



FINDING OF INQUEST

An Inquest taken on behalf of our Sovereign Lady the Queen at Port Lincoln and Adelaide in the State of South Australia, on the 24th, 25th, 26th, 27th and 28th days of June 2013 and the 9th day of August 2013, by the Coroner's Court of the said State, constituted of Mark Frederick Johns, State Coroner, into the death of Peter Stephen Clarkson.

The said Court finds that Peter Stephen Clarkson aged 50 years, late of 21 Amiens Place, Port Lincoln, South Australia died at waters off Perforated Island, Coffin Bay, South Australia on the 17th day of February 2011 as a result of injuries sustained in a shark attack. The said Court finds that the circumstances of his death were as follows:

1. Introduction

- 1.1. At approximately 6pm on 17 February 2011 Mr Jim George, who was the Manager of the company Western Abalone Processors Pty Ltd, received a telephone call from his friend, Howard Rodd, who was an abalone diver and the holder of a licence to take a quota of abalone. This was the first notice that anyone received from Mr Rodd that another abalone fisherman, Mr Peter Clarkson, had apparently been taken by shark while Mr Rodd and Mr Clarkson were fishing for abalone earlier that afternoon.
- 1.2. At about 6:25pm on 17 February 2011 South Australia Police (SAPOL) became aware of the reported shark attack. Their information was received from the South Australian Ambulance Service which had dispatched an ambulance to the Point Avoid boat ramp. The Point Avoid boat ramp is situated within the Coffin Bay National Park on the western (seaward) side. Point Avoid boat ramp is flanked by steep cliffs and is in a sheltered bay suitable for the launching and retrieval of trailer boats.

Golden Island is a small island approximately 2 kilometres south of Point Avoid. Price Island is a small island approximately 3.5 kilometres south west of Point Avoid, and Perforated Island is a larger island approximately 15 kilometres southwest of Point Avoid. To the south-southeast of Perforated Island is a reef structure known as 'the lumps' which commences at a distance of approximately 2 kilometres south-southeast of Perforated Island and continues for approximately 3 kilometres in that general direction.

- 1.3. At 6:30pm SAPOL received further information from a Fisheries officer employed by Primary Industries and Resources South Australia (PIRSA), Mr Andrew Carr. Mr Carr reported that an abalone diver, Mr Clarkson, had been working from Mr Rodd's boat W04. Mr Rodd was at the Point Avoid boat ramp and the body of Mr Clarkson was still in the water. Mr Carr further advised that the Fisheries vessel 'Southern Ranger' was 45 minutes away from the Point Avoid boat ramp.
- 1.4. At this time Senior Constable Mylchreest of Port Lincoln police was tasked to attend at Point Avoid.
- 1.5. At approximately 7pm another PIRSA Fisheries officer, Mr Gassner, was aboard the Southern Ranger. He advised that the vessel was making its way towards Golden Island to assist with searching. Its estimated time of arrival was 30 minutes. Mr Gassner was requesting a location where Mr Clarkson had last been seen so that he could calculate a drift rate.
- 1.6. At 7:15pm PIRSA Fisheries officer Mr Carr (who was land based at that time) advised the crew of Southern Ranger that the last known location was the northeastern corner of Golden Island about 100 metres offshore. Mr Carr had obtained that information from Mr Darryl Carrison, another abalone fisherman who had been fishing out of Point Avoid that day and who had seen Mr Rodd and Mr Clarkson working on the northeastern tip of Golden Island. To his knowledge that was their last known location.
- 1.7. It later became apparent that the ambulance service had in fact been alerted by Ms Samara Miller who was the Executive Officer of the Abalone Industry Association of South Australia Incorporated. She had been contacted by Mr George.

- 1.8. At approximately 7:55pm Senior Constable Mylchreest observed what he suspected was Mr Rodd's vessel being towed on a boat trailer behind a vehicle on the road out of Point Avoid and in the direction of Coffin Bay. Senior Constable Mylchreest intercepted the towing vehicle and ascertained that Mr Rodd was being escorted by a number of people associated with Western Abalone Processors to Port Lincoln Hospital as he was thought to be in shock. The group were aware that police would be attending but not sure when police would arrive. As a result they had not remained at Point Avoid boat ramp. Senior Constable Mylchreest was able to obtain a brief outline of events from Mr Rodd. Mr Rodd told Senior Constable Mylchreest that the location of the incident was 'the lumps south of Perforated'. Senior Constable Mylchreest attempted to have Mr Rodd point the location out to him on a map contained within a map book published by the South Australian Country Fire Service that he had in his police vehicle but Mr Rodd was unable to locate the area on the map. He mentioned that it was an area that had been discovered by the father of Bill Ford. Bill Ford was present with the group and provided to Senior Constable Mylchreest a more accurate description of the area saying that it was most likely just south of Perforated Island. Senior Constable Mylchreest said that that island was shown on the map he was looking at but was not named as Perforated Island, but as Whidbey Isles. Due to this difficulty he asked Mr Rodd if he had a location set in a GPS on his boat. Mr Rodd informed him that the location had not been marked as the GPS aboard the boat was not functioning properly. The search location at this time was changed from Golden Island to the area known as the lumps south of Perforated Island and this was conveyed to the Southern Ranger. The Southern Ranger continued to search and later anchored at Perforated Island overnight with the intention of continuing the search the following morning.
- 1.9. In the meantime Senior Constable Mylchreest permitted the party, including Mr Rodd, to continue to the Port Lincoln Hospital. The vehicle towing the boat was seized and taken by police to the police compound in Port Lincoln. Senior Constable Mylchreest made his way to the beach at Point Avoid where he met members of the State Emergency Service (SES) who had been called in to assist with the search. This was sometime after 8:30pm and daylight was beginning to fade. Senior Constable Mylchreest led a team of four SES personnel onto the beach at Point Avoid and performed a foot search of the beach that was conducted by torch light. Nothing was found. A further search was conducted of a nearby beach called Gunyah Beach,

however it was called off after an hour as SES members were finding the search difficult as the beach was soft and in the darkness it was not possible to see very much. In any event, it was most unlikely that anything would be found in that location which was some 20 kilometres from what turned out to be the scene of the attack. Nevertheless, Senior Constable Mylchreest's actions and those of the other police members and SES personnel present at the location were well-intentioned and represented the best that authorities could do in the circumstances that were presented to them that evening.

1.10. It will be seen from the above summary that the information giving a rough location, namely the vicinity of the lumps south of Perforated Island, was not ascertained until sometime well after approximately 8pm. By that stage daylight was very limited. At approximately 9pm that evening Detective Boots attended at Port Lincoln Hospital and spoke with Mr Rodd who was in the company of his son, Neil, Mr James George and Mr Michael Coates, his solicitor. Detective Boots was able to take down some information but was necessarily limited by the fact that Mr Rodd was apparently distressed and withdrawn and struggling to recount his observations and actions. Detective Boots reproduced the following dot points in his investigating officer's report¹ of his conversation with Mr Rodd that night:

- Launched at 0800hrs;
- With diver, Peter Clarkson about 50 years lives in Esperance WA, works with the seasons. SA abalone season from January 1. Peter travels to SA for work and then returns to WA;
- First fish at Golden Island. Fished for about an hour or so, saw Daryl Carrison in the area so moved on;
- Price Island, further fished. Having poor catch rate moved on again;
- GPS been having trouble;
- Perforated Island, cray boat present in the bay. Experience of not fishing near a cray boat. Moved to area known as the lumps;
- Peter located area known as the lumps which is miles south of Perforated Island;
- Not fished there for years;
- Peter wanted to dive deeper, use all of this dive time in deeper water before going back to shallow water in Golden Island to decompress;
- Rodd standing at back of boat cleaning and preparing catch later in afternoon, not sure of time;
- Heard compressor rev up;
- Thought Peter send up a bag;

¹ Exhibit C23

- Peter didn't come up;
- After a while I saw Peter in a rush for the surface I had him at the work station at the boat I've leaned out he was only metres from the boat;
- I seen a shark or multiple sharks. Was a big shark. Can't estimate the size;
- I had moved the boat to where I estimated he would surface due to the bubbles;
- I saw Pete get taken back down by the shark that was the last I saw of Pete;
- I retrieved the air-line but was no longer connected;
- I stayed out there for ages circling around, no radio calls, no mobile looked at the GPS, it had 'NO FIX';
- Slowly made my way back to Point Avoid;
- Contacted Jim George;
- Peter; black flippers; black full length wet suit. Weight vest, mask and regulator, dive computer on wrist, red/brown work gloves. Owns own equipment;
- Wears shark repellent equipment; shark shield or called a snake. Attached to waist trailing behind diver, personally owned item;
- Weather; 15 knot southerly, variable workable conditions;
- Had lunch after working Price Island;
- Abalone bag would be sent up, don't know where that is;
- Black net bag rope and parachute attached to send to surface;
- Boat owned by Howard Rodd, Director. Single aluminium hull 21 foot;
- 2 x 90hp outboard.^{1 2}

1.11. Mr Rodd informed Detective Boots that the position of the incident was 'about 3 to 4 kilometres east of Perforated Island'. Detective Boots arranged to see Mr Rodd the following day after he had received medical treatment. It was Detective Boots' understanding that Mr Rodd would either remain at the hospital or stay at the home of Jim George.

1.12. On the morning of 18 February 2011 Detective Boots conducted a brief inspection of the vessel. He noted it to be a neat and well organised work boat. The only evidence of anything awry was a severed air hose. He removed the severed end of the air hose including an intact section which he himself cut cleanly. His purpose in doing this was so the severed end could be forensically examined. Late that morning he attended at the home address of Mr George. He attempted to ascertain a more accurate location of the incident from Mr Rodd. Detective Boots had with him a nautical map entitled 'Whidbey Isles'³. Mr Rodd was unable to be specific about the location. He indicated on the map an area of approximately 1 kilometre by 2.5

² Exhibit C23, pages 10-11

³ Exhibit C23

kilometres. Detective Boots later relayed this information to search coordinators and had discussions with members of SAPOL's Water Operations Unit regarding the feasibility of conducting an underwater search of the area. He was informed by those members that given the size of the area and the conditions prevailing on the day, it would not be feasible to conduct an underwater search.

- 1.13. Sergeant Doecke is a member of the Water Operations Unit within SAPOL. He was contacted on 17 February 2011 and requested to start early the next day and act as search coordinator for Mr Clarkson's disappearance. By the time he was aware of the matter it was too late to conduct any searching that night. He was aware that the Southern Ranger was in the vicinity. Sergeant Doecke said that had authorities been advised earlier in the day, it would have been possible to respond:

'With that response that evening, at that time of year, there was still, you know, a few hours of daylight from 6pm onwards – we could have tasked other assets, for example our helicopter to that area to do a search. But once it's dark with that location with the helicopter not having visual reference and also not having an exact location at the start, it was very difficult to commence search operations. We do search at night as well generally with marine searches, depending on the situation – because we can still find things at night time as well.'⁴

However, the following morning Sergeant Doecke said that the search was not able to be commenced because of unfavourable weather that had come in. As a result the search helicopter could not leave Adelaide. Furthermore, information from Southern Ranger on the scene was that there was very heavy rain and very limited visibility⁵. Sergeant Doecke noted that the conditions the previous afternoon and evening had been favourable however⁶.

- 1.14. Despite the unfavourable conditions, Sergeant Doecke did task the SES vehicle from Port Lincoln to attend the vicinity of the lumps. The vessel departed from Coffin Bay but when it got out into open water past Point Whidbey the SES vehicle advised him by radio that they were only making 3 knots headway into extremely bad weather. As a result he turned them around because of the risks involved and the poor prognosis having regard to the conditions that they would be unable to achieve anything⁷.

⁴ Transcript, page 263

⁵ Transcript, page 265

⁶ Transcript, page 266

⁷ Transcript, page 267

1.15. Sergeant Doecke made it quite plain that SAPOL Water Operations Unit were:

'... quite happy to attend if we could achieve – receive a last know position from a GPS from a boat that was on the scene or if we had a witness who was prepared to go out and indicate the area to us using landmarks or whatever navigation systems they use.'⁸

That however did not transpire. Sergeant Doecke maintained contact with the Southern Ranger until that vessel was low on fuel and had to return to port. As Sergeant Doecke said there was no point in the SAPOL Water Operations Unit going out to what was an immense area of seascape and as he very aptly put it, 'just on a whim trying to dive such a huge area with the associated risks and depths'⁹.

1.16. Sergeant Doecke became aware on the morning of 21 February 2011 that Mr Rodd had apparently made an offer to police that he was prepared to come out and indicate the location to him. Based on that the Water Operations Unit was prepared to attend, but within an hour of being informed of that information Sergeant Doecke received a call back stating that the offer had been withdrawn via Mr Rodd's solicitor, Michael Coates¹⁰.

1.17. The above account will make it clear that by the time Mr Rodd contacted Mr George, who in turn contacted Samara Miller, who in turn contacted the South Australian Ambulance Service, who in turn contacted SAPOL – all of this sometime after 6pm – there was too little time left that day for authorities to get out to the location and launch an effective search. In any event, the best information that was available at that time was Mr Rodd's extremely vague description of the locality. Mr Rodd has never provided a more accurate location to this day. To this day, therefore, no thorough underwater search has ever been conducted to see if anything could be found of Mr Clarkson. In fact, nothing has been found of Mr Clarkson, nor any of the equipment he was wearing or any other evidence that would assist in ascertaining what occurred that day. The only information has been that provided by Howard Rodd.

⁸ Transcript, page 270

⁹ Transcript, page 275

¹⁰ Transcript, page 275

2. The evidence of Howard Rodd

- 2.1. The police were unable to obtain a complete statement from Mr Rodd until June 2011, some 5 months after the incident. Finally a statement¹¹ was obtained in which Mr Rodd provided the following account. He said that he is the holder of abalone licence W04 and his vessel is a 21 foot aluminium single hull boat which has been designed for abalone fishing. There is a small centre cab towards the stern of the boat and above the two outboard motors at the rear is a workstation which is used to process the catch. At the bow of the boat is an air compressor attached to a hooker airline. Mr Rodd fishes for abalone with Peter Clarkson. Peter Clarkson was also the holder of a licence to take abalone. The arrangement between Mr Rodd and Mr Clarkson was that they would work together to fish for each other's quota of abalone¹². Mr Rodd said that Mr Clarkson liked to start fishing on 1 January, which was the commencement of the season. He liked to get his quota caught first before commencing on Mr Rodd's quota. Mr Clarkson was happy with this because he was able to catch his quota ready for Chinese New Year. Apparently Mr Rodd was content for his quota to be taken thereafter. It appeared that under the arrangement Mr Clarkson was the main diver and that Mr Rodd would occasionally dive when Mr Clarkson needed a break. It may be that this was why Mr Rodd was prepared to accept the relative disadvantage of having his quota fished for second in priority to Mr Clarkson's. Prices are higher in the lead up to Chinese New Year.
- 2.2. Mr Rodd said that Mr Clarkson also had a boat. They started the 2011 season using Mr Clarkson's boat. However, a couple of days prior to 17 February 2011 the air compressor on Mr Clarkson's boat broke down. As a result of this they switched to Mr Rodd's boat¹³. When they started to use Mr Rodd's boat, Mr Clarkson removed his GPS/sonar unit from his own boat and installed it onto Mr Rodd's boat. Mr Clarkson preferred to use his unit as he was familiar with it. Mr Clarkson was the person who drove the boat to the diving locations and used his GPS. Mr Rodd said that on 16 February 2011 he and Mr Clarkson fished in Thorny Passage. Mr Clarkson dived and Mr Rodd was the sheller. Mr Rodd said that as a sheller he would perform the duties of a diver's assistant, a deckhand and a skipper all rolled into one. The sheller helps the diver prepare on the boat and once the diver is in the water all of the

¹¹ Exhibit C33

¹² Each licence permits the holder to take 7.5 tonnes of abalone per annum

¹³ Mr Rodd explained that he had purchased this boat for his son and in his statement it was occasionally referred to as his son's boat. In any event, I will for the purposes of this finding refer to it as Mr Rodd's boat.

airline is also fed into the water. The boat needs to be constantly moving or drifting along following the diver. Care needs to be taken not to tangle the airlines and to keep the hose lying on the water so that it forms an S shaped pattern. This shape makes it easier for the diver to swim. The sheller is also required to maintain the air compressor and make sure that the pressure remains correct. The sheller also has the responsibility of preparing the catch when it is sent up. There is a catch bag which is sent up by the diver using the air supply from the hose to fill a balloon or 'parachute'. This causes the bag of catch to float to the surface. The boat is then positioned so that the bag can be collected. The bag is lifted out of the water using a hoist because a full bag of abalone might weigh approximately 30 kilograms. The abalone are then checked by the sheller for size and health prior to the flesh being removed. The meat is bagged and put on ice. If an abalone is found to be diseased these are bagged separately and given to the Fisheries Department. If a shell has a good Mother of Pearl it is kept. On average there are about 3 to 4 Eskies onboard with ice to keep the catch fresh.

- 2.3. The responsibility of the diver is to actually catch the abalone.
- 2.4. Mr Rodd stated that Mr Clarkson had a much better understanding of the paperwork involved in the business than he (Mr Rodd) did. Mr Clarkson would take responsibility for contacting the Fisheries Department prior to going out for the day. This is apparently a condition of their fishing licences. Contact is made with the Fisheries Department by telephone to advise of the area in which they are proposing to dive for the day. They must provide their licence details at the same time. At the end of the day catch records and documents would have to be prepared and Mr Clarkson would take responsibility for doing that.
- 2.5. There were no voice communications between the diver and the boat. When the diver was in the water the arrangement was that he could be signalled by three tugs upon the airline.
- 2.6. Mr Clarkson always wore a Shark Shield which he attached to his belt. It is a battery operated device which can be switched on and off and is designed to repel any sharks as they approach. Mr Rodd said that sometimes Mr Clarkson would turn the Shark Shield off when he was on the bottom but most of the time he would switch it on when he entered the water and then switch it off again when he got to the surface. Mr

Rodd did not know whether Mr Clarkson had the Shark Shield turned on at the time of the incident that occurred on 17 February 2011.

- 2.7. On 17 February 2011 Mr Clarkson and Mr Rodd decided that they would fish at Point Avoid. Mr Clarkson drove to Mr Rodd's premises and Mr Rodd already had the boat ready to depart. They stopped for fuel at a Mobil Service Station and proceeded to the Point Avoid boat ramp. Their first destination after launching the boat was the area of Golden Island. Mr Rodd estimated that Mr Clarkson started to dive by approximately 9am on the northwest corner of Golden Island. Mr Rodd said that many of the abalone that Mr Clarkson found in that location were just on size but that some of them were being dropped back once they were checked on the boat. He explained the reason for that was that once the abalone was removed from the shell it can lose too much of its body weight and then disputes can arise about its original size. He and Mr Clarkson preferred to use abalone that would not be questioned by the Fisheries Department. From time to time the Fisheries officers would board their boat sometime during the day and check their catch. Mr Rodd said that another abalone fisherman, Mr Daryl Carrison, arrived in the Golden Island area. He stopped and setup in the line of the path that Mr Clarkson was working towards. The waters around Golden Island were fairly shallow and accordingly this dive was categorised as a shallow water dive. Mr Carrison's presence prompted Mr Rodd and Mr Clarkson to move to Price Island. Again Mr Clarkson dived and was finding only smaller sized abalone. It was obvious to Mr Clarkson that the area had previously been worked over by other divers. Mr Clarkson continued to dive for an hour and a half to two hours in the area of Price Island. When he finished the diving they had their lunch on the boat. Mr Rodd said that he and Mr Clarkson had previously discussed the possibility of diving out at Perforated Island. An additional reason for going to Perforated Island was apparently that Mr Clarkson had heard that there were large collectable shells out there. He was keen to use the opportunity to have a look and see if the area might hold any of these shells. Although he is not allowed to collect shells while diving for abalone, it was an opportunity for him to dive for some abalone and to look to see if he could find any collectable shells.
- 2.8. Accordingly, Mr Clarkson drove the boat out in the direction of Perforated Island. Mr Rodd was standing at the back of the boat on top of the shelling platform looking towards the island to try and find the area known as the lumps. He said that from a

distance one can see where an area of reef is by an up swell in the water. They had a rough idea of the location that they were heading for. Mr Rodd had last been in the area 12 years before and to his knowledge Mr Clarkson may never have been there. They went to an area on the northeastern end of Perforated Island but on arrival they could see that a cray boat was working in the bay. Because cray boats use berley they chose not to enter the water in its vicinity. They proceeded out to the area known as the lumps some distance from Perforated Island. Mr Rodd said that it was getting later in the day and normally a deep dive would have been done earlier in the day. However they were planning on this deeper dive to identify the spot to return the following day, but at the same time hoping that there might be some larger abalone that they could retrieve for the day. Mr Rodd said that the depth was approximately 25 metres because he remembered looking at the sounder. Mr Clarkson decided on a location. He said the point was just in the general area of the lumps and he could not be certain exactly where they were. He said he could just make out Perforated Island in the distance.

- 2.9. Mr Rodd said that Mr Clarkson started to dive later in the afternoon. Mr Rodd fixed the time as 'around 3pm or maybe a little bit later' in his statement¹⁴. Mr Rodd was not wearing a watch. He said that Mr Clarkson would keep track of all of the time while he was diving. He said that Mr Clarkson had been in the water for maybe 10 minutes when the compressor changed its note and the pressure gauge dropped. That suggested to Mr Rodd that Mr Clarkson was filling the parachute to send up some abalone. Mr Rodd's thought was that this had happened quite quickly and that if Mr Clarkson had filled a bag in 10 minutes there must be good abalone down there. He said that he commenced to get the bag hoist ready and was preparing the next bag to send down. A fresh catch bag is sent down by attaching a weight on a light rope and dropping it over where the bubble stream is. He started to move the boat towards where the bubbles were coming from. He said this was starting to take longer than normal and he was wondering what was happening. There was still no bag and Mr Clarkson had not risen to the surface. Then Mr Rodd said that he saw Mr Clarkson break the surface approximately 100 metres in front of the boat. He said that there were waves up a metre in height and there was a freshening southerly wind. Mr Clarkson was facing away from the boat and did not immediately turn to face the boat which would have been the normal thing to do. As Mr Clarkson was lifted by a swell

¹⁴ Exhibit C33, page 15

Mr Rodd saw what he thought was blood in the water. He then motored quickly towards Mr Clarkson. He could see more blood around Mr Clarkson and grabbed a boat hook. He used the boat hook to grab Mr Clarkson's shoulder and as he pulled Mr Clarkson towards him, Mr Clarkson was turned in his direction so that Mr Rodd could see his face. He said there was not any movement in Mr Clarkson's arms and that he appeared to be disabled. He was not moving. As Mr Clarkson was pulled towards the boat Mr Rodd could see his body stretched on top of the surface. He could not see any injury. Mr Clarkson had the regulator in his mouth and seemed to be clenching down on it. At the same time there was blood coming out of his mouth. Mr Rodd reached down to grab Mr Clarkson with his hands. Mr Clarkson was stretched out with his head and shoulders close to the side of the boat and his body going away from the boat. Mr Rodd was trying to grab hold of his shoulders when he saw a shark come from the back of the boat and take Mr Clarkson around the waist and back under the water. When the shark grabbed Mr Clarkson, Mr Rodd said he saw more blood come from out of his mouth. Mr Rodd said he had some of Mr Clarkson's blood on him and was wet from having leaned over the boat. This all happened very quickly. Mr Rodd said that he had a:

'... huge feeling of lose (sic) that I couldn't do anything'

and further:

'I couldn't function then I didn't know what to do. I circled around in the boat trying to find something of Peter, although I knew in my head that he could not have survived what I saw happen.'¹⁵

- 2.10. Mr Rodd said that he could see nothing in the water apart from some small floats that would have been attached to the Shark Shield tail. He did not collect those. He pulled the air hose in at some stage but had no memory of actually doing it. He noted that the end of the airline was severed. He turned the compressor off. He said:

'I don't know why I didn't do anything else. I just completely collapsed in on myself.'¹⁶

- 2.11. At some point he threw the anchor over and then realised that it was not attached to the anchor rope. This was because two days previously he had removed the anchor from the rope because he had tied up to a crayfishing boat called the Goldfinger which was anchored in Point Avoid Bay. He knew the skipper, John Theakstone. He

¹⁵ Exhibit C33, page 17

¹⁶ Exhibit C33, page 17

intended to use the anchoring rope to secure his boat to Mr Theakstone's. However, when they got behind Mr Theakstone's boat, it turned out that Mr Theakstone already had a line prepared for him to use. As a result the anchor was put back in the anchor well but not reattached to the rope¹⁷.

2.12. Mr Rodd said that he did not think to use the radio. He said:

'The radio in the boat is not something that I or Peter use.'

and

'I don't even think the radio was turned on.'¹⁸

This seems to me to be an extraordinary statement. The radio in a seagoing vessel is an important piece of equipment. It may not be something that is used everyday but to claim that it is not something that is used is, in my opinion, quite peculiar. It seems unusual for an experienced boat operator to admit that an important piece of equipment such as a radio is not used.

2.13. Mr Rodd has been involved with boats and fishing all his life. He is a third generation fisherman and has been involved in the industry for 30 years. He holds a Master class 5 qualification relating to the control of a boat. He has held that qualification for 17 or 18 years¹⁹. I would expect that Mr Rodd would be aware of the importance of the radio as an important piece of equipment on a seagoing vessel.

2.14. Mr Rodd said that he drifted around trying to work out what to do. He said that he could not think straight. He decided to go back to Price or Golden Island to look for another abalone boat that might help him. When he reached that vicinity he said that there was no other vessel around. At that point he considered going back to Perforated Island but then was not sure how much fuel he had left. When he got in behind Price Island he was sitting on the floor of the boat and vomiting. At that point he decided to call someone on his mobile phone. He contacted Jim George as I have already mentioned and told him that Mr Clarkson 'had been taken'²⁰. Mr Rodd said that he could remember Mr George telling him to calm down and go back to the beach at Point Avoid and that he would assist. On the way back into the bay he saw another abalone boat belonging to the Claughtons. He said he also made calls to Michael

¹⁷ Exhibit C33, page 17

¹⁸ Exhibit C33, page 17

¹⁹ Exhibit C33, page 3

²⁰ Exhibit C33, page 18

Coates, his solicitor. He said he was worried and wanted to contact Michael. After this a number of calls were received by him. He made his way to the Point Avoid boat ramp.

- 2.15. Mr Rodd said that he remembered looking at the GPS at the time of, or shortly after, the shark attack and claimed that it kept flashing 'no fix'.

3. GPS

- 3.1. The GPS device that was aboard the vessel was owned by Mr Clarkson and was temporarily being used on Mr Rodd's vessel as I have described. The GPS device was tested by police diving squad members and also by Mr Ian Smith who is the Furuno dealer for Port Lincoln. Mr Smith could see no reason why the GPS/sonar would not operate correctly. It was determined that the feature of the GPS known as 'track display' was turned off. As a result of this it was not possible to track the last trip that had been taken using the GPS. This meant that a possible means of obtaining an accurate location for the incident was not available.

- 3.2. All other witnesses, apart from Mr Coates, reported that they had never had any difficulty in using a GPS in the waters off Point Avoid. No-one apart from Mr Coates had experienced the 'no fix' problem claimed to have been experienced by Mr Rodd on 17 February 2011. Mr Coates' evidence was that he was not particularly surprised when told that the GPS did not get a fix. He said that was:

'Because I've had GPS readings putting boats on Ayers Rock and GPSs that don't work and sometimes by operator error but sometimes for reasons inexplicable. So I didn't take any great notice of that.'²¹

- 3.3. By contrast, Sergeant Doecke of the Water Operations Unit of SAPOL said that he had never had any difficulties in obtaining a GPS fix in the waters around Port Lincoln²². However he commented that even if a GPS were not working it would be possible, using sonar and landmarks as a reference, to take a bearing with a compass to obtain a relatively accurate location²³.

²¹ Transcript, page 110

²² Transcript, page 271

²³ Transcript, pages 271-272

- 3.4. Mr Claughton who gave evidence is another abalone fisherman who has been in the industry for 14 years. He said that he has never experienced any difficulty in getting a GPS fix in the waters off Point Avoid. He said:

'We use it every day and it is for us it's an important tool just to see where we - to see where we're working and it helps us catch more, to pinpoint exactly where we want to be.'²⁴

- 3.5. Daryl Carrison is another abalone diver who gave evidence. He has approximately 13 to 14 years of experience in the industry. He was asked about any problems with obtaining or keeping a GPS fix in the Point Avoid / Perforated Island region and his answer was as follows:

'A. There is a couple of places here that will do it and that's more at Drummond. It will disappear, it will drop out and then pick back up, but it very rarely stays off. You know, like it will just go 'lost position' and it will put a question mark on your screen and then it will pop back up, you know, maybe 15 minutes later probably is the most it has ever been off with me that I can recall.

Q. So generally in those waters off of the Point Avoid launch is there any problem with GPS fixes?

A. Not that I can remember ever having any.'²⁵

- 3.6. In view of Mr Carrison's evidence, it is possible that Mr Rodd may have looked at the GPS screen at a time when it had temporarily lost position. In his distressed state he may not have had the presence of mind to continue checking until a fix came back up.

4. What Mr Rodd should have done

- 4.1. Probably the nearest thing to a text book answer to what ought to have been done in the situation by an experienced mariner in the situation Mr Rodd found himself in was provided by Sergeant Doecke of SAPOL Water Operations Unit. He said:

'I would exhaust all possible options to assist and retrieve the diver. I would call for immediate assistance from other vessels in the area. I would advise authorities using whatever means possible, either the marine radio or a mobile phone or any communications that you would have available. If those communications weren't working, I would consider letting off a flare to attract other vessels if there was any in the area and failing all of that, I would let off my EPIRB as a - my emergency position indicator radio beacon to indicate that I had a distress situation occurring, knowing that that would then advise O/C STAR who would task a helicopter immediately to that location. I would also attempt to mark the location so it had a more accurate location of

²⁴ Transcript, page 218

²⁵ Transcript, page 241

the incident either using the man overboard function or a - of the GPS or by buoying the area using a buoy or a float or my anchor line with the float attached or anything possible to mark the area. If it was me, I wouldn't be leaving that vicinity until I had heard back from authorities and received advice from authorities.'²⁶

- 4.2. Similarly, Mr Claughton made it plain that he would use his mobile phone if it would work in the area, or his marine radio on channel 16, the emergency channel, to alert authorities including other boats in the area. He said that failing a successful attempt at using the phone he would set the EPIRB off. He said that if he were out in the middle of nowhere an EPIRB would mark his position but he said he would use a GPS to mark his position²⁷. He also said that he would throw a marker buoy overboard to mark the position²⁸. He said that if Mr Rodd had utilised channel 16 to report the situation he would have heard that on his vessel that afternoon. He said that his vessel was in the area of Point Whidbey and it would have taken him between half an hour and 40 minutes to get to Mr Rodd's location²⁹.
- 4.3. Similarly Mr Carrison, who is also an abalone diver who gave evidence, said that in the same situation that Mr Rodd found himself in he would try and call for help on the radio. He would set the EPIRB off and would fix the location using GPS³⁰. He said another option would be to use a marker buoy³¹. He also said that he would await help before leaving the area³².
- 4.4. Mr Rodd did none of these things. His explanation was that he was in a state of shock as a result of seeing the horrific event of his friend being taken by a shark. It is entirely understandable that he would be shocked and upset by that. But as a person with 30 years of experience earning his living by operating boats, in my opinion he should have been able to compose himself sufficiently for as long as it took to mark the location using the EPIRB, GPS (if working) or a marker buoy. He should have remained composed long enough to obtain an accurate fix and then to obtain assistance using the emergency channel on the boat's radio. His failure to do so may have been the result of shock. However, this does not excuse the failure in a person of Mr Rodd's experience and qualifications, having the responsibility for the vessel and Mr Clarkson's welfare.

²⁶ Transcript, pages 278-279

²⁷ Transcript, page 226

²⁸ Transcript, page 227

²⁹ Transcript, page 228

³⁰ Transcript, pages 242-243

³¹ Transcript, page 244

³² Transcript, page 244

5. The presence of blood on the wheelhouse of Mr Rodd's boat

- 5.1. The investigating officer, Detective Boots, noted droplets of what appeared to be dried blood on the right hand side of the wheelhouse of Mr Rodd's boat. On 23 February 2011 members of the Forensic Response Section of SAPOL conducted a full forensic investigation of the vessel. The material on the wheelhouse was tested with the indication being that it was human blood. The areas were swabbed and samples submitted to Forensic Science South Australia. They were duly DNA tested and of the three samples one tested positive for blood and a DNA sample was obtained. The sample matched a DNA profile extracted from a toothbrush seized from the home address of Peter Clarkson. I am satisfied therefore that one drop of blood on the wheelhouse was that of Mr Clarkson. I agree with Detective Boots' conclusions in relation to the presence of that blood. He thought that there were two possible explanations. The first being that the blood was from an injury sometime prior to 17 February 2011 as it was not possible to determine the time at which it was deposited. The second and more likely explanation was that blood from Mr Clarkson was transferred from Mr Rodd's hands during his attempted rescue of Mr Clarkson on 17 February 2011. Mr Rodd in his evidence described Mr Clarkson coughing blood while in the water. Mr Rodd was trying to grip Mr Clarkson's upper body at this time. It is reasonable to suppose that Mr Rodd may have come into contact with Mr Clarkson's blood in this process. It will be recalled that Mr Rodd was using a boat hook. That boat hook was attached to a holder against the cabin of the wheelhouse in the vicinity of the location of the blood spots. It is reasonable to conclude that the blood was transferred from Mr Rodd's hands to the wheelhouse while he was handling the plastic boat hook. Detective Boots concluded that there was nothing necessarily sinister in the presence of blood in this location, and I agree.

6. The Abalone Industry Association safety protocol

- 6.1. Evidence was given at the Inquest about certain documents prepared by the Abalone Industry Association. These documents were designed to deal with the situation where a fishing boat known to have put to sea on a given day does not return. In the end I do not think that it is necessary for me to give particular consideration to the code of practice document. In my view the proper response to be expected of a person in charge of a vessel in the situation Mr Rodd found himself in on 17 February 2011 is so axiomatic and well known that a code of practice would not elucidate the

matter any further, nor could a poor code of practice be blamed for introducing any uncertainty into such a situation.

7. Mr Rodd's failure to remain at the beach until police arrived

- 7.1. Evidence at the Inquest showed that the ambulance service was present on the beach in the form of an ambulance and two ambulance staff. Also present on the beach were Mr Jim George and Mr Michael Coates, both of whom gave evidence. There were other people present also, some of whom had been asked to attend by Mr Coates. One such person was Mr Searle, an employee of Mr Coates. The evidence of Mr Coates and Mr George was that they were given to understand by the ambulance officers that Mr Rodd should remain on the beach until police arrived on the scene. After some time Mr Coates and Mr George became concerned that Mr Rodd was in a state of shock and as a consequence one or other of them, most likely Mr Coates, decided that they would leave the scene with Mr Rodd and Mr Rodd's vehicle and boat. The boat had been retrieved to its trailer on Mr Rodd's arrival at the beach. As it happened, they had left the beach and were some distance between the beach and the township of Coffin Bay when Senior Constable Mylchreest saw them on his way out to Point Avoid boat ramp.
- 7.2. It might be suggested that this in some way hampered the search for Mr Clarkson if one was to be initiated at that time. While I find it difficult to understand how it was strictly necessary for Mr Rodd to be taken from the beach when there was an ambulance present with two ambulance officers who could treat him for the non-physical symptoms he might have been showing, and that it would have been preferable for him to remain on the beach preserving as much as possible the scene as it might have existed at the time of Mr Clarkson's disappearance (making due allowance for the fact that the boat had been brought to shore and had been trailered), the real reason why a search was not able to be instigated for Mr Clarkson was Mr Rodd's inability to provide a location for the scene of the incident. By the time he reached the beach it was probably impossible for that information to be obtained, bearing in mind that Mr Rodd had no GPS reference or other useful information to assist in fixing a location. Furthermore, he had left no marker buoys, nor had he activated the EPIRB. Effectively, by the time he had left the scene of Mr Clarkson's disappearance, and probably within 5 minutes of having done so, it was impossible to re-establish the precise location at which it happened.

8. What happened to Mr Clarkson

- 8.1. The only witness to Mr Clarkson's fate was Howard Rodd. What is clear is that Mr Clarkson was not with Mr Rodd when he returned to the beach at Point Avoid on 17 February 2011. No person has seen or heard of Mr Clarkson since that date. Mr Rodd gave a story claiming that Mr Clarkson was taken by a shark. Apart from Mr Rodd's claim to that effect, the only piece of evidence capable of corroborating his story is the severed air hose with an end that bears a resemblance to a similar piece of air hose that was known to be bitten by a shark. This is supportive, but not particularly convincing.
- 8.2. A person in charge of an abalone boat while another person is diving for abalone at that time is in a position of significant power with respect to the person who is diving. The diver is in an extremely vulnerable position. It would be easy for the person in control of the boat to engineer a situation in which the diver is killed or injured. For example, the person in charge of the boat could simply sever the hooker line. That may or may not have the effect of resulting in the diver's death. However, if the episode occurred in the middle of the ocean and there were no other boats in the vicinity, and the person in charge of the vessel were to depart leaving the diver at a remote location in the ocean, the diver may very well and probably would drown or otherwise come to grief.
- 8.3. That is why it is important to examine the actions of Mr Rodd in the immediate aftermath of this incident. Mr Rodd said that he was deeply distressed and did not know what he was doing. It is understandable that anyone would be deeply distressed and shocked if they witnessed another person being taken by a shark in the circumstances described by Mr Rodd. However, Mr Rodd was an experienced boat operator having been in the abalone and related industries for 30 years. He was the holder of a class 5 Masters qualification. Mr Rodd did not do a number of things that he most certainly should have done immediately after Mr Clarkson's alleged taking by shark. The first thing he should have done was to mark the location. He claimed that the GPS had a 'no fix'. If that were true, he had other options available. He could have activated the EPIRB. He had no explanation for not doing so, although in

his oral evidence he referred to a previous incident he had been involved in at Ceduna when he turned on the EPIRB and, to quote him:

'Nobody come (sic) for us, nobody come (sic), I don't know, I don't know. I should – probably should have – I just – I don't know why – I don't know why I didn't.'³³

Apart from activating the EPIRB, which was subsequently tested and was found to be functional³⁴, Mr Rodd could have dropped a marker buoy.

- 8.4. Had he activated the EPIRB the site would have been permanently recorded and known for all time. A marker buoy might be subject to drift. Had he persisted he may have been able to obtain a fix using the GPS, accepting the possibility that temporarily it was showing a 'no fix'.
- 8.5. Mr Rodd claimed that he decided to throw the anchor out. Unforgivably, (on Mr Rodd's story) the anchor was not tied to the boat on Mr Rodd's story. Certainly there was no anchor fitted to the boat on Mr Rodd's return when it was subsequently searched by police. It is inconsistent with 30 years of experience in seagoing vessels that the person responsible for the boat would not have ensured that the anchor is attached to the anchor rope. Not for nothing is the end of an anchor rope known as the 'bitter end'. Finally, Mr Rodd should have used the emergency channel 16 on the marine radio which was on the vessel and was found subsequently to be in working order. He did not do this. It is known that there were other vessels in the vicinity. One such vessel was the Southern Ranger, another was the boat of Mr Claughton. There may have been others³⁵. In all probability Mr Rodd could have been joined by another vessel within a relatively short amount of time, perhaps within the hour on Mr Claughton's evidence.
- 8.6. Instead of doing any or all of these things Mr Rodd did nothing except in his own words 'to circle around in the boat for some time'. The incident, on Mr Rodd's own admission, occurred sometime shortly after 3pm. Had he acted immediately there would have been some 4 hours, at least, of daylight in which to effect a rescue. Furthermore, the coming of darkness would not have been an impediment to a search continuing once commenced with proper information as to a location. The reason the search could not be conducted the following day, apart from the efforts of the

³³ Transcript, page 326

³⁴ Transcript, page 60

³⁵ There was a cray boat near Perforated Island that may still have been in the vicinity

Southern Ranger, was that the weather had changed overnight and conditions were extremely unfavourable the following day. However, the evening of 17 February 2011 was perfectly fair for the conduct of a search.

- 8.7. It was not until 6pm that Mr Rodd belatedly contacted Jim George. That is more than 2½ hours after the incident. Even then he did not contact an appropriate authority. His choice of Jim George is peculiar. It meant that there was a further intermediary and a further slight delay in the contact of the appropriate authorities, namely the South Australian Ambulance Service. It was the South Australian Ambulance Service that notified police.
- 8.8. In summary, Mr Rodd did not act in the way best calculated to ensure that a proper search could be mounted for Mr Clarkson. He managed to achieve the opposite outcome.
- 8.9. This makes it very difficult to accept, except with the greatest of reluctance, Mr Rodd's story that Mr Clarkson was indeed taken by a shark.
- 8.10. I am left in the position where I have only two options. One is to find that Mr Clarkson was taken by a shark as claimed by Mr Rodd. The other possibility is to find that he is deceased and that his cause of death is unknown. The latter course should not, in my opinion, be taken unless I can positively rule out all other explanations. While I regard Mr Rodd's evidence with considerable scepticism, I cannot rule his explanation out. I have concluded that I must find that Mr Clarkson was taken by a shark.

9. Correspondence from the witness – Michael Coates

- 9.1. After these findings were dictated a letter was received from the witness, Michael Coates. It is dated 22 July 2013 and I have set it out together with its attachments as an appendix to this finding. According to the letter Michael Coates, who is a solicitor, is now acting for Mr Rodd. In the letter he states:

'I was not acting for Mr Rodd at the time of the hearing but now do so.'

- 9.2. The letter requests that I reopen the Inquest and receive further evidence about Mr Rodd's mental state and also evidence from Mr Bill Ford. The reopening of the Inquest would, it is suggested, enable me to hear evidence on three issues. I deal with them hereunder.

- 9.3. Firstly, evidence of Mr Rodd's mental state. The letter was accompanied by a report from Dr Jenny Higgins, Mr Rodd's treating psychologist. The letter notes that Mr Rodd was treated by Dr Higgins. The letter said that there was very strong physiological, cognitive, affective, behavioural and interpersonal evidence of 'nervous shock' suffered by Mr Rodd consequential to directly witnessing the violent death by shark attack of Mr Peter Clarkson. It is Dr Higgins' professional view that Mr Rodd was suffering from post traumatic stress disorder at the time she assessed him. This was a little over a month after the incident. Dr Higgins says that in her professional view Mr Rodd's actions after the shark attack must be understood in light of the 'nervous shock' he had experienced and his previous history of trauma exposure.
- 9.4. It will be apparent from what I have already said that I accept that Mr Rodd, on his version of events, had suffered an horrific experience. That was abundantly clear from the evidence I heard from Mr Rodd himself, and indeed from Mr Coates and Mr George. That being so, I do not propose to reopen the Inquest to hear evidence from Dr Higgins.
- 9.5. Secondly, Mr Coates suggests that evidence from Dr Higgins might elucidate the events surrounding Mr Rodd being taken from the beach to be given medical care. Mr Coates suggests that such evidence would assist in assessing 'the appropriateness of those events in taking care of Mr Rodd'. Leaving aside Mr Coates' own personal involvement in those events and consequentially his own interest in maintaining the appropriateness of Mr Rodd's departure with the encouragement of both Mr Coates and Mr George, I have not found that that action in itself interfered with the conduct of an effective search for Mr Clarkson. In those circumstances I do not propose to reopen the Inquest for that purpose.
- 9.6. The third area of concern relates to defining the search area. It is suggested that evidence could be adduced from Mr Bill Ford, to whom I have already made reference in this finding. Mr Coates' letter speaks for itself in this regard and I will not restate his arguments. However, Mr Coates does assert that 'Mr Rodd identified precisely where the incident happened'. That is simply not true. At no stage did Mr Rodd identify the location of the incident with sufficient clarity and detail to enable a search to be conducted by Sergeant Doecke and the SAPOL Water Operations Unit. I refer generally to the whole of Sergeant Doecke's evidence to support that conclusion.

In particular I note that Sergeant Doecke made specific reference in his evidence to the information from Mr Ford. It is useful to set that evidence out hereunder. Sergeant Doecke said that on 18 February 2011, the day after the incident, he made contact with:

'... a (sic) abalone diver called Billy Ford who provided a further latitude and longitude of the last known position. After speaking to Billy Ford that day, I – trying to ascertain whether that information was from Howard Rodd or from a chart and he said that the location that he had given me was off of a chart and that was a location that he'd provided to Rodd sometime ago as a place to dive for abalone. But it was ascertained that that wasn't the actual location, it was just a general area of where he was diving.'³⁶

9.7. Furthermore, in Mr Rodd's evidence, he asserted that Mr Ford:

'... knew exactly where we were and I think he was in a better frame of mind to tell them where than me.'³⁷

In the following several pages of transcript I questioned Mr Rodd about that assertion³⁸. In my opinion that passage of evidence makes it abundantly clear that Mr Ford would have been in no position to provide a location of the accuracy required for the purposes of an effective underwater search by police Water Operations Unit. In those circumstances I do not propose to reopen the Inquest to hear evidence from Mr Ford.

10. Conclusion

10.1. I conclude therefore that Mr Clarkson was taken by a shark on 17 February 2011. I am critical of Mr Rodd's failures to do one or more of the following things:

- 1) Activate the EPIRB to mark the location;
- 2) Drop a marker buoy to mark the location;
- 3) Have an anchor attached to the boat;
- 4) Use the radio to alert authorities of what had transpired;
- 5) Use flares with a view to attracting the attention of other vessels;
- 6) Remain in the location until help could arrive.

³⁶ Transcript, pages 272-273

³⁷ Transcript, page 331

³⁸ Transcript, pages 332-335

- 10.2. Had Mr Rodd notified anyone immediately after marking the location by EPIRB and/or marker buoy, it is my opinion that an appropriate search could have been instigated. It may be that some further evidence of Mr Clarkson's fate would have been produced as a result of such a search. Furthermore it would have been possible for SAPOL Water Operations Unit staff to have dived on the vicinity, if not that evening, then in the ensuing days. It is likely that some evidence corroborating Mr Rodd's story may then have been found. If nothing else, an anchor and an anchor chain would have been found with no rope attached. However, Mr Rodd's actions on the day precluded any such search from ever occurring.
- 10.3. It was suggested by counsel assisting that it might be useful to recommend that the Abalone Industry Association improve its protocols. In my opinion there is plenty of training in what to do in the event of a man overboard occurring through seamanship training and coxswain's qualifications and master's qualifications. I do not consider it necessary to add some other layer of regulation to what is already a clearly understood situation. Mr Rodd claimed to be distressed. However, in my opinion, he was incompetent. That is evidenced by his inexplicable failure to have an anchor that was actually attached to his boat. Further, by his failure to activate the EPIRB, obtain a proper GPS fix (even if a delay was incurred when waiting for the machine to gain a fix), deploy a marker buoy, deploy flares, use the marine radio or take any other sensible or useful measure. No protocol can cure incompetence of that nature.

11. Recommendations

- 11.1. I have no recommendations to make in this matter.

Key Words: Drowning; Fishing Industry; Life Jackets; Search and Rescue

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

Seal the 9th day of August, 2013.

State Coroner

Our Ref: MRC:KF:110049
 Your Ref:
 Date: 22 July 2013

The State Coroner
 302 King William Street
 ADELAIDE SA 5000
 By Email: coroner@courts.sa.gov.au

Dear Coroner,

RE: INQUEST INTO THE DEATH OF PETER CLARKSON

You will recall that I gave evidence at this inquest as did Mr Howard Rodd.

I was not acting for Mr Rodd at the time of the hearing but now do so.

I am very concerned that as matters have developed the inquest has not been presented with significant material evidence. I am concerned that the lack of such evidence will make it very difficult for correct findings to be made and that without such evidence that there is a real risk of incorrect findings being made.

My concerns relate to three main areas of significant evidence.

Firstly, evidence of Mr Rodd's mental state. It became apparent at the hearing that you were concerned at Mr Rodd's evidence as to his actions in the immediate aftermath of the tragic taking of Mr Clarkson. As the evidence disclosed, Mr Rodd had been involved in a previous tragic incident at sea some ten years before. What the evidence did not disclose was the extent to which that history, coupled with the events of Mr Clarkson's taking, affected Mr Rodd's mental state in the immediate aftermath of the event and continue to do so up to and including the time of him giving evidence.

Mr Rodd received treatment from Psychiatrists following this event for post-traumatic shock and depression. The Police assisting the Crown Counsel was made aware of this but no evidence was sought from the treating psychiatrists as to Mr Rodd's reactions or condition.

Mr Rodd consents to his treating psychiatrist Dr Jeannie Higgins providing information on his condition and treatment as contained in the attached report.

I also enclose a copy of our correspondence to her.

The second area of concern relates to evidence of Mr Rodd's care after the incident and the fact that he was taken from the beach where he had returned so as to be given medical care. I, of course, gave evidence as to



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those events but the evidence of his Psychiatrists will also be able to assist in the appropriateness of those events in taking care of Mr Rodd.

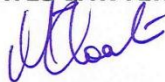
The third area of concern relates to evidence going to the definition of the search area. Some questions were asked of Mr Rodd as to the operation of GPS units and EPIRB units. The provision by Mr Rodd of information as to the area where Mr Clarkson was taken was apparently a matter of some concern. The evidence called established that Mr Rodd had specified precisely where the incident occurred and that that information had been provided to the police when first seen and was confirmed to the fisheries authorities, who had more exact charts, on the following morning.

A Mr Bill Ford, who has extensive experience in the relevant waters, was at the beach when Mr Rodd was collected. Mr Rodd identified precisely where the incident happened, it was an area where shallow diving (i.e. 40 ft) gave access to three particular "lumps" which were well known to Mr Ford and Mr Rodd. Having had that place identified Mr Ford marked it on a police map and, as requested, marked it again the following morning on a chart at the Department of Fisheries. He recommended the latter step because he was concerned that the map utilised by the police did not provide sufficient detail of the waters in question as it was not a nautical chart.

I understand that Mr Ford was not asked to provide any statement or to give any evidence to the inquest notwithstanding his willingness to do so. His evidence would obviously be important to any consideration of the way in which the search and investigation proceeded. It is clear that there was no compromise by Mr Rodd to any potential search. There may well be questions of concern to the inquest, however, as to how the information provided by Mr Rodd and Mr Ford was utilized and perhaps how that could be more efficiently done in the future. In particular, if there was any doubt as to where the incident had taken place Mr Ford was happy to, and would have been able to, show the searchers precisely where it was the next day.

For these reasons I suggest that it would be appropriate to reopen the inquest and receive further evidence in the form of the treating psychiatrist's reports and a statement from Mr Bill Ford.

Yours faithfully
COATES LAWYERS



Michael Coates
Consulting Solicitor

Encl. Correspondence to Dr J Higgins
Report of Dr J Higgins

c.c. Counsel Assisting
Amy Cacas
By Email per: tammy.mcpherson@courts.sa.gov.au

Our Ref: MRC:KF:110049
 Your Ref:
 Date: 9 July 2013

Dr. Jeannie Higgins
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Dear Doctor,

RE: HOWARD RODD

We are concerned for Howard Rodd, and the recent criticism made of him in a Coronial Inquest following the tragic loss of his working colleague and good friend Mr Peter Clarkson.

We enclose press reports of the inquest proceedings before the Coroner.

Howard chose not to be represented in this process and it has only come to the writers attention recently that notwithstanding evidence before the Coroner as to the previous tragedy in which Howard was exposed, and its after effects upon him, and the obvious trauma impact in relation to this event, there was no attempt made by the Crown Counsel assisting the Coroner to seek any evidence concerning how Howard reacted to the tragic events that unfolded in front of him.

In the writers view the Coroner would be assisted by a report on such matters as it is clear that His Honour intends to be critical of Howard's reactions.

Consequently I wonder if you would be so kind as to prepare a written response that we could provide to the Coroner and we would invite you to make any comments that you thought were appropriate.

We would anticipate however that the Coroner would be assisted with your views on:

1. The impact of shock in such circumstances;
2. How reasonable and appropriate his actions were given his prior experience and the impact of shock;
3. Whether you consider that it is appropriate to criticise Howard for his actions against any objective standard;
4. Whether there is any psychological reason to suggest he is anything other than a fit and proper person to continue to hold skippers tickets to be able to operate a vessel in the fishery (he has been operating in the fishery since the event);

I enclose Howard's statements, which together with his evidence establishes the following:

1. That Howard observes Peter being taken mid-afternoon at close range;
2. Howard searches for about two hours without any success;
3. Howard can't get a fix on Peter's GPS;
4. Howard does not set off the EPIRB (for use only when a vessel is in imminent peril);
5. Howard does not use channel 16 to 'pan pan' in an attempt to contact any boats in the area (to assist the search), however the short range VHF would only be able to communicate with boats in the immediate visual range, and there were none;
6. Howard loses the anchor and chain in an attempt to mark the location as he had failed to re-attach the anchor rope having detached it two days before when tying off to a rock lobster vessel at sea;
7. Howard elects not to use the weighted marker buoy as he believes it will blow or drift away from the lump and disappear;
8. Howard uses his mobile phone circa 6.00pm when back in the range of reception to alert his factory manager to start the process of contacting Emergency Services. I attach my statement.
9. Howard provides the location to Police when first seen, with the location known by another diver who pinpoints the spot on a fisheries chart the next morning;
10. Howard receives no medical treatment other than provision of a blanket at the beach from Ambulance Officers;
11. Howard is taken from the beach to the Hospital by friends concerned for his mental and health welfare after waiting 40 minutes for Police, meeting and being interviewed by Police en-route.

We would intend to provide your report to the Crown Counsel responsible for assisting the Coroner in the enquiry as to the circumstances as to Peter's death, and to the Coroner. If you provide a report it may be desired for you to provide further responses to the Crown Counsel or the Coroner.

Your early response would be appreciated as the Coroner has already closed the enquiry on June 28th.

Thank you in anticipation of your assistance. Responsibility is accepted for any fee.

Yours faithfully

COATES LAWYERS



Michael Coates
Consulting Solicitor

Encl. Press Report
Howard's Statements
M Coates Statement

Mr Michael Coates
 Coates Lawyers
 PO Box 62
 Port Lincoln
 South Australia 5606
 17/7/13

Re: Mr Howard Rodd
Your reference: MRC:KF:110049

Dear Mr Coates,

I refer to your letter dated the 9/7/13 concerning Mr Howard Rodd and the Coronial inquest into the death of Mr Peter Clarkson.

I hold a doctorate in clinical psychology and my area of speciality is in traumatic stress reactions. I have over 30 years of direct clinical, teaching, research, community and policy experience. I work very closely with the multiple systems and people that can helpfully, or not so helpfully, impact on the health and the social and vocational outcomes for people exposed to traumatic experiences (see attached brief resume).

Dr Scott Finlayson (General Practitioner, Pambula NSW) referred Mr Howard Rodd to me for specialist psychological assessment and treatment on the 14/3/11. Mr Rodd had directly witnessed the violent death by shark attack of Mr Peter Clarkson. Mr Rodd was also referred to Dr John Saboisky for psychiatric review following the death of Mr Clarkson.

I have read your letter, all the statements provided by Mr Rodd and the photocopies you provided of a number of media articles related to this case. I have also reviewed my own case file related to the psychological assessment and treatment of Mr Rodd.

I now respond to your questions as follows:

1. The Impact of the Shock

1.1

On the 21/3/12 Mr Rodd was formally assessed by structured clinical interview and by using the screening instrument called the Impact of Event Scale- Revised, the Detailed Assessment of Post Traumatic Stress scale, the Beck Depression Inventory and the Beck Anxiety Inventory. There was very strong physiological, cognitive, affective, behavioural and interpersonal evidence of "nervous shock" suffered by Mr Rodd consequential to directly witnessing the violent death by shark attack of Mr Peter Clarkson. It is my professional view that Mr Rodd was suffering from Posttraumatic Stress Disorder (PTSD- severe) at the time of this assessment. This was a little over one month after experiencing the horrific and tragic death of his long time friend and colleague, Mr Peter Clarkson.



Dr Jeannie Higgins
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2. Reasonableness & appropriateness of actions

2.1

Mr Rodd described his actions to me both during and after the death by shark attack of Mr Peter Clarkson during formal psychological consultations. Mr Rodd's experience was horrific in every sense of that word. I have also carefully read page 2 of your letter to me dated the 9/7/13 where you make 11 points reportedly based on Mr Rodd's statements and evidence.

2.2

In my considered professional view, Mr Rodd's actions after the shark attack on the 17/2/13 must be understood in light of the "nervous shock" Mr Rodd had just experienced/ was experiencing and his previous history of trauma exposure. This is an especially pertinent issue because Mr Rodd had a psychologically proximate and meaningful relationship with Mr Peter Clarkson and his family. This tragic event rendered Mr Rodd both completely powerless and helpless with no control to save his friend and colleague. Indeed, in my view, Mr Rodd should be commended for those constructive actions he was able to take in light of such an overwhelming contextual reality.

3. Impact of Criticism

3.1


In my professional view, there is no doubt that the speculation; cruel judgement and ignorance of some reporting media and members of the public have further aggravated Mr Rodd experience of "nervous shock". In my professional view, such behaviour has been/ is clearly psychologically violating and damaging to Mr Rodd and his loved ones. In my professional experience, such markedly insensitive behaviour often appears to be driven by a complete lack of knowledge and understanding of the psychological and physiological impact of "nervous shock". Sometimes the pecuniary interests of the multiple stakeholders in the outcome of such coronial proceedings also inform such behaviour.

4. Fitness to hold licences and to operate fishery vessels

4.1

To the best of my knowledge, there is no evidence to suggest that Mr Howard Rodd is anything other than, completely fit to hold all relevant licences and to operate fishery vessels.

Yours sincerely


Dr. Jean Higgins

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