

## Special Commission of Inquiry into LGBTQI hate crimes

Submissions of Counsel Assisting Rebecca Wark

1 November 2023

## IN THE MATTER OF SIMON BLAIR WARK

1. These submissions are in reply to the Supplementary Submissions dated 18 October 2023 filed on behalf of Counsel Assisting the Special Commission of Inquiry into LGBTQI hate crimes (**Inquiry**). They supplement the submissions of Counsel Assisting Ms Wark filed on 1 June 2023.
2. Ms Wark thanks the Inquiry for the additional time to consider the further documents provided as part of Exhibit 23, Tabs 68 and following.
3. Ms Wark submits there remains insufficient evidence to make the finding of suicide urged on the Inquiry by Counsel Assisting in its Primary Submissions<sup>1</sup>. If anything, the further evidence supports the Wark Family's submission that a finding of suicide is unsafe.
4. The additional documents demonstrate the uncertainty of the precise location of the clothing found by Mr Champion. Without a precise location for the clothing, the quality of the fencing at any "likely" location near Gap Bluff is simply irrelevant. It does not support a finding that Mr Wark had the opportunity to jump to his death, and in fact jumped to his death.
5. Arguably, the apparent absence of a safety fence in the vicinity of the area marked by Mr Champion raises the possibility that Mr Wark's death was the result of an accident (slip, trip or fall).
6. Further, the presence or absence of a fence does not rule out the possibility that an unknown party was involved in Mr Wark's fall, especially as any such evidence remains a possibility but was simply not investigated, there being no Police inspection of the site.
7. Mr Champion's impression<sup>2</sup> of the neatness of the clothing he found does raise the question as to whether the clothing may have been worn at all. On one view, it may support a theory that the clothing was not Mr Wark's and had been placed there by a third party to give the impression Mr Wark had taken his own life at The Gap.

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<sup>1</sup> Counsel Assisting's Primary Submissions at [135].

<sup>2</sup> Second statement of Neil Champion, Tab 68, [8], SCOI.85465.

8. It is to be remembered that the shirt Mr Wark was wearing prior to apparently purchasing the new clothing (and which was not included in the package collected by Ms Wark from the Police), remains unknown.
9. Further, the act of neatly folding the clothing appears to be inconsistent with Dr Sullivan's expert report that Mr Wark "*displayed psychomotor agitation*" and was "*thought disordered, with loosening of associations*"<sup>3</sup>.
10. The abject failure of the Police to properly investigate the matter ought not be rewarded with a finding of suicide.
11. It is worth restating that the Wark family would be devastated if this Inquiry made such a finding.
12. As previously submitted, the required standard of proof of a finding of suicide is simply not reached.
13. The Inquiry ought conclude that it is impossible to make a finding beyond the Death Certificate and Autopsy Report.



Angela Pearman

Counsel for Rebecca Wark

Date: 1 November 2023

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<sup>3</sup> Expert report of Dr Danny Sullivan, dated 24 October 2022, Tab 64, [26], SCOI.82114.