



Western

Australia

RECORD OF INVESTIGATION INTO DEATH

Ref: 16/2016

*I, Sarah Helen Linton, Coroner, having investigated the suspected death of **Andrew Sinclair GRAHAM** with an inquest held at the **Perth Coroner's Court, Court 51, CLC Building, 501 Hay Street, Perth, on 10 May 2016** find that the death of **Andrew Sinclair GRAHAM** has been established beyond all reasonable doubt and that the identity of the deceased person was **Andrew Sinclair GRAHAM** and that death occurred on or about **27 September 2014** at or near **Winifred Beach, Christmas Island**, as a result of an **unascertained cause** in the following circumstances -*

Counsel Appearing:

Sgt L Housiaux assisting the Coroner.

TABLE OF CONTENTS

INTRODUCTION.....	2
BACKGROUND INFORMATION	2
CHRISTMAS ISLAND.....	4
CIRCUMSTANCES LEADING UP TO DISAPPEARANCE	6
WINIFRED BEACH.....	8
THE SEARCH FOR MR GRAHAM AT WINIFRED BEACH.....	10
HAS DEATH BEEN ESTABLISHED AND CAUSE AND MANNER OF DEATH?	11
CONCLUSION	15

INTRODUCTION

1. On 30 September 2014 a colleague of Andrew Sinclair Graham attended the Christmas Island Police Station and reported Mr Graham as a missing person. Following an extensive police investigation, including a land and sea search operation coordinated by the Australian Federal Police over a thirteen day period, Mr Graham was unable to be located.¹
2. On 27 January 2015 Mr Graham's mother, Ms Jane Donaldson, wrote to the State Coroner and requested that the suspected death of her son be investigated. Police officers on Christmas Island had already commenced an investigation into his disappearance by that time.
3. Pursuant to s 23 of the *Coroners Act 1996* (WA) (the Act), where a person is missing and the State Coroner has reasonable cause to suspect that the person has died, the State Coroner may direct that the suspected death of the person be investigated. Following that direction a coroner must then hold an inquest into the circumstances of the suspected death.
4. A direction was made by the State Coroner pursuant to s 23 of the Act in December 2015 after receipt of a comprehensive investigation report from the Christmas Island Police. Following that direction, and pursuant to s 23(2) of the Act, I held an inquest into the suspected death of Mr Graham at the Perth Coroner's Court on 10 May 2016. The inquest focused primarily on determining whether the death of Mr Graham could be established to my satisfaction beyond reasonable doubt and, if so, whether the evidence could establish how the death occurred and the cause of the death.
5. The documentary evidence comprised two volumes of a police investigation report prepared by Detective Sergeant Jason Kennedy.² In addition, some digital photographs were tendered.³ Oral testimony was also given by Det Sgt Kennedy. The documentary evidence and the oral testimony formed the basis for the facts found below.

BACKGROUND INFORMATION

6. Mr Graham was born in Scotland and immigrated to Melbourne, Australia with his family when he was four years old. Although

¹ Exhibit 1, Tab 2.

² Exhibits 1 and 2.

³ Exhibits 3 - 5.

he lived in Australia for the remainder of his life, he remained proud of his Scottish ancestry and retained his British citizenship.⁴

7. Mr Graham learned martial arts as a child and this became a life-long passion, which he practiced daily. He also instructed others. Mr Graham balanced his martial arts skills with a strong belief in the value of life, which he put into practice as a long-term vegetarian and Buddhist.⁵
8. For many years after he left school Mr Graham worked as a pool lifeguard at an aquatic centre. He was a capable swimmer and had earned his bronze medallion, but he was not known to be an elite nor regular swimmer, either by his work colleagues or his long-term girlfriend from that time.⁶
9. Between 2000 and 2004 Mr Graham studied a Bachelor of Social Work at La Trobe University while continuing to work at the aquatic centre. After completing his studies he became a telephone counsellor for Mensline and Suicide Help Line.⁷
10. In mid-2010 Mr Graham met Ms Nattakan Kuysakorn at a Meditation Centre in South East Asia. After continuing their friendship for some time they began a romantic relationship and eventually became engaged in June 2013. They had not set a firm date for their wedding but planned to marry sometime in 2015.⁸
11. In 2011 Mr Graham commenced working for Davidson Trahaire Corpsych (DTC) a company that provides employee assistance programs and corporate psychology services. In 2012 Mr Graham asked to join the 'fly in, fly out' program, which delivers the employee assistance program to the Department of Immigration employees working at remote detention centre locations.⁹ He was assessed and accepted into the program. After he began participating in that program Mr Graham reported to colleagues that his experience of the deployments was positive but challenging.¹⁰
12. In mid-February 2014 Mr Graham began sharing a house in West Footscray with Mr Anthony Higgins and they became friends. Mr Higgins described Mr Graham as an honest, caring and sensitive man although he did appear to suffer from some anxiety and could be overwhelmed by small things. Mr Higgins had met

⁴ Exhibit 1, Tab 2.

⁵ Exhibit 1, Tab 2.

⁶ Exhibit 1, Tab 2.

⁷ Exhibit 1, Tab 2.

⁸ Exhibit 1, Tab 2.

⁹ Exhibit 1, Tab 2.

¹⁰ Exhibit 1, Tab 2.

Mr Graham's fiancée and described them as "a beautiful couple, who were clearly in love."¹¹

13. Mr Graham's eventual plan was to leave his job with DTC and move to Thailand with Ms Kuysakorn. He had been saving money with the intention of building a house in Thailand from which they would run a 'home-stay' where guests could meditate, learn martial arts and Tai Chi and eat healthy cooking. In March 2014 Mr Graham told his mother he was the happiest he had ever been and asked if she would mind if he moved to Thailand. She told him she didn't mind, so long as he was happy.¹² Mr Graham told his housemate that he thought he would have enough money to build the house in Thailand after his Christmas Island deployment in September.¹³
14. Mr Graham's medical records indicate he had been diagnosed with some cervical spine dysfunction in 2005 and some sporadic health issues associated with his travel to remote areas, but no other significant medical issues. There was no indication of any diagnosed mental health issues, other than his own self-report of experiencing some depression when he was 21 years old, and some fatigue from working in crisis support.¹⁴
15. It appears from the evidence that at the time of his death Mr Graham was very fit and had no known health problems.¹⁵ He followed an impressive daily fitness regime and was very health conscious and sober in his diet and habits.¹⁶

CHRISTMAS ISLAND

16. Christmas Island is an Australian Commonwealth Territory which lies in the Indian Ocean approximately 2,700 km northwest of Perth, Western Australia. The island is covered with thick rainforest and is surrounded by steep rugged cliffs. There are deep water oceanic trenches in the vicinity and strong ocean currents. Only a small amount of the island is permanently inhabited with a small population of residents.¹⁷
17. DTC delivers the Employee Assistance Program to Australian Immigration officials who work at the Christmas Island Immigration Detention Centres. Usually, one DTC worker is

¹¹ Exhibit 1, Tab 29 [9].

¹² Exhibit 1, Tab 24 [14], 28 [28] and Tab 29 [11].

¹³ Exhibit 1, Tab 29 [11].

¹⁴ Exhibit 1, Tabs 37 – 42.

¹⁵ Exhibit 1, Tab 28 [25], [27].

¹⁶ Exhibit 1, Tab 2.

¹⁷ Record of Investigation into Death of Tomas Stoll.

deployed to Christmas Island for one month at a time on a rotating basis.¹⁸

18. In June 2014, Mr Graham travelled to Christmas Island on behalf of DTC for a one month deployment. Once there he attended mandatory induction training at the North West Point Immigration Detention Centre. As part of that induction a Department of Immigration (Immigration) employee gave the group specific information about Christmas Island and handed each participant a 'Welcome to Christmas Island Visitor Guide' booklet. The Immigration employee highlighted the safety information on the back cover of the booklet. The safety information in the booklet emphasised the need to always walk with another person and telling someone where you were going and when to expect your return. The Immigration employee stressed that due to the difficult terrain and the recent cyclone (March 2014) the tracks and trails within the National Park were blocked by fallen trees and were particularly unsafe as they were no longer clear and it would be easy to become lost. As such, it was stressed by the employee that it was essential that if people went into the National Park they should be prepared and let friends know of their intentions and timings.¹⁹
19. The senior police officer on the island, Superintendent Amanda Kates, had met Mr Graham at the induction course and on one occasion shortly afterwards she spoke to Mr Graham and he mentioned that he was using the Visitor Guide as a reference and wanted to see as much of the island as he could.²⁰
20. On 7 June 2014 a fellow DTC employee, Mr Jason Freeland, travelled to Christmas Island for one week and met Mr Graham during his visit. Mr Freeland gained the impression from spending some time with Mr Graham that Mr Graham had seen little of the island's sights and was somewhat naïve about the environment and the risks of Christmas Island. Mr Freeland showed Mr Graham some of the sights of the island but also warned Mr Graham that Christmas Island was a dangerous place, in both the jungle and the waters, and advised him that he should only attend places with other people.²¹
21. Mr Freeland also found from speaking to Mr Graham that Mr Graham was experiencing some social isolation while on the island as he strictly followed the DTC protocols not to socialise with Immigration employees as they were clients. Mr Freeman gave him some advice as to other options for socialising on

¹⁸ Exhibit 1, Tab 2.

¹⁹ Exhibit 1, Tab 2, p. 7 and Tab 21.

²⁰ Exhibit 1, Tab 21 [6].

²¹ Exhibit 1, Tab 2, p. 8 and Tab 22.

Christmas Island. Mr Freeman also suggested Mr Graham should bring his fiancée to the island so that he would be less isolated and could enjoy the island more.²² It seems that Mr Graham followed some of Mr Freeman's advice, as he later participated in Tai Chi classes on the island and he looked into the cost of flying his fiancée to Christmas Island.²³ However, it also seems Mr Graham chose not to follow all of Mr Freeman's advice, in particular his advice not to go to remote areas on his own.

CIRCUMSTANCES LEADING UP TO DISAPPEARANCE

22. In July 2014 Ms Kuysakorn flew to Melbourne and spent one and half months with Mr Graham. Mr Graham was due to start his next deployment to Christmas Island at the end of August 2014 and he tried to arrange to take Ms Kuysakorn with him, but the airfare proved too expensive. So on 28 August 2014 Ms Kuysakorn returned home to Bangkok and on 29 August 2014 Mr Graham flew to Christmas Island.²⁴
23. Mr Graham was very close to his mother, Ms Donaldson. He spoke to her by telephone every couple of weeks. Mr Graham last spoke to Ms Donaldson halfway through his September deployment to Christmas Island. He sounded perfectly normal and spoke of hoping to have a look around the island, which he described as very beautiful.²⁵
24. Mr Graham last spoke to his housemate, Mr Higgins during a phone call on the evening of Sunday 21 September 2014. Mr Graham was in good spirits and spoke positively about Christmas Island and the people there.²⁶
25. Ms Kuysakorn received regular emails from Mr Graham while he was at Christmas Island and they spoke once on the telephone. Mr Graham seemed happy during their exchanges although he wished she was there with him.²⁷ Ms Kuysakorn last emailed Mr Graham on Thursday 25 September 2014 but received no response.
26. On 26 September 2014 Mr Graham had a telephone conversation with Ms Rochelle Hird, another employee of DTC who was scheduled to fly in and replace Mr Graham on Christmas Island

²² Exhibit 1, Tab 2, p. 8.

²³ Exhibit 1, Tab 2, p. 8.

²⁴ Exhibit 1, Tab 28 [17] – [19].

²⁵ Exhibit 1, Tab 2, p.9.

²⁶ Exhibit 1, Tab 29 [13].

²⁷ Exhibit 1, Tab 2, p. 10.

on Tuesday, 30 September 2014. They arranged that Mr Graham would collect Ms Hird from the Christmas Island Airport at 11.30 am on 30 September 2014 and Mr Graham would provide her with a hand-over briefing before he departed Christmas Island later that same day.²⁸ Mr Graham seemed positive and happy during the telephone conversation but was also looking forward to going home.²⁹

27. Mr Graham did not attend work on Monday, 29 September 2014 and missed two scheduled appointments that day. However, as it was a designated public holiday for Immigration staff, no one considered it unusual that Mr Graham had taken the day off work and no enquiries were made as to his whereabouts.³⁰
28. Ms Hird arrived at Christmas Island at approximately 11.30 am on Tuesday, 30 September 2014, as scheduled, but Mr Graham was not there to collect her as arranged. Ms Hird tried calling Mr Graham's mobile telephone numbers but could not reach him. At about 1.30 pm Ms Hird was collected from the airport by an Immigration employee and they drove to the Christmas Island hospital to see if Mr Graham was a patient there. After ascertaining that Mr Graham was not at the hospital they attended his accommodation, a flat in Silver City. Ms Hird spoke to the cleaner at the complex who advised that Mr Graham had failed to check out of his room and his belongings were still unpacked. Ms Hird then attended the Christmas Island Police Station and reported Mr Graham as a 'missing person.'³¹
29. After receiving the missing person report police conducted checks with staff at Christmas Island airport who confirmed that Mr Graham had failed to check in for his flight from Christmas Island to Perth that day.
30. Christmas Island police attended Mr Graham's flat and confirmed that his belongings were unpacked and the room still appeared 'lived-in.' Amongst his belongings police located Mr Graham's passport, Telstra mobile telephone (later established to be the DTC work phone), a Canon digital camera and a Samsung Nexus tablet.
31. Police inquiries revealed that Mr Graham was last seen at the North West Point Immigration Detention Centre on the afternoon of Friday, 26 September 2014. At this time Immigration staff invited Mr Graham to a barbecue they were holding at Flying Fish Cove the following morning (Saturday, 27 September 2014).

²⁸ Exhibit 1, Tab 2, p. 1.

²⁹ Exhibit 1, Tab 2, p. 2.

³⁰ Exhibit 1, Tab 2, p. 2.

³¹ Exhibit 1, Tab 2, p. 2.

Mr Graham declined the invitation, stating that he wouldn't make it because he was going to Winifred Beach on the Saturday morning.³² CCTV footage shows that Mr Graham left the detention centre at 3.32 pm on that Friday afternoon. That was the last confirmed sighting of Mr Graham.³³

WINIFRED BEACH

32. Winifred Beach is a remote location on the south-western edge of Christmas Island, with no mobile telephone coverage. Winifred Beach is accessible by negotiating a five kilometre 4WD vehicle track (off the Dales Track) followed by a 550 metre marked walking trail. At the end of the trail there is a coastal cliff and there are a series of steep aluminium stairs down the cliff face to the water's edge.³⁴
33. The vegetation and terrain off the marked vehicle and walking tracks is uninviting, inhospitable and very difficult to penetrate as it is thick with pandanus and maclura thickets (thorny vine). Following Tropical Cyclone Gillian in March 2014 the rainforest became even more impenetrable due to fallen trees and branches and the growth of new seedlings. In some locations the visibility through the rainforest can be as little as a couple of metres and it is very easy to become disorientated and lost. There are also a number of sink holes in the area; some of which are obvious by their size but others are obscured and not easy to see.³⁵
34. Winifred Beach itself is only a small pebbly sandy beach, approximately 10 metres long by 4 metres wide. The beach is approximately 30 metres south of the base of the aluminium stairs and can only be accessed by walking along the rock platform at the base of the cliff and through a shallow trough to reach the beach. Depending on the tide and swell the water depth along the rock platform can vary between ankle to thigh deep and the trough depth varies between stomach and chest height.³⁶

³² Exhibit 1, Tab 2, p. 2.

³³ Exhibit 1, Tab 2, p. 2.

³⁴ Exhibit 1, Tab 2, p. 3.

³⁵ Exhibit 1, Tab 2, p. 3.

³⁶ Exhibit 1, Tab 2, pp. 3 - 4.

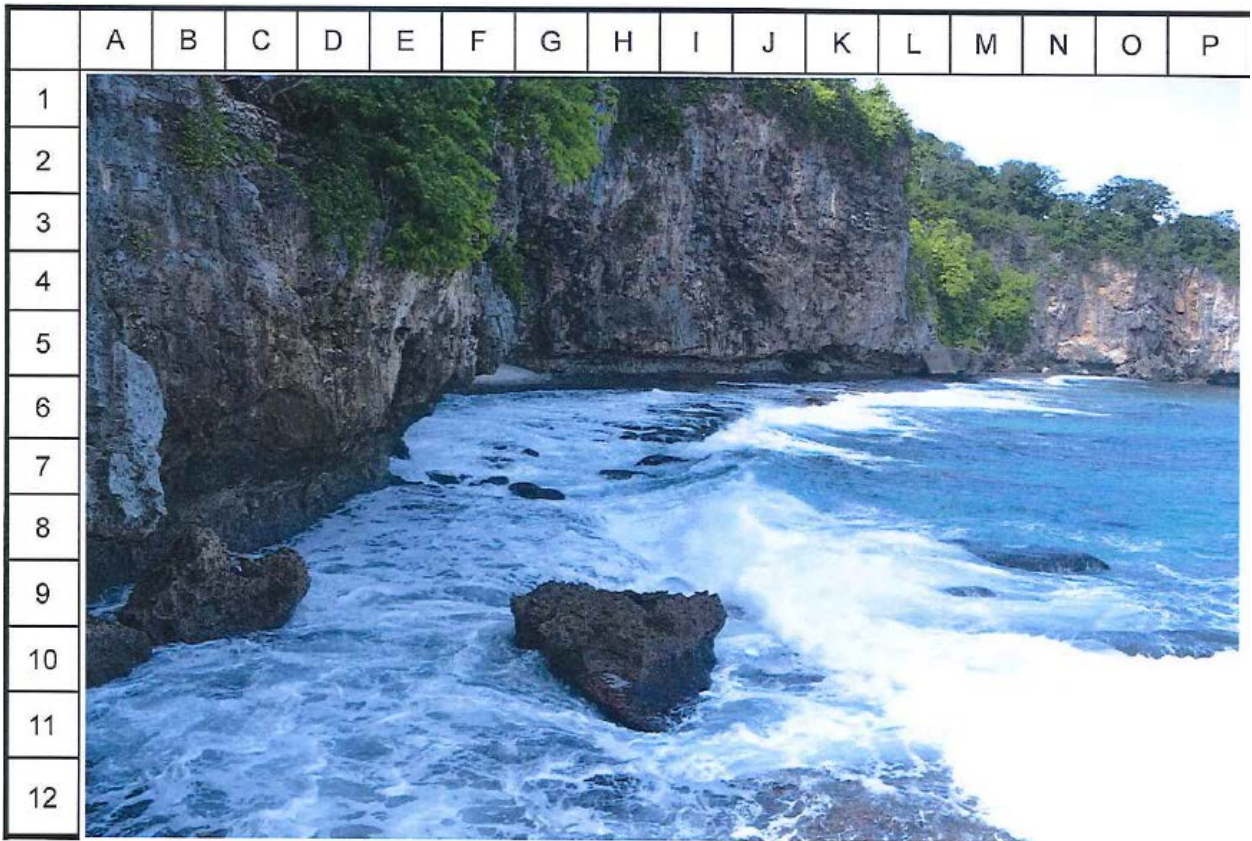


Exhibit 5, Page 20 – View of rock platform between staircase and Winifred Beach. Swell covering platform. Picture taken from bottom of staircase. Winifred Beach is visible at G5.

35. Signs are erected at the commencement of the marked walking trail to Winifred Beach, and again at the top of the steep aluminium staircase, warning people of the hazards ahead.



Exhibit 5, Page 6 – Sign at Winifred Beach carpark, at entrance to walking track



Exhibit 5, Page 7 – Close-up of sign at entrance to Winifred Beach walking track

THE SEARCH FOR MR GRAHAM AT WINIFRED BEACH

36. After receiving the information that Mr Graham had been intending to visit Winifred Beach on the Saturday, a search was made of that area. At about 2.00 pm on Tuesday, 30 September 2014 Mr Graham’s work vehicle was located parked on the Winifred Beach vehicle track, just past a sign indicating that only four wheel drive vehicles were allowed past that point. The location is approximately 4.5 kilometres from the Winifred Beach carpark and start of the walking track. The vehicle was secure.³⁷

37. Further police inquiries identified that the vehicle had been seen parked in the same location by people driving to Winifred Beach on the afternoon of Sunday, 28 September 2015 and again on the morning of Monday, 29 September 2014. However, there had been no sighting of Mr Graham near the vehicle or in the area and nothing to arouse the suspicion of passers-by.³⁸

38. Police searched inside Mr Graham’s vehicle and amongst other items located two pairs of flippers and one mask and snorkel set. Inquiries revealed that when Mr Graham had taken possession of the vehicle from the previous DTC employee on 30 August 2014 there were two mask and snorkel sets in the car, which would suggest that Mr Graham took a mask and snorkel set with him

³⁷ Exhibit 1, Tab 2, p. 3.

³⁸ Exhibit 1, Tab 2, p. 3.

when he left the car parked on the Winifred Beach vehicle track.³⁹ The evidence also suggests that Mr Graham had then begun walking down the 4WD vehicle track towards Winifred Beach, with the intention of going snorkelling at that location.

39. A land and sea search operation in the Winifred Beach area was coordinated by the Australian Federal Police over a thirteen day period from the time Mr Graham's vehicle was found on the afternoon of Tuesday, 30 September 2014, ending at midday on Sunday, 12 October 2014. Information from a survival expert, Dr Paul Luckin, indicated that if Mr Graham was in the ocean he would be deceased within 48 hours and if Mr Graham was on land with access to fresh water, he could survive up to a week. Therefore, even from the time the search began there was little likelihood that Mr Graham would be found alive if he had gone into the ocean.⁴⁰
40. Despite an extensive search of the land and sea, including the use of police cadaver dogs through the grant of a special exemption to the island's usual prohibition on dogs on the island, no sign of Mr Graham was found.⁴¹
41. Police inquiries found that Mr Graham had not departed Christmas Island by sea or air and Mr Graham has not made any contact with his mother, fiancée or any friends or colleagues since the Friday when he was last seen. He has also not accessed any of his bank accounts nor used his mobile telephone.⁴²

HAS DEATH BEEN ESTABLISHED AND CAUSE AND MANNER OF DEATH?

42. Det Sgt Kennedy had not been at Christmas Island during the search for Mr Graham. On his return to the island at the start of October 2014 he was allocated as the investigating officer to inquire into the circumstances surrounding the disappearance of Mr Graham, with the benefit of having had no involvement in the initial search operation and thus no preconceptions as to what had occurred.⁴³
43. Det Sgt Kennedy explored four possible explanations for Mr Graham's disappearance, namely:
 - Suicide;

³⁹ Exhibit 1, Tab 2, p. 3.

⁴⁰ Exhibit 1, Tab 2, p. 5.

⁴¹ Exhibit 1, Tab 2, p. 5.

⁴² Exhibit 1, Tab 2, pp. 10 – 11, 14.

⁴³ Exhibit 1, Tab 2, p. 5.

- That he has faked his own disappearance/death;
 - Victim of foul play;
 - Misadventure – lost in the jungle/drowned at sea.
44. Following a very thorough investigation, Det Sgt Kennedy eliminated the first three alternatives as likely explanations for Mr Graham's disappearance and concluded that the most likely explanation for Mr Graham's disappearance was that he became lost in the jungle on his way to or from Winifred Beach, or was washed away in the ocean at Winifred Beach, and died.
 45. I must form my own conclusion as to whether I am satisfied beyond reasonable doubt that Mr Graham has died. However, I can rely upon the evidence obtained in Det Sgt Kennedy's comprehensive investigation to form that view.
 46. There is no evidence to suggest that Mr Graham was suicidal. Although he had experienced some social isolation while on Christmas Island, it was attributable to his belief that he must maintain a professional distance from potential clients and was not indicative of any kind of depressive illness.
 47. There is also no evidence that Mr Graham met with foul play. He was known generally as a quiet and caring man and there is no suggestion that he had any known enemies. He was also a martial arts expert, who might be expected to be quite capable of defending himself in the event of an attack, at least to the extent of showing signs of resistance. There are no suspicious circumstances surrounding his disappearance that would suggest he has come to deliberate harm.
 48. Similarly, there is no evidence that Mr Graham had any reason to fake his own disappearance and create a new life for himself. Included in the evidence before me were personal photographs taken from Mr Graham's personal camera found amongst his possessions. It is clear from those photographs, and the statements from his family and friends, that he was very close to his parents and in love with his fiancée, with whom he was planning a new life together in a new country. He had almost reached his financial goals to put his plan into action and was the happiest he had ever been. He had no reason to wish to escape his current life. He had also experienced with his parents the grief of losing a loved one at sea many years before, and there is little prospect that he would willingly inflict that pain on his parents or Ms Kuysakorn. All of the evidence suggests that if he was able to make contact with his mother or Ms Kuysakorn, Mr Graham would do so.

49. The weight of the evidence points towards the fourth alternative as the most reasonable explanation for Mr Graham's disappearance. He had told people of his plans to go to Winifred Beach on the Saturday morning and his car, which was locked and secured, was seen there that afternoon. The evidence points to the conclusion that Mr Graham left his car with the intention of walking to the beach, which was a considerable distance from his vehicle, and then snorkelling in the cove.
50. If Mr Graham followed the marked path he should have made it safely to the beach, or his body would at least have been found by searchers. However, if he left the marked path for some reason, either accidentally or by choice, he could easily have become lost and his mobile phone would not have had any reception to enable him to call for help.
51. Mr Graham's housemate, Mr Higgins, was aware that Mr Graham had an adventurous spirit and often took risks, such as walking in the bush alone and ignoring danger warnings, in the belief that his high level of fitness, martial arts expertise and previous trekking experience would guarantee his safety. However, from his personal knowledge of Mr Graham, Mr Higgins believed that if Mr Graham had become lost in the jungle he would easily become anxious and flustered and might have difficulty finding his way out. He was, therefore, not surprised to hear that Mr Graham had possibly become lost in the jungle on Christmas Island, although he was deeply saddened by the news as he considered Mr Graham like a brother to him.⁴⁴
52. Ms Kuysakorn also appears to believe that Mr Graham became lost in the jungle although she held out hope that he had survived.⁴⁵ She was aware that he would sometimes go for walks in a national park for days to find peace without taking much food, water or clothing with him.⁴⁶
53. If Mr Graham successfully made his way along the vehicle track and walking track to Winifred Beach Cove, he would have had to walk along a thirty metre rock platform in shallow water and then through a narrow trough to reach the beach. Although this passage is not uncommonly completed by Christmas Island locals, there have been occasions when people have been seriously injured in the process, as described by Det Sgt Kennedy during the inquest.⁴⁷ Also, in April 2006 a visitor to Christmas Island, Mr Tomas Stoll, disappeared at Winifred Beach in somewhat similar circumstances to Mr Graham and the State

⁴⁴ Exhibit 1, Tab 29 [10], [12] and [14].

⁴⁵ Exhibit 1, Tab 28 [23].

⁴⁶ Exhibit 1, Tab 28 [26].

⁴⁷ T 9 – 10.

Coroner later found that Mr Stoll either drowned or became lost in the jungle and perished.⁴⁸

54. The likelihood that Mr Graham may have come to harm while in the water at Winifred Beach is increased by the fact that a commercial fisherman, Mr Mark Rochfort, who has lived and worked at Christmas Island for twenty years, visited Winifred Beach on 27 September 2014 and observed that the direction of the swell at Winifred Beach was far more dangerous than usual, with an incoming swell that might not have been visible to a person on the beach. In Mr Rochfort's opinion, anyone who was standing at the water's edge or who tried to cross from the access ladder to the pebbly sandy area of Winifred Beach that morning could have easily been taken by surprise and been hit by a large swell and taken out to sea.⁴⁹
55. Although Mr Graham was a qualified pool lifeguard and apparently swam regularly while on Christmas Island, if he was taken by surprise he might not be able to immediately take action to try to swim to land. Further, even if he did manage to swim towards the coast, Det Sgt Kennedy explained that the rock formation along the coastline of Christmas Island is treacherous, with razor sharp rocks that make it extremely difficult to reach land safely from the water's edge.⁵⁰ If he remained in the water, information from the Australian Maritime Safety Authority Rescue Coordination Centre suggested Mr Graham would either have been pushed into the Egeria Point coastline, which was searched thoroughly without any sighting of Mr Graham or his belongings, or he would be located some 80 nautical miles west-south-west of Christmas Island (well away from any hope of rescue) by the time he was reported missing.⁵¹
56. When I asked Det Sgt Kennedy whether he believed Mr Graham became lost in the jungle or was lost at sea that day, he indicated that on balance the results of his investigation led him to believe it was more likely that Mr Graham was washed out to sea, but he accepted that both possibilities were reasonably open on the evidence.
57. I am satisfied on the basis of all the evidence before me that the death of Mr Graham has been established beyond reasonable doubt and I so find.
58. I note that Mr Graham's family have already accepted in their hearts that Mr Graham has died. On 8 November 2014

⁴⁸ Record of Investigation into the Death of Tomas Stoll – Ref No 16/07.

⁴⁹ Exhibit 1, Tab 2, p. 16 – 17.

⁵⁰ T 10 - 11.

⁵¹ Exhibit 1, Tab 2, p. 17.

Mr Graham's family and friends held a service to celebrate his life, with an acknowledgment that his life ended on 27 September 2014.⁵²

59. Having concluded that Mr Graham has died, it is clear from the circumstances surrounding his death that his death is a reportable death under the terms of the *Coroner's Act*, and it is my obligation to try to determine the cause of death and how the death occurred, if possible.
60. Regrettably, as outlined above, while there are two obvious strong possibilities as to how Mr Graham died, there is insufficient evidence before me to conclude that either one is sufficiently likely for me to be satisfied to the requisite standard. In the circumstances, although I am satisfied that Mr Graham is deceased, I am unable to be satisfied as to the cause of Mr Graham's death, given that both possibilities are reasonably open. The cause of death must, therefore, remain unascertained.
61. Although this might suggest that the manner of death must, similarly, remain open, I note that based upon either cause of death, the manner of death would remain the same.
62. Therefore, while I find that the cause of Mr Graham's death is unascertained, there is sufficient evidence for me to find that the manner of Mr Graham's death was by way of misadventure. I have formed the view that misadventure is the more appropriate finding than accident, given the evidence before me that Mr Graham was repeatedly informed of the inherent dangers on Christmas Island, and the need to take safety precautions and not travel to remote areas unaccompanied or without notifying someone of his planned itinerary. Although I accept that he was a very fit and well-travelled man who clearly believed he could deal with any situation that presented itself, the evidence suggests that he disregarded safety warnings and did not prepare adequately to ensure his safety when he visited Winifred Beach that day. Sadly, this resulted in his disappearance not being reported for many days, drastically reducing the likelihood that he could be found.

CONCLUSION

63. Mr Graham was a kind and honest man who was well-liked by all who knew him. He led a disciplined, conscientious life in keeping with his Buddhist beliefs. He had found the love of his life and

⁵² Exhibit 1, Tab 2 and Tab 25.

was working hard to plan their ideal life together. Sadly, he disappeared before they could realise their plans.

64. Mr Graham was last seen on Friday, 26 September 2014. The following morning, on 27 September 2014, he drove to Winifred Beach with the intention of doing some snorkelling and exploring more of Christmas Island's natural beauty before he left the island in a few of days' time. There is insufficient evidence to determine whether he became lost and disorientated in the jungle or was washed out to sea, but either way it is clear that Mr Graham died that day or shortly after. It is clear from the evidence that he is sadly missed by all who knew him.

S H Linton
Coroner
25 May 2016