

FORM 38

Rule 60(2)

FINDING INTO DEATH WITHOUT INQUEST

Section 67 of the Coroners Act 2008

Court Reference: 1282/2010

In the Coroners Court of Victoria at Portland

I Jonathan Klestadt, Coroner having investigated the death of:

Details of deceased:

Surname:	Cruse
First name:	Ronald James
*Address:	40 Milbanke St Portland VIC 3305

without holding an inquest:

find that the identity of the deceased was Ronald James Cruse
and death occurred *on or about 5/04/2010
at St Leonard's
from

1a) Drowning

***Pursuant to Section 67(2) of the Coroners Act 2008**, an inquest into the death was not held and the deceased was not immediately before the person died, a person placed in custody or care; but there is a public interest to be served in making findings regarding the following circumstances:

In the early afternoon of Easter Monday, the 5th of March 2010, the deceased Ronald James Cruse and his sons Darren [38 years], Ben [18] and a friend Nathan Nickless [17] attended at Cape Nelson intending to enter the water; Darren was to scuba dive with the remainder of the party snorkelling. After spending about 5 minutes assessing the sea state at an area about 1 kilometre east of the Cape Nelson Lighthouse it was determined that it would be safe to enter the water. After another 15 to 20 minutes during which Darren Cruse prepared his scuba gear the deceased confirmed his

view that it was a safe and suitable spot to enter the water. However he had decided to remain on the rocks and watch those in the water; because of his inexperience Nathan Nickless also decided not to enter the water.

The deceased was a resident of Portland and was described by his son Darren Cruse as "an experienced amateur fisherman who has spent lots of his recreational life in boats on the ocean and fishing rocky coastlines". He was also described a cautious man and a good swimmer. He was 68 years old at the time of his death.

The coast in the immediate vicinity of Cape Nelson is a high rocky headland with almost sheer volcanic cliffs rising from the sea with a series of rock ledges, inlets and small promontories between the high and low tide marks.

Shortly before 3.00pm Darren and Ben Cruse entered the water. Within a few minutes it became clear that it would be unwise to stay in the water longer than absolutely necessary. Darren Cruse was experiencing problems with his scuba gear and it was too deep for Ben Cruse to experience much joy whilst snorkelling.

Initially the deceased attempted to assist Ben to leave the water with the aid of a rope. However he was unsuccessful as the rocks were too slippery, and it was decided that Ben and Darren would swim around a point about 20 metres to the east to try and locate another ledge where their exit from the water would be easier.

At that point a larger than normal swell washed over the rocks, submerging both Darren and Ben for 10 to 20 seconds, and washing the deceased into the water. Ronald Cruse initially appeared to be uninjured and was seen to be treading water, but was very soon in difficulty, frothing at the mouth and not responding to Ben, who was trying to assist him.

As the rocks at the point where they were had already been found to be too slippery to afford an easy exit it was decided to swim around the point to find a more suitable exit.

Darren found a way to exit the water whilst Ben assisted his father, and after a short struggle the deceased was dragged from the water by his sons. At this stage the deceased was unconscious and the situation of the three was precarious with waves washing over the slippery rocks whilst the brothers attempted to revive their father.

By this stage Nickless had attracted the attention of a professional fisherman, Robert Anderson Davis, who was alone in his boat tending cray pots close to the cliffs at Cape Nelson near a spot known as Little Seal Cave. Davis manoeuvred his boat close to the cliff where Nickless was calling for help. After briefly talking to Nickless Davis moved his boat to the area where the deceased and his sons were but he was unable to approach close enough to render any direct assistance safely.

Mr. Davis contacted emergency services and tried to direct the deceased's sons to an area where they would be safer and more able to assist their father, but another swell washed the deceased and Darren Cruse into the water, where after a short time they were picked up by Davis. Once aboard further attempts were made to revive Mr. Cruse by both his son and Davis while heading at full speed towards Portland Harbour. Whilst nearing the port a police boat came alongside and an officer transferred to Davis's boat to assist in the attempts to revive Mr. Cruse. Once in the harbour ambulance officers made further efforts to revive Mr. Cruse without success.

At autopsy it was determined that the death of Mr. Cruse was by drowning. Superficial soft tissue injuries were noted to be consistent with hard contact with rocks. The senior forensic pathologist who conducted the post mortem examination concluded that "... [t]he degree of bruising may have led to a period of unconsciousness and therefore liability to inhalation of seawater and subsequent drowning."

In his statement to police Mr. Davis, a professional fisherman with 28 years experience in the waters surrounding Cape Nelson, made the following observations:

The ocean conditions on this day were 3-4 metre south east swell and there was approximately a 20 knot south easterly breeze. This was at the time when I was taking the victim back to port, but a couple of hours earlier, around when they would have been looking to enter the water, the conditions were a fair bit calmer with only a 2 metre swell and the wind milder, maybe around 10 knots from the east. This would have made conditions from the rocks seem reasonably good for diving in the area.

I have fished this area for many years and consider the only people who should entertain the idea of diving there are the professional divers who have many years experience in these types of waters. I have worked the area with abalone divers over the years and they indicate that it is an extremely dangerous place to dive and they do not particularly like diving there themselves. I often see amateur divers diving from the rocks and I am always fearful of a situation like this arising."

The Southern Ocean off the coast of south west Victoria provides abundant resources for those who seek to make their living from the sea, and almost limitless opportunities for recreation and enjoyment for those who spend time in or on the water. However these waters are potentially extremely hazardous because of the changes of both sea and weather conditions that can occur with great speed and little warning.

Whilst noting the view of Mr.Davis, who is to be thanked and commended for his selfless and skilled attempts to save the deceased, I would not recommend the consideration of any move by government to regulate or prohibit recreational diving or fishing off Cape Nelson. However I do suggest that appropriate signage be placed in areas where persons intending to either dive or fish might park their vehicles or begin their descent to the water, warning them of the hazards inherent in the area and advising them to seek local advice about their plans.

***RECOMMENDATIONS:**

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

1. I recommend that Parks Victoria place appropriate signage at car-parks and other locations in the Cape Nelson State Park frequently used by people intending to fish or dive off the rocks, warning them of the extremely dangerous water and weather conditions which often prevail in the area.

Signature:



Date:

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