



**CORONERS COURT
OF NEW SOUTH WALES**

Inquest:	Inquest into the disappearance and suspected death of Peter Claux
Hearing dates:	14 November 2024
Date of judgment:	14 November 2024
Place of judgment:	Coroners Court of NSW, Lidcombe
Judgment of:	Deputy State Coroner, Magistrate David O’Neil
Catchwords:	CORONIAL LAW – Missing person, search, and whether missing person is now deceased.
File number:	2023/00102003
Representation:	Coronial Advocate assisting: (Sgt) Sam Chahrouk

Findings

Identity: The person who died was Peter Dorian Claux

Time of death: Mr Claux died between the 24th of May 2022 and 2nd of June 2022

Place of death: Bournda National Park, Bournda NSW.

Cause of death: Unascertained

Manner of death: Unascertained

Introduction

- 1 Mr Peter Claux, aged 86, was last seen walking his dog on the 24th of May 2022. Despite search efforts and investigation by Police, Mr Claux was never found. No one has seen or heard from him since the date of his disappearance.

The role of the Coroner and the scope of the inquest

- 2 The role of the Coroner in a case such as this is to make findings firstly as to whether the missing person is actually dead and only if that can be established, to make further findings as to the date and place of death, and the manner and cause of death.¹
- 3 The decision about whether a person is dead is considered a threshold question in a missing person case.² The decision is to be made on the balance of probabilities guided by the test determined in the High Court of Australia in the case of *Briginshaw*³ which requires that the level of satisfaction required to conclude that death has more likely than not occurred should take into account the seriousness of such a finding. At common law, there is a presumption in favour of a continuance of life,⁴ however, it is not a rigid presumption, and the circumstances of any given case must be carefully examined before a finding of death can be made.
- 4 In addition to deciding these questions at the conclusion of proceedings, the Coroner may, if appropriate, make recommendations in relation to matters arising directly from the evidence if they have the capacity to improve public health and safety in the future.⁵

The Evidence

- 5 The inquest took place on 14 November 2024. A brief of evidence was tendered and became exhibit one in the proceedings. The brief included the statement of the officer in charge, Senior Constable Jarrod Stein, statements from various other police officers, Mr Claux's niece, his neighbour, local residents, and a field officer of the Merimbula National Parks Office.
- 6 In addition to the statements, the brief contained extensive records relating to the search conducted for Mr Claux, including documentation relating to enquiries made with banks, telephone companies and various government agencies.

¹ s81, *Coroners Act* 2009 (NSW) .

² Dillon H and Hadley M " *The Australasian Coroner's Manual*", Federation Press 2005 at p.15.

³ *Briginshaw v Briginshaw* (1938) 60 CLR 336.

⁴ *Axon v Axon* (1937) 59 CLR 395.

⁵ s82, *Coroners Act* 2009 (NSW).

- 7 All the evidence within the brief of evidence has been taken into account in coming to the findings set out below.

Mr Claux's background

- 8 Peter Dorian Claux, formerly known as Gaspar Dorian Claux, was born on 22 March 1936. At the time of Mr Claux's disappearance he was 86 and lived alone at 70 Surf Circle, Tura Beach, New South Wales. He lived with his dog, a golden Labrador named Buddy.
- 9 Peter did not have any local relatives or known close friends. He remained in contact with relatives and friends through post and phone calls. Peter spent several decades living in the United States of America, where he worked as a lifeguard, during which time he married Margaret King in 1980. Ms King had two daughters from a previous relationship. Ms King and Peter's relationship ended amicably three years later. However, Ms King and her daughters remained in contact with Peter.
- 10 In the year 2000 Peter travelled to Australia, where he remained. Australian passport records show Peter has not travelled overseas since the year 2000. The senior next of kin, Cleber Julian Claux, when last spoken to, was known to be the only living sibling of Peter. At that time, he was 84 years of age and resident in Western Australia. Before Peter's disappearance, Cleber was in regular contact with Peter and spoke with him over the phone monthly. Peter also has a niece by the name of Janine Clifford.

Medical history

- 11 Peter was relatively healthy for his age and, as noted, accompanied by his dog, he would walk the dog Buddy daily. Peter had had ureteric stent surgery on 14 April 2022 and was discharged following the procedure without incident. Peter regularly maintained physiotherapy appointments and had purchased exercise equipment to use at home. This purchase took place shortly before he went missing.
- 12 Despite his regular walking and the purchase of the exercise equipment, it was observed that Peter's physical condition was deteriorating. He had a significant hunch in his upper back, along with chronic shoulder issues and walked with a shuffle. He also suffered from a high risk of falls, chronic osteoarthritis, lower back pain, and anaemia. Peter's physiotherapist Matthew Lehoczsky was of the opinion that Peter would not have been able to walk more than two kilometres due to his physical limitations. Mr Lehoczsky also stated that Peter showed signs of mild dementia with short term memory being more of an issue. Peter's niece was of the view that Peter had been suffering a steep cognitive decline in the months leading up to his disappearance.

The circumstances of Mr CLAUX disappearance

- 13 Between 5pm and 5.15pm on 24 May 2022 Peter was seen by Ms Virginia Tooth near a vacant block being 14 Surf Circle Tura Beach. Ms Tooth was walking her own dog when she saw Peter walking his dog. Both dogs interacted. Ms Tooth and Peter resided on the same street, however they did not know each other personally. Ms Tooth recalls that Peter would frequently walk his dog around the street and surrounding reserves and bushland. Objective evidence confirms the time of this interaction.
- 14 The following day, Christina Arens, an avid surfer and resident of Merimbula, attended the car park at the Bournda National Park. Ms Arens saw a red sedan parked in the car park. She then walked over to the platform to look at the beach.
- 15 Ms Patricia Linehan, a friend of Ms Arens, recalls seeing a maroon or red coloured sedan in the Bournda National Park car park on 25 May 2022. She stated that the vehicle was not there on the morning of 24 May 2022.
- 16 On 27 May 2022 Ms Arens returned to Bournda with her husband and saw the same car. I am satisfied that the vehicle that both Christina Arens and Ms Patricia Linehan saw was Peter's maroon coloured Subaru.
- 17 On 2 June 2022 Adam Stone, senior field officer attached to Merimbula National Park's office was in the North Tura Road car park of the Bournda National Park. He saw a maroon Subaru in the car park. Mr Stone recalls that the same Subaru was parked in the same position when he last saw it a few days earlier. He then called the police. Police were notified about 2.07pm on 2 June 2022. The vehicle was a Subaru Liberty New South Wales registration AHF81P. The vehicle was owned by Mr Claux.

THE SEARCH FOR MR CLAUX

- 18 Upon being notified of the abandoned Subaru police attended Peter's address being 70 Surf Circle, Tura Beach. Police attended those premises at 4pm and were unable to raise any person at this address. Due to concerns for Mr Claux's welfare, police entered the premises. An internal search of the residence did not reveal anything out of the ordinary. Police canvassed the neighbours of Peter, the Southeast Regional Hospital Bega, and the Bega Valley Shire Pound with no information of relevance obtained. At 4.30pm police attended the North Tura Road car park. It was noted by attending police that the locked and secured Subaru contained a reflective cold weather jacket, a towel, a dog seatbelt, dog leash, and Mr Claux's wallet, which was located under the driver's seat. The wallet contained a New South Wales driver's licence in Mr Claux's name.

19 Bournda National Park is a large nature reserve located between the townships of Tathra and Merimbula. It consists of extremely dense bushland. The Subaru was located in a car park area on North Tura Road. The area adjacent to this car park consists of a wooden viewing platform, beach access, and access to the Sandy Creek Loop Track, a six kilometre loop which is considered a grade 4 based on the Australian standards/Australian walking track grading system. Grade 4 indicates;

“Tracks may be long, rough, and very steep. Directional signage may be limited. Additionally, areas off track consist of extremely dense bushland consisting of uneven ground, varying vegetation, occasional small bodies of water, animal runs, and wombat burrows.”

20 The Sandy Creek Loop consists of two loops where the larger loop contains one water crossing, which is normally about five to 30 centimetres deep and spans about 15 to 20 metres in either direction. The nearby beach, Tura Beach, can be accessed from various points along the Sandy Creek Loop Track. The beach is not patrolled, and where it connects to the National Park consists of steep sand dunes and various rocky cliffs. Each loop begins and ends at the North Tura Road carpark, being the location of Peter’s Subaru.

21 On the day police were notified, police conducted a foot patrol around the Sandy Creek Loop Track and Bournda Island. Due to the location, time of night and risk of injury to police, police suspended the search. The following morning police initiated search phase 1 with the aid of the State Emergency Service and Westpac helicopter.

22 Phase 1 commenced on 3 June 2022 and lasted for three and a half days, concluding at 10am on 6 June 2022. Drone images, including thermal images and search activities, were provided as part of the brief of evidence. No items of interest were located, nor were any indications of Peter’s whereabouts established.

23 Phase 2 commenced on 21 June 2022. This involved the use of a police cadaver dog. Again, no items of interest were located, nor were any indications of Peter’s whereabouts established.

24 About 3pm on 10 August 2022, Peter’s dog Buddy emerged from bushland on the northern side of Widgeram Road, Bournda, near number 182. Buddy was walking around the outside of a residential property. The property was approximately 675 metres from where Peter’s Subaru was parked in the North Tura Road carpark.

25 Senior Constable Stein attended about 30 minutes later and saw that Buddy was covered in dirt and appeared to be in pain when walking. Senior Constable Stein drove Buddy to a veterinarian who had records of Buddy up until 14 March 2022. The assessment from the veterinarian showed that Buddy, since the last assessment, had lost eight kilograms, had numerous ticks, had burst cysts on his feet and grass seeds in his hears. It is Senior Constable Stein’s opinion that Buddy was living in bushland and around Bournda National Park during the

previous 11-week period. A photograph of Buddy was taken by Senior Constable Stein and provided in the brief of evidence.

- 26 On 17 August 2022 Senior Constable Stein, in the company of Buddy, on a long leash, conducted a further search through bushland near 182 Widgeram Road, Bournda, in bushland near the North Tura carpark. No items of interest were located, nor were any indications of Peter's whereabouts established.
- 27 Phase 3 commenced on 18 August 2022, where a cadaver dog was again involved in a search for Peter. This search heavily focussed between 182 Widgeram Road, Bournda and the North Tura Road carpark. This search lasted six hours, concluding at 3pm. Nothing of interest was located and there were no signs of Mr Claux.
- 28 Dr Luckin, an expert regarding survivability, during search and rescue operations was asked of his opinion 11 days after Peter went missing. On 4 June 2022 Dr Luckin was of the view that Peter had most probably died within the first day based on the weather conditions, dense vegetation, Peter's health and age. Dr Luckin was also of the view that it is unlikely that Peter forced his way very far through thick vegetation and it is most probable that he is within a short distance of the road or walking track.
- 29 Police have completed all suggested signs of life checks in accordance with the Missing Person Operational Guidelines. These checks included reviews of financial records, phone activity, transport information, passport data, medical usage, checks with Births, Deaths and Marriages, Interpol, interstate authorities and immigration services. Despite these efforts, no signs of activity have been detected in relation to Peter since his disappearance on 24 May 2022. According to Interpol, the Department of Home Affairs and Immigration, Peter is listed as on shore.
- 30 At 9.46am on 24 May 2022, Peter had made a phone call to Main Street Medical in relation to a "driver medical". It had been recorded previously that Peter had a previous fitness to drive reminder notice. However, that notice was sent on 7 March 2022. According to Transport New South Wales, all forms relating to fitness to drive had already been submitted to them.
- 31 Peter's last known phone conversation was at 11.22am on 24 May 2022 to an optometry service. The phone call lasted three minutes and 35 seconds.
- 32 All further relevant inquiries were made. I note that on 22 July 2022, during the senior constable's search of Peter's Subaru, he located a walking map which confirms Peter's interest in such a pursuit.
- 33 Further inquiries were made of Country Cabs, and I also note the senior constable conducted further walks of the Sandy Creek Loop Track in 2024 to gather photograph material to further inform me of the nature of the track.
- 34 Further investigations were made of the vehicle, which confirmed it did not have any faults and the battery was in good working order.

IS IT POSSIBLE TO SAY WHETHER AND, IF SO, WHEN, WHERE OR IN WHAT CIRCUMSTANCES MR CLAUX DIED?

- 35 I am satisfied to the required legal standard that Mr Claux died between 24 May 2022 and 2 June 2022.
- 36 Based on the opinion of Doctor Luckin, there is no prospect that Mr Claux could have survived beyond 2 June 2022 in the bushland, and I see it as an outer limit of survival time, with it likely Mr Claux died closer to 24 May.
- 37 There is nothing at all in the evidence to suggest that Mr Claux had any intent of ending his own life. Indeed, the evidence is completely against any such suggestion. In this regard, I point to Mr Claux's "driver medical" inquiry and call to his optometrist on 24 May 2022. I am satisfied that all proof of life inquiries have been made and they indicate that there has not been any activity at all by Mr Claux since he was last seen on 24 May at the latest at 5.15pm.
- 38 I am satisfied Mr Claux entered Bournda National Park to walk his dog Buddy as was his daily custom. There is no evidence that Mr Claux's death was suspicious. It is, however, not possible to conclude whether Mr Claux died of a natural cause or from misadventure.

IS THERE A NEED FOR RECOMMENDATIONS?

- 39 There is no need for any recommendations in relation to Mr Claux's death. I am well satisfied that the search conducted was appropriate in all regards and in particular, it was thorough and in compliance with all guidance material. The OIC is to be complimented for the thoroughness of his investigation and the extent to which he went to seek to locate Mr Claux's body, including additional attendances to the Sandy Creek Loop, walking parts of the loop with Buddy and the use of the cadaver dog or dogs on two occasions. There is nothing in any action or activity by any person requiring any recommendation. This was a death through tragic circumstances of a man undertaking a pleasurable exercise in the company of his companion dog. As I have indicated, all steps that could have been taken to try to locate his body have been taken.
- 40 I find that Mr Claux died between 24 May 2022 and 2 June 2022 in Bournda National Park, Bournda New South Wales.
- 41 The cause of death is unascertained and the manner of death is unascertained.

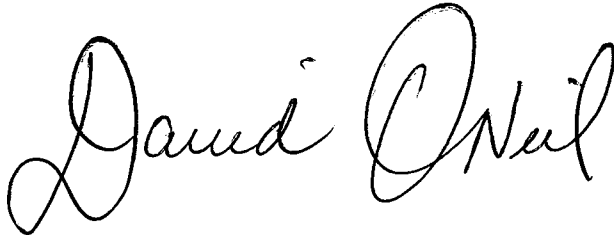
Findings pursuant to s81 Coroners Act 2009 (NSW)

Identity: The person who died was Peter Dorian Claux

Time of death: Mr Claux died between 24 May 2022 and 2 June 2022
Place of death: Bound National Park, Bournda, NSW
Cause of death: Unascertained
Manner of death: Unascertained

Conclusion

- 42 I acknowledge and express my gratitude to the coronial advocate assisting, Sergeant Sam Chahrouk, for his assistance both before and during the inquest. I also thank the officer in charge for the investigation, Senior Constable Stein, and I acknowledge his work in the police and coronial phases of the investigation.
- 43 On behalf of the Coroner's Court of New South Wales, I offer my sincere and respectful condolences to any remaining family of Mr Claux.
- 44 I now close this inquest.

A handwritten signature in black ink that reads "David O'Neil". The signature is written in a cursive style with a large, looped initial 'D'.

**Magistrate David O'Neil
Deputy State Coroner
Coroners Court of NSW
14 November 2024**