



IN THE CORONERS COURT
OF VICTORIA
AT MELBOURNE

COR 2021 005893

FINDING INTO DEATH FOLLOWING INQUEST

Form 37 Rule 63(1)

Section 67 of the Coroners Act 2008

Inquest into the Death of Patricia Backhurst

Delivered On: 13 December 2022

Delivered At: Coroners Court of Victoria
65 Kavanagh Street, Southbank VIC 3006

Hearing Dates: 9 December 2022

Findings of: Coroner Paul Lawrie

Counsel Assisting the Coroner: Lauren Bedgood, Senior Coroners' Solicitor

Representation: No appearances

Keywords: Missing person, Inverloch

I, CORONER PAUL LAWRIE,

having investigated the suspected death of PATRICIA BACKHURST,

and having held an inquest in relation to this suspected death at Southbank on 9 December 2022:

find that the identity of the person suspected to be deceased was PATRICIA BACKHURST born in England on 11 June 1939, aged 82 years,

and that the death occurred between 18 March 2021 and 23 March 2021

at an unascertained location.

from a cause which remains:

1(a): UNASCERTAINED

in the following summary of circumstances:

On Wednesday, 17 March 2021 at 5.23pm, Ms Backhurst was recorded on dashcam footage walking westbound on the left shoulder of the Inverloch-Venus Bay Road, towards the Inverloch township and her home. Ms Backhurst has not been seen again since that time. Ms Backhurst was last at her home at an unknown time after 10.30am on Thursday, 18 March 2021.

INTRODUCTION

1. On Friday 19 March 2021, Patricia Backhurst, known to her family as “Trish”, was 82 years old when she was reported as a missing person. At the time of her disappearance, Ms Backhurst lived alone at 34 Beilby Avenue, Inverloch, Victoria. The last known sighting of Ms Backhurst was on Wednesday, 17 March 2021.

PURPOSE OF A CORONIAL INVESTIGATION

2. The purpose of a coronial investigation of a reportable death, as defined by the *Coroners Act 2008* (the Act), is to ascertain, if possible, the identity of the deceased person, the medical cause of death, and the surrounding circumstances. Surrounding circumstances are

limited to events which are sufficiently proximate and causally related to the death. For coronial purposes, the definition of ‘death’ includes suspected deaths.

3. The purpose of a coronial investigation is to establish the facts, not to cast blame or determine criminal or civil liability.
4. Under the Act, coroners also have the important functions of helping to prevent deaths and promoting public health and safety and the administration of justice through the making of comments or recommendations in appropriate cases about any matter connected to the death under investigation.
5. This investigation was originally assigned to Coroner Sarah Gebert. Victoria Police assigned an officer to be the Coroner’s Investigator for the investigation of Ms Backhurst’s disappearance and suspected death. The Coroner’s Investigator conducted inquiries on Coroner Gebert’s behalf, including taking statements from witnesses – such as family and treating clinicians – and submitted a coronial brief of evidence.
6. I took carriage of this investigation in October 2022, for the purposes of finalising the inquest and finding.
7. This finding draws on the totality of the coronial investigation into the suspected death of Patricia Backhurst, including evidence contained in the coronial brief and evidence provided by the Coronial Investigator, Detective Leading Senior Constable Paul Burns (DLSC Burns), at the inquest. The brief will remain on the coronial file, together with the inquest transcript.
8. Whilst I have reviewed all the available material, I will only refer to that which is directly relevant to my findings or necessary for narrative clarity. In the coronial jurisdiction, facts must be established on the balance of probabilities.¹

¹ Subject to the principles enunciated in *Briginshaw v Briginshaw* (1938) 60 CLR 336. The effect of this and similar authorities is that coroners should not make adverse findings against, or comments about, individuals unless the evidence provides a comfortable level of satisfaction as to those matters taking into account the consequences of such findings or comments.

FOCUS OF THE CORONIAL INVESTIGATION AND INQUEST

9. On 3 November 2021, DLSC Burns requested a coronial investigation into the suspected death of Ms Backhurst. In support of this request, he submitted a summary of the circumstances of the disappearance and the suspected death of Ms Backhurst.
10. On 4 April 2022, having considered the request for a coronial investigation, Coroner Gebert requested DLSC Burns to prepare a coronial brief of evidence for her consideration.
11. The coronial investigation of a suspected death differs significantly from most other coronial investigations, which commence with the discovery of a deceased person's body or remains. The focus in those cases is on the identification of the body or remains, a forensic pathologist's examination and advice to the coroner about the medical cause of death, and the circumstances in which the death occurred.
12. Absent a body or remains, the coronial investigation focuses on the last sighting of the person suspected to be deceased; any subsequent contact with family, friends or authorities; and any evidence of proof of life since the last sighting. In such cases, the coronial investigation must first endeavour to establish, on the balance of probabilities, whether the person suspected to be deceased – is deceased. Such proof of death often relies on the absence of evidence that the person is alive, such as: physical searches for the person; a lack of contact with known friends, family or colleagues; a lack of banking or like activities; and the lack of an 'electronic footprint' that is usually evident with innumerable modern everyday activities. It also relies on other circumstantial evidence such as the prevailing environmental conditions and the individual attributes of the person suspected to be deceased, including their state of health.

BACKGROUND CIRCUMSTANCES

13. Ms Backhurst was born in England on 11 June 1939 and lived in Enfield, Middlesex during her early childhood.

14. After moving to Australia, Ms Backhurst married Lyle Smith in the mid-1990s and they lived together in Inverloch. Ms Backhurst did not have any biological children. Mr Smith had two adult children from a previous marriage, Adam Smith, and Karen Wallace.
15. Ms Backhurst and Mr Smith spent several years in Queensland before moving back to Inverloch to reside at 34 Beilby Avenue. Mr Smith was subsequently diagnosed with Alzheimer's and eventually moved into Seahaven Aged Care in Inverloch until he passed away in 2015.
16. On 6 February 2020, Ms Backhurst was assessed by geriatrician, Dr Brenton Tay, as having cognitive impairment indicating a diagnosis of dementia of Alzheimer's disease. Dr Tay went on to review Ms Backhurst on 4 June 2020 and 3 December 2020. Adam Smith and Karen Wallace attended with Ms Backhurst at each review. They both noted that, since her diagnosis, she had displayed a general decline in her memory, general hygiene, and her ability to care for herself.
17. Dr Tay made a referral to My Aged Care who then approved Ms Backhurst for a Level 4 home care package which included residential respite care and the option of permanent care. Karen Wallace, and Adam Smith tried to arrange the home care package for Ms Backhurst but Ms Backhurst would not agree to the proposed arrangements.
18. Despite her cognitive impairment, Ms Backhurst remained a keen walker – with a habit of walking daily or twice daily, and sometimes for long distances. She was physically very fit for her age. However, over the course the year prior to her disappearance, on several occasions Ms Backhurst became disorientated whilst out walking and had to be returned to her home by police or members of the public.
19. On 18 May 2020, Ms Backhurst went for a walk at 3.00pm² and became lost. Her family members contacted police at 6.00pm after she did not return home. Ms Backhurst was located by a member of the public near the Inverloch surf lifesaving club and returned to her home at 8.00pm.

² Times for the events of 18 May 2020 are approximate.

20. On 28 November 2020, Ms Backhurst was located by Victoria Police at 12.53pm walking along the Bass Highway between Inverloch and Wonthaggi approximately 9 kilometres from her home. Ms Backhurst told police she was walking home to Inverloch. She was however, walking in the wrong direction, towards Wonthaggi. Police returned her home. The initial conversation between Ms Backhurst and the police is recorded on a police body worn camera.
21. On 3 December 2020 Dr Tay reviewed Ms Backhurst for the last time and noted a progressive decline in her cognitive ability. Dr Tay advised Ms Backhurst to consider relocating to a residential aged care facility but she again declined. He noted that Ms Backhurst was fiercely independent and it was challenging to implement significant changes to her living arrangements. She continued to live independently at her home in Inverloch until her disappearance.
22. Ms Backhurst did however require assistance with day-to-day care. She was able only to prepare basic food for herself, such as sandwiches and packet soups, and to heat packaged meals. She did not use the washing machine, a mobile phone or computer. Ms Backhurst did not have a motor vehicle and had not driven in the two years preceding her disappearance due to her deteriorating health.
23. Ms Backhurst was supported by Mr Smith and Ms Wallace who, between them, visited her most days to deliver meals and to attend to her housework. They also assisted her by managing utility bills, finances, medication, and medical appointments.
24. Ms Backhurst was also supported by a friend, Norman Crichton, with whom she went on walks almost daily. Mr Crichton also assisted Ms Backhurst with odd jobs around her home.

THE CIRCUMSTANCES OF MS BACKHURST'S DISAPPEARANCE

25. At 8.50am on Wednesday 17 March 2021, Mr Crichton and Ms Backhurst went for a walk together from Ms Backhurst's home to the centre of Inverloch. As they were walking back, Mr Crichton advised Ms Backhurst that he would not see her the following morning

because he had a medical appointment. They then parted company at Grandview Grove to return to their respective homes.

26. At approximately 5.00pm that afternoon Ms Wallace attended Ms Backhurst's residence and noted that she was absent and her bed was unmade. Ms Wallace was not concerned as she assumed Ms Backhurst gone out for a walk.
27. At 5.23pm Ms Backhurst was recorded on a passing motorist's dashcam walking on the Inverloch – Venus Bay Road. Ms Backhurst appeared to be alone and was walking westbound on the left-hand shoulder of the road towards Inverloch and her home.
28. At approximately 10.30am on Thursday 18 March 2021, Mr Smith attended Ms Backhurst's residence to bring her some meals for freezing, biscuits, and bananas. Ms Backhurst was not at home but Mr Smith was not concerned as it was not unusual for her to be out during the morning. He noticed that Ms Backhurst's bed was unmade and there were plates on the sink.
29. At 9.10am on Friday 19 March 2021, Mr Crichton arrived at Ms Backhurst's residence to take her for a walk only to find she was not at home. Mr Crichton returned at 10.30am and left an Easter egg at her door with a note. He then drove around the local area for a short time, looking for Ms Backhurst, but was unable to find her.
30. At approximately 3.00pm that afternoon, Ms Wallace visited Ms Backhurst's residence and found the Easter egg and note on the doorstep. Ms Backhurst was not at home.
31. Mr Crichton returned to Ms Backhursts's residence at approximately 3.30pm, while Ms Wallace was still there. He advised Ms Wallace that he had not seen Ms Backhurst since Wednesday. Ms Wallace then contacted Mr Smith, who confirmed he also had not seen Ms Backhurst recently.
32. Ms Backhurst's bed had been made and the plates previously left on the sink had been washed and put in a rack. One of the packets of biscuits Mr Smith had placed in the pantry on the morning before had been opened. Apart from these signs of activity, attributed to Ms Backhurst, there was nothing suspicious or amiss about the premises.

33. Based on these observations, Ms Wallace and Mr Smith formed the belief that Ms Backhurst had been at home at some time after 10.30am on Thursday, 18 March. Mr Smith also observed that all the meals he had left the day before were still in the freezer. He was familiar with Ms Backhurst's daily routine and stated that she would always heat up one of these meals for dinner in the evening. Mr Smith concluded that Ms Backhurst had been at home at some time after his visit at 10.30am on Thursday, 18 March 2021 but had not returned that evening. I accept this conclusion.
34. Ms Wallace promptly contacted the police to report Ms Backhurst's disappearance.

THE MISSING PERSONS INVESTIGATION

35. From Friday, 19 March 2021 onwards, Victoria Police conducted an extensive investigation and search for Ms Backhurst. The police investigations of Ms Backhurst's disappearance focussed on various scenarios, including that she:
 - a) became lost and disoriented and wandered into a place where she became trapped or injured;
 - b) was struck by a vehicle whilst walking on a roadway;
 - c) voluntarily got into a vehicle after becoming lost and disorientated and had been taken away from the local area;
 - d) was removed from the local area by unknown persons.
36. Police searched Ms Backhurst's house, backyard and neighbouring properties, as well as the Inverloch township, Andersons Inlet, coastal beaches, Screw Creek Reserve and highways leading towards Wonthaggi, Cape Paterson, Leongatha and Tarwin Lower.
37. The search of Ms Backhurst's home did not reveal anything suspicious or lend any further insight as to the circumstances of her disappearance.

38. Police contacted local hospitals and the Coroners Court, monitored ambulance calls, and canvassed local motor vehicle repairers to see if any vehicles had been presented for repair which had damage that may be consistent with striking a pedestrian.
39. Between 19 March and 28 March 2021, land and air searches were conducted by Victoria Police, Surf Life Saving Victoria, the Country Fire Authority, the State Emergency Service, Parks Victoria, Bush Search and Rescue Victoria and other community volunteers. The search was co-ordinated by the Victoria Police Search and Rescue Squad and recorded with extensive GPS mapping.
40. Public appeals for information were made in print media, on television and radio news, on social media, and in printed letter drops. The investigation attracted significant public interest and a large amount of information was provided in response to public appeals. Inverloch Police followed up any information, with oversight from the Bass Coast Crime Investigation Unit (CIU).
41. A public appeal for dashcam footage led to a confirmed sighting of Ms Backhurst on a recording at 5.23pm on Wednesday 17 March 2021 on the Inverloch – Venus Bay Road. A search of this area was conducted by the Victoria Police mounted branch and SES volunteers, however nothing of significance was located.
42. The police investigation did not reveal any other known dashcam or CCTV footage of Ms Backhurst since this time.
43. Ms Backhurst did not own a mobile phone or have any bank cards. All her banking was done by Ms Wallace and Mr Smith on her behalf. Her bank accounts have not been accessed by anyone else since her disappearance and investigations focussed on her landline telephone have not produced anything of value to investigators.
44. A Victoria Police peer review, conducted on 26 March 2021 during the search operation, considered a report by Dr Paul Larkin (Captain RAN) and his opinion concerning the likelihood of Ms Backhurst's survival by that time. Dr Larkin's opinion was that, without food or shelter, Ms Backhurst was unlikely to have remained alive after 23 March 2021.

45. On 29 March 2021, the search area was considered by Victoria Police to have been extensively covered. The search co-ordination and further investigations were returned to local police and the Bass Coast CIU. Nothing further has been revealed to date.

THE INQUEST

46. The only witness called at Inquest was the Coroner's Investigator, DLSC Burns, to provide an overview of the investigation and to provide an update concerning the information available to police.

47. In summary, DLSC Burns' *viva voce* evidence dealt with the following aspects:

- a) further details concerning the search for Ms Backhurst and the efforts to gather information;
- b) that investigators had not received or discovered any further information of value; and
- c) his opinion that Ms Backhurst is deceased.

FINDINGS OF FACT

48. The standard of proof for coronial findings of fact is the civil standard of proof on the balance of probabilities, with the overlay of caution described in *Briginshaw*.³

49. It is self-evident that a finding that a person who has disappeared without trace, is deceased, is a serious matter with significant legal consequences that is not made lightly. It requires me to reach a comfortable level of satisfaction as to the findings of material facts based on the available evidence.

50. The last direct evidence of Ms Backhurst being alive is the dashcam video recorded on Wednesday 17 March 2021 at approximately 5.23pm. This recording shows Ms

³ *Briginshaw v Briginshaw* (1938) 60 CLR 336 at 362-363: 'The seriousness of an allegation made, the inherent unlikelihood of an occurrence of a given description, or the gravity of the consequences flowing from a particular finding, are considerations which must affect the answer to the question whether the issues had been proved to the reasonable satisfaction of the tribunal. In such matters "reasonable satisfaction" should not be produced by inexact proofs, indefinite testimony, or indirect inferences...'

Backhurst walking on the Inverloch – Venus Bay Road towards the Inverloch township and her residence.

51. Ms Backhurst has not been seen or heard from again by any member of her family or anyone who provided a statement for the coronial brief. There have been no credible sightings of Ms Backhurst since Wednesday, 17 March 2021.
52. It may be properly concluded that the activity evident at Ms Backhurst's home after the visit by Mr Smith at 10.30am on Thursday, 18 March 2021 was the result of Ms Backhurst's presence. Accordingly, I find that Ms Backhurst was at her home that day at some time after 10.30am.
53. There was however no sign of any expected evening activity in the house. Most notably, the prepared meals left by Mr Smith were untouched despite Ms Backhurst's apparently invariable habit of heating one of these for her evening meal.
54. Ms Backhurst's bank accounts have not been accessed by her since her disappearance. There has been no activity connected with a passport issued in her name and no access to public medical care that may be attributable to her.
55. An extensive search has been conducted involving multiple agencies, organisations and volunteers – but without any sign of Ms Backhurst. I am satisfied that Victoria Police have taken all appropriate steps to try to find Ms Backhurst.
56. I am satisfied that Ms Backhurst is now deceased.
57. Ms Backhurst most likely died between 10.30am on Thursday, 18 March 2021 and Tuesday, 23 March 2021, however the evidence does not enable me to make more specific findings as to the date or time of death.
58. Beyond the circumstances surrounding Ms Backhurst's disappearance, the available evidence does not enable me to make specific findings concerning the cause of death or the circumstances in which Ms Backhurst's death occurred.

STATUTORY FINDINGS

59. Having held an inquest into the death of Ms Backhurst and having applied the appropriate standard to the available evidence, I make the following findings, pursuant to section 67(1) of the *Coroners Act 2008* (Vic):
- a) The identity of the deceased is Patricia Backhurst, born 11 June 1939, of Inverloch, Victoria.
 - b) The cause of death is unascertained.
 - c) The deceased disappeared from her home at 34 Beilby Avenue, Inverloch after 10.30am on 18 March 2021 and died afterwards at an unknown location and at an unknown time between 18 March and 23 March 2021.
60. Pursuant to section 73(1) of the Act, this finding will be published on the Internet in accordance with the rules.
61. Pursuant to section 49(2) of the Act, I direct the Registrar of Births, Deaths and Marriages to record Ms Backhurst's death, and note her cause of death as "1(a) unascertained".

I convey my sincere condolences to Ms Backhurst's family for their loss.

I commend the efforts of all involved in the search for Ms Backhurst.

I direct that a copy of this finding be provided to the following:

Karen Wallace and Adam Smith, Senior Next of Kin

Detective Leading Senior Constable Paul Burns, Coroner's Investigator

Signature:



Coroner Paul Lawrie

Date: 13 December 2022



NOTE: Under section 83 of the *Coroners Act 2008* ('the Act'), a person with sufficient interest in an investigation may appeal to the Trial Division of the Supreme Court against the findings of a coroner in respect of a death after an inquest. An appeal must be made within 6 months after the day on which the determination is made, unless the Supreme Court grants leave to appeal out of time under section 86 of the Act.
