stephen tried also but Nigel was well and truly dead. When we got him onto the beach originally, he was already purple. His eyes were wide open and he was frothing at the mouth.

We dragged him up the beach further and put a tarpaulin over him and waited for help to arrive.'

(Exhibit C5a, p1-3)

2. Cause of death

2.1. A post-mortem examination of the body of the deceased was performed by Dr R A James, Chief Forensic Pathologist, on 10 October 1999. Dr James concluded that the cause of Mr Feeney's death was 'salt water drowning'. (Exhibit C3a, p1).

2.2. Dr James commented:

'The post-mortem has shown obvious features of salt water drowning. There isn't any identifiable injury to suggest incapacitation from external causes while undertaking the described activity. The blood alcohol level has not been received at the time of this report.'

(Exhibit C3a, p4)

2.3. Toxicological analysis of Mr Feeney's blood confirmed that alcohol was not detected in the blood (see Exhibit C4a).

3. **Issues arising at the inquest**

- 3.1. Senior Sergeant Swalue raised the issue of the adequacy of signage in the Gunyah Beach area at the time of Mr Feeney's death. An article in the 'Port Lincoln Times' on 18 November 1999 quoted him as saying:

'Mr Swalue said he wanted the Department for Environment, Heritage and Aboriginal Affairs to address the issue.

"One death is too many and we've had three this year alone. I think the National Parks mob should just put a bit of signage up. All I suggested to them was that I think it's something we should look at.

...

Someone should look at the areas that have no signs, specifically thinking about visitors to our West Coast area. We've got some responsibility to alert them. The people that have died on our coast since last year have all been tourists. It's not the locals, it's more the people that come from other areas. Local are aware of where they can and can't go."

...

The newspaper also quoted the local State Emergency Service Divisional Officer, Mr Gordon Hartley as saying:

Mr Hartley said increased efforts must be made to educate tourists on the dangers of some coastal locations. He said while tourist education and warning signs would not guarantee people's safety they would increase the public's awareness of the dangers.

"It's public awareness, at least they are given the advice that there are problems."

(Exhibit C20b)

- 3.2. Photographs which have been provided to me illustrate these points. A sign at the Ranger Station at the entrance to the Coffin Bay National Park makes reference to 'dangerous seas' and advises, in relatively small print:

'The exposed ocean that borders this park provides hazardous sea conditions including strong rips, large swells and freak waves. Swimming, surfing or entering the water can be dangerous. Death by drowning has occurred in this area.'

(Exhibit C19a)

- 3.3. The sign at the turn-off to Gunyah Beach from the main track makes no reference to hazardous sea conditions in the area.
- 3.4. In contrast, I have been provided with photographs of signs erected by the National Parks and Wildlife Service at Wreck Beach on Sleaford Bay via Port Lincoln. A large

yellow sign in the carpark, alongside the same sign as the one I have just described at Coffin Bay National Park, which reads:

'WRECK BEACH
DANGEROUS RIPS
 RUN OUT TO SEA
 SWIMMERS BEWARE'

3.5. Another sign at the same locations reads:

'WARNING

- Undermined / unstable cliffs
- Rough rocks near cliff edge
- Slippery rocks at water's edge
- Strong ocean currents / rips

Consider the risks ... stay safe'
 (Exhibit C19a)

3.6. Mr Markey, Counsel for the Department of Environment, Heritage and Aboriginal Affairs, tendered a statement of Mr Joe Tilley, who is the District Ranger for the Department in the area. The statement and its attachments is Exhibit C21.

3.7. Mr Tilley's statement refers to a risk assessment which was carried out early in 1998 concerning the Coffin Bay National Park in consultation with SAICORP, the State Government Insurance Agency. A report called the 'SAICORP Risk Audit Report' dated 15 July 1998 resulted from the review. The review was prompted by the death of a person on 24 May 1998. He fell from a cliff while climbing down to retrieve lost fishing tackle and sustained severe head injuries and his body was then lost in the surf (see the Inquest no. 49/98 into the death of Desmond James Cummings). The risk assessment makes no specific reference to hazardous swimming conditions in any of the National Parks in the 'East Eyre region'. Instead, it refers to the risks of vandalism, visitors becoming lost, visitors falling from cliffs, vehicular collisions and the like.

3.8. Mr Tilley advises that, since Mr Feeney's death, further signs have been erected warning of the dangers of swimming in the sea. At Gunyah Beach, a sign has been erected which states:

'Hazardous sea conditions
 Rough surf beach. Strong Rips.'

The sign also has a pictorial representation of swimming being prohibited. (Exhibit C21)

- 3.9. The tourist brochures for the area were also changed upon reprinting, to repeat the warnings about strong rips, large swells and freak waves.
- 3.10. Having regard to the above information, it is clear that the Department of Environment, Heritage and Aboriginal Affairs was aware that there was a risk that people swimming from beaches in the Coffin Bay National Park may drown in rips in the area. The sign erected at the entrance to the Coffin Bay National Park at the time of Mr Feeney's death explicitly said so.
- 3.11. It is therefore curious that the risk assessment carried out in 1998 made no reference to a drowning at all. In that sense, it appears to have been inadequate.
- 3.12. It is also clear that the Department has now erected a sign at Gunyah Beach advising specifically of the danger of drowning. This is a positive step. They still do not appear to have erected a sign at the entrance to the Coffin Bay National Park of the same type as that erected at the Lincoln National Park. That sign is clearer and more immediate.

4. Recommendations

- 4.1. In view of the above information, I recommend pursuant to Section 25(2) of the Coroner's Act that a similar sign to that erected at Wreck Beach in the Lincoln National Park be erected at the entrance to the Coffin Bay National Park and at Gunyah Beach.

Key Words: Drowning, National Park, Warning Signs

In witness whereof the said Coroner has hereunto set and subscribed his hand and

Seal the 17th day of May, 2002.

Coroner