

Special Commission of Inquiry into LGBTQI hate crimes

Submissions of Counsel Assisting Rebecca Wark

1 June 2023

IN THE MATTER OF SIMON BLAIR WARK

1. These submissions are in Reply to the submissions filed on behalf of Counsel Assisting the Special Commission of Inquiry into LGBTQI hate crimes (**Inquiry**) and in addition to Ms Rebecca Wark's statement delivered to the Inquiry on 18 May 2023.
2. There is insufficient evidence to make the finding urged on the Inquiry by Counsel Assisting that Mr Wark's death was the result of suicide¹.
3. In fact, the Wark family would be devastated if this final Inquiry made such a finding given:
 - the paucity of police investigations into Mr Wark's death 33 years ago and subsequent inadequacies of Strike Force Parrabell's investigation, as acknowledged by Counsel Assisting's submissions (and for which the Wark family is grateful);
 - the remaining gaps in evidence in respect of the clothing and location at the Gap neither of which were photographed or investigated – the purchase of clothing in the sum of \$150 was inconsistent with the fact that Mr Wark had no money for that purchase and there was no evidence of a bank withdrawal at that time². If Mr Wark had received money from someone it was not investigated. According to Ms Wark³ the clothing found at The Gap was nothing like anything Mr Wark would ever wear, the belt was not handmade, the style at odds with his signature; he was found in lace up shoes when he always wore well-polished boots;
 - the David Jones' locker evidence was never photographed or investigated⁴;
 - the all-too-willing assumptions made by the initial police investigations and then Strike Force Parrabell on a letter from psychologist NM to the Coroner⁵ that Mr Wark was a young gay man, depressed at the termination of an 8 year relationship (with KN) and who was suicidal (noting that Mr Wark had only

¹ Counsel Assisting's Submission at [135].

² Statement of Rebecca Wark dated 18 March 1990 at [14], Tab 11, SCIO.00052.00035. See also Second Statement of Ian Anderson Wark dated 27 January 1990 at [6]-[7] and [12], Tab 10, SCIO.00052.00027 and Statement of KN dated 27 January 1990 at [10], Tab 14, SCIO.00052.00028.

³ Family statement of Ms Wark dated 18 May 2023 at [12].

⁴ Letter from Rebecca Wark to Steve Johnson dated 3 February 2015, page 1, Tab 55, SCIO.10022.00028 and Ms Wark's family statement dated 18 May 2023 at [12].

⁵ Letter from NM dated 12 January 1990, Tab 20, SCIO.00052.00022.

consulted with NM once, one on one, and in one group session and no statement was taken from NM);

- the now heavy reliance by Counsel Assisting on the statement of a deceased, alcoholic and homosexual priest undoubtedly in a relationship with Mr Wark and therefore highly compromised, and never questioned about his alleged ongoing bashings of Mr Wark, as asserted by MS⁶; and
 - otherwise heavy reliance by Counsel Assisting on MS in respect of his observations of Mr Wark's state of mind, MS a heroin addict at the time of his unsigned and incomplete statement⁷, and no inquiry or mention made of MS's threats towards Mr Wark to repay money allegedly owed⁸ as evidenced in the letter he sent Mr Wark on 17 January 1990⁹.
4. Due to the complete failure of policing 33 years ago¹⁰ and the subsequent inadequacies of Strike Force Parrabell¹¹, there remains a reasonable doubt that Mr Wark took his own life.
 5. The required standard of proof of a finding of suicide is simply not reached. The finding could only be reached relying on many doubtful assumptions, as regrettably, the Police left many obvious questions unanswered.
 6. While Counsel Assisting finds a compelling logic to Dr Sullivan's views inter alia of Mr Wark's mental state and the purchase of new clothing, neatly folded, found at the gap being consistent with suicide and no evidence of "misadventure"¹², the Wark Family respectfully does not agree and challenges whether Dr Sullivan has strayed beyond his expertise in his findings of suicide and no evidence of misadventure, which findings have subsequently been adopted by Counsel Assisting.
 7. Ms Wark's family statement (at paragraphs [5]-[8]) attests to the fact that Mr Wark's medication had worked successfully for him over many years, that his depression therefore was not his "predominant", or "singular character trait". Indeed, Dr Sullivan was also of the opinion that notwithstanding a history of depression, "*...the information conveyed in his final days does not confirm relevant signs of symptoms of persisting mood disorder, and he was taking a low but effective dose of tricyclic antidepressant.*"¹³ Rather, he

⁶ Unsigned statement of MS dated 29 January 1990 at [13], Tab 15, SCIO.00052.00030.

⁷ Ibid at [15]; see also Statement of Detective Senior Constable Michael Plotecki dated 30 January 1990 at [21] confirming the MS statement was incomplete, Tab 23, SCIO.00052.00026.

⁸ Family statement of Ms Wark dated 18 May 2023 at [12].

⁹ Letter from MS to Mr Wark stamped 17 January 1990, Tab 16, SCIO.82384.

¹⁰ Counsel Assisting's Submissions dated 17 May 2023 at paragraphs [30]-[34].

¹¹ Ibid at [35]-[46].

¹² Counsel Assisting's Submissions dated 17 May 2023 at [125]-[126] citing Dr Sullivan's Report at [38]-[39] and [41]-[44].

¹³ Counsel Assisting's submissions dated 17 May 2023 at [116] citing Expert Report of Dr Sullivan's Report at [37].

was scared for his own life and for his family's safety. He was dead less than 24 hours later.

8. Further, a finding of suicide is unnecessary in this Inquiry and of no value to the historical record. Worse, it would support the Police's woefully inadequate investigations.
9. While the Wark family could accept that any further investigative or other avenues are impossible or unwarranted given the lack of evidence and time elapsed, the better finding, and one open to the Inquiry, is that while the Commission is satisfied that there is no evidence that the death of Mr Wark falls within the Inquiry's terms of reference as a gay hate crime, the utter failure of policing into the death of Simon Blair Wark renders it impossible to make a finding beyond the Death Certificate and the autopsy report¹⁴, that the cause and manner of Mr Wark's death resulted from multiple injuries, likely sustained in a fall from height.
10. Any other finding is arguably unsafe.



Angela Pearman

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Date: 1 June 2023

¹⁴ Autopsy Report of Dr Peter Graham Bradhurst dated 24 May 1990, SCIO.00052.00007.