



Coroner's Court of Western Australia

RECORD OF INVESTIGATION INTO DEATH

Ref: 4/20

*I, Evelyn Felicia VICKER, Coroner, having investigated the disappearance of **Tatao HIYOMORI** with an inquest held at the **Coroner's Court, Court 83, Central Law Courts, 501 Hay Street, Perth, on 21 January 2020, find the death of **Tatao HIYOMORI** has been established beyond all reasonable doubt, and the identity of the deceased person was **Tatao HIYOMORI** and that death occurred on or about **8 January 1986 at sea approximately 30 nautical miles south-west of Rottness Island at 32 degrees 20 minutes south and 115 degrees 5 minutes east** in the following circumstances:***

**Counsel Appearing:**

Senior Constable Craig Robertson assisted the Coroner.

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## **INTRODUCTION**

At approximately 11.00 am on 8 January 1986 crew aboard the Japanese fishing vessel Kiyō Maru 5 realised that one of the engineering crew, Tatao Hiyomori (Mr Hiyomori), was missing from the vessel.

The Master of the vessel, Shoichi Yamanaka (Mr Yamanaka), ordered a search of the vessel while they returned to the location of the vessel at the time Mr Hiyomori was last thought to have been on board.

All search efforts failed and the vessel was ordered to port in Fremantle by the owners of the vessel who reported the matter to police. No trace of Mr Hiyomori was found and nothing has been heard by Western Australian Police about Mr Hiyomori since that time.

The inquest into the disappearance of Mr Hiyomori was held in Perth. Documentary evidence comprised the brief of evidence, Exhibit 1 annexures 1-17, and the Public Notice of inquest dated 13 December 2019 as Exhibit 2. Oral evidence was heard from now retired police Sergeant Brian Binney (Mr Binney), and Senior Constable Jason Lawton who compiled a report for the purposes of the inquest from the Missing Persons Unit (MPU) file.

### **Long Term Missing Persons 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. Some of the disappearances occurred at a time when there was no or limited jurisdiction for a coroner to examine the circumstances of a suspected death.

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 section 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 (s3 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 Coronial Investigation Squad (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 other than the Perth metropolitan area were considered from the perspective of the best availability for relevant witnesses.

Some missing person files related to foreign nationals with no connection to Australia other than they had disappeared in Australian waters, or a Western Australian port was the first port of call for a foreign ship following the disappearance of that person and Western Australia/Australia had been involved in a Marine Search and Rescue (MSAR). Enquiries were made with those foreign nationals consulates and, where that person's death had been dealt with in their country of origin or their family were fully accepting of the death, and all legal

requirements dealt with overseas, it was decided it was not in the public interest to take those matters any further by way of inquest and all files were closed from the OSC perspective.

In the case of Mr Hiyomori enquiries at the time of his disappearance were handled through the Japanese Consulate. More recent enquiries through the Japanese Consulate have been unable to provide further information from the family, or the company responsible for the Kiyomaru 5, to establish whether the matter had been finalised in Mr Hiyomori's home region. In order to finalise the matter from the Western Australian perspective it was decided the inquest would be held so the death of Mr Hiyomori could be registered in Western Australia.

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

## **THE DECEASED**

There is very little information available relevant to Mr Hiyomori other than that recorded in the translation of the incident record in the ship's official Log Book.<sup>1</sup> It has been assumed the reference in the translation to the Master of the vessel would be the equivalent of the Captain. The general term Master is applied to the owners of a vessel, with the Captain being the person responsible for the day to day running of a vessel.<sup>2</sup>

From the translation of the equivalent of the ship's Log Book it appears Mr Hiyomori's date of birth was 18 March 1952 and he was employed on the vessel as part of the engineering crew.

Mr Hiyomori's permanent address was given as 1700, Higashiikawa, Tosayamada-cho, Kochi-Ken, Japan, at the time of his disappearance from the vessel in January 1986. The only other information with respect to Mr Hiyomori comes from the

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

<sup>2</sup> t. 21.1.2020, p.25

media in the form of a report in the Sunday Independent on 19 January 1986 which indicated the Skipper of the fishing vessel, Yorshihiro Ohsumi (Mr Ohsumi) was personally known to Mr Hiyomori's family and was extremely distressed at the prospect of having to advise the family Mr Hiyomori had disappeared whilst at sea for a fishing trip.<sup>3</sup>

The article indicated the Skipper is equivalent to the Fishing Master, while the ship's Log Book indicated the Master of the Kiyō Maru 5 was Mr Yamanaka who is referred to in the Missing Person Report (MPR) statement of fact as instigating the search.

Mr Hiyomori would have been 33 years of age at the time he disappeared and the vessel had been at sea fishing for sashimi quality blue fin tuna since April 1985 with two returns to Fremantle for supplies. Mr Hiyomori was therefore presumably well experienced with his duties and the environment on board the Kiyō Maru 5.

At the time of his disappearance Mr Hiyomori was described as wearing a black Adidas tracksuit and wooden Japanese size 7 sandals.<sup>4</sup>

## **Kiyō Maru 5**



Exhibit 1. Tab 13

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<sup>3</sup> Exhibit 1, tab 12

<sup>4</sup> Exhibit 1, tab 8

The ship's Log Book records the ship's name as the Kiyō Maru 5 registered in Wakayama-Ken and the address of the owner (Seiji Obata), was similarly in the province of Wakayama-Ken. It is listed as a deep sea fishing vessel with one main, diesel engine, 595 kilo watts and a gross tonnage of 258 tonnes. The information in the Log Book differs from the data provided by the Western and Central Pacific Fisheries Commission which records the vessel as built in Japan in 1986.<sup>5</sup>

The Kiyō Maru 5 left the port of Kochi-Ken in Japan at 5.30 am on 11 April 1985 to fish for tuna out of the port of Fremantle in the Southern Indian Ocean, approximately 200 nautical miles off the Australian coast. It first fished at an area approximately 32 degrees south and 107 degrees east on 1 May 1985 and then returned to Fremantle for provisions on 5 July 1985.

On 8 July 1985 the vessel returned to fishing grounds at 39 degrees south and 100 degrees east on 13 July 1985, before returning to Fremantle to resupply on 6 October 1985. The vessel then again left Fremantle on 12 October 1985 to fish at 42 degrees south and 95 degrees east on 18 October 1985, until returning to the port of Fremantle for reprovisioning on 4 January 1986.

The vessel was therefore away from Japan for long periods of time and the crew worked a three day rotation of 18 hours for one day and 12 hours each for the next two.<sup>6</sup>

The inquest was advised that conditions in the engine room on the vessel were very cramped and hot and it would be realistic for the crew on their time off to spend as much time as was feasible up on the deck.<sup>7</sup>

Due to the need for engineers to be constantly in the engine room crew would rotate their beds through different shifts.

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<sup>5</sup> Exhibit 1, tab 13

<sup>6</sup> Exhibit 1, tabs 5 and 12

<sup>7</sup> t.21.1.20, p.10

## DISAPPEARANCE

It is apparent from the papers and the media coverage all communication with both the Master, Skipper and crew was via interpreters. There are no statements from the crew and the only available facts are those in the translated ship's Log Book.

In the Log Book the Master advised the Kiyō Maru 5 had left its fishing ground on 4 January 1986 to reprovision at Fremantle. During the journey to Fremantle the Master was told by deck crew, Tetsumi Nishino (Mr Nishino), that engineering crew Mr Hiyomori was not on board. That was at approximately 11.00 am on 8 January 1986.

The Log Book goes on to state that another engineering crew, Yoshitaka Iwama (Mr Iwama), confirmed that at the change of their shift at 6.00 am on 8 January 1986 Mr Iwama had seen Mr Hiyomori when they exchanged their beds. Mr Iwama went on duty and Mr Hiyomori slept in their bed. The rest of the crew woke at approximately 7.30 am and assumed Mr Hiyomori was asleep, until it was realised he was missing at approximately 11.00 am.<sup>8</sup>

Once it was confirmed following the search of the vessel that Mr Hiyomori was not aboard it was assumed he must have fallen overboard sometime between 6.00 am and 7.30 am when the crew began to awaken. The Master of the vessel ordered the vessel commence an ocean search at 11.15 am. The location of the vessel at that stage was 32 degrees 1.2 minutes south and 115 degrees 28.3 minutes east. It retraced its route for the preceding six hours.<sup>9</sup>

The Master informed the ship's agent in Fremantle by radio that it was believed Mr Hiyomori had fallen overboard somewhere between 32 degrees 28 minutes south and 114 degrees 52.9 minutes east and 32 degrees 31.5 minutes south and 114 degrees 47.3 minutes east.

The Kiyō Maru 5 arrived at 32 degrees 30.5 minutes south at 3.49 pm on 8 January 1986 searching along the way. Careful consideration of the tide and wind direction

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<sup>8</sup> t 21.1.20, p.14

<sup>9</sup> Exhibit 1, tabs 4 and 5

was made and searching concentrated between 114 degrees 40 minutes east to 115 degrees 15 minutes east. No trace of Mr Hiyomori was found by crew on the Kiyō Maru 5.

At 9.00 pm on 10 January 1986 the Master received a cable from the family of Mr Hiyomori and the “committee for this incident in Japan” advised them to cease searching. The Kiyō Maru 5 then commenced to steam for Fremantle and arrived at the port of Fremantle anchorage at 7.20 am on 11 January 1986 and berthed at Victoria Quay at 8.40 am.

## **INVESTIGATION**

Water Police, at that time located in Fremantle Harbour, were advised of a man over board situation at approximately 12.45 pm on 8 January 1986 at coordinates 32 degrees 20 minutes south and 115 degrees 05 minutes east and commenced their own search of the area. Sergeant Brian Binney of the Water Police, who had been a diver for 30 years, was in charge of the search from the Water Police perspective.

Mr Binney recorded that the police launch Cygnet IV, with three police officers on board including himself, in company with Marine and Harbour vessels Vigilant, Cossack and George Vancouver arrived at that those coordinates at 3.55 pm on 8 January 1986 and, due to the aged navigational equipment on Cygnet IV, handed search patterns to the Vigilant for coordination.<sup>10</sup>

The four vessels began a line search with the vessels 800 metres apart on a course of 232 degrees true. Mr Binney described the sea conditions as excellent for a search.<sup>11</sup>

Aircraft were also in the search area and the Vigilant calculated new search coordinates provided at 5.17 pm. This was considered to be the most likely area

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<sup>10</sup> Exhibit 1, tab 6; t.21.1.20, p.15

<sup>11</sup> t. 21.1.20, p.14

to contain Mr Hiyomori should he still be on the surface and visible. It encompassed the area of latitude 32 degrees 28 minutes south and longitude 114 degrees 47.3 minutes east to latitude 32 degrees 31.5 minutes south and longitude 114 degrees 54 minutes east. Mr Binney described locating a brown thong whilst conducting the grid search at that location, however, when it was taken to the Kiyomaru 5 it was confirmed it did not belong to Mr Hiyomori.<sup>12</sup> While on the Kiyomaru 5 a description of Mr Hiyomori was obtained and then broadcast to all the search vessels.<sup>13</sup>

The line search was resumed and continued to latitude 32 degrees 37.5 minutes south and longitude 140 degrees 43 minutes east. This was the western most point of the search and all vessels continued to search in line to latitude 32 degrees 30 minutes south and longitude 114 degrees and 59 minutes east. That point was reached at 8.56 pm when twilight ended. Visibility was reduced and search conditions suspended with all search vessels returning to Fremantle arriving at 0025 am on 9 January 1986.

Mr Binney recorded the distance searched to the western most point to be 63,025 nautical miles from Fremantle and the total area covered 130 square nautical miles. Mr Binney was satisfied Mr Hiyomori was no longer on the surface of the ocean as far as could be determined in good search conditions and that he was most likely no longer alive. Once a person has died at sea the body becomes water logged and sinks towards the sea bottom. It is moved by the currents until it either disintegrates or surfaces.

Mr Binney was satisfied the Kiyomaru 5 had provided accurate coordinates for the search area and he confirmed on arrival at the area the blue fin tuna were running. The area also contained many sharks. He was unaware of whether Mr Hiyomori was a swimmer, however, commented that frequently Japanese fisherman were unable to swim. He did not believe Mr Hiyomori would have survived in the

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<sup>12</sup> T 21.1.20, p19

<sup>13</sup> Exhibit 1, tab 8

conditions at sea due to the environment, and had a body sunk in that area it was very unlikely it would survive to resurface days later.<sup>14</sup>

The ship's agents advised the Water Police the Kiyō Maru 5 had ceased to search on 10 January 1986 at 9.00 pm and they were there to speak to the Master of the vessel when it berthed at Victoria Quay on the morning of 11 January 1986. No further information was obtained from the crew and the matter was handled by the ship's agents through the Japanese Consult.

There was no evidence whatsoever as to Mr Hiyomori's state of mind, his relationship with the rest of the crew, or any indication that what had happened was anything other than an accident.

Enquiries via the Japanese Consult did not provide any additional information at the time and not unexpectedly later enquiries of Australian authorities have failed to record any indication Mr Hiyomori survived and was in Australia.<sup>15</sup>

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

There simply is no evidence Mr Hiyomori survived his disappearance at sea in the Indian Ocean on 8 January 1986. Mr Binney advised the inquest this was the furthest search off-shore in which he had been involved.<sup>16</sup>

I am satisfied beyond all reasonable doubt Mr Hiyomori died sometime during the morning of 8 January 1986, after being seen at 6.00 am going to bed in his shared bunk, and when the Kiyō Maru 5 retraced its course searching for him later that morning. There is no indication of the condition Mr Hiyomori was in when he went overboard, however, I would surmise he was at least physically healthy as a result of being an active crew member of Kiyō Maru 5. The likelihood of any person

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<sup>14</sup> t. 21.1.20, p.16

<sup>15</sup> Exhibit 1, tab 2; t.21.1.20, p.22

<sup>16</sup> t. 21.1.20, p.6

surviving for more than 24 hours in the conditions in the middle of the ocean are slim.

There is no evidence any other vessel located and rescued Mr Hiyomori and I am satisfied beyond all reasonable doubt he died somewhere along the navigated course of Kiyō Maru 5 between 6.00 am and 11.00 am on 8 January 1986.

## **MANNER AND CAUSE**

Despite being satisfied Mr Hiyomori died during the morning of 8 January 1986 I am unable to determine either a manner or cause of death. While Mr Hiyomori's death was likely to be as a result of immersion, I have no evidence upon which to determine whether that may have been preceded by a naturally occurring medical emergency, injury by way of accident on deck resulting in a fall overboard, accidental fell overboard<sup>17</sup> or a deliberate act of self harm.

I therefore make an Open Finding with respect to the death of Mr Hiyomori.

## **CONCLUSION**

Due to the elapse of time since 1986 it has not been possible for CA to establish any meaningful contact with the family of Mr Hiyomori or the owners of the vessel Kiyō Maru 5. The ship's agents have been contacted and have attempted to assist, but again are unable to comment beyond the information already to hand.

Without some confirmation from Japan Mr Hiyomori has been treated as deceased rather than missing OSC determined an inquest was appropriate to finalise the matter from the perspective of the Western Australia community.

One has to feel significant sympathy for both the Skipper of the Kiyō Maru 5 whose task it was to advise his family of Mr Hiyomori's death and for his family to lose a young man so far from home without any understanding of the circumstances surrounding his death. He had, by January 1986, been away from home for at

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<sup>17</sup> t. 21.1.20, pps 16-18

least 8 months and the information about his death with so little further explanation must have been extremely unsettling for his family.

E F Vicker  
**Coroner**

May 2020