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**JURISDICTION** : CORONER'S COURT OF WESTERN AUSTRALIA  
**ACT** : CORONERS ACT 1996  
**CORONER** : SARAH HELEN LINTON, DEPUTY STATE CORONER  
**HEARD** : 11 FEBRUARY 2022  
**DELIVERED** : 28 MARCH 2022  
**FILE NO/S** : CORC 1948 of 2020  
**DECEASED** : GRUBB, MICHAEL RICHARD

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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, Deputy State Coroner, having investigated the death of **Michael Richard GRUBB** with an inquest held at Perth Coroners Court, Central Law Courts, Court 85, 501 Hay Street, Perth, on 11 February 2022, find that the identity of the deceased person was **Michael Richard GRUBB** and that death occurred on or about 16 August 2019 in the Indian Ocean in the vicinity of Cockburn Sound, Henderson, as a result of an unascertained cause in the following circumstances:*

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## INTRODUCTION

1. On the afternoon of 16 August 2019, the WA Police received a report that a yacht was in distress at the Australian Marine Complex in Henderson. The yacht had sustained damage during adverse weather conditions. There were two crew on board the yacht. They reported that a third crew member, Michael Grubb, had been lost overboard when he jumped from the yacht into the sea to retrieve a dinghy that had come adrift while they were sailing in Cockburn Sound. He was not wearing a lifejacket at the time he went overboard. Due to the extreme weather conditions, the other crew members had been unable to search for him in the water, and had returned to land for their own safety and to make a missing person report.
2. A large-scale aerial and marine search was immediately commenced for Michael. There was initially some confusion about the location and time when Michael went overboard, which meant that the initial search area had to be adjusted as more accurate information came in. The search continued until about 7.40 pm that evening, when it had to be suspended due to the adverse weather conditions. The search recommenced at 8.00 am the next morning, and at 8.35 am the dinghy was located capsized in the search area. The dinghy was uprighted and examined. There was nothing to indicate that Michael had made it to the dinghy.
3. Some additional items, including a sports shoe belonging to one of the other crewmembers, and a lifejacket believed to have come from the dinghy, turned up in the search area, but there was no sign of Michael. The search continued for a total of three days, before it was suspended, pending any further information.
4. A missing person investigation was completed by the WA Police on 23 July 2020. The investigation concluded that all evidence pointed to Michael having drowned on 16 August 2019. It was noted in the report that there were a number of safety precautions that were neglected by the crew on the yacht, which might have assisted in preventing Michael's death, or at least aided searchers to recover his body for his family.<sup>1</sup>
5. On the basis of the information provided by the WA Police in relation to Michael's disappearance, I determined that pursuant to s 23 of the *Coroners Act 1996* (WA), there was reasonable cause to suspect that Michael had died and that his death was a reportable death. I therefore made a direction that a coroner hold an inquest into the circumstances of the suspected death, as an inquest is mandatory in such circumstances.<sup>2</sup>
6. I held an inquest at the Perth Coroner's Court on 11 February 2022. The inquest consisted of the tendering of documentary evidence compiled during the police investigation conducted into Michael's disappearance, as well as hearing evidence from Sergeant Paul Crawshaw from the WA Water Police and Mr Laurie Kaddy, who was on the yacht with Michael at the time he disappeared. Michael's family also provided some additional information about Michael's background and character.

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

<sup>2</sup> Section 23 *Coroners Act* Direction of Deputy State Coroner Linton dated 16 September 2021.

## **BACKGROUND**

7. Michael was born on 15 October 1985 in Perth. He was the youngest of four children and had a close relationship with his parents and siblings. He moved often with his family as a small child due to his father's work, before the family returned to Perth when Michael was about six years old and starting school. After finishing high school, he served with the Australian Army Reserves, which he found hard but rewarding, giving him an opportunity to challenge himself and prove to himself what he was capable of achieving. After leaving the Army Reserves, Michael worked in hospitality and the food services industry.<sup>3</sup>
8. At the time of his disappearance, Michael was single and shared a house with his best friend, Kim Yain.<sup>4</sup> Michael had recently resigned from his job in July 2019, as he was unhappy with the long hours, ever-increasing workload and the inability to take time off when he needed it. He had a good employment history and there is nothing to suggest he wouldn't have quickly found new employment.<sup>5</sup>
9. Michael had no chronic health issues and was not prescribed any regular medication. On 19 June 2019 he had visited a general practitioner, where he was prescribed antibiotics for a swollen hair follicle on his face. He also received a referral letter from his GP to see a psychotherapist regarding symptoms of depression. Michael saw Ms Chiplin on 7 August 2019. He did not disclose any feelings or thoughts of self-harm or suicide and Ms Chiplin had no safety concerns for Michael. Michael told a friend that he felt better in himself after seeing the psychologist and had a positive outlook on life.<sup>6</sup> He was scheduled for more counselling appointments but then he disappeared.<sup>7</sup>
10. In his spare time, Michael and his housemate Kim would destress at home by playing Xbox and Michael would also tinker in the garage repairing electrical items. Kim describes Michael as always having a grin on his face and making an effort to keep up the spirits of everyone around him. Kim was aware that Michael had been seeing a psychotherapist recently, and believed it was prompted as much from a need for counselling after helping other people with their problems as anything he faced himself.<sup>8</sup>
11. Michael was described by his family as a kind, generous person with a 'can do attitude'. He was strong and fit, practically minded and good with his hands. He loved tinkering and experimenting in order to learn how to make things better and was generous with his time and talents in helping others. It was said by his family and friends that 'his smile was always a consistent companion', along with his infectious laugh, and it is clear he brought joy to all those who knew him.<sup>9</sup>
12. Michael was also described as the adventurer in his family, always willing to seize opportunities for new experiences. It was in that spirit of adventure that Michael

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

<sup>4</sup> Exhibit 1, Tab 2.

<sup>5</sup> Exhibit 1, Tab 2 and Tab 28.

<sup>6</sup> Exhibit 1, Tab 2, p. 14.

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

<sup>8</sup> Exhibit 1, Tab 28.

<sup>9</sup> Memorial Service celebrating the life of Michael Richard Grubb, Memories of his family and friends.

became involved in the purchase of a yacht, with the hope of repairing it and then sailing it around Australia.<sup>10</sup>

### **THE PURCHASE OF THE YACHT**

13. Michael had been friends with Cameron Johnson and Laurie Kaddy for several years. On 9 June 2019, Cameron and Michael bought a yacht, named the *Avalon*, together and registered it in Michael's name. The previous owner of the *Avalon* had purchased a new yacht, so he needed to sell his old one to make room for it on the mooring. Michael and Cameron were permitted to leave the yacht on the mooring in Mangles Bay, near Point Peron, until the seller's new boat arrived.<sup>11</sup>
14. The *Avalon* is a 9.3 metre yacht with a ferrous concrete/cement hull. Cameron and Michael paid \$1200 for the yacht and an inflatable dinghy.<sup>12</sup> The low price reflected the age and condition of the vessel. It was an old yacht and required significant repairs. It was described as having a very solid ferrous concrete hull, but the deck and topsides were all wood and were suffering from some rot.<sup>13</sup> The previous owner had only used it on the mooring, so it had not been out sailing for some time.<sup>14</sup> Cameron described it as having no bilge pump and a dodgy power system and noted the radio wasn't working and the port side winch was damaged.<sup>15</sup> Michael and Cameron planned to fix it up together.
15. Michael did not have much sailing experience, but he was excited to learn to sail. He told his housemate Kim that it was "a new adventure for him."<sup>16</sup> Cameron had some experience sailing, so Michael was planning to learn from him and then, once the yacht was in good order, they planned to sail it around the top end of Australia and down to Tasmania.<sup>17</sup> Michael spent time on the yacht, with and without Cameron, doing repairs, but they did not sail the yacht while they conducted their maintenance.
16. In August 2019, Michael and Cameron were informed that the former owner's new vessel was about to be delivered, so they needed to remove the *Avalon* from the mooring in the next day or so. Michael and Cameron began preparing the yacht for the move. They planned to move it to a dry dock in the Swan River, where they could conduct work on it and clean the hull while it was out of the water. It required them to sail the yacht out into the ocean in order to get it around to the river mouth in Fremantle, then under the bridge in Fremantle.<sup>18</sup>
17. Cameron and Michael made a plan with their friend Laurie to move the yacht on Thursday, 15 August 2019. It would be their first time out on the yacht. They began preparing by installing a new bilge pump and new batteries. Michael also tried to fix the radio, without success. In terms of safety gear, the yacht had five life jackets or

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<sup>10</sup> Exhibit 1, Tab 8.

<sup>11</sup> Exhibit 1, Tabs 7, 12 and 13.

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

<sup>13</sup> T 30.

<sup>14</sup> T 29.

<sup>15</sup> Exhibit 1, Tab 7.

<sup>16</sup> Exhibit 1, Tab 28 [48].

<sup>17</sup> T 44.

<sup>18</sup> Exhibit 1, Tab 7 and Tab 8.

personal flotation devices, two flare kits and two EPIRB's on board. Michael had bought some of the life jackets new and they were still in their packets on board.<sup>19</sup>

18. As noted above, Cameron had sailing experience, but Michael did not. Laurie had significant boating experience with powered vessels, but no experience sailing yachts. However, they knew that they needed a powered boat to tow the yacht under the traffic bridge near Fremantle, and Laurie offered them the use of his zodiac/dinghy for that purpose. The dinghy was equipped with a marine radio, flares, a buoyancy vest and several life jackets, and had a 70hp engine.<sup>20</sup> The dinghy was collected and then driven to Woodman's Point where it was launched. They then collected the yacht off the mooring.<sup>21</sup>
19. The yacht was sailed out of Mangles Bay, where it had been moored, at about lunchtime on Thursday, 15 August 2019.<sup>22</sup> Unfortunately, there was virtually no wind, so they didn't make much headway. They ran out of light in the late afternoon and realised they would not have enough time to get to Fremantle, so they used the dinghy to tow the yacht to Woodman's Point, where they pulled up for the night on a jetty. Cameron stayed on the yacht overnight with a female friend and the others went home.<sup>23</sup>
20. Michael spent some time playing Xbox and having dinner with Kim. Later that evening, he packed some tools and personal items and then left the house at about 11.00 pm. He told Kim he was going to the yacht with some fenders/bollards as there was a small squall and the yacht was bouncing around. Michael told Kim as he left that, weather dependent, he would be back home Sunday night or Monday morning. That was the last time Kim saw Michael.<sup>24</sup> It's not clear where Michael went that night, but he had many friends, so it is possible he went to visit a friend and stayed the night.

### **EVENTS ON FRIDAY, 16 AUGUST 2019**

21. Cameron recalled that Michael came to the yacht on the morning of 16 August 2019 and delivered the fenders. Michael then dropped Cameron's friend to nearby public transport, before collecting Laurie Kaddy at about 10.00 am. Michael and Laurie went to Bunnings so Michael could buy some split pins and other materials, then they drove to the yacht.<sup>25</sup>
22. Laurie gave evidence that when they got to the water, he noted the conditions and observed that it wasn't boating weather and was the kind of day when he would not even have put his powerboat in the water. Laurie looked at a website to try to get information on the tides, in order to work out when they could get under the bridge, and he noted that the wind was already at about 35 km/h and was forecast to get up to about 75 km/h, which were gale force winds. He didn't see anything about a storm

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<sup>19</sup> Exhibit 1, Tab 7 and Tab 8.

<sup>20</sup> Exhibit 1, Tab 8.

<sup>21</sup> T 44.

<sup>22</sup> Exhibit 1, Tab 7 and Tab 8.

<sup>23</sup> Exhibit 1, Tab 7 and Tab 8.

<sup>24</sup> Exhibit 1, Tab 28.

<sup>25</sup> Exhibit 1, Tab 7 and Tab 8.

being forecast, but was concerned about the wind forecast.<sup>26</sup> Laurie gave evidence that he raised the issue of the winds and asked Cameron, “Mate, are you sure?”<sup>27</sup> Cameron replied that yacht was made of concrete and was designed to go through this kind of weather and could take the wind and swell.<sup>28</sup> Laurie reflected that he had watched the Sydney to Hobart yacht race and seen that yachts can cope with pretty bad weather, so he said, ‘I’ll leave it up to you guys.’<sup>29</sup> Laurie said that he and Michael relied on Cameron’s considerable sailing experience and trusted that Cameron knew what he was doing, despite his own reservations about the weather based on his power boat experience.<sup>30</sup>

23. Laurie noted in his evidence that he was aware that Cameron and Michael had booked a dry dock for a week and had wanted to get it there the day before, so they were keen to make it to the dry dock that day. He noted they didn’t want to waste their money, and the timing was important as they were planning their big adventure and wanted to get started.<sup>31</sup>
24. During the morning, Cameron got the old bar fridge out of the cabin and disposed of it in a skip bin on the jetty. Michael went off to get fuel for the dinghy and then they had some food before they set off at about midday for their journey to the Swan River. They decided not to use the dinghy to tow the yacht out and instead used the springer as it was an easy slide out of the harbour. However, they kept the dinghy alongside, just in case.<sup>32</sup> Laurie recalled that Michael told him as they headed out that he had stowed their mobile phones away.<sup>33</sup>
25. Laurie described the weather conditions as “gnarly”<sup>34</sup> as they set sail, noting that it was “windy as”<sup>35</sup> and they could see dark storm clouds on the horizon. They knew the wind was going to pick up more, but they made a decision to go out anyway. Michael and Cameron asked Laurie to steer while they wrestled with wrapping the mainsail to stop it blowing around. Laurie had never steered a yacht before, but he took on the task while they got the mainsail locked down.<sup>36</sup>
26. Cameron then shortened the jib down to a storm jib as the weather was so rough. Cameron described things getting “hectic”<sup>37</sup> at this time, as the port side winch was damaged and not working, so they were using the starboard winch for all ropes. This meant that they had to have two people on the winch, as a second person was needed to keep the two ropes apart. Laurie noted that the jib started to rip in the wind, which understandably worried them. Laurie was still steering and the other men were asking him to turn the boat north, into the wind and towards Fremantle, but he couldn’t get the yacht to turn that way. They realised they were not going to make it

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<sup>26</sup> Exhibit 1, Tab 8.

<sup>27</sup> T 45.

<sup>28</sup> Exhibit 1, Tab 8.

<sup>29</sup> T 45.

<sup>30</sup> T 45.

<sup>31</sup> T 46, 57 - 58.

<sup>32</sup> Exhibit 1, Tab 7.

<sup>33</sup> Exhibit 1, Tab 8.

<sup>34</sup> T 46,

<sup>35</sup> T 46

<sup>36</sup> T 46.

<sup>37</sup> Exhibit 1, Tab 7, [26].

to the river, the weather was getting worse and the jib was tearing, so they decided to turn with the wind and head back in towards Woodman's Point.<sup>38</sup>

27. After they had turned, the yacht went down the face of a wave and the rope towing the dinghy stretched taught. The rope stretched tight and the tension caused the handle to tear off the dinghy at the tether point.<sup>39</sup> The dinghy was then set adrift from the yacht, with no person on board.

### **LAST CONFIRMED SIGHTING OF MICHAEL**

28. The three men looked back and they could see the dinghy had started riding down a wave towards them, getting closer. Cameron recalled that Michael asked Laurie, "Keys in it?" and Laurie confirmed they were. Michael then kicked off his shoes and took off his shirt, so he was only wearing some lightweight, fast dry cargo pants. Michael then jumped over the starboard side of the yacht to go and retrieve the dinghy. Once he was in the water, Michael was initially lost from view, then he broke the surface a few metres away from the yacht. Cameron recalled that Michael had "a big smile on his face"<sup>40</sup> as he looked back at the yacht. Laurie recalled Michael waved his arm, before he swam off in the direction of the dinghy using freestyle stroke.<sup>41</sup> Laurie gave evidence that at that stage, they were all confident Michael would be able to retrieve the dinghy and return to them.<sup>42</sup> However, just after Michael jumped in, the rain hit them along with big gusts of wind, and things became "super hectic."<sup>43</sup>
29. Cameron was working on the winch and he recalled the two ropes were laid across each other and the winch was jammed. After managing to secure a rope, Cameron looked back to check on Michael and see if he had reached the dinghy, but he couldn't see him in the heavy swell. Cameron stated he "went crazy trying to get the winch freed up"<sup>44</sup> and instructed Laurie to stall the yacht, which he did by sailing it into the wind. After at least five to ten minutes had passed, Laurie saw the dinghy in the water, approximately 800 to 1000 metres away in the heavy swell. There was no sign of Michael.<sup>45</sup> Laurie gave evidence that it was at this moment that it hit home to them that Michael was in trouble. Laurie recalled that Cameron went white and appeared to go into shock and he went downstairs. It seems Cameron went down to try the radio, but he was not able to get it to transmit. Cameron managed to get the radio going about 500 metres from shore, but it still wasn't transmitting. Cameron couldn't find the mobile phones that Michael had stowed away.<sup>46</sup> He apparently did not think to release an EPIRB or flares, despite both being available on the yacht. Laurie gave evidence that he did not know why Cameron didn't activate any of it.<sup>47</sup>

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<sup>38</sup> T 47 – 48; Exhibit 1, Tab 8.

<sup>39</sup> Exhibit 1, Tab 21, Image 29.

<sup>40</sup> T 28; Exhibit 1, Tab 7 [37].

<sup>41</sup> T 28; Exhibit 1, Tab 2 and Tab 7.

<sup>42</sup> T 49.

<sup>43</sup> T 50.

<sup>44</sup> T 28; Exhibit 1, Tab 7 [42].

<sup>45</sup> Exhibit 1, Tab 2 and Tab 8.

<sup>46</sup> T 28; Exhibit 1, Tab 7 and Tab 8.

<sup>47</sup> T 51.

30. Laurie was still steering and was struggling to turn the yacht around, so he called out to Cameron for help. Cameron came back up the top and suggested to Laurie that he run the yacht aground into the rocks that they could see. Laurie suggested they try to reach a wharf they could see nearby instead. They managed to get the yacht to the wharf. They had come up alongside a floating wharf at the Australian Marine Complex in Henderson, and staff at the complex came to assist and threw them some ropes so they could tie themselves up to the wharf. The yacht was smashing against the wharf and getting jammed underneath it. They considered abandoning ship and swimming to shore, but the swell was too rough and they were in fear for their lives.<sup>48</sup>
31. Paul Booth, the Manager of the Australian Marine Complex, had received information from a worker at about 2.00 pm that a yacht was in difficulty in Cockburn Sound. The worker had been asked to keep an eye on it while Mr Booth phoned the Cockburn Volunteer Marine Rescue Group (VMRG) to alert them to the fact a boat might need rescuing. The worker rang Mr Booth again at around 3.15 pm and advised that he didn't think the yacht would be able to enter the complex due to the strong winds and heavy swell. Mr Booth made his way out to the floating wharf at the complex, as he thought that was the most logical place for the yacht to try to berth. As Mr Booth walked there, he was blown about by strong gusts of wind and had difficulty seeing clearly due to the rain and spray off the sea. When he arrived at the wharf a few minutes later, Mr Booth could see the yacht was being moved around wildly by the squall and wind gusts although it had been tied up with ropes thrown by the workers. Mr Booth could see two men on the deck who appeared to be trying to keep the fenders on the side of the vessel to prevent it from being damaged against the wharf. Their faces were pale and they appeared to be agitated and fearful with regard to their situation.<sup>49</sup>
32. Mr Booth spoke to one of the men to tell them that he would try to move them further down the floating wharf as the vessel would be better protected there. The man, who the evidence indicates was Cameron, replied, "Mike Grubb went overboard" and sounded distressed. He then explained to Mr Booth that they had lost a man overboard when a dinghy they had been towing had gone adrift. He had to shout to be heard over the noise of the waves, and pointed his arm towards Cockburn Sound as the location where Michael had gone overboard.<sup>50</sup>
33. Mr Booth used his mobile phone to relay this information to a member of the Cockburn VMRG, and asked that the information be passed on to the Water Police. A member of the VMRG rang WA Water Police to report Michael missing.<sup>51</sup> A short time later, Mr Booth saw a Water Police vessel heading out in the direction of the man overboard location. However, when Cameron looked out, he shouted to Mr Booth that Mr Booth had given the wrong location and provided a different location, about 5 kilometres west-southwest of the original location. Mr Booth rang and reported this new information to the Water Police.<sup>52</sup>

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<sup>48</sup> Exhibit 1, Tab 2 and Tab 8.

<sup>49</sup> Exhibit 1, Tab 8 and Tab 9.

<sup>50</sup> Exhibit 1, Tab 9.

<sup>51</sup> Exhibit 1, Tab 2.

<sup>52</sup> Exhibit 1, Tab 9.

34. Laurie and Cameron remained on the yacht, tied up to the wharf, until other police officers came to the wharf. Cameron had found their mobile phones by this stage, and had retrieved both their phones. Michael's phones were later found by police on board the yacht.<sup>53</sup> The yacht was eventually towed to Woodman's Point and police later seized and searched it. They also attempted to take statements from Cameron and Laurie. A statement was taken from Laurie, but Cameron was thought to be suffering from suspected hypothermia, so he was taken by ambulance to Royal Perth Hospital for assessment. Cameron gave a statement at a later time.<sup>54</sup>
35. Laurie was asked at the inquest how long he thought it had taken from when Michael went overboard until they were able to report him missing to the Australian Marine Complex staff. Laurie responded, "A lifetime."<sup>55</sup> When pressed, he said that though it felt like forever, he estimated it probably would have been 40 to 45 minutes.<sup>56</sup>

### **THE SEARCH**

36. Police officers at the Fremantle Water Police coordinated an immediate search response. At that time, Sergeant Paul Crawshaw was the duty search and rescue mission coordinator, so he took control of the search. This duty was later handed over to Acting Sergeant Brendan Packard, but Sergeant Crawshaw coordinated the initial response on the first day.<sup>57</sup>
37. A fast response police vessel was sent to the last known position of Michael, as understood from the information provided to the Water Police at that time. Water Police officers also attempted to contact the yacht itself via radio, and Michael as the registered owner, but received no response. A large scale aerial and marine search was then conducted to locate Michael and the missing dinghy that he had planned to recover.<sup>58</sup>
38. The search included two aircrafts, one from Police Airwing and a second from the State Emergency Service (SES), being the RAC Rescue Helicopter 651. In addition, nine surface vessels from the WA Police, Cockburn VMRG, Fremantle Port Authority and two tugboats from a private corporation searched the water. It was quickly established after police attended Henderson and spoke to Cameron and Laurie, that Michael had entered the water at about 2.00 pm, rather than the originally reported 3.15 pm. This meant that the initial search area had to be adjusted to about 2.5 nautical miles east of that location. The Water Police deployed a weighted lifejacket with a drogue attached from that location to assist with predicting drift conditions given by the drift modelling software, SARMAP. The modelling, whether it was for the dinghy or a person in the water, pointed to the drift being onshore, so most of the search areas were no more than one a half nautical miles out from the shore. The pattern of drift of the weighted lifejacket also supported the modelling.<sup>59</sup>

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<sup>53</sup> T 51; Exhibit 1, Tab 2 and Tab 15.

<sup>54</sup> Exhibit 1, Tab 2.

<sup>55</sup> T 56.

<sup>56</sup> T 56.

<sup>57</sup> T 5.

<sup>58</sup> Exhibit 1, Tab 2.

<sup>59</sup> T 7 - 8; Exhibit 1, Tab 2.

39. Sergeant Crawshaw gave evidence that the searching was hampered by the squally weather conditions and the fact that Michael was not wearing a lifejacket or any clothing of hi-visibility and the dinghy was black. Even with the assistance of all the technology that was available, Sergeant Crawshaw indicated that it did not mean that the searchers would definitely be able to see a body, or the dinghy, in the water in those conditions.<sup>60</sup>
40. While the search was ongoing, the Water Police obtained an expert opinion from Dr Paul Luckin. Dr Luckin is an anaesthetist and Captain in the Royal Australian Naval Reserve who acts as a medical advisor to the Australian Maritime Safety Authority and routinely assists search and rescue missions in Australia with estimated timeframes for survival of missing persons. Based on the information provided, Dr Luckin expressed the opinion that if Michael did not find refuge in the dinghy, the time frame for survival would be shorter and would expire at 8.00 pm that day. If he managed to make it to the dinghy, his prospects for survival were obviously better.<sup>61</sup> The level of the incident was upgraded at 5.10 pm and Senior Sergeant Minnock was appointed the Police Commander and a Family Liaison Officer was appointed to liaise with Michael's family.<sup>62</sup> At about the same time, the aerial support was forced to return to ground due to the stormy conditions.<sup>63</sup> At about 7.40 pm, the rest of the search and rescue teams (a number of vessels) were all recalled to their home base due to the adverse weather conditions, which included a gale/severe weather warning, and the fading light.<sup>64</sup>
41. The search was recommenced the next day at 8.00 am with nine marine vessels and two aircraft. Based on SARMAP advice and drift modelling predictions, the areas of Jervoise Bay, Henderson, Kwinana and Rockingham foreshores were identified as four coastal search grids. At about 8.35 am, the missing dinghy was located capsized within the search area predicated by SARMAP.<sup>65</sup>
42. It is interesting that the dinghy was found capsized, as Laurie gave evidence at the inquest that the dinghy was very stable in the water and effectively unsinkable. Laurie believed you could put considerable weight on one side of the dinghy without causing it to flip, as it was built that way for diving.<sup>66</sup>
43. After being righted correctly, police inspected the dinghy and located three life jackets, a bag of distress flares and a battery floating under the vessel, none of which appeared to have been accessed by Michael. The dinghy's kill cord and ignition key were observed to be in place. The ignition was switched off and the throttle lever was in a neutral position. There was nothing about the dinghy to suggest that Michael had made it aboard.<sup>67</sup>

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<sup>60</sup> T 8 – 9.

<sup>61</sup> T 11.

<sup>62</sup> Exhibit 1, Tab 2.

<sup>63</sup> Exhibit 1, Tab 2.

<sup>64</sup> T 10; Exhibit 1, Tab 2.

<sup>65</sup> Exhibit 1, Tab 2.

<sup>66</sup> T 47, 50.

<sup>67</sup> Exhibit 1, Tab 2.

44. A yellow life jacket matching the ones on board the dinghy, a black sports shoe belonging to Cameron and the weighted lifejacket deployed by the police, were also located in the predicted search area, close to the dinghy.<sup>68</sup>
45. While the search was continuing, police also examined the yacht and found nothing suspicious, and confirmed through CCTV footage that Michael and Laurie had gone to Bunnings on 16 August 2019 just before midday, where Michael had purchased some nuts and bolts, ropes and other items for the yacht. There was nothing unusual about the transaction.<sup>69</sup>
46. The search had to be suspended at about 2.30 pm on Saturday, 17 August 2019 due to the inclement weather. It recommenced at 8.00 am on Sunday, 18 August 2019, utilising one aircraft and two marine vessels. By this stage, the search was a recovery mission rather than a rescue mission, which explains the reduced number of assets involved. Land searches were also conducted by SES on the nearby shorelines of the mainland, while Royal Australian Navy personnel from the Stirling Naval Base at Garden Island also assisted by conducting patrols along the eastern side of the island.<sup>70</sup>
47. At 12.45 pm on Sunday, 18 August 2019, the marine, land and aerial search for Michael was officially suspended by Police Commander Inspector McIntosh from the Fremantle District Office. The decision was made to suspend the search as, despite a complete area saturation of the relevant area he had not been found, and it was deemed highly likely that Michael had drowned and his body had sunk below the water's surface.<sup>71</sup>
48. On Wednesday, 21 August 2019, items belonging to Laurie Kaddy, including a wallet, were located by security staff near the BP Refinery in Kwinana Beach. Nothing else was located that might have come from the yacht, dinghy or Michael after that time.<sup>72</sup>
49. Sergeant Crawshaw gave evidence that Water Police were confident that the relevant search area, allowing for adjustments when new information was provided as to Michael's last known position, was "intensively covered"<sup>73</sup> with great support from staff of the relevant agencies involved and many volunteers. The search included a land search of the shorelines, in case Michael had either managed to swim to shore, or his body washed ashore, but searchers found no sign of him, despite the personal items from both Cameron and Laurie washing up in different locations suggesting the search area was correct.<sup>74</sup> Sergeant Crawshaw explained at the inquest that the evidence indicated that Michael's last known position was in the middle of Cockburn Sound, several miles from any shoreline, so it was unlikely his body would have ever washed up to shore.<sup>75</sup>

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<sup>68</sup> Exhibit 1, Tab 2.

<sup>69</sup> Exhibit 1, Tab 2.

<sup>70</sup> Exhibit 1, Tab 2.

<sup>71</sup> T 42; Exhibit 1, Tab 2.

<sup>72</sup> Exhibit 1, Tab 2.

<sup>73</sup> T 14.

<sup>74</sup> T 15.

<sup>75</sup> T 42.

50. Sergeant Crawshaw, who is very experienced in coordinating marine and land searches, gave evidence that he did not think anything else could have been done to try and find Michael in the circumstances.<sup>76</sup> Sergeant Crawshaw gave evidence that the officers at the Water Police “take great pride in what we do and make sure that we leave no stone unturned”<sup>77</sup> when conducting a search for a missing person.
51. At the inquest, Michael’s father expressed thanks on behalf of Michael’s family to the police and all of the other searchers for their considerable efforts in initially trying to rescue Michael, and then later in trying to recover his body, even while putting their own safety in jeopardy. Mr Grubb indicated that his family could not “speak highly enough of our appreciation”<sup>78</sup> to those people involved.

### **MISSING PERSONS TEAM INVESTIGATION**

52. WA Police officers obtained statement from witnesses in relation to Michael’s last known movements, interactions and observations. They also obtained personal information about Michael from his family and members of the medical profession, which is summarised in the background information above. None of the information obtained suggested that there were any significant events in Michael’s life that might have made him want to disappear. He clearly loved his family and would never have deliberately ceased contact with them.
53. Sergeant Crawshaw commented in his evidence that when Michael first saw the dinghy come adrift from the yacht, it would seem he initially thought it was achievable that he could swim and catch it. However, given the strong wind at that time, the dinghy “would have been drifting away from the yacht at a significant speed and it may have been a struggle for him to even keep up with it, let alone make ground towards it.”<sup>79</sup>
54. It was also noted that the dinghy, whilst quite a heavy vessel, was found flipped over in the water. Sergeant Crawshaw suggested it was possible that it could have flipped over if Michael reached it and attempted to get into it from the ocean.<sup>80</sup> However, Laurie, who owned the dinghy, gave evidence it was very stable in the water, even when being pulled down on one side. Laurie gave evidence that he personally believes Michael probably got to the dinghy. Laurie indicated the reason he felt confident Michael would have made it to the dinghy, was because it was very close at the time he got into the water and by the time he surfaced, Michael was already halfway towards it. However, he noted that the dinghy had a rail around it and, because of the way the dinghy sat in the water and the very peaky wave conditions, it was possible if Michael had reached the dinghy and held onto the rail, the dinghy may have lifted up on a wave and then slammed down and knocked Michael out.<sup>81</sup>

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<sup>76</sup> T 16.

<sup>77</sup> T 39.

<sup>78</sup> T 39.

<sup>79</sup> T 12 – 13.

<sup>80</sup> T 12.

<sup>81</sup> T 54.

55. Certainly, the evidence was that when the dinghy was found, the safety gear was all accounted for. The police felt it was a reasonable assumption that if he had managed to make it onboard, Michael would have made use of the flares or the lifejackets, but they all appeared to be untouched. The vessel had not been started and the engine was in neutral, although the keys were still in the ignition, which suggested Michael had not made it into the dinghy and then been ejected from it afterwards.<sup>82</sup>

### **COMMENTS ON PUBLIC SAFETY**

56. Detective Senior Constable Mike Cursiter, who completed the police investigation report for the Missing Persons Team, noted that despite there being an adequate number of lifejackets, smoke and parachute flares and EPIRB's on board, all of which were in good working order, they were not utilised during the sailing trip, despite the poor weather conditions. Detective Senior Constable Cursiter observed that if Michael had been wearing a life jacket when he entered the water, he would have remained afloat and would have been more visible to the crew of the yacht and the searchers. Likewise, had the crew set off a flare or deployed an EPIRB, it would likely have been seen by others and resulted in the 'last known position' of Michael being more accurate, as well as prompting an earlier search. In particular, if Michael was floating, the EPIRB would have followed a similar course and allowed the searchers to concentrate the search in a more precise area.<sup>83</sup>
57. Sergeant Crawshaw indicated that the current legislation applicable to recreational boats<sup>84</sup> only requires a vessel to carry enough lifejackets for the people on board. There is no requirement to wear the jackets, even when they are heading out into the ocean, and Sergeant Crawshaw indicates that the majority of people do not wear them. The Department of Transport, which is responsible for the licensing and regulating of recreational marine vessels in Western Australia, has recently completed a Recreational Vessel Safety Equipment Review to identify what changes are needed "to ensure that WA has a contemporary safety equipment regime that maximises boating safety while being considerate of the costs and practical implications for the boating community."<sup>85</sup> The four year review included significant community consultation with many different stakeholders and has resulted in the recent publishing of a Final Position Paper in October 2021, following the endorsement of the changed proposals by the Minister for Transport, it is now moving to the implementation phase.<sup>86</sup>
58. Relevant to this inquest, the changes will make it mandatory for a registrable vessel to not only carry appropriate life jackets, but for each person on board a registrable vessel less than 4.9 metres (such as the *Avalon*) to wear a lifejacket when the vessel is operating more than 400 metres from shore in unprotected waters.<sup>87</sup> The new rules are consistent with regulations that have already been introduced in some other

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<sup>82</sup> T 12 – 13.

<sup>83</sup> Exhibit 1, Tab 2, p. 20.

<sup>84</sup> *Western Australia Marine Act 1982 (WA)* and *Navigable Waters Regulations 1958 (WA)*.

<sup>85</sup> <https://www.transport.wa.gov.au/imarine/safety-equipment-review.asp>.

<sup>86</sup> [Recreational Vessel Proposed safety equipment changes for WA Safety Equipment Review Position Paper \(transport.wa.gov.au\)](https://www.transport.wa.gov.au/Recreational_Vessel_Proposed_safety_equipment_changes_for_WA_Safety_Equipment_Review_Position_Paper).

<sup>87</sup> [Recreational Vessel Proposed safety equipment changes for WA Safety Equipment Review Position Paper \(transport.wa.gov.au\)](https://www.transport.wa.gov.au/Recreational_Vessel_Proposed_safety_equipment_changes_for_WA_Safety_Equipment_Review_Position_Paper).

states.<sup>88</sup> The position paper notes that it is “accepted that survival is greatly enhanced if a person is wearing a jacket when they unexpectedly enter the water in a life-threatening situation. Repeated coronial inquiries have highlighted the speed at which vessels can capsize, leaving little time for passengers to locate and put on a lifejacket. It is also widely acknowledged that putting on a lifejacket once in the water can be challenging.”<sup>89</sup> In this case, obviously the yacht did not capsize unexpectedly, but the need for Michael to suddenly enter the water did. There were many lifejackets available on board, but he obviously did not want to take the time to go and put one on when the dinghy was already drifting away rapidly. There are also planned changes to the requirements to carry other safety equipment such as flares and EPIRBs, which I note were available on the yacht but were not activated.

59. Without wishing to appear in any way to judge Michael, knowing that the events that led him to go into the water were unexpected and inspired by a desire not to let down a friend who had lent him the dinghy, it is important to note that Dr Luckin’s survival estimate significantly varied depending upon whether Michael was wearing a lifejacket when he entered the water, separately from whether he made it to the dinghy. If Michael had been wearing a lifejacket, it would have increased the likelihood that he might be found alive, even if unconscious, or at least have increased the likelihood that his body could have been found and returned to his family. Further, if he had been wearing a lifejacket and the other crew members had activated EPIRB and/or flares, the chances of finding him would have been “[f]ar higher”<sup>90</sup> as the EPIRB would have immediately raised an alarm and provided much greater accuracy for the search area.<sup>91</sup>
60. Laurie Kaddy was asked why they did not wear the lifejackets, knowing they were available and that the weather conditions were unfavourable? He gave evidence that they probably would have put them on, once they realised how bad the weather and sea conditions were, but by that stage too much was going on and it was too late. He agreed that they should have put them on before they departed from the dock, but said that unfortunately, “boys will be boys.”<sup>92</sup>
61. Laurie also could not provide any reason why Cameron did not think to activate the EPIRB or flares, but did give evidence that they were both in shock when they realised that Michael was not in the dinghy and Cameron appeared to become very distressed. Laurie said at the time he was only aware that there were lifejackets and a broken radio, and the items in the hull were in disarray, so he was not in a position to know what they did and did not have on board. He knew that he had the appropriate safety gear on board the dinghy, but that was obviously not accessible at the time.<sup>93</sup>
62. Laurie said in evidence that, looking back, he has asked himself “a million times”<sup>94</sup> why he didn’t insist that they wait for better weather, but he thought they weren’t going far and weren’t going to be far out, so if something went wrong they could

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<sup>88</sup> T 19.

<sup>89</sup> [Recreational Vessel Proposed safety equipment changes for WA Safety Equipment Review Position Paper \(transport.wa.gov.au\)](https://www.transport.wa.gov.au), p. 10.

<sup>90</sup> T 23.

<sup>91</sup> T 22 – 23.

<sup>92</sup> T 53.

<sup>93</sup> T 50, 53, 56 - 57.

<sup>94</sup> T 57.

simply swim to shore. In hindsight, he knows that it was “a stupid day to go out” and expressed his great regret that he did not do more to dissuade them all from attempting it. Laurie also acknowledged the bravery of the search and rescue teams who put themselves in danger in terrible conditions to help them and try to save Michael.<sup>95</sup>

63. Sergeant Crawshaw mentioned in his evidence that the Department of Transport has a very good program, known as the “30 second challenge”, which helps boat users to test their readiness for an emergency.<sup>96</sup> Sergeant Crawshaw commended the program as a very good way for boat owners to test their ability to access safety gear and make a mayday call in a short time period.

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

64. I am satisfied beyond reasonable doubt that Michael died around the time of his disappearance in the water on 16 August 2019. His death was likely due to drowning, but there is insufficient evidence for me to be able to be satisfied of a cause of death as it is possible he sustained an injury upon reaching the dinghy (noting the evidence of the witness Laurie Kaddy), which caused or contributed to his death. In relation to the manner of death, I find that the death occurred by way of accident.

### **CONCLUSION**

65. As is often the case in coronial matters, it is clear that there were a number of things that could have potentially prevented Michael’s death. The yacht was old and they were doing the right thing trying to repair it, but unfortunately the timing of when they needed to move it coincided with unsuitable weather. Initially, they didn’t have enough wind, and then on the next day, the weather became treacherous. Knowing that the yacht had only one winch working, as well as a radio that was not operational, and only one crew member onboard was an experienced sailor, taking the yacht out with that weather forecast was a very risky decision. A safer decision would have been to wait a day or two for the weather conditions to improve. However, they went out with the confidence of fit, mature men and the belief the yacht could weather any storm. They may well have all still made it back to shore safely, even given the weather and the state of the yacht, if it wasn’t for the unfortunate event of the dinghy breaking free, and Michael making the fateful decision to try and retrieve it rather than let down a friend. If Michael had been wearing a lifejacket, he might also have had a greater chance of being found alive. If the other men had thought to activate the EPIRBS or flares, help could have also come sooner. There were many missed opportunities for this to have gone a different way.
66. Sadly, Michael’s death is not the first that has occurred in this kind of situation, which is why a lot of thought has gone into changing the safety rules around what marine safety gear is required for recreational boat use. Michael’s family’s terrible loss will hopefully help other members of the public to understand the reasoning

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<sup>95</sup> T 58.

<sup>96</sup> T 24; <https://www.transport.wa.gov.au/inline/what-safety-equipment-do-i-need.asp>.

behind the changes, particularly the mandatory requirement to wear lifejackets on smaller vessels when in the open sea. The hope is that these changes may prevent another unnecessary death. The officers from the Water Police, in particular, encourage people to take all safety measures available to them when going out on the water, to ensure that they make it home safely to their families.



S H Linton  
Deputy State Coroner  
28 March 2022