



FINDING OF INQUEST

An Inquest taken on behalf of our Sovereign Lady the Queen at Adelaide in the State of South Australia, on the 9th day of February 2022 and the 1st day of March 2022, by the Coroner's Court of the said State, constituted of Anthony Ernest Schapel, Deputy State Coroner, into the death of Mario Della Torre.

The said Court finds that Mario Della Torre aged 54 years, late of Yaringa Hostel, Block J, Room 17, Whyalla died on or after the 18th of October 1976. The cause of death is undetermined. The said Court finds that the circumstances of his death were as follows:

1. Introduction

- 1.1. This inquiry began as an inquest into the disappearance of Mario Della Torre pursuant to the Coroners Act 1935 (Repealed). The inquest was conducted by Mr Kevin Ahern, a Coroner for the State of South Australia. These are the written findings of that re-opened inquest.
- 1.2. Mario Della Torre was born on 30 September 1922. He worked for Broken Hill Proprietary (BHP) in Whyalla. He lived for some years in the Yaringa Hostel in Whyalla. This hostel was occupied by single workers from BHP. Following a number of days of absence from his place of employment in Whyalla he was reported missing to the Police. This report occurred on 20 October 1976. Police enquiries and a media appeal to the public were unsuccessful in establishing Mr Della Torre's whereabouts. Investigations would establish that Mr Della Torre was reliably last seen alive on 18 October 1976 in Whyalla.

- 1.3. On 21 April 1977 a member of the public located a human skull at False Bay which is approximately 27 kilometres from Whyalla. This discovery gave rise to a thorough search of the location. As a result of the search Police located left and right pelvic bones and left and right femoral bones within the immediate area. A skeletal examination in 1977 concluded that the remains were all from the same person who was believed to be a middle-aged male of European origin of approximately 5 foot 6 and a half inches in height and who had probably died within the preceding two years. The skeletal remains were designated with the exhibit number UHR77/01.
- 1.4. During the course of 1978 and 1979 Mr Ahern's inquest into the disappearance of Mr Della Torre was adjourned from time to time. Mr Ahern gave consideration to a number of issues that included an assessment as to whether or not Mr Della Torre was deceased and whether or not the skeletal remains found at False Bay were those of Mr Della Torre.
- 1.5. On 11 October 1978 Mr Ahern made a declaration that Mr Della Torre was "*presumed to be dead*". Examination of Mr Ahern's written reasons leads this Court to conclude that Mr Ahern's declaration was correct and that there is no need to revisit this finding. However, Mr Ahern specifically stated that on the evidence presented, he was unable to specify any date of death or any cause of death.
- 1.6. As to the question whether the skeletal remains that had been found at False Bay were those of Mr Della Torre, Mr Ahern stated that he was by no means satisfied that the skeletal remains found at False Bay were those of Mr Della Torre.
- 1.7. On 12 June 1979 Mr Ahern re-opened his inquest. In written reasons Mr Ahern indicated that the inquest had been re-opened at the request of the Public Trustee for the purpose of inviting the Coroners Court to amend the previous Finding and to specify a date of death of Mr Della Torre. Mr Ahern referred to some of his original findings of 11 October 1978 and also recorded a number of further facts. It is apparent from Mr Ahern's combined findings of 11 October 1987 and 12 June 1979 that he found that:
 - the last shift that Mr Della Torre worked at BHP occurred on 15 October 1976;
 - records belonging to BHP indicated that Mr Della Torre last occupied a room at the Yaringa Hostel on 15 October 1976;

- that he was probably last seen on or about 18 October 1976 on a number of occasions in Whyalla, including in a street and in a shop.
- 1.8. Other evidence referred to by Mr Ahern when his findings from both sessions of his inquest are examined included evidence given by a Mrs Kittel, a cleaner at BHP, to the effect that in October 1976 Mr Della Torre, whom she knew, appeared to have been depressed. Mr Ahern also recorded that on 7 October 1976 Mr Della Torre had consulted a Dr Henry in Whyalla and had complained of feeling depressed for which he was prescribed the anti-depressant Tofranil. Mr Della Torre told Mrs Kittel that they were '*no good*'.
 - 1.9. Based on the evidence that he had heard up to and including the re-opened inquest on 12 June 1979, Mr Ahern made an additional finding that Mr Della Torre was presumed to have died on or after Monday 18 October 1976. In my view that finding accorded with the evidence that was available at that time and which is available now. There is no need to revisit that finding.
 - 1.10. The re-opened inquest of 12 June 1979 did not deal with the issue as to whether or not the skeletal remains found at False Bay were those of Mr Mario Della Torre.
 - 1.11. There the matter remained until more recently. The skeletal remains UHR77/01 had been stored at Forensic Science South Australia since the time of their discovery and were still available for further examination.
 - 1.12. Operation Persevere which is an operation conducted by SAPOL and which commenced in 2018, is an exercise designed to provide a structured and consistent approach to the management, investigation and review of all outstanding long term missing persons and unidentified human remains in South Australia.
 - 1.13. As part of Operation Persevere, in 2021 a review of the skeletal remains UHR77/01 found at False Bay was undertaken. During this review a brother of Mario Della Torre was identified. The brother has provided a statement¹ in which he confirms that the Della Torre family have not had any contact with or communication from Mr Mario Della Torre since his disappearance in 1976. He states that it would be highly unlikely

¹ Exhibit C5al

for Mr Mario Della Torre not to have contacted his family due to the fact that they were a very close family.

- 1.14. Mr Della Torre's brother also confirms that Mr Della Torre had no natural teeth (edentulous) and wore top and bottom dentures. This fact is consistent with a conclusion reached from an examination of the skull located at False Bay that the deceased person had been edentulous for some time during life and had likely worn a full upper denture. I note that the mandible, which is the part of the skull that holds the lower teeth, was never located. Naturally, the fact that Mr Della Torre was edentulous and that the same applied to the skull located at False Bay was of itself a relevant item of circumstantial evidence consistent with the skull having been that of Mr Mario Della Torre.
- 1.15. In May 2021 a familial DNA sample was obtained from Mr Della Torre's brother. The DNA sample was analysed together with a sample of DNA extracted from the right femur that was located with the other skeletal remains at False Bay. The DNA comparison was by conducted by Dr Damian Abarno PhD, a scientist at Forensic Science South Australia. In his report² Dr Abarno expresses the opinion that the combined DNA profiling provided "*extremely strong scientific support for the proposition that the remains are from Mario Della Torre*".
- 1.16. As a result of these findings this Court re-opened the Inquest into the disappearance of Mr Della Torre and inquired whether any conclusion could now be reached that the skeletal remains found at False Bay could be concluded to be those of Mr Mario Della Torre. That public inquest was conducted on 9 February 2022. Ms Sally Giles appeared as Counsel Assisting the Coroner. Ms Giles informed the Court of the background to this case and tendered a number of documentary exhibits including the DNA identification report of Dr Abarno. Ms Giles also tendered the comprehensive report of Senior Constable Trevor Schneider of the SAPOL Missing Persons Investigation Section.³ Mr Schneider has concluded that from his investigations and having regard to all of the evidence collected over the years, that the human remains located at False Bay on 21 April 1977 cannot be those of anyone other than Mario Della Torre whose

² Exhibit C3a

³ Exhibit C5-C5an

date of birth was 30 September 1922 and who disappeared from Whyalla on or around 18 October 1976.

1.17. Ms Giles submitted to the Court that I could accept that conclusion. I have accepted the evidence that Mr Della Torre was edentulous during life, that the skull located at False Bay was edentulous and that the person to whom the skull belonged had been edentulous during life. I also accept the evidence of Dr Abarno that the DNA comparison between Mr Della Torre's brother's DNA and DNA from the right femur located at False Bay provides extremely strong scientific support for the proposition that the remains from False Bay are from Mario Della Torre. I therefore have concluded that there is no reasonable explanation for those circumstances other than that the remains located at False Bay are those of Mario Della Torre. I have found that the skeletal remains found at False Bay on 21 April 1977, designated UHR77/01, are those of the late Mr Mario Della Torre whose date of birth was 30 September 1976.

1.18. On the day of the inquest I orally announced as follows:

“I confirm the court's original finding that Mario Della Torre, date of birth 30 September 1922, is deceased and I confirm the finding from the resumed inquest that Mario Della Torre died on or after Monday, 18 October 1976.

I will substitute, however, the court's findings as follows, namely, that the court was 'by no means satisfied that the skeletal remains found at False Bay are those of the missing person, who is Mario Della Torre', I will substitute that finding with the following finding, that is, that the skeletal remains found at False Bay on 21 April 1977, given the designation UHR77/01, are those of Mario Della Torre, date of birth, 30 September 1922.

I will also make the finding that the cause of death of Mario Della Torre is undetermined.”

1.19. Section 25 of the Coroners Act 2003 stipulates that findings of the Coroners Court must be given in writing. These are those written findings.

1.20. The skeletal remains of Mr Della Torre do not provide any evidence as to the cause of his death. I confirm that no cause of death has been established by any other means and so the cause of death must be recorded as *undetermined*.

1.21. As far as the circumstances of the disappearance and death of Mr Della Torre are concerned, I note that it has been recorded that at around the time Mr Della Torre was last seen in October 1976 he had complained of depression and had asserted that the medication that he had been prescribed had not worked for him. That, in the eyes of some, might give rise to the notion that Mr Della Torre possibly took his own life. However, in my opinion the evidence is not capable of supporting such a conclusion to the necessary standard of proof. I therefore make no finding as to the circumstances of Mr Della Torre's disappearance and death.

Key Words: Missing Person, Disappearance

In witness whereof the said Coroner has hereunto set and subscribed his hand and

Seal the 1st day of March, 2022.

Deputy State Coroner