



MAGISTRATES COURT of TASMANIA

CORONIAL DIVISION



Record of Investigation into Death (Without Inquest)

*Coroners Act 1995
Coroners Rules 2006
Rule 11*

I, Olivia McTaggart, Coroner, having investigated the death of Anthony John Benneworth

Find, pursuant to Section 28(1) of the Coroners Act 1995, that

- a) The identity of the deceased is Anthony John Benneworth;
- b) Mr Benneworth died in a boating accident in the circumstances described in this finding;
- c) The cause of death was drowning; and
- d) Mr Benneworth died on 10 March 2018 at Ansons Bay in Tasmania.

In making the above findings I have had regard to the evidence gained in the comprehensive investigation into Mr Benneworth's death. The evidence comprises the police report of death; an opinion of the forensic pathologist who conducted the autopsy; police and witness affidavits; medical records and reports; forensic evidence; and inspection reports relating to the condition of the vessel and personal flotation devices.

Mr Benneworth was born in Launceston, Tasmania on 12 December 1950. He was aged 67 years at his death. In 1985 he married his wife, Linda Benneworth. Mr Benneworth has an adult son, Simon Benneworth, to a previous relationship. Mr Benneworth had an extensive career in journalism, marketing and business-broking. Between 1992 and 1998 he served as a member of the Tasmanian House of Assembly. He was retired at the time of his death.

Notably, Mr Benneworth represented Tasmania between 1971 and 1979 as a cricketer.

He played in Tasmania's inaugural Sheffield Shield team in 1977–78.

Mr Benneworth was a diabetic but successfully managed the condition through a controlled diet. In 2016 he underwent a knee replacement and, in 2017, underwent a procedure to repair an Achilles tendon. Otherwise, he led a healthy, active lifestyle.

Mr Benneworth had a social interest in boating. Over the years he had been on many boating and fishing trips with family and friends. In her affidavit for the investigation, Mrs Benneworth described him as having “a healthy respect for the sea”.

Mr Benneworth met Mr Anthony Edward Long about 10 years before his death, and they developed a strong friendship. They shared an interest in boating and fishing and Mr Benneworth would regularly drive his motor home, purchased during his retirement, to Mr Long's shack at Ansons Bay and stay for weekends. He also went with Mr Long on trips to Summers Bay. During this period of their friendship, Mr Benneworth introduced Mr Long to Mr Guy McKibben. Mr McKibben accompanied Mr Benneworth in his own motor home on at least three occasions to Ansons Bay to fish with Mr Long.

Mr Benneworth did not own a boat or a life jacket. He borrowed a life jacket from Mr Long at Ansons Bay every trip and similarly at Summers Bay. The life jackets at each place were different in respect to their inflation methods — at Ansons Bay, the life jacket borrowed by Mr Benneworth was a manually inflating jacket and at Summers Bay the life jacket was self-inflating upon hitting the water.

The life jacket used by Mr Benneworth at Ansons Bay was an older model Stormy Seas Level I inflatable vest. Upon the first use, Mr Long and his brother, Roger Long, provided Mr Benneworth with instruction on how to inflate the vest. Mr Benneworth acknowledged understanding of its use and, on every following trip on Mr Long's vessel, he wore the same life vest.

Mr Long himself usually wore an older style Stormy Seas life jacket on each trip. He also kept three or four spare life jackets in his vessel, all older styles, under the cabin.

On Friday, 9 March 2018 Mr Benneworth and Mr McKibben drove their motor homes to Ansons Bay with the intention of staying for the March long weekend. They intended to spend the weekend with Mr Long and his family, including Roger Long.

Ansons Bay is a largely enclosed inlet of approximately 3 km in width, bordering on the beaches of the Bay of Fires. It has a population of almost 400 people. There is a narrow channel, two kilometres in length, from the enclosed bay area to the sea on the east coast of Tasmania. The southern point of land at which the channel joins the sea is known as Policemans Point. The coastal beaches to the north and south of Ansons Bay are long and sandy.

Mr Benneworth and Mr McKibben arrived at about 5.30pm and following dinner, the group sat around an outdoor fire and consumed some red wine. Mr McKibben did not drink alcohol. They all went to bed at about 10.00pm.

At 8.00am on Saturday 10 March 2018, Mr Long and Mr David Wilson, a neighbour and friend, headed out through the Policemans Point bar way in Mr Long's vessel to check crayfish pots they had set the previous day. That trip was uneventful and they returned immediately after checking the pots. Mr Long docked his vessel at a friend's jetty as he intended on taking Mr Benneworth and Mr McKibben back out after lunch. Mr Wilson, in his affidavit for the investigation, stated that the weather was "calm this day, a little sea breeze and some chop on the water but no swell".

At lunchtime, likely about 12.30pm, Mr Benneworth, Mr Long, Roger Long and Mr McKibben had lunch and chatted for about two hours. During this time Mr Long, Roger Long and Mr Benneworth consumed some alcohol. The affidavit evidence suggests that they each consumed about two alcoholic drinks as they were conscious that they were about to use the vessel to go fishing. However, I cannot make a precise finding on the quantity of alcohol consumed by each man.

At 2.45pm two parties set out in separate vessels to go fishing - Roger Long in his vessel with two crew (Daniel Ellis and Nicole White), and Mr Long in his vessel with Mr Benneworth and Mr McKibben. Mr Long headed out through the bar way at Policemans Point and Roger Long followed in his vessel.

The vessel owned by Mr Long was a Savage 525 Osprey, registration number 42549 ("the vessel"). The vessel is an aluminium 5 metre runabout with a fitted fibreglass superstructure and a 100 hp Yamaha outboard motor.

Mr Wilson, an experienced boat handler, stated in his affidavit that he watched the vessels head out that afternoon from his deck and observed that Mr Long's vessel seemed to be running as normal, noting that the vessel always appeared to "run on a bit of an angle".

Once through the bar way, Mr Long (skipping the vessel), continued for approximately two kilometres and stopped 300 metres from shore. Roger Long continued further out, around 500 metres from shore and, on passing Mr Long, he observed the vessel to be "down in the back a little".

Mr Long stopped the vessel and the three men fished while they drifted back towards the shore and bar way area. Mr Long then started the vessel, motored back to their starting point and drifted again whilst trying to catch fish. This occurred on two occasions. On the third trip back to their starting point Mr McKibben stated in his affidavit for the investigation that the vessel landed on the crest of the swell with a very hard thump. As to the sequence of events that followed, I set out in full the relevant passage from Mr McKibben's affidavit;

“On the third trip back to the starting point of the fishing we landed on the crest of the swell with a really hard thump. I made the comment *“if that was a car you'd wipe the suspension out!”* We threw the sea anchor out to start fishing again and noticed there was some water in the corner of the boat. I thought it was a bit of slop that had come in. We all noticed it. Tony Long said *“I'll start the bilge pump in a minute”* and he said *“the bloody thing's not working”* but didn't seem overly concerned. A bit more was coming in and Benneworth and I said to Long that perhaps we had better head in. It seemed to be coming in quite quickly so we started bailing with an ice cream container that we had used for bait and I was using the fish box. I think the water may have been coming in after we had had the hard landing and something had broken.

“Tony Benneworth and I both had our life jackets on and Tony Long didn't at that stage. We told him to get his bloody jacket on. He started to panic a bit. He seemed a bit here, there and everywhere. We asked him to call his brother on the marine UHF. I think he had it on the wrong channel because he couldn't raise anyone. We told him again to put his life jacket on. I think he was going to try and get back to the bar way instead of going directly into the beach. I said something like *“jam it into the fucking beach”*. By that stage we had lost all steering, it didn't look like he could steer it, and the water was half way up the engine.

“The engine stopped about then and very soon after, about 10 seconds, the water poured in over the back of the boat. We all jumped out. Tony Long still did not have a life jacket on, Benneworth and I did have ours on.

“When we got into the water the boat was standing, the front sticking out. I told Tony Long to hang onto the rail there and I said I would try and swim in and get some help. I think it was about 500 m from the shore but it was hard to tell in the water. We had only been in the water for 2 or 3 minutes and Benneworth was saying *“it's not inflating, it's not inflating, I think I'm in trouble”* and he sounded quite panicked. I

said “don’t panic mate try and control your breathing and roll over on your back and float”. He was about 25-30m away from me at that stage and I did not know (sic) Long was. I assumed he was still hanging onto the boat.

“3 or 4 minutes later I heard Benne yell out “*I’m in strife mate, I’m in strife*”. I went on top of a wave once and saw the red of his life jacket but couldn’t tell what his orientation was or anything. I suspect it took me about 45 minutes to get into the breakers. I had a hell of a job getting through the breakers onto the beach because the undertow was sucking me back out. The last 100m took me quite a while. I was a reasonably good swimmer a long time ago but haven’t swam for about 10 years.

“When I got to the beach I knew there was some guys fishing inside the channel on the bar way. I was going to try and run towards them but it was hard enough just walking because I was so fatigued. I got to the channel and hailed a boat by walking into the water and waving my arms. They came over and I explained what had happened. He dropped a couple of his passengers off and headed off.”

I accept the account of events as described by Mr McKibben. I note that Roger Long and the other occupants of his boat did not witness the events due to not being in the immediate vicinity.

Mr David Witt was the skipper of the vessel waved down by Mr McKibben. Mr Witt, accompanied by Mr Michael Harding, located the vessel in a vertical position sitting in a water depth of 4.5 metres. Mr Witt observed a body floating face down (Mr Long), 40 metres south-west of the capsized vessel. Mr Witt and Mr Harding made their way to the body and pulled the male on board their vessel. He was unresponsive. They noted that he was not wearing a life jacket.

Immediately upon getting the male on board, Mr Witt began CPR whilst Mr Harding took control of their vessel and headed for shore. Mr Witt performed CPR for an estimated 5 minutes before ceasing, determining the male was deceased. Mr Harding drove their vessel inside the bar way and parked it on the northern side of Policemans Point. Mr Witt covered the body with life jackets and they awaited emergency services personnel, who had received a 000 call at 5.05pm.

In the meantime, Mr Brendan Groves and his family who were boating in the vicinity, beached their boat and went to help. Upon being told by Mr McKibben about the location of the capsized vessel, Mr Groves ran north along the beach.

Approximately 800 metres from the bar way, Mr Groves saw a red object floating in the water, 50 metres from shore. Believing it was a body, Mr Groves entered the water and swam out to the body (Mr Benneworth). He turned the body over and thumped the chest of the male, trying to gain a response with no success. In his affidavit, Mr Groves stated that the male appeared deceased. He elevated the male's head and swam with him back to shore. Mr Groves and other persons present on the beach dragged the male onto the sand, unzipped his Stormy Seas life vest and commenced CPR. They could not detect a pulse. They continued CPR for 40 minutes upon the telephone instructions of the ambulance operator.

At 5.37pm, a rescue helicopter arrived with a paramedic, who determined that the male was deceased.

At 6.17pm, police officers and ambulance officers arrived at the scene. Preliminary identification of Mr Long, who had been recovered by Mr Witt and Mr Harding in their vessel, was made by police officers at the scene following his driver's licence being located upon his person. Ambulance officers confirmed that Mr Long was deceased.

Mr Benneworth was identified by Mr McKibben after being recovered from the water by Mr Groves.

Forensics officers arrived at 7.54pm and examined the scene. Marine police from St Helens arrived at 8.53pm. The police dinghy was used to travel between the shore and Mr Witt's vessel, upon which Mr Long was still situated. Mr Long was transferred from that vessel and onto the police dinghy. Mr Benneworth was transported from his location on the beach to the shore at Policemans Point where Mr Long was located. At 11.15pm Mr Long and Mr Benneworth were conveyed by mortuary ambulance to the Hobart Mortuary.

On 12 March 2018 the vessel was successfully recovered by police from the water and transported to a police compound for full forensic examination.

On 13 March 2018 State Forensic Pathologist, Dr Christopher Lawrence, performed autopsies upon Mr Long and Mr Benneworth.

In relation to Mr Long, Dr Lawrence concluded that drowning was the cause of death. He noted that Mr Long also had severe ischaemic heart disease which likely contributed to his death. I note that toxicology testing revealed that Mr Long had a blood alcohol level of 0.041g/100ml, consistent with consuming alcohol at lunchtime.

In relation to Mr Benneworth, Dr Lawrence also concluded that drowning was the cause of death. Dr Lawrence also observed that Mr Benneworth had significant ischaemic heart disease that may have accelerated his drowning. Toxicology testing revealed that Mr Benneworth had a small blood alcohol level of 0.014g/100ml, again consistent with the alcohol he had consumed earlier in the day.

Further investigations by police took place into the circumstances of the deaths of Mr Benneworth and Mr Long, including obtaining affidavits of all relevant witnesses. Australian Bureau of Meteorology information was also obtained. In this regard, I note that the weather for 10 March 2018 was clear and sunny with a slight 10 knot north-easterly wind. I am satisfied that the weather and tidal conditions did not play a part in the incident leading to the deaths.

On 10 April 2018, Mr Peter Keyes, marine surveyor with Kedge Pty Ltd undertook an independent survey of the vessel and provided a report. His report set out the features of the vessel and specifically noted that the motor was mounted on an outboard “pod” structure welded to the vessel’s transom, this structure draining to and from the main hull bilge area. I cannot determine on the available evidence whether or not the pod upon which the outboard motor was mounted was fitted at or after the time of manufacture.

Mr Keyes concluded that the vessel had sustained considerable damage in the incident as a result of being flooded, capsized and having been in contact with the sea floor. This damage included; total destruction of the GRP superstructure and control station, with complete detachment of the control station from the hull; plywood flooring and attachments largely separated from the port side flooring structure; dislodgment of the foam buoyancy material on the port side; and various areas of damage to the hull.

Independently of the damage sustained in the incident, Mr Keyes reported that the vessel showed the signs of not being well-maintained for some time, in particular an extensively corroded fuel filter. He outlined several aspects of the vessel’s condition that likely contributed to it taking on water and capsizing, including;

- The starboard outboard pod inspection cover was missing, with evidence that it had not been in place for a considerable amount of time;
- The port side outboard pod inspection cover was in place but not sealed allowing water to penetrate;

- The outboard pod was not sealed from the main bilge, with two unplugged drain holes allowing water access in both ways;
- The only bilge pump was a small 12 volt submersible pump fitted to the outboard pod, indicating that the bilge was intended to drain into the pod;
- Foam buoyancy material was fitted to the vessel beneath the plywood cockpit floor, creating an unstable condition should the vessel flood.

In his conclusion, Mr Keyes stated that the capsize incident may have been caused by flooding of the vessel, with the source of the flooding being through the hole created by the absence of the outboard pod inspection plate. He stated that once the vessel had flooded, it would have been very unstable. He commented that, in its unstable condition, there would be extreme upward pressure on the buoyancy foam which would have dislodged the plywood flooring. He stated that, on observation of the vessel, there was loss of the buoyancy foam from the port side of the vessel which would have caused the vessel to roll in a dangerous state towards the port side.

On the evidence in the investigation, the bilge pump was not operating on this trip when Mr Long tried to activate it to remove the water. An operating bilge pump would have reduced the level of flooding at a critical time.

In general terms, I accept the evidence of Mr Keyes. I find that the vessel was poorly maintained, as he described. Part of this poor maintenance involved a failure to replace one inspection plate on the outboard pod, a failure to adequately fasten and seal the other, and a failure to have an operating bilge pump. These factors allowed excessive water to enter into the cavity of the pod, flowing through the unplugged drainage holes into the bilge, destabilising the vessel. It is possible that a further amount of water may have entered the pod and bilge of the vessel at the time the vessel hit the wave. Once the vessel had reached the point of flooding and instability due to one or more of these factors, it submerged from the stern and became vertical in the water.

The life jacket worn by Mr Benneworth was inspected by Mr Ian Ross, senior recreational boating project officer for Marine and Safety Tasmania. He noted that the jacket was a Level I Stormy Seas inflatable vest style jacket, built to the AES 1512 standard. It was approved and suitable for persons with a weight over 40 kg. It was fitted with a manual inflation system. The jacket was manufactured in 2009 and was in good condition. The cylinder was firmly connected to the inflation mechanism. Inspection of the cylinder showed that it had not been pierced and was ready for use with the green tag in place on the inflation

mechanism. The internal inflation bladder was connected at one point but no other press studs were connected to the jacket. The press studs in this style of inflatable jacket are designed to keep the inflation chamber secured and in place. The gas cylinder was tested with no leaks detected and the oral tube worked correctly. A check of Stormy Seas records do not indicate that it had been serviced. Nevertheless, I am satisfied that it would have inflated properly if activated by Mr Benneworth.

Mr Benneworth, whilst a competent swimmer, was in a severe state of panic when he entered the water, which would have inhibited his decision making ability causing him to potentially confuse the necessary actions he was required to undertake to manually inflate his life jacket. As noted previously, Mr Benneworth used a self-inflating jacket on his regular trips to Summers Bay. Both the manual and self-inflating jackets were very similar in appearance. It would seem that he did not refresh himself on the actions required to inflate the jacket before the commencement of the trip.

Mr Long, also in a state of panic, did not put on his life jacket at all, even though he was told several times that he should do so.

Mr McKibben, who was wearing an operational life jacket, was able to swim to shore.

The deaths of Mr Benneworth and Mr Long by drowning would not have occurred if, at the time of the vessel's capsize, they were wearing inflated life jackets.

Comments

The sad and yet unnecessary deaths of Mr Benneworth and Mr Long again highlight the critical importance of wearing lifejackets (PFDs) in a boat. Further, they highlight the importance of being familiar with the inflation process for the particular PFD being worn. Quite obviously, if a PFD does not inflate it is worthless in a life-threatening event. Coroners, as well as Marine and Safety Tasmania (MAST), have regularly and prominently made such comments in respect of other similar deaths in recreational boating accidents in this state.

Secondly, the deaths of the two men would not have occurred if several basic aspects of maintenance of the boat had been remedied. This tragedy highlights the need for boats to be properly maintained and for those using them to be familiar with all aspects of their operation. MAST has taken the lead in boating safety matters and makes available comprehensive information and assistance for boat owners.

I acknowledge the efforts of all persons who went to the aid of Mr Benneworth and Mr Long. In particular, the efforts of Mr Brendan Groves deserve mention.

I make no recommendations under section 28(2) of the *Coroners Act 1995*.

I extend my appreciation to investigating officer Senior Constable Catherine White for her investigation and report.

I convey my sincere condolences to the family and loved ones of Mr Benneworth.

Dated: 11 October 2019 at Hobart in the State of Tasmania.

Olivia McTaggart
Coroner