



FINDING OF INQUEST

An Inquest taken on behalf of our Sovereign Lady the Queen at Adelaide and Victor Harbor in the State of South Australia, on the 6th, 10th, 11th, 12th, 18th and 19th days of March 2015 and the 2nd day of April 2015, by the Coroner's Court of the said State, constituted of Anthony Ernest Schapel, Deputy State Coroner, into the deaths of David Russell Gadd, Kamran Bimal Gujarj and Nasir Ali Anwari.

The said Court finds that David Russell Gadd aged 28 years, late of 7 Russell Street, Encounter Bay, South Australia died at Encounter Bay, South Australia on the 9th day of February 2012 as a result of salt water drowning.

The said Court finds that Kamran Bimal Gujarj aged 19 years, late of 6A South Parade, Seaton, South Australia died at Encounter Bay, South Australia on the 25th day of April 2014 as a result of salt water drowning.

The said Court finds that Nasir Ali Anwari aged 18 years, late of 12 Whittlesea Street, Paralowie, South Australia died at Encounter Bay, South Australia on the 24th day of December 2014 as a result of salt water drowning.

The said Court finds that the circumstances of their deaths were as follows:

1. Acknowledgements

1.1. I acknowledge the work of the members of SAPOL Victor Harbor Criminal Investigation Branch who had responsibility for the investigation into the circumstances of the deaths of David Russell Gadd, Kamran Bimal Gujarj and Nasir Ali Anwari. I particularly acknowledge the work of Detective Brevet Sergeant Debra

Penney of that branch who, under significant time constraints, had carriage of the investigation of the death of Mr Anwari. I acknowledge the work of Detective Brevet Sergeant Simon May of the SAPOL Coronial Investigation Section who, under similar time constraints, assisted in the investigation of the death of Mr Anwari. I acknowledge the work of Ms Rosie Thewlis of counsel assisting and that of Mr Morry Bailes of counsel for Dr Russell Gadd and Ms Cynthia Clarke, David Gadd's parents. I also acknowledge the efforts of Ms Tammy McPherson and Ms Tanya MacPhedran who were responsible for the engrossment of these findings while under significant pressure for time.

2. Introduction and reason for Inquest

- 2.1. These are concurrent Inquests into the drowning deaths of David Russell Gadd aged 28 years, Kamran Bimal Gujari aged 19 years and Nasir Ali Anwari aged 18 years. It was appropriate to hold these Inquests concurrently due to features of commonality in the circumstances of their deaths. Each of the incidents that led to these deaths occurred on beaches on the south coast of the State to the west of Rosetta Head at Encounter Bay near Victor Harbor. Rosetta Head is otherwise known as The Bluff. Two of the drowning deaths, namely those of Mr Gujari and Mr Anwari, occurred at the beach known as Petrel Cove. The death of Mr Gadd took place after he had entered the water at a nearby beach to the west of Petrel Cove. This beach has been known variously as Depledge Beach, Depps Beach or Ralgnal Beach. I am uncertain whether that particular beach has any official nomenclature. However, signage that has been placed at the beach since the death of Mr Gadd describes the location as Depps Beach. Accordingly, in these findings I will refer to that beach as Depps Beach.
- 2.2. The most significant feature of commonality in respect of the three deaths is that in each case the deceased appears to have encountered difficulties as a result of, and then succumbed to, powerful currents in the waters at those beaches. In each case the current took each young man to a location relative to the shore that resulted in them being out of their depth. It appears that the respective abilities of the three men to swim and remain afloat may have varied, but it is evident that each man was unable to deal with the current and as a result could not maintain sufficient buoyancy to prevent the ingestion of fatal amounts of salt water.

- 2.3. There is no suggestion that alcohol or other substances played any role in the three deaths.
- 2.4. Mr Gadd's death occurred on Thursday 9 February 2012.
- 2.5. Mr Gujari's death occurred on Friday 25 April 2014.
- 2.6. Mr Anwari's death occurred on Wednesday 24 December 2014.
- 2.7. Mr Gadd and Mr Anwari were retrieved from the water by rescuers. Attempts at resuscitation following their retrieval were unfortunately unsuccessful in each case. Mr Gujari's body was never found despite extensive searches over a significant period of time. The dedication, diligence and persistence of those persons involved in the searches for Mr Gujari are to be highly commended. I will return in some detail to the search for Mr Gujari, but it is clear in my view that Mr Gujari must have met his death on the day of his disappearance which was Anzac Day, 25 April 2014. The circumstances of his immersion and disappearance were described to the Court by Mr Luke Ashman who courageously but unsuccessfully attempted to rescue Mr Gujari. In attempting to rescue Mr Gujari, Mr Ashman placed his own life in jeopardy and knowingly did so. In my view Mr Ashman's evidence before the Court made it clear beyond doubt that Mr Gujari's disappearance from the surface of the sea following Mr Ashman's attempts to save him coincided with the approximate time of Mr Gujari's death by drowning. This is not a case where a finding of a cause of death by other means that might be associated with exposure to the sea is open. My opinion is that Mr Gujari met his death by way of salt water drowning. I so find.
- 2.8. As to the causes of death of the other two deceased individuals, both were subjected to post mortem examinations conducted by forensic pathologists at Forensic Science South Australia.
- 2.9. The post mortem examination in respect of Mr Gadd was conducted by Professor Roger Byard, a forensic pathologist. The relevant anatomical findings of Mr Gadd's post mortem included congestion and oedema of the lungs, bilateral pleural effusions and an elevated vitreous sodium level. No underlying organic diseases were present which could have caused or contributed to his death. Alcohol or other common drugs were not found in Mr Gadd's blood stream. The combined weight of Mr Gadd's congested lungs was 1754 grams. The normal combined weight for the lungs of a

person such as Mr Gadd is between 600 to 1000 grams. In his post mortem report¹ Professor Byard expresses the opinion that given the described circumstances of Mr Gadd's death and the autopsy findings, the cause of his death was salt water drowning. I accept Professor Byard's evidence and find that the cause of Mr Gadd's death was salt water drowning.

- 2.10. The post mortem examination in respect of Mr Anwari was conducted by Dr Karen Heath, a forensic pathologist. The relevant anatomical findings included hyper-expanded lungs with white frothy fluid present in the large airways, watery liquid in the stomach, cerebral congestion and an elevated vitreous sodium level. Analysis of the specimen of blood obtained at autopsy was negative for alcohol and other common drugs. No natural disease that could have caused or contributed to the death was identified at autopsy. As with Mr Gadd, Mr Anwari's combined lung weight was significantly in excess of the norm. Dr Heath has expressed Mr Anwari's cause of death as attributed to salt water drowning. I accept Dr Heath's evidence. I find that the cause of Mr Anwari's death was salt water drowning.

3. David Russell Gadd

- 3.1. David Gadd was 28 years of age when he died on 9 February 2012. He was the son of Dr Russell Gadd and Ms Cynthia Clarke. He was educated at a number of different schools that included Flagstaff Hill Primary School, Alberton Primary School, St Johns Grammar at Belair, Westminster College and Marbury School at Aldgate.
- 3.2. The statement of Mr Gadd's mother, Ms Clarke², and that of his treating psychiatrist, Dr Stephen Ward³, disclose that when he was a boy Mr Gadd was diagnosed with Asperger's Syndrome. When Mr Gadd completed school he was placed on a disability allowance. His mother's statement describes her son's various accommodation circumstances over time. In May 2011 accommodation was found for Mr Gadd in Encounter Bay. From time to time Ms Clarke visited her son at that accommodation. Similarly, Mr Gadd would visit his mother and his father periodically. The last time Ms Clarke saw Mr Gadd was on Sunday 5 February 2012. She spoke to him on the telephone on the following Tuesday or Wednesday.

¹ Exhibit C2a

² Exhibit C12a

³ Exhibit C13a

- 3.3. To Ms Clarke's knowledge David Gadd could swim but he had told her that he was not a strong swimmer. As a child he had been sent to swimming lessons. Ms Clarke states that she had recently given him a mask and snorkel. He may have already possessed fins. He had told his mother that he had yet to become used to breathing through the snorkel. Ms Clarke states that she was familiar with the coastal area between Petrel Cove and Kings Beach to the west. Some months before his death David Gadd had told his mother that he had been swimming at Kings Beach. On this occasion Ms Clarke had responded by telling him that there were rips at that location. She had warned her son that they were dangerous and she had explained to him the risk of drowning that they presented. In fact she states that on one occasion she had actually indicated a rip to David so that he would know what they looked like. Ms Clarke states that she had not given him any advice about how he might manage a rip if he was caught in one. Ms Clarke said that her son had told her that he had also been swimming at Lady Bay near Normanville.
- 3.4. Mr Gadd had a car at his disposal. He also possessed a push bike that he rode around the Encounter Bay area. He would ride his bike to Depps Beach on the day of his death. He did so alone. He entered the water alone. Later that day the bike together with clothing and his belongings were located by Police at the western end of the beach.
- 3.5. In his statement Dr Ward says that David Gadd had not expressed any suicidal ideation although at times he had become stressed. Dr Ward also suggested that David Gadd was a person who would keep to himself and that he would not easily verbalise any intent to self harm. I would add here that there is no evidence that Mr Gadd intended self harm when he entered the water on the day of his death. In fact, there is every indication to the contrary because he cried out for help and endeavoured to attract the attention of observers at a time before he succumbed to the sea. Mr Gadd's death was accidental. There is no suggestion of suicide.

4. Kamran Bimal Gujari

- 4.1. Mr Gujari was the son of Mr Kasem Bimal Gujari and Nasrin Nikkhou. He was 19 years of age when he died on 25 April 2014. Kamran Gujari was educated in the early 2000s at primary schools in Queensland and then at Findon Primary School and Christian Brothers College in Adelaide. There is no suggestion that Kamran Gujari lacked familiarity with spoken or written English.

- 4.2. Mr Gujari was in his second year of architectural studies at the University of South Australia.
- 4.3. Mr Gujari attended the beach in question with a number of friends, some of whom were his University classmates. According to the statement of Kamran's father, Kamran did not particularly like swimming. Mr Gujari had never known his son to swim. He states that Kamran had never taken any swimming lessons. He could not recall an occasion on which Kamran had attended a swimming pool; he acknowledges that Kamran may have done so with his school but it would have been on a limited number of occasions and in any event he has no recollection of this ever occurring. A previous holiday to Victor Harbor did not involve the family attending the beach. Mr Kasem Gujari states '*I know Kamran cannot swim for the above reasons. I am unsure why he would have gone in the water*'.
- 4.4. The statements of Kamran Gujari's companions do not suggest that Kamran had any fear of the sea, but at the same time they do not describe him as having any particular affinity with the water. For instance, none of those persons assert that they saw Mr Gujari swimming competently at any time prior to his getting into difficulty. It is not known for certain whether Mr Gujari had the ability to keep himself afloat by treading water or by floating on his back. A number of Mr Gujari's companions also entered the water on the day in question. None of their witness statements suggest that Mr Gujari was the ringleader of those of his group who entered the water. Photographs taken on the day by one of his friends, Sam Kio Cheang⁴, indicate that Mr Gujari was not the first of his group to go onto the beach, nor the first of the group to enter the water. The photographs do not reveal any particular ability on Kamran Gujari's part to actually swim. That said, the photographs do not display any obvious discomfort on his part in the water. There are no photographs of him after he began experiencing difficulty in the water.
- 4.5. I think it fair to infer that, regardless of his swimming capabilities or otherwise, Kamran Gujari would have been totally naïve to the dangers that this particular beach presented. Thus the impact of whatever signage was in existence at that location at the time is a matter of relevance. I return to this issue below.

⁴ Exhibit C22a

5. Nasir Ali Anwari

- 5.1. Nasir Anwari was 18 years of age when he died on 24 December 2014. He was approximately one week short of his nineteenth birthday. Nasir Anwari was the fourth oldest child of Khaliqdad and Fatima Anwari. At the age of 3 years his entire family moved from Afghanistan, where he had been born, to Pakistan.
- 5.2. In 2009 Mr Anwari's father arrived in Australia and secured permanent residency. In 2013 the rest of the family came to Australia. The deceased was then enrolled in Blackfriars School where he completed Year 11. He was preparing to commence Year 12 at the time of his death. Mr Anwari's father described his son's English language skills, both in terms of reading and speech, as very good. For a number of months prior to his death Mr Anwari had worked casually at a restaurant in Kilburn. One of his work colleagues, Mr Jan Ali Hassani, told the Court that Mr Anwari's English was good. He could take orders from customers in English and could respond in English.
- 5.3. It is believed that Mr Anwari had not experienced access to the sea in Afghanistan, which is a land-locked country in any event, nor in Pakistan. He had not taken part in water activities or water sports. He had not expressed any interest in swimming or other water activities, either when living in Pakistan or after his arrival in Australia. He had never undertaken formal swimming lessons or water safety education. He had an interest in gymnasium exercise and apparently he was fit and strong. According to his father, the deceased had attended beaches at Semaphore and Glenelg for picnics as distinct from swimming. He stated that whenever his son did go into the water he would only wade up to his knees. He had never heard his son speak about Petrel Cove beach but was aware that approximately eight months prior to his death he had visited Victor Harbor with some friends from Melbourne. The deceased had not mentioned that he had been swimming in that area.
- 5.4. Mr Hassani, the deceased's work colleague at the restaurant, and who was at the beach on the day of Mr Anwari's death, told the Court that he believed that Mr Anwari had been to Petrel Cove on a previous occasion due to the fact that Mr Anwari knew the route to, and had driven one of the vehicles to, that location. It therefore appears that Mr Anwari had some previous knowledge of the beach.

- 5.5. The evidence of Mr Anwari's companions on the day in question and that of observers does not describe any obvious affinity that Mr Anwari had with the sea or any obvious ability to swim. The evidence, however, is clear that Mr Anwari that day was the driving force behind the attendance at the beach as well as the entry into the water by those who entered it. Irrespective of whatever prior experience Mr Anwari had with this beach, in all probability he was naïve to its dangers.

6. Petrel Cove and Depps Beach

- 6.1. Both beaches are within the geographical limits of the City of Victor Harbor Council. They are situated to the west of Rosetta Head at Encounter Bay, otherwise known as The Bluff. Within a stretch of coastline approximately 2.5 kilometres to the west of The Bluff there are three small beaches, namely Petrel Cove, Depps Beach and Kings Beach. The first of these beaches is Petrel Cove which is immediately to the west of The Bluff. Petrel Cove is a 200 metre long south facing beach most of which is rocky. There is an approximate 50 metre stretch of open sand at the western end of the beach. From time to time the sand may be washed away, usually during winter months, thereby exposing the underlying rock. In summer, due to wave activity, the sand returns to the beach. At the western end of the beach there is a permanently exposed rocky outcrop that protrudes into the sea. A permanent outgoing current, known as a rip, is situated adjacent to that rocky outcrop. It was within this rip that both Mr Gujari and Mr Anwari were caught. A local resident, Mr Peter Lee, who has swum at Petrel Cove for several decades, and who was present at the beach when Mr Anwari met his death, describes in his witness statement the characteristics of the beach:

'Petrel Cove can be a dangerous beach depending on the conditions. There is a permanent deep trough around the rocky outcrop to the right of the sandy area of the beach, where the rip scours the sand out from around the point. It is local knowledge that you should not swim near these rocks. I have often warned people visiting the beach not to swim near the rocks.'⁵

I add at this point that when Mr Anwari got into difficulty on the afternoon in question, Mr Lee was approached and was asked if he could enter the water and assist Mr Anwari. Mr Lee ran towards the rocky outcrop at the western end of the beach, entered the water and swam toward the rocky point. As he reached the rocks he tried to pull himself onto the rocks to see where Mr Anwari was. He was able to see Mr

⁵ Exhibit C46a

Anwari who was being pulled out to sea. Mr Lee was swept off the rocks and was himself pulled out to sea. He considered it too dangerous to swim around the end of the point and so swam parallel to the shore to avoid swimming against the rip. At that point he was struggling and was himself retrieved from the water by his wife who gave him a boogie board for buoyancy. By the time he was able to return to the rocky area on foot, Mr Anwari had been pulled from the water by another person. Mr Lees' actions of entering the water in the hope of rescuing Mr Anwari are to be lauded.

- 6.2. Access to Petrel Cove beach is gained by way of a one-way paved road that skirts the base of The Bluff. There is a marked paved car park as well as a higher dirt car park on the high embankment above the beach. The car park serves both Petrel Cove beach and the heritage walking trail that commences at the western end of the car park. At the eastern end of the car park there is a narrow track which at first descends from the car park for several metres and which is then joined at approximate right angles by steps that descend towards the beach. A few steps before the beach is reached there is a small wooden landing. Currently situated at the western end of the beach is an informal narrow dirt track that descends onto the beach from the heritage trail. To the west of the existing formal steps to the beach there are the remnants of an older set of steps to the beach. It is hard to imagine this older access being frequently utilised.
- 6.3. Mr Shane Daw is the Lifesaving Services Manager for Surf Lifesaving South Australia. The Court is deeply appreciative of the assistance that Mr Daw has provided to the Court at all stages of this inquiry. The community is indebted to Mr Daw and his organisation for their ongoing commitment to public beach safety. The value of their services cannot be overstated. As part of the Court's site visit on the morning of Tuesday, 10 March 2015, the Court attended at Petrel Cove. Mr Daw attended the Court's site visit and pointed out various features of Petrel Cove beach. Mr Daw pointed out the permanent rip that exists adjacent to the rocky outcrop at the western end of the beach. This rip was quite visible. There was also at that time another rip that was centrally located to the beach. The rips are characterised by a number of features that may include visibly darker water and the presence of sand and other debris that is being carried out seaward. It is clear that the rip that exists adjacent to the rocky outcrop is one that could take an adult swimmer out of the swimmer's depth, thereby placing that person in danger of drowning.

- 6.4. At the western end of the Petrel Cove beach car park, near the commencement of the heritage trail, there is an information shelter that displays written and pictorial information about features of the local coastline. The heritage trail takes the walker to the Kings Beach location via Depps beach. There is a car parking area at the Kings Beach location. The evidence revealed, and this is confirmed by observations made during the Court site visit, that the information depicted within the shelter does not include any information about hazards associated with the beaches on this trail. Nor is there any information about drownings or about any other unfortunate mishaps that may have occurred in this area.
- 6.5. Approximately 500 metres to the west of Petrel Cove is another long cove of approximately 300 metres in length. This is Depps Beach. This is the beach at which Mr Gadd drowned. Depps Beach also has its fair share of rocks. Towards the western end of the beach there is a sandy area approximately 50 metres in width. This sandy area is backed, bordered and fronted by rocks and a jagged reef. At this beach there are two permanent rips. One of those rips is situated towards the western end of the sandy section of the beach. It was within this rip that Mr Gadd got into difficulty. This beach is backed by a farm which at one time, it is believed, was known as Ralgnal Farm. Public access to the beach is by way of the heritage trail that I have described. The heritage trail does not skirt along the embankment behind the beach but actually descends onto the beach at both ends. The beach in effect forms part of the trail. At the western end of the beach the trail continues west. One would then walk another approximately 500 metres to the Kings Beach road to the west. Depps Beach has no vehicular access that would be available to the general public.
- 6.6. It has been said that Kings Beach is the only relatively safe beach as Petrel Cove and Depps Beach are dominated by rocks and the rips to which I have referred. That said, there was no evidence before the Court as to the actual safety or otherwise of Kings Beach.
- 6.7. Both Petrel Cove and Depps beaches have a tranquil attraction and, despite the fact that Petrel Cove is only a few hundred metres by paved road from the residential area of Encounter Bay, they are relatively secluded, particularly Depps Beach which is only accessible by foot or bike.

6.8. In 2006 a book entitled ‘Beaches of the South Australian Coast and Kangaroo Island – A Guide to their Nature, Characteristics, Surf and Safety’ was published by Professor Andrew D. Short of the Australian Beach Safety and Management Program (ABSMP). This publication was promulgated in association with the Coastal Studies Unit at the University of Sydney, Surf Lifesaving Australia and Surf Lifesaving South Australia. The book constitutes a comprehensive report in respect of the characteristics of every beach on the South Australian coastline. It includes an analysis of the hazards at each beach as they were then understood. Each beach has been assigned a hazard rating, taking into account the dangers that deep water, breaking waves, rips and tidal currents, rocks and reefs might present. Within the book there is a section concerning South Coast beaches including Petrel Cove, Depps Beach (which is described in the book as Ralgnal Beach) and Kings Beach.

6.9. Within this publication, Petrel Cove beach is described as follows:

‘The first is **Petrel Cove**, a 200m long, south facing beach, which is bordered and backed by the 20m high steep bluffs of Rosetta Head. The steeply dipping metasedimentary rocks also form prominent jagged rock platforms to either side and along the eastern half of the beach. There is just a 50 m pocket of open sand and a bar, which is also the location of a permanent rip.’

6.10. Depps Beach is described as follows:

‘Just west of the cove is a 500m long high tide sand beach, also backed, bordered and fronted by rocks and jagged rock reefs, with a more open, sandy, 80m long pocket toward the western end. Waves average about 1.5m and two permanent rips drain the surf zone. This beach is backed by Ralgnal farm and a small rocky creek crosses the western end of the beach. Public access is via a foreshore walking track along the grassy bluff from Petrel Cove.’

6.11. As far as water activities at these beaches are concerned, Professor Short’s publication states that Kings Beach is the only relatively safe beach having regard to the rocks and rips at Petrel Cove and Depps Beach. Accordingly, within this publication both Petrel Cove and Depps Beach are recorded as having an ABSMP hazard rating of 7 which indicates that both beaches are regarded as ‘*highly hazardous*’. Kings Beach is assigned a hazard rating of 5 which is said to be ‘*moderately hazardous*’. A hazard rating chart attached to a report⁶ that was compiled by Mr Shane Daw following the

⁶ Exhibit C60

death of Mr Gadd describes hazard ratings of 7-8 as being highly hazardous involving:

'... experience in strong surf, rips and currents is required, with beaches considered dangerous.'

- 6.12. According to the endorsement on the rear cover, the aims of the ABSMP publication appear to be twofold, namely:

'To provide the public with a background to the physical nature and evolution of the South Australian coast and its beach systems, including the role of climate, waves, tides, wind and biota in shaping the present coast and beaches.'

and to describe:

'Every beach on the coast including its name, location, physical characteristics, access and facilities, with specific comments on its surf zone character and physical hazards, as well as its suitability for swimming, surfing and fishing.'

- 6.13. The ABSMP publication does not purport to proffer any advice in respect of beach hazard signage and does not direct any suggested safety strategies to any particular authorities.
- 6.14. I note that Waitpinga and Parsons Beaches which are located approximately 15 kilometres to the west of Victor Harbor, and which are accessible by road, are both rated 8 under the hazard identification system. Both beaches are said to have deep rip channels and strong rip currents right off the beach making them suitable only for very experienced surfers and not swimmers. I shall mention something more of these beaches later in these findings.
- 6.15. The book's extract that relates to Depps Beach was uploaded onto the website beachsafe.org. It is currently described as Ralgnal Beach on that website. The evidence did not establish with clarity when this information was uploaded for the first time.

7. The signage at the beaches

- 7.1. At the time of Mr Gadd's death in February 2012, there was no signage at Depps Beach. In particular, there was no signage at the locations at either end of the beach where the heritage trail descends onto the beach. There was no signage that indicated the name of that particular stretch of coastline that is now known to be Depps Beach;

nor was there any signage that identified any hazard. This state of affairs existed notwithstanding the fact that within Professor Short's 2006 publication this beach, identified within that publication as Ralgnal Beach, was said to possess two permanent rips and by implication was said to be unsafe as being dominated by rocks and rips.

- 7.2. Mr Shane Daw told the Court that his belief was that when Professor Short's publication was made available to Surf Lifesaving South Australia, it was further distributed by Surf Lifesaving South Australia to the coastal Councils in this State. If this occurred, it most likely occurred in the mid part of the previous decade. The Court was not able to substantiate with clarity whether or not the Victor Harbor Council received this publication at any time prior to February 2012 when Mr Gadd died. The Chief Executive Officer of the Council, Mr Graeme Maxwell, provided a statement to the Inquest as well as an affidavit on affirmation⁷. Mr Maxwell indicates in his statement that he has worked with the Council of the City of Victor Harbor for almost 21 years and has been in his current role at Chief Executive Officer since April 1998. In his statement Mr Maxwell indicates that he was unsure as to what signage, if any, existed at Depps Beach prior to 2012. The answer to that is that there was none. However, he goes on to explain that he was not aware of any drowning at that beach prior to 2012 and that for that reason signage may not have appeared necessary in the eyes of past Councils. There is no evidence that any person had drowned at Depps Beach prior to the drowning of Mr Gadd in February 2012. In his affidavit, Mr Maxwell asserts that he has never seen Professor Short's publication and that to his knowledge it has never been part of the Council's reference material nor been in the Council's possession. Mr Brian Doman is the City of Victor Harbor Manager Environment and Recreation. He has worked at the Council for 26 years. He has been in his current role for 5 years. His duties include the management of environmental and recreation projects such as the heritage trail from The Bluff to Kings Beach Road. He is responsible for developing plans, strategies and policies in those areas. His report to the Coroner⁸ states that he has been authorised by Council to speak for and on behalf of Council in relation to the drowning incidents that are the subject of his Inquest. Mr Doman states that he is not aware of any drownings either at Petrel Cove or at Depps Beach other than the deaths that are the subject of this

⁷ Exhibit C75 and C75a

⁸ Exhibit C63

Inquest and the death of a woman in 1977 at Petrel Cove. Mr Doman told the Court on his oath that he was unaware of any hazard said to have been associated with Depps Beach at any time prior to the death of Mr Gadd. Mr Doman said that he was aware that people had gone to Depps Beach to fish, but was not aware that any person had swum there. He also said that he was not aware of anything that had been said about swimming hazards at that location. He said that Council had only been aware of the hazard rating of 7 since the provision of Mr Daw's report following the death of Mr Gadd.

- 7.3. Other persons who hold a degree of familiarity with the south coast in the Victor Harbor region also gave evidence that Depps Beach, as far as they were aware, did not have a widely known reputation for being hazardous to swimmers. I was told during the course of the evidence that in all discussions concerning the hazards posed by the beaches west of The Bluff, Petrel Cove has had clear dominance. Brevet Sergeant Mark Jacobs of SAPOL Water Operations Unit, who gave oral evidence at the Inquest, told the Court that although he understood that beaches from Cape Jervis to Victor Harbor could be treacherous, he had never specifically heard of Depps Beach by any of its names. Sergeant Kevin Doecke of the same Unit gave similar evidence. Mr Daniel Irvine is a man who has lived in the south coast area for the majority of his life. Mr Irvine has been involved for a long time in water sports and activities. He has taught water sports in the area including sailing. Mr Irvine operates a business known as Big Duck Boat Tours. It is a charter business that conducts sightseeing tours around the local islands and coastline looking for seals, dolphins and other marine life. Mr Irvine possesses an inflatable expedition vessel that is similar to a police vessel. It is capable of maintaining a speed of approximately 70 kph. Mr Irvine was the man who retrieved Mr Gadd from the water at Depps Beach. Depps Beach has never in Mr Irvine's eyes been known as a surf spot. The beach did not really come to his attention until recent years. He never knew about it growing up in the district. He cannot recall any person ever warning him about it or even talking about it. On the other hand, when growing up in the area he always knew about the reputation of Petrel Cove in terms of the dangers posed by the rips and rocks.
- 7.4. The evidence was scant and unconvincing as to whether Depps Beach was regularly frequented other than by trail walkers or fishers, having regard to its relative isolation and the fact that there is no motor vehicle access to the beach.

- 7.5. That Mr Gadd, who was not a long term resident of this area, may have had little appreciation of the hazards associated with Depps Beach, would not come as a surprise. As seen earlier, his mother's advice to him about the hazards of local beaches had concerned Kings Beach which is said to be comparatively safe. Even if there had been publicly made statements concerning the dangers associated with Ralgnal Beach, as it was described in Professor Short's publication, I am not certain that any person such as Mr Gadd would necessarily have identified this particular beach as Ralgnal Beach unless there had been signage present describing it as such. Such signage, even if it had existed, may have described it as an entirely different beach which may have misled a person as to its identity in any event.
- 7.6. The evidence did not establish that the Victor Harbor Council was, at any time prior to Mr Gadd's death, cloaked with knowledge of the dangers of Depps Beach. As will be seen presently, at the time of Mr Gadd's death there was some old signage at Petrel Cove that warned against the hazards of dangerous rips. However, I doubt whether it ever occurred to anyone at Council that this might signify, at least be implication, that other beaches in the area at which there was no signage were safe.
- 7.7. Following Mr Gadd's death, Mr Shane Daw of Surf Lifesaving South Australia was tasked to evaluate the hazards of the beaches west of The Bluff and as a result signage was erected at Depps Beach which remains to this day. I will return to Mr Daw's activities in this regard in a moment, particularly in the context of signage at Petrel Cove, but it is as well to record here that in respect of Depps Beach there is now signage at both ends of the beach that identifies it as Depps Beach and which draws attention to the potential hazards of the beach. There has been no drowning at that beach since that of Mr Gadd in February 2012. The Court is not in possession of any information to suggest that any person has experienced difficulties at that beach or has required rescue from the sea at that location. However, the dangers presented by rips at that beach are real, as a result of which strong written and pictorial advice against swimming at that beach should be plainly visible. I return to that issue in due course.

- 7.8. Prior to Mr Daw's evaluation of the signage in respect of the beaches in question, there were two old signs situated at Petrel Cove. I will refer to this signage as the 'old signage'. One of those signs was situated part way down the newer existing steps leading from the car park to the beach. These were the steps taken by both Mr Gujari and Mr Anwari on the day of their deaths. However, this sign would be removed at a time before their deaths. The sign is shown immediately below.



- 7.9. This sign depicts a symbol that might be understood as signifying the prohibition of the activity depicted, in this case swimming. The sign provides an explanation for what appears to be the prohibition of swimming, namely dangerous rips.

- 7.10. The second old sign was also situated on the old, now dilapidated, set of steps descending from the car park to the beach as depicted in the photograph below.



- 7.11. It will be seen that letters are missing from this sign. However, it is safe to infer that this mode of entry onto the beach would have been less utilised, if ever utilised. Ultimately, the old signage would be removed at a time after Mr Daw's evaluation and following the erection of new signage.
- 7.12. Following the death of Mr Gadd, the Council, it is believed of its own initiative, erected further signs at Petrel Cove to augment the old signage depicted above. It is understood that this new signage was a temporary measure. I shall refer to this signage as the 'temporary signage'. It consisted of the following: at the position where the existing track descending from the car park adjoins the steps leading to the beach, two signs were erected as depicted on the following page.



- 7.13. At the western end of the car park, where there is now an information shelter, the same sign indicating dangerous rips with the red circle and diagonal line across the depiction of a person swimming, was placed. This sign appears to have been designed to warn persons of hazards that might be encountered at beaches along the heritage trail to the west of the Petrel Cove car park. All of the temporary signage at

Petrel Cove, as well as the old signage that I have already described, was in place when Mr Daw attended at Petrel Cove in the winter of 2012, some months after Mr Gadd's death and nearly two years before the drowning death of Mr Gujari. Mr Daw took all of the photographs that are seen above. It can be seen from these photographs that these signs stood alone and that they dealt exclusively with the activity of swimming and the dangers that swimming posed. The signs were not cluttered by the inclusion of less important unrelated information. It will also be observed that the temporary signage erected by the Council, which made reference to **DANGEROUS RIPS** and **NO SWIMMING**, informed persons descending from the car park onto Petrel Cove beach via the existing track and steps, that swimming at that beach was, at the very least, strongly advised against and that the reason for that strong advice was the presence of dangerous rips. Some might say that to some people the message may have been even stronger than that, in that the symbols used on both signs, together with the wording on the signs, might have implied that there was an enforceable prohibition on swimming by reason of the hazards posed by dangerous rips. In fact, there was no known enforceable prohibition in existence. Regardless, in hindsight, there is a powerful argument that the temporary signage and the old signage was the most effective signage that has ever existed at Petrel Cove. It would be taken down before the two deaths at that beach in 2014.

- 7.14. The temporary signage placed at the instigation of the Council in 2012 after Mr Gadd's death, together with the old sign situated part way down the steps leading onto Petrel Cove beach, all of which suggested that swimming was strongly advised against, if not by implication actually prohibited, would be removed following Mr Daw's evaluation of the beach signage. They were removed at the time of the placement of the signage that was ultimately the subject of Mr Daw's written advice to the Council, signage that remains there as at the time this Inquest was conducted. The removal of the old signage, and of the temporary signage that was placed at the instigation of the Council as depicted above, and its replacement with new signage, all occurred before the death of Mr Gujari on Anzac Day, 25 April 2014. I will describe the signage that existed at the time of Mr Gujari's death in a moment.
- 7.15. Attached to the comprehensive statement of Victor Harbor CIB Detective Brevet Sergeant Debra Penney⁹ who investigated Mr Anwari's death, is a document entitled

⁹ Exhibit C50a

‘National Aquatic and Recreational Signage Style Manual Third Edition’¹⁰. The Manual states that it is endorsed by the Australian Water Safety Council and the Royal Life Saving Society Australia. The document also appears to be commissioned by the Aquatic Signage Steering Committee that includes members of Police, Marine Safety, Life Saving and other concerned entities. The temporary signage that was placed at Petrel Cove at the instigation of the Council some time in 2012 following the death of Mr Gadd, showing as it did the red circle and diagonal line through a swimmer, is said within the document to apply to circumstances that include the closure of a beach and the prohibition of aquatic activities at a beach. Generally, its stated purpose is to inform that swimming and other aquatic activities are prohibited. The information adjoining the depictions of these signs as they appear in this publication advises that this type of sign should only be used where legislation permits its usage. I am not sure that this is correct. One can think of many examples where this type of signage is in common usage but where no regulatory sanction exists. In any case, the Court is unaware of any legislative support for the erection of the temporary signage at Petrel Cove that the Council installed in 2012 following the death of Mr Gadd. The same might be said of the old signage. Some might therefore argue that both the old signage and the temporary signage were not appropriate insofar as the signs created an impression that there was an enforceable prohibition of swimming at that beach. As I understood the evidence, this may have been one reason why this signage was ultimately removed and replaced. If so, I am not sure that it was necessary for anyone to have stood on such technicality. For my part, I do not view the lack of legislative backing as an especially compelling reason for not erecting and maintaining strongly worded signage where it might save lives, regardless of the impression as to enforceability that the signage might create. Another suggested reason for the removal of the old and temporary signage was that when Mr Daw, on behalf of Surf Lifesaving South Australia, tendered his advice about the appropriate signage that should be erected at these beaches, and when the new signage was then erected, all pre-existing signage was automatically removed. Regardless of whether there was any effective legislative backing for the old and temporary signage, the observation can be made that had that signage still been in place on Anzac Day of 2014 it is possible that the message sent by it may have acted as a stronger deterrent against Mr Gujari and his companions entering the water. The

¹⁰ Exhibit C50e

same might be said in respect of the circumstances of Mr Anwari on Christmas Eve of 2014. This naturally involves an analysis of the signage that existed in 2014 following Mr Daw's evaluation of the signage, a matter that I will presently come to.

- 7.16. The signage that existed at the time of Mr Gujari's death, and which still exists to this day, was erected in 2013 and 2014. This signage was all erected following Mr Daw's evaluation of the signage. Mr Daw's report of his evaluation was tendered to the Inquest and included Exhibits C59 and C60 which related specifically to Petrel Cove and Depps Beach. The signage was in situ at the time of the drowning of Mr Gujari in April 2014 as well as at the time of Mr Anwari's drowning in December 2014. Since Mr Anwari's death, the sign at the landing at the foot of the steps leading to Petrel Cove beach has been moved to a position on the landing where it is thought to be more conducive to attracting attention. The following photographs depict the signage that existed at Petrel Cove at the time of Mr Gujari's death.





7.17. Following the death of Mr Gujari, Mr Daw compiled a further report¹¹ that was provided to both Victor Harbor CIB and to the Victor Harbor Council. The report is dated 5 June 2014. On this occasion Mr Daw's report described the measures that had been undertaken in respect of signage at both Petrel Cove and Depps Beach since his initial report following the death of Mr Gadd at Depps Beach. Mr Daw noted the

¹¹ Exhibit C61

updating of signage and the removal of what he described as *‘incorrect and faded signs’*. Mr Daw also made reference to the sign at the commencement of the heritage trail as well as the large sign at the top of the car park area at Petrel Cove alerting visitors to potential hazards and the individual warning sign provided at the base of the steps which he describes as a sign *‘warning of ‘dangerous currents’ with the Australian Standard pictogram of no swimming displayed’*.

- 7.18. It will be noted that the signage at Petrel Cove that is situated near the top of the steps leading to the beach from the car park, as well as the smaller sign that is situated at the landing at the foot of the steps, depicts a diamond shaped yellow symbol that has a red cross through a figure of a person swimming. Both symbols have the words **Dangerous Currents** juxtaposed to them. This signage does not say anything in words about the advisability or otherwise of swimming at that beach. When looking at the signage, a person would infer that swimming is the activity that is being advised against, but it does not say so in terms when it could easily have done so. In fact, the sign as depicted in the National Aquatic and Recreational Signage Style Manual¹² suggests that the word **DANGER** ought to be associated with that sign and, because it is a sign that is intended to warn that swimming is not advised, the words **SWIMMING NOT ADVISED** should also be displayed in association with the sign¹³. Similar signage exists in respect of the commencement of the heritage trail, again referring to **Dangerous Currents** but not against the advisability of swimming. After Mr Gadd’s death, the same signage was erected at both ends of Depps Beach. It was noted at the Court’s site visit that existing similar signage at the Bluff boat ramp contains specific advice against the advisability of swimming.
- 7.19. It will be noted that the principal signage, as exemplified by the sign that is situated at the beginning of the track to the beach at Petrel Cove, displays myriad warnings and prohibitions. The opinion of the Court is that signage at these locations should refer specifically to the activity of swimming as being strongly not advised. It is essential for there to be signs that specifically warn against the activity of swimming. The words **NO SWIMMING – DANGEROUS RIPS** would obviously convey the strongest message. To my mind there is a need for discrete and stand-alone signage exclusively devoted to the dangers of the beach posed by swimming, and that this should be the first signage that is encountered by any person intending to go onto the

¹² Exhibit C50e

¹³ Exhibit C50e page 20, 27

beach. It should also be situated at a position close to where the public actually steps onto the beach itself. It should explain the reason for that advice, namely the presence of dangerous rips. Further, it should refer to the fact that deaths have occurred at those locations due to the presence of dangerous rips. I do not understand there to be any sensible objection to signage that depicts a symbol that consists of a red circle and a red diagonal line through an image of the activity that is being warned against. If the signage creates an impression that swimming is not permitted, regardless of whether or not there exists legislative backing that actually prohibits it, then so be it.

- 7.20. Following the death of Mr Gujari, and the consequent compilation of Mr Daw's further report that was supplied to Victor Harbor Criminal Investigation Branch and Victor Harbor Council, no further signage was erected. Mr Daw's report¹⁴ stated:

'In reviewing the area it was found that signage as per the report provided to Council has been installed and meets the requirements as detailed and recommended.'

In one photograph in a series of photographs taken by one of Mr Gujari's companions on the day of his drowning, Mr Gujari can be seen to pause at the landing at the foot of the steps leading onto Petrel Cove beach. He is apparently removing his footwear. The sign that displays the diamond shaped yellow symbol depicting the swimmer with the red cross through it and the words **Dangerous Currents**, is in very close proximity to his position. By that stage some of Mr Gujari's party can be seen to have already descended onto the beach. In none of the photographs does Mr Gujari, nor any of his companions, appear to look at the signage¹⁵. There is also a photograph of Mr Gujari descending the steps to the beach. In that picture he is in the vicinity of the post that originally had attached to it the old sign that had depicted the words **BEWARE** and **DANGEROUS RIPS** and which had depicted what many would have interpreted as a prohibition symbol, namely the red circle with the diagonal red line through a figure swimming¹⁶. By then the sign had been removed from the post.

- 7.21. Following the death of Mr Anwari on 24 December 2014, further photographs were taken by Police at Petrel Cove. These photographs are attached to the statement of Brevet Sergeant Watkins¹⁷. They were taken on 24 December 2014. The photographs taken that day of the signage at Petrel Cove in the vicinity of the track and steps to the beach is depicted on the following page.

¹⁴ Exhibit C61 page 5

¹⁵ Statement of Sam Kio Cheang Exhibit C22 and photographs numbered 3,4, 5, 6 and 7 of Exhibit C22b

¹⁶ See photograph 1 of C22b and photographs 535 and 536 of C71

¹⁷ Exhibit C17e



It will be seen that this is the same signage that had been present at the time of Mr Gujari's death in April of the same year. The signage had the same lack of impact on Mr Anwari as it had on Mr Gujari. In the photographs taken by Mr Watkins the old post that had originally attached to it the **BEWARE** and **DANGEROUS RIPS** sign is still present and visible. Since these photographs were taken, the signs have been moved slightly, but the same signage remains. An additional sign has been erected in the rocky outcrop as shown on the following page.





8. **The circumstances surrounding the death of Mr Gadd**

- 8.1. The circumstances surrounding the death of Mr Gadd are different from the circumstances surrounding the deaths of the other two men, quite apart from the fact that Mr Gadd was swimming at a different location. Mr Gadd's death is different in so far as emergency services played a role in Mr Gadd's retrieval from the sea. For this reason it has been necessary to investigate the circumstances in which the emergency services came to be mobilised on the day in question. In addition, an issue has been raised by Mr Gadd's parents as to whether the outcome for their son may have been different if emergency services and other voluntary services could have been more efficiently mobilised.
- 8.2. On 9 February 2012 a number of workers were performing work on the heritage trail at the western end of Depps Beach. One of those men was Garry Patterson. Mr Patterson provided a statement¹⁸ to the Inquest. At about 3:45pm he observed a male person arrive at the beach on a bike. That man was Mr Gadd. Mr Gadd was by himself. Within a few minutes of Mr Gadd's arrival at the beach he was seen in the

¹⁸ Exhibit C4a

water about 10 metres from the rocks at the end of the beach. Mr Gadd appeared to be struggling. Mr Patterson yelled out to him and Mr Gadd responded by yelling for help. Mr Patterson immediately called 000. The time at which this call was made was 3:52pm¹⁹. In that call Mr Patterson informed the 000 operator of a swimmer in difficulty about 200 metres out. He described the location as a small beach at Encounter Bay between The Bluff and Kings Head in the vicinity of Kings Beach Road. Mr Patterson asserts in his statement that Mr Gadd was then hit by the wave, went under and came back lying face down in the water and that this occurred at about 4:06pm. Mr Gadd's entry into the water had been observed by Mr Timothy Lewis who provided a statement²⁰ to police. Mr Lewis was one of the other workers at this location. Mr Lewis asserts that within about 2 minutes of Mr Gadd entering the water Mr Gadd was dragged out by a rip. Mr Lewis saw him dragged about 10 metres to the left of the rocks and then another 10 metres straight out from that position. Although Mr Gadd appeared to be struggling at that stage, he nevertheless appeared to be holding his own. Mr Gadd yelled out for help. Mr Lewis then went down to the beach and tried to throw an empty jerry can out to Mr Gadd but it could not reach him. The difficulty appeared to be that although Mr Gadd was treading water, and initially appeared to be keeping afloat and was conscious, he was hit by a wave or set of large waves which dragged him under. Mr Gadd then surfaced. Unfortunately at that point he was seen to surface on his front and he would remain face down until his ultimate retrieval from the water onto the boat that would be driven by Mr Daniel Irvine.

- 8.3. Mr Patterson and Mr Lewis kept constant observation on Mr Gadd until Mr Gadd's retrieval onto the boat. Mr Patterson suggests that this occurred at 4:10pm.
- 8.4. It is apparent that at the location where these men were working there were vehicles present, being a white troop carrier and a blue excavator. In Mr Patterson's 000 telephone conversation, he mentioned the presence of these vehicles at that location. Mr Patterson made reference to '*a whole bunch of um plant and equipment that they would be able to see and will wave them down*'. It is observed that Mr Patterson did not identify the beach by name nor make any reference to Petrel Cove or Depps Beach or use any other name in respect of the latter beach. That is not to criticise Mr

¹⁹ Transcript of telephone conversation C50j

²⁰ Exhibit C5a

Patterson because it is evident from the transcript that he could not have known the name of the particular beach.

- 8.5. One matter that Mr Patterson referred to in the telephone conversation was the poor mobile phone service at his location. Later efforts by emergency services to telephone Mr Patterson at that location were in the main unsuccessful.
- 8.6. Following the Patterson 000 call, SAPOL Water Operations Unit, which is stationed at Semaphore, was contacted by phone via police communications. The call was answered by Brevet Sergeant Mark Jacobs who was a member of that unit. Brevet Sergeant Jacobs gave evidence in the Inquest. The information that Mr Patterson had provided to 000 was passed on to Brevet Sergeant Jacobs. The location of the incident, as told to Brevet Sergeant Jacobs, was a small beach at Encounter Bay between The Bluff and Kings Head and that at that beach there was a white troop carrier and a blue excavator in a nearby paddock. In this phone communication the operator also mentioned Kings Beach Road.
- 8.7. It is apparent from the transcripts of these various communications that Police personnel in the vicinity of Encounter Bay were mobilised, but it is not necessary to recite the detail of this aspect of the matter because as things transpired the retrieval of Mr Gadd would be effected by the private boat operator, Mr Irvine.
- 8.8. Brevet Sergeant Jacobs told the Court that upon receiving all of this information, he made, or caused to be made, a number of communications with a view to mobilising emergency services including the Police helicopter and Surf Lifesaving South Australia. In the event, Brevet Sergeant Jacobs himself telephoned a Mr Don Rumbelow of the Victor Harbor/Goolwa Sea Rescue Squadron. As I understand it this entity provides a voluntary service. I mention Brevet Sergeant Jacobs' communication with Mr Rumbelow in some detail because a suggestion has been raised that this communication, or a subsequent radio communication made by Mr Rumbelow to rescue vessels, may not have contained the detail as to Mr Gadd's location that they could have and that this may have delayed his retrieval from the water. According to a handwritten note made by Brevet Sergeant Jacobs, his call to Mr Rumbelow appears to have been made at 4:03pm. When Brevet Sergeant Jacobs spoke to Mr Rumbelow, the location of the incident as occurring at a place between The Bluff and Kings Head was the only detailed information that Brevet Sergeant

Jacobs possessed. However, Brevet Sergeant Jacobs knew that Petrel Cove was the first beach to the west of The Bluff. It was to this location that Brevet Sergeant Jacobs indicated for Mr Rumbelow to start sending rescue crews and for them to then work along the coastline to the west from there. In his oral evidence before the Court Brevet Sergeant Jacobs stated that he could not recall saying to Mr Rumbelow that the male person was in the water specifically at Petrel Cove. He told the Court that he used Petrel Cove as a reference only and that in any event his belief was that Petrel Cove extended for some distance towards Kings Beach. Brevet Sergeant Jacobs never intended to convey to Mr Rumbelow that the person in the water was specifically at Petrel Cove beach immediately to the west of The Bluff²¹. Brevet Sergeant Jacobs told the Court on his oath that he had never heard of Depps Beach, Ralgnal Beach nor Depledge Beach. However, he asserted in evidence that he mentioned to Mr Rumbelow the presence of a troop carrier and blue excavator as being in a nearby paddock. I note that in Brevet Sergeant Jacob's handwritten notes, which he continuously made as the incident developed, he noted the fact of a white troop carrier and a blue excavator in the paddock nearby. This note appears to have been made in his specific note of the information that he received from Police Communications in the first instance. The note that he made in respect of his communication with Mr Rumbelow does not make reference to the presence of those vehicles but to my mind it is intrinsically unlikely that Brevet Sergeant Jacobs would have omitted that piece of information when he himself was unclear as to the precise location of the beach at which the incident was occurring. The reason that Brevet Sergeant Jacobs mentioned the presence of the two vehicles to Mr Rumbelow was in the expectation that any potential rescuer from the sea would look out for those vehicles in order to pinpoint the location of the person in the water. It is clear that Brevet Sergeant Jacobs was keen to secure and pass on as much information as he could about the location in question; he endeavoured to call Mr Patterson himself to gain more information about the location. He was unsuccessful due to the fact that mobile phone coverage at Mr Patterson's location was unreliable.

- 8.9. Brevet Sergeant Jacobs made other communications and endeavoured to secure other emergency service mobilisation. In the event it was the line of communication that Brevet Sergeant Jacobs initiated with Mr Rumbelow that resulted in the attendance of Mr Irvine's privately operated boat at the beach in question. I will come to the

²¹ Transcript page 233

circumstances of that in a moment, but it suffices to say now that there is no evidence that any other vessel or emergency service resource could have attended the scene and have been effective any sooner than the vessel that ultimately attended. This would include any helicopter that would have had to have been mobilised from Adelaide.

- 8.10. Mr Rumbelow has provided two statements to the police²², both of which were tendered to the Inquest. In February 2012 Mr Rumbelow was the Acting Squadron Leader for the Victor Harbor/Goolwa Sea Rescue Squadron. Just after 4pm that day, he was at home when he received a phone call from Brevet Sergeant Jacobs of South Australia Police Water Operations Unit. Mr Rumbelow's first police statement, which was made closer to the event, states that he received a call about a male person who had been seen in the water between The Bluff and Kings Head. The statement asserts that he was not given an exact location or beach name. Mr Rumbelow's first statement asserts that in normal circumstances there would be no expectation of people swimming at Depps Beach. To him the first place one would go to for swimming along that stretch of the coast would be Petrel Cove. The statement does not say anything one way or the other about the presence of vehicles at the location where the swimmer was in difficulty, nor about the presence of bystanders at that location. Mr Rumbelow's second statement which was taken by Detective Penney on 15 March 2015²³ states that he now cannot recall if Brevet Sergeant Jacobs had said anything about the location of the male in the water additional to the information that he was to be located somewhere between The Bluff and Kings Head. I take it from this most recent statement that Mr Rumbelow has no recollection of being told by Brevet Sergeant Jacobs that there were vehicles of any description in the vicinity of the swimmer in difficulty. That level of detail might not be something that Mr Rumbelow would recall after all of this time. I note that Brevet Sergeant Jacobs also spoke to Mr Rumbelow on the phone about two minutes later at 4:05pm about Mr Rumbelow's success in having contacted a nearby vessel. This would have represented a further opportunity for Brevet Sergeant Jacobs to have imparted the information about the presence of vehicles if he had neglected to do so in the first conversation. In any event, I am satisfied by the evidence of Brevet Sergeant Jacobs that he did impart the information about the troop carrier and the excavator to Mr Rumbelow in his initial conversation with him at approximately 4:03pm.

²² Exhibit C7a and C7b

²³ Exhibit C7b

- 8.11. In both of his statements Mr Rumbelow indicates that after he had spoken to Brevet Sergeant Jacobs in the first telephone conversation, the first thing he did was to initiate a call over the VHF radio. He also put out a page. He did this in order to attract the attention of sea rescue vessels out on the water. He did not receive any response from sea rescue vessels but did receive a response from Mr Dan Irvine. Mr Rumbelow states that he does not recall the exact words that he used in his radio communication. However, in his first statement he suggests that it was easier to identify Petrel Cove as a relevant search location as Petrel Cove is the first beach beyond The Bluff and that all members knew of it. He states in effect that it was his intent to identify Petrel Cove as an appropriate starting point for the search. To my mind, plainly there was nothing unreasonable about that strategy.
- 8.12. Mr Irvine was called to give oral evidence. He was still in his boat on the water, having conducted a tour, when he heard a lot of chatter that sounded like Don Rumbelow '*rallying the troops*'. He was at that time part way between the Victor Harbor causeway and the Bluff boat ramp.
- 8.13. I think it is clear from Mr Irvine's evidence that he probably did not hear the original transmission made by Mr Rumbelow. His attention to what was being communicated over the VHF radio was initially drawn to the responses to Mr Rumbelow's initial call for assistance. He told the Court that he could not recall what Mr Rumbelow was saying over the radio before Mr Irvine himself responded. When Mr Irvine responded, Mr Rumbelow explained that there was a person in the water at Petrel Cove. In his oral evidence before the Court Mr Irvine stated that he had no recollection of Mr Rumbelow saying to him, or at all, that the man in the water was to be found at a location where there was a white troop carrier and/or a blue excavator on the adjacent shore. In a subsequent radio communication, Mr Irvine would be told by Mr Rumbelow to look for people waving on the beach, which would be a reference to Messrs Patterson and the other workers. However, the evidence would suggest that in the initial communication between Mr Rumbelow and Mr Irvine nothing was said by Mr Rumbelow to the effect that the position of vehicles could establish the precise location of the man in the water. If Mr Irvine had been told this, he would have been alive to the presence of vehicles on the shore as being an indicator of the location of the man in the water. At no time did Mr Irvine did look for the presence of vehicles anywhere on the coastline during his expedition to find the man in the water. For that

reason I think it is highly unlikely that Mr Rumbelow did impart information about the presence of vehicles to Mr Irvine in their initial radio communication.

- 8.14. However, none of this discounts the possibility that when Mr Rumbelow made his initial radio transmission to the world at large, he may well have mentioned the presence of vehicles at the location of the man in the water. It may be that Mr Rumbelow has simply forgotten that he did so and that Mr Irvine simply did not hear this information as it was being broadcast generally. It will be remembered that Mr Irvine's attention was only drawn to the radio chatter when he heard the responses of others to the initial broadcast. I do not think that Mr Irvine was paying particular attention to what Mr Rumbelow had said in the first instance. The further possibility is that when Mr Rumbelow specifically addressed Mr Irvine in their first communication, he assumed that Mr Irvine had heard his original transmission to the world at large and believed that the information about vehicles did not require repetition.
- 8.15. Mr Irvine told the Court that when his attention was drawn to Mr Rumbelow's request for assistance, he was alone in his boat and was on his way to The Bluff boat ramp. He was approximately half way between the causeway at Victor Harbor and The Bluff boat ramp. Mr Irvine then, at almost full speed, motored to Petrel Cove. Mr Irvine told the Court that the speed at which he proceeded to that location felt very fast, in fact that fastest he had travelled in that particular vessel. When he reached Petrel Cove beach, he scanned the beach but could not see anyone in the water. He then contacted Mr Rumbelow by radio and told him that he could not find any person in the water. It was then that Mr Rumbelow told Mr Irvine to look for people waving on the beach. Mr Irvine told the Court that when he called Mr Rumbelow, there was no delay in reaching him. From Mr Irvine's stationary position at Petrel Cove, he could see beyond Petrel Cove towards Depps Beach. When Mr Irvine was told about the presence of persons he looked to the west. He could see men in high visibility clothing standing on the embankment at the western end of Depps Beach waving their arms. These people were undoubtedly Mr Patterson and his fellow workers. As soon as he saw these men, he sped towards that location at a very fast speed. Upon reaching the western end of Depps Beach he slowed down because of the wave activity and, from a distance of about 100 metres, scanned the water. He then saw Mr Gadd in the water. I return to the circumstances surrounding Mr Gadd's retrieval

from the water in a moment, but I should firstly say something about the issue of alleged delay.

- 8.16. In my view any delay that was caused by Mr Irvine stopping at Petrel Cove was minimal. Having regard to the lack of precision as to the name of the beach that Mr Gadd was to be found, it was natural for Mr Irvine to have paused to search for the man in the water at that location. Mr Irvine told the Court that it was '*pretty obvious*' that there was no one in trouble in the water at Petrel Cove. Therefore the search at that beach was only momentary. Mr Irvine immediately communicated by radio with Mr Rumbelow who immediately answered. Mr Rumbelow's information about people in the vicinity of the beach was accurate and immediately understood by Mr Irvine who was then able to see those men clearly. Mr Irvine then sped to that location. Mr Irvine was asked by Mr Bailes of counsel for Mr Gadd's parents as to the length of time Mr Irvine had spent at Petrel Cove from the moment that he stopped there until he saw the people waving from the western end of Depps Beach. Mr Irvine's reply was '*yeah, it wouldn't have been long. Maybe a minute, yep*'. Mr Irvine told the Court that it took less than a minute to motor from his stationary location at Petrel Cove to the location at Depps Beach. Having regard to that distance and the speed at which his vessel could travel, there is nothing unrealistic about that estimate.
- 8.17. Having considered the matter carefully, I do not believe there is any basis for criticism of Brevet Sergeant Jacobs, Mr Rumbelow or Mr Irvine who formed the chain of communication that led to the location and retrieval of Mr Gadd. Brevet Sergeant Jacobs was not given precise information as to the name of the beach involved. It was reasonable for Mr Rumbelow to identify Petrel Cove as a starting point for the search. A vessel heading west past the Bluff had to go past that beach in any event. In addition, it may well be that Mr Rumbelow did identify a location by reference to the presence of vehicles and that Mr Irvine understandably did not hear that piece of information in the first instance. The delay in Mr Irvine pausing at Petrel Cove was minimal.
- 8.18. I return to the retrieval of Mr Gadd. When Mr Irvine arrived at the western end of Depps Beach there was a lot of white water. In a break in the waves, Mr Irvine was able to see Mr Gadd's head and shoulders bobbing in the water. Mr Gadd was face down in the water. At first, Mr Irvine believed that he was unable to do anything

because at that stage Mr Gadd was too close to the shore. Mr Irvine radioed Mr Rumbelow and suggested that he could anchor his vessel and swim in order to rescue Mr Gadd. According to Mr Irvine, Mr Rumbelow told him not to risk his boat and his life. Mr Rumbelow's most recent statement states in respect of Mr Irvine:

'Dan said he could see the person floating in the water face down. He was told not to go in if he thought it would put himself and his boat in danger. Dan said he was going in anyway.'

8.19. At about that point Mr Gadd was pushed out towards Mr Irvine's position by the current, and at the same time Mr Irvine saw that there was a gap in the waves. When Mr Irvine detected this, he sped in towards Mr Gadd, executed a u-turn and, to use his expression, '*scooped him up*' and placed him in the boat. In a statement taken from Mr Irvine on 28 February 2015²⁴, Mr Irvine states that to begin with he would not have been able to move his boat to Mr Gadd's location because the waves were too high for the boat. To begin with, Mr Irvine assessed that if he had attempted to pull up next to Mr Gadd he would have damaged his boat because of the proximity of that location to the shore and to rocks. When Mr Irvine states that he sped in, executed a u-turn and scooped Mr Gadd up, he has probably understated the difficulty that he actually experienced in retrieving Mr Gadd. In his witness statement of February 2015, he states that he could recall that Mr Gadd was slippery to the touch, was a dead weight and lifeless at that point. In addition, he states that when he pulled Mr Gadd over the side of his boat, Mr Irvine slipped down along the side of the boat and the seats. I note that at post mortem Mr Gadd was assessed as being 175 centimetres in height and 63 kilograms in weight. Although Mr Gadd was not a huge man, his size and weight would nevertheless have made him a difficult proposition to lift. After he pulled Mr Gadd into the boat, Mr Irvine drove it to a position where it was out of the waves. He then commenced CPR.

8.20. In his oral evidence before the Court Mr Irvine confirmed that when Mr Gadd was brought into the boat he was lifeless. He could elicit no response from Mr Gadd in spite of yelling at him and pinching him. At no stage did Mr Gadd exhibit any sign of consciousness. He did not take a breath. Mr Irvine administered CPR notwithstanding. Shortly after this, a volunteer sea rescue vessel pulled up alongside Mr Irvine's boat. This vessel was manned by two people. One of those persons was

²⁴ Exhibit C65a

Mr Trevor Ablett who provided a statement to police²⁵. Mr Ablett's statement asserts that when he arrived on the scene Mr Irvine was performing CPR. Mr Ablett jumped on board Mr Irvine's boat and took over CPR. Mr Irvine then sped to The Bluff boat ramp where Mr Gadd was removed from the boat.

- 8.21. I pause in the narrative to consider Mr Irvine's actions. I accepted Mr Irvine's evidence as to the circumstances in which he came to locate and retrieve Mr Gadd from the water, but I strongly suspect that he has downplayed his efforts in retrieving Mr Gadd. Mr Irvine's initial preparedness to jump into the water and retrieve Mr Gadd in that fashion says much about Mr Irvine's personal courage. I find that he was only dissuaded to do so by Mr Rumbelow. But his actions in driving the boat to Mr Gadd's location in a heavy sea was nevertheless an action that is to be viewed as courageous. His boat was unanchored while he retrieved Mr Gadd from the water and was therefore at the mercy of the sea and the rocks. The retrieval would be no easy task in itself. I would recommend Mr Irvine for whatever citation for bravery is considered appropriate.
- 8.22. The evidence is not clear as to the precise time at which Mr Gadd was pulled from the water by Mr Irvine. Mr Patterson's statement purports to identify 4:06pm as the time at which Mr Gadd was struck by the wave and then surfaced lying face down and unresponsive. If this is correct, and having regard to the fact that Mr Patterson called 000 at 3:52pm, Mr Gadd had been treading water and had been in difficulty for about 14 minutes before he succumbed to the sea. Mr Patterson's statement asserts that the boat that retrieved Mr Gadd picked him at 4:10pm. There is no independent verification of the time of 4:06pm or of 4:10pm. However, if one accepts those times as accurate, Mr Gadd was lying face down in the water and was at least unconscious and not breathing for about 4 minutes before Mr Irvine retrieved him. As indicated above, Mr Gadd was unresponsive and showed no sign of life at any stage after Mr Irvine pulled him from the water. CPR was performed, but the effectiveness of CPR as a means of providing Mr Gadd with some circulation and his brain with some oxygen cannot be known with precision. What is known is that when SAAS personnel intervened at the Bluff boat ramp Mr Gadd was asystolic and effectively deceased at that point.

²⁵ Exhibit C9a

- 8.23. It is possible that the period during which Mr Gadd was lying face down in the water could have been reduced by about a minute if Mr Irvine had not stopped at Petrel Cove. Although no criticism attaches to any person or entity in respect of any delay that may have been occasioned by Mr Irvine stopping at Petrel Cove, it was nevertheless pertinent to enquire whether or not an opportunity to retrieve Mr Gadd from the water at an earlier point in time had existed and whether earlier retrieval from the water may have prevented his death. The issue is complicated by the possibility that even if Mr Gadd's death may have been prevented by earlier retrieval, he may nevertheless have suffered severe hypoxic brain damage resulting in a significant and permanent disability. Dr Gadd, through his counsel Mr Bailes, candidly acknowledged that he would not have desired such an outcome for his son. So the issue really is whether or not Mr Gadd could have been retrieved from the water earlier thereby preventing not only his death but also preventing a severe hypoxic brain injury.
- 8.24. The issue as to the preventability of Mr Gadd's death was examined by an independent expert, Dr Christopher Acott. Dr Acott is a Fellow of the Australian New Zealand College of Anaesthetists. He is the physician in charge of the Hyperbaric and Diving Medicine Unit at the Royal Adelaide Hospital. Dr Acott's curriculum vitae reveals extensive experience, knowledge and clinical expertise in relation to diving and hyperbaric medicine and in particular is an expert in respect of the pathology of drowning. As revealed by his report²⁶ Dr Acott is regularly consulted regarding the causes of diving and swimming accidents, deaths and mishaps and aquatic safety both locally and internationally. He has attended many post mortems in respect of drowning victims.
- 8.25. In respect of Mr Gadd, Dr Acott has assumed that Mr Gadd had aspirated between 750 and 1150 millilitres of fluid. This calculation was made on the basis of the combined lung weights of Mr Gadd at post mortem. These figures represent an aspiration volume of between 12 and 19 millilitres per kilogram of weight. Dr Acott suggests that this data indicates that these volumes are not compatible with survival. For these purposes Dr Acott has also assumed that Mr Gadd had experienced a '*submersion time*' of greater than 5 minutes. Dr Acott has indicated in the material that he has produced to the Court that from the timeline provided by Mr Garry

²⁶ Exhibit C56

Patterson, Mr Gadd had been struggling in the water for about 15 minutes until 4:06pm and that during this time he would have consumed more oxygen than normal, which was not being replenished because of a lack of breathing. Dr Acott suggests that by 4:06pm Mr Gadd would have been profoundly hypoxaemic and barely conscious. Further, Dr Acott postulates that at 4:06pm when Mr Gadd was submerged by a wave, this was the final insult given that when he resurfaced he was lying face down in the water. This signified that at this stage Mr Gadd was either deeply unconscious, was near death or was actually deceased. Thus for any chance of a successful rescue, Mr Gadd would have needed to have been extracted from the water just after he resurfaced.

- 8.26. In his initial report to the Coroner, Dr Acott took into account what he believed to be a '*slight delay*' between Mr Irvine's boat arriving at Petrel Cove and the rescue at Depps Beach. The delay that Dr Acott is referring to here is the delay that was occasioned by Mr Irvine initially stopping at Petrel Cove and then clarifying with Mr Rumbelow where the man in the water was to be located. Mr Bailes of counsel for Mr Gadd's parents took issue with the characterisation of the delay as slight having regard to Mr Irvine's evidence that the delay was possibly a minute in duration. In a clarifying document obtained from Dr Acott in the light of Mr Irvine's evidence, Dr Acott reports that a delay of 1 to 1.5 minutes would not have altered the outcome for Mr Gadd.
- 8.27. The one factual matter relevant to Dr Acott's opinion and which is debatable in my view is how Mr Gadd was doing in the 14 or 15 minutes in which he was treading water and appeared to be holding his own. I am not completely certain that after that period Mr Gadd would have been as obtunded as Dr Acott has postulated. On the other hand, there could be no denying the fact that Mr Gadd's immersion in the water for 15 minutes and his having to tread water fighting the waves for that long would, at the very least, have been deeply exhausting.
- 8.28. Dr Acott specifically deals in his report with the scenario of Mr Gadd floating face down in the water for about 4 minutes before he was pulled from the surf. In addition, as revealed by Mr Irvine, immediate commencement of CPR did not occur as Mr Irvine needed to manoeuvre his boat out of the dangerous swell into calmer water. The question was posed to Dr Acott whether there was there any chance of successful resuscitation and survival given that first aid was not administered to Mr

Gadd for at least that 4 minutes. Dr Acott reports that the answer to that question is no. The same answer is given by Dr Acott to the question as to whether or not South Australian Ambulance Service personnel had any chance of successfully resuscitating Mr Gadd having regard to the fact that Mr Gadd was asystolic at 4:28pm when SAAS attended The Bluff boat ramp. Dr Acott reports that hypoxaemic cardiac arrest such as in drowning is very difficult to resuscitate even when resuscitation is started immediately with all medical technology available. Dr Acott explains in his report that there are case histories available that indicate immersion times of 4 minutes or less and resuscitation within 10 minutes have been associated with a successful outcome. However, times outside of these limits make the chances of a successful outcome very poor. In addition, where a person is retrieved from the water already in an unconscious state, as was the case with Mr Gadd, the outcome is usually very poor.

- 8.29. I accept the evidence of Mr Patterson that Mr Gadd was lying face down in the water for something in the order of 4 minutes. At least 3 minutes of that period was unavoidable and it has to be borne in mind that this was a drowning case and not a case of cardiac arrest from an arrhythmia as Dr Acott has explained. Resuscitation from cardiac arrests due to arrhythmias can be more successful because of the residual oxygen available in the heart muscle. Resuscitation following cardiac arrest due to a lack of oxygen from drowning is less successful because the heart muscle lacks oxygen.
- 8.30. Taking all of the evidence into account, it is difficult to determine with absolute precision what difference if any the magnitude of the delay experienced by Mr Irvine at Petrel Cove may have made in respect of the outcome for Mr Gadd. I strongly suspect that it would have made no difference whatsoever. Mr Gadd, after all, had ingested a volume of water that was not compatible with survival. Certainly, it cannot be said that if the delay had been avoided Mr Gadd's death would have been prevented. It is even less likely that Mr Gadd could have been resuscitated without residual brain damage.
- 8.31. What this discussion demonstrates that time is crucial when it comes to the likelihood or otherwise of successful resuscitation. The sooner rescue efforts can be brought to bear, and the sooner a person is removed from the water and professional resuscitative efforts are applied, the more likely a favourable outcome is to occur.

9. The circumstances surrounding the death of Mr Gujari

- 9.1. Mr Gujari and his seven companions attended at Petrel Cove on the afternoon of Friday, 25 April 2014. The group had stayed in Victor Harbor overnight. Three of the group, including a woman by the name of Wei-Jung HSU, had been for a walk at The Bluff area and had returned to their accommodation. It appears that Ms Hsu had identified Petrel Cove as a good place to go for a swim. Sometime after 3pm on the day in question, Ms Hsu, according to her statement, encouraged the others to go to the beach. In her witness statement²⁷ Ms Hsu suggests that Mr Gujari stated at that stage that he was not going to swim.
- 9.2. In any event, they arrived at the beach sometime between 3pm and 4pm. There is no evidence that Mr Gujari at first had any particular intention or desire to enter the water. The photographs taken by Ms Sam-Kio CHEANG, when examined in the sequence of their taking²⁸, suggests that Mr Gujari was a late entrant to the water. I have already mentioned the fact that Mr Gujari removed his footwear on the landing at the bottom of the steps before he went on to the beach. It appears from the photographs that Mr Gujari arrived at the beach in his ordinary clothes. The photographs reveal that two of the young men entered the water in the first instance and that this was followed in due course by Mr Gujari and some of the others. Ms Cheang did not enter the water but took photographs firstly from the beach and then from the rocky outcrop at the western end of the beach. It appears that Mr Gujari entered the water in his underwear.
- 9.3. To Ms Cheang the waves at the beach at that time appeared to be intimidating and dangerous. The photographs reveal that the waves were of some size, but would not necessarily have deterred a competent swimmer. Ms Cheang who at all times was an observer states²⁹ that she did not remember seeing any signs about swimming or signs about whether the beach was dangerous or not.
- 9.4. Mr Timothy Podobny³⁰ states in his statement that he did not take any notice if there were signs at the beach. Mr Podobny was the first person to enter the water.

²⁷ Exhibit C23a

²⁸ Exhibit C22b

²⁹ Exhibit C22a

³⁰ Exhibit C27a

- 9.5. The statements of the other members of the group are mostly silent as to whether or not any of them observed the signage either at the top of the track leading to the beach from the car park or at the landing towards the bottom of the steps.
- 9.6. The behaviour of the water at the beach is described by Ms Hsu³¹. Her statement asserts that she did not recall seeing any warning signs on the way to the beach, but she recalls thinking that the waves were large and that they seemed to become larger the longer she was in the water. She observed Mr Gujari enter the water. She says that he walked into the water to a deeper location than hers. The photographs taken by the witness Ms Cheang would bear that out. She observed that Mr Gujari appeared to be enjoying the water but she did not see him swimming. Ms Hsu states that she was struck by a large wave and that as the water receded, it pulled her legs from under her. This was followed by another wave striking her and knocking her off of her feet. She felt as if she was going to drown. By this stage she was getting nearer to the rocky outcrop at the western end of the beach. She became aware of the fact that Mr Gujari was also in distress in the water and that people were urging him to grab onto the rocks. Ms Hsu was helped from the water by Mr Hewson Yip who had to re-enter the water to pull her onto the rocks. Another young woman by the name of Syarita Amalasari also states³² that she felt as if she was being sucked out towards the ocean and closer to the rocks. She observed that Mr Gujari at that point was about 20 metres further out from her and out past the end of the rocky outcrop. She managed to swim to the rocks and get out of the water at that location.
- 9.7. There is evidence to suggest that Mr Gujari had, at first, quite deliberately gone into the water further out than the others. The photographs taken by Ms Cheang tends to bear that out. As well, the statement of Mr Howell Bi³³ states that as he was heading back into shore, he heard Mr Gujari saying to Ms Hsu '*let's go deeper*'. Having regard to Mr Gujari senior's assessment of his son's capabilities in the water, it is probable that Gujari had an imperfect grasp of the intrinsic dangers that the sea could present, let alone of the dangers that this particular part of the coastline presented to him.
- 9.8. I have already referred to Mr Hewson Yip who was the man who retrieved Ms Hsu from the water. Mr Yip himself had to hold onto the rocks after he had retrieved Ms

³¹ Exhibit C23a

³² Exhibit C24a

³³ Exhibit C25a

Hsu, and after he had done so he realised that Mr Gujari was still in the water approximately 18 metres from his position. At that stage the surface of the water was just under Mr Gujari's neck and there were waves crashing over the top of him. At that stage Mr Gujari's eyes were open, but Mr Yip describes him as appearing unresponsive. In due course Mr Gujari's eyes closed and his head fell forward causing him to be laying face down into the water.

- 9.9. At about this point, a man by the name of Thomas Craven³⁴ saw what was taking place. Mr Craven was on the beach with a friend and his dog. He observed some of Mr Gujari's group in difficulty in the rip. He attempted to throw body boards to them but then noticed that one of the group, now known to be Mr Gujari, had been swept out behind the furthest rock. Mr Craven ran along the rocks and jumped into the water. He swam approximately 5 metres to Mr Gujari and grabbed hold of him. At that point, Mr Gujari was lying on his front, his lips were blue and according to Mr Craven he was '*a dead weight in the water*'. The rip was very strong. Another person, Mr Luke Ashman, at that point also jumped into the water. Mr Craven feared for his own life and was forced to let go of Mr Gujari through exhaustion. Meanwhile, Mr Ashman kept hold of Mr Gujari. Mr Craven was washed up onto the rocks himself which resulted in him suffering cuts. Mr Craven observed what was taking place and ultimately saw Mr Gujari disappear under the water.
- 9.10. Mr Ashman was the only eyewitness to these events called to give oral evidence in the Inquest. Mr Ashman had also jumped into the water when he observed the difficulty that Mr Gujari was experiencing. Mr Ashman told the Court that he was an experienced surfer. Although he had not been on to the Petrel Cove beach in the past, he was familiar with the means by which a rip could be identified. He attended the beach alone on the day in question and observed what to him were quite large waves. During the course of the afternoon he had used the rip to get out into the surf, as surfers do. After surfing, he went up to the car park to change in his car. He then headed back down to the beach to take some photographs and it was then, as he descended the staircase, that he noticed that a group of people were in trouble in the vicinity of the rocks. He recognised the difficulty that these people were in by virtue of the fact that they appeared to be frantic and also from the fact that in his opinion it was ill advised for them to have been swimming within the rip next to the rocks.

³⁴ Exhibit C29a

9.11. Mr Ashman's attention was drawn to two males in the water who were being dragged out by the rip. Mr Ashman entered the water. Mr Craven was already in the water with Mr Gujari and at one point both Mr Ashman and Mr Craven had hold of Mr Gujari. According to Mr Ashman all three men were out of their depth. Mr Gujari's eyes were closed and he was lifeless and unresponsive. Mr Craven had to let go. At that point Mr Ashman and Mr Gujari were then in the water alone. At one point there was another man in the water endeavouring to assist Mr Gujari. At another a boogie board was unsuccessfully used. The waves were making it increasingly difficult to maintain any hold on Mr Gujari. Mr Ashman told the Court that he was having difficulty keeping himself afloat. He was endeavouring to swim with Mr Gujari against the rip and after some time he had to let go of Mr Gujari through fatigue. Mr Ashman describes the situation as follows:

I tried to swim back to shore, I probably only took two or three strokes, before I realised that was going to be impossible. So then looked for the rocks and swam straight to the rocks.³⁵

Mr Ashman describes himself as exhausted, that his vision was darkening and that he was close to passing out from exhaustion. In the event Mr Ashman had to grasp hold of an isolated rock and in due course had to be rescued by helicopter from that position. The last Mr Ashman saw of Mr Gujari after he had to let go of him, was that Mr Gujari was face down alone in the water drifting further to the west. Mr Ashman momentarily took his eyes off of Mr Gujari and when he looked back Mr Gujari had disappeared. Mr Ashman told the Court that during the whole period under which he had Mr Gujari under observation, including the entire time that Mr Ashman had hold of Mr Gujari, Mr Gujari did not exhibit any sign of life.

9.12. It is clear that Mr Craven and Mr Ashman both entered the water for the purpose of endeavouring to rescue Mr Gujari and no other. This act alone placed their own lives at significant risk. The conditions in which they endeavoured to save Mr Gujari were dangerous and exhausting. Both men persisted with their efforts to the point of physical exhaustion in each case, thereby further placing their own lives at risk. The danger to both Mr Craven and Mr Ashman was not only posed by the sea, but also by the adjacent rocks. As a measure of this, an experienced SAPOL diver would later be seriously injured while attempting to locate the deceased in substantially calmer

³⁵ Transcript page 292 line 31

waters. I agree with the observations of Senior Constable First Class Garth Tunbridge of the Victor Harbor Criminal Investigation Branch that the efforts of Messrs Craven and Ashman should be formally recognised. Their bravery in this incident is corroborated by independent observation. I would recommend both of them for whatever citation for bravery is considered appropriate.

- 9.13. Emergency services personnel attended at the scene including the helicopter that winched Mr Ashman to safety. As it so happened, the helicopter was already at the Goolwa Airport. I do not need to go into the detail in respect of the mobilisation of the emergency services except to say that it is clear that Mr Gujari disappeared and drowned at a time before the emergency service resources that were available could reasonably be expected to provide meaningful assistance.
- 9.14. Strictly speaking, the efforts of what amounted to a recovery of Mr Gujari's remains do not form part of the circumstances of his death. The searches for Mr Gujari are described in some detail in the statements and oral evidence of Sergeant Kevin Doecke of the SAPOL Water Operations Unit, Special Task and Rescue Group. Those efforts commenced on the day of Mr Gujari's disappearance and continued over a number of days well into the following month. The efforts to locate Mr Gujari's remains were conducted both on the surface and by divers. To my mind every effort that could be made to locate Mr Gujari's remains was made. In his first witness statement Sergeant Doecke expresses an opinion in respect of Mr Gujari's possible fate. Sergeant Doecke is an experienced water policing officer and his expertise in respect of surf rescue is extensive. Sergeant Doecke expresses the view that Mr Gujari most likely drowned as a result of complacency and inexperience in the water and a lack of knowledge in relation to the dangerous sea conditions at that location. Sergeant Doecke postulates that due to Mr Gujari's inability to swim, if he unexpectedly stepped into the deeper rip current gutter and lost his footing in the process, he would have quickly panicked in the surging white water and have easily drowned. What Sergeant Doecke postulates obviously makes sense. On the other hand, there is no certain means by which it could be judged that an experienced swimmer may not have suffered the same fate having regard to the dangers posed in the conditions that developed that afternoon.

10. The circumstances of the death of Mr Anwari

- 10.1. On 24 December 2014, Mr Anwari attended Petrel Cove with a number of other men who were for the most part fellow employees at the restaurant at which Mr Anwari was casually employed. There appears to be a consensus within the statements taken from Mr Anwari's companions that Mr Anwari was the member of the group who was keen to attend the beach and who had prior knowledge of it. The others do not appear to have had any knowledge of the beach, but at least one gentleman suggests that to him the water appeared to be dangerous. It is evident from the statements of all of Mr Anwari's companions that they had little experience with the sea or with swimming. In addition, it appears that the English skills of each man may have been somewhat limited. All of the statements of these gentlemen, bar one, assert that they did not observe any signage suggesting that swimming should not be undertaken at that beach. One of the men, Mr Sadiq Jaberi³⁶, postulates that Mr Anwari was so determined to go swimming that even if Mr Jaberi himself had seen the sign he would not have been able to deter Mr Anwari from swimming at that location. It is not known whether Mr Anwari on this occasion or on any previous occasion had taken any notice of the signage.
- 10.2. At about the same time that Mr Anwari and his companions pulled into the Petrel Cove car park, a group of young men and women also arrived at the scene. This group of people included Ms Sarah Day. Ms Day would be the person who retrieved Mr Anwari from the water. Ms Day's statement³⁷ states that she and her companions arrived at the beach at about 4:50pm. Upon her arrival at the car park she noticed the group of men that included Mr Anwari. Ms Day and her companions went down to the beach. She asserts that she is a strong swimmer. After a few minutes she and her companions decided to go for a swim. She states:

'We know it is a dangerous beach so we did not go that far out. We stayed within some markers that we use to identify the safe perimeters of the ocean. We normally swim between the two staircases. There are channels that run to the side of our markers and it is a lot deeper with strong currents or rips.'

Ms Day's statement acknowledges the existence of the warning signs at the top of the stairs.

³⁶ Exhibit C40a

³⁷ Exhibit C39a

- 10.3. It appears from the statements of Mr Anwari's companions that before any of them entered the water, they noticed 'Australians' already swimming. It is not known with any degree of certainty whether any of the men who entered the water that afternoon were influenced by the fact that there were other people who appeared to be swimming safely at the beach. However, one thing is clear from their statements and that is that Mr Anwari was determined to swim at this beach regardless. He had led the men to that location for that very purpose.
- 10.4. Mr Sadiq Jaberri to whom I have already referred did not go into the water. His statement asserts that he simply observed the scenery and took photographs. Although Mr Jaberri appears to have been an observant man, he says that he did not see any warning signs. Mr Jaberri has described in some detail what he observed in respect of Mr Anwari getting into difficulty. He asserts that Mr Anwari and another man by the name of Reza Ali entered the water. Mr Reza Ali would also encounter difficulty in the water. At this point it is worthwhile examining the contents of the witness statement of Mr Reza Ali. Mr Reza Ali came from Afghanistan. He says that he does not speak English very well. Although, like the others, he took the main path and steps down to the beach, he did not see any warning signs about swimming. He says that even if he had seen them, he would not have recognised them for what they were. To him the surf looked dangerous, but equally he says that he didn't have a real appreciation of whether the surf was rough that day or not as in Afghanistan there are no beaches. He says that he does not swim very well, but nevertheless he went out into deeper water to splash in the waves. It is plain that Mr Reza Ali had no idea of the fate that could befall him if he ventured out into deeper water, especially in the vicinity of the rocks at the western end of the beach. It would appear that Mr Ali's lack of awareness of the dangers of this beach typified that of the group as a whole, including Mr Anwari. Mr Jaberri, who was observing all this, states that he was concerned as the waves looked large and dangerous. It appears that at that stage Mr Jaberri had positioned himself in the vicinity of the rocky outcrop at the western end of the beach. Mr Reza Ali, in the water, came over to Mr Jaberri's position on the rocks and as he did so he was knocked over by a wave. Mr Ali managed to make his way to the shore. Mr Ali states that the water was trying to drag him out as it was very strong. At that point, Mr Anwari, still in the water, approached Mr Jaberri's position at the rocks. Having seen what had happened to Mr Ali, Mr Jaberri urged Mr Anwari

not to approach the rocks. At that point a large wave hit Mr Anwari and he was dragged out into deeper water.

- 10.5. A number of people observed what was taking place including Ms Day. Ms Day says in her statement that the men had been in her vicinity in the water and that the currents that afternoon did not seem to be as strong as they normally were. However, she had some concerns about their safety and so at one point waded over to them and advised them that they were too far to the west. She did not elicit any meaningful acknowledgement. The identity of the particular individual to whom she spoke is not known. Ms Day and her companions then left the water and returned to the beach. About five minutes later her attention was drawn to some of the men who were by then standing on the rocky outcrop and pointing in a westerly direction towards the deeper part of the ocean beyond the rocks. Ms Day approached that location and entered the water via a rock pool which was relatively calm. Her attention was then drawn to a person in the water. She saw Mr Anwari in the water behind her. He was about 3 feet under the water with his body face down. She then dived under the water and grabbed Mr Anwari under both arms. She managed to get his head above the water and was able to swim to the rocks with him. Mr Anwari was at that time unresponsive. With the assistance of the others Ms Day was able to move Mr Anwari onto the rocks where CPR was commenced. At no stage was any response elicited from Mr Anwari.
- 10.6. From the evidence that has been presented it is difficult to judge the level of danger to which Ms Day subjected herself. That Ms Day was prepared to enter the water at all in these circumstances, when others chose not to, is a matter that is laudable in itself. Had Ms Day not entered the water, it is conceivable that Mr Anwari's body may, like Mr Gujari's, have never been found. Having considered the matter carefully my recommendation is that Ms Day receive whatever citation for bravery is considered appropriate in the circumstances.
- 10.7. After Mr Anwari was retrieved from the water, bystanders attempted to resuscitate him by CPR. Unfortunately, their efforts were unsuccessful. Emergency services including ambulance and police arrived within minutes of Mr Anwari's retrieval from

the water. The SAAS report³⁸ indicates that Mr Anwari was asystolic when paramedics arrived at his location on the rocks. Efforts of ambulance personnel to resuscitate Mr Anwari were unsuccessful.

- 10.8. Dr Acott also examined the circumstances surrounding Mr Anwari's death by drowning. He suggests that the volume of fluid ingested by Mr Anwari as revealed by his post mortem examination were not compatible with survival. I accept that evidence.

11. **Overall conclusions**

- 11.1. The Court has concluded that all three deceased persons died from drowning as a result of being caught in rips situated at the respective beaches. The Court has concluded that in each case each man did not have a full appreciation of the dangers that were posed by swimming at these beaches. In the case of Mr Gadd, there were no warning signs at Depps Beach which may have alerted him to the dangers of swimming. Mr Gadd's death may have been prevented if appropriate signage was in place at each end of the beach. In respect of Messrs Gujari and Anwari, the Court has concluded that they entered the water at Petrel Cove either having ignored the information depicted on signage erected at that beach or not fully appreciating the dangers that were described on that signage. To my mind, the former scenario is the more likely in each case.
- 11.2. As well, in the cases of Mr Gujari and Mr Anwari, their situations were compounded by a probable limited ability to swim and handle the conditions involving as they did, heavy surf. I am not certain that the same applies to Mr Gadd, but common to all three cases is a probable inability on the part of each man to escape the clutches of a strong rip. This inability was probably borne out of a lack of knowledge as to how to escape a rip by swimming parallel to the shore.
- 11.3. There is no suggestion in any of the three cases that emergency services were not appropriately deployed.

³⁸ Exhibit C50i

12. Recommendations

- 12.1. Pursuant to Section 25(2) of the Coroners Act 2003 I am empowered to make recommendations that in the opinion of the Court might prevent, or reduce the likelihood of, a recurrence of an event similar to the event that was the subject of the Inquest.
- 12.2. At the conclusion of the evidence and counsel's addresses, the Court made the following recommendation directed to the Chief Executive Officer of the Victor Harbor Council that the signage at both Depps Beach and Petrel Cove should, with immediate effect:
- 1) make reference to the fact that deaths through drowning have occurred at both beaches as a result of dangerous rips at both beaches; and
 - 2) make reference in strong terms to the fact that swimming is not advised at both beaches.
- 12.3. Within these findings I have made certain observations about the desired elements of signage at both Petrel Cove and Depps Beach. I refer here to the observations made in paragraph 7.19 herein. On the assumption that the Council allows the existing track and steps to remain at Petrel Cove, which is a matter that I will come to in a moment, in the view of the Court the stand-alone signage referred to in paragraph 7.19 herein should be erected at the beginning of the track that leads from the car park at Petrel Cove and it should also be erected on the landing at the bottom of the steps at Petrel Cove. Whether or not the beach is closed to the public, or a prohibition on swimming is imposed or the existing track and steps are retained, this signage should still be maintained at Petrel Cove and be situated in prominent positions. I recommend accordingly. The same signage should also be erected at each end of Depps Beach where the heritage trail descends onto the beach. The same signage should also be erected at the commencement of the heritage trail at the western end of the Petrel Cove car park. I recommend accordingly. I would further recommend that the wording accompanying the signage should be in languages that reflect the demographics of immigration and the overseas student population in South Australia.
- 12.4. I would also recommend that within the shelters situated at the western end of Petrel Cove car park, information concerning the deaths that have occurred at both Petrel

Cove and Depps Beach should be prominently but sensitively displayed. The reasons for those drowning deaths should also be explained, namely that the persons concerned drowned after being taken out to sea by dangerous rips that exist at the western ends of both beaches. The information should also explain that from time to time at those beaches there are rips other than the permanent rips at the western ends of both beaches. If practical, this information should also be displayed in languages other than exclusively English.

- 12.5. I have given consideration as to whether the Court should make any recommendation about the closure of beaches west of The Bluff or whether legislation enforcing a prohibition of swimming at those beaches should be introduced. This is a matter that has troubled the Court considerably. The Victor Harbor Council has indicated a belief that public sentiment is not favourably disposed toward either of those measures. On the other hand, closure of the beaches is a measure that would be strongly supported by the families of Mr Gujari and Mr Anwari. When considering this issue there are a number of matters that need to be carefully considered. One matter that has to be taken into account as far as Petrel Cove is concerned is that the deaths of Mr Gujari and Mr Anwari arose out of their naivety and a probable limited ability to swim in the ocean. To my mind it is obvious that both men ignored the existing signage at Petrel Cove, either by not examining it or, if they did examine it, by not fully appreciating the dangers that the signage was intended to address. These two young men, in their naivety, would not necessarily be representative of the mainstream beach going public. That said, anecdotal evidence would suggest that the deaths of Mr Gujari and Mr Anwari and the death of a woman in 1977 do not constitute the entirety of adverse events that have occurred at that beach. In addition, it is not beyond the realms of possibility that strong swimmers could also find themselves in fatal difficulty within the dangerous rips. Even before the deaths of Mr Gujari and Mr Anwari, the beach had a reputation for danger evidenced not only by the existence of the old signage, but a reputation that was based on anecdotal accounts of near misses and rescues.
- 12.6. From the Court's perspective it is difficult to determine whether or not the closure of the beaches or an enforceable prohibition against swimming at those beaches might amount to something of an over-correction. Now that all of the evidence about the deaths of Mr Gujari and Mr Anwari is in, the observation can be made that the Victor

Harbor Council is in no worse position than this Court to judge whether or not the closure of the beach at Petrel Cove or an enforceable prohibition against swimming at that beach is warranted. All of the above considerations equally apply to Depps Beach. Having considered the matter carefully, the Court is not prepared to make a recommendation that Petrel Cove or Depps Beach be closed or that an enforceable prohibition of swimming at those beaches be imposed. This is clearly a matter that the Council has to consider and decide for itself. Council would need to bear in mind that once a beach is closed, or prohibitions against swimming are imposed, they are permanent and would have to be enforced. The Council might take the view that more strongly worded and stand-alone signage in respect of the dangers of swimming at those beaches, being signage that commands the attention of anyone who intends to descend onto the beach, might act as an adequate deterrent against casual and/or inexperienced swimmers entering the waters at those beaches. The observation could then legitimately be made that if any person, in the face of strong advice to the contrary, were to enter the water at either beach and encounter difficulty in the rips, the harsh but sad reality would be that their misfortune had been of their own making. This would reflect the undoubted fact that while there is a duty of care imposed on authorities responsible for public safety, at the same time there has to be a substantial element of individual responsibility in respect of one's own personal safety.

- 12.7. In deciding whether the beaches west of The Bluff should be closed or whether prohibition against swimming at those beaches should be imposed, the Council would also need to consider carefully whether either of those measures might have unintended adverse consequences. It may well be that people who choose to frequent and swim at those beaches prefer their seclusion to the more publicly frequented south coast beaches that exist to the east of Victor Harbor. Were beaches such as Petrel Cove to be closed, or swimming prohibitions imposed at them, members of the public who prefer the more secluded swimming beaches might in the alternative attend beaches such as Parsons Beach and Waitpinga Beach which are only a few kilometres to the west of Victor Harbor. Beaches such as Parsons and Waitpinga have an even higher hazard rating than the beaches to the west of The Bluff. The complicating factor about persons swimming at Parsons beach and Waitpinga beach is that although they are not distant by road from centres such as Victor Harbor, they are significantly more distant in terms of the ability of emergency services to attend those locations

quickly. Another potential unintended consequence is that if persons choose to swim at Petrel Cove or Depps Beach in contravention of any type of prohibition, there might be less people present to render assistance if any person was to encounter difficulty in the water. Another matter that would need to be considered, as raised by Detective Brevet Sergeant Debra Penney of the Victor Harbor CIB in her witness statement³⁹, is the difficulty involved in enforcing prohibitions and detecting and prosecuting contraventions of prohibitions, matters that would undoubtedly be resource intensive if prohibitions are to have any meaning. I recommend that Council consider all of the above matters carefully.

- 12.8. An associated issue is whether without actually closing the beaches or imposing swimming prohibitions, public access to Petrel Cove ought to be curtailed or at least made more difficult. At the moment the car park and existing steps at that beach represent something of an invitation to the public to utilise the beach. Accordingly, it has been suggested in some quarters that the steps at Petrel Cove should be removed. Mr Ashman was one person who would advocate such a measure. The Court is not prepared to make any recommendation in relation to this issue other than that the Council consider it. To my mind, again, the Council is in the best position to determine whether or not the removal of the steps is appropriate. The matters that would need to be taken into account by the Council would include whether or not their removal might result in members of the public, in their determination to get to the beach, injuring themselves when negotiating the cliff face. As well, removal of the steps would mean that the focal point for signage would be taken away as well. It might be considered better to have the one access point to the beach so that those who go onto the beach are directed past the signage, as distinct from people randomly clambering down the cliff face at varying locations and not seeing the signs. The Council might also take into account whether it would be appropriate to in effect punish those persons who like to enjoy the beach without actually entering the water. The same unintended possible consequence of causing casual swimmers to go to other more dangerous beaches would also need to be considered. On the other hand, the removal of the steps would appear to be an obvious deterrent against persons going onto the beach and then swimming, especially casual and inexperienced swimmers as distinct from skilled surfers. There is, at the moment, the rough dirt track to the beach

³⁹ Exhibit C50a

that begins at the heritage trail. The Council should consider whether this should be removed, or whether if removal is impractical, whether signage should also be erected at that location. These are all matters for Council to consider. I recommend that Council consider those matters carefully.

- 12.9. I should add that regardless of whether the Council decides to close the beaches or remove existing access to the beaches, appropriate signage of the kind I have identified should be in existence at the beaches.
- 12.10. One matter that also needs to be considered is whether signage should be erected in the vicinity of the Kings Beach car parking area to warn members of the public who access the beaches from that location.
- 12.11. Other measures have been discussed during the course of the Inquest including the patrolling of the beaches in question, the erection of flags between which swimming could safely be undertaken and the provision of emergency flotation devices such as lifebuoys. It could be argued that measures such as these would only serve to legitimise if not encourage swimming when in reality the activity is to be deterred. In addition, patrolling and the erection of flags would be a matter not so much for the authorities but for surf lifesaving entities who may or may not have the resources to provide these services and to provide them on such a regular basis that the presence of lifeguards and flags at those locations would be an effective public safety measure. The question of possible vandalism in relation to the provision of flotation devices is also a matter that has been raised as a reason why devices such as lifebuoys permanently situated at these beaches would not be helpful. For my part I am not certain that this would constitute a valid objection to the placement of emergency flotation devices at these beaches. It would be a sad indictment on our society if we had to automatically assume that life saving devices such as lifebuoys would inevitably and habitually be vandalised or stolen. Perhaps people would be less inclined to interfere with such devices if they were attached by some means to a memorial to those who have died at the beaches and to those who attempted to save them. For my part, I believe that the placement of emergency flotation devices at these beaches is a sound idea. The placement of these devices would not necessarily encourage reckless swimming at these locations. The best argument for the provision of emergency flotation devices at these beaches is that in each of the drowning deaths

under discussion in this Inquest, they would have been exceedingly useful and may have saved lives. The Court recommends the installation of emergency flotation devices such as lifebuoys at the beaches west of The Bluff.

12.12. In Mr Shane Daw's report to the Coroner⁴⁰, he states that Surf Life Saving South Australia is aware of 101 coastal deaths that have occurred in South Australia over the past 10 years. Of that number 36 deaths have occurred on the coastline from North Haven to Sellicks on the Gulf of St Vincent. It will immediately be observed that much of this coastline exists in metropolitan Adelaide. Of particular importance is the fact that 20 of the total number of deaths that have occurred in the previous 10 years have occurred in the south coast area, described as the coastline between Carrickalinga on the Gulf and Goolwa on the south coast. Eight coastal deaths have occurred in the Victor Harbor region which includes Waitpinga and Parsons Beaches. There are currently two Surf Life Saving South Australia Rescue Centres within the Fleurieu Peninsula coastal regions. These centres are situated at West Beach and Lonsdale and are both within the metropolitan area. Each of these centres stores a jet rescue boat. These are the only two such vessels in the possession of Surf Life Saving South Australia in the entire State. Mr Daw has powerfully argued, both in his report and in his evidence before the Court, that population growth over the last 15 years within the south coast area has resulted in an increased demand for all forms of recreation including aquatic activities on beaches. Growth has been relatively evenly distributed on the south coast from Victor Harbor to Alexandrina areas and across areas of Yankalilla. There is no reason to believe that the growth of population will cease. The population growth and increasing popularity from a beach user perspective is likely to result in increased demand for safe swimming beaches. The large increase in the number of older adults may increase participation in water activities such as fishing and boating. Mr Daw reports that since 1999 there have been 350 rescues in the south coast area. Additionally, there has been the provision of first aid in respect of 1,573 incidents and the provision of preventative actions in 15,325 cases. Anecdotally other incidents have been attended to but not recorded. Mr Daw reports that the need for a rescue facility on the south coast area for Surf Life Saving South Australia has been recognised and identified by Surf Life Saving South Australia for a number of years. Such a facility would have the capacity and

⁴⁰ Exhibit C58

capability to reduce loss of life and to respond to incidents within the entire south coast region. Importantly it would have the capability of establishing training and operational services to support other agencies such as SA Police, South Australia Ambulance Service and State Emergency Services. Surf Life Saving South Australia is currently liaising with the Victor Harbor Council to identify land that might be suitable to accommodate such a centre.

12.13. It is to be acknowledged that in respect of each of the three deaths that are the subject of this Inquest, the presence of a Surf Life Saving South Australia rescue centre on the south coast situated, say, at Victor Harbor may not have altered the outcome in any of the three cases. That said, it was fortuitous that Mr Irvine was already on the water when Mr Gadd's difficulty was identified and it would appear that Mr Irvine would have been first to the scene regardless of whether or not a resource such as a rescue centre equipped with a jet rescue boat was available. In my view the coronial power of recommendation is not circumscribed by any need to demonstrate that a recommended measure would have prevented or have reduced the likelihood of the specific event that is the subject of an Inquest. The power of recommendation contained in Section 25(2) of the Coroners Act 2003 is designed to enable this Court to suggest measures that might prevent or reduce the likelihood of a recurrence of an event similar to the event that was the subject of the Inquest. In the Court's opinion it cannot be denied that the existence of a Surf Life Saving South Australia Rescue Centre on the south coast, accommodating a jet rescue boat that could be used in that area and also in marine locations to the north of Cape Jervis, might prevent or reduce the likelihood of drowning deaths that might otherwise occur within these regions. In fact, some might say that it is inevitable that it will save lives in that area. Mr Daw in my view has made out a good case that a Surf Life Saving South Australia Rescue Centre should be established at Victor Harbor. This Court recommends the establishment of such a facility.

12.14. There are other measures that might also prevent or reduce the likelihood of drowning deaths occurring at the beaches including but not limited to Petrel Cove and Depps Beach. A helicopter stationed at the Goolwa Airport at appropriate times of the year, clearly an expensive and resource intensive measure, would clearly be one of them. An Emergency Response Beacon System as advocated by Mr Daw would be another.

This is a communication system activated by a single button which goes to an emergency controlling agency. This system could be directed to SAPOL who when alerted could activate necessary agencies such as other SAPOL agencies, Surf Life Saving SA and VMR. The system could include an intercom for emergency calls, possible LED signage for real time warnings and other elements that may prove beneficial. Some basic units are already in use in Queensland with development of more modern systems with warning messaging in development or being developed. Surf Life Saving is currently investigating these. The difficulty that SA Police encountered in contacting Mr Patterson at Depps Beach during the Gadd incident would be yet another reason for establishing an Emergency Response Beacon System as well as improving mobile phone services to that location. The Court recommends the establishment of an Emergency Response Beacon System at Petrel Cove. I recommend that consideration should be given to the appropriateness and feasibility of having a rescue helicopter stationed at Goolwa airport. I recommend that a survey be undertaken in respect of mobile phone coverage at locations west of the Bluff.

- 12.15. I should mention the question of community education. Mr Daw has reported that as detailed in the 2014 Coastal Safety Report (SLSA) there is a significant lack of awareness among the general public about the hazards posed by a beach. As well, the swimming ability of the general public in the ocean is limited. People overestimate their ability to identify hazards such as rip currents. I would add to that that there may be a tendency on the part of some people to ignore signage or regard it as something that does not necessarily apply to them or view it as an overstatement of the dangers posed at a particular location. Mr Daw suggests that education needs to be a key component through the community not only in relation to coastal safety but water safety in general. One of the matters that this Court has identified as being instrumental in the occurrence of these deaths was a large measure of naivety on the part of the deceased persons in respect of the dangers posed by the sea at these locations. It is apparent that it probably did not occur to any of the three men that the sea would irresistibly take them to a location where they would be out of their depth and not able to maintain buoyancy. The swimming abilities of Messrs Gujari and Anwari in particular appear to have been very limited. Their entry into the water to a depth and to a location that placed them in significant danger smacks of naivety and a general lack of an appreciation of the dangers posed by the circumstances that they

placed themselves in. In the case of Mr Anwari in particular, this may have had much to do with the fact that he had only recently arrived in a country where the majority of the population live in coastal regions and access to beaches was something of a novelty.

- 12.16. Attached to the statement of Detective Brevet Sergeant Debra Penney are a number of publications that relate to water safety both in general and in South Australia. One of those documents is the State Water Safety Plan 2013-2015. It is apparent that there has been significant work undertaken in relation to beach not only in this country but also in South Australia. There is in existence a Powerpoint presentation⁴¹ that has been compiled by members of the West Beach Surf Lifesaving Club. It deals with rips and the swimming strategies that ought to be adopted in an endeavour to escape a rip. In the view of the Court this is the kind of material that should be widely distributed. Basically, the strategy when caught in a rip is to remain calm, not to swim against the rip, to raise one's hand to signal for help and to float on one's back to conserve energy until assistance arrives. A strong swimmer might be able to escape the force of a rip by swimming, not against it, but parallel to the shore. The Court is of the view that there is now an identified need for a public education campaign, to be conducted before the beginning of the next swimming season, to educate the public as to the dangers of certain beaches in South Australia and alerting the public to the strategy by which the dangers can be avoided. I recommend accordingly.
- 12.17. There already appears to be in existence education material in relation to the dangers of Australian beaches directed to newly arrived immigrants⁴². It might just as appropriately be directed towards overseas students and visitors as well. One matter that ought to be the subject of beach safety education is the need for the public to understand that signage placed at beaches, warning of the dangers posed at those locations, is for their benefit and that they do not constitute what many might see as yet another unnecessary interference with their enjoyment. In my view, there needs to be a strong education programme that urges the public to take notice of signage at beaches and to be aware of the need to carefully understand and heed the warnings depicted within those signs. I recommend accordingly.

⁴¹ Exhibit C50c

⁴² Exhibit C50f

12.18. I direct the above recommendations to the following:

- Chief Executive Officer of the Victor Harbor Council;
- Lifesaving Services Manager for Surf Lifesaving South Australia;
- South Australian Minister for Emergency Services;
- South Australian Minister for Tourism, Recreation and Sport;
- South Australian Minister for Education and Child Development;
- Federal Minister for Immigration and Border Protection;
- Federal Minister for Education and Training;
- Commissioner of Police.

Key Words: Drowning; Warning Signs

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

Seal the 2nd day of April, 2014.

Deputy State Coroner