



FINDING OF INQUEST

An Inquest taken on behalf of our Sovereign Lady the Queen at Adelaide in the State of South Australia, on the 23rd and 24th days of September 2019 and the 11th day of November 2019, by the Coroner's Court of the said State, constituted of Anthony Ernest Schapel, Deputy State Coroner, into the deaths of Thiery Niyomungere, Frank Ndikuriyo and Nitisha Negi.

The said Court finds that Thiery Niyomungere aged 11 years, late of 41 Haydown Road, Elizabeth Grove, South Australia died at Glenelg Beach opposite Holdfast Shores and Marina, Glenelg, South Australia on the 1st day of January 2016 as a result of salt water drowning.

The said Court finds that Frank Ndikuriyo aged 11 years, late of 42 Thorne Street, Paralowie, South Australia died at the Women's and Children's Hospital, 72 King William Road, North Adelaide, South Australia on the 1st day of January 2016 as a result of salt water drowning.

The said Court finds that Nitisha Negi aged 15 years, late of 4/27-28 Khichripur Road, Resettlement Colony, Delhi, India died at Gulf St Vincent, Glenelg Breakwater, Holdfast Promenade, Glenelg, South Australia on the 10th day of December 2017 as a result of salt water drowning.

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

1. Introduction

- 1.1. These are the Court's findings in respect of a joint inquest held into the cause and circumstances of the deaths of Thiery Niyomungere aged 11 years, Frank Ndikuriyo aged 11 years and Nitisha Negi aged 15 years. I shall refer to the three children as Thiery, Frank and Nitisha.
- 1.2. Thiery and Frank both died on 1 January 2016 during the same incident at the Glenelg beach. Both boys drowned.
- 1.3. Nitisha died on 10 December 2017 at the Glenelg beach. She drowned.
- 1.4. The incidents that culminated in the deaths of the three children both involved the waters in the vicinity of a large rock groyne, sometimes referred to as a breakwater, that is situated at the northern end of the Glenelg beach, just immediately south of the southern breakwater that forms part of the channel leading from the gulf waters into the Patawolonga marina. The rock formation in question is an artificial formation. In these findings I will simply refer to it as 'the groyne'. The groyne runs in a north-south direction. It consists basically of a large pile of rocks and boulders. The northern tip of the groyne is separated from the southern breakwater of the channel into the marina by a distance of perhaps 50 metres. At low tide the groyne is situated on the beach in the sense that the sand proceeds right up to the eastern side of the groyne. However, at high tide the groyne will be completely surrounded by water. It is said that the groyne plays a role in protecting the channel entrance to the marina.
- 1.5. The Court heard evidence that I will discuss in due course that the waters adjacent to the groyne can present as a danger to swimmers and that swimming and even wading in the vicinity of the groyne is to be vigorously discouraged, as is access onto the groyne itself. Despite the fact these deaths were highly publicised at the time and despite the dangers that continue to be presented by the waters in the vicinity of the groyne, the Court has been told that swimmers still climb onto the groyne and enter and swim in those waters. This is so despite the numerous warning signs that have been put in place since the deaths of Thiery and Frank. The best efforts of surf lifesaving personnel at the Glenelg beach, consisting of repeated and frequent warnings to beachgoers to get off the groyne and not swim in its vicinity, seem to fall on deaf ears giving rise to the distinct possibility that another fatality could occur in circumstances similar to those

associated with the deaths of Thiery, Frank and Nitisha. This inquest probably would not have been necessary but for this set of circumstances.

- 1.6. The findings of this inquest are designed to serve as a **public warning** that accessing the groyne and swimming and wading in the waters adjacent to it are activities that are associated with significant danger and that these activities should cease.

2. **The circumstances of the drownings of Thiery and Frank**

- 2.1. Thiery and Frank were friends. They had attended Wigley Reserve on New Year's Day 2016 with their respective families. They were joined by other families who had children. Wigley Reserve is located behind the Holdfast Shores Marina complex. The reserve has access to the beach via Chappell Drive. After a meal, a group of children and young adults walked to the beach. Their parents remained at Wigley Reserve. There was some confusion about whether the children would be swimming and who would be responsible for supervising the children at the beach. It appears that some of the parents indicated that the children were not to swim or did not know that the children would be swimming. Some of those who walked towards the beach stopped at the Holdfast Shores Marina to take photographs. Another member of the group stopped to use the bathroom. The remainder of the children and young adults went onto the beach. The children entered the water immediately in front of the Chappell Drive access. There were no rocks at that location. Frank, Thiery and some of the other boys moved towards the northern end of the beach and began climbing onto and over the rocks at the southern end of the groyne. Having entered the water the boys found themselves in a current that was pulling them around the rocks. The boys who entered the water included the two deceased who were both 11 years old, and three other boys who were aged 12, 9 and 12. One of the 12-year-olds made it to the shore and ran to the lifesavers' tent seeking help. The time that he approached the lifesavers' tent was 5:57pm. It was the end of the lifesavers' shift. The lifesaving personnel were in the process of packing up their equipment on the beach. Lifesavers Todd Smith and Thomas Drew immediately drove in a utility to the scene picking up another lifesaver, Steve Dumican, on the way. The lifesavers entered the water to rescue the boys. One of the boys was rescued off the north-western side of the groyne by Todd Smith. Meanwhile, another boy was pulled from the water by a young adult who had accompanied the boys to the beach. By that stage many more lifesavers had joined in the rescue attempt. The inflatable rescue boat was deployed in the water and police and paramedics were by

then in attendance. The rescue jet boat and surf lifesaving helicopter had both been called to attend. Thiery was then pulled from the water on the south-western side of the groyne by a lifesaver named Anthony Merchant. Thiery was face down and half submerged. Lifesavers, paramedics and a medical practitioner, Dr Paix, immediately attended to Thiery. However, he was unable to be resuscitated. He was pronounced dead at 6:30pm.

- 2.2. Whilst Dr Paix was attending to Thiery, Frank was located by members of the public in the small bay immediately to the northeast of the groyne. He was face down and unresponsive. A Mr Madigan pulled Frank from the water and immediately he was assisted by lifeguards, paramedics and then Dr Paix. By the time Dr Paix arrived at that location Frank was already undergoing CPR that was being administered by paramedics. At no stage was there any sign of life or restoration of pulse. However, a potentially restartable cardiac rhythm was detected. As a result, Dr Paix elected to transport Frank to the Women's and Children's Hospital by ambulance. Unfortunately resuscitation efforts by the Women's and Children's team were unsuccessful and he was pronounced dead at 7:17pm.
- 2.3. Neither Thiery nor Frank were considered to be competent swimmers.
- 2.4. At the approximate time that the children entered the water the temperature at nearby Adelaide Airport was 24.6°C and the average wind speed was 27 kilometres per hour. There was an incoming tide. The surf conditions were described by Mr Shane Daw, an experienced lifesaver who attended the scene, as choppy with about a one to two foot swell with some waves bigger than that. A south-westerly wind was surging into the bay and was creating a rip current to the southern part of the rocks.
- 2.5. Mr Shane Daw has been a volunteer lifesaver for many years. He has been a member of the Glenelg Surf Life Saving Club for many years. He was an employee of Surf Life Saving South Australia for 25 years. Mr Daw is currently the National Coastal Risk and Safety Manager of Surf Life Saving Australia stationed in New South Wales. In the course of these findings I shall refer in some detail to his evidence.

3. The circumstances of the death of Nitisha

- 3.1. Nitisha died on 10 December 2017. She was 15 years of age. Nitisha was an Indian national who was in Adelaide as a member of an Indian under 18s soccer team that was

competing in the Pacific School Games. Her team's competition had concluded. Nitisha and the other members of her team were due to leave Adelaide the following day. On Sunday 10 December 2017 Nitisha attended the Glenelg beach with a group of fellow soccer players and other Indian nationals who had attended Adelaide for the games.

- 3.2. Nitisha and four other girls approached the shore and waded through the waters north of the jetty in the direction of the groyne. As the group approached the groyne the water, quite unexpectedly, became deeper and waves caused them to slip under the water. None of the girls were strong swimmers. Almost immediately the five girls were struggling in the water. Four of those girls were rescued either by lifesavers or members of the public.
- 3.3. A member of the public, Mr Roland Tan, was the first to render assistance. He was playing along the shoreline with his family when he saw an Indian man calling for help. As a result, he swam out to the group of girls who were in difficulty. Mr Tan's estimate is that they were about 100 metres out. He swam out there unaided. He encountered two girls struggling in the water and tried to assist them both. He then found himself in trouble but managed to hold onto one of the girls. He made it back to shore with that girl and rendered assistance on the beach. This girl survived. It is clear from the evidence that Mr Tan's attempts to rescue the girls tired him to the point of exhaustion. Mr Tan is to be commended for his actions.
- 3.4. Shane Harris was the lifesaving patrol captain on duty at Glenelg on that day. At about 5:40pm a young Indian girl ran up to the patrol tent and said 'there's a drowning'. He and another lifesaver, Benjamin Warr, then drove to the groyne and observed Mr Tan pulling the first girl from the water who at first was apparently lifeless. However, after CPR was administered the girl recovered. Mr Warr then entered the water in the southern areas of the rocks where he assisted another lifesaver pull another young person of Indian appearance from the water. That person was breathing and did not require CPR. Lifesaver Jeremiah Packer was in the inflatable rescue boat and observed a girl face down and unresponsive in the water. He jumped from the boat and swam to her before pulling her to shore where he performed CPR. She remained unresponsive for some time but ultimately responded. All of those brought to shore on 10 December 2017 were taken to hospital and ultimately recovered. Nitisha remained missing.

- 3.5. A search was conducted for Nitisha by SAPOL Water Operations, PolAir and the Westpac Rescue Helicopter, as well as various watercraft. However, she could not be located that day. The search was called off until the following morning.
- 3.6. At approximately 7am the next morning Nitisha was located deceased in the water near the location in which she had originally gone missing, which was on the south-western side of the groyne.
- 3.7. The afternoon of 10 December 2017 had been warm. At about 5:40pm it was 28°C with wind speeds of 18 kilometres per hour from the south-south-west with seas at about one to one-and-a-half metres with an incoming tide.
- 3.8. There is no suggestion other than that the efforts of surf lifesaving personnel and emergency services' personnel to locate and resuscitate the rescued individuals involved in both incidents at Glenelg were of a high standard of competence. All of the surf lifesavers are to be commended for their efforts. Everything that could have been done to save the lives of Thiery, Frank and Nitisha was done. As seen, both of these incidents unfolded in the half hour before 6pm. In many respects this was fortunate as surf lifesaving personnel attached to the Glenelg Surf Lifesaving Club were still present and active on the beach. The patrolling of the beach on weekends ceases at 6pm and preparations to pack up equipment and leave the beach generally commence before that. I say fortunate because on one view of the matter if the incidents had unfolded perhaps as little as 30 minutes later than they did, there may not have been the same level of surf lifesaving expertise present at the beach, rescue efforts may not have been as effective and more children may have died.
- 3.9. The Glenelg Surf Lifesaving Club, its members and other such Clubs in this State and their members continue to provide a dedicated, professional and valuable voluntary service to South Australian beachgoers and they deserve the gratitude of the entire community.

4. Evidence as to the dangers presented by the groyne

- 4.1. This evidence emanated from a number of sources including surf lifesaving personnel who were called to give oral evidence in the inquest. One of those persons was Ms Lisa Harvey who is a volunteer lifesaver with the Glenelg Surf Life Saving Club and has been so for many years. Ms Harvey was the patrol captain at Glenelg on the day of the

incident involving Thiery and Frank. Mr Jared Schenscher is also an experienced surf lifesaver with the Glenelg Surf Life Saving Club. He also gave evidence about the characteristics of the waters surrounding the groyne. The third witness who gave evidence about that subject matter and other subject matters was Mr Daw to whom I have already referred. The evidence of all three witnesses was essentially the same as it related to the dangers of the groyne.

- 4.2. It is convenient to deal principally with the evidence of Mr Daw given that he is a paid highly experienced full-time professional in the lifesaving industry as already described.
- 4.3. Mr Daw gave some general evidence by way of background about drownings in Australian waters. He pointed out that many drownings occur in waters that are benign or in waters that are perceived to be relatively benign and in respect of which people fail to appreciate a hazard or risk¹. Mr Daw stated that over 90% of drowning deaths actually involve Australian residents. The suggestion, often made, that tourists and persons born outside the country account for a large percentage if not the majority of persons who drown is not accurate. The other myth that Mr Daw seeks to debunk is that only poor swimmers drown. Mr Daw stated that the evidence suggests that people with over five years' experience of swimming and even competent swimmers can drown because they overestimate their swimming capabilities². As well, people overestimate their ability to identify dangers such as rips.
- 4.4. Against that background Mr Daw spoke of the particular dangers presented by the groyne at Glenelg. He suggested that people who are unfamiliar with the groyne and the waters surrounding it might be led to believe that the waters are benign. He said:

‘I’ve seen people playing on it, we know that people have swum around it, but when you get certain conditions, particularly a south-westerly blowing, it blows into there on the southern side of it, it creates a little bit of an inshore hole, all the water gets there and it will create a bit of a trough and create a rip-current which will then feed out from the south side running north.’³
- 4.5. Mr Daw stated that he had personally swum around the groyne on many occasions and while on some occasions there is no danger to him because of his obvious experience

¹ Transcript, page 123

² Transcript, page 123

³ Transcript, page 138

and swimming capabilities, there have been other occasions where due to the prevailing conditions he would not go near the groyne.

4.6. Mr Daw suggested that the groyne itself presents an inherent risk to persons who actually climb onto the groyne including an inherent risk of slipping when it is wet and/or covered in bird droppings. Evidence was also given that the groyne is used as a point from which to enter the water on its western or seaward side and that swimmers have swum from there to an off-shore channel marker which is then climbed, an activity that is unlawful. The Court was told that there has been one death directly associated with that activity. There are many reasons why climbing on the groyne itself is an undesirable activity and should be at least discouraged if not rendered unlawful.

4.7. As far as the surrounding waters are concerned, Mr Daw was asked by Mr Plummer, counsel assisting:

‘Q. In certain conditions can that rock groyne create a situation that’s potentially dangerous for those who are not competent swimmers.

A. Without doubt. Any structure like that can, it can be the jetty, it can be the rock groyne. So that rock groyne in particular, we do know that when we get the south-westerly going or we’ve had times where we’ve had the land spit that’s created and we get a high tide and people are out there around the rock there and when they are going to come in the tide has come in and all of a sudden the water is above their head. So it becomes - you know, they get stranded a little bit and unsure how deep it’s become, so people have been rescued in those situations. When we do get the storm and the surge conditions, that can create areas where people will go to that location, because in the south pocket there it becomes very deep, all the water rushes in, and just under the mechanics of the ocean, it’s coming into that area, it’s got to find a way to get out. So what it does is it rips the sand out and it creates a channel, a topographical rip - and a topographical rip means that there is a hard structure there, all the water has come in one way and so to get out there it digs a channel and forms its own pathway to get out and follows around the rock groyne to the north. So, the biggest problem there is that when it digs that deep hole the water looks calmer and people - we’ve seen that around Australia with a lot of drowning tragedies, kids and parents have - you know, parents have sent kids to go swim in that area because it’s calm, there’s not all the waves there, and that’s because it’s deeper and the water is actually flowing against the surf and therefore it creates a false perception that that’s a safe area. We know that that’s happened a few times where people have gone ‘Oh that area doesn’t look as bad as the rest’ and so they’ll go to that area, get themselves into the deep water, get themselves into the rip currents and then start to panic. So there is that risk under those conditions that it will create that risk - well it has posed

a risk to swimmers in the past on a number of occasions, which have ended in tragedies.’⁴

The point that requires special emphasis in my view is Mr Daw’s evidence that the apparent calmness of the water and lack of wave movement due to the depth of the water and the fact that the water is actually flowing against the surf creates a false perception of safety. The reality is that the water is deep and, as well, an irresistible rip may be present.

- 4.8. Mr Daw explained that in respect of the waters to the south of the groyne the force of the water and its energy will dislodge sand and form a channel. As well, the water needs to be able to escape from the area and that the path of least resistance for the water is to follow the groyne on its seaward side. Asked by Mr Plummer if wading through the water from the south to the north towards the rock groyne would involve a person finding themselves in water that unexpectedly becomes deeper as they approach it, Mr Daw said:

‘So in some cases they will be walking along the sandbar and they’ll actually, yes, walk into a deeper trough area because there’ll be - depending on the conditions on the day you’ll get a lateral current, so that’s a parallel channel which will run along the shoreline for the water which will run down to that point as well. So they could be on a sandbar with a little drop-off to the right of them if they were walking along the sandbar, or they could be in that. But as they walk towards that point, depending on the tide, yes they would slowly walk into deeper water.’⁵

This observation is especially relevant in relation to the difficulty that Nitisha and her four companions found themselves in when wading through the shallow water as they approached the southern tip of the groyne. The evidence suggested that the girls were very much taken by surprise by the increase in depth of the water at that point and by the wave movement. Mr Daw explained further:

‘... with rip currents what you get is you’ll have the waves, and where a rip current is there is less waves, so the waves will become a lot smaller or almost non-existent, and that’s because the water is channelling in a different direction and therefore it’s reducing that wave height and energy and going a different direction. So there will be less waves in that area and it will seem calmer and they’ll walk into that and think ‘Okay we’re out of the wave area’ but all of a sudden they’re in a bit of deep water, and it’s not usually until they look and go ‘Hang on, I’m trying to get back to the shoreline’ or to a point that they realise

⁴ Transcript, page 139

⁵ Transcript, page 141

that they are out of their depth or getting into a bit of difficulty and panic sets in for the inexperienced.’⁶

What Mr Daw has described there appears to have been replicated in the circumstances surrounding Nitisha’s drowning. One of Nitisha’s companions, Vani, described the incident in the following way:

‘We were still a fair distance from the rocks when Deepika said that it was starting to get a bit deep for her and she thought we should head back. We all agreed that it was getting deep and turned around to start walking towards where the group was.

As we turned around we kind of got stuck between two waves. Suddenly the sand below us slid away from us as it was washed away I think. The water got deep really quickly and I couldn’t touch the bottom. My head went under the water ...’

Another girl, Yukti described it thus:

‘We were standing south of the rocks in the water and 5 of us were together holding hands. The water was suddenly up to our hips. Deepika asked us to get out of the water as it was rising. We were following the beach and trying to walk out. We were looking over our shoulders at the waves coming behind us. One wave was very big and crashed over our head. It was very sudden that it got so deep for us.

For quite some time the water had been just below our knees. It was Deepika who pointed out that it was getting deeper and we should get out. I don’t think we were walking deeper. It felt like the wave pushed the sand out from our feet and we were pushed out to sea’.

Deepika’s perception was:

‘As we got closer to the rocks I noticed that the waves were getting bigger. I also noticed that the water level was getting higher but it appeared that the sand beneath our feet was moving to create that deeper water. It was quite scary ..., however before we knew it I could feel my legs being taken from underneath me.’

Deepika also said that their intention had been only to ‘*paddle*’ in the water because none of the girls were ‘*really good at swimming*’ and that although she herself had some swimming experience in India, her swimming skills were limited. It appears that all the girls wanted to do was to wade in shallow water. However, it is clear that they were taken by surprise by the behaviour of the waters in the vicinity of the southern tip of the groyne as they waded towards it from the south. Their approach to the waters had not in any sense been reckless. The last thing on their mind was that they were taking a risk. What happened to the girls appears to classically illustrate the hidden dangers that the waters present - as described by Mr Daw.

⁶ Transcript, page 142

- 4.9. Mr Daw also said that conditions can change dramatically within a matter of hours.
- 4.10. Mr Daw told the Court that he arrived at the beach as the incident involving Thiery and Frank was unfolding. On that day he was on duty and was in the Glenelg area but not at the beach. He was informed of the rescue taking place and so proceeded to the beach. I do not need to recite his evidence as to his own involvement in the rescue efforts. Suffice it to say that he described, as did other witnesses, a measure of uncertainty as to how many boys were missing, occasioned by language difficulties and a lack of clarity as to the number of people who had entered the water.
- 4.11. Mr Daw relevantly told the Court of the conditions as he perceived them to be. He said it was a hot afternoon/evening. A south-westerly wind had picked up. Its strength was probably in excess of 30 to 40 kilometres per hour at times. The wind had created a strong south-westerly swell and there were between one-and-a-half to three foot waves coming through. He said the conditions may have created an attraction for the boys, but the reality was that *'it was obviously quite risky for them'*⁷. That said, I do not believe that the boys necessarily appreciated the risk having regard to their inexperience in waters of the kind under discussion.
- 4.12. The evidence is compelling, and I find, that the dangers that Mr Daw described and the conditions that gave rise to those dangers were all in evidence on the days in question and that the dangers presented by the groyne, in combination with the limited swimming skills of the three deceased persons, accounted for their drownings. It also contributed to the difficulties that the rescued children had also found themselves in.
- 4.13. Mr Daw gave evidence, which I accept, that at the time of the deaths of Thiery and Frank there was no signage in or around or in connection with the groyne that illustrated or spoke of the dangers associated with the groyne. By the time of Nitisha's death there was some signage. There has been more signage placed in the vicinity of the groyne since that death. Signage is a matter that I will later refer to in more detail. Suffice it to say here that the signage now is quite prolific giving rise to the surprising but concerning revelation that people continue to enter the water surrounding the groyne and also continue to climb over the groyne. There is one exception to this observation and that is that in my opinion the signage on the groyne itself is inadequate and indeed might only serve to encourage persons to climb onto the groyne at particular locations where there is no signage. More of that later.

⁷ Transcript, page 150

5. **Other matters that were considered at the inquest**

5.1. It will be noted that the days on which these incidents occurred were a public holiday and a Sunday respectively. This meant that the Glenelg Surf Life Saving Club provided services to the Glenelg beach between the hours of 12pm and 6pm. I have already commented on the fortuitous nature of both of these incidents occurring while surf life saving personnel were still on the beach, albeit very much towards the end of the patrolling period. The observation that lifesaving services are only provided on a formal basis to 6pm on busy and/or hot days at the beach is not meant to be any form of criticism. However, the observation is naturally irresistible that given that there is a significant period of daylight after 6pm, incidents such as those that led to the deaths of the three children could conceivably occur after that time, especially if the day is hot. Mr Daw gave evidence that the greater incidence of drowning deaths occurs between 12pm and 6pm and that this influences the hours that surf lifesaving clubs patrol the beaches. He told the Court that although patrols conclude at 6pm, lifesavers may still be present in the vicinity of the beach having regard to the location of the Club premises and that they might be able to respond to incidents outside of the normal hours. Mr Daw was asked by Mr Plummer:

'Q. Do you see any benefit in patrols, whether they are volunteers or paid lifeguards, providing a service after 6 p.m.

A. I think from my personal perspective if it means that a life is not lost, then there is never too much that we can do. I guess the question is, you know, where do you start and stop with the activities? I, personally, have been involved with searching for people at two o'clock in the morning and at three o'clock in the morning and 6 a.m. etc., and effecting rescues and resuscitations at those times. So, you know, drownings will occur at all times and I think with the periods that we are looking at, as it's showing there, it's between that four o'clock and 5.30 type thing where a lot of things that are happening, you know, whether it's people getting in that last swim before they need to go or not. So there is no doubt, you know, from the surf lifesaving perspective and Glenelg, they made a very conscious decision and I guess I know that intimately because I was the club president when we went through that process, that we decided that we were going to not have a surveillance patrol from 5-6. So we were going to have a full patrol right through to 6 p.m. They go through until six and that's when they start packing up. So they are fundamentally there for another, you know, 30 minutes to another hour afterwards packing up where they give that, I guess, overarching support still during that time and that's when some of these instances have occurred. But sadly if we also look at it, there is drowning deaths at a lot of other times as well during that period. So yes, there is obviously benefits for being there, but it's also looking at the other times that we are getting as well and

trying to work out when are you going to achieve the maximum result with the resources that you have got available.'⁸

- 5.2. Other matters canvassed in the evidence included the need for people to swim between flags at locations at which they are erected by surf lifesaving entities, particularly having regard to the fact that lifesavers cannot be everywhere on a beach and that the greatest potential for rescue will occur when swimmers confine themselves to swimming between the flags where they are visible to surf lifesaving personnel.
- 5.3. Mr Daw also spoke of the need for education. He told the Court that his understanding was that the 'Education Department' provides 7½ hours of aquatic activities up until about Year 10 but that these activities might not necessarily include education that might enhance basic swimming skills. Mr Daw suggested that a proportion of the hours that are devoted to aquatic activity education should be devoted towards swimming and survival skills. It is difficult to resist the wisdom of such an observation.
- 5.4. Of course, these issues do not necessarily relate to the dangers of the waters near the Glenelg groyne. However, one matter that Mr Daw emphasised, and of course this would apply to activity near the Glenelg groyne, is that adults and parents have a significant responsibility in relation to the places at which, and the manner in which, their children enter the waters. As well, parents and care-givers need to keep an eye on what their children are doing at the beach, especially when the beach has an unusual feature such as a groyne or breakwater.
- 5.5. One other matter of concern identified by this investigation is the fact that at the time of the incident involving Thiery and Frank there was an inflatable structure situated on the reserve in front of the Glenelg Surf Lifesaving Club which presented as a moderate hindrance to lifesaving activities. One would have thought it axiomatic that structures such as these simply should not be there.
- 5.6. Mr Daw gave evidence concerning a number of prevention measures that included such matters as:
 - Appropriate signage and consistent signage along the coastline;
 - The need for education and water awareness - in particular in respect of coastal safety and coastal survival and the gaining of an understanding of the environment

⁸ Transcript, page 117

that a person is entering including, for example, the ability to identify a rip current and what to do if a person is caught in one;

- The possibility of employing professional lifeguards with the appropriate equipment to support voluntary services out of hours;
- Engagement with multicultural communities in relation to water safety – resources and programs need to be tailored to meet the needs of these people. Work with community leaders to reinforce this notion needs to be undertaken. Mr Daw suggested that the education component in drowning prevention is critical in this and in all areas. I agree with those observations;
- The need to impart the message to parents and caregivers that they have a responsibility to watch over children who enter the water. Clearly they do.

6. Signage

- 6.1. As already indicated, at the time of the deaths of Thiery and Frank there was no signage that warned of the dangers associated with the groyne. There is now a virtual forest of signage, both permanent and moveable. The signage is situated at the groyne itself and at locations as one approaches the groyne.
- 6.2. The signage warns of strong currents and indicates that there should be no swimming within 40 metres of the '*breakwaters*'. This of course includes the groyne itself. The signs exhibit the word '*DANGER*' in red. Other signage indicates that beachgoers should be aware of waves and currents in the vicinity of the groyne and that climbing on the rocks is unsafe. The signage also urges beachgoers to supervise children.
- 6.3. The signs are only in the English language. The yellow depictions of the activity that is to be discouraged, if not prohibited, are within yellow squares as distinct from yellow diamonds. Mr Daw gave evidence that squares as distinct from diamonds do not conform with requisite standards and that diamonds are more effective in drawing the reader's attention to the dangers depicted.
- 6.4. To my mind the signage ought to refer to the fact that fatalities have occurred in the waters in the vicinity of the groyne.

- 6.5. I have already alluded to the fact that the only sign on the groyne itself is one that exists at its southern end. It states '*DANGER*' in red and the words '*KEEP OUT*'. There is only the one sign on the groyne itself. In my view there should be signs at the centre of the groyne and also at its northern end which would make it clear that no part of the groyne can be accessed. Also, the expression '*KEEP OFF*' would be a more appropriately worded prohibition.
- 6.6. The signage in connection with the groyne is such that any person who enters the waters in its vicinity is committing an offence pursuant to the Harbors and Navigation Act 1993 with a maximum penalty of \$1250. Such persons would also be entering the waters there at their own peril and knowingly so. Even though the signs are only in English, it is readily apparent from the depictions on the signs that entering the waters at this location is a dangerous and prohibited activity.
- 6.7. However, according to all three surf lifesavers who gave very helpful evidence in the inquest, beachgoers still go onto the groyne and enter the waters such that according to Mr Jared Schenscher, people continue not to take notice of the signs, access the groyne for various activities and swim in the waters at that location, which means that very frequently lifesavers are almost constantly asking people not to swim at that location⁹. Asked as to whether for that reason there should be an actual fixed surf lifesaving presence at the groyne Mr Schenscher told the Court that lifesaving personnel were loath to establish such a presence because of its understandable potential to encourage people to swim in that location. He said:

'So if we actively patrol it, it kind of sends a message that we're there, we're watching, and we'll look after you if you do get in trouble. Whereas we don't really want to encourage people to swim there, so you try not to actively put a lot of resources down there.'¹⁰

This is not to say that lifesavers do not keep a watchful eye on the groyne. Mr Schenscher added that surf lifesavers periodically attend at the groyne to check whether people are swimming in its vicinity and to take the appropriate action if they are.

⁹ Transcript, page 86

¹⁰ Transcript, page 87

6.8. Recommendations

6.9. Pursuant to section 25(2) of the Coroner's 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.

6.10. I make the following recommendations directed to the Minister for Trade, Tourism and Investment, the Minister for Sport, Recreation and Racing, the Minister for Transport, Infrastructure, Local Government and Planning, the Chief Executive of the City of Holdfast Bay and the Glenelg Surf Life Saving Club:

1. There should be a public awareness campaign, with government imprimatur, conducted through paper and electronic media outlets in relation to the dangers associated with the groyne situated at Glenelg beach and in relation to the waters in the vicinity of that groyne. The campaign should contain the following elements:
 - A description of the specific dangers associated with activity of the groyne itself;
 - A description of the dangers associated with swimming and wading in the waters in the vicinity of the groyne;
 - The fact that swimming and other activity in the water within 40 metres of the groyne is prohibited and that penalties can apply;
 - That fatalities have occurred in the waters in the vicinity of the groyne;
 - That swimming from the groyne to the nearby channel markers, and the climbing onto the channel markers, are prohibited and that penalties can apply;
 - That swimmers should confine their activity to the area between flags erected by surf lifesaving authorities;
 - That parents and caregivers should take responsibility for the safety of their children at the Glenelg beach and other beaches.
2. That the Holdfast Bay Council and the Glenelg Surf Life Saving Club consider, and confer in relation to, the extension of a surf lifesaving presence at Glenelg beach beyond the hour of 6pm on public holidays and weekends.

3. That consideration should be given to prohibiting and prescribing penalties for climbing on groynes and breakwaters. That in any event, further signage should be placed on the Glenelg groyne indicating that people should keep off it along its entire length.
4. That signage erected at or near the groyne should contain information that fatalities have occurred in the waters in the vicinity of the groyne.
5. That structures that hinder or could potentially hinder the operations of the Glenelg Surf Life Saving Club should not be erected in the vicinity of the Club premises.
6. That attention is paid to the matters identified by Mr Shane Daw that are set out in para 5.6. herein, including but not limited to engagement with and the education of multicultural communities regarding water safety.

Key Words: Salt Water Drowning; Public Warning

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

Seal the 11th day of November, 2019.

Deputy State Coroner