

**FORM 37**

Rule 60(1)

**FINDING INTO DEATH WITH INQUEST**

*Section 67 of the Coroners Act 2008*

**Court reference:** 4745/08

**Inquest into the Death of MARCUS WILLIAM PEILLON**

Delivered On:	12th January 2010
Delivered At:	Melbourne
Hearing Dates:	12th January 2010
Findings of:	Coroner Parkinson
Representation:	N/A
Place of death/Suspected death:	Skenes Creek Beach, Skenes Creek, 3233

SCAU

Senior Constable Taylor

**FORM 37**

Rule 60(1)

**FINDING INTO DEATH WITH INQUEST**

*Section 67 of the Coroners Act 2008*

**Court reference:** 4745/08

In the Coroners Court of Victoria at Melbourne

I, **KIM PARKINSON**, Coroner

having investigated the death of:

**Details of deceased:**

Surname: **PEILLON**

First name: **MARCUS**

**AND having held an inquest in relation to this death on 10th January 2010 at Melbourne**

find that the identity of the deceased was **MARCUS WILLIAM PEILLON**  
and death occurred on or after 13th September 1992

at Skenes Creek Beach, Skenes Creek, 3233

from

1. **DROWNING**

**in the following circumstances:**

1. This matter was listed for inquest on 12 January 2010 as a result of further scientific information being available in relation to the identity of previously unknown human remains. Application was made by Detective Senior Constable Anthony Combridge of Belier Task Force Victoria Police for a re-opening of Case number 104 of 1995, wherein a finding that the remains were unidentified had been made on the basis of the available scientific evidence at that time.

2. Additional DNA testing now identifies those remains. Pursuant to s77 of the Coroners Act 2008 I am satisfied that there are new facts and circumstances in relation to Case Number

104 of 1995, and that it is appropriate to re-open that investigation. Pursuant to s77(4) having regard to the length of time which has expired since the original finding and that the original coroner is not sitting in the Coroner's Court of Victoria, there are special circumstances why the court is not to be constituted by the original coroner.

3. A finding was made in Case 2997/1992 that Mr Peillon died as a result of presumed drowning at Skenes Creek, on 12 September 1992.

4. The circumstances of his death were as follows:

'On Saturday 12 September 1992, Mark William Peillon, of Lavers Hill and his friend, Julian Peter McNamara, had travelled to Apollo Bay to see a mutual friend, Dave McNaughton. McNamara and McNaughton were joint owners of an 18ft wooden clinker boat which was stored in Apollo Bay. Peillon and McNaughton often travelled to Apollo Bay to fish. The three spent the afternoon of 12 September undertaking some work on the mast that was to be fitted to the boat. On Sunday 13 September 1992, Peillon, McNamara and McNaughton fitted the mast to the boat and performed some general maintenance. At approximately 1pm, Mark Peillon and McNamara decided to take the boat out and do some fishing. McNaughton returned to his Apollo Bay address. The boat was equipped with life jackets, but neither Peillon or McNamara were wearing them. Both were wearing long pants and heavy clothing. They'd travelled a short distance in the boat from Apollo Bay to Skenes Creek and anchored at approximately 200 metres from shore where they fished for ten to 15 minutes before they decided to move to a different location. They pulled up the anchor and began to head out toward the bay. At this time, McNamara was at the helm and Peillon was at the front of the boat. As they headed out, McNamara noticed a six foot wave heading toward them. He pointed the boat directly toward the wave and successfully travelled through it, and behind the first wave, McNamara stated there was a second wave which he described as being 20-25 feet high. He again headed straight toward the wave. However, when the wave struck the boat, it capsized and both Peillon and McNamara were thrown into the water. Peillon and McNamara both surfaced, with Peillon being 50 metres further from shore than McNamara. The boat was between McNamara and the shore. McNamara swam with Peillon and they began to swim toward the boat. McNamara reached the boat and then looked for Peillon, but couldn't see him. McNamara eventually made it to the shore where he was helped by witnesses before taken to hospital. A large scale search commenced immediately and continued over the next few days, but no trace of Peillon was found. It was presumed that he had drowned.

The remains which are the subject of this inquiry were located at Skenes Creek near Apollo Bay at approximately 8.15pm on Tuesday 3 January 1995, by a Ms Heather McIntyre. The remains were confirmed as a human femur and were the subject of scientific testing. At that time samples from relatives of Mark Peillon were provided and tested for

DNA comparison. Dr Atchison from the Victorian Institute of Forensic Medicine concluded that the remains were not those of Mark Peillon. On 11 April 1997, an inquest was heard into the matter before Her Honour Ms Heffey who found, "I am unable to make any findings as to the identity of the remains found at Skenes Creek, nor to make any determination as to the cause of death. Accordingly, it follows that I am unable to make any findings as to the circumstances of the death and whether any person or persons contributed to the death'.

5. The remains were buried at Springvale Cemetery. On 21 October 2008 the remains were exhumed and conveyed to the Victorian Institute of Forensic Medicine and were allocated case number 4745 of 08. DNA testing was conducted on the remains. Utilising more advanced DNA technology, scientists confirmed that no differences were detected in the comparisons of DNA from the deceased to DNA from relatives of Mark Peillon.

6. The subsequent DNA testing results were reported on 29 April 2009, by Victorian Institute of Forensic Medicine, Senior Scientist April Lemande Stock. The report stated that there was no difference detected between the mitochondrial DNA of the femur which was tested and that of the mouth swab sample of Ms Jean Peillon, the mother of Mr Mark Peillon.


7. A statement and report of scientific testing by Ms Dadna Hartman, Victorian Institute of Forensic Medicine, Manager of Molecular Biology, concluded:

"The findings reported by Dr Atchison on 20 September 1995, were in contradiction to those reported on 29 April 2009, based on mitochondrial DNA analysis. It is my opinion that the findings based on the two autosomal STRs are not as reliable as the mitochondrial DNA profiling undertaken for this case. Since 1995, additional STRs have been added to the testing analysis to ensure that the data generated has sufficient power of discrimination, we currently test for 10 autosomal STRs".

8. In the circumstances and having regard to the reports of Scientists Ms Stock and Ms Hartman, I am satisfied that the identification of the human femur located on the beach at Skenes Creek on 3 January 1995, are the remains of Mr Mark William Peillon who died in a boating accident from drowning as found in inquest 2997 of 1992.

9. The family would like the remains released to them and I order that the remains be released to the Senior Next of Kin.

Signature:

A handwritten signature in black ink, appearing to read 'Kim', followed by a long horizontal flourish.

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Kim M.W. Parkinson  
Coroner

5th March 2010