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**JURISDICTION** : CORONER'S COURT OF WESTERN AUSTRALIA  
**ACT** : CORONERS ACT 1996  
**CORONER** : SARAH HELEN LINTON  
**HEARD** : 17 NOVEMBER 2020  
**DELIVERED** : 20 NOVEMBER 2020  
**FILE NO/S** : CORC 290 of 2020  
**DECEASED** : JOHNSON, GARY LANCE

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*Catchwords:*

Nil

*Legislation:*

Nil

**Counsel Appearing:**

Senior Constable C Robertson assisted the Coroner.

**Case(s) referred to in decision(s):**

Nil

Coroners Act 1996  
(Section 26(1))

**RECORD OF INVESTIGATION INTO DEATH**

*I, Sarah Helen Linton, Coroner, having investigated the disappearance of Gary Lance Johnson with an inquest held at the Perth Coroner’s Court, Court 85, CLC Building, 501 Hay Street, Perth on 17 November 2020, find that the death of Gary Lance JOHNSON has been established beyond all reasonable doubt and that the identity of the deceased person was Gary Lance JOHNSON and that death occurred on 5 January 2020 at Devils Rock, between Cull Island and Charley Island, in the ocean off West Beach, Esperance as a result of a severe right limb injury in the following circumstances:*

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## INTRODUCTION

1. On 5 January 2020 Gary Johnson was attacked by a shark while scuba diving in the ocean off Esperance. Gary's wife, Karen Milligan, was a witness to the immediate aftermath of the attack. It was apparent that Gary was gravely injured and he quickly became lifeless. Karen attempted to recover Gary's body but she was unable to lift him into their boat on her own. She eventually let him go so she could get into the boat and call for help. Police officers and other members of the public quickly came to her location and began a search, but despite an extensive coordinated land and sea search, Gary's body has never been recovered. However, some of his diving equipment was found, which showed clear signs of a shark attack, consistent with Gary's wife's account.
2. Because Gary's body was not recovered, he was classified as a missing person. On the basis of the information provided in relation to Gary's disappearance, the State Coroner determined that pursuant to s 23 of the *Coroners Act 1996* (WA), there was reasonable cause to suspect that Gary had died and his death was a reportable death. The State Coroner therefore made a direction that a coroner hold an inquest into the circumstances of the suspected death.
3. I held an inquest at the Perth Coroner's Court on 17 November 2020. The inquest was brief, and consisted of the tendering of documentary evidence of the police investigation into the attack on Gary and the search for his body, as well as hearing evidence from the investigating officer, Senior Constable Gulland, who prepared the investigation report for the coroner.
4. At the conclusion of the inquest, I indicated that I was satisfied beyond reasonable doubt that Gary died as a result of fatal injuries he sustained after being attacked by a shark while scuba diving on 5 January 2020.
5. Not long before the inquest was held, there was a report of another suspected death from a shark attack in the Esperance area. This additional incident, so close to the attack on Gary, has prompted calls from some Esperance locals for more action to be taken by the State government to implement shark hazard mitigation and improve ocean safety along the Esperance coast. I have not considered this issue in this inquest, as it was not requested by Gary's family and the focus was on expediting this matter.<sup>1</sup> Such matters can be considered in another inquest, if it is relevant to the death or suspected death and a coroner considers it appropriate.
6. However, I do note that the WA Government's Fisheries Minister, the Honourable Mr Peter Tinley, issued a media release on 3 February 2020,

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<sup>1</sup> Exhibit 1, Tab 12.

approximately one month after Gary's death, indicating steps being taken to improve shark safety in the Esperance area. The media release advised that new shark warning towers were being installed at three popular beaches around Esperance as part of the McGowan Government's response to the fatal shark attack that claimed Gary's life. In addition, two new Shark Monitoring Network receivers were to be installed to keep track of tagged sharks.<sup>2</sup>

### **BRIEF BACKGROUND**

7. Gary was born on 7 July 1962 and was the eldest of three siblings. He went to Kent Street Senior High School and then completed a degree in Accounting at Curtin University.<sup>3</sup>
8. Gary married Karen Milligan in 2007. Gary did not have children of his own, but he considered Karen's daughter, Hannah, as his stepdaughter and they were very close. In 2010 Gary and his wife moved to Esperance to live. Gary was employed as the Chief Financial Officer for a local farming machinery company, where he was highly regarded as an intelligent and compassionate man and a hard worker who always listened to people and had a great sense of humour.<sup>4</sup>
9. Physically, Gary was just under 6 feet 4 inches tall and weighed a little under 100 kg with a muscular build. He did not smoke and only drank alcohol occasionally. He was described as very fit and healthy, living an active life going to the gym and playing squash. He was a very good swimmer. Gary was not taking any regular medication and had no known chronic medical conditions.<sup>5</sup>
10. Gary loved scuba diving, and this was a passion he shared with his wife Karen. He initially learned to scuba dive in his 20's and re-qualified in 2007. At the time of his death, Gary was an experienced recreational diver and the current President of the Esperance Dive Club. Gary and Karen would often take their boat out in the local Esperance area on weekends to go scuba diving and they would plan regular diving holidays overseas.<sup>6</sup>
11. Gary was also a passionate advocate for the conservation and protection of the marine environments he loved to explore as a diver. Gary's vision was to

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<sup>2</sup> <http://www.fish.wa.gov.au/About-Us/Media-releases/Pages/Land-based-warning-beacons-boost-Sea-Sense-capability-in-Esperance.aspx>, accessed 25/09/2020.

<sup>3</sup> Exhibit 1, Tab 5.

<sup>4</sup> Exhibit 1, Tab 2, p. 2 and Tab 5.

<sup>5</sup> Exhibit 1, Tab 2, p. 2 and Tab 5.

<sup>6</sup> Exhibit 1, Tab 2, p. 5.

establish a Marine Park in the Esperance area and he worked with a local environment action forum to further that aim. Gary believed that if fish stocks were better protected, the risk to people in the water would be reduced.<sup>7</sup>

### **EVENTS ON SUNDAY 5 JANUARY 2020**

12. Gary and his wife had recently spent four days diving at Woody Island and also taken his boss' son diving the day before, so they did not have any plans to go diving on Sunday, 5 January 2020. However, after having a sleep-in, they made a spontaneous decision to go diving as the weather was so nice.<sup>8</sup>
13. They put their boat in at the Esperance Boat Ramp and departed after lunchtime. Gary decided they would go to one of his favourite diving spots, known as Devils Rock, which lies between Cull Island and Charley Island in the Recherche Archipelago. The location is a shallow dive spot.<sup>9</sup>
14. When they got to the dive spot, Gary threw the anchor out. The weather was warm with a low swell and there was really good visibility in the water at this time. Gary was wearing a wetsuit, shark shield, an oceanic computer on his left wrist, a torch on his right wrist and a knife strapped to his left leg. He also had his Buoyancy Compensator Device (BCD), 15 litre tank and blue fins. Gary and Karen checked their equipment and Karen then sat at the back of the boat while Gary sat on the side of the boat, ready to enter the water. He checked with Karen that she was ready and then they both entered the water.
15. Gary's first task on entering the water was to attach a black rope around a rock for extra safety, in case something happened to the anchor line while they were diving. He was swimming ahead of his wife and went to tie the black rope around a rock, like he always did. Although Gary was wearing his shark shield, he would usually turn it off when he reached the bottom to tie the rope off, because otherwise it would sometimes tangle and give him a shock. However, Karen advised he would "always turn it straight back on after, religiously."<sup>10</sup>
16. The anchor was over a mound, and Karen saw him swim over the mound before she lost sight of him. She was not far behind but was swimming more slowly. Not long after, Karen saw Gary pop his head up from behind the mound. She could see him from his thighs up. Karen immediately registered that this was different to his usual behaviour and she swam towards him. As she approached the mound, she looked down and noted there was no visibility. All she could see

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<sup>7</sup> Exhibit 1, Tab 12.

<sup>8</sup> Exhibit 1, Tab 5.

<sup>9</sup> Exhibit 1, Tab 5.

<sup>10</sup> Exhibit 1, Tab 5 [36].

was blood and sand and a large shark tail that was grey on top and white underneath. The tail was flapping ferociously. Karen tried to hit the tail twice with her camera but she was not sure if she made contact.<sup>11</sup>

17. Karen then swam forward with the thought that she could get to the head of the shark, but at this moment everything cleared rapidly. Suddenly the visibility in the water was good and Karen could see that both the shark and Gary had gone. She was unsure what to do, and eventually decided to swim up the anchor line. As she reached the surface along the anchor line, Karen bumped into Gary.<sup>12</sup>
18. Karen immediately grabbed hold of Gary. At this stage she thought he could still be alive but he was unresponsive. He didn't have his mask on and she could see his eyes were wide open. Karen noticed at this stage that Gary's right arm was missing.<sup>13</sup>
19. Karen tried to get Gary back to the boat and was trying to hold his head above the water as she did so, but his head kept dropping. She noticed something white bubbled out of his mouth and she could feel a rattle at his throat while she tried to hold his head up. Karen managed to get Gary back to the boat but she couldn't find a way to get him up and into the boat. The wind had picked up by this stage and was blowing them away from the boat, and the swell had also increased, so Karen quickly became exhausted. She struggled to remove her fins but couldn't hold Gary up at the same time. They were also drifting away from the boat as she struggled to hold him<sup>14</sup>
20. Karen did not think Gary was alive at this stage and she became very concerned that if she kept drifting with his body, she also might not survive and no one would ever know what happened to them. Karen was aware that their 'shore buddies' would alert emergency services if they did not return on time, but the alarm would not be raised for several hours. At this stage, Karen made the difficult decision to let Gary go. She first tried to increase Gary's buoyancy in the water by wrapping her BCD around him, and she also wrapped the cords and regulator around him and then attempted to tie him to the anchor rope. Nevertheless, once she let him go, Gary immediately started to sink down in the water. Karen last saw him sinking motionless in the water while facing in her direction, showing no signs of life.<sup>15</sup>

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<sup>11</sup> Exhibit 1, Tab 5.

<sup>12</sup> Exhibit 1, Tab 5.

<sup>13</sup> Exhibit 1, Tab 5.

<sup>14</sup> Exhibit 1, Tab 5.

<sup>15</sup> Exhibit 1, Tab 2, p. 5 and Tab 5.

21. Karen immediately swam back to the boat to call for help. She got into the boat and made a mayday call over the radio on Marine Channel 16 at 12.55 pm. No one responded, so she used Gary's mobile telephone to call a friend and tell him that Gary had been killed by a shark and he needed to organise help. The friend initially responded with disbelief, but then rallied and began to organise assistance. After ending the call, Karen made another mayday call on the radio before calling her sister, who stayed on the phone and provided support to her traumatised sister until help arrived.<sup>16</sup>

### **THE SEARCH**

22. A number of vessels responded to the call for help, including a Department of Transport vessel (PV5) with local police officers from Esperance Police Station, Senior Sergeant Tarasinski and Senior Constable Gulland, on board. Upon arrival at the scene, the officers observed Gary's boat still anchored with Karen on-board. Ms Milligan was extremely distressed but able to indicate a general last location for Gary. Police immediately initiated a marine search and rescue and conducted a comprehensive water search for Gary in the approximate area of his last known position. They raised the anchor line of the boat, in case Gary was attached to it, but he was not. Initial search efforts found a small piece of Gary's wetsuit and one of Karen's fins floating in the water, but nothing more.<sup>17</sup>
23. Karen was transferred to another vessel and returned to Esperance where she was taken by ambulance to Esperance District Hospital and admitted overnight for treatment for shock.<sup>18</sup>
24. An inspection of their boat did not identify any suspicious circumstances. A probable search area was formulated using Gary's last known position and drift pattern analysis. Vessels from the Voluntary Marine Rescue group, Department of Transport and Esperance Surf Life Saving Club assisted police, who had been joined by the WA Water Police Dive Team (fortuitously in the vicinity), to search for Gary over the next three days.<sup>19</sup>
25. Due to the risks of another shark attack, the searchers deployed go-pro cameras on submersible platforms to conduct underwater visual scans of the search area. At about 4.51 pm a member of the police dive team recovered Ms Milligan's dive equipment, including her camera, from the ocean floor. Whilst recovering

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<sup>16</sup> Exhibit 1, Tab 5.

<sup>17</sup> Exhibit 1, Tab 2, pp. 1 – 2.

<sup>18</sup> Exhibit 1, Tab 2, p. 2.

<sup>19</sup> Exhibit 1, Tab 2, p. 2.

these items, the diver completed a 10 metre radius search of the ocean floor but did not observe any sign of Gary or his equipment.<sup>20</sup>

26. On Monday, 6 January 2020, the search recommenced in the morning with the addition of a submersible remotely operated vehicle. During the search the dive team recovered Gary's BCD vest and oxygen tank, which showed clear indications of a shark attack. The equipment was taken to shore for further forensic examination. These were the only items belonging to Gary that were located and there was no sign of his body.<sup>21</sup>
27. The search recommenced on Tuesday, 7 January 2020, with a further remotely operated vehicle utilised. While still searching for Gary, the body of another missing person who had fallen from rocks into the ocean on 2 January 2020 was located floating in the water off Esperance, with reports the body was being attacked by two great white sharks. Some of the searchers were diverted to that location but the search for Gary continued with the remainder of the search crew until the end of that day. The search for Gary was concluded at the end of Tuesday, 7 January 2020.<sup>22</sup>

### **CAUSE AND MANNER OF DEATH**

28. Esperance has experienced a high number of shark attacks in recent years, when compared to other parts of Australia. Esperance is situated on the Western fringe of the Great Australian Bight, which has been identified as a natural habitat for highly mobile shark species, including the great white shark, which migrates through the Great Australian Bight between the tropical Indian Ocean and the Subtropical Front (south of the Bight).<sup>23</sup>
29. The recovered piece of Gary's wetsuit and his BCD vest were submitted for DNA analysis to identify the shark species involved. A diagnostic report identified the shark species involved as *Carcharodon Carcharias*, more commonly referred to as the white shark (and known by most Australians as the Great White Shark). Measurements taken from teeth punctures in Gary's BCD vest estimated the shark's size to be approximately 5.5 to 6 metres in length.<sup>24</sup>
30. Expert advice in determining time frame for survival was sought by police organising the search from Dr Paul Luckin, a well-recognised Australian expert in this area, who expressed the opinion that Gary died at the time of the

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<sup>20</sup> Exhibit 1, Tab 2, p. 6.

<sup>21</sup> Exhibit 1, Tab 2, p. 7.

<sup>22</sup> Exhibit 1, Tab 2, p. 2.

<sup>23</sup> Exhibit 1, Tab 2, p. 3.

<sup>24</sup> Exhibit 1, Tab 2, p. 7 and Tab 8.

incident, either before reaching the surface or within a very brief period of doing so. This is consistent with Ms Milligan's recollection of events. Dr Luckin referred to Ms Milligan's account as highly credible and entirely consistent with what he would expect following an attack at the depth described. Dr Luckin also expressed the opinion that there was nothing Ms Milligan could have done to alter the outcome.<sup>25</sup>

31. I am satisfied beyond reasonable doubt that Gary died on Sunday, 5 January 2020 while scuba diving in the ocean off the Esperance coast following a shark attack in which his right arm was severed, causing fatal blood loss. It is always difficult to identify an appropriate manner of death in such circumstances, but utilising the limited categories available to me, I find that the manner of death was by way of misadventure.

### CONCLUSION

32. Gary was a kind, gentle and strong man who died while out in the ocean with his wife doing what he loved. He was aware of the risks of shark attack in the waters of Esperance but presumably also knew that statistically those risks were low and he wore a shark repellent device to further reduce that risk. Unfortunately, in the brief moments around the time when he was likely to have temporarily turned off the device to execute a particular task underwater, he was attacked and killed by a shark. From the moment he was attacked, there was nothing his wife Karen could do to save him. She did her best to recover his body, but unfortunately she could not do so and also save herself. An extensive search was unable to find any of his remains, but I am satisfied he died that day in the water.
33. In the words of his wife, Karen, Gary will be truly missed by his family and friends "and the world will be a poorer place without this most beautiful man."<sup>26</sup> I wish Gary's family every success in pursuing Gary's dream of establishing a Marine Park in Esperance in his memory.

S H Linton  
**Coroner**  
20 November 2020

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<sup>25</sup> Exhibit 1, Tab 2, p. 8 and Tab 3 and Tab 9.

<sup>26</sup> Exhibit 1, Tab 12.