



MAGISTRATES COURT *of* TASMANIA

CORONIAL DIVISION



Record of Investigation into Death (Without Inquest)

*Coroners Act 1995
Coroners Rules 2006
Rule 11*

I, Simon Cooper, Coroner, having investigated the death of Luke Jesse Rice

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

- a) The identity of the deceased is Luke Jesse Rice;
- b) Mr Rice died as a result of injuries sustained in a Personal Water Craft (PWC) crash on the waters of Lake Trevallyn Dam, near Launceston;
- c) The cause of Mr Rice's death was blunt force trauma with brain injury; and
- d) Mr Rice died on 2 January 2017 at Launceston General Hospital, Launceston in Tasmania.

Introduction

1. In making the above findings I have had regard to the evidence gained in the comprehensive investigation into Mr Rice's death. The evidence includes an opinion of the pathologist who conducted the autopsy; the results of toxicological analysis of samples taken at autopsy and from the operator of the other PWC involved in the crash; relevant police and witness affidavits; medical records; reports from both Marine and Safety Tasmania (MAST) and Surf Life Saving Tasmania (SLST); and forensic and photographic evidence.

Background

2. Mr Rice was born in Launceston, Tasmania on 21 September 1994 and was aged 22 at the time of his death. He was employed by HST Tree Specialists. He was the first of two children born to Dean and Sharon Rice. He had one younger brother, Isaac.
3. In May 2014 Mr Rice entered into a romantic relationship with Ms Zoe Sloane. They later became engaged. The couple lived in several different rental properties around Launceston before moving into a unit in the Launceston suburb of St Leonards. Mr Rice and Ms Sloane were, at the time of his death, engaged to be married.

Circumstances of death

4. On Monday 2 January 2017 at approximately 2.30pm Mr Rice was riding his PWC, a Seadoo Jetpilot at Lake Trevallyn Dam.¹ Mr Rice had arrived at the Dam earlier that day and had spent the day riding PWCs with a group of friends.
5. Mr Rice had some experience as a PWC operator² and certainly was experienced in the operation of other watercraft.³ However, it would appear he had little, if any, experience riding PWCs in stand up mode⁴ which is how he was operating his PWC at the time of the crash. Mr Rice was riding with a friend, Mr Dylan Guy, who was also riding a PWC. Around 2.00pm the men left the 'beach area' and Baden Glen Apted, who was not known to Mr Rice, followed behind them. Mr Apted was also riding a PWC, a Bombardier GTX.
6. Mr Guy said that he and Mr Rice began riding out towards the Dam, with Mr Rice being in front.⁵ Just as they were coming around a corner, Mr Apted rode a couple of metres in front of Mr Rice, cutting him off. Mr Guy was 15 to 20 metres off to the side of Mr Rice. He later told investigators that he saw a concerned expression on Mr Rice's face when he was cut off by Mr Apted. The pair then did a loop and headed back towards the 'beach area'. Mr Apted followed.
7. In Mr Guy's affidavit he described what happened next:

"We were riding along like normal. Out of nowhere Luke looked like he may have lost his balance a bit. The [PWC] started to slow down. I believe that Luke may have pulled the kill switch out, that was attached to his wrist.

The kill switch on Luke's [PWC] was quite sensitive and it wouldn't have taken much for it to come out.

"I looked behind and seen [sic] that Baden was directly behind Luke. At this stage, Baden was probably 2 or 3 m behind Luke. I don't know how far behind Luke Baden was before Luke started to slow down. If I had to estimate, taking into consideration,

¹ PWCs are also commonly known as Jet Skis

² See Affidavit of Dylan James Guy sworn 9 January 2017

³ See affidavit of Dean Leslie Rice sworn 1 February 2017

⁴ *Supra*

⁵ *Supra*

that by the time I saw him he was closing in on Luke as Luke had started slow down, the time and speed I would say 5 or so metres. So not very far at all.

“Baden looked like he was trying to steer the [PWC], he had the handlebars on full lock. Baden had backed off on all throttle. This tells me he has not been around [PWCs] much, because as soon as you take off the throttle, the [PWC] will go in a straight line. Baden has realised his [PWC] wasn’t turning so he gave [it] full throttle to try and get it to turn, but by this stage it was way too late.

“Baden’s [PWC] has hit Luke’s [PWC] in the rear end, Baden’s [PWC] has gone up over the top of the [PWC] and has fallen to the right side of Luke’s [PWC].

“Luke wasn’t standing on the [PWC], he was in the process of falling off. But he would have still been holding onto the handle bars when he got hit. When the collision happened, Luke went flying through the air, he would have been thrown 2 or 3 m from his [PWC].

“I turned around as fast as I could. I couldn’t see Luke at first, I’m not sure if he was under the water or if it was because the water was all splashed up. I saw Luke laying face down in the water. I went over and dove in the water, I flipped Luke over. I was holding Luke in the water.”

8. A boat then pulled up and the occupants assisted Mr Guy to get Mr Rice into the boat.⁶ Mr Rice was taken to the Trevallyn boat ramp. At this stage Mr Rice had a weak pulse and was barely breathing. An ambulance was called at 2.27pm.
9. A general practitioner, Dr Richard Pearson was at the nearby Northern Aquatic Clubhouse preparing to water ski when he was asked to attend the jetty to see a male who he was told had a spinal injury. He went to the jetty and saw Mr Rice lying in the recovery position on the jetty. He described Mr Rice as being pale, cyanosed and unresponsive. He said Mr Rice had a Glasgow Coma Scale of 3.⁷ Dr Pearson checked Mr Rice’s airways before commencing CPR. Dr Pearson continued treating Mr Rice until an ambulance arrived.⁸

⁶ See affidavit of Timothy Edward McCullagh sworn 22 April 2017. Mr McCullagh was the person who called 000.

⁷ The Glasgow Coma Scale is an internationally recognised neurological scale designed to provide a reliable and objective assessment of the person’s consciousness. A score of 3 is the lowest and most serious.

⁸ See affidavit of Richard James Pearson, sworn 23 April 2017

10. Ambulance Tasmania arrived at the scene at 2.45pm. The ambulance paramedics took over Mr Rice's treatment. At 3.19pm he was loaded into the ambulance and transported to the Launceston General Hospital.⁹ Sadly, Mr Rice was so badly injured that he was unable to be revived. He was pronounced deceased at 4.00pm on 2 January 2017.

Investigation

11. Meanwhile Mr Apted left the Trevallyn Dam area. At 3.22pm he presented himself to the Launceston Police Station. Police took him to the Launceston General Hospital where a blood sample was taken. The sample was subsequently analysed at the Forensic Science Services Tasmania laboratory. Neither alcohol nor illicit drugs were detected in the sample.

12. Mr Rice was formally identified by his fiancé, Ms Sloane, at the Launceston General Hospital on 2 January 2017.¹⁰

13. An autopsy was performed by pathologist Dr Rosanne Devadas on 4 January 2017. The autopsy revealed that Mr Rice had suffered multiple injuries. The injuries included multiple rib and spinal fractures, blood within the thoracic cavity, pulmonary haemorrhage, contusion of the heart, laceration of the liver, soft tissue haemorrhage and mild subarachnoid haemorrhage. The most serious injuries were those centred within the thoracic cavity suggesting that Mr Rice was hit in the mid-upper back or chest. Dr Devadas expressed the opinion, which I accept, that the cause of Mr Rice's death was blunt force trauma causing brain injury with severe internal injuries.¹¹

14. Samples taken at autopsy were subsequently analysed at the laboratory of Forensic Science Service Tasmania. The result of that analysis was unremarkable. No alcohol or illicit drugs were identified as being present in Mr Rice's body at the time of the crash.

⁹ Department of Health and Human Services, Ambulance Tasmania records file number – 17- 17126

¹⁰ See affidavit of Constable Tarnya Frost, sworn to January 2017

¹¹ Autopsy Report Dr Rosanne Devadas 9 August 2017

15. A review of Mr Rice's medical records indicates that he was physically fit at the time of the crash and was not suffering from any medical condition which was capable of causing or contributing to his death.¹²
16. Tasmania police carried out an extensive enquiry in relation to the circumstances surrounding Mr Rice's death. That enquiry revealed that despite the requirements of the *Marine and Safety (Motor Boats and Licenses) By-Laws 2013* neither Mr Apted nor Mr Rice were licensed to operate a PWC. Those by-laws mandate that operators of PWC's hold a current boat licence **and** an endorsement to operate a PWC. Neither Mr Rice nor Mr Apted held a current motor boat licence (in fact neither man had ever held one) and neither man had (or had ever had) a PWC endorsement. As a matter of law, neither man was entitled to operate a PWC on the day in question on any waters in Tasmania.
17. As I have already noted the only way to lawfully operate a PWC is to hold a valid motor boat licence and a PWC endorsement. An endorsement can only be obtained by successfully completing a theory and practical course run by Surf Lifesaving Tasmania (SLST).¹³ Such courses are run regularly at various venues in all parts of the state. The courses are offered in such a way so as to enable a person to obtain both a motor boat licence and a PWC endorsement at the same course. Each course involves an assessment of competence being made through the observation of a number of manoeuvres performed on the PWC. There is also a written multiple-choice exam.
18. Motor boat licences serve a very serious safety purpose. They ensure a basic level of competency is reached before persons operate watercraft. As I recently observed in the finding in relation to the deaths of 4 men on Frederick Henry Bay in southern Tasmania:¹⁴

“A recreational boat licence is not simply a piece of paper or a formality. It is a way of ensuring that boat users are qualified both in terms of practice and theory. All recreational boat users are required to have one. It is not just the law, but also a matter of life and death.”

¹² Medical Records Prospect Medical Centre printed 16 January 2017

¹³ SLST were at the time of Mr Rice's death, and still are, the only MAST accredited training provider in relation to the PWC endorsement

¹⁴ In re Davies, Drobnjak, Ritter and Roche [2019] TASCDC 348

19. Mr Rice's death vividly illustrates that point. In addition, in my view the point is an even more significant one in relation to the operation of PWCs which are very different in their handling characteristics and performance to conventional motorboats.
20. I also note that the police investigation indicated that the PWC Mr Rice was operating at the time of his death was the first that he had ever owned. It was not registered, the registration having expired on 31 December 2016. The evidence indicates that Mr Rice had purchased it approximately one week prior to his death, when he swapped a motor vehicle for it.
21. On 5 March 2017 Mr Apted voluntarily attended the Launceston Police Station and participated in a video and audio-recorded interview. During that interview he told police:
- he had very limited experience riding PWCs;
 - he was 'amateur and inexperienced' with PWCs;
 - that he had never undertaken any training in relation to the operation of PWCs;
 - he was unaware he needed a licence to lawfully ride a PWC;
 - that he had last ridden a PWC approximately 20 years before 2 January 2017 and had not been on one either as rider or passenger since then;
 - 2 January 2017 was the first time he had ridden his PWC; and
 - that his experience around water generally was limited.¹⁵

Like Mr Rice's PWC, I note that the registration of the PWC Mr Apted was riding expired on 31 December 2016.

22. Lake Trevallyn is a 5 knot zone for all watercraft, except those towing skiers. This is clearly signed upon entering the lake. Mr Apted said in the interview that 2 January 2017 was the first time he had been to Trevallyn Dam. He acknowledged that as he drove into the Dam, he read the sign indicating the 5 knot speed limit aloud to his daughter. The evidence is that at the time of the crash there were a number of jet skis on the water (possible in the order of 8). I am quite satisfied that many, perhaps most,

¹⁵ Transcript of Interview 5 March 2017

were not obeying the 5 knot speed limit and some were exceeding it by a significantly dangerous margin.¹⁶ I am unable to say who those PWC riders were.

23. I note that Mr Apted claimed in his interview with police that he did not exceed 5 knots whilst operating his PWC on 2 January 2017 on Lake Trevallyn. I am satisfied that this is not correct. There are a number of reasons for reaching this conclusion. First, multiple witnesses contradict his account. Second, it is inconsistent with the physical evidence of damage to both PWCs. I say this because on 8 August 2017 Mr Paul Hawkins conducted a further examination of Mr Apted's PWC.¹⁷ He conducted a number of speed and turning drills on it. Mr Hawkins rode the PWC at 10km/h, 20km/h, 30km/h and 40 km/h, before returning the throttle to the off position. On each occasion the PWC slowed immediately and sank down into the water. This was particularly noticeable at faster speeds. Mr Hawkins noted that at around 10 knots the PWC began to plane, meaning the stern rose up, sitting out of the water. Damage to the PWCs indicate that Mr Apted's PWC mounted Mr Rice's PWC. For this to occur, the PWC would have had to have been travelling up on a plane. The results of the tests satisfies me that the damage to the PWCs (and injuries sustained by Mr Rice) could not have occurred if Mr Apted's PWC was travelling at 5 knots.
24. A controlled crash reconstruction was conducted. Senior Sergeant Justin Bidgood was in a boat which was struck by Mr Hawkins on the PWC travelling at 10km/h (i.e. approximately 5 knots - the reason why the speed is expressed in kilometres per hour rather than knots is that is how the speed is displayed on the PWCs speedometer). This crash showed that it would be extremely unlikely the damage to the PWCs and the injuries sustained could have occurred at 5 knots.
25. Finally, I note that on 12 November 2018 Mr Apted appeared in the Launceston Magistrates Court. He pleaded guilty to a number of complaints in relation to the incident. In particular, he pleaded guilty to exceed 5 knots within 60 metres of a specified object (s16 (1) *Marine and Safety (Motor Boats & Licences) By-Laws 2013*). By his

¹⁶ See affidavit of Martin Bernard Dicker sworn 18 June 2017 and also the affidavit of Jason Harold Dicker sworn 16 June 2017

¹⁷ Mr Hawkins, a former Police Officer, was at the time of the testing a Recreational Boat Safety Officer for MAST, as well as the Rescue Services Coordinator for SLST.

plea, he expressly admitted operating his PWC at a speed greater than he admitted to police. He was convicted on all charges and received a \$4000.00 fine.

What caused the fatal PWC crash?

26. Both PWCs involved in the crash were subsequently examined and inspected as part of the investigation by a qualified maritime surveyor employed by MAST. Both appeared to be in reasonable condition and both operated as intended. Neither appeared to have been modified in any way. Both were equipped with kill switches. Mr Rice's PWC was not fitted with a speedometer.¹⁸ During his inspection the marine surveyor, Mr Peter Keyes, identified damage to the gelcoat on the starboard side of Mr Rice's PWC in two places. He also said that the seat was dislodged and there was damage to the steering arm fairings. The damage appeared to be from an impact and not general wear and tear. Mr Keyes did not identify any mechanical defects in either PWC which could have caused or contributed to the happening of the fatal crash. I am satisfied that the crash was not caused or contributed to by any mechanical defect on the part of either PWC involved.

27. The evidence was that on the day of the crash the weather was fine with little or no wind. The water was still. The Dam was at a safe and appropriate level for water sports. Police attending the scene were not able to identify any possible obstructions that could have obscured Mr Apted's vision.¹⁹ I am satisfied that weather conditions played no role in the happening of the crash.

28. The evidence as a whole satisfies me to the requisite legal standard²⁰ that the crash was caused by Mr Apted, who, while unlicensed and inexperienced, rode a PWC significantly faster than the 5 knot speed limit and failed to keep a safe distance between himself and Mr Rice.

¹⁸ See report of Peter Keyes, General Manager – Commercial Vessels MAST dated 17 January 2017

¹⁹ Tasmania Police Subject Report dated 14 August 2017, page 2 of 15

²⁰ In this instance the standard articulated in the well-known case of *Briginshaw v Briginshaw* (1938) 60 CLR 336

Comments and Recommendations

29. This tragic case illustrates a fatal lack of attention to proper safety culture. Neither rider involved was licensed to operate a PWC – something that has been a legal requirement for many years. Mr Apted was, in my view, woefully ill-prepared to operate a PWC, and appears not only to have lacked appropriate experience but was apparently unaware of the need to be licensed.
30. The Tasmanian Jet Sport Boating Club is an organisation specifically established and run to promote safe, respectful and legally compliant use of PWCs in Tasmanian waters. The Club has scheduled rides and promotes a strong safety culture. I urge all PWC users, particularly those new to the craft, to consider engaging with that club.
31. I also remind all PWC users of the need to be appropriately licensed.
32. I extend my appreciation to investigating officer Constable Angie Barwick for her investigation and report.
33. The circumstances of Mr Rice's death are not such as to require me to make any comments or recommendations pursuant to Section 28 of the *Coroners Act 1995*.
34. I convey my sincere condolences to the family and loved ones of Mr Rice.

Dated 18 November 2019 at Hobart in the State of Tasmania.

Simon Cooper
Coroner