



IN THE CORONERS COURT
OF VICTORIA
AT MELBOURNE

COR 2024 005160

FINDING INTO DEATH WITHOUT INQUEST

Form 38 Rule 63(2)

*Section 67 of the **Coroners Act 2008***

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| Findings of: | Coroner Kate Despot |
| Deceased: | Francesco Fogliaro |
| Date of birth: | 10 May 1951 |
| Date of death: | 31 August 2024 |
| Cause of death: | 1a : Metastatic colon cancer |
| Place of death: | Northern Hospital Epping 185 Cooper Street Epping Victoria 3076 |
| Keywords: | In care, SDA resident, natural causes death, metastatic colon cancer |

INTRODUCTION

1. On 31 August 2024, Francesco Fogliaro (**Francesco**) was 73 years old when he died at the Northern Hospital. He is survived by his brother, Mr Domenico Fogliaro.
2. Francesco was born in Italy and moved to Australia in approximately 1955. His medical history included intellectual disability and epilepsy, amongst other conditions.
3. Francesco was in receipt of Disability Support for Older Australians. He was a Supported Disability Accommodation (**SDA**) resident in an SDA enrolled dwelling at 2 Sheoak Court, Meadow Heights Victoria 3048. He received Supported Independent Living services from Scope Australia.
4. Francesco enjoyed many things in life including barracking for the Carlton Football Club, golf, attending various parks, and spending time with family.

THE CORONIAL INVESTIGATION

5. Francesco's death was reported to the coroner as it fell within the definition of a reportable death in the *Coroners Act 2008* (**the Act**)¹. Reportable deaths include deaths that are unexpected, unnatural or violent or result from accident or injury. The death of a person in care or custody is a mandatory report to the coroner, even if the death appears to have been from natural causes. In this instance, Francesco was a "*person placed in custody or care*" pursuant to the definition in section 4 of the Act, as he was "*a prescribed person or a person belonging to a prescribed class of person*" due to his status as an "*SDA resident residing in an SDA enrolled dwelling*."²
6. The role of a coroner is to independently investigate reportable deaths to establish, if possible, identity, medical cause of death, and surrounding circumstances. Surrounding circumstances are limited to events which are sufficiently proximate and causally related to the death. The purpose of a coronial investigation is to establish the facts, not to cast blame or determine criminal or civil liability.

¹ Section 4(1), 4(2)(c) of the Act

² Pursuant to Reg 7(1)(d) of the Coroners Regulations 2019, a "prescribed person or a prescribed class of person" includes a person in Victoria who is an "SDA resident residing in an SDA enrolled dwelling", as defined in Reg 5.

7. Victoria Police assigned an officer to be the Coronial Investigator for the investigation of Francesco's death. The Coronial Investigator conducted inquiries on my behalf, including taking statements from witnesses and submitted a coronial brief of evidence.
8. This finding draws on the totality of the coronial investigation into the death of Francesco Fogliaro including evidence contained in the coronial brief. Whilst I have reviewed all the 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.³

MATTERS IN RELATION TO WHICH A FINDING MUST, IF POSSIBLE, BE MADE

Circumstances in which the death occurred

9. On 9 August 2024 at 6am, Scope staff located Francesco on the floor of his bedroom. He was alert and responsive but indicated that he was cold. Emergency services were called, and he was transported to the Northern Hospital.
10. Upon examination, Francesco was found to have a likely infection and microcytic anaemia. A CT scan was conducted with no new intracranial changes identified. He was treated with antibiotics and received a blood transfusion. On day two of his admission, a Code Blue was called for a seizure.
11. Francesco subsequently had an ultrasound and CT scan, which were highly suggestive of a metastatic colorectal cancer with liver and lung involvement. Given his underlying frailty, and following discussions between the oncology team, palliative care and Francesco's family, it was agreed that a palliative approach was most appropriate.
12. Francesco passed away peacefully with his family by his side on 31 August 2024.

Identity of the deceased

13. On 31 August 2024, Francesco Fogliaro, born 10 May 1951, was visually identified by his brother, Domenico Fogliaro.

³ 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.

14. Identity is not in dispute and requires no further investigation.

Medical cause of death

15. Forensic Pathologist Dr Paul Bedford from the Victorian Institute of Forensic Medicine conducted an external examination on 2 September 2024 and provided a written report of his findings dated 5 September 2024.
16. The post-mortem examination revealed a caecal cancer with metastases to the liver and lungs. No significant traumatic injuries were identified. Toxicological analysis was not recommended.
17. Dr Bedford provided an opinion that the medical cause of death was 1(a) Metastatic colon cancer. He considered that the death was due to natural causes.
18. I accept Dr Bedford's opinion.

FINDINGS AND CONCLUSION

19. Pursuant to section 67(1) of the *Coroners Act 2008* I make the following findings:
- a) the identity of the deceased was Francesco Fogliaro, born 10 May 1951;
 - b) his death occurred on 31 August 2024 at Northern Hospital Epping 185 Cooper Street Epping Victoria 3076, from natural causes, namely, metastatic colon cancer; and
 - c) his death occurred in the circumstances described above.
20. I note that section 52 of the Act requires that an inquest be held, except in circumstances where the death was due to natural causes. I am satisfied that Francesco died from natural causes, and I have exercised my discretion under section 52(3A) of the Act not to hold an inquest into his death.

I convey my sincere condolences to Francesco's family, carers and loved ones for their loss.

Pursuant to section 73(1B) of the Act, I order that this finding be published on the Coroners Court of Victoria website in accordance with the rules.

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

Domenico Fogliaro, Senior Next of Kin

Naomi Baquing, Scope Australia

Senior Constable Spencer Hack, Coronial Investigator

Signature:



Coroner Kate Despot

Date: 12 May 2025

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 investigation. 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.
