

IN THE CORONERS COURT  
OF VICTORIA  
AT MELBOURNE

Court Reference: COR 2011 1180

**FINDING INTO DEATH WITHOUT INQUEST**

*Form 38 Rule 60(2)*

*Section 67 of the Coroners Act 2008*

I, HEATHER SPOONER, Coroner having investigated the death of MAURO AMATO  
without holding an inquest:

find that the identity of the deceased was MAURO CORRADO AMATO

born on 31 October 1979

and the death occurred on or about 26 March 2011

at Gough's Bay, Lake Eildon, Victoria 3713

**from:**

1 (a) CHANGES CONSISTENT WITH DROWNING

Pursuant to section 67(2) of the **Coroners Act 2008**, I make findings with respect to **the following circumstances:**

1. Mr Amato was aged 31 when he died. He was single and lived at 20/302 Abbotsford Street, North Melbourne. Mr Amato worked at a call centre. There was no relevant known medical history.
2. A police investigation was conducted into the circumstances surrounding the death. It was apparent that on Friday 25 March 2011, Mr Amato and a group of close male friends headed to Lake Eildon for a week away. One of his friends borrowed a three-man canoe measuring 4.72 metres to use for the weekend.
3. At about 7.20pm on Saturday 26 March 2011, Mr Amato and two other friends took the canoe out onto Gough's Bay to go fishing. Mr Amato was seated in the rear of the canoe. None of the three occupants were wearing a Personal Floatation Device ("PFD") at the time; three PFD's were left behind at their accommodation to dry out as they were wet from earlier use.

4. Around 100-150 metres from shore, the canoe became unstable, possibly due to striking a submerged tree, and Mr Amato subsequently fell out of the vessel. He soon indicated that he may need assistance. His companions advised him to keep treading water and to remove his clothes, while they headed to shore (without paddles) as the vessel had filled with water.
5. Unfortunately, Mr Amato did not make it to shore and his friends were unable to locate him. Mr Amato's body was later recovered by search and rescue officers on 31 March 2011. A post-mortem toxicological analysis revealed that Mr Amato had a blood alcohol level of 0.04g/100mL<sup>1</sup>. He had consumed an unknown quantity of alcohol (beer) on the day of the incident but his friends did not describe him as being intoxicated whilst canoeing.
6. Mr Amato was dressed in heavy clothing at the time, including jeans, a heavy jacket and boots. He was described as a fair/good swimmer. A witness who saw the three men enter the water described the environment conditions at the time as poor, with strong winds, choppy water conditions and fading daylight.
7. An autopsy was performed by Dr Malcolm Dodd, Senior Forensic Pathologist at the Victorian Institute of Forensic Medicine. He formulated the cause of death as "1(a) Changes consistent with drowning", which I accept.
8. The police investigation revealed that had Mr Amato been wearing a PFD, his death could have been prevented. The heavy clothing he wore may have also contributed to his death.
9. I directed the Coroners Prevention Unit (CPU)<sup>2</sup> to review Mr Amato's drowning death and review relevant prevention issues.

### **Required Safety Equipment**

10. Under the Marine Regulations 2009, applicable at the time, Mr Amato was required to wear either a Type 1, 2, or 3 PFD whilst an occupant of a canoe that was underway in an inland waterway such as Gough's Bay. The vessel was also required to carry a bailer.

---

<sup>1</sup> Dr Dodd noted in his report that this level of alcohol may be found via endogenous production via decomposition, however imbibed alcohol could not be excluded.

<sup>2</sup> The Coroners Prevention Unit is a specialist service for coroners established to strengthen their prevention role and provide them with professional assistance on issues pertaining to public health and safety.

11. The annual frequency of unintentional drowning deaths of recreational vessel occupants (motorised, sail-powered and human-powered) was examined using data compiled by the CPU. Between 1 January 2000 and 31 May 2012, 13 human-powered vessel occupants (e.g. kayaks, canoes) drowned in Victorian waters.
12. On 1 December 2005, mandatory PFD wearing requirements for recreational boaters were introduced in Victoria. A considerable decline in the frequency of recreational boating drownings has occurred since this legislation was enacted, particularly among small motorised vessel occupants. Despite this overall reduction, the frequency and proportion of human powered vessel occupants has increased: 8% (5/61) of recreational boating drownings during the period 1 January 2000 and 30 November 2005 compared to 33% (8/24) recreational boating drownings during the period 1 December 2005 and 30 November 2011.

Of the 13 drownings involving human powered vessels:

- All deaths were of male;
- Six deaths occurred in inland waters (n=5 enclosed waters, n=2 coastal waters);
- Four were occupants of a canoe (n=8 were kayakers, n=1 rowing scull);
- In at least seven of the 13 deaths, a PFD was not being worn; and
- Adverse weather conditions appeared to be a contributing factor in several deaths.

### **Canoeing and kayaking incidents**

13. Canoeing and kayaking statistics from 2006/07 to 2010/11 from the Maritime Safety Division of Transport Safety Victoria (TSV) were provided in the inquest brief. While no more than eight incidents were recorded each year between 2006/07 to 2009/10, the 2010/11 incidents increased substantially to 23.

### **Prevention Issues**

14. The CPU liaised with the Maritime Safety Division of TSV on the issue of human powered vessel safety. TSV has expressed concern over the increasing number of drowning deaths (and overall incidents) involving human-powered vessel occupants.<sup>3</sup> The increasing popularity of these vessels is thought to have contributed to this. A possible reason for their

---

<sup>3</sup> Also refer to:

<http://www.transportsafety.vic.gov.au/maritime-safety/recreational-maritime/your-vessel/canoeing-and-kayaking>

increasing popularity is their lower purchase and operating costs compared to motorised boats. In addition, only vessels fitted with a means of propulsion (regardless of engine size) are required to be registered and the operator must be licensed. In the absence of a vessel registration and licensing regime, dissemination of safety requirements for human-powered vessels operation is difficult.

15. To overcome this, TSV has conducted the following safety requirement awareness raising directed at human-powered vessel operators and occupants:
  - a. August 2011 – *Paddle Safe Paddle Smart* brochure<sup>4</sup>, containing information about safety equipment, in particular PDF use, and other safety tips for people using canoes, kayaks, row boats, surf skis and stand up paddle boards. This was later replaced by the Australia New Zealand Safe Boating Education Group's (ANZSBEG) *Paddle Safe* brochure, DVD and sticker.
  - b. December 2011 – operational meeting convened with Victoria Water Police to discuss a joint response to the emerging risks and issues surrounding kayaking and canoeing in Victoria. This resulted in an education and enforcement campaign for the summer of 2011/2012.
  - c. December 2011 – Media release titled *Safety warning to kayakers*.
  - d. August 2012 – Media release titled *Safety regulator warns kayakers to put safety first*.
16. For the upcoming 2013/2014 summer, and in recognition of the non-traditional sales paths for canoes and kayaks within the boating sector (for example Anaconda, Boating Camping Fishing and Rays Outdoors), TSV have developed a retailer program aimed at providing safety information and education at point of sale. The first seminar of the retailer program was delivered in early December 2013.

## **Finding**

I find that Mr Amato unfortunately died from drowning.

---

<sup>4</sup> [http://www.transportsafety.vic.gov.au/\\_data/assets/pdf\\_file/0016/45250/TSV-Paddle-Safe-Paddle-Smart-brochure.pdf](http://www.transportsafety.vic.gov.au/_data/assets/pdf_file/0016/45250/TSV-Paddle-Safe-Paddle-Smart-brochure.pdf)

## **Comments**

**Pursuant to section 67(3) of the Coroners Act 2008, I make the following comments connected with the death:**

1. This death highlights the importance of always wearing a PFD to stay afloat until help arrives. It is apparent that Mr Amato was aware of and had adhered to this safety requirement previously, however he did not on the day of the incident as it was wet from use the day prior.
2. The analysis of data from Victoria, one of two jurisdictions in the world to have legislation mandating PFD use, has been shown to be an effective drowning prevention measure for recreational boating. Despite these requirements and an overall reduction in deaths, drownings continue amongst human-powered vessel operators and occupants at an unacceptable frequency.

## **Recommendations**

**Pursuant to section 72(2) of the Coroners Act 2008, I make the following recommendation connected with the death:**

1. To promote the awareness of and compliance with PFD regulations amongst human-powered vessel occupants, I recommend retailers of canoes and kayaks, in consultation with Maritime Safety, consider the distribution of the Australia New Zealand Safe Boating Education Group's *Paddle Safe* brochure to consumers at point of sale for both online and face-to-face transactions.
2. To promote the awareness of and compliance with PFD regulations amongst human-powered vessel occupants, I recommend that Canoeing Victoria, the Victorian Canoe Association Inc and Victorian Sea Kayaking Club consider the distribution of the Australia New Zealand Safe Boating Education Group's *Paddle Safe* brochure to their members.

I direct that a copy of this finding be provided to the following for their information only:

The Family of Mauro Amato

Leading Senior Constable Brett Tanian, Investigating Member of North East Water Police

Australia New Zealand Safe Boating Education Group

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

Peter Corcoran, Director Maritime Safety  
President, Victorian Sea Kayaking Club  
Executive Officer, Canoeing Victoria  
Executive Officer, Victorian Canoe Association Inc  
Anaconda Pty Ltd  
Boating Camping Fishing Pty Ltd  
Rays Outdoors Pty Ltd  
Big W Pty Ltd  
Costco Australia Pty Ltd

Signature:



HEATHER SPOONER  
CORONER

Date: 17 December 2013

