



IN THE CORONERS COURT
OF VICTORIA
AT MELBOURNE

COR 2024 007370

FINDING INTO DEATH WITHOUT INQUEST

Form 38 Rule 63(2)

Section 67 of the Coroners Act 2008

Findings of:	Coroner Simon McGregor
Deceased:	Kwok Wah Yau
Date of birth:	1 September 1962
Date of death:	20 December 2024
Cause of death:	1a : MULTIPLE INJURIES SUSTAINED IN A MOTOR VEHICLE INCIDENT (CAR VS. CAR, REAR PASSENGER)
Place of death:	Cape Otway Road Moriac Victoria 3240
Keywords:	Motor vehicle accident;

INTRODUCTION

1. On 20 December 2024, Kwok Wah Yau was 62 years old died in a motor vehicle accident. At the time of his death, Kwok Wah lived temporarily at Unit 1203, 387 Docklands Drive, Docklands, Victoria 3008 with his two daughters, Natalia Yau and Sheung Yau.
2. At the time of the fatal incident, Kwok Wah had travelled from Hong Kong with his wife, Fung Yu Cheung, to visit his two daughters in Australia.
3. Sheung Yau had rented a 2023 Mazda CX-5 to drive her family around regional Victoria and held a full Victorian driver's license.

THE CORONIAL INVESTIGATION

4. Kwok Wah'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.
5. 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.
6. 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.
7. Victoria Police assigned Sergeant Corinne Rabaut to be the Coronial Investigator for the investigation of Kwok Wah's death. The Coronial 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.
8. This finding draws on the totality of the coronial investigation into the death of Kwok Wah Yau 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

9. In considering the issues associated with this finding, I have been mindful of Kwok Wah's human rights to dignity and wellbeing, as espoused in the *Charter of Human Rights and Responsibilities Act 2006*, in particular sections 8, 9 and 10.

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

Circumstances in which the death occurred

10. On 20 December 2024, at around 11:30 am, Sheung Yau was driving the family along Cape Otway Road in Mount Moriac heading north-east bound towards the intersection of Cape Otway Road and the Princes Highway. Sheung was driving the rental 2023 Mazda CX-5.
11. As Sheung approached the intersection of Cape Otway Road and the Princes Highway, she crossed over the west bound lanes of the Princes Highway and stopped in the centre median prior to entry across the east bound lanes towards Devon Road.
12. According to witness accounts, Sheung's vehicle drove across the east bound lanes of Princes Highway and was impacted by a Toyota Landcruiser wagon travelling east along the Princes Highway.² The Toyota Landcruiser was driven by Rex Mathieson.
13. Information extracted from the Toyota vehicle by police collision investigators indicates that just prior to the impact, the Toyota vehicle had applied brakes approximately 0.85 seconds prior to impact. Evidence from the scene and assessment of both Mazda and Toyota vehicles indicates that the Toyota vehicle impacted the rear passenger side of the Mazda vehicle and this has caused the Mazda vehicle to enter an anticlockwise rotation after the impact and mount the traffic island north of the intersection before coming to a rest.³
14. Multiple witnesses nearby the accident contacted emergency services and attempted to render assistance at the scene. Victoria Police members arrived at the collision scene at around 11.35 am. Attending police members and a nearby off-duty nurse rendered assistance and attempted

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.

² *Coronial Brief*, Statements of Jordan Payne, William Wang, Yong Beh, Jeannette Hall and Christian Lucy.

³ *Coronial Brief*, Statements of Jordan Payne, William Wang, Yong Beh, Jeannette Hall and Christian Lucy and Major Collision Investigation Unit Report dated 9 January 2025.

resuscitation. Ambulance Paramedics arrived at around 11:44 am and took over resuscitation attempts.⁴

15. Unfortunately, Kwok Yau was declared deceased shortly after the Paramedics attended. attendance. Sheung and Natalie sustained minor injuries, Fung Yu Cheung had serious injuries, all three were treated by attending paramedics and then transported to a nearby Hospital.⁵ Mr Mathieson appeared to have minor injuries and tested negative for drugs and alcohol. Sheung was also tested for drugs and alcohol and returned negative results.
16. A Victoria Police collision reconstruction specialist, Detective Senior Constable Yuxing Zhao, reviewed the available evidence and noted that:⁶
 - i. Mr Mathieson held a full Victorian driver's license (Heavy vehicle) and his Toyota vehicle was registered at the time of the fatal collision;
 - ii. Both the Toyota and Mazda vehicles were mechanically inspected and no issues were noted;
 - iii. The road conditions were dry and visibility was good, the speed limit on the relevant section of the road was 100km/h but 70 km/h if warning lights along Princes Highway are activated (these lights are located 300 metres from the Princes Highway and Cape Otway Road/Devon Road);
 - iv. There are warning lights located approximately 300 metres from the intersection of Princes Highway and Cape Otway/Devon Road that activate upon traffic approaching from Cape Otway Road, the signs indicate a temporary change in speed conditions and to slow down to 70 km/h it is unclear from the witness statements⁷ and data collected from VicRoads whether the lights were activated at the time of the collision;
 - v. Electronic data extracted from the Mazda vehicle indicated the estimated speed at impact was 33 km/h; and
 - vi. Electronic data extracted from the Toyota vehicle indicated the vehicle had cruise control activated at 106 km/h approximately 4.85 seconds before the collision, approximately 0.85 second prior to impact, the brakes were applied and the registered

⁴ *Coronial Brief*, Statement of Acting Sergeant Paul Barker.

⁵ *Ibid.*

⁶ *Coronial Brief*, Major Collision Investigation Unit Report dated 9 January 2025.

⁷ *Coronial Brief*, Statements of Jordan Payne, William Wang, Yong Beh and Rex Mathieson.

speed was 79 km/h. Considering 4% recording error and 5% of wheel slip in ABS braking, the impact speed of the Toyota vehicle was estimated to be between 79 and 86 km/h.

17. Detective Senior Constable Zhao formed the opinion that “*the Mazda was travelling north along Cape Otway Road towards its intersection with Princes Highway. The Mazda came to a complete stop at the intersection with westbound Princes Highway before crossing the westbound carriageway and entering the median crossover. The Mazda failed to stop at the stop sign in the median crossover and entered eastbound Princes Highway where it was impacted by the Toyota travelling east. At impact, the Mazda was travelling at 33 km/h. the Toyota was travelling on cruise control at 106 km/h when it approached the intersection.*”⁸
18. Sheung Yau was interviewed by police members and was initially charged with dangerous driving causing death and was bailed to appear before the Geelong Magistrates Court. On 4 November 2024, Sheung Yau was found guilty of careless driving without conviction and fined \$2000.⁹
19. VicRoads provided a speed sign activation report that records all the activations of the 70 km/h signs near the intersection of Cape Otway Road and Princes Highway.¹⁰ Whilst the data shows activations between 11:28 am and 11:29 am, there is no corroborating evidence from witnesses at the collision scene following the Toyota vehicle that these lights were activated, and one of them recalled other occasions when the lights did not activate.¹¹ For this reason, no adverse comment is made about Mr Mathieson’s driving.

Identity of the deceased

20. On 23 December 2024, Kwok Wah Yau, born 01 September 1962, was visually identified by their daughter, Cheuk Yin Natalie Yau.
21. Identity is not in dispute and requires no further investigation.

⁸ Ibid.

⁹ *Coronial Brief*, Court Extract from the Geelong Magistrates Court.

¹⁰ *Coronial Brief*, Exhibit 12- VicRoads speed sign activation report.

¹¹ *Coronial Brief*, Statements of Jordan Payne, William Wang, Yong Beh and Rex Mathieson.

Medical cause of death

22. Senior Forensic Pathologist Dr Hans de Boer from the Victorian Institute of Forensic Medicine (VIFM) conducted an external examination on 23 December 2024 and provided a written report of his findings dated 24 December 2024.
23. The post-mortem examination revealed the following:
 - i. The findings at external examination and from a full body post-mortem CT scan were consistent with the reported circumstances; and
 - ii. There was evidence of severe blunt force trauma to the head, chest and abdomen. These injuries are sufficient to explain the death in absence of any further contributing factors.
24. Toxicological analysis of post-mortem samples did not identify the presence of any alcohol or other common drugs or poisons.
25. Dr de Boer provided an opinion that the medical cause of death was 1(a) MULTIPLE INJURIES SUSTAINED IN A MOTOR VEHICLE INCIDENT (CAR VS. CAR, REAR PASSENGER), I accept his opinion.

FINDINGS AND CONCLUSION

26. The standard of proof for coronial findings of fact is the civil standard of proof on the balance of probabilities, with the *Briginshaw* gloss or explications.¹² Adverse findings or comments against individuals in their professional capacity, or against institutions, are not to be made with the benefit of hindsight but only on the basis of what was known or should reasonably have been known or done at the time, and only where the evidence supports a finding that they departed materially from the standards of their profession and, in so doing, caused or contributed to the death under investigation.
27. Pursuant to section 67(1) of the *Coroners Act 2008* I make the following findings:
 - i. the identity of the deceased was Kwok Wah Yau, born 1 September 1962;

¹² *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...’.

- ii. the death occurred on 20 December 2024 at Cape Otway Road, Moriac, Victoria, 3240, from 1(a) MULTIPLE INJURIES SUSTAINED IN A MOTOR VEHICLE INCIDENT (CAR VS. CAR, REAR PASSENGER); and
 - iii. the death occurred in the circumstances described above.
28. After careful review of all the available evidence, I find that Kwok Wah's death was the tragic consequences of Sheung Wan failing to give way to vehicles travelling east bound along Princes Highway.

RECOMMENDATION

29. Pursuant to section 72(2) of the Act, I make the following recommendation:
- i. That VicRoads conduct a review into the 70 km/h signage located near the intersection of Cape Otway Road/Devon Road and Princes Highway to ensure that the signs and detection devices are activating as required to warn west and east bound lanes of traffic to speed variations approaching the relevant intersection along Princes Highway.
30. I convey my sincere condolences to Kwok Wah's family for their loss.
31. Pursuant to section 73(1A) of the Act, I order that this finding be published on the Coroners Court of Victoria website in accordance with the rules.
32. I direct that a copy of this finding be provided to the following:

Fung-Yu Cheung, Senior Next of Kin

VicRoads

Department of Transport

Sergeant Corinne Rabaut, Coronial Investigator

Signature:



Coroner Simon McGregor

Date: 16 March 2026

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.
