



IN THE CORONERS COURT  
OF VICTORIA  
AT MELBOURNE

Court Reference: COR 2018 0089

**FINDING INTO DEATH WITHOUT INQUEST**

*Form 38 Rule 63(2)*

*Section 67 of the Coroners Act 2008*

|                 |   |
|-----------------|---|
| Findings of:    | Caitlin English, Deputy State Coroner             |
| Deceased:       | Xu Zhou   |
| Date of birth:  | 17 May 1998                                       |
| Date of death:  | 6 January 2018                                    |
| Cause of death: | 1(a) Drowning                                     |
| Place of death: | Altona Boat Ramp, Altona Road, Seaholme, Victoria |

## **INTRODUCTION**

1. Xu Zhou was a 19-year-old man who lived in Brooklyn at the time of his death.
2. Xu was born in China and migrated to Australia in 2010. At the time of his death, he lived with his parents and older brother. Xu worked as a framing carpenter in Maribyrnong and enjoyed playing badminton and online gaming.
3. He was described as an inexperienced swimmer.
4. Xu drowned at Altona Beach on 6 January 2018 while abalone fishing with friends.

## **THE PURPOSE OF A CORONIAL INVESTIGATION**

5. Xu's death was reported to the Coroner as it appeared to have resulted, directly or indirectly, from an accident or injury, and so fell within the definition of a reportable death in the *Coroners Act 2008*.
6. The role of a coroner is to independently investigate reportable deaths to establish, if possible, identity, medical cause of death and surrounding circumstances. Surrounding circumstances are limited to events which are sufficiently proximate and causally related to the death. The purpose of a coronial investigation is to establish the facts, not to cast blame or determine criminal or civil liability.
7. The Coroner's Investigator prepared a coronial brief in this matter. The brief includes statements from witnesses, including family, the forensic pathologist, treating clinicians and investigating officers. The Court also obtained expert advice from Life Saving Victoria regarding how similar deaths can be prevented.
8. I have based this finding on the evidence contained in the coronial brief. In the coronial jurisdiction facts must be established on the balance of probabilities.<sup>1</sup>

## **IDENTITY**

9. On 6 January 2018, Qianlong Ye visually identified his friend, Xu Zhou, born 17 May 1998.
10. Identity is not in dispute and requires no further investigation.

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<sup>1</sup> This is subject to the principles enunciated in *Briginshaw v Briginshaw* (1938) 60 CLR 336. The effect of this and similar authorities is that coroners should not make adverse findings against, or comments about, individuals unless the evidence provides a comfortable level of satisfaction as to those matters taking into account the consequences of such findings or comments.

## **CIRCUMSTANCES IN WHICH THE DEATH OCCURRED**

11. On 6 January 2018, Xu's friends, Qianlong Ye and Yi Xiao, invited him to Altona Beach to fish for abalone. They picked him up at approximately 1.10pm.
12. The trio arrived at Altona Beach at 1.30pm and entered the water at the shore of WG Cresser Reserve, which is located south of the intersection of Altona Road and Civic Parade.
13. Xu was wearing black swimming shorts, black rock diving shoes, and black fishing gloves. He used a blue snorkel and mask.
14. The weather forecast for that day was a minimum of 19 degrees Celsius and a maximum of 42 degrees Celsius. At the time the trio were at the beach, the wind was blowing in a north westerly direction at 19 knots (35 kilometres per hour), gusting to 25 knots (46 kilometres per hour).
15. The three friends swam and fished for several hours, initially in shallow water. Qianlong stated that when the weather began to change, the wind and current began to take them further out to sea.
16. At approximately 4.20pm, they realised they had drifted into deeper water and could no longer stand on the ocean floor. Qianlong and Yi swam to the shore. However, when they reached the shore, they realised that Xu was not with them. They subsequently saw that Xu was about 300 metres from the shore and struggling to keep his head above the water.
17. Qianlong and Yi swam to their friend. Qianlong attempted to help Xu, but he was panicking; as Xu grabbed onto Qianlong, he pulled him under the water. Yi flagged down a nearby jet ski for assistance.
18. Qianlong had become exhausted in trying to help his friend and had swallowed a lot of water. He and Xu became separated.
19. Cameron Turner, a jet ski operator, and Jonathan Wong, his passenger, saw Yi waving for assistance and approached the men in the water. They grabbed Qianlong, who was struggling to keep his head above the water and pulled him onto the back of their jet ski.
20. A spare life jacket was thrown to Yi, who told the jet skiers that their friend was in the water. At this time, Jonathan observed that Xu was facedown in the water approximately 20 metres away.

21. Jonathan dived into the water and swam over to Xu. He flipped Xu onto his back and found that he was unresponsive; he flagged down another jet ski and Cameron let off a flare.
22. Awss Jaafar, another jet ski operator, responded to the flare. Cameron, Awss, Jonathan, and Yi managed to lift Xu's unconscious body from the water and onto Awss's jet ski.
23. Cameron took Qianlong and Jonathan back to the shore at the Altona Boat Ramp.
24. Awss attempted to transport Xu and Yi back to the ramp.
25. On arrival at the ramp, Jonathan helped Qianlong off the jet ski and they both remained on shore.
26. Cameron returned to Awss, at which time Xu was moved onto his jet ski. Yi remained on Awss's jet ski. Both jet skis then returned to the ramp.
27. Victoria Police members and paramedics were waiting when Cameron arrived at the boat ramp with Xu. Xu was carried onto the boat ramp and paramedics commenced cardiopulmonary resuscitation. MICA paramedics and the Metropolitan Fire Brigade also arrived to assist.
28. Sadly, Xu could not be revived and was pronounced deceased at 5.21pm.

## **CAUSE OF DEATH**

29. On 7 January 2018, Dr Michael Burke, a Senior Forensic Pathologist practising at the Victorian Institute of Forensic Medicine, conducted an inspection and provided a written report, dated 11 January 2018. In that report, Dr Burke concluded that a reasonable cause of death was '*Drowning*'.
30. Toxicological analysis did not identify the presence of any common drugs or poisons.
31. I accept Dr Burke's opinion as to cause of death.

## **FINDINGS AND CONCLUSION**

32. Having investigated the death, without holding an inquest, I find pursuant to section 67(1) of the *Coroners Act 2008* that Xu Zhou, born 17 May 1998, died on 6 January 2018 at Altona Boat Ramp, Altona Road, Seaholme, Victoria, from drowning in the circumstances described above.

## COMMENTS

Pursuant to section 67(3) of the Act, I make the following comments connected with the death:

1. Sadly, Xu is not the only abalone fisher who has died in such circumstances. In the period from 1 January 2009 to 12 April 2019, 14 people, including Xu, have died while diving for abalone. The most common age bracket was 40 to 59 years, followed by 26 to 39 years.<sup>2</sup>
2. In fact, on the same day as Xu's death at a nearby Melbourne beach another man, who was born in Vietnam, drowned in similar circumstances, whilst fishing for abalone.
3. At least six of the 14 deaths were individuals born overseas. Coincidentally, they were all from either Vietnam or China. Another three individuals appeared to be of Asian descent, but it is not apparent whether they were born overseas.
4. It therefore appears that between 50 and 70 percent of the identified abalone diving deaths involved individuals known or considered to have been born overseas and/or to be of Asian descent.
5. I am concerned that persons of Asian background appear to be over-represented in these statistics. My concern is shared by Life Saving Victoria who, in their Victorian Drowning Report for 2018/2019, made reference to culturally and linguistically diverse communities as follows:

*This year 10 (18%) individuals that drowned were reported as being from culturally and linguistically diverse (CALD) communities. This is one more than the 10-year average of nine.*

*Due to limitations with country of birth data collected, data has also been analysed over the previous 10-year period from 2008/09-2017/18. On average, 23% of drowning deaths were of individuals known to have been born overseas (with 57% unknown country of birth).*

*Of those individuals where country of birth was recorded, the majority (86%) were Victorian residents. The median length of time living in Australia was six years.*

*The majority were males (86%), and the most common age groups were 25-44 years (46%) followed by 15-24 years (21%); the median age was 31 years. Incidents*

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<sup>2</sup> Data retrieved from the National Coronial Information System (NCIS).

*typically occurred in open waterways; with 44% at beaches and 21% in rivers/creeks/streams.*

*The most common activity prior to coastal drowning incidents was swimming (46%), followed by fishing (35%). Of those fishing this included fishing for abalone (typically snorkelling/ diving), rock fishing, or fishing from a boat. Deaths whilst fishing for abalone have increased since 2015.<sup>3</sup>*

6. In an attempt to mitigate the drowning risk for members of immigrant communities, Life Saving Victoria runs a number of water safety education programs, which are delivered to a wide variety of groups, including newly arrived refugees, asylum seekers, migrants, and international students.<sup>4</sup> I therefore requested a submission from Life Saving Victoria outlining the education they provide to culturally and linguistically diverse communities, including specific education targeted to abalone divers.
7. In May 2020, Dr Bernadette Matthews, Principal Research Associate and General Manager at Life Saving Victoria, provided a very detailed response. The submission relevantly provided the following information about the organisation's educational campaigns:
  - (a) Life Saving Victoria has been working with Victoria's various multicultural communities for than 10 years, delivering water safety messaging to over 20,000 multicultural Victorians annually;
  - (b) broad community water safety messaging for multicultural Victorians is provided via the Victorian Government's *Play it Safe by the Water* public safety campaign, which is disseminated through social media and other websites;
  - (c) a recent increase in the number of drownings related to abalone fishing,<sup>5</sup> has prompted the organisation to target this particular cohort of water users. Current messaging relates to fishing and diving activities. These messages are being updated to reflect abalone fishing and will include information on being adequately prepared and ensuring fishers have the necessary equipment to fish safely; and
  - (d) in a pilot project, Life Saving Victoria has developed a Virtual Reality Google Expedition for culturally and linguistically diverse communities, with one scene

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<sup>3</sup> Life Saving Victoria, *Victorian Drowning report 2018/2019*, page 14.

<sup>4</sup> Life Saving Victoria, "Educational Programs", <<https://lsv.com.au/multicultural/educational-programs/>>, accessed 29 April 2019.

<sup>5</sup> Dr Matthews's submission notes that according to Life Saving Victoria's statistics, there were five drowning deaths in 2018 and 2019 that occurred while abalone fishing. In the previous 16-year period, there was only one similar death.

specifically focussed on abalone fishing. This project creates an immersive experience that is appropriate for all students and that is linguistically and culturally responsive. It is designed to integrate beach safety training into English as a second language programs.

8. While Life Saving Victoria does not have existing programs specific to abalone diving, they are working with colleagues in Western Australia to understand the success of initiatives implemented in that state. Other initiatives, such as the one focussed on rock fishing, has been seen by over 100,000 members of the culturally and linguistically diverse community from 2012/13 to 2018/19.
9. Life Saving Victoria was asked how education regarding safety for abalone diving could be improved, especially in the culturally and linguistically diverse community. Dr Matthews suggested the following:
  - (a) update public awareness messaging to include abalone fishing and promoted through targeted education, social media channels and relevant websites;
  - (b) the Victorian Recreational Fishing Guide and other Victorian Fisheries Authority resources be updated to include information on abalone fishing safety and the risk of drowning;
  - (c) programs/activities by recreational fishing organisations/agencies that promote recreational fishing should include safe fishing practices, noting that, particularly for culturally and linguistically diverse communities this should include abalone fishing and rock fishing safety.
10. I take these suggestions on board.
11. Life Saving Victoria has also applied for a grant through the Victorian Fisheries Authority's Recreational Fishing Grants Program to expand the reach of fishing safety messages (specifically abalone and rock fishing). The proposed project would support a state-wide grassroots campaign to educate the recreational fishing community on how to enjoy and participate in fishing while observing appropriate safety measures to avoid injury or loss of life. It aims to build on the previous rock fishing safety campaign through inclusion of grassroots community-based ambassadors and development of marketing collateral that can be distributed through social media channels, as well as community events and fishing forums.

12. As Dr Matthews notes, recreational fishing is an important social activity enjoyed by Australians regardless of age, finances, gender, culture, or religious background. It is important that safe practices are exercised during these times. I commend Life Saving Victoria's educational initiatives and activities targeted to the culturally and linguistically diverse communities.
13. Given the recent increase in drowning deaths occurring during abalone fishing, including one other on the day of Xu's death, it appears a particular focus is required for this cohort. Similarly, given the over-representation of individuals born overseas in drowning statistics, a parallel focus is required for culturally and linguistically diverse communities.

## **RECOMMENDATIONS**

Pursuant to section 72(2) of the Act, I make the following recommendations connected with the death:

1. Life Saving Victoria updates its public awareness messaging to include abalone fishing and promote this messaging through targeted education, social medial channels, and other relevant websites;
2. Life Saving Victoria work with recreational fishing organisations and agencies that promote recreational fishing to include safe practices for abalone fishing; and
3. The Victorian Fisheries Authority update the *Victorian Recreational Fishing Guide* and its other resources to include information about abalone fishing safety and the risk of drowning whilst abalone fishing.

I convey my sincere condolences to Xu's family for their loss.

I commend Qianlong Ye, Yi Xiao, Cameron Turner, Jonathan Wong, and Awss Jaafar for their actions in trying to save Xu.

Pursuant to section 73(1) of the Act, I direct this finding be published on the Internet.



I direct that a copy of this finding be provided to the following:

Jinghai and Yahong Zhou, senior next of kin

Life Saving Victoria

Victorian Fisheries Authority

Senior Constable Michael Greenwood, Victoria Police, Coroner's Investigator.

Signature:



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**CAITLIN ENGLISH**

**DEPUTY STATE CORONER**

Date: 23 July 2020

