

CITATION: *Inquest into the death of Briony Anne Goodsell*
[2010] NTMC 026

TITLE OF COURT: Coroner's Court

JURISDICTION: Darwin

FILE NO(s): D0047/2009

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FINDING OF: Mr Greg Cavanagh SM

CATCHWORDS:

Crocodile attack, Adequacy of signage,
Saltwater Crocodile Management Plan,
Public Safety

REPRESENTATION:

Counsel:

Assisting: Ms Helen Roberts
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Solicitors

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IN THE CORONERS COURT
AT DARWIN IN THE NORTHERN
TERRITORY OF AUSTRALIA

No. D0047/2009

In the matter of an Inquest into the death of

BRIONY ANNE GOODSSELL
ON 15 MARCH 2009
AT LAMBELLS LAGOON DARWIN

FINDINGS

13 April 2010

Mr Greg Cavanagh SM:

INTRODUCTION

1. On a Sunday afternoon in March last year, 11 year old schoolgirl Briony Goodsell was taken by a crocodile while playing and swimming with other children in a creek at Lambells Lagoon. Her young friend told investigators:

“Briony yelled out for help and I saw that she was starting to go under the water ...I thought she had a vine wrapped around her waist. Then I saw the tail of a crocodile come out of the water and go back in. I yelled out “crocodile” and looked for [the other children]. When I looked back at Briony, she was gone.”

2. I find, based on all of the evidence before me at the inquest, that the cause of death was a crocodile attack. The evidence before me at the inquest was that the parents and grandparents of the children involved believed that the area where the children were swimming was safe from crocodiles. Although the crocodile was not located, there is sufficient evidence for me to find that it was a saltwater crocodile of approximately 3.2m in length which had travelled into the smaller feeder creek from the Adelaide River floodplain during a period of heavy rain and high water level. As a direct result of this tragedy occurring in a populated rural area on the outskirts of Darwin, the NT government Department responsible for crocodile management made

significant amendments to its Crocodile Management Plan, and launched a new public education campaign. At the inquest, the details and resourcing of the public safety aspects of the Crocodile Management Plan were examined.

JURISDICTION

3. My jurisdiction to investigate this death and to hold a public inquest arises from s12 of the *Coroners Act*. Counsel assisting me at the inquest was Ms Helen Roberts. Ms Sonia Brownhill appeared instructed by Ms Elizabeth Farquhar on behalf of the Northern Territory Department of Natural Resources, Environment, the Arts and Sport (“the Department”), and the Parks and Wildlife Commissioner (“Parks and Wildlife”). Briony’s mother and other family attended the inquest and participated in it. It was extremely distressing for them to listen to much of the evidence and I thank them for their dignified cooperation with the process.
4. The search for Briony after she disappeared was carried out with skill and professionalism by NT police members (coordinated by Sergeant King of the TRS, and assisted by the expertise of Ranger Tommy Nichols with respect to crocodile behaviour). The circumstances of the death were investigated on my behalf by Senior Constable Mark Grieve who produced a thorough report of a high standard. I received into evidence a number of written statements, transcripts of recorded statements and other reports and documents and heard oral evidence from a number of witnesses in addition to the written material.
5. Pursuant to section 34 of the *Coroners Act*, I am required to make the following findings:

“(1) A coroner investigating –

(a) a death shall, if possible, find –

(i) the identity of the deceased person;

- (ii) the time and place of death;
- (iii) the cause of death;
- (iv) the particulars needed to register the death under the Births, Deaths and Marriages Registration Act;
- (v) any relevant circumstances concerning the death.

6. Section 34(2) of the Act operates to extend my function as follows:

“A Coroner may comment on a matter, including public health or safety or the administration of justice, connected with the death or disaster being investigated.”

7. Additionally, I may make recommendations pursuant to section 35(1), (2) & (3):

“(1) A coroner may report to the Attorney-General on a death or disaster investigated by the coroner.

(2) A coroner may make recommendations to the Attorney-General on a matter, including public health or safety or the administration of justice connected with a death or disaster investigated by the coroner.

(3) A coroner shall report to the Commissioner of Police and Director of Public Prosecutions appointed under the Director of Public Prosecutions Act if the coroner believes that a crime may have been committed in connection with a death or disaster investigated by the coroner.”

FORMAL FINDINGS

8. On the basis of the evidence before me at the public inquest and pursuant to s 34 of the *Coroners Act* I make the following findings:

- (i) The identity of the deceased person is Briony Anne Goodsell.
- (ii) The time and place of death was approximately 5:30pm on 15 March 2009 at a feeder creek within the Black Jungle Conservation Reserve at Lambells Lagoon.

(iii) The cause of death is injuries from a crocodile attack. .

(iv) Particulars required to register the death:

1. The deceased was Briony Anne Goodsell.
2. The deceased was not of Aboriginal descent.
3. The death was reported to the Coroner.
4. The cause of death was confirmed by post mortem examination carried out by Dr Eric Donaldson.
5. The deceased's mother was Charlene O'Sullivan and her father was John Goodsell.
6. The deceased lived at Billabong Rd, Lambells Lagoon.
7. The deceased was a school student.

RELEVANT CIRCUMSTANCES SURROUNDING THE DEATH

9. On Sunday 15 March 2009 Briony Goodsell was playing at home with her younger sister Bethany and her friend Naomi Lang. As is usual for March in Darwin, there had been a substantial amount of rain over the weekend. At about 4:30pm the girls were joined by Aiden Lang. The four children went on bikes to a creek crossing they referred to as "Black Jungle" for a swim. It was in fact an area accessible to the public, immediately adjacent to the Lambells Lagoon access gate to the Black Jungle Conservation Reserve. The area where they entered the water is dry during the Dry Season. The children were accustomed to swimming in the creek when it filled with water during the wet season.
10. The Black Jungle Conservation Reserve is a 4000 hectare area situated east of Darwin and west of the Adelaide River, which forms part of the Adelaide River floodplain. It has been designated as a Reserve since 1986 and is

managed and controlled by the Northern Territory Parks and Wildlife Commission. The Reserve is part of the responsibility of the Chief District Ranger for the Arnhem Wetlands District, Barry Scott, who gave evidence before me. At each access gate at the time there was a sign indicating “Access by Permit Only”. Permits are granted for scientific research. Patrolling for and responding to reports of illegal entry into the Reserve are part of ranger responsibilities. The usual illegal entry is by hunters (in vehicles) or by “recreational” vehicle users who damage fences and gates to gain entry to the Reserve.

11. There was no reference on the sign to crocodile activity. Parks and Wildlife were certainly aware of crocodile activity in the wet season within the Reserve, which includes part of the Adelaide River floodplain. However, Barry Scott gave evidence, which I accept, that he (as the Chief Ranger responsible for the Reserve for the past 9 years) was not aware, either directly or indirectly, that people were swimming at or near the Reserve. The evidence from the Department was that the risk assessment carried out on Black Jungle Reserve led to the conclusion that the chance of interaction between crocodiles and people in Black Jungle Reserve was low, due to the fact that public access was prohibited, and that the Department did not know about the swimming.
12. After a short time on the public side of the fence the children decided to go further downstream to another similar crossing, located just inside the Reserve. This involved going through a wire boundary fence and walking a short distance along the creek bank to another creek crossing; this one with a deeper but less fast flowing pool of water. The water levels were high and the creek was flowing fast. All of the adults (police, rangers and neighbours) who saw the creek that afternoon said that they would not have gone into the water under those conditions due to the risk of drowning. However, children do not always appreciate the dangers that adults see, and as the Officer in Charge of the coronial investigation said:

“It was a wet rainy Sunday, the creek was in flood ...there were no dangers that they were aware of, so it was a day where they ventured down there to have a swim and have fun.”

13. The area where the crocodile took Briony was about 70 metres from the area where the children were first swimming. Although there was a considerable amount of evidence about the management of the Reserve, in reality this incident could equally have occurred in the public area as it did shortly downstream inside the boundary fence. There was nothing to stop the crocodile venturing a further 70 metres under the weather and water conditions of that afternoon.

Signage

14. Ms Charlene O’Sullivan, Briony’s mother, was of the opinion that the appearance of the gate combined with the wording of the sign (“Access by Permit Only”) in place at the time might give the impression to ordinary people that it was vehicles and/or hunting that were prohibited, but that entering on foot did not require a permit and/or that there were no particular dangers associated with doing so. With the exception of Mr Hintze, who was aware that crocodiles could be in the creek (despite this he also gave evidence that he had swum in the creek) the other residents of the area gave evidence that they either thought there were no crocodiles or had not turned their minds to the question of crocodiles.
15. Shortly after Briony’s death, the signage was changed. The entry signs now read “Public Access Prohibited”. There are symbols indicating some prohibited activities, including swimming. There are crocodile warning signs at all entry gates, and on the flood gates where the fence crosses waterways.
16. I accept the submission by the Department that it is simply not practical, nor possible, to place crocodile warning signs at every waterhole or waterway where the public might swim when there is sufficient water to do so. Yet the

evidence before this inquest confirmed my impression gleaned from media reports that crocodiles are increasingly present in what would be regarded as semi rural or even urban areas of Darwin. It is for this reason that the new public education campaign “CrocWise”, seeks to convey the message that if a waterway is not designated as safe for swimming, the public should assume that it may be inhabited by saltwater crocodiles and it is not safe to swim there. Despite its name, the saltwater crocodile can occur in almost any freshwater (or saltwater) body in the Top End of the Northern Territory.

Crocodile “Culling”

17. A view was expressed by Winston Anspach, part of Briony’s family, that crocodiles are “out of control” and “closer and closer to populated areas” and that we should reduce the numbers [by culling]. I understand that there are members of the public who share this view. I heard expert evidence from crocodile expert Professor Grahame Webb (by way of a written report) and Dr John Woinarski of the Biodiversity and Conservation Division of the Department. With respect to culling, both scientists explained that removing crocodiles from designated large areas is neither practical nor achievable. Dr Woinarski explained that (i) if crocodiles are removed from a particular area, other crocodiles will move in to inhabit that area each wet season; (ii) suggesting to the community that crocodiles have been ‘culled’ from a sizeable area may give a false sense of security; and (iii) reducing crocodile numbers to the point that they qualify again as a threatened species would be in contravention of Australian law. I accept this evidence.

The Saltwater Crocodile Management Plan

18. I had in evidence before me the *NT Management Program for the Saltwater Crocodile 2005-2010*, which was the plan in place at the time of Briony’s death, and I also had in evidence the 2009-2014 Plan which is the presently applicable plan. The Management Plan is prepared under the *Territory Parks and Wildlife Conservation Act* and prepared by the Biodiversity Division of

the Department. It is approved by the NT Administrator and the Australian Minister for the Environment as required by legislation.

19. Dr John Woinarski, Director of the Biodiversity Division of the Department explained in evidence that between 1945 and 1971 saltwater crocodiles were extensively hunted reducing their numbers to between 5000 and 10 000 in the Northern Territory at the time when hunting was controlled in 1971. Since then the population has increased back to almost “pre European settlement” levels. The population of saltwater crocodiles is now estimated at between 100 000 and 150 000. It was Dr Woinarski’s opinion that these numbers are now plateauing.
20. As well as being important as part of the ecosystem, the saltwater crocodile is a source of income to the NT in terms of the tourism industry and the commercial industry in export of skins and meat. The saltwater crocodile is listed in Appendix II of the Convention on International Trade in Endangered Species of wild fauna and flora. The effect of this is that international trade in crocodile products is not permitted without a management plan approved by the Australian government. The commercial trade I am told is worth about \$20 million annually to the NT. The Crocodile Management Plan is the required instrument to allow that international trade to take place.
21. The Plan in place at the time of Briony’s death devoted half a page to the issue of public safety, focusing only on problem crocodiles. This is not to suggest that no crocodile management activities were carried out prior to March 2009. Parks and Wildlife carried out a number of activities as described by Tom Nichols, the leader of the 3 man Crocodile Management Team within the Division (transcript p 24):

“We have traps set up which are in the management zone. They’re permanent traps [which are] checked and baited every week. We respond to call outs, maybe in other rural areas, could be on Aboriginal land, station land or in areas where people go fishing and

we respond to those particular sightingsdepending on the situation we may go out and harpoon those animals or we may set a trap.”

22. He and his team also engage regularly with the media and take part in public education activities with respect to crocodile safety.
23. The draft 2009-2014 Plan was amended after Briony’s death to place a greater focus on public safety, both in terms of the Objectives of the Plan and its content. I was told by the Executive Director of the Department, Mr Graham Phelps, about the new initiatives included in the present Plan. I was told (at transcript p 82) that: the crocodile management zone has been extended to the Darwin rural area and that there will be increased intensity of trapping, an increased surveillance of the receding water bodies as the dry season approaches, increased surveys on the Adelaide River, and the development of a monitoring program for the Darwin rural freshwater areas, and increased intelligence gathering about human as well as crocodile activities. The *Additional Increased public safety measures to be implemented in the Darwin Rural Area* are set out on page 30 of the Crocodile Management Plan prepared and approved by the NT government. Sections 4.4 – 4.6 of the Crocodile Management Plan set out all of the measures that the NT government indicates it will take to improve public safety, including the ones I have already referred to, and includes “Performance Indicators” related to those stated measures.
24. I heard evidence that funding had been approved for the purchase of 20 new traps (and those traps have been purchased), however funding was not approved to increase staff numbers to the crocodile management team who set, monitor, and check those traps as well as respond to calls from the public about crocodiles in those traps or damage to those traps. Funding has not been provided to commence the program to monitor crocodile populations in freshwater rural areas. It is obvious that if the rangers or

other personnel are expected to carry out more work over a larger area, more resources are required.

25. Even assuming that all of these initiatives are properly resourced and implemented, I would urge those reading these findings to heed the words of Mr Nichols, who has more than 20 years experience working with crocodiles in the Top End (transcript p 30):

“I don’t want to give anyone a false sense of security that you are able to swim in certain areas. You can only swim in designated areas and that’s all ... the crocs are going to be there in the wet season, there’s no doubt about that ... every year we are identifying new areaswe have had areas where we have always put traps and every year we are still identifying more.”

CONCLUSION

26. As a part of the Top End community, we must face the reality that dangerous, man eating animals live amongst us; not just “in the outback”, but in populated areas of Darwin. There is a balance to be achieved between the ethical and sustainable treatment of crocodiles and the safety of the public. In my view, as a community, we are entitled to expect that our government will give close attention to that balance and to ensuring that the balance does not tip too far away from public safety. The Department has responded proactively to this tragedy by implementing an education program. The current Crocodile Management Plan prepared and approved by the NT government promises the community that there will be increased attention to and efforts with regard to public safety around the Top End crocodile population. These initiatives must be resourced.

RECOMMENDATION

27. Pursuant to section 35(2) of the *Coroners Act* I make the following recommendation to the Attorney General concerning public health and safety.
28. I **recommend** that the increased public safety measures which are set out in detail at sections 4.4-4.6 of the *Management Program for the Saltwater Crocodile in the Northern Territory of Australia 2009 -2014* are resourced and implemented in accordance with that Program.

Dated this 13th day of April 2010.

GREG CAVANAGH
TERRITORY CORONER