



Coroner's Court of Western Australia

RECORD OF INVESTIGATION INTO DEATH

Ref: 44/19

*I, Evelyn Felicia VICKER, Coroner, having investigated the disappearance of **John Patrick MAHER** with an inquest held at the **Coroner's Court, Court 83 8<sup>th</sup> floor Central Law Courts, 501 Hay Street, Perth, on 13 August 2019** find the death of **John Patrick MAHER** has been established beyond all reasonable doubt, and that the identity of the deceased person was **John Patrick MAHER** and that death occurred on the **24 April 1980** at **sea approximately 22 miles south-south west off the coast of Carnarvon** as a result of **immersion** in the following circumstances:*

**Counsel Appearing:**

Senior Constable Craig Robertson assisting the Coroner.

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## **INTRODUCTION**

In the early hours of 24 April 1980 John Patrick Maher (Mr Maher) was sorting prawns on the deck of fishing vessel “Tawarri III” when he fell backwards into the sea. He disappeared while swimming for a life bouy thrown to him and was never seen again, despite an immediate and extensive search.

The inquest into the death of Mr Maher was held in Perth. Fortunately comprehensive statements were taken from the crew of “Tawarri III” at the time of his disappearance and have been incorporated into the brief of evidence. The documentary evidence comprised the brief, exhibit 1, tabs 1-29; exhibit 2, the Public Notice advertising the inquest hearing (dated Wednesday 17 July 2019) and the oral evidence of Senior Constable Peter Smith who compiled a report from information provided to Coronial Investigation Squad (CIS) from the Missing Persons Unit (MPU).

### **Long Term Missing Person’s Project (LTMP)**

In 2017 it was confirmed there were a number of files relating to the long term disappearance of people who had been in Western Australia at the time of their reported disappearance.

Section 23(1) of the Coroners Act 1996 WA (the Act) allows the State Coroner to direct an investigation into a suspected death in certain circumstances without a body, for the purposes of allowing a coroner, under s 23(2), to establish beyond all reasonable doubt that death has occurred. The investigation must be done by way of inquest and will attempt to clarify how the death occurred and the cause of the death. This effectively brings the suspected death into the ambit of s 25 of the Act and allows registration of the death under the Births, Deaths and Marriages Registration Act 1998.

The reported number of LTMP made it unrealistic for the Office of the State Coroner (OSC) to absorb those matters into the already long outstanding inquest list in a timely manner. A plan was proposed for a project to clear the backlog of LTMP files once it had been determined the matters fitted the circumstances set out in s 23(1) of the Act. That is, the State Coroner or delegate had reasonable cause to suspect the person had died and the death was a reportable death (s 3 of the Act).

In 2018 approval was given for a coroner to work exclusively on the LTMP cases on a part-time basis for twelve months, as a separate listing from the OSC general inquest list. This followed a pilot project of four inquests conducted in 2018.

In 2019 a coroner was appointed for that project with the support of an in-house CIS police officer as Counsel Assisting (CA).

Work on the files indicated a number of disappearances related to specific areas of Western Australia such as the Kimberley around Kununurra or Broome, and Albany. For these matters it was decided that, while there is always a preference for inquests to be held in the communities to which they relate especially for indigenous communities where there is an emphasis on oral history, resources would not be effectively utilised for all matters to be heard in the place of disappearance. Instead matters where the disappearance occurred in places

outside the metropolitan area were considered from the perspective of the best availability for relevant witnesses. In the case of Mr Maher, despite extensive inquiries, no relevant witnesses could be located to provide additional information into the circumstances of his death and the matter was completed in Perth.

The anticipated outcome of the project was that by June 2020 the majority of LTMP matters would be resolved and that future missing person files would be dealt with in the normal course of OSC business.

## **THE DECEASED**

There is little information available about Mr Maher's life prior to his very short experience on the Tawarri III. Even his date of birth appears to be in some contention. All police records indicate Mr Maher was born on 5 May 1955.<sup>1</sup> However, telegrams purporting to report information to and from his parents in New Zealand gave his date of birth as 2 May 1955, and the passport found in his possessions upon the Tawarri III, New Zealand passport R168103, also gave his date of birth as 2 May 1955.<sup>2</sup> It is clear, however, he was born in Auckland, New Zealand, and lived with his parents in New Zealand until approximately 1978. He was described as a student.

It appears Mr Maher came to Western Australia some time in 1978 or 1979 and lived with a group of friends in Brewer Street, North Perth. He owned a 250cc Suzuki motorcycle whilst in Perth. There is no information as to how he came to be in Carnarvon in April 1980.

Mr Maher was one of five children, with one sister who is apparently still alive and a brother, resident in Brisbane, who did not wish to be involved with the inquest process although he was aware of it occurring. There are also two deceased brothers and Mr Maher's parents are now deceased. His mother died in May 2017.<sup>3</sup>

At the time of his disappearance dental records were recorded for Mr Maher in the event he should ever be located. Police were provided with photographs by both his parents and one of his friends from North Perth.<sup>4</sup> He was recorded as a smoker and was described in the papers as suffering from schizophrenia for which he was on medication. I am satisfied his mental health was completely irrelevant to the circumstances of his death.

### **Tawarri III**

The Tawarri III was a registered prawning trawler, 64 feet in length with a steel hull. It had a forward wheel house with a safety rail at the bow and a 20 inch gunnel around the deck to the rear of the wheelhouse. There were no safety rails on the gunnel. The vessel was fully equipped with all the required safety equipment.

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<sup>1</sup> Exhibit 1 tab 1, 21

<sup>2</sup> Exhibit 1 tab 17

<sup>3</sup> Exhibit 1, tab 25

<sup>4</sup> Exhibit 1, tab 29

The registered skipper was Murray Allen Turner (Mr Turner) who lived in Carnarvon and on 23 April 1980, when the Tawarri III left Carnarvon, there were four people on board in addition to Mr Turner. They were Eric Thacker (Mr Thacker), Kerry Scott (Ms Scott), Russel Howells (Mr Howells) and Mr Maher. Mr Turner and Ms Scott are now deceased and we were unable to locate the other crew members for the inquest hearing.

According to Mr Turner, he was approached by Mr Maher on Tuesday 22 April 1980 in Carnarvon Port when Mr Maher asked him for a job. Mr Turner advised Mr Maher he did not have a job available, but would take him out to sea for experience and then try and get him a job on another prawning boat. Mr Turner said he had no prior knowledge of Mr Maher, but was trying to give him some experience so he would be able to earn himself some money.<sup>5</sup>

## **DISAPPEARANCE**

Mr Turner advised the police he skippered the Tawarri III to depart Carnarvon Port at 3.00 pm on Wednesday 23 April 1980 heading for the Elbow Shoals, North Peron. He advised the vessel arrived at the shoals at approximately 8.45 pm and they cast the nets to begin prawning. The crew confirmed they prawned all that night, until approximately 3.30 am on 24 April 1980, when the incident occurred.

The vessel was doing a north-south run under  $\frac{3}{4}$  power with Mr Turner reporting the seas as very rough with a nor west swell, although Ms Scott did not consider the swell to be “really rough”.<sup>6</sup> All crew agreed the seas were rough and they were travelling in a northerly direction, having just pulled the nets and cast away again, while sorting the catch from the nets.<sup>7</sup>

Mr Thacker described the four crew all sorting on the port side of the table because when they had winched in the starboard side net it was empty due to one of the draw strings having broken. Mr Thacker described the four of them as sorting the prawns into plastic buckets and throwing the fish and other unuseful material down the rubbish chute into the water. He was standing at the top of the sorting table with Ms Scott next to him. She was sorting one side of the rubbish chute with Mr Maher on the other side of the rubbish chute, and Mr Howells at the other end of the table from Mr Thacker.<sup>8</sup>

The chute was made of fibreglass and measured approximately 5 foot by 3 foot by 6 inches high and hooked onto the side of the sorting table to allow crew to push unprofitable catch back into the sea.<sup>9</sup>

Ms Scott described the vessel as rocking and that Mr Maher had leant across the table to drag some prawns over the table towards them, when the boat rocked towards them and the prawns he was pulling over with his bat starting sliding down the chute.<sup>10</sup> Mr Howells described Mr Maher as turning to try and stop the catch from going down the chute with his sorting bat. He described Mr Maher as

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<sup>5</sup> Exhibit 1, tab 6

<sup>6</sup> Exhibit 1, tab 9

<sup>7</sup> Exhibit 1, tab 6

<sup>8</sup> Exhibit 1, tab 8

<sup>9</sup> Exhibit 1, tab 9

<sup>10</sup> Exhibit 1, tab 9

slipping off the five inch sorting stand alongside the table as he turned to try and catch the prawns. As he slipped off the sorting stand he tried to regain his balance by stepping backwards, but the back of his knees hit the gunnel and he went over the side backwards.<sup>11</sup> Ms Scott described him as, “into the water backwards, he did a somersault into the water”.<sup>12</sup>

Ms Scott and Mr Howells both called out to tell Mr Turner there was a man overboard while they started to winch up the nets to enable the Tawari III to turn around.

Mr Howells, who was only 16 at the time, and Mr Thacker described Mr Maher as surfacing and being clearly visible once he surfaced. He seemed to be alright and treading water and Mr Howells threw him a rope while Mr Thacker ran to tell Mr Turner they needed to turn around. The rope was not long enough because they were still moving.

It took approximately two minutes to get the nets in before Tawarri III could turn, but Mr Maher could be heard calling out his location.<sup>13</sup> Mr Maher could be seen in the water approximately two boom lengths on the port side of the vessel and he appeared to be floating in the water once they turned the spot light onto him.

Mr Turner then threw the life buoy into the water and yelled to Mr Maher to swim towards the life buoy. The crew saw Mr Maher start to swim towards the life buoy.

Mr Howells described Mr Maher as getting to within 4 feet of the buoy and he believed he was going to be successful in reaching it. Mr Thacker turned away to stop the nets from causing a problem on the assumption Mr Maher would be rescued. Mr Howells had been intending to go into the water to help Mr Maher, but could see he appeared to be within reach of the life buoy. Mr Turner believed Mr Maher looked as though he was tired.

Mr Howells finished removing his clothes and turned around to assist, but saw that Mr Maher had disappeared under the water.<sup>14</sup> Mr Howells remained where he was, ready to dive-in, if Mr Maher re-surfaced, but did not see him again.

Mr Turner went to the wheelhouse to call other fishing vessels in to help them search for Mr Maher. Mr Howells described the Tawarri III as circling the buoy where Mr Maher had last been seen for about 20 minutes hoping that he would reappear. They kept the spotlight on the water, but did not see any further sign of Mr Maher.

Mr Howells described that from the time Mr Maher fell backwards, until they located him in the spotlight on turning the vessel around, was approximately 5 to 10 minutes, and that Mr Maher had certainly been alright when he first surfaced to the extent Ms Scott went to assist Mr Thacker with the nets to prevent them from becoming a problem while Mr Maher was rescued. She did not immediately understand that Mr Maher had disappeared.<sup>15</sup>

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<sup>11</sup> Exhibit 1, tab 10

<sup>12</sup> Exhibit 1, tab 9

<sup>13</sup> Exhibit 1, tab 10

<sup>14</sup> Exhibit 1, tab 10

<sup>15</sup> Exhibit 1, tab 9

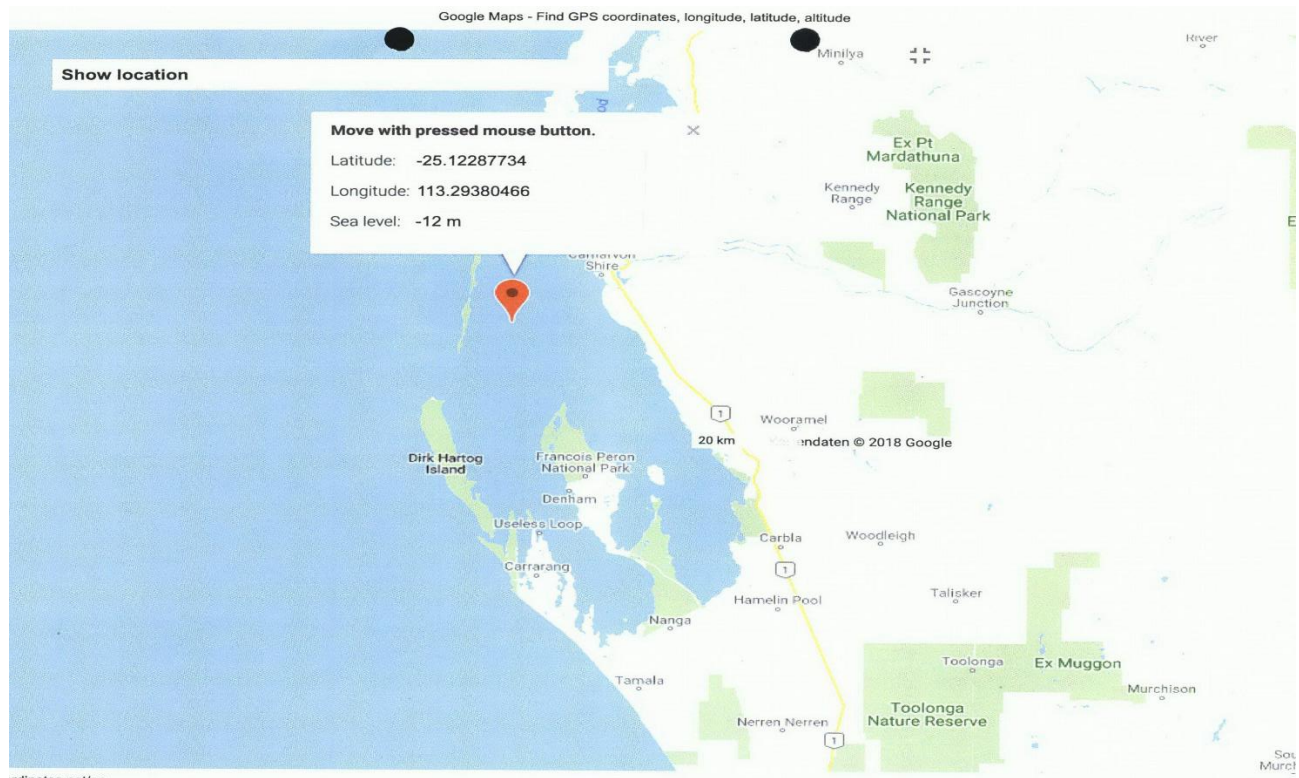
All crew were quite clear they did not drink whilst working, and that Mr Maher had not been drinking and had seemed to be in normal health. He was, however, very inexperienced at sea.

Mr Maher was never seen again.

## INVESTIGATION

As soon as it was apparent Mr Maher had disappeared Mr Turner summonsed the assistance of all available fishing vessels in the vicinity to join the search with spotlights. Another nine fishing vessels attended at the place he had disappeared and Sergeant Kidd of Carnarvon Police was contacted by private CB radio operator in Carnarvon at the request of Mr Turner. Mr Turner also alerted the Coastal Radio who advised the search centre in Canberra. Carnarvon Police were later officially notified by telex from the Police Communications Branch out of Canberra with respect to the incident.<sup>16</sup>

The crew on the Tawarri III continued to look for Mr Maher and at 7.00 am on 24 April 1980 a formal search for Mr Maher was coordinated by Carnarvon Police at the direction of Canberra with aircraft, fishing vessels, Fisheries and Wildlife craft and privately owned vessels, with a number of police observers onboard. Carnarvon Police provided information to the Geraldton Regional Office and the Communications Branch who kept Canberra advised. The search continued until 30 April 1980 when it was discontinued, there being no likelihood of Mr Maher being alive or his body located.<sup>17</sup>



**Exhibit 1, Tab 28 - Google map showing GPS co-ordinates**

<sup>16</sup> Exhibit 1, tab 2

<sup>17</sup> Exhibit 1, tab 2

Mr Maher was identified by Mr Turner via photographs provided by Mr Maher's parents in New Zealand. Mr Maher's friends in North Perth also provided photographs for the purposes of identification. Mr Maher's property was collected from the Tawarri III and comprised clothing, a bank book and his New Zealand passport. This was all returned to Mr Maher's parents in New Zealand.<sup>18</sup>

The Missing Person report (MPR) records the location of Mr Maher's disappearance as "In sea approx. 22 miles SSW of Carnarvon on bearing 201 degrees from Carnarvon jetty (2512S x 11323E)".<sup>19</sup>

Further inquiries by WAPF in 2015 did not reveal any records for Mr Maher with any health or banking institutions and there has been no further information with respect to the whereabouts of Mr Maher.<sup>20</sup>

### **HAS DEATH BEEN ESTABLISHED?**

Mr Maher was 24 years of age when he fell overboard in the early hours of 24 April 1980. He was inexperienced at sea and had been given the opportunity to work on the Tawarri III to try and gain some experience before going out on other prawners. There is no indication he wanted to disappear.

While there were no oral eye witness accounts available for the inquest the statements taken at the time of the incident are quite comprehensive. Considerable effort went into attempting to retrieve Mr Maher from the water and the fact of his disappearance under the waves took the crew by surprise because they had seen him surface and he appeared to be able to respond to their directions to swim towards the buoy thrown to him before he disappeared. The roughness of the seas and his inexperience may well have contributed to his demise following his immersion, before he surfaced. One of the crew did comment that although he was swimming he did not appear to be using his legs, and Mr Turner believed he looked as though he was about to flounder.<sup>21</sup>

While Mr Maher was young and apparently healthy the circumstances are such that I have no doubt he died at the time of the incident. I am satisfied he would have been seen or heard had he been in a position to again surface.

### **MANNER AND CAUSE**

There is no evidence that would support this being other than an accidental drowning. There is no indication Mr Maher was affected by any illness, suicidal ideation, or had any reason to disappear. There was no indication there were problems with his friends in North Perth and it appears to be a situation of an inexperienced deck hand losing his footing on the deck of the Tawarri III in rough seas, while not properly balanced, and trying to prevent valuable catch from slipping down the chute.

Mr Maher's family appear resigned to the fact of his death.<sup>22</sup>

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<sup>18</sup> Exhibit 1, tab 17

<sup>19</sup> Exhibit 1, tab 4

<sup>20</sup> Exhibit 1, tabs 23, 24

<sup>21</sup> Exhibit 1, tab 6

<sup>22</sup> Exhibit 1, tab 6

I am satisfied Mr Maher died at approximately 3.45 am on the morning of the 24 April 1980 in the seas at the location of Tawarri III at that time, as described by the eye witnesses.

The physiological responses of a body to sudden immersion in water, especially relatively (to body temperature) cold water, involve a complex set of respiratory and cardiovascular responses which can precipitate death by drowning regardless of a person's health and fitness. Among these is a feeling of suffocation which can promote panic and over breathing, leading to reduced carbon dioxide levels with resulting dizziness and confusion. There can also be an issue with the release of stress hormones which elevate the heart rate and blood pressure causing an arrhythmia of the heart or bleeding on the brain; or conversely a sudden drop in the heart rate which stimulates the vagal nervous system and may cause fainting. Any, or a combination of, these response can result in a person drowning following immersion, even though they appear to have survived the initial immersion.<sup>23</sup>

Once waterlogged with water in the lungs a body will sink and will not surface for days, if at all. In the conditions at that time it is very unlikely Mr Maher survived his second immersion and I am satisfied beyond a reasonable doubt he drowned as a result of accidentally falling overboard.

I am satisfied Mr Maher's relative inexperience in the conditions in which he found himself would explain his second disappearance under the water and certain death within a very brief time frame. He accidentally slipped from the sorting stand and fell overboard, became immersed, surfaced, but disappeared again and drowned.

## **CONCLUSION**

From the statements of the people present on the Tawarri III in the early hours of 24 April 1980 I am satisfied beyond reasonable as to the death of Mr Maher, and that he died at that time and at that location as a result of drowning. It is not clear whether he was injured when he somersaulted backwards into the water, however, I consider that to be relatively incidental to the fact of his drowning as a result of his second disappearance under the waves when attempting to reach a life buoy thrown to rescue him.

This death was obviously a tragedy for Mr Maher's family; he was young, inexperienced and attempting his best to save a catch in the rocky conditions. I am satisfied those onboard did all they could to assist Mr Maher and that his demise was a tragic end for one so young and would have been very traumatic for all once it was released he could not be saved.

I find death occurred by way of accident.

E F VICKER

**Coroner**

5 September 2019

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<sup>23</sup> Inquest (44/2017) into the suspected death of Jiaolong Zhang