
JURISDICTION : CORONER'S COURT OF WESTERN AUSTRALIA

ACT : CORONERS ACT 1996

CORONER : ROSALINDA VINCENZA CLORINDA FOGLIANI,
STATE CORONER

HEARD : 6-10, 13-17 JANUARY 2020 and 11 FEBRUARY
2020

DELIVERED : 10 MAY 2021

FILE NO/S : CORC 844 of 2015

DECEASED : KEHLET, JENNIE ANNE

FILE NO/S : CORC 15 of 2015

DECEASED : KEHLET, RAYMOND KEITH

Catchwords:

Nil

Legislation:

Nil

Counsel Appearing:

Mr B Nelson assisted the State Coroner

Ms S Keighery (State Solicitor's Office) appeared on behalf of the Western Australian Police Force and the Department of Fire and Emergency Services

Mr G Cridland (instructed by Anna Carr, Friedman Lurie Singh and D'Angelo) appeared on behalf of Mr Graham Milne

Coroners Act 1996
(Section 26(1))

RECORD OF INVESTIGATION INTO DEATH

*I, Rosalinda Vincenza Clorinda Fogliani, State Coroner, having investigated the suspected death of **Jennie Anne KEHLET** and the death of **Raymond Keith KEHLET** with an inquest held at Perth Coroner's Court, Central Law Courts, Court 51, 501 Hay Street, Perth, on 6-10, 13-17 January 2020 and 11 February 2020 find as follows:*

- a) that the death of **Jennie Anne KEHLET** has been established beyond all reasonable doubt and that the identity of the deceased person was **Jennie Anne KEHLET** and that death occurred on or about 22 March 2015 in the proximity of Sandstone as a result of an unascertainable cause; and*
- b) in respect of the death of **Raymond Keith KEHLET**, that the identity of the deceased person was **Raymond Keith KEHLET** and that death occurred on or about 22 March 2015 at Sandstone as a result of an unascertained cause,*

in the following circumstances:

SUPPRESSION ORDERS

There be no publication of any names or details which would identify any of the police officers in the video (Exhibit 1 Tab 24) shown in open court between 10.14 to 10.29 am on Tuesday 14 February 2020.

The police officer referred to in the witness statement at Exhibit 2 Tab 32 be referred to as Officer AB.

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INTRODUCTION

1. I held an inquest to investigate the death of Raymond Keith Kehlet, and the suspected death of Jennie Anne Kehlet. I will refer to them as “Ray” and “Jennie” respectively in this finding, in accordance with the wishes of their family members, many of whom were in attendance throughout the inquest proceedings. First names are not used for the other witnesses, and no disrespect is intended by the non-use or use of an appellation.
2. Ray and Jennie were married and they were happy together. They enjoyed a close and warm relationship with their family and friends. They were hard working and likeable. They shared an adventurous spirit, but they were also knowledgeable and careful when it came to matters of safety. They were fit, healthy and enjoyed the outdoors, especially camping.
3. The unexpected death of Ray and the disappearance of Jennie in a remote part of Western Australia caused anguish and consternation for their family, and considerable disquiet amongst the broader community. A significant search and rescue operation was undertaken. There was substantial media attention and a not inconsiderable degree of speculation as to the mysterious circumstances.
4. On 19 March 2015, Ray and Jennie had left their farm in Beverley, alongside with their Great Dane, Ella, in separate vehicles, but travelling together, in order to go on a planned prospecting trip to Sandstone with a friend and colleague, Graham Milne (Mr Milne). Mr Milne had been teaching them how to prospect, and was going to continue to do that on the trip. Ray and Jennie had no experience prospecting, and were setting off on what looked to be an adventure.
5. The Shire of Sandstone is approximately 660 kilometres north of Perth, and 160 kilometres east of Mount Magnet. The area where they were planning to prospect is remote and has a significant number of historical and disused mineshafts which are dangerous. They appear as holes in the ground, they are not fenced off and some are liable to collapse. They were used by early prospectors and to a large degree have fallen into disrepair.
6. The last time their family had contact with either Ray or Jennie was on 18 March 2015. On 19 March 2015, Ray and Jennie had breakfast at Wubin with Mr Milne as planned, and then the three of them drove to Payne’s Find to top up on petrol, before heading towards Sandstone. After

this time, Mr Milne is the only known person who is able to give evidence as to their movements.

7. On the afternoon of 19 March 2015, the three of them set up camp at a location known as “*Bell’s Camp*”, approximately 30 kilometres south of Sandstone, and 1.5 kilometres off the unsealed Paynes Find-Sandstone Road.
8. According to Mr Milne they were planning to prospect at a nearby area that between themselves they had referred to as the “*three million dollar patch*.” It appears to have been an area that had initially been named as such by Ray. They all hoped this area would render some valuable prospecting finds.
9. Ray and Jennie had not disclosed to their family exactly where they were going to prospect. There was some secrecy about the area, and this is not unusual behaviour in the context of prospecting. Ray and Jennie told their family they may be out of mobile telephone range for about ten days, and not to stress about it.
10. My findings in respect of the events that followed the setting up of their camp are addressed in the body of this document. For the purposes of this introduction I turn now to the return to Perth of one of the members of this group, Mr Milne.
11. On 22 March 2015, Mr Milne returned to Perth on his own. There is no further information about Ray and Jennie’s movements. Concerns were elevated in late March 2015, when family members could not make contact with Ray or Jennie, and their beloved Great Dane Ella was sighted wandering, ultimately walking into the Sandstone Caravan Park, where she was tended to.
12. Inquiries commenced on 31 March 2015, and on the next day the Western Australia Police Force implemented a land search and rescue (LandSAR) operation.
13. By a sequence of events that is addressed later in this finding, on 8 April 2015 Ray was tragically found deceased at the bottom of a disused mineshaft, approximately 1.8 kilometres north of their campsite. No trace of Jennie has been found, nor is it known how she came to harm, and whether that occurred before or after Ray died. At the close of the inquest,

I determined that Jennie had also tragically died, at or about the same time as Ray.

THE INQUEST

14. This part addresses the statutory and legal framework for the coronial investigation, which includes the inquest.
15. Ray's death was a reportable death within the meaning of s 3 of the *Coroners Act 1996* (WA) (Coroners Act) and it was reported to the coroner as required by that legislation. By reason of s 19(1) of the Coroners Act I have jurisdiction to investigate Ray's death.
16. Under s 23(1) of the Coroners Act I determined that I had reasonable cause to suspect that Jennie had died and that her death was a reportable death. On 5 December 2018 I directed that her suspected death be investigated, with the result that, under s 23(2) of the Coroners Act an inquest into her death became mandated.
17. In light of the surrounding circumstances of the joint prospecting trip, whilst an inquest into Ray's death was not mandated, it was nonetheless desirable, within the meaning of s 22(2) of the Coroners Act, for there to be an inquest into his death. Under s 40 of the Coroners Act I directed that the deaths of Ray and Jennie be investigated at one inquest.
18. I held an inquest on dates between 6 January and 11 February 2020. I heard from 27 witnesses and received statements from family members. I received 7 volumes of material (Exhibits 1 to 7) into evidence, containing a total of 140 tabs.
19. My primary function has been to investigate the deaths of Ray and Jennie. It is a fact-finding function. Pursuant to s 25(1)(b) and (c) of the Coroners Act, I must find if possible, how each death occurred and the cause of each death.
20. Pursuant to s 25(2) of the Coroners Act, in this finding I may comment on any matter connected with each death including public health safety or the administration of justice. This is the ancillary function.
21. Section 25(5) of the Coroners Act prohibits me from framing a finding or comment in such a way as to appear to determine any question of civil liability or to suggest that any person is guilty of an offence. It is not my

role to assess the evidence for civil or criminal liability, and I am not bound by the rules of evidence.

22. By the time of the inquest, it had become widely known that some suspicion had fallen upon Mr Milne in relation to the deaths. The intense media attention and speculation about his involvement had previously been raised with him in a televised program. No charges have ever been laid against Mr Milne in respect of the deaths, though he has been extensively questioned by police in relation to them.
23. Having arranged the prospecting trip with Ray and Jennie, and being the last known person to have seen them alive, Mr Milne's evidence was vital to the inquest. On 15 and 16 January 2020, Mr Milne was called to give evidence at the inquest and he declined to answer questions on the grounds that his evidence would incriminate or tend to incriminate him.
24. Through his lawyer, Mr Milne made an application for a Certificate under s 47(1) of the Coroners Act, which if granted, would result in his answers not being admissible in evidence in criminal proceedings (other than on a prosecution for perjury committed in the proceedings). The Western Australian Police Force through its lawyer, the State Solicitor's Office (SSO), informed the court that there was no present intention to charge Mr Milne.
25. I determined it expedient for the ends of justice that Mr Milne be compelled to answer. Mr Milne provided his answers under that statutory compulsion, and at the close of his evidence I determined that he gave evidence to my satisfaction, meaning that his answers were responsive to the questions. I therefore granted Mr Milne a Certificate under s 47(2) of the Coroners Act.
26. It is at this juncture apposite that I set out the well-known tenets concerning the function of an inquest, adopted by The Honourable Justice Toohey in *Annetts v McCann* (1990) 170 CLR 596 at 616, setting out the following passage:

“Once again it should not be forgotten that an inquest is a fact finding exercise and not a method of apportioning guilt. The procedure and rules of evidence which are suitable for one are unsuitable for the other. In an inquest it should never be forgotten that there are no parties, there is no indictment, there is no prosecution, there is no defence, there is no trial, simply an attempt

to establish facts. It is an inquisitorial process, a process of investigation quite unlike a trial where the prosecutor accuses and the accused defends....”

27. Within the course of an inquest, and/or within the related finding, a coroner may make findings or comments that are adverse to the interests of an “*interested person.*” Under s 44(3) of the *Coroners Regulations 1997*, an interested person includes (but is not limited to) a person whose act or omission may in the opinion of the coroner have caused or contributed to the death, and the Commissioner of Police.
28. Pursuant to s 44(2) of the Coroners Act, before I make any finding adverse to the interests of an interested person, that person must be given the opportunity to present submissions against the making of such a finding.
29. After the evidence was taken at the inquest, submissions were provided to me for the purposes of s 44(2) of the Coroners Act between 14 April and 29 June 2020.
30. In making my findings I have applied the standard of proof as set out in *Briginshaw v Briginshaw* (1938) 60 CLR 336 per Dixon J at 361 - 362 which requires a consideration of the nature and gravity of the conduct when deciding whether a matter has been proved on the balance of probabilities.
31. After the inquest, one of the matters for me to consider concerned my statutory function under s 27(5) of the Coroners Act to report to the Director of Public Prosecutions if I believe that an indictable offence has been committed with respect to the deaths, or either of them. By reason of my findings on the circumstances attending Ray’s death, I have made this report. No person is identified in connection with my belief that an offence has been committed.
32. My findings appear below.

BACKGROUND

33. By way of personal background, Ray was 47 years old at the time of his death. He grew up in Cunderdin mainly, and had three siblings. Jennie was 49 years old at the time of her disappearance. She was born in

Queensland and moved to Western Australia when she was approximately 23 years old.¹

34. Ray and Jennie married in October 2007. They both had children from previous marriages. Ray had three children with his former wife, and two daughters survive him. Jennie had three children with her former husband, all of whom survive her.²
35. Ray and Jennie had resided in York and Lesmurdie before initially renting a farming property of about 150 acres in Beverley in about September 2011. They purchased the farm a few years later from their friend, and named it “*Meridiem Ridge*.”³
36. Ray and Jennie had a rescue dog that they were very much attached to, a Great Dane called Ella who they got in about 2009. Ray enjoyed farm work, fishing and shooting. Jennie enjoyed painting, art and old movies. She also enjoyed camping and fishing. Ray and Jennie shared similar interests and both enjoyed being outdoors and working on their farm. They were described as being “*laminated together*” and doing everything together, and with Ella where possible.⁴
37. Ray and Jennie both worked for Fortescue Metals Group (FMG), with Ray starting in 2009 and Jennie starting in 2012. They worked together at FMG’s Cloudbreak mine site. Ray worked as a plant operator, and also did some stand-in work as a supervisor. Jennie worked as a dump truck operator. Within the work setting they were also described as always being together, and seeming happy there.⁵
38. In the months prior to March 2015, Ray and Jennie had voluntarily reduced their working hours and opted for a job sharing arrangement that would allow them to spend more time working on their farm, which was their passion.⁶
39. In terms of their health as at 2015, Ray had his thyroid removed about 15 years earlier due to cancer. Jennie had thyroid issues as well and took Thyroxin, and suffered some ongoing back pain despite surgery. There are no records indicating that they had any mental health conditions, or

¹ Exhibit 1, tabs 1 and 2; Exhibit 3, tabs 6 and 7.

² Exhibit 3, tabs 4 and 7.

³ Exhibit 1, tab 15; Exhibit 2, tabs 1 and 2; Exhibit 3, tabs 4, 8 and 36; Exhibit 4, tab 1D.

⁴ Exhibit 1, tab 15; Exhibit 2, tab 1; Exhibit 3, tabs 4 to 6; Exhibit 3, tab 36.

⁵ Exhibit 1, tab 16; Exhibit 2, tabs 2 and 6; Exhibit 3, tabs 4, 5 and 8.

⁶ Exhibit 3, tab 5.

any concerns that might give rise to a suspicion that any self-harming behavior played a part in their deaths.⁷

40. Ray and Jennie met Mr Milne at Cloudbreak. Mr Milne worked for FMG as an emergency services officer and had been in the position for five years. He met Jennie while treating her for chest pains and met Ray at that same time.⁸
41. Ray and Jennie developed a friendship with Mr Milne, who was also a prospector, carrying out that activity in his spare time. Jennie had initially expressed some interest in prospecting. The three of them started to sit with each other at the breakfast tables while on camp, or occasionally have dinner together. Ray and Jennie's interest in prospecting developed in the course of these interactions.⁹
42. Mr Milne visited Ray and Jennie at their farm in Beverley on a number of occasions. During those visits Mr Milne introduced Ray and Jennie to some practical prospecting skills, including by preparation of their vehicles and running a metal detector over parts of their farm. They also practiced abseiling off the rafters in a shed, and off a boulder in one of the paddocks.¹⁰
43. The first joint prospecting trip that had been planned by Ray, Jennie and Mr Milne was to Mount Palmer. However Ray and Jennie did not end up going due to illness in the Kehlet's family. Their plan, had it proceeded, was to enter a horizontal mine shaft in the wall of a mine pit, by roping along some 40 feet from the top of the mine pit wall.¹¹
44. The first joint prospecting trip that Ray, Jennie and Mr Milne actually took together was in early March 2015. Whilst they reached camp in the Mount Magnet area, on this occasion their trip had to be cut short. They struck the remnants of a cyclone and they stayed two nights, waiting for the rain to stop. Their plan, had they been able to proceed, was to prospect at areas around Sandstone called "*Tabletop*" and "*Bell Chambers*."¹²
45. According to Mr Milne, it was on this first prospecting trip that they had specifically wanted to go to an area they referred to between themselves

⁷ Exhibit 1, tab 15; Exhibit 2, tab 1; Exhibit 3, tabs 4 and 5.

⁸ Exhibit 2, tab 13; Exhibit 4, tab 1A; Exhibit 5, tab 2.

⁹ Exhibit 4, tabs 1A and 1D.

¹⁰ Exhibit 3, tabs 4 and 5; Exhibit 4, tab 1D.

¹¹ Exhibit 3, tab 8; Exhibit 4, tab 1D; ts 790 to 791.

¹² Exhibit 3, tab 6; Exhibit 4, tabs 1A and 1D; Exhibit 5, tabs 1 and 2.

as the “*three million dollar patch*.” All three of them had done research on this area. Ray and Jennie had also previously told a friend that they were planning on abseiling down old mine shafts to look for gold. However, having gotten rained out, they left early and they all agreed to go back to Sandstone a couple of weeks later after Mr Milne’s next shift at Cloudbreak mine, to try again.¹³

46. On this next trip, the ill-fated prospecting trip, a catastrophic event or events occurred, resulting in the deaths of Ray and Jennie.

THE ILL-FATED PROSPECTING TRIP

47. Ray and Jennie went on the ill-fated prospecting trip with Mr Milne on 19 March 2015, to the general area known as Bell Chambers, south of Tabletop and approximately 30 kilometres south of Sandstone. It is a remote part of Western Australia. Mr Milne had been prospecting in this area on approximately eight occasions in the years prior this trip.¹⁴
48. Mr Milne’s evidence was that Ray was especially keen on going to the “*three million dollar patch*” but that they never made it through the tracks to reach it. There is no other record or note of an area called the “*three million dollar patch*.” At the inquest Mr Milne pointed to this area on a map, showing it to be approximately three to four kilometres south-east of the campsite. Having regard to the LandSAR search map, and the location of their campsite, this area was in roughly the opposite direction to where Ray’s body was found.¹⁵

The Plan

49. I commence here by reviewing the evidence concerning the plan that Ray and Jennie had made with respect to this prospecting trip. It is known that they were interested in finding gold, and that they were going to look for gold or other metals by use of a metal detector along the ground.
50. The purpose of this review is to assist me in finding whether Ray and/or Jennie had also intended to descend into one or more of the old mineshafts around their campsite, to look for gold or other metals.

¹³ Exhibit 3, tab 36; Exhibit 4, tab 1D; Exhibit 7, tabs 8 and 9; ts 791 to 792; ts 916.

¹⁴ ts 202; ts 788.

¹⁵ Exhibit 7, tab 2; ts 811 to 812.

51. An independent record exists that reflects upon their plan in the form of a mud map, that was found by Detective Senior Constable Bartholomew Meyers on 4 April 2015 in the Kehlet's backpack that had been seized from the campsite after the police investigation began.¹⁶
52. Mr Milne had made some markings on the mud map, for the purpose of showing Ray and Jennie where they were to go. He had written the words "Sandstone" and "Gravel Pit" to show the relative location of the turn off to an area he has marked "camp", with a line going up to an area he has marked as "1st HOLE."¹⁷
53. As it transpired they did not camp at the marked location, because the ground was too hard and not suitable for Ella, the Great Dane. They found another place to camp nearby that had some grass, which was better for Ella.¹⁸
54. At the inquest Mr Milne testified that his words "1st HOLE" referred to a "crystal mine" that Jennie was interested in. By reference to where Ray's body was found, Mr Milne's evidence was that the crystal mine shaft was higher up and to the left. He said it was not a vertical shaft. Having regard to the LandSAR search map, that would be north-west of the camp site, therefore in the opposite direction of the "three million dollar patch."¹⁹
55. Relevantly, there are references to a "hole" in communications between Ray and Mr Milne in the months before they set off on this prospecting trip, as follows:
- a) On 29 January 2015, in the context of the rainy weather, Mr Milne sent an email to Ray that in part stated: "*At least with the hole full of water no-one else will be in it;*"
 - b) On 16 February 2015, in the context of looking at the tracks, Ray sent an email to Mr Milne that stated: "*Can I get the four corner coordinates of the lease so that I can map for you and also look at the tracks to the hole as I get them real clear;*"
 - c) On 16 February 2015, in the context of getting coordinates, Ray sent an SMS text to Mr Milne that referred to going "*down the hole*";

¹⁶ Exhibit 3, tabs 17 and 34.1A; ts 808 to 809.

¹⁷ Ibid.

¹⁸ ts 809; ts 824.

¹⁹ Exhibit 3, tab 34.1A; Exhibit 7, tab 2; ts 808 to 809; ts 857; ts 859.

- d) On 17 February 2015, in the context of a weather report describing cyclonic activity, Mr Milne sent an email to Ray that stated: “*We might not get any of this at the hole, but it should hit us at work*”; and
- e) On 7 March 2015, in the context of Mr Milne offering Ray a mapping system, Ray responded by SMS text to Mr Milne stating: “*Probably doesnt matter as not be going down holes without you anyways (sic).*”²⁰
56. The last handwritten entry in Jennie’s diary, made under the section for 18 March 2015 referred to the following: “*Hopefully go to Hole fingers crossed.*” This was the day before they all departed for this prospecting trip. The diary had been seized by investigating police from the Kehlet’s possessions at the campsite.²¹
57. The various references to “*hole*” on the mud map, in the above emails and texts, and in Jennie’s diary, could be references to a particular mine shaft, or more than one mine shaft. The “*hole*” as such is not identified, nor do the above communications and notations necessarily reflect on whether their intention was to focus on one mine shaft, or more than one.
58. There is no indication that the “*1st HOLE*” on the mud map was the crystal mine shaft, and in any event it is unlikely that a significant purpose of this prospecting trip was to look for crystals. Their purpose was to prospect for gold. The general tenor of their communications is that the “*hole*” was a vertical mine shaft, and not a more or less horizontal one.²²
59. Unfortunately due in part to Ray and Jennie remaining secretive about this prospecting trip (as outlined in the part immediately below), it is no longer possible to reach a conclusion as to where, exactly, the two of them had intended to prospect for gold in the Sandstone area, nor where the “*hole*” or “*1st HOLE*” is to be found.
60. It is known from his work roster details that Mr Milne was due to return to his shift work at Cloudbreak mine on 24 March 2015. It appears that Ray and Jennie had intended to stay on for a short period, to keep prospecting after Mr Milne was to leave. They then intended to travel to Lake Miranda, then via the Agnew-Lake Miranda Road to Lawlers, then via the old Kalgoorlie Road to be home in early April 2015. Whilst it is

²⁰ Exhibit 4, tabs 9 and 10.

²¹ Exhibit 3, tabs 17 and 34; ts 286 to 291.

²² Exhibit 4, tabs 9 and 10; ts 792.

not known precisely when they had planned to leave the Sandstone area, the evidence indicates that it was on or about 22 March 2015.²³

61. The above travel time frame for Ray and Jennie corresponds broadly with the prior estimate given to their family, namely that they were going to be out of mobile telephone contact for ten days. There would have been effectively no mobile telephone coverage at their campsite, and uncertain coverage over areas of the rest of their trip.
62. At the inquest Mr Milne testified that he took the same gear more or less on both Sandstone prospecting trips including the same LandCruiser, same quad bike and same trailer. He did not take any roping or abseiling equipment on the Sandstone prospecting trips. He did take a Ferno rope rescue harness.²⁴
63. Mr Milne's evidence was that he himself was not planning on roping down any mineshafts on this trip. He had roped into shafts before, and was aware of the risks.²⁵
64. Having regard to the evidence that reflects upon Ray and Jennie's plans, I am satisfied that one of their planned or hoped for activities was to descend into a mineshaft.

Discussions with family members

65. Some further assistance with respect to understanding Ray and Jennie's motivation for this prospecting trip may be drawn from their discussions with family members.
66. Ray and Jennie both spoke with family members about this prospecting trip, and they were excited about it. Ray spoke about it with his daughter's partner on 17 March 2015. As indicated, the family was told that they were going to be out of range for about ten days and not to stress.²⁶
67. Jennie spoke about it with her daughter on 17 or 18 March 2015 and told her that they were going on the Sandstone trip the following day, and that they were taking Ella. Jennie said they wanted to get up there sooner rather than later and referred to a mining tenement within that context.²⁷

²³ Exhibit 3, tab 3; Exhibit 4, tab 8; ts 813.

²⁴ ts 910; ts 915 to 916.

²⁵ Exhibit 5, tab 2.

²⁶ Exhibit 2, tab 1.

²⁷ Exhibit 3, tab 6.

68. Records reflect that Jennie telephoned her daughter on 18 March at 1.28 pm, and there is no activity on Jennie's mobile telephone from that point.²⁸
69. The general tenor of conversations with family members indicates that Ray and Jennie were purposefully secretive about the exact location of this prospecting trip. This is not unusual behavior in the context of prospectors looking for gold, and ought not to evoke suspicion.²⁹
70. There was also some suggestion about another person or entity seeking prospecting rights over the same area. Hence this prospecting trip was also attended by some urgency. The evidence of Mr Robert Moss, the works supervisor from the Shire of Sandstone, who had closed the roads leading to the campsite between 2 and 13 March 2015 due to flooding, was that Ray telephoned him almost every day asking when the roads would be re-opened.³⁰
71. Ray and Jennie were excited to be setting off on this prospecting trip. There was a sense of adventure and an anticipation of a good outcome. There was a desire to preserve the secrecy of the location, with the aim of having it to themselves. Whilst they were outdoor people, fit and capable in challenging terrains, they were not seasoned prospectors. It is clear they were relying on Mr Milne to show them how to do that.

Getting to Bell's Camp, 19 March 2015

72. On 19 March 2015 Ray and Jennie left in separate vehicles, but travelling together, to go on their prospecting trip with Mr Milne. They were due to meet up with Mr Milne for breakfast at Wubin along the way.
73. Jennie was driving an old beige coloured LandCruiser Ute with the registration 1DXR560. She was towing a tandem axle trailer with a silver cage that was carrying a red quad bike.³¹
74. Ray was driving a fairly new black Land Rover Discovery with the registration 1BYU700 and towing a blue single axle trailer.³²

²⁸ Exhibit 1, tab 3.

²⁹ Exhibit 3, tab 6.

³⁰ Exhibit 3, tab 18.

³¹ Exhibit 3, tabs 18A and 33; Exhibit 4, tab 1A.

³² Exhibit 4, tab 1A.

75. Mr Milne had left for Wubin before Ray and Jennie. He was driving his dark green 80-series Toyota LandCruiser with the registration 01GRUMPY. The Landcruiser was dual fuel, using LPG and petrol. Mr Milne had taken his vehicle in for a service on 9 March and it was found to have a blown head gasket. It was repaired and he collected the vehicle on 17 March 2015. He was towing a trailer with his blue quad bike on the back, registration 1TOO600.³³
76. Ray and Jennie took Ella with them. They arrived at Wubin, approximately a three hour drive from Perth, in time for breakfast with Mr Milne at the Liberty Service Station on 19 March 2015. Ray had texted Mr Milne at 1.32 am on the morning of 19 March 2015 to confirm he and Jennie were on their way.³⁴
77. After breakfast together at the roadhouse in Wubin, the three of them drove to Paynes Find, where they all topped up on petrol.³⁵
78. From this point onward the only identifiable witness who can speak directly to what Jennie, Ray and Mr Milne did during their prospecting trip is Mr Milne.
79. From Paynes Find the three of them then headed along Paynes Find-Sandstone Road to the area called Tabletop, on the way to Sandstone. Mr Milne referred to the Paynes Find-Sandstone Road as the “*shortcut*.” It is an unsealed road between Paynes Find and Sandstone that removes approximately 60 kilometres of travel if you otherwise go on the sealed roads between Paynes Find and Sandstone via Mount Magnet.³⁶
80. The three of them arrived at their destination in the afternoon of 19 March 2015 and set up camp approximately three to four kilometres south of Tabletop, being 30 kilometres south of the Sandstone town-site. The campsite was approximately one and a half kilometres off the Paynes Find-Sandstone Road, in an area known to locals as “*Bells camp*.” Mr Milne had been there with the Mandurah Amalgamated Prospectors and Leaseholders Association of WA in the previous two years.³⁷
81. They spent a little time looking for an appropriate campsite. Mr Milne’s evidence was that they did not camp any closer to the “*three million dollar*

³³ Exhibit 3, tab 24; Exhibit 4, tab 1A; Exhibit 5, tabs 1 to 3.

³⁴ Exhibit 1, tab 3; Exhibit 3, tab 5; Exhibit 4, tab 1A;

³⁵ Exhibit 5, tab 1.

³⁶ Exhibit 5, tabs 1 and 2.

³⁷ Exhibit 1, tabs 3 and 13; Exhibit 4, tabs 1A and 1D.

patch” because they had first to find a way there through the creeks and without scratching Ray’s new vehicle.³⁸

82. One of the matters that took on some significance during the inquest concerns the behaviour of Ray and Jennie’s dog, Ella. The evidence, submissions and/or the inferences that could be drawn from it, unfolded as follows:
- a) Mr Milne’s evidence was to the effect that Ella was never tethered at the campsite, and that she frequently ran away (being distracted by wildlife), with the result that planned prospecting activities had to be postponed or altered, due to them having to chase Ella to bring her back;³⁹
 - b) Mr Milne said that on one occasion they spent about one and a half to two hours searching for Ella;⁴⁰
 - c) Mr Milne’s evidence was to the effect that eventually, these interruptions led to him to decide to go and prospect on his own;
 - d) further, through his lawyer Mr Milne submits that Ray accidentally fell down the mineshaft where his body was found, because he was chasing Ella; and
 - e) on the other hand, the Kehlet family maintain that Ella was greatly attached to Ray and Jennie, and did not have a habit of running off from them, and would not have done so.
83. It is within this context that the following evidence of Mr Milne is to be considered, namely that they had just positioned their vehicles when Ella ran off for the first time. This appears to have occurred just as they had arrived and set about unpacking their camp.⁴¹
84. Ella was not tethered when she was returned to the campsite, nor at any other stage, which would appear puzzling if she had the tendency to bolt.⁴²
85. Mr Milne has stated that later on that afternoon he and Ray went for a tour on their quad bikes for about an hour, while Jennie was back at the camp. The practice appears to have been for one of the three to remain at the

³⁸ ts 824 to 825.

³⁹ Exhibit 2, tab 31; Exhibit 3, tab 3; Exhibit 4, tabs 1A and 1D; ts 828 to 829.

⁴⁰ Exhibit 4, tab 1A.

⁴¹ Exhibit 4, tab 1D.

⁴² ts 824 to 825.

camp, for oversight. Jennie preferred to go to areas where she could see the campsite, and she did not like to travel too far from it.⁴³

86. According to Mr Milne he and Ray heard gun shots while they toured on 19 March 2015, and went up to higher ground to take a look. There they saw a vehicle approximately 500 to 600 metres away from them, with two males, and Ray fired a shot or shots from his rifle to signify that there were other people in the area besides them. There is no suggestion that Ray shot in the direction of the two males.⁴⁴
87. This evidence has resulted in some speculation as to who these males were, and what their motives may have been. It is unnecessary for me to reach a conclusion as to any incident with the two males shooting in the distance. There is no suggestion that there were two males acting aggressively, nor that there were two males directing gunshots at Ray and/or Mr Milne. Further, there is no evidence of Ray being the victim of a gunshot injury.⁴⁵
88. That evening, Mr Milne helped Ray and Jennie set up their rooftop tent. They then ate together and talked about plans for the next day, including going to the “*three million dollar patch.*” Mr Milne slept on his swag with a pillow, and a sleeping bag on top of him on the back seat of his LandCruiser.⁴⁶

The First Day, 20 March 2015

89. On the morning of Friday 20 March 2015, Mr Milne got up at day break and Jennie and Ray were already awake.⁴⁷
90. Mr Milne’s evidence is that in the morning, he and Ray travelled eastwards for about two kilometres, with him leading the way. They were looking for a specific area for prospecting. They were unable to access this area, and there was also some rain, so by about midday they returned to the campsite for lunch.⁴⁸
91. Records placed before me show there was no rain at Paynes Find or Mount Magnet for the period. The Sandstone records are less specific. Regard

⁴³ Exhibit 4, tab 1A.

⁴⁴ Exhibit 4, tabs 1C and 1D; Exhibit 5, tabs 2 and 3; ts 836 to 837.

⁴⁵ Ibid.

⁴⁶ Exhibit 4, tab 1D; Exhibit 5, tab 2; ts 838.

⁴⁷ Exhibit 4, tab 1D; ts 838.

⁴⁸ Exhibit 5, tab 3; ts 839 to 840.

is also to be had to the fact that recorded rain gauge's do not necessarily address the rain patterns of surrounding areas, especially where some distance is involved. There are no inferences to be drawn from the rain records.⁴⁹

92. After lunch Jennie took one of Mr Milne's metal detectors (SDC 2300) and went for a walk south of the campsite with Ella, in order to use it in the creek running past the camp. She was out for approximately one hour. Ray and Mr Milne were back at camp preparing the quad bikes to go to the "*three million dollar patch*."⁵⁰
93. Mr Milne's evidence is that Ella bolted again, and he and Ray chased after her on the quad bikes. After approximately 15 to 20 minutes, Mr Milne saw that Ray had found Ella, and the dog as returned to the campsite. Afterwards, from about 1.00 pm or 2.00 pm, Mr Milne and Ray went for a tour on the quad bikes, returning to the campsite between 4.00 pm and 5.00 pm.⁵¹
94. On Mr Milne's account, this exploration on quad bikes was for two to four hours. In his first statement to police, Mr Milne said that he and Ray went for a ride to look for areas to prospect. In his fourth statement to police, Mr Milne said that the plan was to find easy access for the vehicles so they could move the camp to the "*three million dollar patch*." The two accounts are not necessarily mutually exclusive. Rather, one gives more detail than the other.⁵²
95. The apparent difficulty was that the known pathways that led to the "*three million dollar patch*" were narrow and unsuitable for their vehicles.
96. On their return to the campsite, with Jennie they had dinner, and went to bed relatively early at around 8.00 pm or 9.00 pm at the latest. Again Mr Milne slept in his LandCruiser.⁵³

The Second Day, 21 March 2015

97. On the morning of Saturday 21 March 2015, they all got up at daybreak and had breakfast. Mr Milne recalled that Ella took off again straight after breakfast at about 6.00 am or 7.00 am, apparently chasing wildlife. There

⁴⁹ Exhibit 6, tab 8; ts 841 to 842.

⁵⁰ Exhibit 4, tab 1D; ts 843.

⁵¹ Ibid.

⁵² Ibid.

⁵³ Exhibit 4, tab 1D.

is some inconsistency in Mr Milne's accounts of the direction in which Ella took off, be it south, east or north.⁵⁴

98. One inference that may be drawn from Ella's direction, is that if it was northwards, it would support the theory that Ray was chasing the dog and accidentally fell down the mineshaft. However, dogs do not run in straight lines, and other than reflecting upon the likelihood of Ella having taken off, the precise direction of the dog's travel does not take the matter any further.
99. However, Mr Milne's evidence of what happened next is of great importance, because he states that this is the last time he saw Ray and Jennie.⁵⁵
100. Mr Milne's evidence is that he told Ray and Jennie that he had come out to go prospecting and that it was up to them to find their dog. He did not want any further involvement in chasing Ella. For that purpose, he states he lent Jennie his quad bike so that she, together with Ray on his quad bike, could go after Ella. This interaction is suggestive of some friction, or at least exasperation on the part of Mr Milne.⁵⁶
101. Mr Milne said he told Jennie to place his quad bike on his trailer (once they had finished chasing Ella) so that he did not make noise and wake them up when leaving the next morning. He also told Jennie that he was going to go "*speccing*" on foot.⁵⁷
102. It is to be borne in mind that on this account, there would not have been much time for talking because Jennie, it is to be remembered, was going to chase Ella who had taken off quite suddenly, and for this purpose she was borrowing Mr Milne's quad bike.⁵⁸
103. Mr Milne testified that this was the last time he saw them, and he recalled that Ray was wearing a blue flannel shirt, and Jennie was wearing a yellow fluorescent work shirt.⁵⁹
104. I turn now to Mr Milne's subsequent actions after Ray and Jennie left on the quad bikes to find Ella. Mr Milne has since described what he meant

⁵⁴ Exhibit 4, tabs 1B and 1C; Exhibit 5, tabs 2 and 3; ts 844 to 845.

⁵⁵ Exhibit 4, tab 1D.

⁵⁶ Exhibit 4, tabs 1A and 1D; ts 846 to 848; ts 862.

⁵⁷ Exhibit 4, tabs 1A and 1D; ts 848 to 849.

⁵⁸ Exhibit 5, tab 2.

⁵⁹ ts 862 to 864.

by going “*speccing*” (prospecting) on foot in that context. He has stated that it referred to him going out at night with torches to look for gold that is on the top surface, because it will glitter at nighttime.⁶⁰

105. Mr Milne’s account places him away from the campsite, and out of any contact with Ray and Jennie from the approximate times of 6.30 am on Saturday 21 March, to 3.00 am on Sunday 22 March, a total of approximately 20 hours. He states he did not sleep during that period when he was “*speccing*,” and that when he came back to the campsite in the early hours of 22 March 2015, he assumed Ray and Jennie were asleep.⁶¹

106. This aspect is further addressed below.

Mr Milne’s overnight prospecting, 21 to 22 March 2015

107. Mr Milne’s account of his overnight prospecting on his own has been the subject of some speculation, not the least because this might also be the period when Ray and Jennie came to harm.

108. On a review of the evidence, including the plausibility of Mr Milne’s account, I have determined that Mr Milne’s account is relevant to the inquest, but that such account does not go to show what may have happened to Ray and Jennie over this period, or who may have interacted with them. Of greater relevance, in the context of the inquest, is how the campsite appeared to Mr Milne on his return in the early hours of Sunday morning.

109. I turn now to Mr Milne’s account of his overnight prospecting. After Ray and Jennie left on the quad bikes to find Ella, he got some food and water and packed up for about an hour before going prospecting on foot by himself. He took his Minelab SDC 2300 metal detector, a UHF radio with an extension microphone, backpack, food and camel pack. He headed in a south westerly direction (and it will be recalled that Ray’s body was found in a mineshaft north of the camp).⁶²

110. Mr Milne has variously recalled departing the campsite to go prospecting between 6.30 and 7.00 am on 21 March 2015, and on another occasion he said it was at approximately 9.00 am. He has consistently maintained that

⁶⁰ Exhibit 4, tab 1D.

⁶¹ Exhibit 4, tab 1B; ts 849

⁶² Ibid.

he prospected overnight and did not return to the campsite until about 2.00 am or 3.00 am on 22 March 2015. The variations in his recall of the times can be accounted for by him not wearing a watch, and not necessarily having a need to know the precise times, at that stage. He also had little to no sleep over that period.⁶³

111. This account begs the question of how it is that someone would go prospecting for approximately 20 hours straight, on their own, and overnight with little or no sleep, and then take a long drive back home to Perth. Mr Milne had told police that it was normal for him to go out prospecting for such a period of time. His plan was to stop his vehicle and sleep by the roadside on the way home, when tired. The risks posed by driving under such circumstances are self-evident.⁶⁴
112. The question of Mr Milne's prospecting practices was explored at the inquest, including with a male who had prospected with him some half a dozen times previously. This witness had prospected with Mr Milne for approximately three to four hours at a time, not up to 12 hours, and rarely at nighttime.⁶⁵
113. This witness did say he found it strange that Mr Milne would then have chosen to drive home after being out prospecting all day and night, such attitude reflecting upon this witnesses' own common sense (as opposed to needing to draw from his prospecting experience).⁶⁶
114. Other witnesses referred to prospecting at nighttime. It is certainly not unheard of for a prospector to go out at nighttime. Rather, it is the overall period of time of Mr Milne's prospecting both daytime and nighttime that is unusual. This is so particularly when regard is had to the need to replenish food and/or water, and to the fact that he did not return to the campsite for approximately 20 hours despite being proximate at some stages.⁶⁷
115. Records reflect that Mr Milne's Garmin GPS, that he had in his vehicle back at the campsite, was activated at 10.28 pm on the night of 21 March 2015. This would have been when he was out on his overnight prospecting. The explanation proffered by Mr Milne was that Ray and Jennie may have been looking for him, and gone to his vehicle to use his

⁶³ Exhibit 4, tabs 1A and 1D.

⁶⁴ Exhibit 4, tab 1B; Exhibit 5, tab 1.

⁶⁵ ts 683 to 685.

⁶⁶ Ibid.

⁶⁷ Exhibit 4, tab 1D; Exhibit 5, tabs 1 and 2; ts 91; ts 107.

two way radio to try and contact him, thereby activating the GPS. Further detail regarding the Garmin GPS generally is under the heading *The GPS Placement*, later in this finding.⁶⁸

116. Through his lawyer Mr Milne draws attention to his preference for driving when it is dark, and his need to have gotten home promptly to prepare himself for his next shift at Cloudbreak.
117. For the purposes of the inquest, the import of Mr Milne's evidence regarding his overnight prospecting is that he cannot assist me in ascertaining what Ray and Jennie did and/or what happened to them, from the time he left the campsite on the morning of 21 March 2015.
118. As mentioned previously however, I am assisted by Mr Milne's observations of the campsite before he left it in the early hours of 22 March 2015, and these are addressed below.

Mr Milne leaves Bell's Camp, 22 March 2015

119. Mr Milne's evidence is that when he returned to the campsite in the early hours of Sunday, 22 March 2015, it was dark and quiet, and he assumed Ray and Jennie were asleep in their tent. He has stated that Ella was there and was not tied up. Furthermore, that the generator on the front of Ray's trailer was not running and the only lights at the campsite were from the solar lamps.⁶⁹
120. Mr Milne saw that his quad bike was on his trailer (as had been prearranged with Jennie) with the key in the ignition, and that the ramps and tail gate were up. He saw that Ray's quad bike was at the back of Ray's trailer as if ready to go up the ramps.⁷⁰
121. Mr Milne said he was at the campsite for about an hour brewing a cup of coffee, and packing. This included tying his quad bike down on his trailer. During this time, he did not see or hear from Ray or Jennie, and he remained under the assumption that they were asleep. He felt it rude to wake them up at that early hour for the purposes of saying goodbye, as they knew he was leaving.⁷¹

⁶⁸ Exhibit 5, tab 2; ts 851.

⁶⁹ Exhibit 4, tabs 1A and 1B.

⁷⁰ Exhibit 4, tabs 1B and 1D; Exhibit 5, tab 2; ts 866 to 867.

⁷¹ Exhibit 5, tab 1; ts 866; ts 870 to 871.

122. Mr Milne said that before he left the campsite, he was aware that Ray and Jennie had about four jerry cans of fuel, ramps and recovery tools, two blue barrels of water, two batteries for lights, two Engel fridges of food and two tubs with dried food.⁷²
123. Mr Milne also said that before leaving he left some equipment behind for Ray and Jennie to use, as follows:
- a) An ATX Garrett metal detector, that he left on the campsite table (having previously discussed leaving them a detector);
 - b) A yellow hand held Garmin GPS (separate to the one in his vehicle);
 - c) A green plastic “*gold pan*” on a round table next to the tree;
 - d) A medium sized chain for “*chaining*” on the ground, on the same round table (“*chaining*” being the practice of clipping a chain to a belt and dragging it behind so as to leave a mark in the soil, to leave a trail where you have been, in case of getting lost).⁷³
124. Police subsequently searched for this specific equipment that Mr Milne asserted he left at the campsite, but were unable to find it.⁷⁴
125. However, again as to inferences that may be drawn, the complicating factor is that before the campsite was secured (after Ray and Jennie were found to have disappeared), it was visited by various known persons and may have been visited by unknown persons.
126. Mr Milne was going to leave Ray and Jennie his satellite telephone, as arranged, but he was unable to find it.⁷⁵
127. When Mr Milne left for Perth, on his observations of the campsite, there did not appear to be signs of a struggle or any untoward event. In other words, the campsite did not appear disheveled when he last saw it on 22 March 2015. At the inquest Mr Milne was shown photographs of the campsite that were subsequently taken by police in early April 2015, and was questioned as to whether there were any differences to what he had observed on his departure.⁷⁶

⁷² Exhibit 4, tab 1A.

⁷³ Exhibit 4, tabs 1B and 1D; ts 866 to 867.

⁷⁴ Exhibit 1, tab 3A.

⁷⁵ Exhibit 4, tab 1A; ts 870 to 871.

⁷⁶ Exhibit 3, tab 22A; ts 864 to 865.

128. By reference to these photographs Mr Milne confirmed that the set up was the same, and upon questioning he referred to the following differences in the appearance of the campsite:

- a) There appeared to be damage to the campsite;
- b) The most obvious difference was that the awning had come off Ray's trailer (in that it had descended); and
- c) The doona that appears bunched up on the ground near the right rear side of Ray's vehicle was not there when he departed.⁷⁷

129. Mr Milne left the campsite, on his various accounts, between two and three in the morning, or between three and four in the morning on 22 March 2015. He explained that he did not generally wear a watch (as it interfered with his prospecting equipment) and he did not check the time with any clock.⁷⁸

130. Mr Milne wanted to go home because he had to fly out for work on 24 March 2015, and wanted to allow himself a couple of days to unpack and get organised. His evidence was that Ray and Jennie planned to leave on that same Sunday (22 March), in the afternoon, to go to Lake Miranda, near Leinster.⁷⁹

131. Mr Milne's trip home to Perth is the subject of some controversy, because he provided two conflicting accounts of it to police. It is further complicated by the fact of there being a period of time (approximately two hours) unaccounted for by Mr Milne on the morning of 22 March 2015.

132. The details appear below.

MR MILNE'S TRIP BACK TO PERTH

Different versions

133. Mr Milne's route home to Perth from the campsite became a focus of the police investigation. He first told police that he travelled home by going through Mount Magnet, which is the longer route, but has the advantage of being on a sealed road.⁸⁰

⁷⁷ ts 864 to 865.

⁷⁸ ts 871 to 872; ts 906.

⁷⁹ Exhibit 5, tabs 1 and 3.

⁸⁰ Exhibit 5, tabs 1 and 2.

134. His explanation was that he did not travel home along the unsealed Paynes Find-Sandstone Road (which would have taken 60 to 70 kilometres off the drive) due to a concern about the performance of his vehicle, stating that his vehicle's engine "*missed*" and he did not want to be stranded on a little used, unsealed road. Furthermore, at that hour, there was a greater risk of hitting a kangaroo.⁸¹
135. Police showed Mr Milne data extracted from his GPS system, which placed him on the southern section of the Paynes Find-Sandstone Road, and challenged him on his account of going through Mount Magnet.
136. Mr Milne then maintained that he went through Mount Magnet, but that when he got to Paynes Find, he changed his mind and went up the unsealed Paynes Find-Sandstone Road for a short distance, with the intention of returning to the campsite, but that after a brief while, he changed his mind again, and decided to return home.⁸²
137. Through his lawyer Mr Milne accepts that he was not truthful to the police in respect of failing to tell them that he had driven up the Paynes Find-Sandstone Road several kilometres after having got to Paynes Find. However, he points to the fact that he admitted that failure to police in his 12 hour interview on 3 November 2015.
138. The Paynes Find-Sandstone Road is an unsealed road that links Paynes Find and Sandstone. It is effectively the hypotenuse of a triangle with Mount Magnet, Sandstone and Paynes Find being the three points designating the triangle. The two shorter roads (sides of the triangle) are the bitumen roads from Paynes Find to Mount Magnet (the Great Northern Highway), and from Mount Magnet to Sandstone (the Mount Magnet-Sandstone Road).
139. The details relevant to the different versions appear below.

The Mount Magnet version

140. The Mount Magnet version outlined below represents Mr Milne's account of his trip home.

⁸¹ Exhibit 5, tabs 1 and 2; ts 873 to 874; ts 883.

⁸² Exhibit 5, tab 2.

141. Mr Milne left the campsite between 3.00 am and 4.00 am on the morning of 22 March 2015. He drove down the dirt road (the same way he had come into the campsite) to the Paynes Find-Sandstone unsealed road and made a right hand turn onto it, travelling north towards Sandstone. He did not see anyone along this stretch of unsealed road.⁸³
142. He then made a left hand turn where the unsealed road hit the bitumen (bypassing Sandstone) and headed towards Mount Magnet, travelling on the sealed bitumen road to Mount Magnet (being the Mount Magnet-Sandstone Road).⁸⁴
143. Along the Mount Magnet-Sandstone Road, on his way to Mount Magnet, he stopped at a rest area for about 15 minutes to brew tea.⁸⁵
144. From Mount Magnet he took the Great Northern Highway travelling southwards, through Paynes Find and onto Perth, arriving home at about 11.30 pm on 22 March 2015.⁸⁶
145. On Mr Milne's subsequent account (being still the "*Mount Magnet version*"), at Paynes Find he went up the unsealed Paynes Find-Sandstone Road for a short distance, but then returned back to Paynes Find and continued his journey home. This detour is addressed in more detail under the headings below: *The evidence about the sighting on Paynes Find-Sandstone Road* and *The GPS placement*.
146. Turning back to Mr Milne's account of his travel through Mount Magnet, police subsequently investigated to ascertain what evidence was available of his trip home along this route.
147. There is a BP service station in Mount Magnet at the intersection of the Mount Magnet-Sandstone Road and the Great Northern Highway. The BP service station has Sandstone Road to the north, Great Northern Highway to the west, a wide dirt thoroughfare to a truck park, Great Northern Highway to the east and a rest/toilet and large truck parking area to the south.⁸⁷
148. Mr Milne said he had travelled straight from the Sandstone turnoff along the Mount Magnet-Sandstone Road, until the BP service station in Mount

⁸³ Exhibit 5, tabs 1 and 2; ts 872; ts 877; ts 906.

⁸⁴ ts 872 to 873.

⁸⁵ ts 873.

⁸⁶ Exhibit 5, tabs 1 and 2.

⁸⁷ Exhibit 7, tab 3.

Magnet and then he turned left and travelled south along the Great Northern Highway towards Paynes Find. He did not stop for LPG at the BP service station.⁸⁸

149. There is a Stop sign on the Sandstone Road approach to the intersection at the BP service station, and Mr Milne does not recall whether he went past that Stop sign. Through his lawyer he posits that he may well have driven on the dirt thoroughfare around the back of the BP service station, thereby avoiding the Stop sign.⁸⁹
150. This becomes relevant because, as is described in more detail below, Mr Milne's vehicle was not picked up on the BP service station's closed circuit camera (CCTV) footage despite there being reasonable coverage of the road by that CCTV, and there being no apparent problem with the surveillance recording system at the time.⁹⁰

The BP service station CCTV

151. The BP service station's CCTV titled "*camera 6*" observed the fuel bowsers, gas bottles and entry to the service station shop. There was no evidence before the court of any other CCTV coverage of the BP service station.
152. I accept Mr Milne's submission through his lawyer that the area in view in camera 6 is quite limited by the roof over the bowsers, however, the area just before where Sandstone Road crosses Great Northern Highway can generally be seen.
153. My attention is drawn to the practice of other drivers travelling through this area, and diverting off the bitumen Sandstone Road to avoid the Stop sign. In the example provided to me, camera 6 has detected a vehicle that turned left, driving straight through the front of the service station, to travel from Sandstone Road to Great Northern Highway and avoided stopping at the Stop sign.
154. My attention is also drawn to the usage of the dirt thoroughfare around the back of the BP service station that has the effect of avoiding the Stop sign. It is clear from the photographs that there are tyre marks, showing travel that is likely from the back of the BP service station over the kerbing and

⁸⁸ Exhibit 5, tab 1; Exhibit 7, tab 3.

⁸⁹ ts 873 to 875.

⁹⁰ Exhibit 3, tab 20; Exhibit 3, tab 21.

onto the Great Northern Highway. It would also indicate that travel occurs in the opposite direction as well.⁹¹

155. Whilst Mr Milne does not recall whether or not he stopped at the Stop sign, and through his counsel he suggests he likely went around the back of the BP service station thereby avoiding the Stop sign, it is noteworthy that Mr Milne has no direct or specific recall of actually going around the back of the BP service station.⁹²

The evidence about the sighting on Paynes-Find Sandstone Road

156. At the inquest, I heard evidence about the sighting, by husband and wife prospectors, Mr Marc Granville and Ms Georgina Granville (the prospectors), of an older male standing outside a parked dark coloured four wheel drive and attached trailer with a quad bike on it, at approximately 5.30 am on 22 March 2015, along the northern section of Paynes Find-Sandstone Road.⁹³
157. The prospectors had turned into the Paynes Find-Sandstone Road from Sandstone, and were driving in a southerly direction towards their mining tenement. The sighting occurred approximately 25 to 35 kilometres along the Paynes Find-Sandstone Road. It was dark and overcast, they initially had their high beams and spotlights on and had previously been driving at a speed of approximately 80 kilometres per hour.⁹⁴
158. The prospectors saw the male's vehicle lights from a distance, and as they got closer they thought that this male, parked on the side of a dirt road and outside his vehicle, may need some help. The parked vehicle was facing southwards, in the same direction they were travelling and the male was standing near his trailer. They dipped their lights and slowed down to approximately five to ten kilometres per hour as they approached him, to signify their willingness to help.⁹⁵
159. The male waved them off, in a manner that they interpreted as aggressive. He did not appear grateful for their concern, rather the opposite. They formed the view from his gesticulating that he wanted them to quickly move on and away from him.⁹⁶

⁹¹ Exhibit 7, tab 3.

⁹² ts 875 to 878.

⁹³ Exhibit 2, tabs 26 and 27; ts 173 to 191; ts 618 to 634.

⁹⁴ Exhibit 2, tabs 26 and 27; ts 183; ts 191; ts 608 to 09; ts 613.

⁹⁵ Ibid.

⁹⁶ Exhibit 2, tabs 26 and 27; ts 614.

160. They did not see any other vehicles or persons along the Paynes Find-Sandstone Road that morning, other than this sighting. The road is used infrequently.⁹⁷
161. The prospectors later became aware of a television program concerning the Kehlets, and featuring Mr Milne. They formed the view that the man they saw along the Paynes Find-Sandstone Road may have been Mr Milne and they quite properly contacted the authorities in case the information was important.⁹⁸
162. If it was indeed Mr Milne, it would go to show that he had lied when he said, repeatedly, that he did not take the Paynes Find-Sandstone Road home. It would beg the question of why he would lie about being on this road and/or this section of the road. The relevance to the inquest is that his placement along the Paynes Find-Sandstone Road may assist with the inquiries about what happened to Jennie.
163. The prospectors' evidence at the inquest, including their diligent review of photographs shown to them, persuades me that the male person that they saw along the Paynes Find-Sandstone Road is not established as being Mr Milne. In reaching this conclusion I have taken account of the following:
- a) One of the unusual features that the prospectors both recalled was that the quad bike on the male's trailer was facing east-west, opposite to the direction in which the male's vehicle was travelling;⁹⁹
 - b) Mr Milne's quad bike cannot be accommodated in an east-west direction on his trailer, and on various images, his quad bike is consistently placed in a north-south direction on his trailer;¹⁰⁰
 - c) Having regard to the photograph of Mr Milne's actual trailer, at the inquest it was clarified by both prospectors that they in fact saw a "*camper trailer*", and in any event, not Mr Milne's trailer;¹⁰¹
 - d) Prior to the inquest, both prospectors had been shown a photograph of Mr Milne after the television program and asked by

⁹⁷ ts 618.

⁹⁸ Exhibit 2, tabs 26 and 27; Exhibit 5, tab 3; ts 186 to 187; ts 619 to 620; ts 629 to 630.

⁹⁹ ts 611 to 612; ts 627.

¹⁰⁰ Exhibit 2, tab 26B; Exhibit 7, tabs 4, 7 and 8.

¹⁰¹ ts 174 to 175; ts 184; ts 605 to 605; ts 626.

police whether it was the male person that they saw along the Paynes Find-Sandstone Road; I am satisfied that the prospectors answered truthfully in accordance with their recollections, and there is some basic degree of similarity of appearance (gender, build); however, in circumstances I cannot place any weight on the purported identification.¹⁰²

164. It is therefore not established that Mr Milne was parked alongside the Paynes Find-Sandstone Road, facing in a southerly direction, approximately 25 to 35 kilometres from the Sandstone turnoff, at approximately 5.30 am on 22 March 2015.
165. However, during Mr Milne's police interview on 3 November 2015, when presented with information downloaded from the GPS in his vehicle, that places him at the other end of the Paynes Find-Sandstone Road (the southern end close to Paynes Find) mid-morning on 22 March 2015, Mr Milne retracted his previous statements about not being on the Paynes Find-Sandstone Road at all, and the details are outlined below.

The GPS placement

166. The GPS is a global positioning system that uses satellites to determine latitude and longitude, which is transmitted to a receiver. It can provide location and time information in all weather, anywhere on or near earth, where there is an unobstructed line of sight to four or more GPS satellites.¹⁰³
167. At the material time, Mr Milne had a GPS receiver in his vehicle, that was powered by a cable to a power point near his console (being the cigarette lighter). The GPS receiver, a Garmin 1Que M4 (the Garmin GPS), has been described by him as faulty and prone to overheating. It was reliant on satellite connection, and regard is to be had to the remoteness of the area under consideration, insofar as it may have affected the Garmin GPS.¹⁰⁴
168. Data and times associated with Mr Milne's Garmin GPS, derived from the global positioning network, was subsequently downloaded by the

¹⁰² Exhibit 2, tabs 26 and 27.

¹⁰³ Exhibit 4, tab 4H.

¹⁰⁴ Exhibit 2, tab 9A; Exhibit 4, tab 4; ts 622; ts 628; ts 921 to 922.

Computer Crime Squad, and plotted. The system time was compared with Telstra time and adjusted accordingly.¹⁰⁵

169. I am satisfied that Mr Milne was driving his vehicle along the following continuous trail that has been plotted from the Garmin GPS by the Computer Crime Squad. It assists to establish the following:

- a) At 10.17 am on 22 March 2015, Mr Milne was approximately five kilometres north of Paynes Find, along the Paynes Find-Sandstone Road (this is the southern section of the Paynes Find-Sandstone Road);
- b) He was driving southwards towards Paynes Find; he is plotted driving southwards along this route on eight occasions between 10.17 am and 10.20 am;
- c) At 10.20 am Mr Milne turned left into the Great Northern Highway;
- d) By 10.21 am, Mr Milne is plotted near the Paynes Find roadhouse location.¹⁰⁶

170. The first point that the Garmin GPS data tracked, at 10.17 am on 22 March 2015, showed that Mr Milne was approximately 206 kilometres south of the campsite, and five kilometres north of Paynes Find. Subsequent points show he then drove towards Paynes Find, as outlined immediately above.¹⁰⁷

171. During investigations, it was initially thought by police that this first Garmin GPS point, at 10.17 am, was 300 metres off the Paynes Find-Sandstone Road, in bushland. This gave rise to a subsequent search for Jennie's remains in and around that area, with nothing of relevance found.¹⁰⁸

172. Through his lawyer, Mr Milne accepts that his vehicle's Garmin GPS activated at 10.17 am on the Paynes Find-Sandstone Road. It is not known why it activated then, and there is no trail available before that point such as to show how he got onto the Paynes Find-Sandstone Road. Mr Milne posits that the activation began then, when the power cable moved and contact was made with power in the cigarette lighter.¹⁰⁹

¹⁰⁵ Exhibit 4, tab 4H.

¹⁰⁶ Exhibit 1, tab 3; Exhibit 4, tab 4; Exhibit 4, tab 11; Exhibit 5, tab 2.

¹⁰⁷ Exhibit 4, tab 4H.

¹⁰⁸ Exhibit 1, tab 3; Exhibit 2, tab 33.

¹⁰⁹ ts 879.

173. However, through his lawyer, Mr Milne submits that the 10.17 am Garmin GPS point was not 300 metres off the Paynes Find-Sandstone Road, and that in any event he would not have been able to drive through such bushland. He maintains that he did not drive through any bushland off the Paynes Find-Sandstone Road.
174. The data downloaded by the Computer Crime Squad and plotted by the Western Australia Police Technology Crime Services shows the 10.17 am Garmin GPS point at the following location: 29.252762 (latitude) and 117.729342 (longitude). It is noted that the downloaded latitude is also recorded as 29.252716 (active track), and 29.2527723 (saved track). The differences are immaterial for the purpose of this finding. The recorded longitude remains constant.¹¹⁰
175. At the inquest, I heard submissions as to whether the 10.17 am Garmin GPS point was correctly understood as being 300 metres off the Paynes Find Road. If this was correct, it would mean Mr Milne had driven a not insignificant distance into bushland, and in the circumstances of Jennie's disappearance, it raised questions of what he knew of it.
176. However, I am not persuaded that the 10.17 am Garmin GPS point was 300 metres off the Paynes Find Road.
177. By reference to the scale supplied for the points plotted by Western Australia Police Technology Crime Services, the 10.17 am point is not shown to be 300 metres off the Paynes Find-Sandstone Road. Rather, it is closer to 100 metres off that road. Through his lawyer, Mr Milne has posited that it was 98 metres off that road.¹¹¹
178. In either case be it 300 metres or 100 metres (or an approximation of either), it is likely that the 10.17 am point is imperfectly detected by reason of the Garmin GPS having just become activated, to begin initiating contact with the data from the satellite systems. The more likely scenario is that Mr Milne was on the Paynes Find-Sandstone Road, driving towards Paynes Find. It is unclear as to why the GPS only activated at 10.17 am on 22 March 2015.¹¹²

¹¹⁰ Exhibit 4, tab 4H; Exhibit 5, tab 2A.

¹¹¹ Exhibit 4, tab 4H; Exhibit 4, tab 11; Exhibit 5, tab 2A.

¹¹² Exhibit 4, tab 4H; Exhibit 4, tab 11; ts 628.

179. Further information that persuades me to this view is as follows. To be very precise, this Garmin GPS point activated at 10.17.51 am (so almost 11.00 am). The very next Garmin GPS point is at 10.18.13 am (22 seconds later) and by this stage, it is plotted approximately 400 metres further down the Paynes Find-Sandstone Road. I am satisfied that Mr Milne could not have driven 300 metres through bushland and then down that road to the next plotted point within 22 seconds.¹¹³
180. The subsequent Garmin GPS data shows a continuous trail after Paynes Find, consistent with Mr Milne being on his way home, as follows:
- a) At 10.27 am, he was plotted at a truck stop 4.9 kilometres from Paynes Find;
 - b) At 10.47 am, he was plotted at a truck stop 20.4 kilometres from Paynes Find;
 - c) At 11.10 am, he was plotted at a truck stop 49.6 kilometres south of Paynes Find, and it shows he has stayed there for two hours, consistent with his account of making some tea and having a rest at that location;
 - d) At 1.17 pm he was plotted 55.2 kilometres south of Paynes Find (on the Great Northern Highway), and this is the end of this particular continuous trail of the GPS plotting.¹¹⁴
181. As outlined previously under the heading *Different versions*, when during his police interview of 3 November 2015, Mr Milne was presented with the Garmin GPS data that placed him on the Paynes Find-Sandstone Road, he conceded he had not been truthful about the route that he had taken home. In his earlier police interview on 8 June 2015, he had expressed significant reservations about the prospect of taking the unsealed Paynes Find-Sandstone road.¹¹⁵
182. In the police interview of 3 November 2015, Mr Milne explained that, having arrived at the Paynes Find turnoff (by driving there from Mount Magnet), he decided to go back to the camp, and turned into the Paynes Find-Sandstone Road, driving up there for about 15 minutes. He then changed his mind and came back down again. The above Garmin GPS points, on Mr Milne's account, should be read as the route he took when

¹¹³ Exhibit 5, tab 2.A.

¹¹⁴ Exhibit 4, tab 4G.

¹¹⁵ Exhibit 5, tabs 1 and 2.

he changed his mind and came back down to Paynes Find, in order to travel home.¹¹⁶

183. Furthermore, in the police interview of 3 November 2015, Mr Milne said he did not know why he decided initially to go back up to the campsite. He indicated that it was a combination of wanting to go back prospecting, and on the other hand being aware he had to go to work (at Cloudbreak). He said he was embarrassed about it. He explained that whilst he had not wanted to initially take the Paynes Find-Sandstone Road home because his vehicle was “*missing*”, at that point it was running well.¹¹⁷
184. At the inquest Mr Milne was questioned about his different versions. Mr Milne gave a similar account, stating that he initially decided to go back camping because he wanted to “*stick with*” the Kehlets, but he also realised that if he did not go to work, the crew would have been short. So upon reflection, he came back down again.¹¹⁸
185. Mr Milne testified that he did not initially disclose this short trip up and back down the Paynes Find-Sandstone Road to police when asked about the route home, because he was embarrassed and it made him look like an idiot. Self-evidently looking like an idiot was the least of the concerns facing him when being questioned about Ray and Jennie Kehlet, and answers if volunteered, must be truthfully given.¹¹⁹
186. As indicated previously Mr Milne had also stated that Ray and Jennie had planned to leave for Lake Miranda later on the same day that he left, being 22 March 2015. It remains unclear therefore as to how his proposed return to the campsite would affect that plan.
187. In the circumstances, whilst the differing versions given by Mr Milne remain unresolved, there is no reasonable and singular inference that can be drawn from the placement of Mr Milne along the Paynes Find-Sandstone Road from 10.27 am on 22 March 2015, in connection with Ray and/or Jennie.

¹¹⁶ Ibid.

¹¹⁷ Ibid.

¹¹⁸ ts 878 to 879.

¹¹⁹ ts 879.

The rest of the trip back to Perth

188. After 1.17 pm on 22 March 2015 (when as outlined above, Mr Milne's Garmin GPS plotted him at 55.2 kilometres south of Paynes Find), his GPS turned off. There is no indication of this being deliberate, rather it is a reflection of its intermittent operation.¹²⁰
189. At 2.12 pm on 22 March 2015, Mr Milne's mobile telephone made contact with the telephone tower at Wubin, and four separate messages came through to his partner's telephone. At 3.46 pm his mobile connected with the telephone tower in the Walebing area.¹²¹
190. At 5.33 pm on 22 March 2015, Mr Milne's Garmin GPS turned on again, and by this stage he was 30 kilometres north of Bindoon.¹²²
191. At 6.30 pm on 22 March 2015, CCTV footage reflects that Mr Milne was at the Ginger's Roadhouse, and by 8.17 pm on that date, his Garmin GPS reflects that he had arrived home.¹²³

THE KEHLETS "DISAPPEAR"

192. It was not immediately apparent that Ray and Jennie had disappeared. The usual factors that might have given rise to an earlier concern were not precipitated, because they had told family members they would be out of telephone contact for ten days, and not to stress about it.
193. Mr Milne returned to work and did not have any particular reason to urgently contact Ray or Jennie.
194. The alarm was not raised until 31 March 2015. By that stage unfortunately vital time had been lost, during which steps could have been taken to search for Ray and Jennie, and also to secure the campsite.
195. For the reasons that I have outlined later in this finding under the heading *Date of the deaths*, I am satisfied that Ray and Jennie died on or about 22 March 2015.
196. By the time a search commenced and the campsite was able to be secured, it is likely that they had been deceased for at least one week.

¹²⁰ Exhibit 1, tab 3; Exhibit 4, tab 4G.

¹²¹ Ibid.

¹²² Ibid.

¹²³ Exhibit 1, tab 3; Exhibit 4, tab 4G; Exhibit 4, tab 6.

197. As a consequence, between 22 March and 31 March 2015, Ray and Jennies' abandoned campsite is known to have been visited by a number of persons (who did not necessarily know it was abandoned). Whilst the preferable course would have been for the campsite to immediately be secured (had it been known they had disappeared) the observations of the visitors to the campsite assist me in establishing the surrounding circumstances.

198. None of the visitors to the campsite between 22 and 31 March 2015 saw any person at the campsite. Some of them saw Ella, the dog.

199. The details are outlined below.

Subsequent observations of the campsite

Mr Eller and Mr Roberts

200. After Mr Milne's departure in the early morning on 22 March 2015, the first known visitors to the Kehlet's campsite were Mr Gregory Eller (semi-retired oil and gas offshore construction manager) and Mr Fredrick Roberts (retired). They were in the Sandstone area, prospecting.¹²⁴

201. Mr Eller and Mr Roberts drove past the campsite mid-morning on 22 March 2015, in the course of looking for a place to do some more prospecting on their way home. They were each driving a vehicle, with Mr Eller in the lead, when they turned into the track (off the Paynes Find-Sandstone Road) that led to the campsite. They were driving slowly, and when they were approximately 50 metres away from the campsite, they stopped for a few minutes and looked at the site. They did not approach the campsite any further.¹²⁵

202. Mr Eller described it as a standard prospector campsite, and the details accord broadly with the photographs later taken by investigators. Mr Eller noted a trailer with a cage system and double ramp coming up from the side, a caravan or fold out trailer with awning, and a dark coloured four wheel drive. He did not recall seeing a quad bike.¹²⁶

¹²⁴ Exhibit 2, tab 19; Exhibit 3, tab 23.

¹²⁵ Exhibit 2, tab 19; ts 94; ts 110.

¹²⁶ Ibid.

203. Mr Eller noticed a Great Dane (which was Ella), sitting in front of the camp, and not tied up. The dog was barking, in Mr Eller's opinion as though to protect the campsite, but did not move towards them. He formed the view, quite reasonably, that there was no one at the campsite, because otherwise he would have expected them to come out, in light of the dog barking, and the sound of their vehicles.¹²⁷

204. Mr Roberts was in the vehicle behind Mr Eller. He did not focus on the barking dog, and does not especially recall that. Mr Roberts' recollection was that the camp was well set up, and again it accords broadly with the photographs shown to him, save that:

- a) Mr Roberts was fairly confident that he also saw a grey or green quad bike at the campsite, but conceded he may have been mistaken. He was confident he did not see a red quad bike there (Ray's quad bike being red, and later found approximately 500 metres north of the campsite); and
- b) The campsite, in the state that Mr Roberts observed it, appeared tidier than what he saw in the photographs.¹²⁸

205. Mr Eller and Mr Roberts quickly conferred and together they decided that, given someone was already prospecting in this area, they would move onto somewhere else. They therefore left, without approaching the campsite any further than a 40 to 50 metre distance.¹²⁹

206. Given the distance that Mr Eller and Mr Roberts kept, their observations are of necessity quite broad. However, they do reflect that the campsite was not disheveled, the untethered dog, Ella, was present, and the general state of the campsite was such as to lead to an assumption that the campers were probably prospecting nearby.

Mr Blair and Mr Richards

207. The next known visitors to the Kehlet's campsite were Mr Robert Blair and Mr Trevor Richards, both retired. They had come to the Sandstone area with their partners and friends to prospect. Five days later on the afternoon of 27 March 2015, while driving around in the course of looking for their next camping spot, they came across the Kehlet's campsite.

¹²⁷ Exhibit 2, tab 19; ts 84 to 88.

¹²⁸ Exhibit 3, tab 23; ts 100 to 107.

¹²⁹ ts 85.

There was no information at that stage about the Kehlet's having disappeared. They did not know whose campsite it was.¹³⁰

208. They were in the one vehicle, with Mr Richards driving and Mr Blair in the front passenger seat. A friend and fellow prospector was in the rear passenger seat. They chose a track to explore, and arrived at the campsite between 1.15 pm and 3.15 pm on 27 March 2015. They drove past the campsite without stopping, and noticed a Great Dane dog (being Ella) sitting up straight, on the doona near the Landrover, not barking. The dog was not tethered. They did not see any person.¹³¹
209. Like the previous witnesses, they described the campsite as appearing typical of its kind, and again the details accord broadly with the photographs later taken by investigators. As they drove on ahead, approximately 400 metres north of the campsite, they saw a red quad bike parked some two thirds up the side of a hill on their left, partially within bushland. They recalled it may have been pointing downwards, towards the campsite, but were not certain. They looked around but saw no-one. They kept on driving, slowly, as the tracks were rocky. They then found a camping spot for themselves.¹³²
210. The next day (28 March 2015) they moved camp to this spot. A few days later, on 31 March 2015, they were visited twice by two sets of persons they understood to be Shire of Sandstone workers (Council workers). The Council workers informed Mr Blair and Mr Richards about the missing prospectors (Ray and Jennie) and asked if they had seen anyone, to which they answered in the negative. They pointed the Council workers towards the Kehlet's campsite.¹³³
211. Later on, in the afternoon of 31 March 2015, Mr Blair and Mr Richards went for a walk to look for prospecting opportunities and again came across Ray's red quad bike in the same location. On this occasion they went up to it and saw it had been rained on, and thought it might have broken down. There were no keys in the bike, and no tracks in the surrounding area, suggesting the bike remained stationary throughout the intervening rains.¹³⁴

¹³⁰ Exhibit 2, tab 3; Exhibit 3, tab 22.

¹³¹ ts 121 to 122; ts 152; ts 156 to 157.

¹³² ts 122 to 124; ts 157 to 158.

¹³³ Exhibit 2, tab 3; ts 127 to 128.

¹³⁴ ts 128 to 129; ts 163.

212. They continued walking, towards the Kehlet's campsite, calling out so as to let anyone present know they were coming. When they arrived, on foot, on this occasion the dog was not there and they walked into the campsite. No other person was present. They approached Ray's Land Rover and on the dashboard, visible through the windscreen they found a note that had recently been left by the Council worker Mr Robert Moss, with his contact number. They surmised this was the missing prospectors' campsite.¹³⁵
213. They saw that some of the windows of Ray's Land Rover were slightly down and the vehicle was wet inside, which would have been from the rains. The Land Rover was not locked. The campsite generally looked rained on, but otherwise appeared to be generally in the same state as when they drove past on 27 March 2015.¹³⁶
214. They looked around for a pen and paper to write down the Council worker's contact details. They were concerned that, having come from the other direction, the Council worker would not have been aware of the red quad bike further up, apparently abandoned.¹³⁷
215. They looked around the campsite but could not find any writing implements, so they opened the glove box in Ray's Land Rover and found a pen. They saw a black leather wallet in there, and did not touch it. It appeared to be thick with cards. Mr Blair tore off a piece of paper from a map, to note the contact details.¹³⁸
216. When they looked in Ray's Land Rover, they also noticed that a wasp nest had been built, attached onto the inside door handle of the rear right-hand door. It was 20 to 30 centimetres in diameter, and appeared to Mr Blair to be a relatively new nest. In his experience they take a few days to build.¹³⁹
217. They did not touch anything else at the campsite when they went into it on 31 March 2015, save that Mr Blair had also tried to engage the Kehlet's UHF radio clipped to their trailer in an effort to make contact with his own camp, to relay the Council worker's contact details. When Mr Blair was unable to make that contact, he changed the channel back to where he found it (he believed he found it on channel 50).¹⁴⁰

¹³⁵ Exhibit 2, tab 3; ts 129 to 136; ts 163 to 164; ts 167.

¹³⁶ Ibid.

¹³⁷ Ibid.

¹³⁸ Ibid.

¹³⁹ Exhibit 2, tab 3; ts 129 to 136; ts 144 to 145; ts 164.

¹⁴⁰ Exhibit 2, tab 3; ts 129 to 136; ts 144 to 145; ts 162; ts 168.

218. Neither Mr Blair nor Mr Richards noticed any prospecting equipment lying about. Mr Richards also looked inside the ground tent (being the annex, not the rooftop tent) and saw items scattered about, and looking quite messy. He did not touch the items.¹⁴¹
219. Having made their note of the Council worker's contact details, Mr Blair and Mr Roberts walked back to their own camp. They were at the Kehlet's campsite for approximately 10 minutes. On the route back, they looked into some mine shafts (over half a dozen), in case anyone had fallen down a shaft. They did not see anything of note, and they did not have high powered flashlights.¹⁴²
220. As it transpired Mr Blair and Mr Richards had set up camp approximately 100 metres from the mineshaft where Ray's body was subsequently found. Shortly after they first arrived at their camp, on or about 29 March 2015 there was a westerly wind, and from their camp they smelt what they thought was a decaying kangaroo in one of the mine shafts. Mr Richards also recalled a "*horrible*" smell coming from one of the mine shafts as they walked around after they first set up camp.¹⁴³
221. After a couple of days (and after the heavy rains) the smell went away. The assumption was that it was from a kangaroo carcass. They had encountered dead kangaroos in mineshafts many times before and it was the same type of smell.¹⁴⁴
222. They relayed the information about the decaying kangaroo smell to the Council workers (on 31 March 2015) and to police (on 1 April 2015) when each, respectively, first attended at their camp. They described the smell as coming from the shafts just up from their camp.¹⁴⁵
223. The known visitors to the Kehlet's campsite did not see any person there between the afternoon of 22 March 2015 and the afternoon of 31 March 2015, being the period spanning their attendances there and/or in the surrounding area. The campsite did not appear to be the disheveled. Nor did it appear packed up in readiness for the Kehlet's departure. It is to be borne in mind that Ray and Jennie had planned to leave for Lake Miranda

¹⁴¹ Ibid.

¹⁴² Ibid.

¹⁴³ Exhibit 2, tab 3; ts 129 to 136; ts 144 to 145; ts 160 to 162.

¹⁴⁴ ts 137.

¹⁴⁵ ts 138; ts 146 to 147.

on 22 March 2015. This plan was either changed by them, or disrupted by an event.

224. The visitors to the Kehlet's campsite did not see any person there on and after 22 March 2015.

The dog, Ella, is found wandering

225. A number of witnesses have provided information about their observations of a Great Dane wandering around the area from 22 March 2015 onward. In each instance, I am satisfied it was Ella, who had not been tethered at the campsite, and had wandered off. It goes to show that Ray and Jennie had already come to harm and were no longer able to look after Ella, or able to seek to contact the Shire of Sandstone to ascertain if any person had seen their dog.

226. As described previously, Mr Eller noted Ella at the campsite mid-morning on 22 March 2015.¹⁴⁶

227. In the late afternoon on that same day, 22 March 2015, Ms Lana Lefroy, a pastoralist, was travelling southwards along the Paynes Find-Sandstone Road in a vehicle with her husband. They had left Sandstone at approximately 5.00 pm. When they were near the Dandaraga station, she noticed a Great Dane of a dark colour trotting towards them. They pulled over and Ms Lefroy tried to call the dog over but it would not go to her.¹⁴⁷

228. Ms Lefroy assumed the dog was a domestic pet that had gotten away from a nearby prospector. The dog did not appear to her to be injured. Ms Lefroy stated that she and her husband did not have time to try and catch the dog due to other commitments. In any event, catching a reluctant Great Dane out in the open area would present difficulties for anyone, irrespective of experience.¹⁴⁸

229. On 24 March 2015, the Council worker of the Sandstone Shire, Mr Rob Moss, was driving in a northerly direction up the Paynes Find-Sandstone Road towards Sandstone when he saw a Great Dane walking towards him (in a southerly direction) on that road. He was about 25 kilometres out of Sandstone. It was near the Tabletop tourist spot. Mr Moss saw the dog was collared and had a registration tag. He thought the owners were close

¹⁴⁶ Exhibit 6, tab 10.

¹⁴⁷ Exhibit 3, tab 12; Exhibit 6, tab 10.

¹⁴⁸ Ibid.

by and in any event, having regard to his experience of the unpredictable nature of dogs in the area, he drove on without getting out of his vehicle.¹⁴⁹

230. It is noteworthy that five days after Ella was sighted by Ms Lefroy along the Paynes Find-Sandstone Road (being five days after 22 March), and three days after she was sighted by Mr Moss along that road (being three days after 24 March), by 27 March 2015 Ella had found her way back to the campsite (having been sighted there on this latter date by Mr Blair and Mr Richards).
231. One day later, on 28 March 2015, the manager of a caravan park in Sandstone, Ms Carolyn Cramp, noticed a Great Dane in the park. Ms Cramp thought the dog looked hungry, as if it had not been fed for several days. When offered, the dog drank quite a bit of water. The dog looked a bit thin but not emaciated. The dog's paws did not appear to be blistered or burnt.¹⁵⁰
232. The dog was identified by the Shire of Sandstone as Ella, and Jennie's family was contacted through the Shire of Beverley. Ms Cramp looked after Ella for a few days, until she was collected by Jennie's family. On Ms Cramp's observations, Ella was domesticated, and desirous of company. Ella did not appear inclined to bolt or run away. It was the identification of Ella by the Shire that elevated concerns amongst the family of Ray and Jennie about their welfare.¹⁵¹
233. During the subsequent police investigations, family and friends of Ray and Jennie posited that Ella would not have run away from them without a significant cause. There are numerous and consistent accounts of Ella being much attached to Ray and Jennie, and being unlikely to have run away. Mr Milne had told police that Ray and Jennie would never leave without Ella.¹⁵²
234. Until Ella walked into the Sandstone caravan park on 28 March 2015, approximately 30 kilometres from the campsite, all other known sightings of Ella were within approximately seven kilometres of the campsite.
235. I have taken account of the sighting of Ella at the campsite on 27 March 2015. Nonetheless given Ella's known travel (including on 22 March 2015), and the accompanying observations of the campsite itself described

¹⁴⁹ Exhibit 3, tab 18; Exhibit 6, tab 10; ts 230 to 231.

¹⁵⁰ Exhibit 2, tab 12; Exhibit 6, tab 10.

¹⁵¹ Exhibit 2, tab 12; Exhibit 3, tab 4.

¹⁵² Exhibit 3, tabs 5, 33 and 36; Exhibit 4, tab 1A.

previously in this finding, I am satisfied that after 22 March 2015, Ella was no longer in the care of Ray and Jennie.

236. It is most likely that, had Ella disappeared and not been promptly located by Ray and Jennie (meaning the same day), they would have taken proactive steps to have her found, and begun making contact about a lost dog. There is no record of such steps being taken.

INITIAL STEPS

Police response

237. I have considered the initial response by police and am satisfied that it was promptly initiated with appropriate decisions made. The details appear immediately below.

238. On 31 March 2015, the family of Ray and Jennie called Mount Magnet Police for assistance, after receiving a call from the Shire of Beverly to inform them that Ella had been located and identified by Shire of Sandstone Council workers. There was also word from the Shire of Sandstone Council workers that the Kehlet's campsite appeared abandoned. A ring around amongst the family quickly established no-one had heard from Ray and Jennie (since 18 March 2015). A "*missing persons*" report was promptly made.¹⁵³

239. Constable Darren Street of the Mount Magnet Police Station received the initial messages from the family of Ray and Jennie. He took the details and sought the assistance of the Shire of Sandstone Council workers, passing details including vehicle registration numbers onto them (Sandstone did not have a police station). He spoke primarily with Mr Moss of the Shire of Sandstone. It was not unusual for Mount Magnet police to work with the Shire of Sandstone Council workers on such an inquiry, due to the distances involved, and the Council workers' access to the location, and their familiarity with it.¹⁵⁴

240. Constable Street continued his telephone inquiries throughout the day, speaking with relatives of Ray and Jennie. He was assisted by First Class Constable Brock Tucker (now Detective Senior Constable Tucker), also of the Mount Magnet Police Station. As already indicated, Ray and Jennie had been secretive about their intended prospecting location, so the family

¹⁵³ Exhibit 1, tabs 3 and 13; Exhibit 2, tab 1; Exhibit 3, tab 33.

¹⁵⁴ Exhibit 3, tab 33; ts 253 to 255.

was unable to provide him with information on the campsite's location. In Constable Street's own experience, this is quite common for prospectors. Nonetheless, Constable Street quite properly decided he had enough information to commence a missing person's report.¹⁵⁵

241. From information that Constable Street received from the family, he also ascertained that Ray and Jennie had gone prospecting with Mr Milne, so he rang him on that same day as well (at approximately 3.00 pm 31 March 2015). Constable Street's purpose was to gain an understanding of their prospecting plans, and he briefly informed Mr Milne about the circumstances.¹⁵⁶
242. Mr Milne told Constable Street that they had been camping together near Tabletop. Mr Milne also provided information about their food and water supplies, radio equipment, camping experience, and rifles; he referred to Ella often running away from the campsite chasing wildlife; he said Ray and Jennie would not have left without Ella; he speculated that Ray and Jennie may have got bogged in mud somewhere.¹⁵⁷
243. Shortly after his conversation with Mr Milne, Constable Street was provided with more precise information about the Kehlet's campsite. Constable Street spoke with Mr Moss of the Shire of Sandstone over the period approximately between 3.00 pm and 5.00 pm on 31 March 2015. This was on Mr Moss' satellite telephone, because he was already at the campsite. Mr Moss relayed that in his view, the campsite had been unoccupied for some time, and he notified Constable Street about the presence of two unsecured firearms in the black Land Rover (Ray's vehicle).¹⁵⁸
244. Constable Street arranged for Mr Moss to collect the two firearms from Ray's Land Rover to secure them at the Shire, and to leave a note with Mr Moss' contact details on the dashboard for when, it was hoped, Ray and Jennie returned, so they would not be unduly concerned about missing firearms. In conversation, Mr Moss provided the GPS co-ordinates for the campsite to Constable Street.¹⁵⁹
245. Finally on that day (31 March) Constable Street contacted the Western Australia Police Emergency Operations Unit (that specialises in LandSAR

¹⁵⁵ ts 255.

¹⁵⁶ Exhibit 3, tab 33; ts 256 to 257.

¹⁵⁷ Ibid.

¹⁵⁸ Exhibit 3, tab 33; ts 258 to 259.

¹⁵⁹ Ibid.

operations). He relayed the available information, and sought their advice. It was decided that it was too late, and unsafe, for Constable Street to seek to find the campsite at night. The plan was made for Mr Moss to go back to the campsite early the next day to report on whether Ray and Jennie had returned. If they had not returned, Constable Street was to go out there. At this stage it was being treated as a missing persons' inquiry. Initial steps had begun to set up an Incident Control Centre in Geraldton.¹⁶⁰

246. At 8.50 am on 1 April 2015, Mr Moss informed Constable Street that there had been no movement at the campsite, and that he had located a red quad bike approximately 500 meters north of the campsite. Constable Street, together with First Class Constable Brock Tucker, therefore left for Sandstone to commence their further inquiries. In Sandstone they met up with Mr Moss, and Mr Gary Kejellgren (a prospector who knew the area and was available to help them), and together they all arrived at the campsite at approximately midday on 1 April 2015.¹⁶¹

247. Constable Street reported seeing a beige Land Cruiser (Jennie's vehicle), a black Land Rover (Ray's vehicle), and a trailer with a camper on top of it. Assisted by First Class Constable Tucker, he made observations and took photographs of the campsite, that reinforced the view that it was abandoned. He noted that the wallet in Ray's vehicle had no cash in it. He made records but he did not seize any items on that day. He looked around the surrounding areas for any signs of Ray and Jennie, but heard and saw nothing of note.¹⁶²

248. The question arose as to whether the campsite ought to have been secured at an earlier stage and whether the matter ought to have been treated as a homicide inquiry at an earlier stage. Having regard to the information that was known at the time as outlined above, I am satisfied that the initial response appropriately addressed the matter as a missing person's inquiry.

Shire response

249. I have separately considered the initial response of the Shire of Sandstone. They assisted the Mount Magnet police as there was no local police station at Sandstone. I am satisfied that the Council workers appropriately took their initial steps to locate the Kehlet's campsite and that they responded promptly and diligently to the police's request for assistance. The details

¹⁶⁰ Exhibit 3, tabs 33 and 34; ts 260 to 266; ts 283 to 284.

¹⁶¹ Ibid.

¹⁶² Ibid.

appear below, and there is some overlap with the details of the police response.

250. Mr Moss, as mentioned earlier in this finding, was the works supervisor from the Shire of Sandstone who sighted a dog (Ella) walking along the Paynes Find-Sandstone Road on 24 March 2015. At that stage he had no reason for forming any concerns about missing persons.
251. On 31 March 2015 Mr Moss was informed that Ella's owners were missing, and was provided with their details and vehicle registrations. He made the connection and he recalled that Ray had telephoned him on a number of occasions earlier that month, asking about the conditions of the roads out to the Tabletop area, because he wanted to go prospecting. This is consistent with the known urgency that attended Ray and Jennie's departure for Sandstone.¹⁶³
252. Mr Moss and another Council worker Mr Donald Francis therefore promptly headed out towards the Tabletop area on that same day (31 March 2015) to look for Ray and Jennie. At this stage Mr Moss had not yet spoken with police. On their way, they came across the camp that had been set up by Mr Blair and Mr Richards, and having outlined their purpose, they were pointed in a southerly direction towards Kehlet's campsite.¹⁶⁴
253. Mr Moss and Mr Francis arrived at the Kehlet's campsite and saw that it appeared abandoned. They relayed the information to police, specifically to Constable Street. Mr Moss and Mr Francis found two firearms in Ray's unlocked Land Rover, one in a case and the other, a .22 Magnum apparently loaded and with the butt wet (due to rain on a previous day). On instructions from Constable Street, Mr Moss took the firearms for the purpose of securing them back at the Shire of Sandstone, and left the note with his contact details on the dashboard.¹⁶⁵
254. Mr Moss and Mr Francis looked around and called out and also looked into some of the nearby mineshafts. They heard and saw nothing of note, and they made their way back to Sandstone. Later that day, Mr Moss received information from one of the prospectors he had met about the location of the red quad bike (that Mr Moss had not yet seen). Mr Moss

¹⁶³ Exhibit 3, tab 18; ts 234 to 235.

¹⁶⁴ Exhibit 2, tab 21; Exhibit 3, tab 18; ts 236 to 237.

¹⁶⁵ Exhibit 2, tab 21; Exhibit 3, tab 18; ts 238 to 242.

told the prospector not to go back to the Kehlet's campsite or touch anything, and that he would be back the next day.¹⁶⁶

255. There is substantial and consistent information from family members and friends that refers to Ray being very fastidious about firearms safety and meticulous in the way he handled and kept his firearms. They say Ray would not leave a firearm loaded and unguarded, in an unlocked vehicle with its windows down. The circumstances are not explained by Ray leaving the campsite in haste to pursue Ella unless he was using or cleaning the firearm at the relevant time.¹⁶⁷
256. By agreement with Constable Street, Mr Moss and Mr Francis re-attended the Kehlet's campsite the following day, 1 April 2015. They observed no signs of any movement at the campsite. They located Ray's quad bike approximately 500 metres north of the campsite, on the left hand side of the track (if one is facing northwards) sitting behind trees and in the scrub. To be clear, the quad bike was facing away from the campsite, and in the direction of the mineshaft where Ray's body was subsequently located.¹⁶⁸
257. On their observations of the quad bike, there were no keys, the bike had been left in gear, it was not damaged and it had plenty of fuel. The keys for the quad bike were eventually located in Jennie's Land Cruiser back at the campsite.¹⁶⁹
258. Towards midday on 1 April 2015, Mr Moss and Mr Francis, together with Constable Street, First Class Constable Tucker and Mr Kjellgren, met up at the campsite to continue the investigation of the circumstances. The Shire had asked the local and experienced prospector Mr Kjellgren to assist the group due to his detailed knowledge of the area, and the fact that recent rains may have posed some difficulties in negotiating the remote terrain.¹⁷⁰
259. Further information of relevance was provided to the court by Mr Kjellgren at the inquest. On his observations, the contents of Ray's Land Rover looked disheveled, and he noted two bags on the back seat with scattered clothes and cigarette cartons (Ray did not smoke). In

¹⁶⁶ Ibid.

¹⁶⁷ Exhibit 2, tab 2; Exhibit 3, tabs 5 to 7.

¹⁶⁸ Exhibit 2, tab 21; Exhibit 3, 18; ts 243.

¹⁶⁹ Exhibit 2, tabs 21 and 23; Exhibit 3, tabs 17 and 18.

¹⁷⁰ ts 333.

contrast, the contents of Jennie's Land Cruiser were in small boxes and cartons and described as being in "*perfect condition*".¹⁷¹

Campsite appeared abruptly abandoned

260. The initial observations of the campsite made by the Police and the Shire as outlined above are significant, because they provide critical information about the last known location of Ray and Jennie. I am satisfied that Ray and Jennie arrived at the campsite on 19 March 2015 and set up their camp, including their trailer top tent.
261. Mr Milne is the only known witness who can provide information about the movements of Ray and Jennie between 19 and 22 March 2015. No person was observed at the campsite as and from midday on 22 March 2015. By the latter part of 22 March 2015, Ella was no longer in the care of Ray and Jennie. By 31 March 2015, it was clear the campsite had been abandoned, for some time.
262. Relevantly, the campsite appeared to have been abruptly abandoned, and the reasons cannot now be known. I have taken account of Ray's rifles left in his unlocked Land Rover, to conclude that neither he nor Jennie had intended to leave the campsite for an extended period.
263. There is no evidence of Ray and Jennie having readied themselves for their planned trip to Lake Miranda on 22 March 2015. The campsite has been described as looking like Ray and Jennie had just walked off momentarily.¹⁷²
264. Observations that support an unplanned or unexpected event include the following:
- a) The campsite was not packed up at all, and there was a lot of gear lying around;¹⁷³
 - b) There were keys in the vehicle ignitions and vehicle windows left down;¹⁷⁴

¹⁷¹ ts 337.

¹⁷² Exhibit 3, tab 9.

¹⁷³ ts 35; ts 100.

¹⁷⁴ Exhibit 6, tab 3.

- c) There was an unwashed frying pan full of water on a table;¹⁷⁵
- d) There were coffee cups on a table, one still having the colour of coffee in it, the other having a bit of water in it;¹⁷⁶
- e) The portable fridge was warm and the contents of the fridge and the esky were degraded;¹⁷⁷
- f) There was untouched food left out, including meat out (most likely for thawing)¹⁷⁸
- g) There were clothes on the clothesline;¹⁷⁹
- h) There was a camelback hanging in a tree.¹⁸⁰

265. I am satisfied that Ray and Jennie had left the campsite, most likely at a time on 22 March 2015, intending to return by nightfall, and that they were prevented from doing so by a catastrophic event or events.

The odour from the mine shaft

266. I heard evidence, and after the inquest received submissions, concerning the odour that had been detected in and around the mineshaft where Ray's body was subsequently found. An odour was variously detected by prospectors camping nearby, and the police officer making initial inquiries. It was detected approximately one week before Ray's body was found.

267. Self-evidently, if credible information concerning an odour from a mineshaft had been promptly followed up by a descent into that mineshaft, Ray's body may have been discovered sooner than 8 April 2015. The result would have been that Ray's family would have had the vital information, and the nature of the search and related inquiries would have been driven by this new information.

268. I am satisfied that the information about the odour coming from the mineshaft was passed onto the responsible police officer, and that it was followed up by looking into that mineshaft in accordance with a procedure

¹⁷⁵ Exhibit 3, tab 18; ts 305.

¹⁷⁶ Exhibit 3, tab 9; ts 336.

¹⁷⁷ ts 264; ts 273; ts 284 to 285.

¹⁷⁸ Exhibit 6, tab 3; ts 293; ts 305.

¹⁷⁹ ts 136; ts 240.

¹⁸⁰ Exhibit 6, tab 3.

that was reasonably considered to be suitable at the material time. However, it did not at that stage involve a descent into the mineshaft in order to fully view the base.

269. With the benefit of hindsight it is now better understood that a 12 metre mineshaft such as the one containing Ray's remains ought to be inspected by a properly qualified officer descending into it.

270. The details appear below.

271. First Class Constable Tucker and Mr Kjellgren had together spent some hours on 1 April 2015 patrolling the general area and looking into mineshafts. Given his knowledge of the area, Mr Kjellgren assisted First Class Constable Tucker in identifying the mineshafts near the campsite.¹⁸¹

272. They drove up to the mineshafts, walked over and shone a Maglite torch into them. On some occasions you could see to the bottom, others not because the shafts were too deep. The torch assisted to about 10 metres. It was important to take care in approaching the shafts due to the unstable nature of the surrounding soil.¹⁸²

273. In the course of their investigations on 1 April 2015, First Class Constable Tucker and Mr Kjellgren came across the prospectors who had been camping nearby. As described previously, these prospectors had detected an odour, and had attributed it to a dead kangaroo in a mineshaft. They passed this information on to First Class Constable Tucker and Mr Kjellgren, and directed them towards it. Mr Kjellgren, familiar with the area, knew where it was.¹⁸³

274. First Class Constable Tucker and Mr Kjellgren came to the designated mineshaft and they both smelt an unpleasant odour. First Class Constable Tucker shone the torch down the two entrances to the mineshaft and he did not get any smell from the shaft. Some of the larger mineshafts have two entrances to allow for an opportunity for egress in the event of a cave-in or collapse. He could not see anything of note as it was too deep. Mr Kjellgren cautioned First Class Constable Tucker against getting too close to the collar of the shaft, as the soil could fall in, resulting in a collapse.¹⁸⁴

¹⁸¹ ts 294 to 295.

¹⁸² ts 294 to 295.

¹⁸³ Exhibit 3, tabs 9 and 34; ts 296 to 297; ts 339.

¹⁸⁴ ts 299 to 301; ts 307; ts 317; ts 339 to 340; ts 347 to 348.

275. There was a mound on the approach to the two entrances to the mineshaft, and as he walked around it, on a side of that mound First Class Constable Tucker saw a dead kangaroo that was rotting. He therefore concluded, with confidence having regard to his own local knowledge, that this was the source of the unpleasant odour, and he passed this information on to his supervisor Sergeant Michael Hall (Sergeant Hall).¹⁸⁵
276. However, Mr Kjellgren, who was also there on 1 April 2015, testified that the kangaroo was dried up, describing it as fur and bones, with no smell. On Mr Kjellgren's observations, First Class Constable Tucker smelt an odour from the mineshaft itself, and stated to him that the smell was a "cadaver" (a word that First Class Constable Tucker has subsequently said he does not use). Mr Kjellgren smelt an odour in the area, but he did not inspect the mineshaft (and that was not his role). Mr Kjellgren also recalled there were flies or black hornets coming out of the mineshaft (a matter that First Class Constable Tucker did not recall observing).¹⁸⁶
277. The next time that First Class Constable Tucker was at this mineshaft was when he assisted with the retrieval of Ray's remains on 8 April 2015, being specifically tasked with stabilising the tripod equipment. He recognised it as the same mineshaft where he had previously noted the odour that he attributed to the dead kangaroo. On this occasion, he did not see the dead kangaroo, and at the inquest he testified that the decomposition odour from Ray's body was not like the odour that he had attributed to the dead kangaroo on 1 April 2015.¹⁸⁷
278. The remaining inconsistency concerns the time spent at the mineshaft. Mr Kjellgren recalled it was a matter of 10 to 15 seconds. First Class Constable Tucker informed the court they spent approximately 15 minutes at this particular mineshaft.¹⁸⁸
279. Through its lawyer the SSO, the Western Australian Police Force submits to me that the evidence of Detective Senior Constable Tucker (then First Class Constable Tucker) as to what occurred during the visit to the mineshaft on 1 April 2015 generally, should be preferred over Mr Kjellgren's account. The point is made that if at that stage First Class Constable Tucker had thought there was a dead body in the mineshaft, he would have immediately alerted one of his supervisors.

¹⁸⁵ ts 299 to 305; ts 310 to 311; ts 318.

¹⁸⁶ ts 335; ts 339 to 340; ts 349.

¹⁸⁷ ts 301 to 302; ts 310.

¹⁸⁸ ts 365 to 367; Exhibit 3, tabs 9 and 34.

280. Through his lawyer Mr Cridland, Mr Milne submits the opposite, namely that the evidence of Mr Kjellgren should be preferred over the evidence given by Detective Senior Constable Tucker. In this case, I would find that Detective Senior Constable Tucker had formed the view that the smell was by reason of a dead body at the bottom of that mineshaft, and he did not pass on this view.
281. For the purposes of the inquest, the issue becomes relevant because a fulsome examination of that mineshaft on or about 1 April 2015, to the very bottom of that shaft, would have revealed Ray's body, at that earlier point.
282. I have considered these submissions. To begin with, Mr Kjellgren was there to assist. It was not his obligation to make and keep records, or report back to the sergeants at the campsite. That was First Class Constable Tucker's role and as it transpired he did report back to them. Mr Kjellgren has provided the court with his evidence, and I am satisfied that he has answered in accordance with his own recollections.
283. At the inquest Sergeant Hall confirmed that he was informed by First Class Constable Tucker about a mineshaft and a smell emanating. This caused Sergeant Hall to promptly go to the mineshaft. He came within a couple of metres of the mineshaft (noting it was dangerous to approach any closer) and he smelt the odour, which he also attributed to a dead animal down the mineshaft. He did not see a dead kangaroo in the surrounding area.¹⁸⁹
284. Having regard to their markedly different roles and reporting responsibilities, it is unnecessary for me to compare the evidence given by each of Detective Senior Constable Tucker and Mr Kjellgren. I am satisfied that Detective Senior Constable Tucker did not form the view that the odour was coming from a dead body.
285. Importantly, it was not Detective Senior Constable Tucker's role to make a decision as to whether or not the odour was from a dead kangaroo. His obligation was to report it and he did so. He offered the opinion that it was from a dead kangaroo, and Sergeant Hall then visited the site and formed a similar opinion.
286. There had been an increasing and consistent amount of information

¹⁸⁹ ts 417 to 418; ts 432.

about a strong and unpleasant odour coming from the area of the mineshaft where Ray's body was subsequently found approximately one week later. This started with the observations made by the prospectors camping nearby around 27 or 28 March 2015 (that were passed on) and the observations of each of Detective Senior Constable Tucker, Sergeant Hall and Mr Kjellgren on 1 April 2015.¹⁹⁰

287. In terms of lessons learnt, in hindsight the consistent information about an unpleasant odour should have been comprehensively followed up with a prompt and fulsome inspection of the base of that mineshaft, by descent into it.
288. However at the material time the personnel trained in descent under those circumstances were limited. There was a risk involved in a descent by a trained officer and an unacceptable risk if an untrained officer were to be deployed. No untrained officers were deployed in the descents.
289. Having regard to the levels of experience and resourcing at the material time, the efforts made to look into this particular mineshaft were reasonable, but the earliest possible opportunity to find Ray's body was missed. This is further addressed under the heading: *Missed opportunities*, below.

PHASES 1 AND 2 OF THE SEARCH

290. The Western Australia Police Force implemented a significant, well-planned and well-resourced land search and rescue (LandSAR) operation, commencing on 1 April 2015. The dedication and tenaciousness of the officers involved ought not to be underestimated.
291. The only vehicle access to the area is by four wheel drive. The search area had 139 documented historic and disused mineshafts which were considered highly dangerous. Precautions had to be taken, especially with the approach to the openings of the mineshafts, to ensure the safety of the officers. It is unknown how old the mineshafts are but one estimate was around the 100 year mark.
292. Even with appropriate precautions being taken, some of the search efforts were carried out with a degree of attendant risk having regard

¹⁹⁰ Exhibit 2, tab 28; Exhibit 3, tabs 9 and 34; ts 141, 146, 236, 239, 249 to 250.

to the instability of the soil around the openings. The mineshafts in the area were not fenced off, and not necessarily all documented on the available maps.

Missed opportunities

293. With respect to the mineshaft where Ray's body was ultimately located on 8 April 2015, there were a number of missed opportunities to find his body at an earlier stage:

- a) the unpleasant odour emanating from the mineshaft on 1 April 2015 (as described in the part immediately above) was thought to be related to a dead animal, specifically a dead kangaroo;
- b) when that mineshaft was first inspected by the Kalbarri SES and/or Tactical Response Group (TRG) trackers the next day (2 April 2015) they looked into the shaft in accordance with the agreed process, and a luminescent stick was thrown into the shaft but they did not see Ray's body at the bottom of that shaft. It appears they were not able to peer directly towards the very bottom of the shaft due to the risk of mine collapse, and it is now known that Ray's body was off to one side; and
- c) when that mineshaft later had its initial inspection by Department of Fire and Emergency Services Urban Search and Rescue Team (DFES USAR) they were able to look slightly further into the shaft due to their equipment and training, but they did not descend into it and again at this stage Ray's body was not seen.¹⁹¹

294. Ultimately, Ray's body was found when that mineshaft (that had already been marked as cleared) was randomly chosen by a team from the DFES USAR on 8 April 2015 for the purposes of showing the attending media how to lower people or equipment into such locations. By reason of the previous inspections of this mineshaft, Sergeant Hall in consultation with the Incident Management Team approved the use of this mineshaft by the DFES USAR for the media exercise.¹⁹²

295. At the inquest, Sergeant Hall testified that he advised the Incident Management Team that this shaft had been cleared by the Kalbarri SES

¹⁹¹ Exhibit 2, tab 28; ts 419 to 420; ts 433 to 434.

¹⁹² Exhibit 2, tab 22; ts 433 to 435.

and the DFES USAR. This advice was reasonably given by Sergeant Hall based upon the previous advices he had about this mineshaft being cleared. Sergeant Hall had no knowledge whatsoever of Ray's body being in this mineshaft at the time it was approved for the media exercise. Nor did any other person.¹⁹³

296. It was co-incidentally on this same date that the Incident Management Team made provision for the commencement of the inspection of all mineshafts within the search area by means of the DFES USAR descending to the very base of each shaft.¹⁹⁴

297. Turning back to the media exercise, as the senior firefighter was being lowered into the mineshaft (on 8 April 2015), when he was three quarters of the way down he became aware that there was a body at the bottom. The body was decomposed. His discovery was completely unexpected. It was not at that stage known whose body it was. It was subsequently identified to be Ray.¹⁹⁵

Review of missed opportunities

298. It is a matter of some considerable consternation for Ray's family, to know that his body was found essentially by accident and in response to a media related event. These feelings are understandable. It was clearly of primary importance for Ray's family to know of his death as soon as was possible.

299. Self-evidently, had the initial inspection of the mineshaft on 1 April 2015 where Senior Constable Tucker reported smelling a dead kangaroo been followed up by a descent into that mineshaft, Ray's body would have been found earlier and it would have placed a different complexion on the search efforts for Jennie. Concerns for Jennie's safety would have greatly escalated on or about 1 April 2015. It would likely have immediately garnered an "*emergency*" response, though it cannot now be known what the outcome would have been.¹⁹⁶

300. At the inquest Sergeant Nathan Nicholson (Sergeant Nicholson) testified that if hypothetically he was informed of a strong smell seeming to be coming from a dead kangaroo, in the context of this case,

¹⁹³ Ibid.

¹⁹⁴ Exhibit 2, tab 28.

¹⁹⁵ Ibid.

¹⁹⁶ ts 399.

he would have fully explored that. He was of the view that it had been followed up. It will be recalled that Sergeant Hall went to the mineshaft that same date (1 April 2015) and he attributed the smell to a dead animal down the mineshaft and decided that it needed to be looked at.¹⁹⁷

301. The next day (2 April 2015) the Kalbarri SES checked the same shaft and Sergeant Hall understood, from their report back to him, that the SES officer had looked into the shaft with a powerful torch, being hoisted over the opening while wearing a harness, and formed the view that it was “*clear*”, meaning the officer saw no sign of Ray’s body in the shaft.¹⁹⁸
302. At the inquest, Sergeant Hall testified that since the time of this search, the TRG are now fully trained and equipped so that they can descend into a deep mineshaft. It would not be necessary to call upon the SES, or DFES USAR in order to undertake this function (although those agencies remain highly skilled and available to help the community).¹⁹⁹
303. Sergeant Hall testified that with hindsight and in similar circumstances, where a smell is emanating from a mineshaft, he would task the TRG (that can now be called upon straight away) to fully descend into the shaft to inspect the ground at the very base of the shaft. This approach is consistent with current opinions and expertise in the LandSAR area.²⁰⁰
304. I am satisfied that at an early stage (1 to 2 April 2015) reasonable endeavours were made to check the base of the mineshaft where Ray’s body was subsequently found, but that those efforts were hampered by the logistical difficulty of looking to the very bottom of the mineshaft in circumstances where the opening is unstable, the collar is partially broken, the shaft does not descend in a fully perpendicular direction, and there is a risk of noxious air as the shaft is descended.
305. Furthermore, as will be outlined in more detail under the section below headed *Ray Kehlet’s Remains*, Ray’s body was not precisely under the shaft’s opening. Rather, it was located off centre and towards a side of the base of the shaft, with possibly only his head and/or upper body

¹⁹⁷ ts 399 to 400; ts 417 to 418.

¹⁹⁸ ts 433 to 434.

¹⁹⁹ ts 435.

²⁰⁰ ts 435; ts 455.

visible if hypothetically, a fulsome and uninterrupted view of the bottom of the bulb shaped shaft had been available.

306. This is most likely why Ray's upper body was not sighted by the Kalbarri SES, TRG trackers and/or the DFES USAR when they looked into the shaft on the earlier occasions, with equipment that included powerful torches and a cyalume chemical light stick. As a result of these inspections the mineshaft was tagged and marked at an early stage as having been "*clear*."²⁰¹
307. I am satisfied that the Western Australia Police Force did not rely upon sense of smell to decide whether the unpleasant odour emanating from the mineshaft was from a decomposing body, or a dead kangaroo. There was no particular harm in First Class Constable Tucker relaying his opinion that the smell was attributable to a dead kangaroo (on 1 April 2015). It was up to Sergeant Hall as Forward Commander to decide how to treat this information.
308. Sergeant Hall took an appropriate approach and investigated this information by instructing a further inspection of the mineshaft the next day (2 April 2015) by Kalbarri SES and/or TRG trackers. He also took account of the further information subsequently provided to him following an inspection by DFES USAR. It was not unreasonable for Sergeant Hall to rely upon the information provided to him at the various stages, that this mineshaft was "*clear*".
309. It is now known that Ray's body was at the bottom of that mineshaft. As will be addressed in more detail in the section below headed *Ray Kehlet's Remains*, Ray's body could only be seen after the DFES USAR officer had descended approximately nine metres into the mineshaft on 8 April 2015.

Impact upon post mortem examination

310. At the inquest it was relevant to explore how much information may have been lost to the forensic pathologist by reason of the passage of time to locate Ray's body, and having regard to the decomposition of his body.

311. The forensic pathologist Dr J. McCreath (Dr McCreath) informed the

²⁰¹ ts 433 to 434.

court that if Ray had died on 21 March 2015, by 1 April 2015 there would already have been significant decomposition. Dr McCreath was not able to say with certainty if there was anything that could have been seen on 1 April 2015, that could not be seen (hypothetically) on 10 April 2015.²⁰²

312. The forensic anthropologist Dr A. Buck (Dr Buck) referred to the difficulty of distinguishing between time frames. Dr Buck explained that recognisable (visible) decomposition usually occurs within one to two days, depending on location and temperature. Further, from a skeletal perspective any fracture that was already there would not have been affected by the time period.²⁰³
313. I am satisfied that the passage of time in ascertaining the location of Ray's body between 1 April 2015 and 8 April 2015 has not had a demonstrably adverse impact upon the subsequent post mortem examination, due to the decomposition of his remains having substantially occurred prior to 1 April 2015 and the presence of fractures remaining unaffected by the time period.

Parameters of Phases 1 and 2 of the search

314. Other than the missed opportunities referred to above, which are better understood in hindsight, the searches for Ray and Jennie were rigorous. Once the Kehlet's campsite was located on 31 March 2015, the Mount Magnet Police consulted with the Emergency Operations Unit and escalated the search.
315. The Western Australian Police Force implemented a prompt and comprehensive LandSAR operation, with Phases 1 and 2 starting on 1 April 2015 and continuing until 12 April 2015 as follows:
- a) Phase 1 was from 1 April 2015 to 5 April 2015 inclusive, with the initial premise being that Ray and Jennie were still alive, and may be in need of urgent medical attention; the forensic examination of the campsite was completed during Phase 1;

²⁰² ts 958.

²⁰³ ts 1005.

- b) The search was suspended on the evening of 5 April 2015, to take account of the information concerning the time frame for survival for Ray and Jennie;
- c) The next morning 6 April 2015, the decision was made to continue, resulting in Phase 2 of the search that was undertaken until 12 April 2015; Phase 2 was reactive to the outcomes achieved in Phase 1, and also extended the search area to the east of the Phase 1 search area.²⁰⁴

316. On 1 April 2015 trained LandSAR officer Sergeant Hall was appointed Police Forward Commander, and on 2 April 2015 police established a Forward Command Post near the Kehlet's campsite. Sergeant Hall's role was to implement the strategic and operational directions from the command chain and coordinate the resources deployed on the ground. He was based on site at the Forward Command Post.²⁰⁵

317. Sergeant Hall responded to directions from the Incident Management Team based at the Mid-West Gascoyne District Office in Geraldton, led by the Incident Controller and trained LandSAR officer Sergeant Nicholson, who was also appointed on 1 April 2015. Sergeant Nicholson led the team that was responsible for organising the resources for the search and determining its strategic direction.²⁰⁶

318. Phase 1 of the search was conducted as a rescue operation (rather than a recovery operation), focusing initially on the Kehlet's campsite and its immediate area. The conditions were considered to be relatively favourable for survival at the early stage, the weather had been cool and there had been significant rainfall in the previous days. The search response was appropriately assessed as "*urgent*" as opposed to "*emergency*". The "*emergency*" response is for when there is a known or immediate impact to health or safety. An "*urgent*" response requires speed and expediting.²⁰⁷

319. Overall, during Phase 1 and 2 the maximum recorded temperature was 31.5 degrees and the minimum temperature was 12.5 degrees. The rainfall was estimated to be 95.8 millimetres.²⁰⁸

²⁰⁴ Exhibit 2, tab 28; Exhibit 6, tab 1.

²⁰⁵ Exhibit 2, tab 28; ts 415 to 416.

²⁰⁶ Exhibit 3, tab 19; ts 387 to 388.

²⁰⁷ ts 390.

²⁰⁸ Exhibit 3, tab 19; ts 387 to 388.

320. The ground search area had a total of 139 potential mineshafts registered with the Department of Petroleum and Mines, and during the initial stages the possibility of Ray and/or Jennie having entered one or more of the mineshafts was considered and specialist staff were requested to assist. As it transpired, the information concerning the registered mineshafts did not necessarily match up with what was found on the ground.²⁰⁹
321. The Western Australia Police Force was assisted by the Kalbarri SES, the DFES USAR (in respect of the mineshafts), the Mid-West Gascoyne's police dog unit, and trackers from the TRG. Electronic communications amongst and between teams at the site were through satellite telephone. A process was set up to allow for communications via satellite telephone every hour.²¹⁰
322. The ground search during Phases 1 and 2 covered 1200 hectares and the air search covered approximately 625 square kilometres. They were undertaken together, as follows:
- a) The ground foot search was a parallel sweep search, involving the progression of eight to ten searchers in a straight line along a pre-determined route; it included TRG trackers and Mid-West Gascoyne's police dog unit; other than the Kalbarri SES, ground searchers were required to adhere to a five metre exclusion zone around all mineshaft openings due to the risk of soil collapse and/or falling in;
 - b) On 3 April 2015 the Kalbarri SES arrived and commenced a visual inspection of mineshafts as part of the ground search; as a mineshaft was located, it was visually inspected by the Kalbarri SES using ropes and harnesses to approach the opening of each shaft, lean over it and look down to the bottom utilising torches and/or luminescent sticks; once checked, the shaft was then tagged with a coloured tape or flag; having regard to the self-evident hazards including mine collapse, the Kalbarri SES did not enter down the shafts as they were not trained to do so;
 - c) Also on 3 April 2015 Mounted Police arrived to assist in the ground search, having regard to the need to travel through rough terrain, and in order to provide a better (elevated) view of the terrain for the officers;

²⁰⁹ Exhibit 2, tab 28; Exhibit 3, tab 19.

²¹⁰ Exhibit 2, tab 28; Exhibit 3, tab 19; ts 389.

- d) After consultation with the Veterinary Hospital and subject to its recommendations, Ella was returned to the site to assist police with the search, in particular in relation to the likely behaviour and possible location of Ray and Jennie;
- e) On 6 April 2015, as Phase 2 of the search commenced, the decision was made to utilise the trained DFES USAR specialists as part of the ground search, to descend to the base of the mineshafts in the search area to clear the shafts to a 100% probability of detection, and they commenced this task on 8 April 2015; as part of their role they undertook atmospheric monitoring at the base of the shafts to test for noxious substances; one shaft with water in it was to be examined by the Water Police;
- f) The air search methodology utilised seven deployments of a fixed wing craft and rotary aircraft (helicopter) as follows:
 - i. On 1 April 2015 a Baron fixed wing aircraft was deployed, searching on the basis that Ray and Jennie may still be alive; it was conducted at approximately one kilometre spacing at 500 feet altitude;
 - ii. On the afternoon of 1 April 2015 an AMSA Dornier 328 aircraft was deployed with the use of night vision/forward looking infrared radiometer for detection of any heat sources within the search area; the search was conducted at approximately 1.4 kilometre spacing at 1000 feet altitude;
 - iii. On 2 April 2015 a Robinson R22 helicopter with a trained SES observer was deployed; the search was conducted at approximately 300 metre spacing at 500 feet altitude;
 - iv. Also on 2 April 2015 a Baron fixed wing aircraft with a trained SES observer was utilised around the containment lines, being the perimeter of the possible search area; these areas were flown either side of the roads and Lake Noondie on the chance that Ray and/or Jennie may have breached the natural and man-made borders (although extremely unlikely based upon “*lost person*” behavior);
 - v. On 4 April 2015 a Robinson R22 helicopter with a trained SES observer was deployed twice over a sector of the search area due to information provided by Mr Milne about the area being of interest to Ray and Jennie, and also due to water

bodies within a three kilometer radius of the place they were last seen alive, in a north-south pattern and then in an east-west pattern; the search was conducted at approximately 300 metre spacing at 500 feet altitude;

- vi. On 7 April 2015 a Robinson R22 helicopter with a trained SES observer completed a 10 kilometre radius search, centering over the last known position of Ray and Jennie.²¹¹

323. As part of Phase 1 of the search, at Sergeant's Nicholson's request, Mr Milne returned to the campsite area on 3 April 2015 to assist with the search for Ray and Jennie. Police were of the understanding that, as requested, Mr Milne was taking them to sites that he went to with Ray. At the inquest Sergeant Hall testified that police wanted to know Ray and Jennie's movements in the last few days, essentially where they had gone to prospect. Mr Milne informed police that Jennie did not go with him and Ray, adding that she did not go anywhere she could not see the campsite.²¹²

324. Mr Milne showed police some areas between approximately 1.30 pm and 3.30 pm on 3 April 2015. Mr Milne was on his quad bike and police followed him in their vehicle. Police used the GPS to map those areas. However, at the inquest Mr Milne testified that he understood the focus of this exercise to be narrower. He believed he was tasked to show police essentially the "*three million dollar patch*" area, and not all of the areas that he had gone to with Ray. He therefore took police in a south-easterly direction towards this area.²¹³

325. At his request Mr Milne had been given permission to camp near the Forward Command Post and he was instructed by police not to return to the campsite. Mr Milne spoke fondly of Ray and Jennie to police and reacted with distress when they told him that there were limited prospects of finding Ray and Jennie alive. He departed back for Perth on 4 April 2015. As it transpired, the areas shown by Mr Milne to police were not in the vicinity of the mineshaft where Ray's body was subsequently found.²¹⁴

326. Also on 4 April 2015 police located the mud map amongst the Kehlet's belongings, as referred to previously. This is the map that had contained handwritten notations including the words "*1st HOLE*" written by

²¹¹ Exhibit 6, tab 1; ts 394 to 395.

²¹² Exhibit 2, tab 28; Exhibit 3, tabs 3 and 19; Exhibit 4, tab 1; ts 381 to 382; ts 404; ts 423.

²¹³ Exhibit 4, tab 1A; ts 834; ts 406.

²¹⁴ Exhibit 4, tab 1A; ts 834; ts 406; ts 428.

Mr Milne (a reference to a mineshaft, though it is not known precisely which one).²¹⁵

327. The mud map also contained handwritten co-ordinates. It was posited, reasonably, that these may have been areas of interest for Ray and Jennie, and they may have sought to go there. Accordingly, on 5 April 2015, the final day of Phase 1, the searchers focussed on the areas and co-ordinates that had been marked on the mud map, that were transposed onto a map of the area. Mounted Police were included in this search.²¹⁶
328. While the Phase 1 search was being undertaken, police were also consulting with Dr P. Luckin (Dr Luckin) anaesthetist and nationally recognised expert on survival physiology and search and rescue. Having regard to that consultation and the available information, it was reported back to police that Ray and Jennie were probably deceased and may have been so for a number of days before the start of the search.²¹⁷
329. Dr Luckin's opinion supported the police's view that the survival of Ray and Jennie was limited to four days in the prevailing conditions. Whilst it could not then be determined when the four day period commenced, it was assumed that it was somewhere between 22 and 24 March 2015. Regard was had to Dr Luckin's advice when the search was suspended on 5 April 2015 (bringing to a close the end of Phase 1).²¹⁸
330. On the morning of 6 April 2015 the Incident Management Team, the Emergency Operations Unit, Major Crime and regional police conferred to review the search to that date, and Dr Luckin's advice. It was determined to keep searching, and thus Phase 2 of the search began, continuing until 12 April 2015.²¹⁹
331. It was during Phase 2, namely on 8 April 2015, that Ray's body was found. As a result of Ray's body being found, the sectors around that mineshaft were re-searched. As and from 8 April 2015 DFES USAR specialists descended into the mineshafts in the search area to clear the shafts to a 100% probability of detection (meaning that they descended into each mineshaft until they reached a level where they could visually inspect and see to the very bottom of it).²²⁰

²¹⁵ Exhibit 2, tab 28.

²¹⁶ Exhibit 2, tab 28; ts 398; ts 440 to 441.

²¹⁷ Exhibit 1, tab 3; Exhibit 6, tabs 1 and 2; ts 391; ts 395 to 396.

²¹⁸ Ibid.

²¹⁹ Ibid.

²²⁰ Ibid.

332. The DFES USAR had specialist knowledge and experience with mineshafts and collapsible holes. A total of 39 mineshafts were detected, recorded by GPS, entered by DFES USAR in the ground search area and cleared during Phase 2. The DFES USAR would tie a red flag to the entrance of each mineshaft that they searched, to note it was complete. A further mineshaft was cleared by Western Australia Water Police and a diver.²²¹
333. The Western Australia Police Force and the DFES USAR formed the view that if someone had fallen into a mineshaft there would be evidence at the base of the shaft such as scratch marks on the ground, depressions or evidence around the top of the mineshaft (the collar). It was also posited that if Ray or Jennie had accidentally fallen down a shaft they would be expected to be at the base of the shaft waiting to be found.²²²
334. During Phase 2, the Major Crimes Unit of the Western Australia Police Force commenced a parallel forensics investigation (which continued into Phases 3 and 4).²²³
335. On 12 April 2015, the Phase 2 search was completed.

Quality of Phases 1 and 2 of the search

336. The logistical difficulties of undertaking a large scale air and land search in a remote location with no mobile telephone reception and no infrastructure (other than equipment brought in) are not to be underestimated.²²⁴
337. Most importantly, regard needed to be had to the safety of the personnel involved in the search. The search area was dotted with old unstable mineshafts, that were not fenced off. They were not always in the expected location.
338. The risk of a sudden mine collapse was exacerbated by the heavy rains that preceded the commencement of Phase 1 of the search. Whilst a

²²¹ Ibid.

²²² ts 506 to 507; ts 535.

²²³ Exhibit 2, tab 28.

²²⁴ Ibid.

total of 39 mineshafts were detected and cleared by DFES during Phases 1 and 2, the balance were cleared during Phases 3 and 4.²²⁵

339. As indicated previously, the time frame for survival for Ray and Jennie was considered to be four days, as from between 22 and 24 March 2015. A subsequent independent review of the LandSAR operation was undertaken at the request of the Western Australia Police Force by the Queensland State Search and Rescue Coordinator Senior Sergeant James Whitehead (Senior Sergeant Whitehead). He also posited that within that maximum four day time frame, Ray and Jennie's ability to move about would be limited to approximately 2.6 days from when they disappeared.²²⁶
340. Whilst it was not known at the material time, by the time the LandSAR operation commenced (1 April 2015) Ray and Jennie were already deceased. Phase 1 was predicated upon the hypothesis that Ray and/or Jennie were alive. It was appropriate for police to commence an operation focussed on search and rescue.
341. Resources are not infinite, and I am satisfied that this was a large scale and properly resourced LandSAR operation. At the inquest, Sergeant Hall opined that it was one of the biggest searches the Western Australia Police Force had undertaken (he was speaking especially with respect to Phases 2 to 4).²²⁷
342. The independent review of the LandSAR operation sought by police from Senior Sergeant Whitehead based in Queensland was appropriate from the perspective of this case, and for the purpose of continual improvement into the future. The quality of the police's searches was relevant to the inquest, and particularly so because Jennie has not been found.
343. Senior Sergeant Whitehead prepared a report and he gave evidence at the inquest on his review of the Western Australia Police Force's search for Ray and Jennie. Having regard to his role as Queensland State Search and Rescue Coordinator, I am satisfied that he is an independent and competent witness in the context of his review of the LandSAR operation efforts.²²⁸

²²⁵ Exhibit 2, tab 28; ts 392 to 395; ts 430.

²²⁶ Exhibit 6, tab 3.

²²⁷ ts 431.

²²⁸ Exhibit 6, tab 3; ts 449 to 495.

344. This aspect of Senior Sergeant Whitehead’s evidence is separate and distinct from his evidence concerning his case theory (as to what happened to Ray and Jennie) referred to under the heading later in this finding: *Case theory of Senior Sergeant Whitehead*.
345. Senior Sergeant Whitehead appropriately undertook site visits to gain an appreciation of the task. His report on the quality of the LandSAR operation was of necessity predicated upon there being no involvement of a third party in Ray and Jennie’s deaths. He is a search and rescue coordinator and not qualified to comment upon the question of whether or not there had been the involvement of a third party.²²⁹
346. Senior Sergeant Whitehead explained that land search areas are developed using the following strategies:
- a) Theoretical – this is the potential distance a missing person can travel having regard to walking speed and type of terrain; in this case he posited that an average speed of two kilometres per hour was possible; having regard to the time frame for survival, fatigue and night time, he opined that it gives a potential search area of 62 kilometres;
 - b) Statistical – this is based upon the International Search and Rescue Identification Database and Australian studies for Lost Person Behaviour; using the category of “*hikers*”, he opined that a 5.76 kilometre radius circle would have been drawn around the campsite as the limit of the statistical distance, and noted it is vastly less than the 62 kilometres previously mentioned, because lost or disoriented persons do not walk in a straight line nor do they walk continuously; since that time, there has been sufficient information to now have a fresh category for “*prospectors*”;
 - c) Subjective – this is based upon an interpretation of the terrain within the statistical search area (being a 5.76 kilometre radius) and identifies natural and manmade barriers that would limit the direction and distance of the missing persons’ travel (the identified barriers included the Paynes Find Road to the north west and the Atley Station fences to the west and south);

²²⁹ ts 450 to 451; ts 469 to 470.

- d) Deductive – this is utilising any clues, intentions or other information about the missing persons’ potential areas of travel.²³⁰

347. Overall Senior Sergeant Whitehead opined that the search areas identified by police were comparable with those developed using the above four search determination strategies, although slightly smaller. In his opinion the land search was undertaken in a systematic and logical progression, within the constraints of limited resources (for this purpose he has excluded the searches of the mineshafts, but recognised the logistical constraints). He pointed to the small number of searchers and relatively large area to be searched. His expectation was that if Jennie was in the search area, she should have been seen.²³¹

348. Senior Sergeant Whitehead provided information about the Probability of Detection within the context of search efforts. Having regard to the information provided I am satisfied that it is a formula that may be used to assist in assessing the quality of a search, both in real time and in subsequent review. A search for a responsive person (alive and wanting to be found) would always get a higher Probability of Detection than for an unresponsive one.²³²

349. Senior Sergeant Whitehead explained that the Probability of Detection is affected by weather, terrain, vegetation, search tactics used, size of the search area, number of searchers, speed of searchers, spacing and available light. In coming to his conclusion that the Probability of Detection respect of the search for Ray and Jennie was of an acceptable level, he opined as follows:

“The combination of foot searching and aerial searching does increase the POD to an acceptable level. The aerial searching was undertaken by a variety of aircraft, both fixed wing and rotary. The cumulative POD’s of the aircraft and foot searching over the identified areas would produce overall POD’s of 80 – 90%.”²³³

350. Senior Sergeant Whitehead referred to the forward looking infrared radiometer search undertaken by the AMSA Dornier 328 aircraft for

²³⁰ Exhibit 6, tab 3; ts 451 to 454; ts 472 to 473.

²³¹ Exhibit 6, tab 3; ts 459.

²³² Exhibit 6, tab 3; ts 456 to 457.

²³³ Exhibit 6, tab 3.

detection of heat sources as being a main contributing factor in the aerial search. In his opinion the fact that this did not locate Ray or Jennie (or any other person not accounted for) is a clear indication that Ray and Jennie were not alive and not producing any heat. He did however acknowledge that the prospects of the forward looking infrared radiometer locating a heat source in a mining shaft are very minimal.²³⁴

351. At the inquest Senior Sergeant Whitehead referred to the following possible improvements in respect of the search for Ray and Jennie:

- a) He believed that every LandSAR should be coordinated by two people, and noted that in this case Sergeant Hall was the only coordinator; he suggested that with two coordinators they can validate each other's ideas, deductions, mathematics, calculation of search area, and together ensure everything is done properly;
- b) He believed that the Emergency Operations Unit that look after the LandSAR could take a more active role in the land search, meaning especially being present on the ground and bringing with them their more specialised LandSAR training (noting that Sergeant Hall was a local police officer).²³⁵

352. Nonetheless Senior Sergeant Whitehead opined that the actual LandSAR for Ray and Jennie could not have been done better with the resources they had. Whilst noting that more resources are always desired, he did not think the outcome would have changed. He considered the search was of a quality to be expected by a police service within Australia.²³⁶

353. Having regard to the evidence before me and Senior Sergeant Whitehead's independent review, I am satisfied that the Phase I and 2 search areas were appropriately chosen and that the conduct of the searches had an acceptable Probability of Detection.

354. I have had regard to Senior Sergeant Whitehead's evidence concerning future improvements in formulating my recommendation at the end of this finding.

²³⁴ Exhibit 6, tab 3; ts 456 to 457; ts 485.

²³⁵ ts 463; ts 476 to 477.

²³⁶ Exhibit 6, tab 3; ts 463.

RAY KEHLET'S REMAINS

355. Ray's body was located by the DFES senior firefighter at the base of a disused mineshaft on the morning of 8 April 2015 as outlined previously in this finding. The body was decomposed. This mineshaft was approximately 30 kilometres south of Sandstone off the Paynes Find-Sandstone Road, accessible through a narrow bush track of approximately one kilometre in length, to the east of that road. It was approximately 1.8 kilometres north of the Kehlet's campsite.²³⁷
356. Police secured the site and commenced their examination and recording of the site. Arrangements were made to have Ray's body retrieved by forensic officers with specialist human remains recovery skills which occurred on 10 April 2015. The details appear below.

Discovery of Ray's remains

357. DFES senior firefighter Mr A. Gasmier (Mr Gasmier) had attended from Perth to assist at the search site between 3 and 5 April 2015, then he returned to Perth. During this first deployment he had been tasked with looking into the disused mineshafts of greater depth, from the top (not by descending into them). He had previously attended at the mineshaft where Ray's body was subsequently found, and noted that it was tagged as having been "*cleared*" by the TRG. He did not recall an odour emanating from that shaft. He had looked into that shaft but had not been able to see anything at the bottom of that shaft.²³⁸
358. Mr Gasmier and a team of 10 officers returned to the site late on 7 April 2015. The intention with respect to this second deployment was for the team to descend into the mineshafts. This had been one of their recommendations made during their first deployment, and police requested their return to the site.²³⁹
359. At approximately 8.30 am on 8 April 2015 Mr Gasmier and his team were tasked with undertaking a demonstration to the media personnel that were present at the site. The aim was to allow the media to view the process by which the mineshafts are inspected, and that included a demonstrated descent into a mineshaft.²⁴⁰

²³⁷ Exhibit 1, tabs 3 and 10.

²³⁸ Exhibit 2, tab 22; ts 502 to 506.

²³⁹ Exhibit 2, tab 22; ts 508.

²⁴⁰ Exhibit 2, tab 22; ts 509.

360. As outlined earlier in this finding, Mr Gasmier and his team randomly selected a disused mineshaft, and it was the one closest to the Forward Command Post. It had been tagged as already “*cleared.*” Their equipment was close by and they set up their Larkin frame over the mineshaft. They did not remove any item from the collar of the mineshaft. At 10.00 am Mr Gasmier, harnessed and with a helmet torch commenced his descent into the mineshaft. The mineshaft was approximately 12 metres deep.²⁴¹
361. Due to it being a demonstration, the plan was to lower Mr Gasmier three quarters of the way down the shaft, namely to approximately nine metres. When he was first lowered into the shaft he noted a foul odour and lots of flies, but did not consider this unusual as such mineshafts in his experience contain decomposing animal wildlife.²⁴²
362. When Mr Gasmier was first lowered into the mineshaft, whilst he was able to see to the base of the mineshaft, he was not able to see anything at the base. When he got to approximately nine metres depth, he looked around in the darkness and with his eyes adjusting to the effect of his helmet torch, very unexpectedly he saw a body at the base of the shaft. It is now known that it was Ray’s body.²⁴³
363. The bottom of the shaft was bulb shaped, and Ray’s body was positioned off to one side and lying face up. Mr Gasmier first saw Ray’s head. The rest of his body went further back into the bulb shaped area of the base of the mineshaft. In other words, he saw that Ray’s body was not centrally placed to the opening of the shaft. Ray’s body was clearly decomposed. Mr Gasmier immediately radioed this information back to the officer at the top of the shaft and the police were informed. Mr Gasmier did not touch Ray’s body.²⁴⁴

Retrieval of Ray’s remains

364. Ray’s body could not be retrieved from the base of the mineshaft on the date that it was found. Police appropriately made the decision to send a team of three forensic personnel with specialist human remains recovery skills to the area, to properly retrieve the body and forensically examine the site.²⁴⁵

²⁴¹ Exhibit 2, tab 22; ts 510 to 511.

²⁴² Exhibit 2, tab 22; ts 511.

²⁴³ Exhibit 2, tab 22; ts 516 to 517.

²⁴⁴ Exhibit 2, tab 22; ts 516 to 517.

²⁴⁵ Exhibit 1, tab 10.

365. Ray's body was retrieved on 10 April 2015, two days after he was found. The concerns about the risk to the officers' safety were assessed. There was a risk of rock falls and/or collapse. The entry to the shaft where Ray's remains were located had rotted wooden logs in place, which were holding the loose top-soil in place preventing it from collapsing inwards. Pieces of wood were missing, and some of the pieces of wood had visible signs of white-ant activity.²⁴⁶
366. As a result of the risk assessment it was determined that only one member of the forensic team should enter the mineshaft. Only one set of ropes could be rigged to the Larkin frame. The risk of sending a second forensic officer into the base of the shaft was too high, and would compromise a rapid extraction in the event of an emergency situation. Senior Constable Michael Lee (Senior Constable Lee) was the officer who volunteered and was selected to enter the mineshaft due to his previous relevant experience. He was assisted by personnel from DFES (including Mr Gasmier) and the TRG. He recorded the site and he retrieved Ray's remains on that date.²⁴⁷
367. The shaft was estimated as being approximately 12 metres deep, and Ray's body was lying at the base. The shaft was approximately 1.5 metres by one metre wide at the entry, but it opened out near the base into a small stope which was elongated and approximately six metres long by three metres wide, and approximately 2.5 metres high at its highest point. Hence its description as a bulb shaped shaft.²⁴⁸
368. At either end of the stope, there appeared to be old mine workings, that had been backfilled by loose material and closed off. The walls of the stope and the shaft were comprised of highly fractured rock. There were also loose fragments along the walls of the shaft. During the time that Senior Constable Lee was in the shaft including at its base, he noted that small rocks, pebbles, sand or dust fell downwards any time the ropes made contact with the walls of the shaft.²⁴⁹
369. At the base of the mineshaft, directly below the shaft opening, was a conical pile of debris sloping outwards in all directions and comprised of a mixture of loose sandy material, gravelly rock fragments, as well as

²⁴⁶ Exhibit 1, tab 8.

²⁴⁷ Exhibit 1, tab 10; Exhibit 3, tab 41; ts 547 to 548.

²⁴⁸ Exhibit 1, tab 8.

²⁴⁹ Exhibit 1, tab 8; Exhibit 3, tab 41; ts 553.

pieces of rusty metal and wood. Ray's body was located on the edge of the cone of debris, lying on his back on the northern side of the pile.²⁵⁰

370. Ray's body was lying in a roughly north-south orientation with the feet furthest from the shaft and the head nearest the shaft. Ray's right arm was covered under loose rock material. A large piece of timber was positioned over his right leg, but did not appear to be pinning the leg down because it was not in contact.²⁵¹

371. The timber that was positioned over Ray's right leg was over a metre long and approximately 150 millimetres in diameter. It was in two pieces that were able to be joined up upon examination. Its appearance was consistent with the pieces of timber still located at the collar of the shaft being used to shore up the sides and hold back the loose material immediately surrounding the shaft. It was solid and heavy. It was posited that the soil around the timber gave way, allowing the timber to fall from the collar and into the shaft. This may have happened at the same time that Ray came to be at the bottom of the shaft, or afterwards.²⁵²

372. Ray's body was complete and all parts in anatomical position. Ray was not wearing a top or a shirt, and he was clothed in a pair of dark coloured trousers and brown "*All Terrain*" brand working boots. A pair of black gloves were located, one in each trouser pocket. Ray's legs were splayed out at approximately shoulder width. The senior firefighter Mr Gasmier, who has observed persons who have fallen from height in the course of his work made the following observations:

- a) Ray's body, including the lying face upwards and position of the arms, is not a usual position for a person who has fallen from a height (and thereby rendered immobile); and
- b) Having regard to training drills he has done, that include dragging mannequins by the ankles (in hypothetical danger scenarios) one explanation for the positioning of Ray's legs being splayed out at shoulder width was that his body had been dragged by the ankles.²⁵³

373. At the inquest the forensic anthropologist Dr Dr Buck informed the court that Ray's body had decomposed at the site where it was located, and in

²⁵⁰ Exhibit 1, tab 8.

²⁵¹ Exhibit 1, tab 11.

²⁵² Exhibit 1, tab 11; ts 569.

²⁵³ Exhibit 1, tabs 6 and 8; ts 534; ts 527; ts 1016.

this regard she referred to the loss of fluids that collect around the body, resulting in staining around the body (known as a decomposition halo).²⁵⁴

374. The retrieval of Ray's body was complex and carefully executed by police. At the inquest, Dr Buck confirmed to the court that the retrieval of the remains was performed in accordance with the appropriate recovery procedures. Once Ray's body was removed, the area where the body had been was examined. The following items were seized for further forensic examination:

- a) There was a rusty metal can positioned over Ray's right shoulder and this metal can had several rocks inside; it was posited that the metal can came from the loose material at the collar of the shaft, where several other pieces of rusty metal could be seen buried in the tailings; within the context of Ray's injuries, it was not a causative factor;
- b) There was a clear "*Pump*" water bottle between Ray's legs, which had very little dust on the outside; it was posited that it had not been there very long;
- c) There was a red plastic petrol can with an opening cut out at the top, positioned on its side in the southern corner of the stope at the base of the slope of debris, with a heavier layer of fine dust on the outside; it was posited that it had been there for some time, and that it might have been used for carrying items (given the cut out opening).²⁵⁵

375. Before Senior Constable Lee was lowered into the mineshaft, a pile of ash was noticed approximately two metres from the northern side of the mineshaft. The ash was sifted through by one of the officers from the forensic team. No foreign items were located.²⁵⁶

376. The examination and retrieval undertaken by the forensic team, assisted by DFES and TRG commenced at 10.00 am was completed at 5.00 pm on 10 April 2015. Police made a forensic assessment of the mineshaft and the base where Ray's body was found.

377. Separately it subsequently emerged that three cigarette butts were located on the ground near the opening of the mineshaft, and they were not seized

²⁵⁴ ts 1014.

²⁵⁵ Exhibit 1, tab 8; Exhibit 3, tab 41; ts 1006 to 1007; ts 1022.

²⁵⁶ Exhibit 1, tab 10.

on 8 or 10 April 2015. This is addressed later in this finding under the heading: *The cigarette butts*.

POST MORTEM EXAMINATIONS

Identification

378. On 14 April 2015 the forensic pathologist Dr McCreath made a preliminary external post mortem examination on the then unidentified body of the deceased, and extracted tissue from the deceased for the purpose of enabling a conclusive identification of the remains to be made by way of DNA analysis.²⁵⁷
379. No substantial injuries were noted by Dr McCreath during the external examination. The forensic odontologist Dr J. Knott (Dr Knott) assisted with the investigation and his examination showed no signs of trauma to the teeth or supporting jaw bone. Two teeth were removed for DNA analysis.²⁵⁸
380. The PathWest forensic scientist performed a comparison between the male DNA profile recovered from a tooth taken from the deceased, and the DNA profile recovered from an item that belonged to Ray. The profiles matched, and on 17 April 2015 the forensic scientist reported that the DNA findings supported the proposition that the deceased person was Ray.²⁵⁹
381. Further DNA testing in early 2019 was performed by the PathWest forensic scientist using familial buccal samples for comparison. On 7 February 2019 the forensic scientist reported that the DNA findings also supported the proposition that the deceased person was Ray.²⁶⁰
382. I am satisfied that the remains of deceased person retrieved from the base of the mineshaft were of Raymond Keith KEHLET.

Cause of Ray's death

383. On 24 April 2015 Dr McCreath made an internal post mortem examination on Ray's body at the State Mortuary, with the forensic anthropologist

²⁵⁷ Exhibit 1, tab 6.

²⁵⁸ Ibid.

²⁵⁹ Exhibit 1, tab 4.

²⁶⁰ Exhibit 1, tab 4.

Dr Buck assisting and police officers in attendance. It was noted that the body was in an advanced state of decomposition. The role of the forensic anthropologist was to assist the forensic pathologist and to provide an expert opinion in relation to the bone structures, and the decomposition. Following that examination on that date Dr McCreath and Dr Buck formed the opinion that the cause of death was unascertained.²⁶¹

384. In the course of the post mortem examination on 24 April 2015, a possible break in the hyoid bone was noted. Arrangements were made for a more detailed examination of this area of the throat structures. This was performed by Dr McCreath on 8 May 2015. This further examination confirmed that there was a break in the left greater horn of the hyoid bone. Dr McCreath and Dr Buck took this information into account, but their opinion on the cause of death remained unchanged, namely that it was unascertained.²⁶²

385. Taking the post mortem examinations together as a whole, they showed mummified adult male remains with evidence of injury on the left side of the face, the left side of the neck and upper back including the break in the left greater horn of the hyoid bone. In addition to the break in the hyoid bone, the following three main areas of injuries to Ray's body are more specifically outlined below:

- a) There were horizontal, vertical and oblique fracture lines to the left side of the face; this included the left cheekbone area and the left eye socket area; there was comminuted fracturing (approximately 25 to 35 millimetres in dimension) in an area beneath the left cheekbone, and a small centrally located piece of bone that was dislodged;
- b) There were injuries to the left side of the neck and upper back; this included breakages to surface areas of the left 2nd and 3rd thoracic vertebrae; there was also a breakage to the head of the 3rd left rib (which was disconnected from the remaining rib shaft);
- c) There were injuries to the right hand, namely the right middle and ring finger; this included comminuted fractures to the 3rd and 4th metacarpals, with the 3rd metacarpal appearing in three pieces, and the fourth metacarpal appearing in five pieces.²⁶³

²⁶¹ Exhibit 1, tab 6; ts 1000.

²⁶² Ibid.

²⁶³ Exhibit 1, tab 6; ts 948 to 953; ts 1011; ts 1015 to 1024.

386. At the inquest Dr McCreath opined that the injuries outlined above, being skeletal fractures, were due to blunt force. Dr McCreath explained that something has impacted with the bone, or the bone has impacted with something. In response to specific questioning Dr McCreath opined that it could be as a result of a fall (namely as a consequence of a fall down a mineshaft of approximately 12 metres). It could be from impacting with the walls of the mineshaft on the way down, or protuberances from the mineshaft, or it could be from impacting with the base of the mineshaft.²⁶⁴
387. Dr Buck concurred with Dr McCreath's opinion to the effect that the skeletal injuries were due to a blunt force, and specifically referred to a "broad" blunt force (distinguishing it from a blunt force delivered by an implement that has a focal point, such as the head of a hammer).²⁶⁵
388. Dr Buck's view was sought to assist in the consideration of whether the skeletal injuries could be related. Dr Buck considered that the injuries to the left side of the face and left side of the neck and upper back could have come from a single impact, and that it was a broad force. However, this does not necessarily exclude multiple points of impact.²⁶⁶
389. In Dr Buck's opinion, a fall or any kind of application of blunt force could have caused the abovementioned skeletal injuries (left side of the face and left side of the neck and upper back). One is not necessarily more likely than the other. In this analysis Dr Buck did not include the hand, due to it being mobile, meaning it can be placed out to brace a fall, it can be loose at the side or hit something.²⁶⁷
390. With respect to the injuries to the right hand, Dr McCreath opined that these could have been caused as a consequence of the fall down the mineshaft, or by use of a blunt weapon, but did not express a view on the respective likelihood of those sources of injury.²⁶⁸
391. The available information as to Ray's skeletal injuries does not allow for the formulation of an expert opinion by the forensic pathologist or the forensic anthropologist on whether any of them were more likely to be due to the use of an instrument (such as a weapon), a fall from height and/or impact with the walls or the base of the mineshaft. It is to be borne in

²⁶⁴ ts 951 to 953.

²⁶⁵ ts 1018; ts 1023.

²⁶⁶ ts 1019 to 1023.

²⁶⁷ ts 1025 to 1026.

²⁶⁸ Exhibit 1, tab 6; ts 952 to 953.

mind that their evidence was of necessity based upon the injuries seen, namely the skeletal injuries.²⁶⁹

392. The court was also relevantly informed of areas on Ray's body where there was no evidence of injury, as follows:

- a) No signs or evidence of trauma to the teeth;
- b) No signs or evidence of trauma to the jaw;
- c) No evidence of injury to the wrist, arm, leg or foot bones;
- d) No evidence of injury to the pelvis;
- e) No evidence of the body having been subjected to any kind of heat source.²⁷⁰

393. The post mortem examination was comprehensive, but of necessity limited by the circumstances of the decomposition of Ray's body. It cannot now be known what information, that would have been relevant to the forensic pathologist and forensic anthropologist's opinion on cause of death, was lost as a result of the decomposition.

394. I accept and adopt the forensic pathologist and forensic anthropologist's opinion on the matter of the cause of Ray's death, on the basis of their joint post mortem examination. **I find that the cause of Ray's death is unascertained.**

The break in the hyoid bone

395. I turn now to the break in the left greater horn of the hyoid bone that was the subject of a further post mortem examination of the throat structures on 8 May 2015. The issue centered around the question of whether such a break can be occasioned by a hyperextension of the neck from a fall from height, as well as blunt force.

396. At the inquest Dr McCreath explained that, generally speaking, the blunt force causing such a break in a hyoid bone could come from a fall, from an implement, by reason of a motor vehicle accident or from a hand by way of manual strangulation (though not exclusively so). In Dr McCreath's experience of cases involving manual strangulation, often but not always, there can be fractures of the hyoid bone in that area. This

²⁶⁹ ts 952; ts 1018.

²⁷⁰ ts 945 to 948; ts 1010 to 1013; ts 1029.

could be due to the amount of force being applied and the way the hand would be held, in the context of a struggle.²⁷¹

397. Dr McCreath informed the court that a break in a hyoid bone is an uncommon fracture, and it is likely to most commonly be seen in a hanging. At the inquest Dr McCreath was asked whether a hyperextension of the neck, such as might be experienced in the process of a downwards fall from a height of 12 metres might cause such a fracture. Dr McCreath opined that this could certainly occur whilst falling down such a shaft.²⁷²
398. At the inquest Dr Buck also considered that a break in the hyoid bone may occur in the context of a fall, albeit less commonly so. Dr Buck considered it reasonable to assume that a person's neck could hyperextend as a consequence of making contact with the wall of a mineshaft (hypothetically) in the course of a fall.²⁷³
399. The question also arose as to whether the break in the hyoid bone was likely to be fatal, or whether it may have incapacitated Ray. Relevantly Dr McCreath opined that this break in Ray's hyoid bone could be survivable, even in the absence of medical attention. Dr McCreath's initial view was that such an injury would likely produce swelling in the area, and there could be problems with the airway, though not necessarily.²⁷⁴
400. Dr McCreath's further research into the area led her to confirm that a fractured hyoid bone can result in a spectrum of clinical activity, ranging from mild (pain) to moderate (voice changes, difficulty swallowing) to severe (oedema and haemorrhage which would result in airway obstruction and death). This was supported by the literature review subsequently provided to the court.²⁷⁵
401. Dr McCreath and Dr Buck were both of the view that, due to the advanced state of decomposition, there was no capacity to ascertain whether there was upper airway oedema, with its potentially fatal complications. For this reason after the break in the left greater horn of the hyoid bone was considered, following their further 8 May 2015 post mortem examination, their opinion on cause of death remained unchanged.²⁷⁶

²⁷¹ ts 954.

²⁷² ts 955 to 956; ts 1035 to 1036.

²⁷³ ts 1032.

²⁷⁴ Exhibit 1, tab 6; ts 955.

²⁷⁵ Exhibit 1, tab 6; ts 1034.

²⁷⁶ ts 1024; ts 1034 to 1035.

402. Also for this reason, the information that is before me does not allow for a conclusion to be reached as to whether or not the break in Ray's hyoid bone (on its own) would incapacitated him when he was at the bottom of the mineshaft. This is relevant within the context of whether Ray would have been able to move his body when he was at the bottom of the mineshaft. This aspect is addressed in more detail under the heading: *The physical circumstances of Ray's body*.

The fractures to the right hand

403. I turn now to the injuries to Ray's right hand, namely the skeletal fractures to the right middle and ring finger. These were examined by Dr McCreath and Dr Buck, and then the records were subsequently reviewed by the hand, wrist and elbow surgeon Dr J. Ecker (Dr Ecker), who reported to the coroner and also gave evidence at the inquest. The aim of Dr Ecker's review was to assist me in ascertaining, if possible, what mechanism of injury was likely to have caused the fracture to Ray's right hand.

404. In the report to the coroner Dr McCreath noted that three distal phalanges (fingertips) were missing from the right hand. Other than that, they were able to effectively reposition the hand bones. Due to the decomposition, it was not possible to comprehensively examine any soft tissue for related injury. It is also relevant to note that while there were skeletal fractures to Ray's right hand, there were no skeletal injuries seen to his right wrist or arm.²⁷⁷

405. Specifically with respect to the injuries to the right hand, Dr McCreath had opined that they could have occurred as a consequence of a fall down a mineshaft of 12 metres deep and they could also have been caused by a blunt weapon.²⁷⁸

406. Dr Ecker reported that the metacarpals of the right middle and ring finger were severely comminuted with multiple fractures (in other words the bones were shattered). At the inquest Dr Ecker described the injury to the right hand as "*a high violence injury*" and a "*high energy injury*". He added that it would not commonly be seen outside of a trauma hospital. It is not likely to be a closed fist injury.²⁷⁹

²⁷⁷ Exhibit 1, tab 6; ts 992; ts 1006.

²⁷⁸ ts 953.

²⁷⁹ Exhibit 1, tab 9; ts 989 to 991; ts 997 to 998.

407. Dr Ecker explained that the metacarpal head was split, which takes an “*extraordinary*” amount of force. The metacarpal shaft was fractured and splintered, which also takes a lot of force. In the doctor’s experience, such injuries are very common in the context of high energy injuries from motorcycle accidents, motor vehicle accidents, or falls from a great height.²⁸⁰
408. In response to questions posed, Dr Ecker reported that it is possible to sustain this type of injury from a fall, and that it is also compatible with a fall down the mineshaft. At the inquest Dr Ecker went on to clarify that whilst this possibility existed, the probability was low.²⁸¹
409. Dr Ecker referred to the injury being specific to two metacarpals and therefore caused by something that struck that part of the hand. An example may be from the hand striking irregular protuberances during a fall down the mineshaft. This might also explain the missing distal phalanges. Under this scenario, he would not necessarily expect other arm or wrist bone injuries.²⁸²
410. Dr Ecker confirmed that it is not possible to differentiate between potential causes. As with the other skeletal injuries, including the break in the hyoid bone, the hand injuries do not allow for the formulation of an expert opinion on whether they were more likely to be due to the use of an instrument, a fall from height or impact with the walls of the mineshaft.

OTHER FORENSIC EXAMINATIONS

Overview

411. A range of forensic examinations were undertaken by the police. As described previously in this finding, items retrieved from the base of the mineshaft were seized on 10 April 2015 for forensic examination, namely the red petrol can and the “*Pump*” water bottle. The boots that Ray was wearing had blood staining and were forensically examined and subjected to blood pattern analysis.²⁸³
412. Between 3 April 2015 and 3 November 2015 further forensic examinations were undertaken as follows:

²⁸⁰ Ibid.

²⁸¹ Exhibit 1, tab 9; ts 989 to 991; ts 993 to 998.

²⁸² ts 997.

²⁸³ Exhibit 1, tab 3.

- a) Ray's two firearms that were seized from the front passenger seat of his vehicle on 31 March 2015 were subsequently examined for trace DNA, generating no relevant information;
- b) On 4 April 2015 the campsite and Ray's quad bike were examined; this generated follow up forensic examination of the bedding including pillowcases from the Kehlet's tent, and the outcome is detailed below under the heading: *The pillowcases*;
- c) Also on 4 April 2015 Mr Milne gave consent for his Toyota LandCruiser vehicle to be examined; DNA trace swabs and presumptive tests were examined for blood, generating no relevant information;
- d) On 7 May 2015 the Forensic Field Operations and TRG officers re-attended the mineshaft, on this occasion focussing on the areas at the top of the mineshaft; samples were taken from the small fire debris approximately three metres from the opening of the mineshaft and subsequently forensically examined on 27 July 2015, generating no relevant information;
- e) Also on 7 May 2015 the Forensic Field Operations officers re-attending the mineshaft located and seized three cigarette butts, also approximately three metres from the opening of the mineshaft on the other side; the outcome of the forensic examinations is detailed below under the heading: *The cigarette butts*;
- f) On 8 May 2015 items from the campsite that had been returned to the Kehlet's family were obtained by Forensic Field Operations officers from Ray and Jennie's property, for the purpose of being subjected to presumptive blood tests, generating no relevant information;
- g) On 3 July 2015 the vehicles of the visitors to the campsite were subjected to a full trace examination, generating no relevant information;
- h) On 31 August 2015 Forensic Field Operations officers re-attended Ray and Jennie's property to examine Ray's quad bike, with the examinations generating no relevant information;
- i) On 3 November 2015 Mr Milne's LandCruiser was seized and Forensic Field Operations officers subjected it to further testing

including fingerprints, DNA trace and blood detection, generating no relevant information.²⁸⁴

413. As is evident from the above time-frames, some of the forensic testing occurred well after the items had returned to the possession of either the Kehlet family, or Mr Milne. The forensic examination results of relevance are outlined under the specific headings below.

The cigarette butts

414. Three cigarette butts were found approximately three metres away from the opening of the mineshaft that contained Ray's body, and they were subsequently subjected to forensic testing. They were first seen on 9 April 2015 by one of the TRG officers who assisted with the retrieval of Ray's remains. However, they were not seized by police until 7 May 2015, when the Forensic Field Operations officers attended at the site. When seized they were within approximately 30 centimetres of each other, and in the same area as first seen by the TRG officer.²⁸⁵

415. Due to the length of time that the cigarette butts remained on the ground before collection, the reason as to why they were not immediately seized on 9 April 2015 was explored at the inquest, and the provenance of the cigarette butts was questioned.

416. At the inquest Senior Constable Lee (forensic investigation officer) who descended the mineshaft to retrieve Ray's remains on 10 April 2015, testified that he collected the three cigarette butts when he re-attended the site for the second time. In his statement Senior Constable Lee reported that this occurred on 7 May 2015. The purpose of his re-attendance on the second occasion was to conduct a further examination of the base of the mineshaft, to see if there was any information reflecting on Jennie's whereabouts, to collect any items of relevance, and take samples of the of the soil in the area where Ray came to rest.²⁸⁶

417. As part of his role Senior Constable Lee was also tasked to conduct a further forensic analysis of the surface area around the top of the mineshaft, which had not occurred on his first attendance (in April 2015) because on that occasion the focus was upon retrieving Ray's remains. On the second occasion that he attended, Senior Constable Lee treated the area

²⁸⁴ Exhibit 1, tabs 3 and 10.

²⁸⁵ Exhibit 1, tab 12; Exhibit 2, tab 32.

²⁸⁶ Exhibit 3, tab 41; ts 573 to 574.

as a crime scene. He had information that there were possibly cigarette butts in the vicinity, and he had also been tasked with focussing on the remnants of the small fire.²⁸⁷

418. The three cigarette butts collected by Senior Constable Lee were submitted for testing at the PathWest Forensic Biology Laboratory. A DNA profile attributable to Jennie (as donor) was subsequently recovered from two of the three butts. A DNA profile attributable to Mr Milne (as donor) was recovered from the third butt. It is known that Jennie and Mr Milne were smokers, and that Ray was a non-smoker.²⁸⁸
419. At the inquest Mr Milne testified that he smoked cigarettes at the campsite, placing the extinguished butts into a rubbish bag, and that he also smoked cigarettes whilst away from the campsite and on those occasions he “*flicked*” the butts away when he finished.²⁸⁹
420. On Mr Milne’s account, he and Jennie did not ever leave the campsite together, he only ever passed by this particular mineshaft on his way to other places, and he did not ever stop at this mineshaft. Mr Milne was unable to say why cigarette butts with a DNA profile attributable to him (as donor) were found near the mineshaft where Ray’s body was located. His evidence was to the effect that he did not smoke cigarettes with Jennie outside that mineshaft, and that he did not deposit a used cigarette butt in that location.²⁹⁰
421. Through his lawyer Mr Milne submits that the most likely explanation is that the butts were transferred there well after the March 2015 death of Ray. Specifically Mr Milne submits that the most likely means was by police or DFES whether in the valley of the tread of the soles of their boots or otherwise, including potentially when the ground was disturbed or later. He draws my attention to the following:
- a) The three cigarette butts were found in an area that was very heavily trampled by police, SES and/or DFES officers, prospectors and media personnel in late March and/or April 2015; reference is made to the ground around the mineshaft being heavily disturbed by digging and/or movement of soil and the placement (including dragging) of ropes, canvas and roping frames apparatus for the forensic examination and subsequent retrieval of Ray’s body; and

²⁸⁷ Exhibit 3, tab 41; ts 565.

²⁸⁸ Exhibit 1, tabs 12 and 19; Exhibit 2, tab 32A; Exhibit 3, tabs 3, 5, 6 and 36.

²⁸⁹ ts 889 to 890.

²⁹⁰ *Ibid.*

- b) The three cigarette butts that were seized on 7 May 2015 are not depicted in any of the April 2015 photos that also show the area of the top of the mineshaft – and those butts should be visible if they were there from late March to April 2015 when the area was first searched and photographed.

422. At the inquest Officer AB of the TRG testified that he attended at the mineshaft on 9 April 2015 for the purpose of planning the task for the retrieval of Ray's remains (which occurred the next day). When he attended, he saw the remnants of the small fire and he recalled seeing some cigarette butts. They caught his attention because he believed police officers had guarded the scene overnight, and this caused him to consider why they may have been left there by police (and not collected).²⁹¹
423. Officer AB did not recall anyone using equipment or items that came into contact with the area where the cigarette butts were during his involvement on 9 and 10 April 2015. He did recall discussing the cigarette butts with one of the Detectives on 9 April 2015, in the context of their presence being possibly related to the remnants of the small fire (meaning that whoever smoked the cigarettes may have also lit the fire).²⁹²
424. Officer AB was tasked with the retrieval of Ray's remains. He did not have a role in investigating the death, so he was not be responsible for seizing items of relevance, such as the cigarette butts. Records from the Forensic Report reflect that on 10 April 2015, when Ray's remains were retrieved, an investigative search was carried out for items which may assist in the identification of the body, but on that date nothing of note was located.²⁹³
425. Officer AB was then tasked with returning to the area and with being in attendance at the mineshaft between 6 and 8 May 2015. On this occasion his role was to coordinate a team of TRG officers, one of whom was lowered into the mineshaft to recover some items from the base of the shaft.²⁹⁴
426. In the course of performing his functions, Officer AB recalled that on 8 May 2015 he saw the Forensic Field Operations officers remove the cigarette butts, being the ones that he saw when he first attended in April 2015. Officer AB was within metres of them when they did this. Notably,

²⁹¹ Exhibit 1, tab 32; ts 1039 to 1040.

²⁹² Exhibit 1, tab 3; Exhibit 2, tab 32; Exhibit 3, tab 41; ts 1042 to 1043; ts 1048 to 1049.

²⁹³ Exhibit 1, tab 10; ts 565 to 566.

²⁹⁴ Exhibit 2, tab 32.

Senior Constable Lee reported that he collected the cigarette butts on 7 May 2015 and given both his role regarding the seizure and his written recollection, I am satisfied that this is the date of seizure.²⁹⁵

427. I am also satisfied that Officer AB observed the seizure of the cigarette butts while he was in the course of other duties (and that most likely explains the discrepancy in the dates). Officer AB believed the cigarette butts collected by the Forensic Field Operations officers were in the same location as when he first saw them in April 2015. He did not recall anyone using equipment or items that came into contact with the cigarette butts during his involvement in May 2015.²⁹⁶

428. I have had regard to the evidence in the light of Mr Mine's submissions. I consider it improbable that the three cigarette butts were accidentally caught in the valley of the tread of the police officers' shoes and deposited within 30 centimetres of each other at a three metre distance from the opening of the mineshaft.

429. Having regard to the location of the three cigarette butts, one inference that may reasonably be drawn is that Jennie and Mr Milne smoked those cigarettes when they were together at or about that location at an unknown point in time between about 19 and 22 March 2015.

430. I make this inference on the applicable standard of proof, notwithstanding Mr Milne's evidence to the effect that Jennie tended not to leave the campsite area, and that he had no explanation for a cigarette butt with a DNA profile attributable to him (as donor) being found near the mineshaft where Ray's body was located.

431. The evidence is not sufficient for me to draw any inference as to where Ray was at the time that Jennie and Mr Milne smoked the cigarettes, and then deposited the butts near the opening of the mineshaft.

The blood on Ray's boots

432. The boots that Ray was wearing when his body was found were submitted for testing at the PathWest Forensic Biology Laboratory. The testing confirmed the presence of blood on both boots, and DNA analysis

²⁹⁵ Exhibit 1, tabs 3; Exhibit 2, tab 32; Exhibit 3, tab 41; 32; ts 1043 to 1044; ts 1052.

²⁹⁶ ts 1045 to 1046.

confirmed that the blood was Ray's. Mr Milne did not recall Ray suffering any bleeding during that trip.²⁹⁷

433. The blood that was found in the following areas of Ray's boots was the subject of some focus at the inquest. The purpose was to assist me in ascertaining any connection between the bleeding and Ray's manner of death:

- a) A blood spot on the top of Ray's left boot;
- b) Blood on the underside outsole of Ray's left boot, including up inside the valleys of the tread pattern;
- c) Blood on the upper surfaces of the outsole tread pattern of Ray's left boot (being the portion of the boot outsole that would come into contact with the ground if the wearer of the boot was walking, that is, the lug).²⁹⁸

434. Dr Mark Reynolds (Dr Reynolds), forensic science consultant, prepared a report for the coroner when he was with the Forensic Division of the Western Australia Police Force, and he gave evidence at the inquest. An area of his evidence concerned the blood on Ray's boots, and its implications.²⁹⁹

435. At the inquest Dr Reynolds explained that the blood spot on the top of Ray's left boot was a passive drop of blood, essentially falling under the influence of gravity. It could potentially happen when a person gets a nosebleed. It is relevant to note that Ray sustained a fracture to the cheekbone area, which could also have resulted in a bleeding injury to the nose and/or the mouth.³⁰⁰

436. Whilst the source of the injury cannot now be known, I am satisfied that Ray would have been upright (most likely standing) when the drop of blood fell onto the top of his boot. It is not possible to place a timeframe on when that drop of blood fell onto his boot.³⁰¹

437. The greater portion of the evidence concerned the blood on the underside of Ray's boot and I have taken account of the information provided by Dr Reynolds:

²⁹⁷ Exhibit 1, tab 12; Exhibit 5, tab 12.

²⁹⁸ Ibid.

²⁹⁹ Exhibit 1, tab 12; ts 581 to 602.

³⁰⁰ ts 583; ts 587; ts 594; ts 596 to 597.

³⁰¹ Exhibit 1, tab 12;

- a) The bloodstaining seen up in the valleys of the tread pattern suggests that the most logical deposition mechanism would be from contact between that area of the boot and a source of liquid blood; there would have to have been a pooled area of blood on a porous or semi-porous yielding surface, such as a pooled area of blood on the dirt;
- b) The bloodstaining on the upper surfaces of the outsole tread pattern of Ray's left boot (the lug) had persisted, and should Ray have continued to walk around an abrasive surface such as the rocky soil around the mineshaft, it would be soon removed;³⁰²

438. It is noted that Ray's boots had a high lug. I am satisfied that at some point Ray was standing in a pool of his own blood, and there was enough blood to have reached up and into the valleys of the tread pattern of his boot. Furthermore, I am satisfied that the bloodstaining on the upper surfaces of the outsole tread pattern (the lug) occurred at the same time, as part of the same incident, and that the only reasonable inference is that after bleeding, Ray did not walk around for any distance, if at all.

439. The inquest explored the likelihood of Ray standing in a pool of his own blood when he was at the base of the mineshaft. Dr Reynolds testified that the forensic pathologist and forensic anthropologist expressed the collaborative view that it was probable that Ray was not able to move very much after his injuries, and Dr Reynolds premised his opinion on this basis.³⁰³

440. It was posited at the inquest that Ray had fallen down the mineshaft, landed feet first, then slid down the conical mound, resulting in his body lying off center to the opening of the mineshaft. This generated the questioning regarding the likelihood of injuries to his feet, ankles and legs (as already referred to) and also generated questioning regarding the bloodstaining at the base of Ray's boot.

441. Dr Reynolds' evidence was that if hypothetically, Ray had fallen down the mineshaft landing feet first and then slid down the conical mound, he would not expect to see the blood staining that he did see at the base of Ray's boot.³⁰⁴

³⁰² Exhibit 1, tab 12; ts 584; ts 594; ts 601 to 602.

³⁰³ ts 585.

³⁰⁴ ts 600.

442. On the hypothetical scenario of Ray falling down the mineshaft, Dr Reynolds opined that the bloodstaining on Ray's boots must have been present before he fell into the mineshaft. He could think of no reasonable explanation for the presence of blood, especially on the under-sole of the boots, which is commensurate with an accidental fall down a mineshaft, or with Ray's movement at the base of the mineshaft after the fall.³⁰⁵
443. I have taken account of the evidence reflecting upon the likelihood of Ray's capacity to move around at the base of the mineshaft, after he sustained his known skeletal injuries. At the inquest Dr McCreath testified that the identified injuries (the fractures) in themselves would not necessarily have precluded Ray from moving. However, within the context of the injury to Ray's head area, Dr McCreath noted that it cannot now be known whether it had a concussive effect or whether there was a more major bleed in the brain (which would have precluded Ray from moving).³⁰⁶
444. It is to be borne in mind that the cause of Ray's death remains unascertained. I am satisfied that Ray's known skeletal injuries would not necessarily have precluded him from all movement at the base of the mineshaft. Due to the advanced decomposition of the body, it is no longer possible to know what other injuries he sustained.
445. Self-evidently however, in the case of a fall from a height of 12 metres a person of Ray's height and weight would have sustained a range of soft tissue and/or internal injuries. This aspect is explored later in this finding under the heading: *The physical circumstances of Ray's body*.
446. I am satisfied that the bloodstaining at the base of Ray's boot occurred close to the time of his death, and was connected with his death.

The water bottle found with Ray's body

447. The empty "Pump" water bottle (water bottle) that was found with Ray's body at the base of the mineshaft was submitted for testing at the PathWest Forensic Biology Laboratory. The testing confirmed mixed DNA profiles attributable to Ray, Jennie and Mr Milne on the drinking spout of the bottle.³⁰⁷

³⁰⁵ Exhibit 1, tab 12.

³⁰⁶ ts 964.

³⁰⁷ Exhibit 1, tabs 8 and 12.

448. This is consistent with the three of them refilling and sharing “*Pump*” brand water bottles for communal use, as indicated in the photos of the previous camping trip they took together.
449. The water bottle did not have much dust on it, and less dust than the red petrol can that is referred to under the heading immediately below. This is likely to be attributable to the fact that it was located somewhat more centrally in the mineshaft and therefore potentially susceptible to rain (whereas the red petrol can was well off to the side of the mineshaft).³⁰⁸
450. The most likely explanation is that the water bottle fell into the area between Ray’s legs close to the time that his body came to rest at the base of the mineshaft. It was posited that the water bottle was thrown into the mineshaft afterwards, and happened to land between Ray’s legs. This is unlikely, because Ray’s legs were well off center to the opening of the mineshaft.
451. Whilst there are competing hypotheses about the presence of the water bottle, they are speculative. Other than its presence, there is no evidentiary foundation for reaching any inference about the implications of the location of the water bottle.

The red petrol can in the mineshaft

452. The empty 20 litre red plastic petrol can that was found near Ray’s body at the base of the mineshaft was collected, segmented and submitted to testing at the PathWest Forensic Biology Laboratory. The DNA analysis confirmed the presence of bloodstains that were matched to Ray, on three of the segments of the red petrol can.³⁰⁹
453. The red petrol can had been found positioned on its side and towards the back of the bulbous base of the mineshaft, on the other side of the conical mound, and approximately three metres away from Ray’s remains. It was positioned closer to the rubble that had come to fill one of the shaft extensions. The red petrol can had an area cut out from the top part, and it was posited that it might have been used as a container.³¹⁰
454. There was a thick layer of dust on the upwards facing surface of the red petrol can. It had significantly more dust than on the water bottle found

³⁰⁸ Exhibit 3, tab 41.

³⁰⁹ Exhibit 1, tabs 10 and 12; ts 638 to 639.

³¹⁰ Exhibit 1, tab 10; ts 527; ts 566; ts 689; ts 887 to 888.

with Ray's body. At the inquest Senior Constable Lee offered the view that the red petrol can had been in its location for a significantly longer time than Ray's body and the water bottle, and I accept that.³¹¹

455. It is not known how the red petrol can came to rest at the far end of the bulbous base of the mineshaft. It was suggested that someone had thrown it down the shaft rather than placing it in the bin. However that does not account for its location towards the back wall of the base of the shaft. It is possible, but unlikely to have rolled in that position and such speculation does not advance the matter further.³¹²

456. There is no explanation for how the red petrol can with Ray's blood became situated where it was, and it is not consistent with the hypothesis of Ray chasing Ella and tripping over down into the mineshaft. Under that scenario it is unlikely he was holding both a water bottle and a petrol can.

457. Furthermore, if the petrol can was already in its location before Ray's body came to rest at the base of the shaft, the presence of Ray's blood on the red petrol can three metres away from his body is not consistent with him having fallen down the shaft and slid further off centre down the conical mound.

The rusty metal can found with Ray's body

458. A rusty metal can with some rocks in it was positioned over Ray's right shoulder and his neck, near to, but not on, the right side of Ray's face. Senior Constable Lee observed several other pieces of rusty metal buried in loose material within the collar of the mineshaft. Due to its degraded state the rusty metal can was not forensically examined.³¹³

459. At the inquest consideration was given as to whether this metal can may have caused any of Ray's injuries, for example by dropping on him from height. Given that Ray's skeletal fractures were on the left side of his face, and having regard to Ray's position, the forensic anthropologist explained that whilst left sided fractures could occur with a transference of force, she would have expected to see damage to the right side of the face.³¹⁴

³¹¹ ts 570.

³¹² ts 519 to 520; ts 570 to 571.

³¹³ Exhibit 3, tab 41; ts 1022.

³¹⁴ ts 1022.

460. I am satisfied that it is likely that the rusted metal can that was positioned on Ray's right shoulder came from collar material at the top of the mineshaft. It is possible that it fell down after Ray's body came to rest at the base of the mineshaft because other rocks and rubble continued to fall away from the collar and down the mineshaft.
461. There are no inferences to be drawn from the presence of the rusty metal can found with Ray's body.

The timber beam found on Ray's body

462. The timber beam, in two parts, that was partially positioned over Ray's right leg, but not touching his body, was collected and initially examined for blood stains and the presence of organic material. None was found and in the circumstances it was not sent to PathWest for further analysis.³¹⁵
463. Senior Constable Lee who first observed the timber beam when he descended the mineshaft posited that it fell into its position after Ray's body came to rest at the base of the mineshaft. He considered it a reflection of the instability of the mineshaft.³¹⁶
464. I am satisfied that the timber beam has likely come from the collar of the mineshaft, that is missing a beam on one side. It cannot now be known how the beam has become dislodged and fallen to the base of the mineshaft. It is likely that it became dislodged at or shortly after the time that Ray's body came to rest at the bottom of the mineshaft.

The Kehlet campsite

465. The Kehlet's campsite was forensically examined and recorded, before the police returned the contents to the Kehlet's family members. There were no items of interest recovered, save for the matter of some bedding, that is referred to under the heading immediately below: *The pillowcases*.
466. For the purposes of the inquest, it was relevant to note that Mr Milne stated he left certain prospecting equipment for Ray and Jennie to use, before he departed, as follows:

³¹⁵ ts 651 to 652.

³¹⁶ Exhibit 3, tab 41.

- a) An ATX Garrett metal detector;
- b) A prospecting pan;
- c) A prospector's drag chain (to be clipped at the waist so that footsteps can be re-traced); and
- d) A yellow Garmin hand held GPS.³¹⁷

467. Ray and Jennie did not have extensive prospecting equipment of their own. Mr Milne's evidence was that he left the above equipment on the round table at the Kehlet's campsite on the morning of 22 March 2015 before he departed. When police secured the campsite on 1 April 2015 and commenced their examination of it, they did not subsequently locate this equipment.³¹⁸

468. Police became aware of concerns regarding Ray and Jennie on or about 31 March 2015. Therefore over one week passed between the time that Mr Milne departed and the time that police secured the campsite. It cannot now be known whether Ray or Jennie saw and used such equipment, or whether an unknown person removed the equipment from the campsite prior to the campsite being secured.

469. The known visitors to the campsite in the interim period did not see such equipment, and it is to be borne in mind that they were not undertaking any form of examination of the campsite, and that they relayed their own observations to police at the material time.

470. At the inquest the investigating officer Detective Sergeant Stephen Cleal (Detective Cleal) was questioned about the subsequent recovery by searchers of items that might have been consistent with the prospecting equipment described by Mr Milne.³¹⁹

471. The outcome of subsequent inquiries of the police's Incident Management System records made by Detective Cleal was that some similar items (or parts of items) were found in the course of the search for Ray and Jennie, but they did not fully correlate with the descriptions given by Mr Milne. The recovered items from the surrounding areas are reflected as follows:

- a) Part of an ATX Garret metal detector (the coil and neck) were recovered and submitted to forensic testing, specifically fingerprint

³¹⁷ ts 866; ts 872.

³¹⁸ Exhibit 1, tab 3; ts 60.

³¹⁹ ts 61 to 67.

and DNA testing, with no results returned; the owner of the equipment was identified and the items returned to that person;

- b) A prospecting pan was recovered approximately 1.8 kilometres north of the mineshaft and submitted to forensic testing, specifically fingerprint and DNA testing, with no results returned;
- c) A yellow Garmin handheld GPS was recovered by SES officers searching the area and submitted to forensic testing, specifically fingerprint and DNA testing, with no results returned; the owner of the unit was found by police to be the prospector Mr Blair and the item was returned to him.³²⁰

472. The relevance of the above equipment, for the purpose of the inquest, is that it may have reflected upon the subsequent actions of Ray and Jennie after Mr Milne departed. It might have shown where they went. However, within the context of the items found, I have no basis for drawing any inferences as to whether and if so, where, Ray and Jennie might have gone after Mr Milne departed.

The pillowcases

473. The Kehlet's bedding at the campsite was collected and submitted to testing at the PathWest Forensic Biology Laboratory. There was evidence in support of Ray and Jennie's DNA on the sheet and doona cover, which is unremarkable. At the inquest there was some focus on the following outcomes in respect of two pillowcases:

- a) In relation to one of the pillowcases (first pillowcase) there was a mixed DNA profile with one contributor matching Jennie, and with limited evidence supporting Ray and Mr Milne as contributors; at the inquest the forensic scientist explained that this limited evidence meant that Ray and Mr Milne could not be excluded as possible contributors;
- b) In relation to the other pillowcase (second pillowcase) there were two mixed DNA profiles obtained, one from each surface of the pillow case. In one instance, Jennie was matched as a contributor with evidence supporting Mr Milne as a contributor and excluding Ray. In relation to the second profile, Jennie was again a match,

³²⁰ Exhibit 1, tab 3; ts 60 to 64.

and male DNA was detected. The evidence supported Ray not being a contributor and was inconclusive in relation to Mr Milne.³²¹

474. The presence of DNA attributable to Mr Milne on one of the mixed DNA profiles on the second pillowcase from Ray and Jennie's tent was explored at the inquest. I am satisfied that it is explicable by any or all of the following, based upon the evidence given at the inquest:

- a) Mr Milne's partner was shown a photograph of a similar pillowcase from her home, she confirmed there was a matching pillow, and that she did not know where it was;
- b) Mr Milne testified that he brought the matching pillow on the camping trip and gave it to Jennie to put behind her back when driving, to alleviate a sore back; and
- c) Mr Milne also testified that he touched some of the Kehlet's bedding when he assisted them in setting up their tent at the campsite, though he could not specifically confirm touching their pillows.³²²

475. The forensic examination of the pillowcases was properly sought and undertaken and showed Jennie and Mr Milne as DNA contributors on the second pillowcase. The question had been posed by police as to whether Jennie and Mr Milne were in a relationship. In this context, regard was also had to the DNA findings in respect of the three cigarette butts referred to above. This might have reflected on the circumstances surrounding Ray's death, and it was reasonable for police to make the inquiry. Mr Milne denied being in a relationship with Jennie.³²³

476. I am satisfied that there is no evidence of a relationship between Jennie and Mr Milne. The evidence reflects that they were work companions and family friends. There is no basis for drawing any inferences from the DNA results from the pillowcases.

³²¹ Exhibit 1, tab 12; ts 646 to 648.

³²² ts 748; ts 832; ts 924;

³²³ Exhibit 5, tab 2.

PHASES 3 AND 4 OF THE SEARCH

Parameters of Phases 3 and 4 of the search

477. Phase 3 of the LandSAR operation commenced on 6 May 2015 when Police resources were deployed back to Sandstone. Search operations commenced on 7 May and went through to 15 May 2015. By the time of Phase 3, the time frame for survival for Ray and Jennie had well and truly passed, and it was treated as a recovery operation. The DFES USAR are not involved in recovery operations. Police resources were therefore used primarily.³²⁴

478. Phase 4 of the LandSAR operation commenced on 23 July 2015 and concluded on 30 July 2015. The purpose of Phases 3 and 4 was to conduct a more thorough search for Jennie. Sergeant Hall remained appointed as Forward Commander. Actions over these phases involved the following:

- a) Searches over specific areas already searched (due to an assessment of there being a Low Probability of Detection in those areas during the initial search);
- b) The identification of new search area to the west of the Paynes Find-Sandstone Road, linked to sightings of Ella;
- c) The creation of a three kilometre square search area around the campsite and physical parallel sweep searches of areas not previously searched within this boundary; and
- d) Clearance of all the mineshafts in the search area, described in more detail below.³²⁵

479. During Phase 3, TRG officers (who were now trained in descent into mineshafts) were deployed to revisit the mineshaft where Ray's remains were found. An inspection occurred to ensure Jennie's remains were not present, or in an adjoining shaft. There was no evidence found that Jennie was, or had ever been, in the mineshaft where Ray's body was found.³²⁶

480. The reconciliation of the rest of the mineshafts in the search area was undertaken by police using the list provided by the Department of Mines and Petroleum and the list completed by DFES. On reconciliation of the combined data, a total of 160 site locations were identified. These

³²⁴ Exhibit 2, tab 28; Exhibit 6, tab 2; ts 430 to 431.

³²⁵ Exhibit 6, tab 2.

³²⁶ Exhibit 6, tab 2.

minshafts were all inspected and cleared by the TRG and police. It was a significant and well-resourced undertaking, under the command of Sergeant Hall.³²⁷

Quality of Phases 3 and 4 of the search

481. Senior Sergeant Whitehead, whose evidence is referred to previously, had prepared his independent review of the police's LandSAR operation prior Phase 4. Therefore some of the comments that he made required elaboration in light of the additional and subsequent search efforts.

482. In his report Senior Sergeant Whitehead had opined that the primary search area for Phase 1 was a good representation of the statistical and subjective strategies, but he qualified his comment. He noted that the initial search area from the vicinity of the camp did not extend out to a 5.76 kilometre radius, but considered that the initial area nonetheless was the area that could best be searched with the resources available. He explained that his reference to the extended area was a little bit more to the east of the mineshaft, which could have been an area where Jennie had gone to.³²⁸

483. At the inquest Senior Sergeant Whitehead was shown the Phase 4 searching that was subsequently done in respect of the area that he had described as being to the east of the mineshaft. It concerned the search for Jennie's remains. He provided his opinion on this subsequent Phase 4 search from two separate perspectives:

- a) Having regard to the statistical behaviour of "*hikers*" (that was in use at the material time) he would be happy with this search area;
- b) However, if one were to apply the more recent information about the statistical behaviour of "*prospectors*" he would say that the Phase 4 search area should have extended slightly further to the east.³²⁹

³²⁷ Exhibit 6, tab 2.

³²⁸ Exhibit 6, tab 3; ts 456.

³²⁹ ts 475.

484. Senior Sergeant Whitehead has been involved in updating the National Manual for LandSAR (after consultation with the National SAR Council) and he informed the court that this incident was the catalyst for a review, which included the addition of the new category for “*prospectors*.”³³⁰
485. The question therefore arose as to whether the Phase 4 search area could now be extended, if the statistical behaviour of a prospector, as opposed to a hiker, is factored into the calculations.
486. Senior Sergeant Whitehead considered this question and took account of Jennie’s individual circumstances (she was not an experienced prospector). He concluded that there was a possibility that she could have gone a little further east, but that it was highly unlikely given her known familiarity with the bush environment (he was aware she had experience as a volunteer firefighter). In other words, having regard to her limited prospecting experience, she did not have the characteristics of a “*prospector*” for the purposes of applying the statistical behaviour to a search area.³³¹
487. Having regard to Senior Sergeant Whitehead’s opinion, I am satisfied that the search for Jennie’s remains during Phase 4 was based upon an appropriately identified search area.
488. This does not mean that there are no bases for future searches. The matter ought to be kept open and under continued consideration by police.

JENNIE’S DEATH IS ESTABLISHED

Reasons for finding Jennie has died

489. I confirm as I indicated at the inquest, that the death of Jennie has been established beyond all reasonable doubt.³³²
490. I have taken account of the circumstances of the camping trip, the location of Ray’s body at the base of the mineshaft and the extensive searches for Jennie. It is clear that Ray and Jennie were expected to have returned home in April 2015 after a brief camping trip in the Sandstone area, to be followed by a trip to Lake Miranda.

³³⁰ ts 474 to 475.

³³¹ ts 475; ts 490.

³³² ts 1077.

491. I have also taken account of the following information in finding that Jennie has died:

- a) Jennie was very close with her children, and none of Jennie's family have heard from her since this camping trip in 2015;
- b) Police have issued various public releases, including a news release in relation to Ray's death and Jennie's disappearance on 27 April 2015 asking for assistance from anyone who was in the Sandstone area between 18 and 31 March, none of which have resulted in Jennie being located;
- c) The Western Australia Police Force's Missing Person Team conducted searches of bank records and Medicare records amongst others, and found no information which suggests Jennie has had any interaction which could prove she is alive;
- d) The Kehlet's did not have financial problems;
- e) There is no apparent reason for Jennie to seek to disappear of her own volition.³³³

492. I am satisfied that Jennie did not leave the Sandstone area, and that her body remains in that area at an unknown location.

Cause of Jennie's death

493. Jennie's remains have not been located. It is therefore not possible to find the cause of Jennie's death.

494. **I find that the cause of Jennie's death is unascertainable.**

EVIDENCE IN SUPPORT OF ACCIDENTAL DEATHS

495. I received submissions from the parties as to the evidence in support of the manner of Ray and Jennie's death. I have considered the submissions, and commence with my review of the evidence in support of their deaths being accidental.

³³³ Exhibit 1, tab 14; Exhibit 3, tabs 5, 6 and 8.

Case theory of Senior Sergeant Whitehead

496. In the course of reviewing the police's search for Ray and Jennie, Senior Sergeant Whitehead offered a scenario as to what may have happened to them, based upon the information available to him at the material time, and informed by his experience as the Queensland Police Service State Search and Rescue coordinator and Training Officer.³³⁴

497. In formulating his scenario Senior Sergeant Whitehead had regard to a number of factors including the location of Ray's body, the location and state of the campsite (indicating to him that Ray and Jennie departed in haste), the location and state of the quad bike (in a usable state, not bogged or otherwise damaged) and the information provided to him about Ella wandering off on previous occasions, requiring the use of the quad bike to return her.³³⁵

498. Senior Sergeant Whitehead was informed that Ray had no shirt on when his body was found (supporting his scenario of a hasty departure from the campsite), and he noted information suggesting that under normal circumstances either Ray or Jennie would have remained at the campsite, possibly as a means of protecting their equipment.³³⁶

499. Senior Sergeant Whitehead posited that the most probable scenario was that:

- a) The dog (Ella) ran off and Ray and Jennie immediately went after her on the quad bike, together;
- b) They left the quad bike in its found location, with the intention of returning to it after a short period;
- c) Ray was chasing Ella, and ran up the small mound that surrounds the opening to the mineshaft;
- d) Ray either did not see the mineshaft opening until it was too late, or he overbalanced, consequently he accidentally fell into the mineshaft;

³³⁴ Exhibit 6, tab 3; ts 467 to 468.

³³⁵ Exhibit 6, tab 3.

³³⁶ *Ibid.*

- e) He also noted that if Ray was within 20 to 30 centimetres of the mineshaft opening, the edge would crumble enough to make it very dangerous;
- f) If Jennie was with Ray at the time he fell into the mineshaft she may have remained at the scene in a dazed and confused condition, inconsolable, in a state of disbelief and waiting for signs of life; he pointed to the cigarette butts as indicative of her presence there; and
- g) Jennie may then have attempted to return to the camp or the quad bike, but taken the wrong path, becoming disorientated and lost in the process.³³⁷

500. Senior Sergeant Whitehead pointed to a number of factors in support of Jennie having subsequently become disorientated and lost, including the following:

- a) Given the locations of the quad bike and campsite, it is unlikely that Jennie walked back there, as the distances involved were less than two kilometres and she would have been walking into an area that should have been readily identifiable to her;
- b) If Jennie had been able to make it back to the quad bike or the campsite in daylight, she should have been able to do so as there were distinct tracks leading from the mineshaft;
- c) If Jennie had been able to make it back to the quad bike or the campsite, or the Paynes Find-Sandstone Road, she would have been alive and able to get assistance;
- d) If Jennie had travelled towards the quad bike or the campsite, or the Paynes Find-Sandstone Road, and met with an injury resulting in death, her body should have been located in Phase 1 of the search;
- e) It is more than likely that Jennie stayed at the scene until darkness, and it is noted that the moon at that time was between new moon and first quarter, providing no light for Jennie to see any tracks in the darkness; and
- f) The information suggested to him that Jennie has wandered off in a direction between east and south from the mineshaft after sunset, in the darkness.³³⁸

³³⁷ Exhibit 6, tab 3; ts 458 to 459; ts 462 to 463.

³³⁸ Exhibit 6, tab 3; ts 486 to 489.

501. At the inquest Senior Sergeant Whitehead did point out that this scenario was in effect his theory, and that he relied upon the following assumptions:

- a) That the dog ran away from the campsite, being in the habit of chasing kangaroos;
- b) That Ray and Jennie quickly departed the campsite on the quad bike to bring the dog back;
- c) That in that process for an unknown reason they got off the quad bike and walked another kilometre;
- d) That Ray ran up the narrow rise (the mound) and fell into the mineshaft;
- e) That Jennie has sat there the rest of the day; and
- f) That darkness came faster than Jennie expected.³³⁹

502. Senior Sergeant Whitehead's scenario was of relevance to the inquest, and is of necessity based upon his expertise in the area of search and rescue, which is extensive. It includes his considerable experience and research in the area of "*lost person*" behaviour.

503. Through his lawyer Mr Milne submits to me that the case theory of Senior Sergeant Whitehead is to be preferred, and that it is consistent with the physical circumstances of Ray's body at the base of the shaft, the appearance of the shaft itself (including the missing portion of the collar, and the loose wire around it that is a tripping hazard), the location of the quad bike, and his own observed behaviour of Ella, the dog.

504. However, after Senior Sergeant Whitehead prepared his report, at the inquest there was considerably more relevant information available to me of a nature that is outside Senior Sergeant Whitehead's areas of expertise. Some of that information concerned the outcomes of the forensic investigations and the further inquiries conducted by police.

505. It have therefore had regard to the evidence militating against an accidental fall by Ray down the mineshaft, outlined below.

³³⁹ ts 495.

EVIDENCE MILITATING AGAINST ACCIDENTAL DEATHS

506. For the reasons that follow in this part, I have determined that Ray did not accidentally fall down the mineshaft.

Unlikely that Ray accidentally fell and Jennie panicked

507. I turn first to the broader information concerning Ray and Jennie's personal circumstances, and their experience in the outdoors. There is no evidence that either Ray or Jennie suffered any medical issue which would likely result in a sudden collapse. There are no known mental health concerns in respect of either Ray or Jennie.³⁴⁰

508. Both Ray and Jennie enjoyed being outdoors. They operated a farm together, working outdoors regularly. They enjoyed camping and are unlikely to have been unnerved by being in a rural or remote setting.³⁴¹

509. Before leaving on this camping trip, Ray and Jennie had practiced roping and/or abseiling work on their farm with Mr Milne (who was teaching them). Ray and Jennie told one of their friends that they were planning on abseiling down old mineshafts to look for gold (though it is noted that this does not accord with Mr Milne's understanding of the plans for this camping trip, and no relevant equipment was recovered by police from the campsite).³⁴²

510. Secondly, I turn to the appearance of entry to the mineshaft, and the surrounding areas. It is likely that Ray and Jennie knew that the areas surrounding their campsite had old and disused mineshafts, that were not signposted or fenced off and not necessarily readily apparent from a distance. It is likely they knew it was important to look where they were walking, more so if running.

511. The entry to the mineshaft was partially raised with a substantial mound on one side. The presence of the old wire, also raised from the ground, did present a tripping hazard. However, it is to be borne in mind that the entry was not configured to appear as an unexpected hole in an otherwise flat surface. It is not readily apparent how a person with Ray's knowledge

³⁴⁰ Exhibit 1, tabs 15, 26 and 27; Exhibit 2, tab 1; Exhibit 3, tabs 4 and 5.

³⁴¹ Exhibit 1, tab 15; Exhibit 2, tab 2; Exhibit 3, tab 5.

³⁴² Exhibit 3, tab 36; Exhibit 5, tabs 1 and 2.

and experience would run up a rise or a mound without looking at the ground around him.³⁴³

512. Thirdly, the scenario of an accidental fall by Ray, followed by Jennie panicking and becoming lost is not consistent with the outcome of the search:

- a) there is no evidence that Jennie was in the mine shaft in which Ray's remains were found; and
- b) Jennie's remains were not located as part of the search of the surrounding area, which included the clearance of mineshafts in the surrounding area.³⁴⁴

513. Fourthly, the scenario is not consistent with the location and orientation of the quad bike. The hypothesis of an accidental fall by Ray followed by Jennie panicking, does not readily explain the quad bike being found approximately 500 metres north of the campsite, and approximately 1200 metres south of the mineshaft in which Ray's remains were found, and facing that mineshaft:

- a) The quad bike was parked off to the side of the track, and in the scrub; it was posited by a prospector witness that the quad bike had the appearance of being parked off the side of the track by a prospector who had gone prospecting nearby;
- b) The quad bike was parked two thirds up a hill, which is not compatible with a scenario of Ray chasing Ella and then jumping off the quad bike to further pursue Ella on foot and in haste for another 1200 metres.³⁴⁵

The physical circumstances of Ray's body

514. The most compelling evidence militating against accidental death concerns the physical circumstances of Ray's body, outlined below.

515. The fact that Ray's body was located at the base of the mineshaft, with evidence of it having been at that location for some time (due to the

³⁴³ Exhibit 1, tabs 10 and 25; Exhibit 2, tab 22.

³⁴⁴ Exhibit 3, tab 41; Exhibit 6, tab 2.

³⁴⁵ Exhibit 1, tab 13; Exhibit 2, tab 3; Exhibit 3, tabs 18 and 33; ts 25; ts 32 to 33; ts 122 to 123; ts 129; ts 244; ts 421.

decomposition halo), does not necessarily establish that Ray died at that location, and I have taken this into account.³⁴⁶

516. Whilst it had been posited by the DFES senior firefighter Mr Gasmier, that Ray's body was dragged by the ankles at the base of the mineshaft, and that inference is open, the evidence does not establish whether Ray was or was not dragged by the ankles. No drag marks were observed during the examination of the base of the mineshaft, but given the passage of time, the rains and the falling debris, the absence of drag marks does not negate it.³⁴⁷
517. Ray's body was positioned off to one side of the opening, near but not in, the immediate centre of the base of the shaft (in relation to its opening from the ground to the sky). At the inquest Mr Gasmier's opined that it was unlikely that Ray would have rolled too far after a fall, assuming that he had remained inert. It will be recalled that due to the position of Ray's body, the shape of the mineshaft and the shadows cast by the protrusions, the presence of Ray's body could only be discerned after a descent into the shaft.³⁴⁸
518. There was a conical mound made up of earth and rubble at the base of the mineshaft, under the opening. It was most likely created over time by debris falling in through the opening of the shaft. At the inquest, Dr Reynolds had regard to Mr Gasmier's opinion and he drew attention to the fact that the base of the mineshaft was not flat, and that this may have affected the position of Ray's body.³⁴⁹
519. Dr Reynolds referred to a number of possible scenarios, one of which posited that if Ray fell feet first into the mineshaft, his body may have slid down the angle of the conical mound, and this would account for it being found off center, with the head closest to the top of the mound, near the opening of the shaft.³⁵⁰
520. It was therefore relevant to consider the evidence reflecting upon the likelihood of Ray having fallen into the 12 metre mineshaft and landing feet first. In this regard I was assisted by a range of expert evidence.
521. In the report to the coroner, Dr McCreath noted that the femora, tibia and

³⁴⁶ Exhibit 1, tab 7; ts 1014.

³⁴⁷ ts 588 to 589.

³⁴⁸ ts 552 to 553.

³⁴⁹ ts 586.

³⁵⁰ Exhibit 1, tab 12; ts 588.

fibula (leg bones) were all complete and there was no evidence of injury on those bones. The foot bones were all present and complete with no evidence of bony injury.³⁵¹

522. At the inquest Dr McCreath explained that she would not necessarily expect to see fractures to the feet, ankles and/or legs in that hypothetical circumstance (falling and landing feet first), and it would depend on how a person fell. Having regard to the mineshaft being fairly narrow, she considered it would be likely that the wall had been impacted and this would slow or cushion the fall, making fractures less likely. Dr McCreath was unable to comment on the likelihood of fractures to those areas in the case of a sheer drop, not slowed or cushioned.³⁵²
523. Dr Buck testified that she would not have expected any other or any more bone injuries from a fall down the mineshaft including hitting the base of the mineshaft. Dr Buck had regard to the unknown nature of how a person falls in reaching this opinion. She also testified that greater injuries would not be inconsistent with such a fall.³⁵³
524. Dr Reynolds held a similar view (namely that he was not surprised there were no more injuries from the fall) in the context of potential leg and feet injuries, though he qualified this view to explain that it is a general comment from his casework experience.³⁵⁴
525. I determined that I would be assisted by further information from an expert clinician about the likelihood of injuries sustained from a fall from height generally, and also with respect to a fall from height landing feet first.
526. After the inquest I sought and received an independent expert report from the orthopaedic consultant Professor R. Zellweger (Professor Zellweger). The report was focussed upon the injuries that may be expected if a person of Ray's approximate height (170 centimetres) and weight (90 kilograms) were to fall from a 12 metre height. Allowances were made for the downwards kinetic energy of the fall being partially destroyed by protrusions along the length of the mineshaft.³⁵⁵
527. Professor Zellweger considered the alternatives of Ray having tripped or slipped at the top of the mineshaft, and separately a scenario of Ray falling

³⁵¹ Exhibit 1, tab 6.

³⁵² ts 956 to 957.

³⁵³ ts 1020; ts 1024 to 1025; ts 1028 to 1029.

³⁵⁴ ts 591.

³⁵⁵ Exhibit 1, tab 28.

into the mineshaft as a result of collapse of part of the earth near the opening.³⁵⁶

528. Having regard to the latter, which would more likely have Ray landing on his feet at the base, Professor Zellweger opined that, with the feet and lower body parts taking most of the deceleration of the kinetic energy, in the context of skeletal injuries, most likely Ray would have suffered fractures to the feet (calcaneal fractures), tibial and fibular fractures, femur fractures, pelvic injuries and fractures of the thoraco-lumbar spine.³⁵⁷

529. Professor Zellweger was asked to consider the likelihood of Ray falling into the mineshaft, landing feet first at the base, and suffering no injuries to the bones of his feet and legs. The Professor responded that under this scenario, he would assume that the patient has not hit the ground with the lower legs first.³⁵⁸

530. In considering whether the kinetic energy might have been destroyed by the protrusions and other indentations along the length of the mineshaft, Professor Zellweger opined that he would possibly expect more open fractures and more segmental and comminuted fractures on the body parts that have been impacted.³⁵⁹

531. I have had regard to Ray's skeletal injuries and all of the medical evidence before me related to the likelihood of Ray falling into the mineshaft and landing feet first. I am satisfied that Ray did not fall into the mineshaft landing feet first at the base because:

- a) If the fall was not substantially broken by the protrusions, he would likely have sustained fractures to his feet, legs and pelvic area (possibly the spine also); and
- b) If the fall was substantially broken by the protrusions, he would likely have sustained more skeletal fractures than have been seen, in areas of his body that impacted with the protrusions such as to partially absorb the downwards kinetic energy.

532. I turn now to Ray's likely injuries if his head had impacted first with the base of the mineshaft, after a fall into the mineshaft. Professor Zellweger described a fall from a height of more than 10 metres as being a very high

³⁵⁶ Ibid.

³⁵⁷ Ibid.

³⁵⁸ Ibid.

³⁵⁹ Ibid.

fall. The Professor reported that in death due to a fall from height the majority of victims first struck the ground either by the head or by the side of the body, and he informed the court as follows:

“.....the higher the fall, the greater is the chance of landing on the head. Subdural hematoma is the commonest intracranial lesion. Basal skull fractures were seen in victims falling from a height more than 5m. After the brain, spleen, liver and heart are the most common internal organs involved. Thoracic injuries are also more common in high falls, the commonest specific injuries being rib (sic) fractures, lung contusion, pneumothorax and hemothorax. In very high falls (>10m) cardiac and aortic rupture are common.”³⁶⁰

533. Professor Zellweger had regard to cases with primary head impact, and explained the types of injuries seen:

- a) Multiple fractures of skull bones were seen in almost all cases;
- b) Fractures of cervical vertebrae and of upper limb bones were present in a substantial number of cases.³⁶¹

534. With regard to cases involving primary side impact, Professor Zellweger noted that fractures of the femur were commonly seen.³⁶²

535. I have taken account of the various opinions that reflect upon the likelihood of injuries that Ray would have sustained if he fell down the 12 metre mineshaft, including whether the fall was unbroken, and also whether the fall was broken by him impacting with the protrusions along the shaft.

536. As described above, the evidence of the forensic pathologist (Dr McCreath), forensic anthropologist (Dr Buck) and the police's forensic science consultant (Dr Reynolds) was to the effect that they would not necessarily have expected to see greater skeletal injuries in the event of a fall down this mineshaft (whether broken or unbroken by the protrusions). Some of those opinions were qualified as described previously in this finding, and all were of necessity based upon questions that related to the skeletal injuries seen.

³⁶⁰ Ibid.

³⁶¹ Ibid.

³⁶² Ibid.

537. The orthopaedic consultant (Professor Zellweger) also reported generally on the types of injuries seen in falls from height of more than 10 metres. His review was not confined to the skeletal injuries seen. It was provided from a clinical perspective and based upon his experience, and cases seen in falls from height. He provided the court with information related to the types of injuries that might be expected, both skeletal and internal. The range of expected internal injuries are very serious.

538. Therefore, having regard to the evidence, the questions before me are:

- a) Whether Ray accidentally fell down the 12 metre mineshaft, sustaining injuries that led to his death; or
- b) Whether there was a human intervention, either outside the mineshaft, or at the base of the mineshaft (or both), such as an assault (or assaults), that caused Ray to sustain injuries that led to his death; in such a case, Ray may have died outside the mineshaft, or at the base of the mineshaft, and it is known that Ray's body decomposed at the base of the mineshaft.

539. These questions are addressed below.

MANNER OF RAY'S DEATH

General principles

540. Taking account of all of the evidence, and the submissions made by the interested persons, being the Kehlet's family members and the parties represented at the inquest, the possible verdicts that I have considered in respect of the manner of Ray's death are:

- a) Accident;
- b) Homicide by a person or persons unknown; or
- c) Open Finding.

541. In the event that opposing verdicts are equally open on the evidence, then I must deliver an Open Finding on the manner of death. In the event that there is some evidence for one or other conclusion, but that it fails to adequately reach the requisite standard of proof, then an Open Finding must also be recorded.

542. Applying the *Briginshaw* scale, the standard of proof is the balance of probabilities, however the degree of satisfaction and the cogency of material required varies with the gravity of the facts to be found:

*“...reasonable satisfaction is not a state of mind that is attained or established independently of the nature and consequence of the fact or facts to be proved. The seriousness of the allegation made, the inherent unlikelihood of an occurrence of a given description, or the gravity of the consequences flowing from a particular finding are considerations which must affect the answer to the question whether the issue has been proved to the reasonable satisfaction of the tribunal. In such matters ‘reasonable satisfaction’ should not be produced by inexact proofs, indefinite testimony, or indirect inferences.”*³⁶³

543. Whilst the finding of Homicide is ordinarily made where a person has already been convicted as a result of criminal proceedings, the coroner is not precluded from making such a finding in the absence of a conviction provided that:

- a) The coroner adheres to s 25(5) of the Coroners Act, and does not frame the finding or make a comment in such a way as to suggest that any person is guilty of an offence;
- b) The standard of proof is met; and
- c) The coroner does not find facts that are susceptible to some other not improbable explanation.³⁶⁴

Accident discounted

544. I have considered but discounted the likelihood of Ray accidentally falling down the mineshaft, landing feet first and sliding down the conical mound, sustaining injuries that caused the bloodstaining seen on the under-sole of his boot. I am satisfied that under such a scenario Ray’s injuries would have either precluded movement, or precluded standing up and walking around.

545. It was posited that while lying injured at the base of the mineshaft, Ray may have moved to the extent that he placed his boot parallel to the ground and in his blood, perhaps by bending his leg, with pressure applied by his

³⁶³ (1938) 60 CLR 336 at 361 to 363.

³⁶⁴ *Ibid* at 368.

foot so as to cause the bloodstaining seen on the under-sole of his boot. I consider this scenario to be improbable, and inconsistent with the bloodstaining that was seen in the valleys and on the lugs of Ray's boot. The information from the police's forensic science consultant and the orthopaedic consultant assists me in this conclusion.

546. An accidental fall by Ray, whether landing feet first and sliding down the conical mound, or landing head first or side first, would have precluded significant movement and would not account for:

- a) Ray's blood in the valleys of the tread pattern of his boot and on the lugs of his boot, shortly before death; and/or
- b) Ray's blood on the red petrol can found positioned on its side and towards the back of the bulbous base of the mineshaft (approximately three metres away from Ray's remains and on the other side of the conical mound).

547. An accidental fall by Ray, whether landing feet first and sliding down the conical mound, or landing head first or side first would likely have resulted in:

- a) Greater skeletal injuries if his fall had been unbroken for the 12 metres; and/or
- b) More comminuted fractures if he had impacted with the protrusions in the mineshaft during his descent.

548. The information from the forensic pathologist, forensic anthropologist and the orthopaedic consultant (concerning the known injuries seen in persons who fall from heights of greater than 10 metres) assists me in this conclusion.

549. Finally in respect of the consideration of an accident, I consider it improbable that Ray sustained an extensive bleed to his nose (with no other human intervention) and then having stepped in his blood and walked for a minor distance, he accidentally tripped into the mineshaft.

550. I therefore consider an accident to be implausible and have discounted it. Within the context of this case, it follows that a misadventure (involving only Ray) is discounted.

Homicide found

551. Ray, and perhaps also Jennie, were planning to abseil into one or more mineshafts, hoping to find some gold. I take account of the evidence concerning their earlier abseiling practice, their discussions with friends and family, the excited reference to going to the “*Hole*” in the diary entry, and the reference to “*1st HOLE*” on the mud map.
552. On the basis of the available evidence before me, I am satisfied that Ray sustained an injury or injuries that resulted in significant bleeding, and that at a point in time shortly before his death, he stood in a pool of his own blood. The downward pressure of his boot parallel to the ground, together with the quantity of the bleeding, resulted in his blood reaching into the valleys of the tread pattern of his boot.
553. Due to the degree of decomposition of Ray’s body, it is not known how the bleeding injury or injuries that resulted in the bloodstaining, caused or contributed to Ray’s death. However, it is known that the bleeding occurred close to the time that Ray became incapacitated.
554. By reason of some areas of bloodstaining remaining on the lugs of Ray’s boot, the evidence satisfies me that Ray did not walk around very much, if at all, after he sustained that bleeding injury or injuries, and before he died. This, together with the blood staining on the red petrol can, persuades me that the bleeding was not insignificant.
555. The only reasonable inference therefore is that one or more of Ray’s injuries were serious and had the effect of incapacitating him or compromising his ability to stand up and walk around.
556. I have found that Ray did not accidentally fall down the mineshaft. I am satisfied that Ray’s injuries were not accidental. Therefore the break in Ray’s hyoid bone takes on a greater significance. I have taken account of the evidence that, hypothetically a person in Ray’s situation could sustain a break in the hyoid bone by way of hyperextension of the neck making contact with the wall of the mineshaft in the course of a fall.
557. However, where accident is discounted, the reasonable inferences that are open in the context of this case, are that the break in Ray’s hyoid bone was as a result of blunt force trauma or manual strangulation. The break in Ray’s hyoid bone would not necessarily have incapacitated him.

558. I am satisfied that Ray came to harm at the base of the mineshaft. His death was violent and attributable to trauma, from injuries sustained as a result of the actions of a person or persons unknown.
559. Ray may have died immediately, or died of complications originating from the trauma, with the possibility of exposure contributing. It has not been possible to ascertain the cause of his death due to the advanced decomposition of his body.
560. It is possible that the person or persons who caused Ray's injuries also caused his body to be moved to the side at the base of the mineshaft opening in order to conceal it, but this is not established.
561. **I find that Ray's death occurred as a result of Homicide by a person or persons unknown.**

Report to Director of Public Prosecutions

562. I believe that an indictable offence has been committed in connection with Ray's death and under s 27(5)(a) of the Coroners Act, a copy of this finding will be provided to the Director of Public Prosecutions.
563. Due to the publicity concerning this case and the focus upon Mr Milne, including past television coverage of propositions put to Mr Milne, it is important for me to state that the referral to the Director of Public Prosecutions is not made by reason of any belief that I have formed concerning any action or omission on the part of Mr Milne in relation to Ray or Jennie.

MANNER OF JENNIE'S DEATH

564. Jennie's remains have not been found and it is understandably a source of added distress and ongoing anxiety for her family and friends.
565. The searches for Jennie were comprehensive and covered the areas that ought reasonably to have been searched. However, the matter is not complete and the prospects of further police searches for Jennie will undoubtedly remain under consideration.
566. In the absence of Jennie's remains being found, or any evidence of their location, it is not possible for me to make a finding on the manner of her

death. It does not follow, from my finding in respect of Ray's manner of death, that Jennie's death was violent or as a result of trauma. Jennie might have managed to escape immediate danger and then become disoriented and lost. It cannot presently be known.

567. I make an Open Finding as to the manner of Jennie's death.

DATE OF THE DEATHS

568. The following evidence that has been referred to in this finding is relevant to the date of the deaths of Ray and Jennie:

- a) The last entry in Jennie's diary was made on 18 March 2015, and stated: *"Hopefully go to Hole fingers crossed"*;
- b) The network data from Ray's mobile shows that the last activity from his mobile was an SMS text to Mr Milne at 1.32 am on 19 March 2015; it was to confirm that he and Jennie were on their way;
- c) Mr Milne last saw Ray and Jennie on the morning of 21 March 2015;
- d) The prospectors who came upon the campsite mid-morning on 22 March 2015 saw Ella, who was barking, and no other person;
- e) The pastoralist saw Ella in the late afternoon on 22 March 2015, walking alone on the Paynes Find-Sandstone Road;
- f) Mr Milne's evidence was that Ray and Jennie had planned to leave for Lake Miranda on 22 March 2015;
- g) All subsequent observations of the campsite indicate that it was abruptly abandoned, indicating that Ray and Jennie did not start packing for the next leg of their trip.

569. I am satisfied that Ray died on or about 22 March 2015, and that Jennie died not long before or after Ray, on or about the same date.

RECOMMENDATION

570. At the inquest Senior Sergeant Whitehead provided information relevant to improvements in land search and rescue operations. This is not to detract from the LandSAR operation in this case, which was comprehensively executed in a remote area under difficult conditions.

571. Senior Sergeant Whitehead opined that every land search and rescue operation should be coordinated by two people. In this case he noted that there was one search and rescue coordinator, Sergeant Hall, a police officer local to the area. The Senior Sergeant pointed to the Western Australian Police Force's Emergency Operations Unit (based in Perth) and considered they should take a more active role in land search and rescues, noting that unlike marine rescues, these cannot be run from a distance.³⁶⁵
572. He pointed to the benefits of having two search and rescue coordinators on the ground, who have more autonomy, as opposed to following directions from an area that is not on the scene. In this case it will be recalled that the Forward Commander Sergeant Hall responded to directions from the Incident Management Team based at the Mid-West Gascoyne District Office in Geraldton, led by the Incident Controller and trained LandSAR officer Sergeant Nathan Nicholson.
573. He considered that with two search and rescue coordinators on the ground and making decisions, there are checks and balances, they can bounce ideas off each other, consider a number of scenarios, and cross check the mathematics involved in identifying the search area.³⁶⁶
574. Senior Sergeant Whitehead explained that all police officers in the State are routinely trained in a basic search and rescue course, but that the experience in search and rescue lies with the Emergency Operations Unit. For this reason he opined that one of the Forward Commanders at the relevant site ought to be from the Emergency Operations Unit. This is the case especially where after one or two days it becomes apparent that there are some complexities to the search.³⁶⁷
575. After the inquest the police, through their lawyers the SSO, made submissions to me in respect of a potential recommendation concerning the appointment of two search and rescue coordinators for LandSAR operations. They pointed to the geographical challenges posed by the size of this State, and the fact that the Western Australian Police Force's Emergency Operations Unit fulfils a range of functions that include, but are not limited to, search and rescue.
576. The police draw my attention to resource challenges in remote areas, in

³⁶⁵ ts 463; ts 477.

³⁶⁶ ts 464.

³⁶⁷ ts 476 to 477.

the areas of planning, public information, the need for numerous phone calls and access to high speed internet. For this reason they submit that it is more practical for Incident Management Team functions to be coordinated from another location to the police's Forward Command.

577. The police also draw my attention to their project to ensure that all Inspectors undertake a LandSAR Controllers Course, and this is a desirable improvement that would enable an Incident Management Team to draw upon more resources in similar circumstances.
578. Senior Sergeant Whitehead's evidence assisted me in formulating this recommendation, as did the submissions from the police. Whilst my recommendation is not intended to be prescriptive in respect of every LandSAR operation, regard ought to be had to the desirability of having two search and rescue coordinators on the ground, one of whom is from the Emergency Operations Unit.
579. For example in the context of this case, two search and rescue coordinators at the site, with autonomy, may have personally attended at a number of mineshafts, deliberated, and formed an early view as to whether they needed to be cleared by full descent into each shaft, and made some decisions with respect to resourcing requirements. This cannot be known in retrospect and I repeat my comments about the comprehensive nature of this LandSAR operation.
580. Senior Sergeant Whitehead did not consider that the appointment of a second search and rescue coordinator would have changed the outcome in this case, and having regard to the evidence before me and his considerable experience in the area, I accept his assessment.
581. Nonetheless I make this recommendation in the hope that, if implemented, it may assist future LandSAR operations, especially in regional and/or remote areas.

I recommend that the Western Australia Police Force consider the appropriateness and viability of appointing two search and rescue coordinators as part of the Forward Command at the site in LandSAR operations in regional and/or remote areas, and that at least one of the search and rescue coordinators at the site is from the Emergency Operations Unit.

CONCLUSION

582. The families of Ray and Jennie have suffered the loss of their loved ones in circumstances that are disturbing and unsettling. Their pain and grief is enduring. There has been a great deal of speculation as to the circumstances of their deaths and whilst this may be unavoidable in the context of these events, it carries the risk of compounding their stress and adding to their angst.
583. The evidence before me does not allow for any conclusions to be drawn as to what happened to Jennie, save that I am satisfied that she is deceased and that her remains are in the Sandstone area. It is important that the viability of ongoing efforts to find her remains be kept under regular review. Further relevant information may also become available at a future time.
584. The circumstances of Ray's death, to the extent that they may be known on the available evidence are set out in this finding.
585. Ray and Jennie were greatly loved and deeply respected by their families. Their deaths are a loss to their loved ones, and to the community.

R V C Fogliani
State Coroner
10 May 2021