



## CORONERS COURT OF NEW SOUTH WALES

<b>Inquest:</b>	Inquest into the disappearance and suspected death of Ken Chen
<b>Hearing dates:</b>	14 September 2018
<b>Date of findings:</b>	14 September 2018
<b>Place of findings:</b>	NSW Coroner Court - Glebe
<b>Findings of:</b>	Magistrate Elizabeth Ryan, Deputy State Coroner
<b>Catchwords:</b>	CORONIAL LAW – missing person – Little Bay Beach rock platform Randwick – can death be established - can time, place, cause and manner be determined.
<b>File number:</b>	2017/383086
<b>Representation:</b>	Advocate Assisting the Coroner: Sgt S Ferguson.
<b>Findings:</b>	<p><b>Identity</b> The person who died was Ken Chen, born 13 June 1965.</p> <p><b>Date of death</b> Ken Chen died on or soon after the morning of 23 July 2017.</p> <p><b>Place of death</b> Ken Chen died in or close by the waters of Little Bay Beach, Randwick NSW 2031.</p> <p><b>Manner of death</b> The manner of Ken Chen's death is unknown, other than that he did not die with the intention of taking his own life.</p> <p><b>Cause of death</b> The cause of Ken Chen's death is unknown.</p>

## Table of Contents

The Inquest .....	1
Introduction .....	1
Events of 23 July 2017 .....	2
The search operation .....	2
Can Ken's death be established? .....	3
When and where did Ken die? .....	4
What was the cause and manner of Ken's death? .....	5
Findings required by s81(1) of the <i>Coroners Act 2009</i> .....	6

Section 81(1) of the *Coroners Act 2009* (NSW) requires that when an inquest is held, the coroner must record in writing his or her findings as to various aspects of the death.

These are the findings of an inquest into the disappearance and suspected death of Ken Chen.

### **The Inquest**

An inquest is different to other types of hearings. It is neither criminal nor civil in nature. It does not determine whether a person is guilty of an offence and does not make determinations and orders that are binding on parties.

A Coroner is required to confirm that a particular death occurred and make findings as to the identity of the person who died, the date and place of death, and the cause and manner of the death. In addition under section 82 of the Act a Coroner may make recommendations that are necessary or desirable in relation to any matter connected with the death, including health and safety.

### **Introduction**

1. Ken Chen was the devoted husband of Winney Chen and loving father of their two sons Brain and Patrick. Born in China on 13 June 1965, he migrated to New Zealand in 1995 in search of better life opportunities. There he met and married Winney and the first of their two sons was born.
2. The family migrated to Australia in 2005, where Ken continued working in the plastics manufacturing industry. Ken and Winney bought a family home in Kogarah, and their second son was born. The family was very close and spent most of their time together.
3. Ken received a redundancy from his job in 2016 and was reportedly quite happy with this as he felt it was time for a change. For one thing it allowed him to spend more time on his chief recreational passion, coastal shoreline photography. His plan was to create a portfolio of his work which could be sold.
4. It was Ken's habit each morning to rise early and drive to various beaches in the Sydney area. These included Cronulla, Bondi and La Perouse. There he would take photographs of the ocean and shoreline, usually returning home by about 7.30am to drive Winney to the railway station for her work. Ken's photography trips were almost always carried out on his own.
5. Winney sometimes worried about her husband's excursions. She was aware he would get close to the ocean, often photographing from rock platforms. She said he did not use special footwear or clothing such as a life jacket. He was a very poor swimmer.

6. Ken was in good physical and mental health, with no known illnesses. He had regular medical check ups and did not drink, smoke or gamble. He and Winney had household and mortgage expenses but they were able to meet these. Their marriage and family life was happy, and Ken did not appear to suffer depression or anxiety.
7. At the close of the evidence Winney spoke of her husband's kindness and of his love and care for his family. He was much loved by his wife, sons and friends, and is deeply missed by them.

### **Events of 23 July 2017**

8. 23 July 2017 was a Sunday. Winney knew that Ken was planning to make an early photography trip to Little Bay Beach, then return by 8.00am to take the boys to Sunday school.
9. Little Bay Beach is a small semi-circular shaped east facing bay which forms part of the coastline south of Sydney Harbour. Its beach is not patrolled. Rock platforms sweep around the beach's southern headland. From the rock platform the slope rises up to Randwick golf course, one of a number of golf courses in the area. The land surrounding Little Bay Beach has for the most part little vegetation and is easily walked through, consisting mainly of residential areas and golf courses.
10. On the morning of 23 July Winney Chen heard the front door shut at about 6.00am and assumed it was Ken leaving the house. By 8.30am that morning he had not returned and Winney began to worry. She made several calls to Ken's phone, which went unanswered. Finally she rang police at about 11am and drove to Little Bay Beach. She located the car Ken used, parked in a small street close to the path leading down to the beach. She began to search, then received a phone call from police asking her if she could identify some items that had been found.
11. At about 9.30am that morning two walkers had noticed a backpack and a camera tripod close to the water's edge on the southern rock platform. They noticed these again at 11.30am, in the same position. Inside the pack was a camera, camera lenses, iPad, wallet, and a modem router. The two walkers took the backpack to Maroubra Police Station. Winney identified the backpack and its contents as belonging to her husband.
12. The camera in the backpack did not contain any photos taken that day. Winney told police Ken had a second camera which he preferred to use for most of his photos. This camera has not been found; neither has Ken's mobile phone.

### **The search operation**

13. The police search for Ken commenced immediately, under the coordination of Inspector Anthony Agnew. That day PolAir and the Westpac Rescue helicopter carried out visual searches by air to the north and south of the

place where Ken's possessions were found. Surf Lifesaving and Randwick Council Life Savers searched the water, as did vessels operated by Marine Area Command and Marine Rescue. Police carried out line searches of the rock platforms. At 5.10pm the search was called off due to poor visibility.

14. On 23 July, weather and surf conditions at Little Bay were described as average for the time of year. Wind and swell were at average levels. High tide was at 8.01am, meaning that the tide would have been coming in to the full around the time Ken was photographing there.
15. The search resumed the following day under the coordination of Acting Inspector Jake Billett. Police described the surf conditions as moderately turbulent. Police divers joined the search, along with land, sea and air crews. Police searched the shorelines and lands surrounding Little Bay Beach.
16. Searches continued up to and including 30 July 2017, but no trace of Ken or his belongings was ever found. The evidence indicates that the search operation coordinated by NSW Police was comprehensive and professional. No issues have been raised as to its adequacy.
17. On 23 November 2017 Ken's son Brian provided police with a buccal DNA sample which will be able to be compared with DNA of any unidentified person in the future. To date no unidentified persons have been identified as matching Ken's DNA.

### **Can Ken's death be established?**

18. It is sometimes the case that inquests into missing persons are not able to establish whether or not the person has died. This uncertainty only adds to the distress families feel at the absence of their loved one.
19. In Ken's case, the evidence does establish on the balance of probabilities that he has died. It is important for his family to know this, but of course it does not lessen the sorrow they feel at his loss.
20. Although Ken's body has not been found there is strong evidence he has died. His family and friends have not seen or heard from him since the evening of 22 July 2017. It is inconceivable that a man so devoted to his wife and children would not have had any contact with them, had he been alive to do so.
21. In addition there is no record of him using a financial or phone service on 23 July 2017 or thereafter, or accessing bank accounts. Checks with the Department of Immigration have established there has been no subsequent activity on his passport. The most recent search of these databases was on 14 August 2018. In addition there have not been any reported sightings of Ken.
22. For these reasons I make the finding that Ken Chen has died.

## **When and where did Ken die?**

23. The questions of when and where Ken died are closely related. There were no witnesses to his death and his body has not been found, meaning that it cannot be examined. It is thus not possible to be certain about the time and place of his death. Nevertheless an examination of the evidence does enable answers to be given on the balance of probabilities.
24. Ken went to bed with his wife Winney as usual on the night of 22 July 2017. Although there are no known sightings of him thereafter, I am able to find that he was still alive the next morning. This is based on the discovery of his car and belongings at Little Bay Beach on the morning of 23 July. These discoveries are consistent with his wife's evidence that on the previous evening he had made known his plans to take photographs at Little Bay Beach the next day.
25. Furthermore the evidence permits a finding that Ken died on the morning of 23 July or very soon afterwards, in or close by the waters of Little Bay Beach.
26. It is reasonable to assume that Ken disappeared from an area not far from where his backpack and tripod were found, close to the waterline on the Little Bay Beach rock platform. The backpack contained things of value such as his iPad, wallet and second camera. It is unlikely he would have moved far from where he had left them.
27. If Ken's death occurred on land, it is almost certain his body would have been found within a short space of time after the search commenced. There were extensive searches of the shoreline and surrounding lands in the hours and days following his disappearance. As noted, this area is developed with little dense vegetation. The ground search did not uncover any trace of Ken.
28. It is more likely that by some means Ken's body entered the water on the morning of 23 July. The difficulties with determining what caused this to occur, and whether Ken was alive when this occurred, are addressed below.
29. As to when Ken died, as noted he did not return to his home by 8.30am on 23 July as expected. In addition he did not call his wife or respond to her calls to his phone. This was very much out of character. Of course this does not establish that he had died by this time, rather that he was physically incapable of performing these actions.
30. If as seems likely Ken's body entered the water, for the above reasons this is likely to have occurred before or very soon after the search commenced. Were it otherwise, as I have found, his body would most likely have been found in the course of the ground search.
31. If Ken had still been alive when his body entered the water his prospects of surviving long were not good. He was not wearing a life jacket and was known to be a very poor swimmer.

32. For the above reasons I find that that Ken died on the morning of 23 July 2017 or very soon thereafter, in or close by the waters of Little Bay Beach.

**What was the cause and manner of Ken's death?**

33. It is very possible that Ken died as a result of being swept into the sea and drowning.

34. However since no one witnessed him going into the water, and his body has not been able to be examined, I cannot exclude the possibility that his immersion in the water was preceded by a sudden and unexpected event on land which caused his death. This may have been a natural event such as a heart attack, or an injury as a result of an accidental fall on the rocks. Either event could have caused his death, or incapacitated him to such an extent that he was unable to avoid being swept into the sea.

35. There are thus two possible causes of death:

- that Ken fell or was swept into the water and drowned
- that he suffered a fatal event on the rocks, and his body was subsequently washed into the water.

36. Unfortunately it is not possible to establish to the necessary standard that one rather than the other of these possibilities was the cause of Ken's death. It must therefore remain unknown.

37. As to the manner of Ken's death, there is no evidence that he chose to end his life. His wife was not aware of any physical or mental health problems which he suffered. His family relationships were happy and his financial situation stable. He left no communications indicating a wish to die. That he evidently kept his mobile phone and preferred camera with him instead of leaving them with his other belongings also argues against him having an intention to end his life that morning. His death was almost certainly the result of circumstances beyond his control.

38. For these reasons I am able to find that Ken's death was not the result of suicide. It is also unlikely to have resulted from the violent act of another person.

39. For the sake of Ken's wife and sons, I regret that this inquest has not been able to answer all their questions about what happened to Ken. They have lost a fine husband and father, and will feel his loss for the rest of their lives. I hope they will accept the sincere sympathy of all of us at the Coroners Court.

40. I thank those who have assisted this inquest, including Coronial Advocate Sergeant Samantha Ferguson, and the Officer in Charge Detective Senior Constable Ryan Morgan.

### **Findings required by s81(1) of the Coroners Act 2009**

As a result of considering all of the documentary evidence and the oral evidence heard at the inquest, I am able to confirm that the death occurred and make the following findings in relation to it.

#### **Identity**

The person who died was Ken Chen, born 13 June 1965.

#### **Date of death**

Ken Chen died on or soon after the morning of 23 July 2017.

#### **Place of death**

Ken Chen died in or close by the waters of Little Bay Beach, Randwick NSW 2031.

#### **Cause of death**

The cause of Ken Chen's death is unknown.

#### **Manner of death**

The manner of Ken Chen's death is unknown, other than that he did not die with the intention of taking his own life.

I close this inquest.

**E Ryan**

Deputy State Coroner  
Glebe  
14 September 2018