



SYDNEY CORONERS COURT

Inquest: **Inquest into the deaths of Alan BLINN,
James ENGERT, Morgan INNES and
Simone MOORE**

File numbers: 522/07, 523/07/ 524/07/ 558/07

Hearing dates: 18 May – 12 June, 28 September – 2 October, 11-13, 16
November 2009

Date of findings: 23 February 2010

Place of findings: Sydney Coroners Court, Glebe

Findings of: Deputy State Coroner H.C.B. Dillon

Findings: I find that Dr Alan Blinn died on 28 March 2007 in Sydney Harbour off Dawes Point as a result of the combined effects of multiple injuries and drowning occasioned when the ferry *Pam Burridge* collided with the cruiser *Merinda*.

I find that Mr James Engert died on 28 March 2007 in Sydney Harbour off Dawes Point as a result of the combined effects of multiple injuries and drowning occasioned when the ferry *Pam Burridge* collided with the cruiser *Merinda*.

I find that Ms Morgan Innes died on 28 March 2007 in Sydney Harbour off Dawes Point as a result of the combined effects of multiple injuries and drowning occasioned when the ferry *Pam Burridge* collided with

the cruiser *Merinda*.

I find that Mrs Simone Moore died on 28 March 2007 in Sydney Harbour off Dawes Point as a result of the combined effects of multiple injuries and drowning occasioned when the ferry *Pam Burridge* collided with the cruiser *Merinda*.

Recommendations

To the Minister for Transport

1. I recommend that Sydney Ferries engage a specialist in “Human Factors” and “Safety Culture” to review its progress in developing a high-reliability, safety culture within the organisation.

2. I recommend, if such a review is conducted, that it engage both management and fleet crews in its considerations.

3. I recommend that Sydney Ferries consider instructing masters operating ferries to use other crew members as look-outs in the wheelhouse at night and in the transit zone and other busy parts of the Harbour unless other more urgent duties require them elsewhere on the vessel.

4. I recommend that NSW Maritime and Sydney Ports, in consultation with relevant Harbour users and representative bodies, consider how best to promote the practice of reporting unlit vessels to Harbour Control.

5. I recommend that, if it is technologically feasible and practicable, radio traffic generated by Sydney Ferries be recorded and archived for a suitable period.

6. I recommend that Sydney Ferries consider imposing a night speed limit on fast ferries regardless of whether NSW Maritime imposes such a limit.

To the Minister for Ports & Waterways

8. I recommend that Sydney Ports and NSW

Maritime, in consultation with relevant Harbour users, consider how best to promote the practice of reporting unlit vessels to Harbour Control.

9. I recommend that the Marine Safety legislation and regulations be amended so as to require that operators of registered or registrable recreational vessels – vessels powered by engines with a rating of 4 kilowatts (5 h.p.) or more; power-driven or sailing vessels 5.5 metres or longer; and vessels subject to mooring licences – be licensed. **Note:** the intention of this recommendation is to cover boats that are capable either of high speeds or of carrying significant numbers of passengers. If there is a better definition of such vessels, I recommend that it be pursued in the alternative to the above proposal.

10. I recommend that the requirements for obtaining a NSW boat licence be amended so as to include comprehensive practical training in accordance with national standards developed by the National Marine Safety Committee, involving a number of lessons, including a night training session, and culminating in an appropriate skills test as well as a theoretical test by NSW Maritime.

11. I recommend the inclusion in the *Boating Handbook* of a night lookout checklist.

12. I recommend that NSW Maritime liaise with other State maritime authorities through the National Marine Safety Committee concerning the issue of unlit vessels in busy waterways and request that they consider a unified national regulatory approach to the question whether boats of the relevant type (that is, boats which, if navigating at night would require fixed navigation lights to be illuminated) ought be required to have them fitted.

13. I recommend that NSW Maritime give consideration to requiring periodic checks of navigation lights for registered boats in NSW and to the optimal method of conducting such checks.

14. I recommend that NSW Maritime consider making the current “50 Point safety check” that it has developed with the Boating Industry Association compulsory on a suitable periodic basis to be

determined.

15. I recommend that NSW Maritime give consideration to starting a programme encouraging the fitting of radar reflectors and devices warning crews that navigation lights are not illuminated at night to vessels that carry side lights and mast head lights.

16. I recommend that NSW Maritime consider providing an online "complaints" section to its website to enable boat operators to report serious breaches of marine rules and legislation.

17. I recommend that NSW Maritime immediately reconsiders the Code of Conduct and redrafts such parts of it that require clarification. The North/South Rule is one such part.

18. I recommend that NSW Maritime give consideration to the optimal method of enforcing compliance with the Code of Conduct and implements that method.

19. I recommend that, insofar as it is able to without diminishing its effort elsewhere, NSW Maritime increases night-time patrols, especially during times of relatively high traffic.

20. I recommend that NSW Maritime give close consideration as to the best method(s) of enforcing speed limits within Sydney Cove.

21. I recommend that NSW Maritime give further and closer consideration to the desirability of imposing speed limits in Sydney Harbour and its tributaries such as the Parramatta River, or in certain areas of the Harbour and its tributaries and during hours of darkness and restricted visibility.

22. I recommend that the Minister commission a comprehensive risk assessment of high-speed vessel operations at night on Sydney Harbour.

To the National Marine Safety Committee

23. I recommend that the National Marine Safety Committee seeks, through the Australian Transport

Council or other appropriate avenues, to obtain agreement from State and Territory Maritime authorities regarding the implementation of national minimum standards for recreational boat licensing, including training and assessment in accordance with national principles and standards already developed.

To the Commissioner of Police

24. I recommend that, insofar as it is practicable to do so without diminishing its effort elsewhere, the NSW Police Force Marine Area Command increases night time patrols on Sydney Harbour, especially during times of relatively high traffic, with a view to detecting unlit vessels and enforcing marine legislation generally.

To the Royal Humane Society of New South Wales

25. I recommend that the Society consider conferring an appropriate award on Mr Matthew O'Grady and Mr Con Sakoulas for their efforts in saving lives of survivors of the *Merinda* and for their attempts to save the lives of those who lost their lives in the collision.

Counsel:

Mr M. Wigney SC (Senior Counsel Assisting with Ms P. Dwyer)

Mr R. Greenhill SC (representing Mr Bryde)

Mr M. Holmes QC (representing Sydney Ferries)

Mr D. Baran with Mr A. Macri (representing Mr Lynch)

Mr A. Casselden (representing Mr Carlow)

Mr M. Spartalis (representing NSW Police)

Solicitors:

Ms E. Sullivan and Ms C. Miller (Solicitors Assisting Coroner, Crown Solicitor's Office)

Mr N. Keats (WG McNally Jones Staff Lawyers representing Mr Bryde)

Mr M. Brookes (HWL Ebsworth Lawyers representing Sydney Ferries)

Mr K. Spencer (Spencer Whitby representing Mr Carlow)

Mr M. Schreuder and Ms S. Levy (Schreuder Partners representing Mr Lynch)

Ms C. Holt (Sparke Helmore Lawyers representing NSW Police)

Mr J.J. Wydell (Australian Maritime Officers Union)

Mr J.W. Wilson (NSW Maritime)

Ms A. Einfeld (representing Mr Moore and family)

Self-represented next of kin:

Mr R. Innes (for Innes family)