



IN THE CORONERS COURT  
OF VICTORIA  
AT MELBOURNE

**COR 2023 002255**

**FINDING INTO DEATH WITHOUT INQUEST**

*Form 38 Rule 63(2)*

*Section 67 of the Coroners Act 2008*

Findings of:	Coroner Simon McGregor
Deceased:	Yong Li
Date of birth:	20 March 1964
Date of death:	30 April 2023
Cause of death:	1(a) Consistent with drowning
Place of death:	Sorrento Ocean Beach, Sorrento, Victoria, 3943
Keywords:	Drowning, Attempted Rescue, Sorrento Ocean Beach

## INTRODUCTION

1. On 30 April 2023, Yong Li was 59 years old when he drowned at the Sorrento Back Beach. At the time of his death, Yong was on a planned two-year trip around Australia in a campervan with his wife, Zhangsheng Chen.<sup>1</sup>
2. Yong Li was a Chinese national who ordinarily resided in China with his wife. He is survived by an adult daughter from a previous marriage, who also resides in China. Yong Li was semi-retired from his occupation as an insurance salesman. His family described him as a very optimistic person who enjoyed outdoor activities, which was one of the reasons for his trip to Australia.<sup>2</sup>
3. Yong Li did not have any known medical or mental health issues, and maintained average fitness by playing badminton. Zhangsheng described Yong as a very good swimmer, who regularly swam for 30 minutes at a time in a river back in China.<sup>3</sup>

## THE CORONIAL INVESTIGATION

4. Yong'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 an officer to be the Coroner's Investigator for the investigation of Yong's death. The Coroner's Investigator conducted inquiries on my behalf, including taking

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<sup>1</sup> Statement of Zhangsheng Chen, Coronial Brief, p.19.

<sup>2</sup> Ibid.

<sup>3</sup> Ibid.

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 Yong Li 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.<sup>4</sup>
9. In considering the issues associated with this finding, I have been mindful of Yong Li'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, pursuant to section 67(1)(c) of the Act**

10. Sorrento Back Beach lies at the end of Ocean Road Beach, 1.5 km south of Sorrento. The back beach is only patrolled during peak seasonal times.<sup>5</sup> It is classified as having a general hazard rating of 6/10, meaning 'moderately hazardous' by beachsafe.org.au.<sup>6</sup> There are two large warning signs in the car park area of Sorrento Back Beach. One of the signs is within a few metres of the footpath used to walk down and gain access to the beach. These signs are in English only, but have large graphic diagrams warning about the dangerous conditions at the beach which include: Strong Currents, Slippery Rocks, High Surf, Submerged Rocks, Deep Water and Unstable Cliffs.<sup>7</sup>
11. Zhangsheng stated that Yong was familiar with the back beach and its surrounds as he had snorkelled and fished for abalone there approximately 40 to 50 times over a four- or five-year period when they had previously resided in Australia.<sup>8</sup>
12. At approximately midday on Saturday 29 April 2023, Yong and Zhangsheng attended Sorrento Back Beach in their campervan and met with friends Jianhua Zhou, Wei Wu, and

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<sup>4</sup> 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.

<sup>5</sup> See The Guardian Newspaper Online 'You really do feel responsible: the residents trying to prevent drownings on Victoria's surf beaches' (8 April 2023), Coronial Brief, p.101.

<sup>6</sup> Beachsafe entry for *Sorrento Ocean (Back)*, <https://beachsafe.org.au/beach/vic/mornington-peninsula/sorrento/sorrento-ocean-back>, Coronial Brief, p.106.

<sup>7</sup> Photographs 5 and 6, Coronial Brief, p.78.

<sup>8</sup> Statement of Zhangsheng Chen, Coronial Brief, p.19.

Wei Wu's wife with the intention of going snorkelling and abalone fishing. Yong and Jianhua went into the water and snorkelled for abalone for a time without incident.

13. The next day, Sunday 30 April 2023, at approximately 11:00am, Yong and Zhangsheng arrived back at the Sorrento Back Beach and parked their campervan in the car park at the top of the beach. Jianhua Zhou met the couple at the beach and he and Yong again went into the water and snorkelled for abalone. Zhangsheng went hiking with friends.<sup>9</sup>
14. Zhangsheng acknowledged that she was not a swimmer or expert in observing swimming conditions, but described the weather at the time of their arrival as very sunny, with no wind, and the water looking calm and with not many waves.<sup>10</sup> Mr Marc Masci, a local surfer, diver and witness to these events, described the conditions on this day as 'unmanageable for most people, with large swells on an incoming tide and close to zero visibility diving conditions'.<sup>11</sup> The Sorrento Life Saving Club was closed on this day. No lifeguards were patrolling the beach and no flags were posted to indicate a safe area to swim in.<sup>12</sup>
15. Around this time there were approximately eight people in the water snorkelling and scuba diving 100 metres southeast offshore around a large, exposed rock which is surrounded by a rock ledge and rock pools, including witnesses Fenglong Wang, Peter See and Jenny Gao.<sup>13</sup> Mr See gave evidence that at around midday, he and Ms Gao decided to come out of the water as the 'current was too strong and dangerous for us to continue snorkelling'.<sup>14</sup>
16. At approximately 12:30pm, Mr See, who was by then sitting on the beach, observed Yong Li approximately 15 metres from shore, walking in waist-deep water towards the shore. A few minutes later, Mr See observed Yong bending over as if to remove a flipper. As he did this, Yong rolled over into the water and, floating on his back, began to get pulled out to sea by the strong current.<sup>15</sup> Mr See yelled out to alert Jianhua Zhou.<sup>16</sup> Jianhua swam after Yong, managing to catch up to him approximately 30 metres from shore, near a rock ledge.
17. Fenglong Wang, a scuba diver who had been nearby and was sitting on the rock ledge, pulled Yong Li onto the rock ledge with the assistance of Jianhua, who was still in the water. Jianhua

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<sup>9</sup> Statement of Zhangsheng Chen, Coronial Brief, p.20.

<sup>10</sup> Statement of Zhangsheng Chen, Coronial Brief, p.20.

<sup>11</sup> Statement of Marc Masci, Coronial Brief, p.25.

<sup>12</sup> Statement of Marc Masci, Coronial Brief, p.26.

<sup>13</sup> Statement of Fenglong Wang, Coronial Brief, p.44.

<sup>14</sup> Statement of Peter See, Coronial Brief, p.36.

<sup>15</sup> See aerial photograph 8, Coronial Brief, p.79.

<sup>16</sup> Statement of Peter See, Coronial Brief, p.37.

commenced cardiopulmonary resuscitation (CPR), but Yong was unresponsive and not breathing.<sup>17</sup>

18. After a few minutes, Mr Masci, arrived at the rock ledge with his surfboard and took over CPR, but Yong remained unresponsive. Mr Masci, a trained first aider, made the decision to transport the unconscious Yong back to the beach on the surfboard due to worsening conditions and the lack of access for emergency services. With great difficulty and laudable persistence, Mr Masci floated Yong back to shore on the surfboard with the assistance of another diver. CPR was continued when Yong was back on the beach.<sup>18</sup>
19. At 12:57pm, Ambulance Victoria members arrived on scene and took over resuscitation efforts, but sadly Yong Li was unable to be revived and was formally declared deceased.<sup>19</sup>

#### **Identity of the deceased, pursuant to section 67(1)(a) of the Act**

20. On 30 April 2023, Yong Li, born 20 March 1964, was visually identified by his friend Jianhua Zhou.
21. Identity is not in dispute and requires no further investigation.

#### **Medical cause of death, pursuant to section 67(1)(b) of the Act**

22. Forensic Pathologist Dr Joanne Ho from the Victorian Institute of Forensic Medicine conducted an external examination on 1 May 2023 and provided a written report her findings dated 5 May 2023.
23. The post-mortem examination revealed no signs of injury.
24. A post-mortem computed tomography (CT) scan showed no intracranial haemorrhage or skull fracture, no scalp haematoma, and no acute skeletal trauma.
25. Toxicological analysis of post-mortem blood samples did not identify the presence of alcohol or any common drugs or poisons.
26. Dr Ho provided an opinion that, given the clinical circumstances and post-mortem CT findings, a reasonable medical cause of death was 1(a) consistent with drowning.

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<sup>17</sup> Statement of Fenglong Wang, Coronial Brief, p.45

<sup>18</sup> Statement of Marc Masci, Coronial brief, pp.26-27

<sup>19</sup> Statement of Benjamin Phibbs, Coronial brief, pp.56-57.

27. I accept Dr Ho's opinion.

## **FINDINGS AND CONCLUSION**

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

- a) the identity of the deceased was Yong Li, born 20 March 1964;
- b) the death occurred on 30 April 2023 at Sorrento Ocean Beach, Sorrento, Victoria, 3943, with the cause of death consistent with drowning; and
- c) the death occurred in the circumstances described above.

29. Having considered all of the circumstances, I am satisfied that Yong Li accidentally drowned, most likely as a result of being overpowered by the strong water movement and unexpectedly treacherous surf conditions.

I convey my sincere condolences to Yong's family 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:

**Zhangsheng Chen, Senior Next of Kin**

**Constable Andrew Irwin, Coroner's Investigator**

Signature:



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Coroner Simon McGregor

Date : 15 August 2024

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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.

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