



IN THE CORONERS COURT
OF VICTORIA
AT MELBOURNE

COR 2023 000634

FINDING INTO DEATH WITHOUT INQUEST

Form 38 Rule 63(2)

Section 67 of the Coroners Act 2008

Findings of:	Coroner John Olle
Deceased:	Hung Quang Nguyen
Date of birth:	21 October 1976
Date of death:	2 February 2023
Cause of death:	1(a) injuries sustained in a motorcycle incident (rider)
Place of death:	Western Ring Road, Keilor Park Drive Exit (east bound), Keilor Park, Victoria, 3042

INTRODUCTION

1. On 2 February 2023, Hung Quang Nguyen was 46 years old when he died following injuries sustained in a motor vehicle accident. At the time of the collision, Hung was driving his 011 Honda CBR250 motorcycle of registration 1D1PE (**the motorcycle**). At the time of his death, Hung lived at 44 Cole Street, Braybrook, Victoria 3019 with his wife, Hanh Lam, and three children.

THE CORONIAL INVESTIGATION

2. Hung's death was reported to the Coroner as it fell within the definition of a reportable death in the *Coroners Act 2008* (**the Act**). Reportable deaths include deaths that are unexpected, unnatural or violent or result from accident or injury.
3. 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.
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. Victoria Police assigned Leading Senior Constable Christopher Ford to be the Coroner's Investigator for the investigation of Hung's death. The Coroner's Investigator conducted inquiries on my behalf, including taking statements from witnesses – such as family, the forensic pathologist, treating clinicians and investigating officers – and submitted a coronial brief of evidence.
6. This finding draws on the totality of the coronial investigation into the death of Hung Quang Nguyen 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.¹

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

Circumstances in which the death occurred

Hung's personal background

7. Hung was born on 21 October 1976 in Vietnam. He came to Australia when he was around eight or nine years old. He lived in Sydney, London and Cairns for several years and then moved to Melbourne, where he lived for about 14 to 15 years.
8. He married Hanh Lam in around 2013 and they had three children together. In September 2022, Hung and Hanh purchased a café together, named Café 747, situated at 85-91 Keilor Park Drive, Tullamarine. At the café, Hung worked as a barista and Hanh worked occasionally as a chef. They operated the café together.
9. Hanh described Hung as being an experienced driver, with at least 15 years of riding experience. Hung's motorcycle was his main form of transport. He had no medical issues and was not taking any medication at the time of his death.

Events proximate to Hung's death

10. On 2 February 2023 at approximately 4:30am, Hung left his house on his motorcycle, to go to work at Café 747. He was wearing an approved motorcycle helmet fitted with a tinted visor, alongside gloves and boots, but no other protective clothing. He drove along a route with which he was familiar, having frequently driven to work via that same route.
11. On the same morning, a truck driver employed by MNJ Rix Transport Company was driving a DAF prime mover with registration XV69YT, which was towing a tri-axle semi-trailer with registration 46691S (**the truck**). The truck driver was heading to work at the time. Weather conditions at the time were reported to be fine and dry, and the road appeared to be dry.

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.

12. At approximately 4:45am, the truck driver had exited the Western Ring Road freeway and was travelling north along the off ramp to the Keilor Park Drive intersection. He was driving in the right of the two left turn lanes, travelling at approximately 34km/h.
13. Hung was driving on the Western Ring Road freeway at this time and exited onto Keilor Park Drive, behind the truck. As the truck approached the intersection on Keilor Park Drive, Hung attempted to overtake the truck on the right side. However, it appeared that Hung had insufficient space to do so, due to the traffic island that was coming up ahead. Hung 'dropped' the motorcycle and commenced sliding on the road, possibly to avoid a collision with the trailer of the truck. At the commencement of the sliding on the road, the motorcycle was likely travelling between approximately 24 to 31km/h.
14. After falling off the motorcycle, Hung was driven over by the rear driver-side wheels of the trailer and sustained fatal injuries. There is no evidence of the motorcycle contacting the truck or trailer.
15. At this point, the truck driver heard what he described to sound like hard plastic falling onto the ground. He checked his mirrors and saw, in his right side mirror, a motorcycle and rider on the ground.
16. The truck driver stopped the truck and put the emergency brake and hazard lights on. He turned off the engine and got out of the truck to check on the rider. Upon seeing Hung, he noticed that Hung was not moving. The truck driver dialled 000 and informed them of the incident.
17. At approximately 4:57am Ambulance Victoria paramedics arrived, followed by Victorian Police officers shortly thereafter. The truck driver underwent a breath test at the scene, the results of which were negative.
18. Sadly, Hung was declared deceased at the scene.
19. The truck driver's dash camera footage was also provided. Upon perusal of the footage, it became clear that at no time was Hung or the motorcycle visible in the footage, and therefore it could be reasonably concluded that at no time was Hung or the motorcycle in front of the truck.
20. Victoria Police conducted an investigation on my behalf. Leading Senior Constable Ford was of the opinion that, despite knowing the area well from his frequent work commute, Hung

seemed to have misjudged the available distance to get in front of the truck and due to the impending contract with the solid traffic island, he ‘dropped’ the motorcycle. I accept and adopt this conclusion, and conclude that there was no liability on the part of the truck driver for the tragic collision.

21. Leading Senior Constable Ford also described that, despite the presence of streetlights in the area, it is a possibility that the overall dark conditions could have affected Hung’s perception of the road and layout. Further, the painted island preceding the grass traffic island was partially faded and the shape of the traffic island, which curved to the right, may have also affected the Hung’s distance perception. Leading Senior Constable Ford further opined that: ‘a repainting of the traffic island, replacement of the cats eyes or the addition of chevron or similar warning signs could make the start of the traffic island more visible to approaching motorists.’ I accept and adopt Leading Senior Constable Ford’s opinions in this regard.

Identity of the deceased

22. On 8 February 2023, Hung Quang Nguyen, born 21 October 1976, was identified via DNA comparison.

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

Medical cause of death

24. Forensic Pathologist Dr Joanna Moira Glengarry from the Victorian Institute of Forensic Medicine (VIFM) conducted an examination on 3 February 2023 and provided a written report of her findings dated 6 February 2023.

25. The post-mortem examination showed injuries consistent with the reported circumstances.

26. Toxicological analysis of post-mortem samples did not identify the presence of any alcohol or any common drugs or poisons.

27. Dr Glengarry provided an opinion that the medical cause of death was 1 (a) injuries sustained in a motorcycle incident (rider).

28. I accept Dr Glengarry’s opinion.

FINDINGS AND CONCLUSION

29. Pursuant to section 67(1) of the *Coroners Act 2008* I make the following findings:

- a. the identity of the deceased was Hung Quang Nguyen, born 21 October 1976;
- b. the death occurred on 2 February 2023 at Western Ring Road, Keilor Park Drive Exit (east bound), Keilor Park, Victoria, 3042, from injuries sustained in a motorcycle incident (rider); and
- c. the death occurred in the circumstances described above.

RECOMMENDATIONS

30. During the coronial investigation, I provided the Victorian Department of Transport an opportunity to make submissions in response to recommendations I proposed to make in this matter. The Court did not receive any such response within the requested time frame.²

31. Pursuant to section 72(2) of the Act, I make the following recommendations:

- (i) That the Victorian Department of Transport take steps to make the start of the traffic island at the Western Ring Road, Keilor Park Drive Exit more visible to motorists, by implementing one or multiple of the following:
 - a. Repainting the traffic island;
 - b. Replacement of the cats eyes; and
 - c. The addition of chevron or similar warning signs to indicate ‘TRAFFIC ISLAND AHEAD’.

² I note that, pursuant to s 72(3) of the Act, the Department of Transport have three months to respond in writing following receipt of this Finding.

Pursuant to section 73(1) of the Act, this finding will be published on the Internet in accordance with the rules.

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

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

Hanh Lam, Senior Next of Kin

The Hon. Jacinta Allan MP, Minister for Transport and Infrastructure

Leading Senior Constable Christopher Ford, Coroner's Investigator

Signature:



Coroner John Olle

Date: 9 November 2023

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.
