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**FINDINGS and COMMENTS** of Coroner Robert Webster following  
the holding of an inquest under the *Coroners Act 1995* into the death of:

**HELEN FRANCES BIRD**

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# Record of Investigation into Death (With Inquest)

*Coroners Act 1995*

*Coroners Rules 2006*

Rule 11

**(These findings have been de-identified in relation to the names of some witnesses, family, youths and others by direction of the Coroner pursuant to s 57(1)(c) of the Coroners Act 1995)**

I, Robert Webster, Coroner, having investigated the death of Helen Frances Bird with an inquest held at Hobart in Tasmania, make the following findings.

## **Hearing dates**

1. The first case management conference was conducted by the Chief Coroner, Olivia McTaggart, on 28 February 2023. On that day Mr Bird was represented by counsel. Dates for the inquest were provided to the parties and Mr Bird was to file and serve an affidavit by the close of business on 14 April 2023, and Counsel Assisting the Coroner, Ms Fox, was to distribute an inquest plan (witness timetable) by that time.
2. The second case management conference was held on 5 June 2023. On that day, the Chief Coroner noted the draft inquest plan had been substantially agreed to but that Mr Bird's affidavit was outstanding. He was directed to file and serve an affidavit by the close of business on 14 July 2023. By the next case management conference, Mr Bird's counsel was to consider objections, if any, to the witness list and the evidence, and whether there were any witnesses Mr Bird wished to be called, which needed to be added to the plan.
3. The final case management conference conducted by the Chief Coroner took place on 31 July 2023. Counsel for Mr Bird indicated there were no objections to any of the evidence which had been disclosed and he was to advise by 14 August 2023 whether there were any objections or issues with respect to further evidence which had been disclosed on 31 July 2023, which Mr Bird sought to address in a separate affidavit. Mr Bird's counsel was also to advise by 21 August 2023 whether Mrs Jane Burbury's evidence was to be challenged by him and whether there were any objections to the Chief Coroner continuing to preside over this inquest in light of the indication she gave that she was friends with Mrs Burbury.
4. On 9 August 2023, Mr Bird's solicitor advised his instructions were Mr Bird had no objections or issues relating to the evidence which had been disclosed on 31 July

2023. Mrs Burbury's evidence would not be challenged but that he did object to the Chief Coroner continuing to preside during this inquest given her personal friendship with Mrs Burbury. As a result, this inquest was allocated to me because I do not know any of the witnesses which were to be called.

5. By email of 20 August 2023, my office was advised by Mr Bird's solicitor that neither he or counsel would be continuing to act for Mr Bird as legal aid had been refused and the solicitor was going on indefinite leave.
6. At the next case management conference held on 29 August 2023, I confirmed Mr Bird had been provided by his former solicitor with a copy of all the evidence which my office had provided to the solicitor. I also granted Mr Bird another opportunity, given he was now not legally represented, to provide details of any objections he had to the evidence which he had supplied to him by 5:00pm on 11 October 2023. Mr Bird was also directed to file any affidavits of any witness he wished to call by that date and time. I indicated the inquest would be proceeding on the dates provided at the case management conference in February 2023 and that it would commence on 1 November 2023.
7. On 11 October 2023, my office received a 21 page document from Mr Bird which set out his objections to the evidence. A hearing was conducted with respect to those objections at a case management conference on 24 October 2023. At that time, I explained what my role is as a coroner and I essentially advised Mr Bird of the contents of paragraphs 18 to 22 below. I provided Mr Bird with a copy of s28 of the *Coroners Act 1995* (the Act). I took Mr Bird through each subsection in s28 noting that subsection 5 is not applicable to this case. It was noted the 21 page document focused on a report prepared by Detective Senior Constable Munro dated 30 November 2021. I explained what evidence was and gave examples of what amounted to evidence in this case. I noted s51 of the Act, which provides that I am not bound by the rules of evidence and I am able to inform myself and conduct an inquest in any manner I reasonably think fit. Despite the rules of evidence not being strictly applicable, I indicated I generally followed them because they provide a guide as to what evidence I should have regard to. Accordingly, I would not ordinarily take account of opinion evidence unless the person expressing the opinion has specialised knowledge based on their training, study or experience and their opinion was substantially based on that. I explained what an objection was and that somebody could not object to evidence simply on the basis they did not like what the witness said or because Mr Bird says what occurred is contrary to what another witness says. I explained if Mr Bird disagreed with what a witness says then he was able to challenge

that evidence when it was his turn to question the witness. I indicated to him that if he says the evidence is contrary to what the witness says then he needed to put his version of events to that witness so the witness had an opportunity to comment on his version of events. I explained to him the course of the evidence; that is a witness would be called and sworn, Ms Fox would ask questions and put that witness' affidavit or statutory declaration before me, and then he would be given an opportunity to ask questions of the witness in what is called cross examination, and that Ms Fox would be permitted to re-examine before the witness was relieved from further attendance. The next witness would then be called and the same process would be adopted. I indicated that once all the witnesses had been called and they had given evidence, then each party would be given an opportunity to provide submissions in writing as to what they say the evidence establishes, bearing in mind s28 sets out what I am required to find.

8. I noted Mr Bird's objections centred around opinion evidence given by Detective Constable Munro in the report mentioned in paragraph 7. Because it contained her opinion, I indicated to Mr Bird I did not intend to take that document into evidence, nor did I intend to accept any of the opinion evidence set out in that document when making findings in this case. As a result of those statements, it was indicated to me that Mr Bird's objections were no longer relevant and they were not pursued. Ms Battams, Mr Bird's partner, also indicated an affidavit which had been filed by her was no longer relied upon. An affidavit from Mr Bird's sister had been filed and it was relied upon by Mr Bird. I therefore confirmed Detective Constable Munro's report would not be taken into evidence and it would be ignored by me. The inquest was adjourned to commence on 1 November 2023.
9. The inquest was held on 1, 2, 3, 6, 7, 8, 10 and 29 November 2023, on 20 and 21 December 2023 and on 2 January 2024. Although a timetable for the provision of written submissions was set down, no written submissions were received from Counsel Assisting as she became ill and was therefore not able to provide them. I therefore reconvened on 22 April 2024, at which time Ms Battams appeared in order to represent Mr Bird's interests. Mr Bird did not appear. I confirmed:
  - On 2 January 2024 at the end of the proceedings, I ordered the preparation of a transcript and that Ms Fox was to provide her submissions within 28 days of receipt of the transcript and Mr Bird and/or Ms Battams were/was to provide their submissions within 28 days of receipt of Ms Fox's submissions.

- The transcript was received and distributed to Ms Fox and Mr Bird on 5 April 2024, which would make Ms Fox's submissions due on 3 May 2024 and Mr Bird's submissions due on 31 May 2024.
- On 9 April 2024, I received notice from Ms Fox's office she had been on extended sick leave since 12 March 2024 and she was due to be off until 14 May 2024 at the earliest, and she may not return to work. I therefore determined I would not be getting any submissions from Ms Fox or anyone else from her office, and in those circumstances, I concluded I could not expect Mr Bird and/or Ms Battams to supply any submissions as their submissions would ordinarily be supplied in response to the submissions of counsel assisting.
- In order to ensure procedural fairness to Mr Bird, I advised Ms Battams that I would prepare a draft decision and would then provide that draft to Mr Bird and Ms Battams at which time I would seek any submissions or comments they wished to make about the draft decision within 28 days.
- Ms Battams indicated she did not have any difficulty with that course and I therefore made a direction in those terms. I indicated that I would take into account any submissions and/or comments received and make any necessary amendments before handing down my decision.
- Ms Battams sought an extension of time in which to provide any submissions or comments which was granted. Just prior to when these submissions or comments were due my office received an email from Ms Battams on 28 October 2024 which said:

*"Dear Mr Webster*

*I have thoroughly read the draft copy of your decision regarding the suicide of Mrs Helen Bird.*

*It reads as a continuation of the absurdity thus far, leaving me once again totally disillusioned by the justice system in Tasmania.*

*After receiving legal advice, I will be making no comments on your draft decision, despite from the beginning to the end having an exorbitant amount of comments I would like to make in rebuttal.*

*Yours Sincerely*

*Sarah Battams"*
- Nothing has been received from Mr Bird.

## Counsel and lay representation

10. Ms Letitia Fox - Counsel Assisting the Coroner.
11. Mr Mark Bird was not legally represented. He appeared on his own behalf and he received significant assistance from his partner Ms Sarah Battams.

## Preliminary matters

### Introduction

12. On 8 July 2010, Helen Frances Bird (Mrs Bird) was found, by her husband Mark Bird (Mr Bird), hanging by a rope from the roof supports of their garage at 5 View Street Blackmans Bay. Mr Bird cut her down with a Stanley knife and called 000. Despite treatment being provided by way of CPR and the administration of drugs, Mrs Bird could not be revived.
13. Mrs Bird's death is subject to the Act because it is a reportable death; that is a death which occurred in Tasmania being a death "*that appears to have been unexpected, unnatural or violent or to have resulted directly or indirectly from an accident or injury*".<sup>1</sup> A coroner has jurisdiction to investigate a death if it appears to the coroner that the death is or may be a reportable death.<sup>2</sup>
14. On 31 March 2011, Coroner Olivia McTaggart found, amongst other things, Mrs Bird died on 8 July 2010 as a result of asphyxia due to hanging and that no other person contributed to her death.<sup>3</sup> In particular, she was satisfied Mr Bird "*had no involvement with her death*".
15. As a result of subsequent events and further investigations conducted by Detective Constable Munro, which were detailed in her report dated 30 November 2021, the Chief Magistrate directed, pursuant to section 58(1)(d) of the Act, that the investigation into the death of Helen Frances Bird be reopened and the findings be re-examined because new facts or evidence affecting the findings had come to light. Accordingly this investigation was reopened. In summary, police believe as a result of the further investigation which was conducted, Mrs Bird did not commit suicide in 2010 and that her husband played a role in her death.

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<sup>1</sup> See s3 of the Act and the definition of *reportable death* at paragraph (a)(ii) and (iv).

<sup>2</sup> See s21(1) of the Act.

<sup>3</sup> Given the nature of the death and the findings which were made this decision was not published.

*A coroner's jurisdiction and functions*

16. In Tasmania, a coroner's functions are set out in s28(1) of the Act. By this section, a coroner is required to find the identity of the deceased, how death occurred, the cause of death and when and where death occurred. By s28(2), a coroner may make comment on any matter connected with the death, and by s28(3), a coroner must, whenever appropriate, make recommendations with respect to ways of preventing further deaths and on any other matter that the coroner considers appropriate.
17. Coroners complete their written findings pursuant to s28(1) into a reportable death after receiving documentary evidence in the investigation. In a small proportion of reportable deaths, the coroner will hold a public inquest, which almost always involves the calling of oral testimony to further assist the coroner in his or her investigatory function and subsequently, in the making of findings. Many of the public inquests held by coroners in Tasmania are made mandatory by the Act.<sup>4</sup> The remaining inquests are held because the coroner considers that a public inquest is desirable in the particular circumstances of the investigation.<sup>5</sup> The reason why an inquest was held in this matter is set out in paragraph 15.
18. When investigating any death, a coroner performs a role very different to other judicial officers. The coroner's role is inquisitorial; whereas in criminal or civil proceedings the proceedings are adversarial; that is one party against another.<sup>6</sup> In these proceedings, I am required to thoroughly investigate the death and answer the questions (if possible) that s28 of the Act asks. Those questions in s28(1) include who the deceased was, how she died (that is the circumstances surrounding her death), what was the cause of Mrs Bird's death and where and when her death occurred. This process requires the making of various findings, but without apportioning legal or moral blame for the death.<sup>7</sup> A coroner is required to make findings of fact from which others may draw conclusions.<sup>8</sup>
19. A coroner does not have the power to charge anyone with a crime or an offence, nor does she or he have the power to award compensation. In addition, a coroner does not have power to determine issues associated with an inheritance or other matters arising from the administration of deceased estates.

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<sup>4</sup> S24(1) of the Act.

<sup>5</sup> S24(2).

<sup>6</sup> *Attorney-General v Copper Mines of Tasmania Pty Ltd* [2019] TASFC 4 at [21].

<sup>7</sup> *R v Tennent; ex parte Jaeger* [2000] TASSC 64, per Cox CJ at [7].

<sup>8</sup> *Keown v Khan* [1999] 1 VR 64 at page 75 per Calloway JA.

20. As noted, one matter that the Act requires is that a finding be made about how death occurred. It is well settled that this phrase involves the application of the ordinary concepts of legal causation. Any coronial inquiry necessarily involves a consideration of the particular circumstances surrounding the particular death so as to discharge the obligation imposed by s28(1)(b) upon the coroner.<sup>9</sup>
21. A coroner may comment on any matter connected with the death into which she or he is enquiring. The power to make comment “*arises as a consequence of the [coroner’s] obligation to make findings ... It is not free ranging. It must be comment ‘on any matter connected with the death’ ... It arises as a consequence of the exercise of the coroner’s prime function, that is, to make ‘findings’*”.<sup>10</sup>
22. The standard of proof applicable to a coronial investigation is the civil standard. This means that where findings of fact are made, a coroner needs to be satisfied on the balance of probabilities as to the existence of those facts. However, if an investigation reaches a stage where findings may reflect adversely upon an individual, the law is that the standard applicable is that set out in the well-known High Court case of *Briginshaw v Briginshaw* (1938) 60 CLR 336, that is, that the task of deciding whether a serious allegation is proved must be approached with great caution.<sup>11</sup>
23. The Act makes it very clear by s28(4) that a coroner must not include in a finding or comment any statement or expression of opinion that a person is, or even may be, guilty of an offence. In this case, it is essential that this prohibition is kept clearly in mind. Despite this prohibition, a coroner is also under an obligation to find facts in relation to the circumstances surrounding a death. In *Perre v Chivell* (2000) 77 SASR 282, Nyland J considered in some detail the proper approach to a situation where a finding of fact by a coroner may be seen to attribute civil or criminal liability.
24. It is therefore both helpful and unavoidable to set out at some length that part of her Honour’s judgment in which she dealt with this issue:

“45. The problem of reconciling the prohibition against making a finding or comment that a person may be guilty of an offence (s 19(3) of the Victorian Act) with the obligation to find, if possible, the identity of any person who contributed to the cause of death (s 19(1)(e) of the Victorian Act)<sup>[12]</sup> has been

<sup>9</sup> See *Atkinson v Morrow & Anor* [2005] QCA 353.

<sup>10</sup> See *Harmsworth v The State Coroner* [1989] VR 989 at 996.

<sup>11</sup> Per Latham CJ at 347 and Dixon J at 362 and 368-9.

<sup>12</sup> There was a similar requirement to find the identity of any person who contributed to the cause of death in the Tasmanian legislation, however that obligation was removed when s28(1)(f) of the Act was repealed in 2015.

the subject of some debate in Victoria and it is useful to consider that debate in determining the issues which arise in this case. As happened in South Australia, the coronial legislation in Victoria was the subject of review on a number of occasions. In Victoria, in 1958, the review was carried out by Sir John Norris QC (the Norris Report). Further reform took place in 1985 which resulted in the enactment of the present Victorian Act. Much of the Act is however based on the Norris Report. The Norris Report recommended (Norris, *The Coroners Act 1958: A General Review (1980)*, Recommendation 30) 'that the coroner should not make any statement of legal responsibility or express any conclusion of law' as Norris considered that the determination of legal responsibility did not assist the coroner's primary function of establishing the cause of death.

46. Consistent with this recommendation the coroner's power to commit for trial was removed from the Act. The Norris Report did not recommend the inclusion of a provision requiring the coroner to identify the person who had contributed to a death but suggested that if it was apparent from the facts that fault could be attributed to a person the coroner should publicly announce in neutral terms that the matter was being referred to the appropriate authority for further action. Nevertheless, Parliament thereafter included the requirement for the coroner to ascertain the identity of the contributor to the cause of death. The reason for this is unclear. Victor Harcourt, in an article entitled *Contribution to Cause of Death* in *Journal of Law and Medicine*, Vol 6, suggested this was a 'policy decision' and postulated that 'Parliament obviously did not accept that it was undesirable for a coroner to attribute blame in the findings or comments made provided a view was not expressed as to the criminal culpability of the contributor'.

47. The Supreme Court of Victoria considered the provisions of s 19(1)(e) of the Victorian Act in *Chief Commissioner of Police v Hallenstein* [1996] VicRp 51; [1996] 2 VR 1. This case arose out of a coronial inquest into the death of a person shot by a police officer during an armed robbery. The coroner had found (inter alia) that the Victoria Police Force, through the agency of the police officer who fired the fatal shot, had contributed to the shooting and to the deceased's cause of death.

48. It was argued on behalf of the plaintiff that an act or omission could not amount to contribution unless it gave rise to civil or criminal liability. The defendant argued that a finding of contribution necessarily involved a finding of a

degree of blame on the part of the contributor but the legal concept of causation was not applicable to the coroner. Both arguments were rejected by the Court.

49. Hedigan J said (at 16):

‘In my view it was not the intention of the legislation that the coroner should be so limited in his or her consideration of, and findings about, the contribution by a person or persons to the cause of death of a deceased person that the coroner had to be satisfied that an act or omission of that person was such as to create legal liability in the person, civil or criminal, before a finding of contribution to the cause of death could be made. Notwithstanding that the power of comment was preserved, so as to enable the coroner to express opinions that do not amount to essential findings, the making and pronouncement of the s 19(1) findings is not only mandatory, if possible, but is of public significance and importance as being a statement by the appointed law officer of his conclusions as to how the death came about and who contributed to its occurrence and cause. The construction proposed on behalf of the Police Commissioner confines the concept of contribution to acts or omissions that create legal liability. This is unduly restrictive and inappropriate, having regard to the coroner's function. Moreover, since the argument envisages the necessity to reach a state of satisfaction as to at least possible criminal liability, as well as civil liability, the interpretation proposed runs headlong into the prohibition imposed by s 19(3). A finding, as proposed, would imply that the person found to contribute may be guilty of an offence.

On the other hand, one might say the other extreme, the submission was put that the concept of contribution requires no more than the conclusion that there is “some degree of blame” or “blame to some extent”. Whilst one is conscious of the difficulties of definition in this sphere, understanding is little advanced by this contention. The width of the proposition, if it can be so described, is such as to comprehend the most remote of influences, including the philosophy of violence containment as well as police culture, training and ideas, all of which attracted the coroner. Generally speaking, the law is cautious about unnecessary exposition of principle. The application of principle becomes dominated by facts. The issues of causation and contribution have

bedevilled philosophers for centuries and have attracted consideration by superior courts in all jurisdictions and places for more than a century. The inclination to expound, in an authoritative way, the connection between human behaviour and consequences has proved seductive. The estimation of the nature and extent of this connection may be described as the evaluation of “contribution”. The law has also espoused minimalism in attempting definition of the causative or contributing effect of conduct. Nearly 50 years ago, a powerful High Court (Dixon CJ, Fullagar and Kitto JJ) described causation at 277 as “all ultimately a matter of common sense” adding for good measure at 288 that “[i]n truth the conception in question is not susceptible of reduction to a satisfactory formula”: *Fitzgerald v Penn* [1954] HCA 74; (1954) 91 CLR 268”.

50. He went on to say (at 19-20):

‘It is, I believe, sufficient to leave the matter without further elaboration on the basis of the common sense determination of contribution, rather than the consideration of contribution as a philosophical or scientific abstraction. In most cases, the determination that there has been contribution to the cause of death is likely to involve legal liability or culpability; but it is not the intention of the Act that it must necessarily be so or pronounced to be such. It is enough to say that, since it is not simply an exercise in the logical progression of events, some element of departure from the reasonable standards of behaviour will ordinarily be thought to be required, and must be properly established.’

51. Section 19(1)(e) was further considered by the Victorian Court of Appeal in *Keown v Khan & Anor* [1998] Vic SC 83 (unreported). In this case, there had been a coronial inquiry arising out of an incident in which a police officer, allegedly acting in self-defence, shot and killed a person who had threatened him with a hatchet. The coroner found that the deceased had contributed to her cause of death and exonerated the police officers involved in the matter. In discussing the finding that the police officer had acted in self-defence, Callaway J (with whom Ormiston and Batt JJ agreed) said:

‘It will be noticed that I have consistently referred to 'self-defence' rather than “lawful self-defence” or “justified” or “excusable” homicide. A coroner is not concerned with questions of law of that kind. Instead the

coroner is to find the facts from which others may, if necessary, draw legal conclusions.

As paragraph 153 of the Norris Report said:

“153. It is necessary to emphasise that if the coroner is no longer required to determine whether the cause of death was unlawful, and if so, who was guilty of the crime, the original purpose of the verdict, to indicate legal responsibility for the death, substantially disappears. If the coroner or jury is not to include any statement of legal responsibility or to express any conclusion of law on the matters he or the jury is required to determine as recommended in paragraph 125 above, this consequence is reinforced. The result is, as stated by the Brodrick Committee (para. 16.40):- ‘In future the function of an inquest should be simply to seek out and record as many of the facts concerning the death as public interest requires, without deducing from those facts any determination of blame.’ The findings of the coroner or jury should in terms be findings of fact only. To quote the Brodrick Committee again:- ‘In many cases, perhaps the majority, the facts themselves will demonstrate quite clearly whether anyone bears any responsibility for the death; there is a difference between a form of proceedings which affords to others the opportunity to judge an issue and one which appears to judge the issue itself.’ (ibid)”.

The findings by a coroner as to how death occurred and the cause of death should, where that is possible, identify any person who contributed to the cause of death. Section 19(1)(e) serves no purpose other than to ensure that that is done. The reference to contribution to the cause of death reflects the commonplace truth that it is sufficient if a person's acts or omissions are a cause of a relevant event. Civil juries are, for example, regularly asked whether the negligence of the defendant was a cause of the plaintiff's injuries. The test of contribution is solely whether a person's conduct caused the death. It may have been the only cause or one of several causes. There are also cases where no one satisfies the description in s.19(1)(e), as in the case of a death solely from natural causes. In determining whether an act or omission is a cause or merely one of the background circumstances, that is to say a non-causal condition, it will sometimes be necessary to consider whether the act departed from a norm or

standard or the omission was in breach of a recognized duty, but that is the only sense in which paragraph (e) mandates an inquiry into culpability. Adopting the principal recommendation of the Norris Report, Parliament expressly prohibited any statement that a person is or may be guilty of an offence. The reasons for that prohibition apply, with even greater force, to a finding of moral responsibility or some other form of blame: the proceeding is inquisitorial; the conclusion would be more indeterminate than a conclusion about legal responsibility; and there would be no prospect of a trial at which the person blamed might ultimately be vindicated by an acquittal.

It follows that a person who kills necessarily contributes to the cause of death and that that is none the less true where the killing is in lawful self-defence. A coroner is not concerned with the latter question but will ordinarily set out the relevant facts in the course of finding how death occurred and the cause of death. The facts will then speak for themselves, leaving readers of the record of investigation to make up their own minds about lawful self-defence or any similar issue. (That was the point made by Sir John Norris in paragraph 153 of his report.) (footnotes omitted.)'

52. In reaching his decision, Callaway JA had regard to some of the English authorities on this topic. For example, in *R v South London Coroner, Ex parte Thompson* (1982) 126 SJ 625, Lord Lane CJ said:

'Once again it should not be forgotten that an inquest is a fact finding exercise and not a method of apportioning guilt. The procedure and rules of evidence which are suitable for one are unsuitable for the other. In an inquest it should never be forgotten that there are no parties, there is no indictment, there is no prosecution, there is no defence, and there is no trial, simply an attempt to establish facts. It is an inquisitorial process, a process of investigation quite unlike a criminal trial ... The function of an inquest is to seek out and record as many of the facts concerning the death as [the] public interest requires.'

53. In *Reg v Coroner for North Humberside and Scunthorpe, Ex parte Jamieson* [1995] QB 1, Sir Thomas Bingham MR, in handing down the judgment of the court said (at 24):

'(5) It may be accepted that in case of conflict the statutory duty to ascertain how the deceased came by his death must prevail over the

prohibition in rule 42. But the scope for conflict is small. Rule 42 applies, and applies only, to the verdict. Plainly the coroner and the jury may explore facts bearing on criminal and civil liability. But the verdict may not appear to determine any question of criminal liability on the part of a named person nor any question of civil liability.

(6) There can be no objection to a verdict which incorporates a brief, neutral, factual statement: 'the deceased was drowned when his sailing dinghy capsized in heavy seas', 'the deceased was killed when his car was run down by an express train on a level crossing', 'the deceased died from crush injuries sustained when gates were opened at Hillsborough Stadium'. But such verdict must be factual, expressing no judgment or opinion, and it is not the jury's function to prepare detailed factual statements.'

54. It is clear therefore that the jurisdiction of the coroner is limited to making findings of fact. It is not his/her task to attribute or hint at blame. Can it be said, therefore, that in this case, the coroner exceeded his jurisdiction and thereby contravened the provisions of s 26(3) of the Act? I think it is likely that an ordinary member of the public, reading comments in the report, such as 'Perre was responsible for sending the bomb', 'Perre was responsible in the sense that he constructed a bomb and either posted it or arranged for someone else to post it on his behalf', and 'Sergeant Bowen died when he opened the parcel bomb sent to him by Perre', would conclude that Perre had committed the crime of murder.

55. There are, however, a number of essential elements which the Crown is required to prove beyond reasonable doubt before a person can be found guilty of the crime of murder. These include proof of an intention to kill or cause grievous bodily harm. The coroner has not however found that Perre had any such intention. He has simply recorded his findings as to the sequence of events which culminated in Sergeant Bowen's death. For example, in an inquest concerned with the death of a pedestrian struck by a motor vehicle, such matters as the identity of the driver of the car, his/her level of intoxication by reason of alcohol or drugs, and the position of the car on the road, would all be relevant matters upon which the coroner could make findings of fact. A finding by the coroner that the driver of a car was affected by alcohol or drugs, or his/her motor vehicle was on the wrong side of the road, might lead to a

subsequent determination of criminal or civil liability, but that consequence does not preclude the coroner from making the particular finding of fact.

56. In other words, the factual findings of themselves cannot be said to be findings of criminal or civil liability. A finding of criminal or civil liability requires the application of the relevant law to the facts in order to determine whether the essential elements of a given crime or civil obligation have been made out. It is not the coroner's role to undertake this process, it is the role of the courts, and this is what s 26(3) was enacted to ensure.

57. As I have already mentioned, s 26(3) refers not only to findings of criminal or civil liability, but also any 'suggestion' thereof. The addition of the word 'suggestion' is liable to cause confusion as it might be argued that the mere finding of certain facts can, in cases such as the present, suggest or hint at criminal or civil liability and hence breach the section. This is due to the fact that certain acts, such as, in this case, sending a bomb, appear to have no possible legal justification. However, I do not think that s 26(3) should be read in such a way. The mere recital of relevant facts cannot truly be said, of itself, to hint at criminal or civil liability. Even though some acts may not seem to be legally justifiable, they may often turn out to be just that. For example a shooting or stabbing will, in some circumstances, be justified as lawful self-defence. As I have stated, criminal or civil liability can only be determined through the application of the relevant law to the facts, and it is only the legal conclusions as to liability flowing from this process which are prohibited by s 26(3). Thus, the word 'suggestion' in this section should properly be read as prohibiting the coroner from making statements such as 'upon the evidence before me X may be guilty of murder' or 'X may have an action in tort against Y' or statements such as 'it appears that X shot Y without legal justification'. In other words, the term 'suggestion' in s 26(3) prohibits speculation by the coroner as to criminal or civil liability. In the present case, the coroner has neither found nor suggested that Perre is criminally or civilly liable for his acts.

58. It is obvious that the facts of this case are unique. This has caused the delineation between a proper factual finding relating to the cause of death as opposed to a determination of criminal liability to become somewhat blurred. It would, however, lead to an absurd result if s 26(3) were to be read so strictly as to prevent the coroner from identifying a relevant factual matter surrounding a death, for example, the fact that a person died as a result of a collision with a car driven by X, or in the course of surgery, performed by Y. I have therefore

concluded that the statement made by the coroner that ‘Perre sent the bomb’ and the other statements which are the subject of criticism in these proceedings are relevant findings of fact which were reasonably open to the coroner on the evidence and they do not offend against the provisions of s 26(3). They should not therefore be set aside”.

25. This Court is not bound by that judgment, however in my view it correctly states the law and therefore I intend to apply its reasoning to my findings of fact in this inquest.
26. Finally, section 30 of the Act provides:

**“30. Reports on deaths**

*(1) A coroner may report to the Attorney-General on a death which the coroner investigated.*

*(2) A coroner may make recommendations to the Attorney-General on any matter connected with a death which the coroner investigated, including public health or safety or the administration of justice.*

*(3) A coroner must report to the Attorney-General if the coroner believes that an indictable offence has been committed in connection with a death which the coroner investigated”.*

27. This provision was considered in *R v Tennent; ex parte Jager* [2000] TASSC 64 by Cox CJ. Apart from emphasising the fact that “*the focus of an inquest conducted under the Act [is] the ascertainment of facts without deducing from those facts any determination of blame*”, His Honour issued a Writ of Prohibition to the coroner prohibiting her from giving effect to a ruling that she would hear submissions as to her forming a belief for the purposes of section 30(3) of the Act.
28. In summary, my role then is to make findings to the extent possible in accordance with s28(1) of the Act, bearing in mind the prohibition in s28(4). That will necessarily involve the making of findings of fact, and in some cases those facts will be in dispute. In making findings of fact, if they are likely to reflect adversely upon any person, I must reach a state of satisfaction on the civil standard but consistent with the observations of Latham CJ and Dixon J in *Briginshaw v Briginshaw* (supra). I may not make a finding or comment that any person is guilty of an offence or crime. It is worth noting a coroner may not charge or commit a person for trial in relation to any suspected offence or crime no matter what the evidence is at an inquest. The power of a coroner to do this was abolished with the repeal of the *Coroners Act 1957*. Under that

Act, if a coroner was of the view that the evidence at the inquest concerning a death was sufficient to put a person on trial, then she or he was, by virtue of s16, obliged to order that person's committal for trial to the Supreme Court. The power to commit a person to the Supreme Court for trial was expressly removed when the 1957 Act was repealed and replaced by the current Act.

*Issues at the inquest*

29. As mentioned above I am required by s 28(1) of the Act to find, if possible:
- (a) The identity of the deceased;
  - (b) How death occurred;
  - (c) The cause of death; and
  - (d) When and where death occurred.
30. The circumstances of Mrs Bird's death will therefore be examined and I will find, if possible,
- (a) The physical cause of Mrs Bird's death;
  - (b) The circumstances surrounding her death; and
  - (c) Whether Mrs Bird died by suicide or whether Mr Bird or anyone else was involved in Mrs Bird's death.

*Evidence in the investigation*

31. The evidence of all witnesses was received in affidavit, statutory declaration or report form, with a number of those witnesses not called to give evidence at the inquest. Documentary and other evidence was also tendered. The affidavits, statutory declarations, reports, documentary and other evidence at the inquest comprised exhibits C1 to C68. The exhibit list is annexed to this finding.
32. In addition to the affidavits, statutory declarations, reports, documentary and other evidence, the following witnesses gave oral testimony during the course of the inquest:
- a. UC;
  - b. DJ;
  - c. Emma Gargioni;
  - d. Tracey Giles;
  - e. John Brown;
  - f. Robyn Button;
  - g. Constable Joanne Banks-Smith;

- h. Constable Rodney Walker;
- i. WH;
- j. Helen Roberts;
- k. SK;
- l. Dr Donald Ritchey;
- m. Tania Street;
- n. Catherine Edwards;
- o. Jane Burbury;
- p. Steven Bowden;
- q. Suzanne Brown;
- r. Jacqueline Vincent;
- s. Deborah Abbott;
- t. Sheila Campbell;
- u. Sergeant Lee Carr;
- v. Dr Eric Ratcliff;
- w. Neil McLachlan-Troup;
- x. Detective Senior Constable Nicolette Munro;
- y. John Denehey; and
- z. Mark Bird.

## **The evidence**

### *Background*

33. Mrs Bird was 43 years of age (date of birth 20 September 1966), married to Mark Bird and employed as a registered nurse at the date of her death. Her parents are Anne and Lewis Giles, and she had a sister and two brothers namely, Suzanne Brown and Robert and Anthony Giles. Mrs Bird and her sister and brothers grew up in a stable family home.<sup>13</sup>
34. Mrs Bird was born in England. She met Mr Bird when she was about 15 years of age and they were married in England in 1986 when she was 20 years of age. Mr and Mrs Bird travelled and worked extensively overseas before they immigrated to Australia in 1995. Initially, they resided in New South Wales before moving to Tasmania in or around 1999.<sup>14</sup>

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<sup>13</sup> Exhibit C9- affidavit of Suzanne Brown.

<sup>14</sup> Transcript (T) 358 lines 43-44 and T359 lines 1-5.

35. Mr and Mrs Bird had three children, twins UC and DJ, who were born in 1997 and MQ who was born in 2001. All three children were born in Australia.
36. At the time Mrs Bird passed away, she worked as a palliative care nurse at the Whittle Ward in Hobart. The Whittle Ward provides palliative care and is located at the Repatriation Hospital in Davey Street Hobart. Mrs Bird had worked there since about 2005, but she had worked as a nurse since obtaining her qualifications.
37. At the time of Mrs Bird's death, Mr Bird was not working. He was receiving a disability pension as a result of suffering post traumatic stress disorder (PTSD) after being deployed to East Timor while in the Armed Forces in 2000. He was in East Timor for about 6 months.
38. During the time that Mr and Mrs Bird resided in Tasmania after Mr Bird's return from East Timor, their relationship was an unhappy one due to Mr Bird's PTSD and his drug and alcohol abuse. Mrs Bird was essentially left as the main breadwinner for the family and from about 2007 onwards, Mr Bird began having relationships with other women.
39. As a result of these issues, Mr and Mrs Bird separated in or about October 2007,<sup>15</sup> with Mr Bird moving out into a unit for a period of time. It appears he was invited home in early August 2008.<sup>16</sup> The evidence suggests that although he was back with his wife on 17 October 2008, it was probably too soon.<sup>17</sup> While separated, Mr Bird did however remain involved in the care of the children and would visit the family home daily in order to provide that care.
40. After being separated for a period of time, Mr and Mrs Bird decided to attempt to reconcile and therefore Mr Bird moved back into the family home in 2008. However, despite this, he continued a sexual relationship with WH; a relationship which continued up until and after Mrs Bird's death.

*Mr Bird's credit*

41. Having heard and seen Mr Bird in the witness box and having considered all the evidence in this case very carefully, I find Mr Bird not only to be an untruthful witness, but he is generally an untruthful person. I have therefore determined that I am not prepared to accept his version of events unless that version is corroborated by credible, objective

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<sup>15</sup> The last straw seems to have been a drug driving charge- Exhibit C42d- notes of an appointment with Dr Ratcliff on 25 October 2007.

<sup>16</sup> Exhibit C42d- notes of an appointment with Dr Ratcliff on 1 August 2008.

<sup>17</sup> Exhibit C42d- notes of an appointment with Dr Ratcliff on 17 October 2008.

evidence or it is an admission against interest. The reasons why I have determined Mr Bird is untruthful are many and they are as follows.

42. Mr Bird did not dispute what Dr Ratcliff, Mr Bird's treating psychiatrist, had recorded in his notes of consultations he had with Mr Bird.<sup>18</sup> He went on to admit that he lied in his application, dated 2 November 2004, for renewal of a firearms licence.<sup>19</sup>
43. In his police interview, Mr Bird indicated his wife was not a heavy drinker.<sup>20</sup> However in his affidavit, Mr Bird says his wife was heavily drinking gin.<sup>21</sup> When asked about this discrepancy, the following exchange took place:

*"Now, do you accept, Mr Bird, that what you told police on the 13th of July 2010 is significantly at odds with what you've put in this affidavit, particularly in relation to Helen's demeanour leading up to the day before her – she passed and her drinking?.....Well –*

*Do you accept the account you gave to police about the days leading up to Helen's death, particularly in relation to her demeanour and drinking are significantly different to what you've put in your affidavit that you filed this year?.....I think I was more – this one was more – more honest.*

*HIS HONOUR: More what, sorry? WITNESS: Honest.*

*HIS HONOUR: More honest. WITNESS: Well, yeah. She does like an odd drink, so –*

*HIS HONOUR: So you weren't telling the truth when you spoke to police, is that what you're telling me?*

*WITNESS: No. I told the police that she was having one or two drinks.*

*HIS HONOUR: Yes. WITNESS: But she does like having a few extra drinks occasionally and it does make her feel crook.*

*HIS HONOUR: So which version am I to accept, Mr Bird? What you told the police or what you swore on oath in July this year? WITNESS: Well, it's a bit of both.*

*HIS HONOUR: A bit of both.*

*WITNESS: Well, they're both true.*

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<sup>18</sup> T830 lines 5 to 8.

<sup>19</sup> T832 lines 1-2.

<sup>20</sup> Exhibit C22b pages 11-12.

<sup>21</sup> Exhibit C47 paragraph 40.

*HIS HONOUR: Right. But they both don't tell the whole story. WITNESS: No.*

*HIS HONOUR: Do they?*

*WITNESS: No, they don't.*

*HIS HONOUR: No".<sup>22</sup>*

44. Mr Denehey, a former acquaintance of Mr Bird, says he had a conversation with Mr Bird about this inquest where lies were being pointed out and Mr Bird said they were catching up with him.<sup>23</sup>
45. Mr Bird told police that at the date of Mrs Bird's death his marriage was 7/10, but when questioned on this point at the inquest he said:

*"I think that's probably a bit generous. It was probably about five".<sup>24</sup>*

Given other objective evidence, my view is the state of his marriage was far worse than that.

46. WH believed she was not always told the truth by Mr Bird.<sup>25</sup> In particular, she had trust issues about what he was telling her about the situation at home with his wife<sup>26</sup> and that on occasions she had to ask him whether he was seeing other people; that is people other than her.<sup>27</sup>
47. SK, with whom Mr Bird had a relationship after Mrs Bird's death, says Mr Bird never told her the truth. This was said in the context of a question which asked her to clarify that after the first 12 months, their relationship was marred with psychological manipulation and deception. She was asked to provide evidence of what she meant by that, and her response was as follows:

*"Um for starters he never told me the truth. He was always um hiding things from me or telling me what he thought I wanted to hear. Um with manipulation he was always putting me down, um telling me that I was no good, telling me that I couldn't live without him, telling me that I was crazy and just making me feel like I was worth nothing".*

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<sup>22</sup> T874 line 19-T875 line 18.

<sup>23</sup> T660 lines 27-41.

<sup>24</sup> T875 lines 33-36.

<sup>25</sup> T194 lines 37-38 and Exhibit C35 page 5.

<sup>26</sup> T270 lines 1-9.

<sup>27</sup> T269 lines 30-42. See also T276 lines 20-21.

48. Dr Ratcliff says people with drug and alcohol addictions do not always tell the truth about what they are using to those that are treating them.<sup>28</sup> Given Dr Ratcliff's notes and other documents on the file, it is clear Mr Bird was untruthful about many other things, examples of which follow.
49. Dr Ratcliff noted at consultations on 17 January 2006 and 16 February 2006, that Mr Bird was shoplifting and he was accused of lying to the Department of Veterans Affairs (DVA). On 19 April 2006, there is a note that he had been fitted up for aggravated burglary of his neighbour's home but it appears he was not charged. A note at a consultation on 13 March 2008 says "*predicament: he lies...*". It was noted in the consultation notes that Mr Bird's version of events as to a traffic accident and incident with a gun in East Timor, which were being used to claim compensation, were being questioned by the DVA, their lawyer and the psychiatrist retained by that Department, Dr Ian Sale.<sup>29</sup>
50. There is a note made by Dr Radcliff dated 17 December 2019, where he was advised Mr Bird was in court that day and he accepted legal advice to plead guilty to some charges which were adjourned to 13 February 2020 for sentencing. A note of 11 February 2020 says he has to lie in pleading guilty and to lie in expressing (inappropriate) remorse.<sup>30</sup>
51. The comments on passing sentence with respect to those charges are dated 27 February 2020.<sup>31</sup> In the comments, Justice Brett records that Mr Bird pleaded guilty to the following crimes:
- In September 2007, unlawfully setting fire to property, in particular a motor vehicle, and then dishonestly acquiring a financial advantage by making a fraudulent insurance claim in respect of the damage to the vehicle;
  - In December 2012, Mr Bird committed arson in respect of his house at Blackmans Bay, and then dishonestly acquired a financial advantage by making a fraudulent insurance claim in respect of the damaged house; and
  - In January 2017, he committed arson by setting fire to another house at Geeveston. He set fire to the house with the intention of making a fraudulent insurance claim in respect of the damage caused by the fire.

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<sup>28</sup> T615 lines 22-25.

<sup>29</sup> Exhibits C42b and C42d.

<sup>30</sup> Exhibits C42b and C42d.

<sup>31</sup> Exhibit C44.

52. In respect of the 2007 crimes, Mr Bird set fire to the motor vehicle on 11 September that year. The vehicle, a VW Combi van, was parked in the driveway of his home. He placed a kettle on the gas stove in the van, turned the gas on and lit it. The kettle was placed in a position intended to cause a curtain to catch fire. He left the van and waited for the fire to take hold and when it did, he called the fire brigade. Firefighters extinguished the fire but the van was completely destroyed. The van had been insured at an agreed value and Mr Bird made a claim on his insurance on the same day as the fire, telling the insurance company the fire was accidental. He was believed and the claim was accepted, and he was paid the sum of \$7700.
53. Mr and Mrs Bird purchased a house at Blackmans Bay in 2005 in which they resided with their children. The house and contents were insured at the time of purchase and that insurance was still in effect when Mr Bird set a fire on 17 December 2012. Approximately six weeks before, there had been an accidental fire house which had caused some smoke damage. As a result, Mr Bird and his family had moved into temporary accommodation so that repair work could be undertaken. On 17 December 2012 while the repair work was still underway, he went to the house in the early hours of the morning, poured fuel around the interior and then started a fire by lighting the gas burners of a portable barbecue. Mr Bird deliberately damaged the locking mechanism on the front door of the house to make it look as if someone had forced entry to the house. He then returned to his accommodation. A neighbour saw the fire after it had taken hold and called the fire brigade. Firefighters attended and extinguished the fire but the house suffered extensive damage. Mr Bird made a claim on his insurance policy two days later. When he did so he asserted that another person, a neighbour with whom he was in dispute, had started the fire. The insurance company believed Mr Bird's claim that he had nothing to do with commencing the fire and paid him the sum of \$557,265.83.
54. The house which the final crime relates to was purchased by Mr Bird on 24 March 2016 as his principal residence. The house was insured prior to settlement of the purchase and the contents were insured before he took up occupation of the house. The contents were insured for a sum which was considerably in excess of their value. Mr Bird set the fire on the morning of 6 January 2017. His then partner had already left the home and he lit the fire as he left the property. However, he left locked within the house two cats and four kittens. A number of other animals, namely eight baby chickens, 10 finches and a goat were in cages immediately surrounding the house. The fire was reported by neighbours and passers-by, and police and the fire service attended. The fire could not be brought under control and the house and contents were completely destroyed. All the animals, with the exception of the goat, died in the fire and the goat was so badly

burned it had to be put down at a later date. Mr Bird told investigators he was not responsible for the fire. He subsequently admitted he set fire to the house because it was his intention to make a fraudulent insurance claim by which he stood to gain up to \$705,000. Although there was an intention to make an insurance claim no such claim was ever made.

55. During those proceedings, the State asserted Mr Bird was financially motivated to commit these crimes because of a long-standing pattern of excessive spending. This was not disputed by Mr Bird but he provided little information as to how the money was spent. From what Justice Brett could determine, the funds acquired by Mr Bird from the successful insurance claim in respect of the Blackmans Bay house were used, in part, to provide some support for his children and a substantial portion was used to rebuild the home. None of the money paid out was recovered by the insurance company and Justice Brett indicated the prospects of recovering any monies from him were poor. His Honour convicted Mr Bird of the crimes and sentenced him to a global term of four years imprisonment and ordered that he be eligible for parole once he had served half of that sentence. Mr Bird was still on parole at the time of this inquest. There were also compensation orders made in favour of the insurance companies in the sum of \$7700 and \$557,265.83.
56. During his evidence, Mr Bird attempted to blame the solicitor working for his barrister for the outcome in relation to the criminal charges. It was felt the solicitor did not do enough work and she made some errors. He conceded he was provided with legal advice which he accepted and based on that advice he pleaded guilty to the charges which were dealt with by Justice Brett. He did not file an appeal and he did not make a complaint about the solicitor to the Legal Profession Board.<sup>32</sup>
57. On 15 January 2002, Mr Bird told Dr Radcliff he could not drive for long periods. This is patently untrue. He had to drive to Launceston to see Dr Radcliff, as he has done so for over 20 years. Also on that day, he indicated to Dr Radcliff he could not go shooting anymore, and later on 28 February 2002, that there was a lot of deer shooting in the district and the sound of shots upset him. It is clear that subsequent to these dates, Mr Bird made a number of applications for renewal of a gun licence. On 19 February 2003, Mr Bird told Dr Radcliff that he is very impatient with his children and tries to avoid them “on some excuse”; i.e. he lies to them. There is a note of an attendance on Dr Radcliff on 26 February 2010, where Mr Bird indicates he wants a witness in his DVA claim, Mr Martin Guinan, to lie for him. He tells Dr Radcliff on 17 September 2010 and

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<sup>32</sup> T729-T734.

6 October 2010, that Mrs Bird's family has disowned him and the children. Mrs Brown and Mrs Giles' evidence establishes that this is untrue. A note of 24 May 2011 notes that his then partner, SK, has given him another chance after he confessed to an ongoing affair.<sup>33</sup>

58. While married to Mrs Bird, Mr Bird had a sexual relationship with at least two women namely Ms Blundell and WH. As paragraph 57 reveals he was also unfaithful in 2011 to SK. The notes from the Hobart Clinic of 1 August 2006 indicate Mr Bird had to be spoken to again about appropriate boundaries with female patients who were still ringing him at home.<sup>34</sup>
59. Mr Bird's prison records also reveal he has been less than truthful. An email of 14 October 2020 from Olivia Grant, a planning officer, to Kate Lennox, a psychologist, says "*I just wanted to flag that he said he lies when you ask questions in regard to his thoughts of self-harm. This is because he is aware of where he will end up if he tells the truth (I am assuming Mersey/CSU)*". There are a couple of entries on 17 February 2020 and 29 August 2020 where Mr Bird complains of both his knees being "*stuffed*", but nowhere else is there any evidence of any knee injury apart from a twisted left knee as a result of a slip on a spoon drain in wet conditions, which occurred on 20 August 1999. An arthroscopy was performed on 3 September 1999. The DVA accepted liability for the claim and paid compensation for eight days of service which Mr Bird was unable to perform in August, November and December of that year, together with all his medical expenses. From that date, there was no further certified incapacity for work and no further payments were made.<sup>35</sup> On 13 March 2020, there is a note Mr Bird "*killed a couple of people in East Timor – PTSD as result*". Even on Mr Bird's version, there could have been only one person killed and I note he says he did not stop his truck to check on the person that he says he hit. There is also a note on 23 November 2020 that Mr Bird had "*ongoing visions of the girl he hit in Timor*", however the original history given to Dr Ratcliff was that it was difficult to tell if the person hit was a boy or a girl, but he saw the person's eyes and it was a boy. A further note of 4 May 2021 says that he hit a young girl in Timor. Mr Bird advised prison officials at one stage after the death of his wife that he made an attempt on his own life. There is no independent evidence to corroborate this. Finally, Mr Bird did not want the DVA notified of his incarceration.<sup>36</sup>

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<sup>33</sup> Exhibit 42d- transcript of Dr Ratcliff's clinical notes.

<sup>34</sup> Exhibit C61- Hobart Clinic Records.

<sup>35</sup> Exhibit C48- DVA records.

<sup>36</sup> Exhibit C65- Tasmanian Prison Service file.

60. The Firearms Services Division of Tasmania Police maintained a file with respect to applications made by Mr Bird for licences and permits to acquire firearms. His original application was made on 14 September 1999 and he was granted a licence after he completed a safety training course later that year. Then after his return from East Timor and a firearms incident which occurred while he was in East Timor, he obtained permits to acquire a firearm on 20 July 2000, 5 February 2001 and 14 July 2004. He sought a renewal of his licence in November 2004. In his application dated 2 November 2004, Mr Bird lied when he said no to the question as to whether he had suffered from any mental or physical disability. He did so because he knew he would not receive a licence.<sup>37</sup> The file records that on 20 July 2007, Mr Bird was intercepted for driving under the influence of a drug to such an extent as to be incapable of having proper control of the vehicle. He was charged, convicted and sentenced for that offence. In his application to renew his firearms licence on 19 November 2009, he disclosed that offence but said its circumstances “*were because I was being treated for anxiety and sleep disorder. The medication taken, at the time of the incident was alprazolam and stilnox, both of which are no longer taken as I have sought help and treatment for the stressors*”. Further information was sought by Tasmania Police from Dr Radcliff and in addition, Mr Bird was interviewed by police. As a result of what Mr Bird told police it was recommended his licence be renewed. Then on 8 July 2010, following Mrs Bird’s death, Mr Bird surrendered his licence to Kingston CIB but he requested its return on 27 July 2010. He then wrote a letter on 30 July 2010 to Firearms Services which said, “*I asked the CIB Kingston to hold my licence after my wife was found dead, I didn’t think I was a risk, but after my army training it seemed the correct thing at the time, I now would wish to have it returned please*”. Again, he was supported by Dr Radcliff. The licence was returned in March 2013. In his application in October 2014, Mr Bird did not disclose his conviction for drug driving nor that he had suffered from any mental or physical disability. In a subsequent application for an exemption in July 2015, he indicated he had suffered from mental or emotional problems, that is depression in 1999/2000, and he had not suffered from alcohol or drug related problems or any serious injury. In a further application in October 2019, he again did not disclose his drug driving conviction and he said he had not suffered from any mental or physical disability.<sup>38</sup> Contrary to these claims, it is quite clear from Dr Radcliff’s file the problems which Dr Radcliff initially diagnosed have continued.
61. When questioned by counsel assisting, Mr Bird could not remember or recall answers on in excess of 50 occasions. Some of these related to very crucial matters such as the

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<sup>37</sup> T832 lines 1-2.

<sup>38</sup> Exhibit C62- Firearms Services file.

drugs he took, timings on the morning of Mrs Bird's death and the configuration of the rope he says Mrs Bird used to hang herself. Other matters were events which occurred in his life that were significant and which I suggest a person is unlikely to forget; for example the sale price of the family home at Oatlands and the purchase price of the Blackmans Bay home, what was owing on the mortgage on the Blackmans Bay property prior to refinancing that loan in or about September 2009, and how the purchase of the Blackmans Bay property was financed. By contrast, Mr Bird had no difficulty answering all but one question put to him by Ms Battams.

62. There were significant discrepancies between his evidence at this inquest and what transpired before it, some of which are as follows:

- At no time prior to 2002 did Mr Bird advise any treating medical professional about his psychological health and what occurred in East Timor, but then denied those two incidents were later disclosed to Dr Radcliff so he could make a PTSD claim.<sup>39</sup>
- No evidence was provided with respect to his DVA claim about Mr Bird being abused as a child, as set out in his affidavit, nor did he disclose the trauma he says he received from attending fatal accidents in the United Kingdom (UK). He denied he did not mention either the child abuse or the trauma received from attending fatal accidents because he knew it might affect his claim for compensation.<sup>40</sup>
- Mr Bird denies he was unaware of the money he might receive on Mrs Bird's passing, but he advised Ms Vincent and Mr Bowden<sup>41</sup> that Mrs Bird had a life insurance policy which paid out in the event of suicide.<sup>42</sup>
- Travelling with WH to Launceston on 2 July 2010 is inconsistent with Mr Bird saying he had told Mrs Bird he had stopped seeing her.<sup>43</sup> Mr Bird denied he intended to continue his relationship with her despite his email of 3 July 2010. However, as the evidence demonstrates at page 867 of the transcript their relationship continued into 2011.<sup>44</sup>
- Mr Bird said he did not want to be with WH and spend his life with her, but that is not how he presented himself to her. His email of 31 March 2011<sup>45</sup> suggests the contrary but he says the contents of that email are not true.<sup>46</sup>

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<sup>39</sup> T809 lines 32-35 and T812 lines 35-41.

<sup>40</sup> T815 lines 4-11, 19-29 and 39-40 and T816.

<sup>41</sup> See paragraph 163.

<sup>42</sup> T862 lines 29-30 and paragraph 142.

<sup>43</sup> T865 lines 30-31.

<sup>44</sup> T866 lines 34-35.

<sup>45</sup> See paragraph 145.

<sup>46</sup> T934 lines 10-18.

- Mr Bird told WH, Mrs Bird was being strange and cold on 3 July 2010 when he told police the opposite, that is the relationship after Mrs Bird's return from the UK was far more positive. He then said he lied to WH.<sup>47</sup>
- Mr Bird did not tell the police about the depth of the problems in his relationship with Mrs Bird and he says he does not know why. He then said when pressed that he forgot.<sup>48</sup> He also downplayed his financial issues in his interview with the police.<sup>49</sup>
- Mr Bird did not tell Ms Roberts or Ms Campbell, that Mrs Bird was mentally unwell.<sup>50</sup> Neither did he tell the Grosvenor Street General Practice, Senior Detective Constable Button, or Senior Constable Kregor that his wife was mentally unwell.<sup>51</sup> He did not tell WH, who he had previously confided in that he had any concerns for his wife's mental health.<sup>52</sup> He did not tell SK anything about Mrs Bird's mental health.<sup>53</sup> Mr Bird said nothing to Mrs Street and Mrs Burbury about Mrs Bird's mental health and he told Ms Vincent his wife was not depressed.<sup>54</sup> Mr Bird told Catherine Edwards on 8 July 2010 that Mrs Bird was depressed and had not got out of bed,<sup>55</sup> and he told his son, DJ, his mother was really upset she did not get the job at the Royal Hobart Hospital (RHH). He wondered whether Mrs Bird had taken some pills to try and end her life which is contrary to evidence that she had struggled to even take a Panadol.<sup>56</sup> He then told WH not getting the job at the RHH was possibly the cause of her depression but he did not tell police this.<sup>57</sup> Mr Bird told Mr Bowden Mrs Bird had tried to commit suicide the day before she died and that she tried to kill herself with a drug overdose,<sup>58</sup> but he did not tell anyone else this. Then he said Mrs Bird gave him no reason to think, in the lead up to her death, she was depressed.<sup>59</sup> He told Dr Ratcliff in an appointment on 13 August 2010<sup>60</sup> there was no explanation for his wife's suicide nor any prior indication and he said in

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<sup>47</sup> T895 line 39 to T896 line 32.

<sup>48</sup> T877 lines 14-16 and 20.

<sup>49</sup> T892 lines 1-15.

<sup>50</sup> T897 lines 17-20 and T899 lines 14-16.

<sup>51</sup> T902 lines 14-18 and T906 lines 31-33 and 35-38.

<sup>52</sup> T903 lines 16-19.

<sup>53</sup> T909 lines 11-15.

<sup>54</sup> T907 lines 1-3, 14-15 and lines 33-35.

<sup>55</sup> T906 lines 1-5.

<sup>56</sup> T908 lines 20-24 and lines 32-43 and T907 lines 34-35.

<sup>57</sup> T907 lines 37-44.

<sup>58</sup> See paragraph 163.

<sup>59</sup> T994 lines 36-39.

<sup>60</sup> Exhibit C42d- notes of Dr Ratcliff.

evidence he could not say why, in answer to Robert Giles' letter,<sup>61</sup> his wife had taken her own life.<sup>62</sup>

- When he arrived home on the morning of 8 July 2010, Mr Bird said in evidence both the side door to the house and the garage door were unlocked.<sup>63</sup> He however told Mrs Street, Ms Vincent and Mrs Giles the garage door was locked.<sup>64</sup>
- Mr Bird told Mrs Street that when he got home on the morning of 8 July 2010 and could not find Mrs Bird, he thought she had gone for a walk with the dog, but because the dog was at home he was not sure.<sup>65</sup> This evidence is at odds with his evidence which was that he had taken the dog for a walk that morning.
- In his affidavit, on the morning of his wife's death, Mr Bird says after walking the dog he went to the Channel Court shops in Kingston, to [WH]'s house and then Ms Edwards' home.<sup>66</sup> But in his evidence, he says he visited Ms Edwards and then WH.<sup>67</sup>
- There are other discrepancies which are dealt with below.

*The credit of other witnesses*

63. From the evidence which follows, it will be seen that there are some differences in the evidence given by some of the witnesses. Having considered each of those witnesses carefully, I have come to the view that the differences in the evidence are not due to any effort on the part of any witness to mislead or be untruthful, but rather, they are due to the very long time between the events the subject of their evidence and the provision of that evidence in court; all well over a decade later. Differences or discrepancies in evidence between witnesses in those circumstances are inevitable.

*Evidence-prior to Mrs Bird's death*

(a) *Mrs Bird*

64. Suzanne Brown says on Mr Bird's return from East Timor, her sister noticed a gradual decline in his behaviour. Mrs Brown says she was aware Mr Bird was diagnosed with PTSD and was prescribed medication. Mrs Bird had to constantly oversee him, as well as work and care for the children. Mr Bird was unable to work. Mrs Bird found the fight

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<sup>61</sup> Exhibit C57.

<sup>62</sup> T1008 lines 11-21.

<sup>63</sup> T922 lines 9-10 and T926 lines 14-15.

<sup>64</sup> See paragraphs 136, 142 and 157.

<sup>65</sup> See paragraph 136.

<sup>66</sup> Exhibit C47- affidavit of Mark Bird at paragraphs 58 and 60.

<sup>67</sup> T917 line 37.

for compensation with respect to her husband's service in East Timor emotionally draining. Mrs Bird told her sister she loved her work, and she moved her boys from Kingston High School to St Virgil's College in order to give them more opportunities. In May 2010, Mrs Bird borrowed \$1200 from Mrs Brown until her tax return came through. She needed the money for school uniforms and the like. On 27 May 2010, Mrs Bird and her three children visited her family in England while Mr Bird stayed in Australia. The flights were paid for by Mrs Bird's parents. During her stay, Mrs Brown describes her sister as bubbly and happy, although she was tired. She spent her time there doing what the children wanted. On 11 June 2010, Mrs Bird and the children returned to Australia. Mrs Brown says she never thought her sister had depression and that she seemed to be a strong person who was able to deal with everything. Mrs Bird also never said anything bad about Mr Bird but Mrs Brown believes over the years he wore her down. Mrs Brown was aware her sister asked Mr Bird to leave their home for a period of time.<sup>68</sup>

65. Stephanie Thompson is a self-employed psychotherapist and she worked at the Whittle Ward as a registered music therapist. In about 2008, Ms Thompson consulted with Mrs Bird who she says was looking for direction in relation to her personal life. At that stage, Mrs Bird advised Ms Thompson she was not sure whether she wished to stay in her marriage. She indicated her husband had PTSD, that his behaviour was erratic, and he was emotionally unpredictable. She expressed concern she was having to shelter her children in terms of his unpredictability. There was a suggestion that there was some drug and alcohol issues, that she had to take on all the responsibilities of the household and she was emotionally and physically exhausted. Ms Thompson says Mrs Bird was looking for some coping techniques and in the end she decided it was best for Mr Bird to move out of home. They would still operate as a family but not live in the same house.<sup>69</sup>
66. Sheila Campbell, the nurse unit manager at the palliative care unit in Hobart, worked with Mrs Bird who was one of Ms Campbell's staff members for a period of four years prior to her death. Mrs Bird had worked at the unit for a total of five years, so she had commenced work at the unit before Ms Campbell arrived. Ms Campbell describes Mrs Bird as cheerful, hard-working, reliable and an excellent nurse. She had a very cheeky sense of humour. Earlier in 2010, Mrs Bird applied for a level III nursing position at the RHH. She had relieved in that position in the past and was hopeful of obtaining the position. Mrs Bird's application was unsuccessful because a person who was already a

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<sup>68</sup> Exhibit C9- affidavit of Suzanne Brown.

<sup>69</sup> Exhibit C10- affidavit of Stephanie Thompson.

substantive level III nurse applied and got the position. Ms Campbell believes Mrs Bird was very disappointed that she was unsuccessful, but since then, she had actively sought further training and had been given further opportunities in the hope she would soon be promoted. Ms Campbell is aware Mrs Bird was thought of highly by her colleagues. She says she only ever saw Mrs Bird low, flat and teary once in about 2008. Mrs Bird advised Ms Campbell she faced challenges with working, raising a young family, disappointments in her marriage, and the frustration of looking after everybody else and that nobody was looking after her. Ms Campbell recommended Mrs Bird speak to a counsellor and subsequently Mrs Bird indicated that she had done that.<sup>70</sup>

67. Tania Street had known Mr and Mrs Bird for about three to four years since their children had started at Illawarra Primary School and they lived only a block away. Mrs Street used to work in the school canteen with Mrs Bird and their respective girls played sport together. She describes Mrs Bird as happy, cheerful and quirky. Mrs Street says she was “*totally shocked at Helen’s suicide*”. She says as a good family friend, she never saw it coming and she thought if Mrs Bird was having a hard time she would have spoken to her friends about it. Mrs Street says Mrs Bird loved her job and would speak quite openly about it. She knew she had applied for other positions including a higher position she had filled in for in the past. Mrs Street says Mrs Bird mentioned she did not get that job but she “*made no big deal about it*”.<sup>71</sup>
68. Catherine Edwards also came to know Mr and Mrs Bird through Illawarra Primary School where her daughter went to school with Mr and Mrs Bird’s daughter. Over a period of about four years, she developed a friendship with Mrs Bird and she also knew Mr Bird. She says Mrs Bird was a person that made people smile, she had a wacky sense of humour, and she was bright, cheerful and happy. She always made an effort with her appearance. She made others feel happy to be around her and she never had a bad word to say about others. Mrs Bird would run her children around everywhere. She presented as a strong person. After Mr Bird lost his licence, she had to drive the children everywhere. She never complained and Ms Edwards says the children were her world. Ms Edwards was aware that a couple of years ago Mr Bird moved out of the family home, and in late 2008, Ms Edwards separated from her husband during which time Mrs Bird was very supportive of her. She was aware that occasionally Mr Bird would sell some of his belongings to get some cash. Mrs Bird also told her subsequently that Mr Bird was moving back into the home, but a few weeks later she indicated she did not know whether it was the right thing to do. Ms Edwards says although Mrs Bird was an

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<sup>70</sup> Exhibit C11- affidavit of Sheila Campbell.

<sup>71</sup> Exhibit C12- affidavit of Tania Street.

outgoing person she was very private with her life. She was a great listener and had a lot of friends. She was well liked within the school community.<sup>72</sup>

69. Jane Burbury knew Mr and Mrs Bird for about 10 years prior to Mrs Bird's death. Mr and Mrs Bird bought a property from Mrs Burbury and her husband in Tunbridge when they first arrived in Tasmania. Mrs Burbury became friends with Mrs Bird and they have always maintained a good friendship by having lunches or speaking on the telephone on a reasonably regular basis. Mrs Burbury says she last saw Mrs Bird about six weeks prior to her death when Mrs Bird attended Mrs Burbury's home for lunch and she last spoke to her about three weeks prior to her death when her daughter's enrolment at Mount Carmel College had been confirmed. Mrs Burbury says Mrs Bird seemed "*really good and really positive*". Mrs Burbury is aware Mr Bird served in East Timor for about six months, and prior to his departure their relationship appeared to be really good, but on his return, Mr Bird seemed to be a different person. She believed he had been diagnosed with PTSD and from her observations, he became drug and alcohol dependent. It was at about that time Mr and Mrs Bird bought a house in Oatlands and moved there from Tunbridge. While they resided in Oatlands, Mrs Bird worked at the hospital and Mr Bird was not doing much at all. She is aware during this period he spent some time at the Hobart Clinic. Life for Mrs Bird was keeping the family going, but she always displayed a positive attitude and had a happy, bubbly personality. Mrs Burbury says Mrs Bird would never make a big deal of her situation and when she told Mrs Burbury and/or her friends things about her relationship, she always made a joke about it.<sup>73</sup>
70. In her evidence, Mrs Burbury says immediately after Mr and Mrs Bird purchased the property from Mr and Mrs Burbury, she became friends with Mrs Bird. She was not friends with Mr Bird. Mr Bird was not friends with Mr Burbury. Mrs Bird visited Mrs Burbury and Mrs Burbury visited Mrs Bird frequently. MQ was the same age as one of her daughters and they were good friends.<sup>74</sup> Mrs Burbury would see Mrs Bird once a week and more often than not she would go to Mrs Bird's home. They also associated with one another on school and childcare committees, and at Little Athletics.<sup>75</sup> Mrs Burbury describes Mrs Bird as "*full of fun, full of life, always happy. Ah lots of energy*".<sup>76</sup> They continued to see each other after Mrs Bird moved into Oatlands with her family.<sup>77</sup>

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<sup>72</sup> Exhibit C13- affidavit of Catherine Edwards.

<sup>73</sup> Exhibit C14- affidavit of Jane Burbury.

<sup>74</sup> T359.

<sup>75</sup> T360 lines 20-38.

<sup>76</sup> T361 lines 28-29.

<sup>77</sup> T361 lines 31-41.

After the move, Mrs Bird's personality or demeanour did not change.<sup>78</sup> After Mr and Mrs Bird and their family moved to Blackmans Bay, Mrs Burbury spoke to Mrs Bird more on the phone. They would meet six times a year.<sup>79</sup> Mrs Burbury said Mrs Bird would talk about her work, that she loved her job and she would talk about the childrens' successes of whom she was so proud.<sup>80</sup> Mrs Bird advised Mrs Burbury they came to Tasmania because Mr Bird had a failed business in New South Wales and they were financially strapped and starting again.<sup>81</sup> Mr Bird did not work during the time that Mrs Burbury knew him.<sup>82</sup> On his return from East Timor, Mr Bird appeared to Mrs Burbury to be a different person and from what she observed, he was drug and alcohol dependent and she saw him at times under the influence.<sup>83</sup> On the other hand, she observed Mrs Bird show more strength – "*she just dug her toes in and worked harder*".<sup>84</sup> Mrs Burbury says after Mr and Mrs Bird moved to Blackmans Bay, she saw Mr Bird in the Elizabeth Street Mall in Hobart under the influence of drugs or alcohol. She could tell as he was speaking inappropriately in front of her children.<sup>85</sup>

71. Emma Gargioni knew Mr and Mrs Bird through school and their children being friends. She would occasionally have coffee with Mrs Bird as part of a wider mother's group. She never had any concerns about Mrs Bird's mental health and was surprised by her suicide. She says she is employed as a nurse and therefore recognises the signs of depression. She did not notice any of these signs in Mrs Bird.<sup>86</sup>
72. Jane Kent lived next door to Mr and Mrs Bird. She occasionally looked after Mrs Bird's three children or their animals if the family went away. She would occasionally drop into their house for a coffee. She says she was surprised Mrs Bird took her own life.<sup>87</sup>
73. Jacqueline Vincent says she was a close friend of Mrs Bird and got to know her through Illawarra Primary School as she had a son who was the same age as Mrs Bird's sons. She says she would see Mrs Bird during the week at school pickups and at their children's sport. She would also catch up with Mrs Bird and another friend, Pamela Stevenson (now Costin), about once a month. She says the three of them were very close. The three met at Pamela's house the Friday before Mrs Bird's death. Mrs Bird had just returned from England and she "*seemed great*". Mrs Bird told them she was the happiest

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<sup>78</sup> T362 lines 20-21.

<sup>79</sup> T362 lines 35-42.

<sup>80</sup> T364 lines 2-5.

<sup>81</sup> T364 lines 32-34.

<sup>82</sup> T364 line 37.

<sup>83</sup> T365 lines 34-39 and T366 lines 1-6.

<sup>84</sup> T366 lines 32-33.

<sup>85</sup> T368 lines 8-20.

<sup>86</sup> Exhibit C27- affidavit of Emma Gargioni.

<sup>87</sup> Exhibit C28- affidavit of Jane Kent.

she had ever been. Ms Vincent says she never knew Mrs Bird to suffer from depression. She also knew Mr and Mrs Bird had been separated a few years before her death and Mrs Bird had told her she needed some space in order to work out how she felt about Mr Bird. After he moved back in, Mrs Bird told her it was silly because he was always at the family home and she was paying rent for him while he was in the unit. Ms Vincent knew Mrs Bird was the bread winner and Mr Bird had issues with money. Mrs Bird once told her that he spent \$5000 on Star Wars figures in one day. Ms Vincent knew Mrs Bird was worried about Mr Bird's spending. She also knew from her discussions with Mrs Bird that Mr Bird suffered from mental health issues, that he was medicated and that on occasion, she had arrived home to find him asleep on the couch and he had forgotten to pick up the children. She also knew Mr Bird drank alcohol and that he was seeing a psychiatrist. She was very concerned after Mrs Bird's death as she did not believe she would ever commit suicide.<sup>88</sup>

74. Ms Vincent had known Mrs Bird for about five years prior to her death.<sup>89</sup> Ms Vincent confirmed that she, Mrs Bird and their friend Pamela Stevenson would catch up about once a month at Pamela's house.<sup>90</sup> Ms Vincent would see Mrs Bird a couple of times a week when they were both picking up their children. They would have a chat for 15 minutes or so before the children were let out of school.<sup>91</sup>
75. Ms Vincent says nobody had a bad word to say about Mrs Bird. She was always bubbly.<sup>92</sup> Over the five years Ms Vincent knew Mrs Bird, that personality did not change.<sup>93</sup> She would however have her bad days just like everybody else and on those days she would probably be a little quieter.<sup>94</sup> On the Friday before Mrs Bird's death, that being 2 July 2010, Ms Vincent picked Mrs Bird up from her home at 7:00pm and they went to Ms Stevenson's home.<sup>95</sup> It was about a 15 minute trip to Ms Stevenson's home from Blackmans Bay and they stayed there until between 10:00pm and 10:30pm. Ms Vincent drove Mrs Bird back to her home. She says Mrs Bird was very excited and very happy. She recalls Mrs Bird saying she thought Mr Bird missed her more than he missed the children.<sup>96</sup>

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<sup>88</sup> Exhibit C29- affidavit of Jacqueline Vincent.

<sup>89</sup> T413 line 4-6.

<sup>90</sup> T414 lines 23-26.

<sup>91</sup> T415 lines 5-12.

<sup>92</sup> T415 16-17.

<sup>93</sup> T415 lines 19-23.

<sup>94</sup> T415 lines 25-29.

<sup>95</sup> T416 lines 26-40.

<sup>96</sup> T417 lines 14-22.

76. In her evidence, Ms Vincent said Mrs Bird would indicate she was worried about their financial position and that Mr Bird was getting prescription drugs, but she did not know how he was paying for them.<sup>97</sup> She was aware of a couple of occasions when Mr Bird had forgotten to collect the children from school as he had fallen asleep on the couch.<sup>98</sup>
77. Pamela Stevenson confirms she was friends with Mrs Bird and Ms Vincent. She recalls one Saturday seeing Mrs Bird very upset. Mrs Bird told her Mr Bird had issues with money. She said she could not manage anymore, and she was working a lot and tried to look after the children, but Mr Bird was spending money online like an addiction. She mentioned the purchase of the Star Wars figures. As a result of this discussion, Ms Stevenson became aware of Mr Bird's service in East Timor, that he was seeing a psychiatrist and was on medication which he was getting either online or illegally. Mrs Bird was concerned he was taking more than what he had been prescribed. She advised Ms Stevenson the medication made him tired and unreliable, and as a result he would fall asleep, and it was therefore difficult for him to look after the children. Mrs Bird told Ms Stevenson Mr Bird had been in a car accident which also involved their children. They discussed asking Mr Bird to move out which he soon did. Ms Stevenson recalls a subsequent conversation where Mrs Bird advised her Mr Bird was doing better and sometime after that conversation he moved back home. She also says after Mrs Bird returned from the UK in 2010 she seemed happy. At the catch up mentioned in paragraph 75 which involved Ms Stevenson, Mrs Bird and Ms Vincent, she says Mrs Bird seemed really happy and content. Ms Stevenson, in the whole time she knew Mrs Bird, never felt Mrs Bird was depressed. The only time she ever saw her really upset was during the discussion about Mr Bird moving out, which is mentioned above. Even then she says Mrs Bird was making plans to deal with the situation. Ms Stevenson says Mrs Bird never talked to her about taking her own life. She was shocked and could not believe it when she found out Mrs Bird had passed away and she *"thought there was no way that Helen would take her own life. I believe that Helen would have talked to me if she was upset, as we had confided each other in the past"*.<sup>99</sup>
78. Tracey Giles, who is Mrs Bird's sister-in-law, says she spent time with Mrs Bird in 2010 when she travelled to the UK. Mrs Giles says Mrs Bird seemed happy during her visit.<sup>100</sup> She was just how she always was and seemed to be in good spirits.<sup>101</sup>

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<sup>97</sup> T418 lines 36-41.

<sup>98</sup> T419 lines 8-12 and 17-18.

<sup>99</sup> Exhibit C30- affidavit of Pamela Stevenson.

<sup>100</sup> Exhibit C40- affidavit of Tracey Giles.

<sup>101</sup> T77 lines 25-27.

79. Suzanne Brown says she was very close to her sister. During Mrs Bird's visit to the UK in June 2010, Mrs Brown says she was her normal, happy, bubbly, funny self. It was as if she had never left the UK. They had days out and every day was busy with Mrs Bird going out with many old friends and work colleagues. Her mood was upbeat, happy and relaxed. Prior to her departure at the airport on 11 June 2010, she was quiet and not overly chatty, and Mrs Brown says she sensed her sister was a little sad after having such an amazing time with her family and friends, although Mrs Brown says she had no reason to worry. Mrs Brown last spoke to Mrs Bird three or four days after she left, at which time Mrs Bird called her. It was a short conversation just to say that she was back and going back to work.<sup>102</sup>
80. Mrs Bird's medical records at the Grosvenor Street General Practice cover the period from June 2005 until October 2008, during which time Mrs Bird was a patient of Dr Susan Hodgman.<sup>103</sup> The relevant notes in the records are as follows:
- 8 April 2006 – palpitations – increasing frequency – may all be due to current social stress related to husband's PTSD.
  - 19 April 2006 – discussion re-stresses – husband not well and difficult to cope with to contact me if I can help in any way.
  - 11 October 2006 – going to Thailand – life otherwise going well.
  - 8 January 2007 – Long discussion – stressed – although court case went well – life is very wearing as no family support and husband not capable taking full adult role in family – three children, lots of activities – not much time for self – feeling grumpy, worn out – plan trial St John's Wort (SJW) review two – three weeks.
  - 22 January 2007 – feeling a bit brighter –? Related to SJW or ? cycle having a very significant impact on mood to contact a psychologist – K 10<sup>104</sup> equals 28 –

<sup>102</sup> Exhibit C59- affidavit of Suzanne Brown.

<sup>103</sup> Exhibit C45-medical records of Mrs Bird from Grosvenor Street General Practice.

<sup>104</sup> The Kessler Psychological Distress Scale (K10) is a simple measure of psychological distress. The K10 scale involves 10 questions about emotional states each with a five-level response scale. The severity of psychological distress according to the K10 score is set out in the following table:

<b>K10 score</b>	<b>Level of psychological distress</b>
10-15	Low
16-21	Moderate
22-29	High
30-50	Very high

continue SJW – for review two weeks. 5 February 2007 – continuing to feel okay – has moments when frustrations get too much – has been doing lots through school holidays – and... To monitor carefully how things going if not good then we must consider an SSRI – husband has been fairly helpful – has not contacted psychologist – to do this.

- 26 February 2007 – much improved – psychologist has helped me a lot – discussing reorganising life – review one month.
- 30 March 2007 – generally mood much improved – no longer taking SJW as ran out and felt no change – has not needed to call psychologist but will catch up with her... – Mark’s case progressing – may be a bit more stressful soon – children well – coping with daily life much better.
- 5 October 2007 general discussion re-family and husband, mother coming from UK for two months next Jan/Feb – looking forward to this.
- 23 April 2008 – Mark still living in a unit – currently happy with this. Enjoying been involved with children’s school.
- 8 October 2008 – Mark back at home for a month – seeing how things go.

81. Dr Hodgman also provided a report in which she says:

*“My belief is the act of suicide was out of character for Helen. Helen’s children and their future were her main priority and she was also very committed to her career as a palliative nurse. Helen had always previously sought help and advice when feeling stressed and had done so before her symptoms could become significant”.*<sup>105</sup>

82. The psychologist mentioned in Dr Hodgman’s records was Elizabeth Hyslop. She says she did not treat Mrs Bird as a patient in her own right, but says Mrs Bird was referred to her for treatment by her general practitioner but chose not to follow through with that treatment. Ms Hyslop says she spoke to Mrs Bird in early 2007 when she rang to inform her that she was not attending any more appointments relating to her husband’s treatment and behaviour, that she was angry and disillusioned with that behaviour, and that she was intending to concentrate on her own welfare and that of her children. Ms Hyslop says she was not surprised by this as she thought Mrs Bird had been very patient and forgiving regarding Mr Bird’s behaviour and needed to “get on” with her life. Ms Hyslop says Mrs Bird presented as a capable, well-groomed, pleasant, fair, likeable and assertive woman. She was reluctant to abandon her husband, given their isolation from family and their earlier happy years together, but Ms Hyslop formed the opinion that

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<sup>105</sup> Exhibit C7- report of Dr Hodgman which is also contained in Exhibit C45- medical records of Mrs Bird obtained from Grosvenor Street General Practice.

she was likely to separate from Mr Bird, sooner or later, and that she would manage this as well as possible. She felt his problems were caused by his East Timor duty and so she felt inclined to support him. She was frustrated and irritated by Mr Bird's overspending and addictions "*but I would not have assessed her as depressed –nor would I have ever viewed her as a suicide risk*". Ms Hyslop would have assessed her as a copier, someone who was successfully working on running the household by herself, and that she would manage a separation better than most, and that this was a likely outcome.<sup>106</sup>

83. Deborah Abbott is Mr Bird's sister. She says she and Mrs Bird became very good friends over many years. She heard from Mrs Bird about the changes in her brother upon his return from East Timor. Mrs Abbott says Mrs Bird was "*so strong, positive and determined to support Mark even travelling with him, in her capacity as a nurse, to one of the clinics he attended as an inpatient*". In January 2006, Mrs Abbott, her mother and her two children, visited Mr and Mrs Bird and their children in Tasmania. It was obvious to Mrs Abbott that life was difficult for Mrs Bird, holding down a full-time job and dealing with family issues and Mr Bird's challenges. In December 2009, Mr and Mrs Bird and their children travelled to New Zealand to stay with Mrs Abbott's family for Christmas. It was during this trip she learned the news that Mrs Bird had not been successful in the job she had applied for. Regular contact continued with Mrs Bird on their return to Australia. In the week leading up to her death, Mrs Bird called Mrs Abbott several times with contact details for UC while he was in New Zealand participating in a squash tournament, and to ensure he had all of Mrs Abbott's details. On 8 July 2010, she says she had a call from Mrs Bird asking whether she had made contact with UC. She had not at that point but she called him later that morning. The phone call that she received later that day to advise of Mrs Bird's death "*came as a complete and utter shock, especially as I had spoken to Helen earlier that day*".<sup>107</sup>

(b) *Mr Bird*

84. Mr Bird says in his affidavit he was raised by his biological parents in the UK and he has a younger sister.<sup>108</sup> He left school at the age of 15 and completed a motor mechanic apprenticeship. He claims he suffered childhood sexual abuse when he was 14 years old, which occurred when he was a sea cadet. As a mechanic, he worked as a recovery driver and he often attended fatal car accidents involving children which he says was very traumatising. He joined the Army Reserves in 1995 as a motor mechanic and served in East Timor where he says he witnessed numerous traumatic events. He mentions an

<sup>106</sup> Exhibit C8- report of Elizabeth Hyslop Clinical Psychologist.

<sup>107</sup> Exhibit C58- affidavit of Deborah Abbott.

<sup>108</sup> Exhibit C47- affidavit of Mark Bird.

event when a loaded gun was held to his head by a drunken soldier who threatened to blow his head off. He makes no mention of the motor accident which is referred to in paragraph 97. He says he suffers from PTSD, chronic anxiety and depression, and he often self-medicated to ease his symptoms by using alcohol, prescription and non-prescription medication, cannabis resin, LSD, opiates and chroming. He says he formed an addiction to opiates after he sustained a neck injury and required pain relief. He says chroming is the practice of inhaling toxic chemicals; in his case he inhales chemicals such as acetone which is used in nail polish remover and petroleum based glues and spirits like paint thinners.<sup>109</sup> Mr Bird advised “*if you take a good sniff you can’t exactly walk around*”<sup>110</sup> and “*it is a cheap way of getting stoned*”.<sup>111</sup> He mentions his treatment at the Hobart Clinic, Pine Lodge clinic in Dandenong, St Vincent’s Hospital and the Heidelberg Repatriation Hospital. He claims his mental health deteriorated dramatically when he was sentenced to a period of imprisonment.

85. Mr Bird says he was married in England in 1986 and came to Australia in 1995. He says he and Mrs Bird had three children and their relationship was a loving and happy one until he returned from his service in East Timor. He says they separated in 2007 and he moved back into the family home towards the end of 2009. He says during that period, he formed a friendship with WH which became a sexual one, but when he moved back into the family home, he told WH the relationship was over which she did not take well. Despite this, I note their relationship continued. The family went to New Zealand for a holiday at Christmas in 2009 when Mrs Bird found out she did not obtain a promotion at work which he believes was the catalyst for her suicide.
86. Mrs Brown says Mrs Bird’s family did not like Mr Bird very much because they felt he put Mrs Bird through so much with respect to his drinking, medication intake and his purchase of random things on the Internet.<sup>112</sup> She says sometimes he could be chatty and on other occasions he would not speak at all.<sup>113</sup>
87. A police offence report indicates the offences of aggravated burglary and stealing were committed at the home at 3 View Street Blackmans Bay between 3 and 4 March 2006. Some carpets were damaged, seven pieces of jewellery valued at approximately \$8800 and four bottles of alcohol valued at \$190 were stolen. A neighbour had been looking after this property while the owner was away and found on 4 March 2006, a large amount of water coming out the back door. Once inside a plug was found in the kitchen

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<sup>109</sup> T1004 lines 37-42 and T1005 line 1.

<sup>110</sup> T1007 lines 18-19.

<sup>111</sup> T1006 line 11.

<sup>112</sup> Exhibit C9 – affidavit of Suzanne Brown.

<sup>113</sup> Exhibit C59 – affidavit of Suzanne Brown.

sink and bathroom sink, and the water had been left running. A fridge had also been left open, as had a rear bedroom window. Over the previous three weeks, the owner of the property had damage done to his vehicle and paint thrown on the front of his house. The owner of the property at 3 View Street accused Mr Bird of being responsible. Police obtained a search warrant and on 18 April 2006, conducted a search of Mr Bird's property finding alcohol and spray cans. Mr Bird was heavily medicated due to PTSD, he had slurred speech and he was unsteady on his feet. The police search occurred at 8:40am in the morning. He appeared not to comprehend why police were there. Mr Bird attended the police station and his psychiatrist was spoken to. His psychiatrist said Mr Bird had significant diminished responsibility due to his medication and PTSD. Dr Ratcliff advised, due to Mr Bird's abuse of prescription medication and alcohol he was exhibiting impulsive behaviour that he could not be held criminally responsible for. Police decided they could not interview Mr Bird or proceed with any prosecution.<sup>114</sup>

88. Helena Blundell says she first met Mr Bird in 2007 or 2008. At the time he was living in the unit next door at 46 Ocean Esplanade, Blackmans Bay. She understood he was on a pension, had PTSD, and was not working. She went out with him for a very short period of three to four weeks. She did not see a future with somebody who was never going to work. Ms Blundell introduced Mr Bird to WH.<sup>115</sup>
89. WH says she was introduced to Mr Bird by Ms Blundell between May and July 2008. Between August and September that year, the relationship between Ms Blundell and Mr Bird ended, and Mr Bird moved back into the family home. In October or November 2008, Ms Blundell told WH Mr Bird was still knocking on her door and he was unhappy. She suggested WH meet him for walks as she had a new boyfriend and did not want Mr Bird knocking on her door and disturbing that relationship. WH commenced going on walks with Mr Bird who told her about his experience in the Army, his diagnosis of PTSD, and his problems with drugs and alcohol. He talked about suicide and she was concerned for his mental health. He also told her he had difficulties during childhood which included dyslexia and childhood abuse. He spoke to WH about Mrs Bird putting him down with lots of little comments and she saw Mr Bird as the victim in the relationship. He told her Mrs Bird controlled all the money; she gave the children pocket money and Mr Bird an allowance. He told her it was like a prison at his house. WH concedes while she was in a relationship with Mr Bird, he was living with his wife at the family home, but it was her understanding they had separated, were living together for

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<sup>114</sup> Exhibit C24- offence report 268523.

<sup>115</sup> Exhibit C34- affidavit of Helena Blundell.

financial reasons and so they could look after their children. Clearly this was not so, but WH believed what Mr Bird had told her.

90. Between August and October 2008, WH wrote to Mrs Bird because she understood that Mr Bird was separated but she wanted to be open with Mrs Bird about what was going on. Subsequently, WH wrote a second letter to Mrs Bird in which she asked her to ask Mr Bird to stop knocking on her front door. She received no reply to either letter. WH says Mr Bird spoke to her about the letters and said Mrs Bird “*thought it was amusing*”. There was one occasion when WH spoke to Mrs Bird, who phoned her and told WH she thought she had misunderstood what Mr Bird had told her about him being free to see other people. It is clear Mrs Bird did not think [WH]’s letters were amusing as alleged by Mr Bird.
91. In January 2009, there was no contact between WH and Mr Bird, but in March 2009 they resumed their walks but she said it was very off and on as was their relationship. They occasionally discussed that they might be together one day, although WH concedes Mr Bird had an emotional hold over her.
92. One day, WH says Mr Bird showed her a text message he claimed was from Mrs Bird which said, “*maybe you’d all be better off if I was dead*”. He also advised WH that Mrs Bird’s family did not like him.
93. In June 2009, Mr Bird told WH he wanted to move out of the family home but the house extension meant he was financially trapped. In January 2010, Mr Bird went on holiday to New Zealand with his family, but three months later he was discussing moving out again. In June 2010, Mrs Bird went to the UK to visit her family, and also in that month [WH]’s settlement was finalised with her ex-husband and she took possession of her house. While Mrs Bird was on holiday in the UK with the children, Mr Bird stayed with WH at her place one night. On another of those nights, WH went to visit Mr Bird at his home but he did not answer the door. WH believed on that occasion he was inside with somebody else. WH says while Mr Bird was still living with Mrs Bird, they had discussed him moving in with WH, but she did not want him to as it would have been too disruptive for her children.
94. On 2 July 2010, WH travelled to Launceston with Mr Bird in his car as he had an appointment with Dr Ratcliff. The next day Mr Bird sent WH an email which says:

*“hi [WH] thanks for a lovely day yesterday, today has been very straining as you can guess h has been very strange and cold, she has even looked through the paper at rentals for me, im (sic) so lucky! my head is spinning very much at the moment and I’m*

*of (sic) to watch a film upstairs out the way, tomorrow I think yhey (sic) are of (sic) to the pictures if so I will pop up for all a coffee...hope you had a good night sleep last night and a rested day today, hope you can reply tonight if not talk or see you in the morning take care love mark”.*

95. The day before Mrs Bird’s death, WH had arranged with Mr Bird that he might call past, but he texted her to cancel as he needed to be home as Mrs Bird was unwell. On the morning of her death, Mr Bird visited WH and told her that Mrs Bird told him to go out for a while and that she would be fine. He bought her flowers as she had been sick that week and off work. Mr Bird and WH discussed their relationship during the visit and she recalls saying to him that she felt he might be playing games with her. They had had that conversation before. She had told him that she thought he had other friends and he said, “*when would I have time to have other friends*”.<sup>116</sup>
96. Mr Bird has been a continuous patient of Dr Radcliff since 15 January 2002 after an initial referral from Dr Gray of Oatlands, in which she advised Mr Bird had a history of depression, insomnia, morbid dreams, anxiety and an inability “*to cope with his normal lifestyle*” which was predominately associated with his time in East Timor as an army reservist. She was concerned about his alcohol use. Mr Bird had told Dr Radcliff he was a member of the Army Reserve and went to East Timor in early February 2000 as a volunteer motor mechanic with INTERFET<sup>117</sup>. In late February 2000, he injured his neck and shoulder during an armed combat course, after which he was treated symptomatically and placed on restricted duties. He was not able to do heavy mechanical work and was mostly employed in rear protection of convoys or driving trucks.<sup>118</sup>
97. Dr Radcliff says Mr Bird was referred to Dr Ian Sale who diagnosed him with major depression, but he was not able to establish any cause for this condition which was related to his service. A friend recommended the Vietnam Veterans Counselling Service to Mr Bird and he first attended in August or September 2000. Shortly before Dr Radcliff saw Mr Bird, he had disclosed to the counsellor what had distressed him from his time in East Timor, which he had not previously disclosed because of a fear of the possible consequences. The first incident occurred during April 2000, when he was driving in a convoy of 20 trucks. They passed through a place where they had to drop supplies and Mr Bird had a codriver, but this person was asleep. As they drove through the town,

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<sup>116</sup> Exhibit C35- affidavit of WH.

<sup>117</sup> On 15 September 1999, the UN Security Council authorised the formation of a multinational force known as INTERFET (International Force East Timor). It was headed by Australia, with a mission to restore peace and security in East Timor.

<sup>118</sup> Exhibit C42a- report of Dr Eric Ratcliff dated 13 February 2020.

the trucks in front of him were throwing out ration packs to children contrary to orders they were not to do that. He slowed down then accelerated to catch up with the next truck and coming around the corner he believed he hit a small person, probably a child, in the middle of the road with his bull bar. They were under orders not to stop. His only sight of the victim was in the rear vision mirror of him lying on the ground and people coming out to help. He drove on to Dili. On arrival, he checked the bumper bar and wiped some blood off it. He went to see his superior officer to report the incident but he did not do so. Ever since, he has felt unsure and uneasy about it, and he began drinking heavily with that opportunity offered by his bar duties. In May 2000, he was involved in a confrontation with a hostile, drunken soldier demanding extra alcohol. This man cocked his weapon and pointed it at Mr Bird, but he was disarmed by a companion. He did not report the incident on the advice of the companion. He however continued to have problems with pain from his neck and shoulder injuries, and he used substantial doses of oral analgesics, diazepam (which was initially prescribed as a muscle relaxant), and considerable quantities of alcohol. Dr Radcliff noted ongoing problems with medication and alcohol abuse, with detoxification attempts in Launceston and at the Hobart Clinic, and later at two hospitals in Victoria. He obtained drugs by way of prescription and unlawfully through service associates he had met in hospital. One of these people supplied amphetamine. He has been diagnosed with drug dependence, alcohol abuse disorder, PTSD and chronic pain. Mr Bird's Veterans Affairs claim was rigorously investigated and there was a Veterans Review Board hearing during 2006 and an appeal which was eventually refused in 2007. There were therefore problems concerning his claim for DVA benefits during 2006 and 2007, and the matter was not resolved until July 2008 following hearings in the Administrative Appeals Tribunal.<sup>119</sup>

98. Mr Bird received inpatient psychiatric treatment, at least, at the following facilities:

- The Hobart Clinic between 25 November 2002 and 8 January 2003;
- The Hobart Clinic between 28 February 2003 and 14 March 2003;
- St Vincent's Private Hospital Launceston between 24 June 2003 and 10 July 2003;
- Pine Lodge private hospital Dandenong, Victoria;
- Heidelberg Repatriation Hospital and Veterans Psychiatric Unit from 4 September 2003 until 10 October 2003;
- The Hobart Clinic 6 from October 2004 until 23 November 2004; and
- The Hobart Clinic 6 from May 2006 until 10 June 2006.<sup>120</sup>

<sup>119</sup> Exhibit C42a- report of Dr Eric Ratcliff dated 13 February 2020.

<sup>120</sup> See Exhibit C42b and C42d- notes of Dr Eric Ratcliff and exhibit C61 Hobart Clinic Records.

Dr Ratcliff confirmed in his evidence there was an additional admission to the Heidelberg Hospital and no admission to Pine Lodge; see paragraph 150.

99. The notes of Dr Radcliff of 15 January 2002 indicate Mr Bird told him he was aggressive towards people. Mr Bird is recorded as saying he had gone to the UK during the previous year and was in conflict with his parents, who were not talking to him because he was so rude and aggressive. This appears to have been confirmed by Mrs Bird in a note of Dr Radcliff of 6 February 2002. Further notes of 28 February 2002, 5 September 2002, 3 October 2002, and 29 October 2002 indicate Mr Bird feels aggression towards children who visit his children, he was very irritated by his children, he was very agitated and explodes with the children, and has no patience and becomes verbally aggressive towards them. A note of 17 March 2003 indicates people approach him and ask him about his problems, and he aggressively tells them to mind their own business. He told Dr Radcliff he felt like a volcano and he feared an explosion. He complained of mood instability, that he is very irritable with his family and with his wife. A note of 23 June 2003 indicated during a previous admission to St Vincent's Hospital he had assaulted two nurses because he was disturbed in the night, and on readmission, St Vincent's refused to admit him. When he was admitted, a note of 24 June 2003 indicated his impulsiveness and aggressiveness was to be addressed. A note of 3 August 2004 records his aggression had increased both physically and verbally, and he was troubled by bad thoughts, by which he meant "*disposing of people I don't like*". He noted an ultimatum from Mrs Bird to clean himself up by years' end still stood.

(c) *Financial position*

100. As at 30 June 2006, Mrs Bird had a death and incapacity benefit, and superannuation benefit in the vicinity of \$138,500.<sup>121</sup>
101. On 25 July 2001, a life insurance policy in the name of Mrs Bird was taken out. The sum insured as at 26 July 2009 was \$239,207.06. By letter of 26 May 2010, the sum insured was to rise to \$251,167.41 at no extra cost and no action was required from Mrs Bird to receive an increase.<sup>122</sup>
102. Payment of the benefit under the life insurance policy would be paid as a lump sum if Mrs Bird died.<sup>123</sup> The policy goes on to say that the insurer will not pay if the insured person "*commits suicide within 13 months of:*

<sup>121</sup> Exhibit C51- Pace Financial Records part 2 pages 25-26.

<sup>122</sup> Exhibit C51- Pace Financial Records part 1 pages 22-27.

<sup>123</sup> Exhibit C51- Pace Financial Records part 1 page 56; at clause 7.

- *the Commencement date;*
- *the date the plan was restored; or*
- *the date of any increase, in which case we will only pay the amount of the benefit and additional life insurance in place prior to the increase...”.<sup>124</sup>*

103. This policy had been paid for continuously since it commenced on 25 July 2001 and therefore Mrs Bird did not die by suicide within 13 months of the commencement date or within 13 months the date the plan was restored. Her death did however occur within 13 months of an increase in the cover on 26 May 2010, so therefore, the insurer would only be obliged to pay the amount of the benefit in place prior to that increase; which sum is in excess of \$239,000.
104. On 25 September 2009, Mr and Mrs Bird refinanced their home loan with Rams, the total of the home loan being \$305,000.<sup>125</sup>
105. Mr and Mrs Bird had joint accounts at the Commonwealth Bank at the Oatlands, Kingston and Murray Street Hobart branches. The Kingston and Murray Street accounts were closed on 13 July 2010 with modest credit balances of approximately \$470 and \$310 respectively. The Oatlands account remained open and was in Mr Bird’s name only by 1 July 2010. This appears to be the account into which Mrs Bird’s salary and Mr Bird’s benefits were paid. It also appears to have been used to pay major bills as well as some everyday purchases. At the date of Mrs Bird’s death, there was a credit of \$1299 in this account. Mrs Bird also had a MasterCard which had a limit of \$3000 in July 2008, which was increased to \$4200 in October 2008, was at its limit in February 2010, and by May 2010 the limit was increased to \$6000. At the date of Mrs Bird’s death \$5489 was owing.<sup>126</sup>
106. Mr Bird had a credit card account which was opened on 18 December 2006 and which had a credit limit of \$12,500. He then opened another credit card account on 16 January 2008 with the balance of the first account being transferred to this account; the credit limit on the second account being \$12,500. In April 2009, the credit limit was reduced to \$5000 and three months later it was reduced to \$1500. There are many payments to eBay and PayPal, which is evidence of Mr Bird’s compulsive Internet spending, and there are a number of cash advances. On the date of Mrs Bird’s death, there is a purchase from Kingston florist in the sum of \$35. This is the only evidence of any purchase at any florist prior to Mrs Bird’s death.<sup>127</sup>

<sup>124</sup> Exhibit C51- Pace Financial Records part 1 page 61; at clause 12.

<sup>125</sup> Exhibit C68- documentation provided by RAMS Financial Group Pty Ltd.

<sup>126</sup> Exhibits C53, C54, C55- CBA records.

<sup>127</sup> Exhibit C63 Westpac Bank records.

107. Mr Bird has another account which was called a Westpac Choice eAccount, in which payments of “pocket money” were credited each fortnight from 14 February 2008 until 25 March 2010. The amounts credited to that account varied, but total \$13,764 and represents payments made by Mrs Bird to her husband. From 8 April 2010, Mr Bird received payments from the DVA each fortnight and he made fortnightly payments to Mrs Bird from then until 10 July 2010, during which time he repaid \$6760. This account is used on 8 July 2010 to purchase something at Big W for \$16.65. Each fortnight Mr Bird appears to spend almost all he is paid per fortnight whether from Mrs Bird or the DVA. On the date of her death, there is \$90 in this account. There are also spasmodic ATM withdrawals on 1, 3, 8, 16, 21, 28 June and 1 July 2010; the amounts withdrawn range from \$20-\$60. There is a loan obtained from GE Finance of \$5000 paid into this account on 14 July 2008, but those monies are soon spent.<sup>128</sup>

*Circumstances leading to death*

108. Mr Bird, in his record of interview, says on the Tuesday evening before her death Mrs Bird came home from work tired and crabby. On the Wednesday, Mrs Bird had a study day at New Town and she was fine when she went to bed. But later that night (on the Wednesday) he was awoken by Mrs Bird thrashing around in bed. He says she woke up and was walking around, and she was a little delirious and a bit incoherent.
109. Ordinarily, Mrs Bird got up at 6:00am in order to go downstairs and make the childrens' lunches and then send DJ and UC (who was in New Zealand in the week of Mrs Bird's death) off to school at 7:15am. She had often showered by about 7:00am. However, on the Wednesday Mrs Bird was not well all day. She asked for breakfast and Mr Bird took her some toast but she did not eat it. He then took her a cup of tea but by that stage she was asleep again. Mr Bird phoned Mrs Bird's work and spoke to Sheila Campbell and indicated that Mrs Bird was “a bit strange, she's not acting not her normal self”. On Ms Campbell's advice, Mr Bird made an appointment for Mrs Bird to see a doctor at the Grosvenor Street General Practice at 5:30pm. He says Mrs Bird woke at lunchtime that day, ate something but then she had trouble walking straight and she said she had a bad headache and felt extremely tired. Mr Bird says he went to see his wife after dinner as she had returned to bed after dinner. She threw up all her dinner and said she still felt tired. At 8:00pm, he took up some toast and vegemite and water which she consumed, and she went back to sleep. He checked her at 9:00pm and she was snoring. He checked her at 10:00pm and she was awake. She indicated to him that she still felt very tired and not quite right. He noted this behaviour was very

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<sup>128</sup> Exhibit C63 Westpac Bank records.

unlike her as she was such a bubbly person. At 10:30pm she was fast asleep, but by 3:30am she was kicking and lashing out with her arms and mumbling. He got out of bed as he could not take it anymore.

110. At 6:30am on the Thursday, Mr Bird says his wife entered the kitchen having showered with her dressing gown on as though nothing had happened. She indicated she would make an appointment with the doctors and call Ms Campbell. Mr Bird returned from taking their daughter to school and Mrs Bird was doing housework and asked Mr Bird to take the dog for a walk for a few hours. She said she was still feeling a bit heady. Mrs Bird said she rang the medical centre and indicated she could not get in until Friday as she would only see one particular doctor. While on the walk with the dog, Mr Bird says he rang Mrs Bird a couple of times and left messages and then he called again but there was no answer. He stopped off at Ms Edwards' house and invited her to drop around to see Mrs Bird saying she had been ill and needed some cheering up. He then went home and found the back door open.
111. He could not find Mrs Bird and so he rang her mobile but there was no answer. He then thought she might be next door at the neighbours' house so he rang her mobile from the garden and could hear it ringing in the garage. He went into the garage and saw her and cut her down using a Stanley knife and sat her against the VW beetle which was in the garage. He then went inside the house and grabbed the hands-free phone and called 000. He was told to lay her on her back and perform CPR which he did until police arrived. Police then arrived and continued CPR until an ambulance arrived.<sup>129</sup>
112. At page 16 of his police record of interview, Mr Bird says there was no sign or indication Mrs Bird was upset, and at page 17 of his record of interview, Mr Bird denies infidelity. At page 18, he says he had some close female friends but did not enter into any other relationships. On the day of Mrs Bird's death, he said he took the dog for a walk at about 9:30am to the Peter Murrell reserve, driving there in a car. He walked the dog for about an hour and a half, and then he went looking for the new tip shop at Huntingfield but could not find it. He says he called Mrs Bird from there but there was no answer and then he sent a text. He then went to the Big W car park and went and bought flowers at Kingston Flowers and some cigarettes, and then he went to Gloria Jean's for a coffee. He then drove to Ms Edwards' home. At page 31, he says he went inside to use the landline to call 000 instead of using his phone or his wife's phone. At first, he said the reason for this was because he was on a plan and then he

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<sup>129</sup> Exhibit C22- police record of interview with Mark Bird.

said he did not know why he did that. Mr Bird confirmed that when Mrs Bird came back from the UK, she came back happy. He acknowledged at page 39 there was financial pressure, but if money got tight, Mrs Bird could pick up some extra shifts at work.<sup>130</sup>

113. In his affidavit, Mr Bird says that on the morning of his wife's death she was performing housework and he left the house with the dog to go for a walk at a local reserve. He says he does not know how long he walked the dog or what time he left the house. Once he left the reserve, he says he drove to the Channel Court shopping centre in Kingston and bought a takeaway coffee at Gloria Jean's, and then he either went to Big W first or to a florist first after buying the coffee. He thinks he was at the florist for half an hour or so, and he was there to buy Mrs Bird some flowers because she had not been well. He says he left the florist at about 11:00am to see WH and he had a coffee at her house. He then went to Cathy Edwards' house, arriving at approximately 11:30am. He says as Mrs Bird was not feeling well, he invited Ms Edwards over to visit her. He says when he climbed the ladder in order to get Mrs Bird down, he put one arm around her and supported her weight by placing his knee under her legs. When he had control of her body and her weight was supported, he cut the rope with a Stanley knife. Mr Bird "*absolutely reject[s] the assertion made by Detective Senior Constable N Munro that I was involved*" in Mrs Bird's death".<sup>131</sup>
114. UC says at the time of his mother's death he was in New Zealand competing in a squash tournament. On the morning of her death, Mrs Bird telephoned her son. He says she seemed normal during the phone call. She did not seem upset. After being informed of his mother's death, he flew back to Australia with his aunty (Mr Bird's sister) and his grandmother (Mr Bird's mother). He was subsequently told by his father that his mother had left a note which was "*about money and financial stuff*". He has not seen the note. UC says the only thing his father told him about his mother's death was that she hung herself in the garage.<sup>132</sup>
115. In his evidence, UC says his mother's health was fine and she was always in really good spirits.<sup>133</sup> He had been in New Zealand for a squash tournament for approximately a week prior to his mother's death.<sup>134</sup> He returned to Tasmania with his aunty, Mrs Abbott, the day after his mother's death.<sup>135</sup> Prior to leaving Tasmania, UC says his

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<sup>130</sup> Exhibit C22- police record of interview with Mark Bird.

<sup>131</sup> Exhibit C47- affidavit of Mark Bird.

<sup>132</sup> Exhibit C32- affidavit of UC.

<sup>133</sup> T29 lines 1-15.

<sup>134</sup> T30 lines 1-9.

<sup>135</sup> T31 lines 16-26.

mother was really good and that when he was away he would speak to her most nights.<sup>136</sup> During those phone calls she sounded in good spirits, she was happy and fine, and no one spoke to him about his mother being unwell while he was away.<sup>137</sup> He does not recall the last phone call he had with his mother on the day that she died.<sup>138</sup> UC advised at the time of the inquest he had still not seen the note left by his mother.<sup>139</sup> He was shocked by what occurred.<sup>140</sup>

116. DJ says in the days before his mother passed away she was not her normal self. She was flat, tired and rundown. She was not normally like this. She would normally get up and make breakfast but on the day she died, she remained in bed. That day he caught the school bus at 7:15am on Roslyn Avenue. He kissed her goodbye, at which time she was still in bed which he says was unusual. He says she was happy when he said goodbye and she indicated that she would see him that night. Mr Bird told DJ that his mother had left a letter when she passed away and that it said that she loves us and she was just really upset that she did not get a job at the RHH. His understanding is that she took her own life because she was sad that she did not get that job. DJ says that he and his brother inherited money from his mother's superannuation when they turned 18. They both signed paperwork for this money to be used in the purchase of a family home at Geeveston.<sup>141</sup>
117. In his evidence, DJ described his mother as "*pretty happy go lucky, up and about, early, talkative, that kind of thing*".<sup>142</sup> He recalls she did not get the job she had applied for at the RHH but he does not recall how she reacted to that.<sup>143</sup> In his affidavit, he says his understanding was his mother took her own life because she did not get that job. His understanding was based upon information he was provided by his father.<sup>144</sup> On the morning of 8 July 2010 and prior to DJ leaving the house to go to school, his mother was loving and caring as always.<sup>145</sup> He confirms he and his siblings inherited money after his mother's death, however, he and his brother signed paperwork so that money could be used for the purchase of the family home at Geeveston.<sup>146</sup> Only his

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<sup>136</sup> T31 line 40-T32 line 3.

<sup>137</sup> T31 lines 20-24.

<sup>138</sup> T33 lines 4-6.

<sup>139</sup> T34 lines 8-9.

<sup>140</sup> T35 line 10.

<sup>141</sup> Exhibit C33- affidavit of DJ.

<sup>142</sup> T42 lines 12-13.

<sup>143</sup> T43 lines 28-44.

<sup>144</sup> T44 lines 9-14.

<sup>145</sup> T47 lines 30-33.

<sup>146</sup> T48 line 39 to T49 line 8.

father and his sister moved into that home.<sup>147</sup> That home was not in either his or his brother's name and he received no money back from his father.<sup>148</sup>

118. Emma Gargioni says on the day Mrs Bird died, she received a phone call from Cathy Edwards telling her what had happened and asking her to go to the family home at 5 View Street Blackmans Bay to help comfort MQ. When she arrived, she noted a number of people present at the house, some of whom she did not know. She says she mostly comforted MQ who was curled up in a ball in her bedroom. She did not speak to MQ regarding what had occurred.<sup>149</sup>
119. In her evidence, Ms Gargioni says her oldest daughter was friends with UC and DJ, and her middle daughter was friends with MQ at Illawarra Primary School.<sup>150</sup> She had known Mrs Bird for about 10 years and would usually have coffee with Mrs Bird as part of a wider mother's group.<sup>151</sup> She was very surprised by Mrs Bird's suicide.<sup>152</sup> Ms Gargioni was aware Mr Bird saw somebody in Launceston about his mental health.<sup>153</sup> The last time she saw Mrs Bird was four to six weeks prior to her death and she was her normal happy, bubbly, chirpy self.<sup>154</sup> This timeline is not quite correct as Mrs Bird was in the UK four weeks prior to her death. She says in her statement she is a registered nurse and recognises the signs of depression, but noticed no signs of depression in Mrs Bird. If Mrs Bird had depression, she would expect to see low mood, a withdrawal from friendships, or seeking help, but she saw none of that in Mrs Bird. In fact, she was pretty much the exact opposite. She was bubbly, excited, she loved her children and she pretty much did everything for them.<sup>155</sup>
120. Catherine Edwards says on 8 July 2010, she was at home looking after her child and a friend's child. At approximately midday, Mr Bird walked out onto her back deck as she was in the backyard and she asked him whether he had come for a coffee. He told her that Mrs Bird had been sick over the past couple of days. He said she was "*off her head*" delusional, had vomited and was staggering around. Mr Bird said she was talking nonsense and wasn't making much sense, and he said he had called her workplace for some advice. Ms Edwards asked him who her doctor was and he indicated he could not get her there, but she indicated he ought take her to his doctor. He said she was

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<sup>147</sup> T49 lines 29-30.

<sup>148</sup> T50 line 1 and T0 lines 27-29.

<sup>149</sup> Exhibit C27- affidavit of Emma Gargioni.

<sup>150</sup> T55 lines 19-27.

<sup>151</sup> T55 lines 36-41.

<sup>152</sup> T56 lines 31-33.

<sup>153</sup> T57 lines 2-3.

<sup>154</sup> T57 lines 9-22.

<sup>155</sup> T65 lines 5-31.

restless throughout Wednesday evening but woke up on Thursday morning feeling okay. She got dressed, got the children organised for school and got them on their way, and then indicated she was getting tired and needed to rest. He said he went out to walk the dog to give her a few hours rest. She says during this conversation, Mr Bird received a phone call on his mobile at about 12:15pm. She said at about that time, she received a text message which she looked at when Mr Bird was on his phone. Mr Bird indicated to whoever was on the phone he was at a friend's house but that he would come around shortly. At the end of the call, Ms Edwards asked him whether Mrs Bird would be up for a visitor. He indicated that would be good and he would be home around 1:00pm so he could distract the kids<sup>156</sup> and so she could speak to Mrs Bird one on one. He left her house at approximately 12:20pm. Ms Edwards left her home at 1:00pm and briefly went to work, and then she went around to see Mrs Bird. On arrival, she saw ambulance and police.<sup>157</sup>

121. Ms Edwards says this was the first time Mr Bird had ever come to her house unannounced. She says he told her that Mrs Bird was depressed and had not got out of bed for the past few days. This appeared odd to Ms Edwards as she had seen Mrs Bird a few days earlier at school picking up her children.<sup>158</sup>
122. In her evidence, Ms Edwards says she knew Mrs Bird because her children attended the same school as Mrs Bird's children.<sup>159</sup> She said, by way of clarification, she is not sure whether Mr Bird came out onto her back deck or whether he walked down the driveway on the day of Mrs Bird's death. In any event she says he was in the backyard with her.<sup>160</sup> Ms Edwards had social interactions which did not involve the school children, and one occurred not long before Mrs Bird passed away where Ms Edwards says they had a girls' evening at her house. Mrs Bird was there enjoying herself. In addition, Mr and Mrs Bird attended her 40<sup>th</sup> birthday party and they had drinks together on occasions.<sup>161</sup> Ms Edwards describes Mrs Bird as strong, beautiful, and happy with a great sense of humour. That observation did not really change, although at one point when Mr and Mrs Bird had separated, she seemed a little quiet.<sup>162</sup> This was probably 12 months before she passed away.<sup>163</sup> The last time Ms Edwards spent some time with Mrs Bird was in or about mid-May 2010, at which time Ms Edwards

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<sup>156</sup> I note the children were however at school.

<sup>157</sup> Exhibit C13- affidavit of Catherine Edwards.

<sup>158</sup> Exhibit C13A- affidavit of Catherine Edwards.

<sup>159</sup> T335 lines 23-25.

<sup>160</sup> T336 lines 34-37.

<sup>161</sup> T338 lines 13-30.

<sup>162</sup> T338 lines 33-40.

<sup>163</sup> T339 lines 7-8.

says Mrs Bird was lovely and happy.<sup>164</sup> Ms Edwards says she and Mr Bird did not have a coffee and she wondered why he was visiting her given he had never come to her house unannounced. He would come at other times when she knew he was coming because he was either dropping off or picking children up. The only other times would be when he has walked past her house with the dog or she may have walked past his house. They would always stop and speak to one another.<sup>165</sup> The point was, this was the only time he had entered her property unannounced.<sup>166</sup> Ms Edwards says she did not know whether Mr Bird had a car or whether he walked; she did not go back out the front of her property with him when he left.<sup>167</sup>

123. Sheila Campbell says Mrs Bird had worked at the palliative care unit, known as the Whittle Ward, for around five years. On the Monday prior to her death, Mrs Bird worked her normal shift from 7:00am until 3:00pm and then on the Tuesday, she was involved in an interview panel working from 9:00am until 5:00pm. On the Wednesday, she was due to complete an Occupational Health & Safety study day which would have been from about 9:00am until 4:00pm at New Town. At around 8:30am that day, the ward clerk, Helen Roberts, received what she described as a rather disturbing phone call from Mr Bird. He advised Ms Roberts Mrs Bird was unwell, she was unsteady on her feet, slurring her words and feeling hot and cold. He advised her that she had gone back to bed. Ms Campbell rang Mr Bird and he repeated what he had told Ms Roberts. Ms Campbell suggested it could be a virus and she needed to see a doctor today. She asked if the general practitioner did home visits and he replied in the negative. She asked whether they had private medical insurance and he said no. Mr Bird advised Ms Campbell Mrs Bird used to work at the Grosvenor Street General Practice so he would ring there and get her an appointment. Ms Campbell told him she would ring back later to see how things were going. Ms Campbell indicates that she telephoned Mr Bird back at about 12:30pm and he said she was still in bed. He said he had given her some water to drink but she was still hot and cold but did not have a temperature. He thought she may have been out of bed because there were some books knocked over. She says he said something along the lines that she was vague and he said that's how she goes when she is getting depressed. Ms Campbell asked if she was unhappy and Mr Bird said, *"not really, the boys are 14 and they don't want kisses and cuddles from their mum anymore and she was sad about that"*. Mr Bird also advised their daughter was hitting puberty and behaving as prepubescent girls do. He also said there were ongoing issues in their marriage. Ms Campbell asked Mr Bird

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<sup>164</sup> T339 lines 14-15.

<sup>165</sup> T344 lines 21-44.

<sup>166</sup> T345 lines 3-8.

<sup>167</sup> T347 lines 8-13.

what the risk was in the house because she was aware Mr Bird had previously had issues with drugs. He indicated there was nothing strong in the house and Mrs Bird wouldn't take drugs because she hates what they have done to him. He confirmed he had a doctor's appointment for 5:30pm. She asked whether there was anything he needed and he replied in the negative, but he asked her what time she finished work. She advised him between 3:30pm and 4:00pm, and he replied that he would telephone her if he needed to but otherwise she might like to ring him when she gets home. She telephoned Mr Bird at 8:30pm and asked what the doctor had said. He advised Ms Campbell Mrs Bird would not go because she did not like the doctor the appointment was with, that her GP would be back in the morning and they would make another appointment. She asked how Mrs Bird was and he advised she had slept most of the afternoon but got up when the children came home from school and had tea with them. She had vomited up her tea, gone back to bed and was sleeping, and he checked her every hour until he went up himself. Ms Campbell advised him if he got worried overnight to call an ambulance. If he did that, he advised she would have to go on her own because of the children and so Ms Campbell offered to come down if that occurred so he could go with her. He advised he would ring in the morning or get Mrs Bird to phone if she felt better.

124. The next morning, Mrs Bird rang Ms Campbell at about 8:30am. She indicated she was feeling better but she was still not 100%. She said she had a bit of a stiff neck. She thanked Ms Campbell for her concern and asked if she had got an email she had sent earlier in the week and she told her she had. They had a laugh about the email and Ms Campbell says Mrs Bird seemed her normal self. Ms Campbell told her she had a stiff neck because she was so tall and kept looking down on people and Mrs Bird laughed about that. Nothing in the conversation concerned Ms Campbell. Mrs Bird advised Ms Campbell she would be back for her late shift on Friday and Ms Campbell advised her not to come back if she was not well enough. Ms Campbell says later in the morning, she understands Mrs Bird rang again and spoke to Ms Roberts and confirmed that a training session was on that afternoon and she would attend that session.<sup>168</sup>
125. Ms Campbell says in her evidence she was Mrs Bird's direct manager for the entire period she worked at the palliative care unit.<sup>169</sup> She describes Mrs Bird as a bright, friendly, funny, bubbly, reliable, beautiful woman whose demeanour and personality did not change at all over the period they work together.<sup>170</sup> Ms Campbell says she

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<sup>168</sup> Exhibit C11- affidavit of Sheila Campbell.

<sup>169</sup> T458 lines 9-12.

<sup>170</sup> T458 lines 28-34.

knew Mr Bird as well.<sup>171</sup> She says Mrs Bird was disappointed in not obtaining a position she had applied for at the RHH but it would only have been a matter of time before she would be successful and she was really only unsuccessful because the successful applicant was already at that level, whereas for Mrs Bird it would have been a promotion. Ms Campbell says this setback did not affect her personality or demeanour or her professionalism.<sup>172</sup> On the Tuesday before Mrs Bird passed away, she was involved in an interview panel which was a “*feather in her cap*” because not everybody on the unit would have been asked to sit on the panel. Ms Campbell was not involved with that selection process so I infer she did not arrange for Mrs Bird to be on that panel.<sup>173</sup> Ms Campbell confirms on Monday Mrs Bird did a normal shift, on Tuesday she was involved in conducting interviews, on the Wednesday she was due to attend an occupational health and safety course run by a private Occupational Therapy company in Newtown, however, Mr Bird phoned and said she was not well.<sup>174</sup> On the Thursday when Ms Campbell spoke to Mrs Bird, Mrs Bird indicated she was going to attend the course later that day.<sup>175</sup> When advised by police of Mrs Bird’s death, Ms Campbell was shocked because she was the last person Ms Campbell would have ever expected to take her own life as she lived for her children, she seemed to enjoy life and she had a good career and future ahead of her.<sup>176</sup>

126. Helen Roberts took a call from Mr Bird the day before Mrs Bird died. The impression she was left with was Mrs Bird was not very well. She suggested he take her to the doctor but he said it was okay as he had given her something. Ms Roberts spoke to Mrs Bird when she telephoned before lunch on the day she died. She says she did not sound herself (that is she wasn’t her usual bubbly self) but that she would be in. Ms Roberts asked her if she was sure and she said she was sure she was coming in. She was planning to come into work to participate in an in-service training course. The course was due to start after lunch.<sup>177</sup>
127. Ms Roberts says in her evidence she was the ward clerk on the Whittle Ward, which required her to prepare admissions and discharges, perform general typing duties and answer the phone.<sup>178</sup> She saw Mrs Bird often at work<sup>179</sup> and had known her for four

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<sup>171</sup> T459 lines 10-11.

<sup>172</sup> T463 lines 7-22.

<sup>173</sup> T463 lines 24-39.

<sup>174</sup> T464-T465.

<sup>175</sup> T470 lines 33-34.

<sup>176</sup> T472 lines 32-43.

<sup>177</sup> Exhibit C26- affidavit of Helen Roberts.

<sup>178</sup> T204 lines 24-28.

<sup>179</sup> T204 lines 7-8.

years.<sup>180</sup> Ms Roberts says Mrs Bird was a wonderful, caring, bubbly, delightful person, and she never saw that personality and demeanour change.<sup>181</sup> Ms Roberts spoke to Mrs Bird on the day she died and she says that occurred before 12:00pm.<sup>182</sup> Mrs Bird confirmed that she was coming in for some training but she sounded the opposite to how she normally was.<sup>183</sup> Ms Roberts visited Mr and Mrs Bird's home that night and she took around some food she had prepared. She did not think Mr Bird presented as a grieving husband.<sup>184</sup> When she learnt Mrs Bird had passed away by hanging, she was surprised because to her Mrs Bird would never ever have done that to her children.<sup>185</sup>

128. Triesa Blackburn was the practice manager at Grosvenor Street General Practice in Sandy Bay in July 2010. On 7 July 2010, she answered a telephone call from a male person who introduced himself as Mark Bird. Ms Blackburn did not know him, however during the conversation, Mr Bird indicated his wife, Helen, used to work at the practice and some of the staff would know who she was. He asked to make an appointment for Mrs Bird to see Dr Hodgman. Dr Hodgman was not at work that day but Ms Blackburn offered an appointment with the doctors who were at work. An appointment was made for Mrs Bird to see Dr White at 5:30pm but Ms Blackburn explained that if he needed to bring Mrs Bird in earlier that he was able to bring her in at any time during the afternoon. He then said to Ms Blackburn *"I'm unsure whether I can raise her out of bed or get her to speak to me"*. Ms Blackburn indicated that was fine, that she would book her in but note on the appointment that it may not be needed. She then left the practice and advised one of the receptionists that an appointment had been made for Mrs Bird but that she might not turn up. She indicated to the receptionist she had offered Mr Bird alternative appointments but he said that they might not come in.<sup>186</sup>

129. Jenni Mandersloot had seen the recent news coverage of this inquest and as a result of that coverage believes she had spoken to Mrs Bird on the day of or day before her death. Between 2006 and 2018, she was working in the HR department of the Department of Health and Human Services, and in 2010, she was coordinating a training course which was a work health and safety course provided by IPM consulting services. She was not involved directly in the planning of that course but was part of the team and therefore answered the phone when Mrs Bird called. She did not know

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<sup>180</sup> T216 lines 1-5.

<sup>181</sup> T204 line 43 to T205 line 2.

<sup>182</sup> T206 lines 23-35.

<sup>183</sup> T207 lines 14-15.

<sup>184</sup> T208 lines 4-19.

<sup>185</sup> T209 lines 10-13.

<sup>186</sup> Exhibit C15- affidavit of Triesa Blackburn.

her and had not heard her name prior to the call. She called to cancel her attendance and Ms Mandersloot believes she verbally advised somebody else that Mrs Bird would not be attending. She accepts this was a routine call which she would not normally expect to recall 13 years later, but the call and the subsequent death notice in the paper kept the call in her mind. She says Mrs Bird appeared muddled and confused, and she was not sure if she should cancel or not. She wondered if she should see a doctor and asked Ms Mandersloot, a person that she did not know, what she thought. Although not certain about the date, she says it was definitely in the week prior to Mrs Bird's death because she remembers she was shocked when she saw the death notice and thought that this had happened not long after she had spoken to Mrs Bird. She does not know Mark Bird.<sup>187</sup> This was the course which Ms Campbell says Mrs Bird was due to attend on the Wednesday.<sup>188</sup>

*Evidence-subsequent to Mrs Bird's death*

130. Emma Gargioni says a few days after Mrs Bird's death she attended the Bird family home to deliver some milk or bread. When she arrived a person she knew as SK, who later married Mr Bird, was at the house. Ms Gargioni says she did not know SK before this day but later came to know her as her children moved to the same school as Ms Gargioni's children. A short time later, she says she spoke to Mr Bird and asked him if he and the children would be alright financially. She asked this question because she knew Mrs Bird was the main financial provider. She says Mr Bird told her they would be fine as Mrs Bird had life insurance.<sup>189</sup>
131. In her evidence, Ms Gargioni says she went to Mrs Bird's funeral and she says there was lots of colour and it was very joyful. It was a celebration of life.<sup>190</sup>
132. After Mrs Bird's death, Ms Edwards went to Mr Bird's home to see how the children were. Mr Bird made her a cup of tea, and then he came around and pulled his stool up very close to hers and ran his hand down the top of her leg which made her very uncomfortable. Two months later, he visited Ms Edwards but declined a coffee which she offered him when he saw her partner was present. He walked towards the front door to leave, and while they were in the hallway near the door, he turned around and grabbed hold of her and pulled her into him like a hug. He let go when Ms Edwards' partner approached them. This was the last time she had anything to do with Mr Bird.<sup>191</sup>

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<sup>187</sup> Exhibit C60- affidavit of Jenni Mandersloot.

<sup>188</sup> See paragraph 125.

<sup>189</sup> Exhibit C27- affidavit of Emma Gargioni.

<sup>190</sup> T63 lines 4-6.

<sup>191</sup> Exhibit C13A- affidavit of Catherine Edwards.

133. In her evidence, Ms Edwards estimated that within a few months of Mrs Bird's death,<sup>192</sup> Mr Bird had commenced a new relationship with SK.<sup>193</sup> Ms Edwards says she was concerned about the way Mr Bird and his children were dressed at the funeral because they were dressed in Hawaiian type shirts, and there was music playing and they were dancing around Mrs Bird's coffin.<sup>194</sup>
134. Ms Roberts attended Mrs Bird's funeral. She said there was a lot of people in attendance and there were some people standing outside. She said the funeral was very different.<sup>195</sup> Ms Roberts says Mr Bird and his children (and dog) came in last, and they were all dressed in very colourful clothes. She also witnessed people dancing around the coffin and she left straight after the service.<sup>196</sup>
135. Sheila Campbell says in her evidence that after being advised of Mrs Bird's death, she and the medical director, Michael Ashby, attended Mr Bird's home that day to offer their condolences and to see if there was anything they could do. She says Mr Bird was quite chatty and pleased to see them. She also attended Mrs Bird's funeral and recalls Mr Bird and his daughter dancing in the aisle, Mrs Bird's walking boots on top of the coffin and she said her family from England were pretty devastated. She said Mr Bird was quite upbeat.<sup>197</sup>
136. Tania Street was advised by a nursing friend of Mrs Bird's death at about 4:30pm on 8 July 2010. She immediately went around to Mr Bird's home, at which time he told her he had been to her house in the morning for a coffee, but she was not home, so he had gone next door to Ms Edwards' home. He had been away from home for no more than three hours and she thinks he said he got home at 12:30pm. He advised her he kept calling Mrs Bird but she had not answered. He had been out and bought flowers, and when he came home, he went upstairs thinking that she would be asleep but she was not there. He thought she had gone for a walk with the dog but because the dog was home, he was not sure. He then went out into the garden and did a bit of pottering and phoned her mobile and heard it coming from the garage. He went to open the door but it was locked. He opened the door, saw her there and cut the rope and sat her against the car, and then he went inside and rang 000. He went back into the garage and did CPR for 25 minutes under instruction from emergency services. He

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<sup>192</sup> T349 lines 37-42. Ms Edwards says she was introduced to SK as Mr Bird's new partner by Mr Bird between four and eight weeks after Mrs Bird's death.

<sup>193</sup> T340.

<sup>194</sup> T350 lines 15-23.

<sup>195</sup> T209 lines 24-30 and 43.

<sup>196</sup> T210 lines 1-2, 12 and 14-15.

<sup>197</sup> T473 lines 1-8 and lines 30-40.

told Mrs Street an ambulance came and officers continued CPR. He told her there was a photo of the three children and he knew there was a letter, but the police took it straight away.<sup>198</sup>

137. In her evidence, Mrs Street says Mr Bird was crying and he was upset when she went around to see him after Mrs Bird's death.<sup>199</sup> Mrs Street says she was aware of Mr Bird's PTSD and that he saw a psychiatrist in Launceston for treatment because he told her about that. She was also aware he had seen the psychiatrist on the previous Friday, but he did not tell her anybody had gone to the appointment with him and she was not aware anybody had gone with him.<sup>200</sup> Mrs Street says she continued to see Mr Bird after Mrs Bird passed away as she had done so beforehand but they gradually grew apart and she knew Mr Bird had a partner who moved in.<sup>201</sup> From what Mrs Street observed, the failure to obtain the job she had applied for did not affect Mrs Bird in any way.<sup>202</sup>
138. In cross examination, Mrs Street says she did not consider Mr Bird to be the type of guy that pushed himself onto a woman, that he was involved in his children's lives and he associated with the other mums of children regularly, that he was not offensive and that he did not take life too seriously.<sup>203</sup> Mrs Street's father owned Turnbull family funerals and she can remember her father coming to her house and organising the funeral with Mr Bird, herself and her husband.<sup>204</sup> The only thing she remembers about the funeral is the three children dancing around the coffin, the dog also attended and Mr Bird saying he did not want a gloomy, sad funeral, and that the funeral was a happy one.<sup>205</sup>
139. At 9:00pm on the date of Mrs Bird's death, Mrs Burbury rang Mr Bird on his home number to offer her condolences and ask what had occurred. She says Mr Bird did not immediately tell her that Mrs Bird had suicided. He proceeded to tell her what had occurred on Tuesday, Wednesday, and Thursday of that week. After Mrs Bird was unwell, he advised Mrs Burbury on Thursday morning she was her normal self. Mrs Bird indicated to him she would unpack the dishwasher and do the vacuuming, and she told Mr Bird to go for a walk. He left to walk the dog. He rang and texted her but there was no answer, so he assumed she was asleep. He mentioned the visit to Ms Edwards' home and inviting her around to cheer Mrs Bird up. When he returned home, the upstairs

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<sup>198</sup> Exhibit C12- affidavit of Tania Street.

<sup>199</sup> T320 lines 38-42.

<sup>200</sup> T321 lines 17-44.

<sup>201</sup> T322 lines 25-38.

<sup>202</sup> T323 lines 38-44.

<sup>203</sup> T326 lines 4-14.

<sup>204</sup> T327 lines 4-5 and lines 15-17.

<sup>205</sup> T328 line 43 to T329 line 5.

door and back door were open, and the doona was hanging over the rail. He went out to the garden thinking she was next door, rang her phone and heard it in the garage. He opened the door, saw her hanging there, cut her down and sat her up against the car, and then rang 000. She says Mr Bird then became very clinical. He said things like “no one ever saw the other side of her, the nasty side of Helen. People only saw the kind lovely nurse”. The next day Mrs Burbury and a friend went to visit Mr Bird to see how the children were.<sup>206</sup>

140. At the home visit the next day, Mrs Burbury was with her friend Emily Gardner. Mr Bird talked about the rope and said he did not know Mrs Bird could tie knots and she must have learnt that at the kids’ sailing course. He mentioned how her feet were nearly on the ground and if she had picked a stretchy rope, she would have been touching the ground. He told her the children were off for a walk on the beach and so when Mrs Burbury left the house, she drove to the beach and found the children and made sure they had her phone number. Mrs Burbury says she attended the funeral which she described as bizarre. She confirmed a lot of people were present and that Mr Bird and Mrs Bird’s boss from the RHH spoke at the funeral. The song *Dancing Queen* by Abba was then played, and Mr Bird had the children get up and dance around the coffin. While at the funeral, Mrs Burbury saw Chris and Kendra Hay who both knew Mrs Bird from Little Athletics. They were wearing their police uniforms. Mr Bird was having a cigarette outside and he said about them, “*here they are, they are coming to get me already*” and he laughed it off. He appeared very happy at the funeral. A couple of months after the funeral, Mrs Burbury visited the children at the family home and another woman was living with Mr Bird. She went to see Mrs Bird’s daughter who was then sharing a bedroom with a six-year-old.<sup>207</sup> On her return from the UK, Mrs Burbury met with Mrs Bird and she was talking about her life with Mr Bird, that she was the only one bringing in an income and he was not driving as he had lost his licence. Mrs Burbury told her the relationship did not sound sustainable and she asked how long she was going to stay with Mr Bird. She nodded and agreed with Mrs Burbury but she did not say she was ending her relationship with Mr Bird. Mrs Burbury did not believe Mrs Bird was depressed.<sup>208</sup>
141. Mrs Burbury says she visited Mr Bird with Emily Gardner because she did not want to visit him on her own. Having seen him in the Elizabeth Street mall in Hobart, she did

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<sup>206</sup> Exhibit C14- affidavit of Jane Burbury.

<sup>207</sup> Mrs Bird’s daughter, MQ was nearly 12 years old; T372 line 23.

<sup>208</sup> Exhibit C14A- affidavit of Jane Burbury.

not feel safe.<sup>209</sup> On that day, he did not appear to her to be a grieving husband.<sup>210</sup> Mrs Burbury knew the children sailed but she did not know Mrs Bird had done a sailing course.<sup>211</sup> Mr Bird was very happy at the funeral; he was smiling, smirking, and “*behaving in a sort of cocky manner*”.<sup>212</sup> Mrs Burbury has worked with people who have depression and her husband has had depression. She never saw any signs of depression in Mrs Bird. If anything, as life continued for Mrs Bird she got stronger.<sup>213</sup>

142. On the Friday afternoon after Mrs Bird’s death, Ms Vincent visited Mr Bird at their family home. Mr Bird grabbed her and hugged her and would not let her go. This was strange behaviour for him as they did not usually hug. Ms Vincent asked Mr Bird if she had missed anything and if Mrs Bird had been depressed. Mr Bird said that she was not and that she struggled even to take a Panadol. Mr Bird hugged her again when she went back to the house on the Sunday and met Mrs Bird’s family. Subsequently, Mr Bird spoke to Ms Vincent, not about her friend Mrs Bird, but about what was going on since her death. He told her the police had taken his guns away, that he had been interviewed and he complained about Mrs Bird’s parents and that her family did not stay around after the funeral. She also spoke to Mrs Bird’s sister-in-law, Tracey Giles, and she knew from those conversations, Mr Bird was preventing Mrs Bird’s family from spending time with the children after her death. Mr Bird also told her on the day of Mrs Bird’s death, he got home and could not find her, so he went outside and called her phone thinking she may have been at the neighbour’s house. He heard the phone ringing in the garage. He said the garage was locked, he unlocked it and found her hanging. He told Ms Vincent he cut Mrs Bird down and then tried to do CPR. Within about two months of her death, Ms Vincent spoke to Mr Bird regarding Mrs Bird’s life insurance policy. She recalls asking him if the policy would pay out for a suicide and he assured her that it would. He told her he was waiting for the money to come through as he was going to renovate the house and make it like Mrs Bird always dreamt it would be. She was concerned after Mrs Bird’s death as she did not believe she would ever commit suicide.<sup>214</sup>
143. The day after Mrs Bird died, Ms Vincent went to see Mr Bird. His mother and sister were present.<sup>215</sup> She could not believe Mrs Bird would have committed suicide and she therefore asked questions as to whether she had missed something and if she was suffering from depression, but she says everybody, that is Mr Bird, his mother and his

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<sup>209</sup> T370 lines 29-37.

<sup>210</sup> T371 lines 2-5.

<sup>211</sup> T371 lines 17-22.

<sup>212</sup> T373 lines 38-41.

<sup>213</sup> T374 lines 1-5.

<sup>214</sup> Exhibit C29- affidavit of Jacqueline Vincent.

<sup>215</sup> T421 lines 19-28.

sister, assured her she was not.<sup>216</sup> She understood from her discussions Mr Bird did not like Mrs Bird's family and they were not very fond of him either.<sup>217</sup> Ms Vincent says the funeral was very strange because of the songs that were played which included *Waltzing Matilda* and *I Still Call Australia Home*, and Mr Bird himself was very relaxed.<sup>218</sup> She also says Mr Bird walked down the aisle with a dog in a Hawaiian shirt chewing gum with sunglasses on<sup>219</sup> and the children danced around the coffin.<sup>220</sup> Ms Vincent says Mrs Bird would not suicide because she would never leave her children by themselves.<sup>221</sup>

144. WH says she was advised by Mr Bird of his wife's death by email on the day after it occurred. He told her he saw Mrs Bird during the autopsy. This is simply not true as explained by Dr Ritchey in paragraph 208. A few days after her death, he sent her an email telling her she needed to be there for him. She had to go to the funeral to support him. She went along to the funeral with a friend. WH says she recalls speaking to Mr Bird after his police interview and he advised her Mrs Bird's work may have been a possible cause of her depression. He also speculated whether she had taken some pills to try and end her life. He indicated that he believed Mrs Bird went to visit her family in the UK to say goodbye to them. WH says Mr Bird asked her to consider moving into his home with her children, but she told him this would disrupt her children too much. Mr Bird also told her after Mrs Bird's death that he was shocked her life insurance did not cover her for suicide, and that he was surprised she would take out such policy and then commit suicide knowing the children would not be taken care of. Again, this is not true.
145. WH goes on to say between August and December 2010, she believes Mr Bird was pursuing a relationship with SK. Despite this, she continued to be supportive. On 31 March 2011, she sent Mr Bird an email where she talked about pulling out of their relationship, however he responded within the hour and indicated that she was the girl for him to settle down with. In May 2011, Mr Bird sent WH a card in which, amongst other things, he said his future was with her. Despite the sentiments expressed therein, when she visited him at his home on 17 May 2011, she found out he was seeing SK. She had an argument with Mr Bird and he grabbed her by the arm and forced her off his property. She told SK that Mr Bird was also seeing her and showed her text messages between them. Mr Bird told her she would pay for that comment "big time". The next day, Mr Bird and SK came to her house and she had a brief conversation with them at

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<sup>216</sup> T422 lines 29-36 and line 43.

<sup>217</sup> T425 line 1-2.

<sup>218</sup> T426 lines 39-43.

<sup>219</sup> T427 lines 2-4.

<sup>220</sup> T427 lines 12-13.

<sup>221</sup> T427 lines 26-29.

the door. SK was demanding to come inside because they had things they needed to discuss, however as WH had children in the house, she did not want them coming inside. She tried to close the door, but SK put her hand out to try and stop her. They were both pushing against the door. Suddenly she felt the pressure removed from the door and she shut it. She also says Mr Bird told her he had found, after Mrs Bird's death, a photograph of Mrs Bird with another man which was well hidden in their home.<sup>222</sup>

146. From 2008 until 2011, WH confirmed in her evidence that she had both a friendship and a romantic relationship with Mr Bird, which included a sexual relationship.<sup>223</sup> The sexual relationship was “*off and on*”.<sup>224</sup> In 2009, WH says Mr Bird told her that his “*real girlfriend is [SK]*” who I infer is SK.<sup>225</sup> She also became aware of another friendship he had with a lady called Tania, who he knew through the school his children went to and he told WH that he thought at one point she was going to leave her husband for him.<sup>226</sup> I infer from the evidence this is Tania Street. WH continued her relationship with Mr Bird because he made out that his relationship with the other ladies was platonic.<sup>227</sup> In addition, WH says Mr Bird told her on more than one occasion that Mrs Bird had bouts of depression.<sup>228</sup> Earlier in 2010, Mr Bird told WH Mrs Bird was unhappy because she'd missed out on a job she had applied for and then when she returned from the UK in May, she was not happy.<sup>229</sup> She also confirms she saw the text message which Mr Bird claimed was from Mrs Bird which said, “*maybe you'd all be better off if I were dead*”, but she did not see who it was sent by.<sup>230</sup>
147. On the day Mrs Bird died, Mr Bird came to visit her at around 11:00am or 11:30am. He told her he had been into Kingston and bought flowers for Mrs Bird as she was not feeling well, that she had asked him to go out, and that she was feeling better that day.<sup>231</sup> He stayed for 20 to 30 minutes.<sup>232</sup> The visit was unexpected as Mr Bird had told her via text Mrs Bird was unwell.<sup>233</sup> The record in her diary for this visit was 12:00pm which is

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<sup>222</sup> Exhibit C35- affidavit of WH.

<sup>223</sup> T179 lines 23-29.

<sup>224</sup> T183 line 26.

<sup>225</sup> T188 lines 3-24 and lines 38-40. WH only knew SK as SI but confirmed it was the same SK he later married: T285 lines 2-17.

<sup>226</sup> T189 lines 4-11.

<sup>227</sup> T189 line 17-18 and lines 23-24.

<sup>228</sup> T191 lines 20-26.

<sup>229</sup> T192 lines 1-8.

<sup>230</sup> T192 line 39 to T193 line 1.

<sup>231</sup> T275 lines 4-5 and lines 12-15.

<sup>232</sup> T275 line 30.

<sup>233</sup> T296 lines 31-39.

an approximate time.<sup>234</sup> When writing something she has done in her diary, it is generally written next to the time she did it.<sup>235</sup>

148. Dr Ratcliff is a psychiatrist who practises in general adult and forensic psychiatry. He confirmed in evidence he has treated Mr Bird since about 2002, that he has continued to treat him and he sees him at his rooms in Launceston.<sup>236</sup> He says he would have seen Mr Bird fortnightly to begin with and then monthly, however his appointments returned to fortnightly at the beginning of 2022 which he thinks was due to the onset of these proceedings.<sup>237</sup> The intervals between appointments would vary.<sup>238</sup> Dr Ratcliff said the condition which he treated Mr Bird for was partially resistant to treatment and was complicated by his self-treatment; that is with alcohol and non-prescribed medication and/or illicit drugs.<sup>239</sup>
149. The history in Dr Ratcliff's report of 13 February 2020,<sup>240</sup> in respect of Mrs Bird's death, that there was no note, which is again untrue, came from Mr Bird.<sup>241</sup> Dr Ratcliff's diagnosis, particularly in relation to PTSD, was based upon him accepting Mr Bird's account as to what occurred in East Timor.<sup>242</sup> Dr Ratcliff said there was no opportunity for him to verify Mr Bird's account.<sup>243</sup> There are examples in Dr Ratcliff's notes whereby there are complaints by Mr Bird as he displays both physical and verbal aggression, and on one occasion he was troubled with bad thoughts which entailed disposing of people he did not like.<sup>244</sup> Dr Ratcliff noted in a consultation on 23 June 2003, that on a previous admission to St Vincent's Hospital, Mr Bird had assaulted two nurses because he was disturbed in the night by too much noise.<sup>245</sup> In addition, Mr Bird indicated he was troubled by thoughts of harming his wife or children.<sup>246</sup> These thoughts were recurrent.<sup>247</sup> At the last appointment with Mr Bird, prior to Mrs Bird's death on 2 July 2010, Dr Ratcliff noted there were domestic problems concerning his family.<sup>248</sup> Mr Bird was shaking and agitated, and at the time he was seeking readmission to a detoxification

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<sup>234</sup> T298 lines 5-10.

<sup>235</sup> T298 lines 23-25.

<sup>236</sup> T481 line 17 to T482 line 10.

<sup>237</sup> T483 lines 22-33.

<sup>238</sup> T483 line 39.

<sup>239</sup> T501 lines 9-14.

<sup>240</sup> Exhibit C42a- report of Dr Ratcliff.

<sup>241</sup> T503 lines 16-19.

<sup>242</sup> T577 line 42 to T578 line 1.

<sup>243</sup> T578 lines 16-17.

<sup>244</sup> See T597 to T599.

<sup>245</sup> T602 lines 1-3.

<sup>246</sup> T602 lines 29-31.

<sup>247</sup> T603 lines 4-8.

<sup>248</sup> T604 lines 24-26.

unit.<sup>249</sup> Dr Ratcliff made the judgement call that there was no immediate need to refer Mr Bird at that time.<sup>250</sup> At the next appointment after Mrs Bird's death on 13 August 2010, Dr Ratcliff has recorded that Mr Bird told him there was "*no explanation for her suicide, no prior indications*". There were no previous threats of suicide.<sup>251</sup> Drug and alcohol use after Mrs Bird's death remained a continuing concern and it remains so.<sup>252</sup> There are subsequent entries where Dr Ratcliff has recorded that Mr Bird felt guilty about Mrs Bird's death.<sup>253</sup>

150. Dr Ratcliff confirmed Mr Bird had four admissions to the Hobart Clinic on the following dates:

- 25 November 2002 to 8 January 2003;
- 28 February 2003 to 14 March 2003;
- 6 October 2004 to 23 November 2004; and
- 6 May 2006 until 10 June 2006.

In addition, there was an admission to St Vincent's Hospital in Launceston between 24 June 2003 and 10 July 2003, and the Heidelberg hospital between 4 September 2003 and 10 October 2003. There was a referral to Pine Lodge in Dandenong, Victoria but Dr Ratcliff believes Mr Bird went to Heidelberg instead of Pine Lodge. In addition, Dr Ratcliff had another discharge summary from the Heidelberg for the period 15 June 2004 until 8 July 2004.<sup>254</sup> He did not believe Mr Bird has been admitted to any similar facility since he was discharged from the Hobart Clinic on 10 June 2006<sup>255</sup> and there had been disappointing results from those inpatients stays<sup>256</sup> and therefore admissions to such facilities did not continue.<sup>257</sup>

151. Dr Ratcliff confirmed Mr Bird felt estranged from his wife and children, he was emotionally detached and their relationship was impaired.<sup>258</sup> Then there were difficulties in Mr Bird's marriage to SK, where she had alleged family violence against Mr Bird.<sup>259</sup>

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<sup>249</sup> T605 lines 16-17 and 31-32.

<sup>250</sup> T606 lines 31 and 41-42.

<sup>251</sup> T607 line 41 and T608 lines 2-3 and 12-13.

<sup>252</sup> T611 lines 31-36.

<sup>253</sup> T612 lines 4-5 and 24-27.

<sup>254</sup> T617-T618.

<sup>255</sup> T618 lines 28-32.

<sup>256</sup> T618 lines 42-44.

<sup>257</sup> T619 lines 1-5.

<sup>258</sup> T619 lines 7-23.

<sup>259</sup> T619 lines 31-43.

152. Mrs Abbott spoke to Mr Bird and suggested she contact Suzanne and John Brown to inform them of Mrs Bird's death, which she duly did. She then travelled to Napier and collected UC and brought him back to Auckland before flying to Tasmania the following day along with her mother and daughter. Mrs Abbott says it was John Brown and Tracey Giles who insisted Mr Bird show them where he had found Mrs Bird.<sup>260</sup> She also says it was Mr and Mrs Bird's children who chose the songs for the funeral and decided to dress in bright colourful clothes to remember the positive, happy times they had with their mother. This decision was agreed to by Mr Bird as he wanted the service to be a celebration of the vibrant, happy person everyone knew. Mrs Abbott also says that Suzanne Brown told her at the funeral that Mrs Bird had telephoned her on the day of her death, but she was too busy to speak to Mrs Bird at the time. Mrs Abbott says the funeral was not like any other she had attended before. When the children were dancing Mrs Abbott says she "*knew many people would have found it uncomfortable to watch or felt it may have been disrespectful...*".<sup>261</sup>
153. Mrs Abbott confirmed in her evidence Mr Bird was two years older than her.<sup>262</sup> Mrs Abbott says there were substantial changes with her brother as a result of his PTSD diagnosis, so life had become hard for Mrs Bird, she was dealing with a lot and she was not the bubbly person she had been.<sup>263</sup> She says both Mr and Mrs Bird advised her Mr Bird had actually stopped drinking alcohol.<sup>264</sup> These matters are not borne out by the evidence of other witnesses. Mrs Abbott says she was present when Mrs Bird received a phone call indicating she had been unsuccessful in obtaining the job she had applied for. This took place at around Christmas time 2009, when Mr and Mrs Bird were in New Zealand on holidays. Mrs Abbott says Mrs Bird "*was clearly upset and traumatised by not getting this job...*".<sup>265</sup> I think it highly unlikely that any government department would advise a candidate for a job he or she was unsuccessful over the Christmas/New Year period. In subsequent phone calls Mrs Bird had with Mrs Abbott, Mrs Abbott says Mrs Bird appeared happy and Mrs Abbott had no concerns about Mrs Bird's physical or mental health.<sup>266</sup> Mrs Abbott believes when she phoned Mr and Mrs Bird from New Zealand, she would ordinarily use their landline phone number and she would have most likely used her landline.<sup>267</sup> She says she had up to three calls with Mrs Bird in order to

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<sup>260</sup> Mrs Abbott says she knows this because she was present when they asked: T447 lines 20-24.

<sup>261</sup> Exhibit C58- affidavit of Deborah Abbott.

<sup>262</sup> T432 lines 27-30.

<sup>263</sup> T436 lines 4-8.

<sup>264</sup> T436 lines 39-43.

<sup>265</sup> T438 lines 36-38.

<sup>266</sup> T440 lines 16-20.

<sup>267</sup> T441 lines 1-9.

provide and then confirm contact details for UC while he was in New Zealand.<sup>268</sup> When shown exhibit C23, which listed landline calls made from Mr and Mrs Bird's home telephone on 7 and 8 July 2010, Mrs Abbott could not identify her landline number but she was adamant they spoke that morning and it would have been between 8:30am and 9:00am Tasmanian time.<sup>269</sup> Given the objective evidence from the telephone log, I take the view Mrs Abbott is mistaken about this. When Mrs Abbott was speaking to Mrs Brown after the funeral, Mrs Abbott does not recall Mrs Brown commenting on how much the children had grown.<sup>270</sup> She denied she was incorrect when she said both she and Suzanne Brown had spoken to Mrs Bird on the morning of her death as they were comparing notes and could not believe what had happened. She denied she said Mrs Brown had told her she had spoken to Mrs Bird on the morning of 8 July 2010 in order to help Mr Bird.<sup>271</sup>

154. John Brown is married to Mrs Bird's sister Suzanne Brown. He, his sister-in-law Tracey Giles, and her son Ryan flew to Tasmania the afternoon they learnt Mrs Bird had passed away. Mr Bird advised Mr Brown that Mrs Bird had asked him to take the dog for a walk, and that he had bought his cigarettes and a paper from separate shops on a credit card. This is not supported by the evidence at paragraphs 106 and 107. He took the dog for a walk on the beach and then visited a lady called Cathy, and went straight home from her home and found Mrs Bird. No mention was made by Mr Bird of his visit on WH. During Mr Brown's time in Tasmania, Mr Bird took him into the garage and showed him some rope and said that was the rope Mrs Bird had used. He said he was surprised that it worked because the knot was so flimsy, and he said if he was going to do it, he would have used this other rope which he showed Mr Brown. He tugged the other rope with both hands in an outward direction and said it was much stronger. He then showed Mr Brown exactly where "*Helen had done it*". On another occasion, they attended a singing competition in which MQ was competing. While seated next to Mr Bird, he heard him say, "*look at that girl there, she's in [MQ]'s class at school, and she's got bigger tits than Helen had*". He said Mr Bird was inappropriately dressed at his wife's funeral and at one point he had the children dancing around the coffin. When he and other family members attended the funeral director the next morning to collect the ashes, they pointed out the funeral format was very different to that of a funeral in the UK and he advised them everything was guided by Mr Bird and this was not a regular Australian funeral.<sup>272</sup>

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<sup>268</sup> T441 lines 16-38.

<sup>269</sup> T442 line 20 to T444 line 8.

<sup>270</sup> T449 lines 10-11.

<sup>271</sup> T449 lines 13-22.

<sup>272</sup> Exhibit C37- affidavit of John Brown.

155. Mr Brown says he received a phone call from Mr Bird's sister, Mrs Abbott, that Mrs Bird had died. All he was told at that stage was Mrs Bird had hung herself. That afternoon he, his sister-in-law Tracey Giles and her son Ryan flew to Tasmania.<sup>273</sup> That decision was made because police thought Mr Bird could cope with the children in the short term but not in the long-term.<sup>274</sup> He says when he first saw Mr Bird he was upset.<sup>275</sup> He was definitely surprised by Mrs Bird's passing.<sup>276</sup>
156. Tracey Giles confirms much of what Mr Brown says in his affidavit. She says on one particular day, Mr Bird burnt the rope and the clothes he said Mrs Bird was wearing the day she died in an incinerator in front of them and the children. She says the family wanted to help with the funeral arrangements, but he would not allow this. Mr Bird wanted Mrs Bird's parents to pay for the funeral but as he would not allow them to have any input they refused. When he walked down the aisle at the funeral in a Hawaiian shirt and sunglasses on his head with the family dog he shouted, "*what you all looking so miserable about, smile!*". While Mrs Giles was arranging her return flights, Mr Bird appeared at the shopping centre and then a friend of his came by and spoke to him. After the friend had gone, Mr Bird told a story about how he had met him when he was in the mental hospital and his wife had also hung herself. His friend said he got a phone call from his wife who told him she knew about his affairs and that he needed to come home. When he got home, he found her hanging with a note pinned to her saying "Fuck you". Mr Bird also said that Mrs Bird left a note and that he would let them see it, but he never did. She says although they had contact with him for some time after they returned to the UK, they only did so because it was the only way they could keep in any contact with the children. However, Mr Bird stopped contact altogether.<sup>277</sup>
157. Mrs Giles says Mr Bird told them individually about what had occurred and how the door to the garage was locked.<sup>278</sup> He told them Mrs Bird had stayed home and he had gone out to walk the dog, he had bought his paper with a credit card, then he popped around to see somebody, and because he was worried, he went back home. Mrs Bird was not there, so he called her phone and heard her phone in the garage. He went to enter the garage through the garage door but it was locked, so then he had to find a key. He got the key and found her hanging and he cut her down.<sup>279</sup> He also showed Mrs Giles inside the garage and the rope which Mrs Bird had used, the beam she was hanging

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<sup>273</sup> T98 lines 30-31 and T99 lines 16-17 and 29-31.

<sup>274</sup> T100 lines 1-3 and 13-15.

<sup>275</sup> T104 lines 25-26.

<sup>276</sup> T105 lines 36-37.

<sup>277</sup> Exhibit C40- affidavit of Tracey Giles.

<sup>278</sup> T80 lines 42-44.

<sup>279</sup> T81 lines 4-14.

from, and the fact that her feet were only a couple of inches off the ground. Further, he indicated she had left a photo, her phone and the letter at the scene.<sup>280</sup> The burning of the clothes and the rope by Mr Bird was before the funeral.<sup>281</sup> Mr Bird said at the time he thought the reason Mrs Bird had committed suicide was because she had not got the job she applied for.<sup>282</sup> That job was not mentioned when Mrs Bird was in England in May and June 2010.<sup>283</sup> Mr Bird also indicated Mrs Bird had been ill a few days before.<sup>284</sup> Mrs Giles says she was absolutely shocked by Mrs Bird's death and she cannot believe Mrs Bird would have left the children.<sup>285</sup>

158. Taigh Moseley confirms the evidence of her mother, Tracey Giles, about Mr Bird telling them a story about a friend whose wife committed suicide when he had been caught having an affair. She says she was 18 years of age at the time Mr Bird told this story and she says he had a grin on his face and was laughing. Mr Bird especially found the part about the note around her neck being funny. She also spoke to Mr Bird at the funeral where he pointed to a photo of Mrs Bird wearing a yellow flower dress. He then told Ms Moseley that was the dress she was wearing in her coffin. He smiled and walked away.<sup>286</sup>
159. Suzanne Brown confirms what Mr Brown and what Mrs Giles say about the funeral. The day after the funeral, Mrs Brown, her daughter, her brothers and her niece returned to England. They bought the flights forward because "*all our emotions were running high*". Her parents also left the day after the funeral. She says the family wanted contact with the children and Mr Bird was the contact. She sent birthday and Christmas cards for some years but received no response. She sent emails to Mr Bird for the children and received the occasional response from Mr Bird. She received a letter from Mr Bird in 2012 with some school photos but has had little contact since.<sup>287</sup>
160. Mrs Brown says she never thought her sister had depression because she never showed any sign of it. She had a strong personality and was very upbeat.<sup>288</sup> She no longer has any contact with Mrs Bird's three children.<sup>289</sup> Mrs Brown recalls speaking to Mrs Abbott

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<sup>280</sup> T82 lines 4-9.

<sup>281</sup> T83 lines 26-27.

<sup>282</sup> T85 lines 43-44.

<sup>283</sup> T86 lines 13-15.

<sup>284</sup> T86 line 19.

<sup>285</sup> T87 lines 9-10.

<sup>286</sup> Exhibit C39- affidavit of Taigh Moseley.

<sup>287</sup> Exhibit C59- affidavit of Suzanne Brown.

<sup>288</sup> T398 lines 32-33.

<sup>289</sup> T402 lines 20-21.

at the funeral and remembers saying to Mrs Abbott “aren’t the children growing up?”. She made no comment to Mrs Abbott about the last time she spoke to Mrs Bird.<sup>290</sup>

161. Mrs Bird’s eldest sibling, Robert Giles, wrote to Mr Bird by letter dated 31 July 2010, which he said he posted a week later. He says he never received a response to that letter from Mr Bird. In the letter, he says that he would keep asking questions and he would continue to search for the truth about his sister’s death as there were too many things that did not make sense. In that letter, he says when his sister left England on 11 June 2010, she could not have been happier and she was looking forward to coming back again in two years’ time for her sister’s 50<sup>th</sup> birthday. A month later though, she was dead. The letter goes on to say:

*“I want to know and need to know what went on when she returned to Tasmania. What happened in that month to make Helen, who was so happy and looking forward to the future, to take her own life? What was said between the two of you? What did she discover on her return? Did she get some news, some information that was so devastating to her that she couldn’t live with it?”*

He also indicated he wanted to know what the funeral “was all about”. The funeral director advised him the Australian national anthem is never played at funerals but that Mr Bird had insisted it be played along with that song “Australia is my home”. Mr Giles queried what the motivation was behind playing that song. He also did not understand why the central photo on Mrs Bird’s picture board was a photograph of the family’s dog.

162. When asked to provide an answer to some of these questions in evidence, Mr Bird said he could not explain why his wife took her own life. He said nothing out of the ordinary happened on her return from England.<sup>291</sup> This is again untrue. Mr Bird continued his relationship with WH.
163. Steven Bowden was a neighbour of the Bird family. Both he and Mr Bird were into science-fiction, so they used to talk a lot about that, and he says Mr Bird helped him repair his van once. Mr Bowden says he knew Mr Bird quite well. Mr Bowden used to help another neighbour, Polly, who was elderly and suffered from dementia. Mr Bird found her walking up the street one night and the next day he went to her house and noticed she was lying half under her bed. Mr Bird then went to Mr Bowden, as he knew he had a key, and when they found her, they called an ambulance. While in the house

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<sup>290</sup> T405 lines 14-15 and 20-21.

<sup>291</sup> T1008 lines 11-21.

with Mr Bird, Mr Bowden saw a \$50 note on the floor in Polly's bedroom. He picked it up and put it on the dresser, and then went and spoke to the ambulance officers. When he came back into the room, Mr Bird was there and he asked Mr Bird where the \$50 was but Mr Bird said he did not know. Mr Bowden knew there was other money in the house and he found a tin of money which he held onto before giving it to a friend of hers. Mr Bowden says Mr Bird was very interested in the cash in the tin. Mr Bowden then found another \$50 note in a draw on the phone table in the lounge room. Mr Bowden left the room for a short time but when he returned, he checked the draw and noticed the \$50 was also gone. He says this occurred when Mr Bird was living with his second wife. In addition, Mr Bowden says prior to the house fire at 5 View Street, there was a fire which burnt the side fence between 5 and 7 View Street. Mr Bowden saw the fire and put it out. He says it was in a 44 gallon drum and there was a big piece of timber coming out of the drum leaning against the fence. A couple of days later, he spoke to Mr Bird who said they had some builders there who must have been burning in the drum, but he knew at the time Mr Bird wanted to get the fence replaced. He was also at home the day Mr Bird's Combi caught fire. A few days later, Mr Bird told him he had put the kettle on and had gone inside to get the cups, and when he came out the van was on fire. Then the fire which damaged Mr Bird's home occurred, and Mr Bird told him he had been doing some welding under the house before the fire and that a spark had been smouldering and caught while he was out. Mr Bowden noted at the time of the second fire at Mr Bird's home, the family were not living at the address at the time. Not long after Mrs Bird's death, Mr Bowden was at Polly's house for lunch and Mr Bird was present. Mr Bird indicated everything was alright because Mrs Bird was insured and that she had tried to commit suicide the day before she died. He said she tried to kill herself with a drug overdose.<sup>292</sup>

164. Mr Bowden said Mr Bird was a pretty down-to-earth sort of guy who he always got on well with.<sup>293</sup> Mr Bowden says the fire involving the fence and the Combi occurred before Mrs Bird passed away.<sup>294</sup>
165. SK says she was in a relationship with Mr Bird for approximately five years and they were married in 2013. Their relationship ended in December 2015. She says their relationship was reasonable for the first 12 months but after this time, she says it was marked with Mr Bird manipulating and deceiving her. In her statutory declaration dated 16 January 2017, she provides evidence which the Crown used to prosecute Mr Bird for the crimes mentioned in paragraph 51. In addition to those crimes, she says he made

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<sup>292</sup> Exhibit C31- affidavit of Steven Bowden.

<sup>293</sup> T380 lines 1-2.

<sup>294</sup> T381 lines 1 and 18-21.

an insurance claim with respect to an MG motor vehicle after he drove it into the water off the pier at Triabunna. He told her he wanted to get rid of that vehicle because he could not get back what he paid for it and it was insured for the purchase price. SK believes he purchased the car with WH with whom he was having an affair. The money from the insurance claim was used to pay for a family holiday to Vietnam. She says Mr Bird always used to say to her it was okay as he could always get money. She says Mr Bird showed little emotion but he did show anger. She said she was afraid of him as a result of making the statement to police, and she was concerned for her safety and that of her children. He used to threaten her during their relationship and says he could easily cut the brake lines of her car. He also threatened her by saying if she ever went to the police, he would beat her to a pulp and that he could still get to her from inside prison. She says despite these threats he never physically hurt her. He would use pressure points on her hand to hurt her but never punch her. Because he was not physically hitting her he would say, “no one will believe you [as] you have no marks on your body to show”. Further, during their relationship Mr Bird would tell her that she was crazy and that no one would like or believe her, and she thought this was true and that she was mentally unwell. She now believes this was all as a result of her relationship with Mr Bird. A settlement with respect to their relationship was reached in December 2016. She thought the timing of the fire at the Geeveston home in January 2017 was very suspicious.<sup>295</sup>

166. SK says they first met on a dating website *Plenty of Fish*. She says Mr Bird told her he had been on the dating site for a while and had been out on quite a few dates. At Christmas 2010, Mr Bird and his family travelled the Great Ocean Road in his new caravan and he asked her to go with him but she declined. She says he begged her to move in with him and gave him a key to his house at 5 View Street, which she moved in to with her family over the Christmas period. Not long later, in February 2011, Mr Bird told her that his children did not like her living in the house and he asked her to leave. She got a rental unit in Pearsall Avenue Blackmans Bay, and she believes the real reason he asked her to move out was because he was having an affair with WH. In July of that year, SK went on holiday with Mr Bird and his children to Thailand to mark the one year anniversary of Mrs Bird's death. In October 2011, he asked her to move back into View Street and he promised to stop seeing WH. When she moved in, he asked SK for rent and she paid \$300 per week. She does not think that figure changed.<sup>296</sup> She remained living in that property, except for a period of six months in 2012, when she moved out again and rented a property. She was living in this rental when the fires

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<sup>295</sup> Exhibit C36b- statutory declaration of SK.

<sup>296</sup> T222 line 36.

occurred at the View Street property. SK says Mr Bird told her of his separation from Mrs Bird, but he still attended the family home to help with the children and get them to school. He told SK that a few days before Mrs Bird's death she was unwell, but on the day, she was good, got up as normal and cleaned the house, and rang UC who was in New Zealand. He went for a walk with the dog to the Peter Murrell Reserve to give her some space. He stopped at Cathy Edwards' home and asked Cathy to come home at a set time as Mrs Bird would love to see her as she had not been feeling well. Mr Bird told SK when he was out, he rang Mrs Bird a couple of times but she did not answer. He bought her flowers on the way home. When he arrived home he could not find her, so he rang her telephone and eventually heard it ringing in the garage. He entered the garage and found her hanging, he cut her down and went back inside to get a phone to call 000. He also advised her Mrs Bird had planned to suicide and had left no note. This is untrue. Mr Bird told her Mrs Bird had travelled to New Zealand with him and the children in 2010 to see his family. She then travelled to the UK with her children to say goodbye to her family in 2010. This is untrue. She had lived on her own for a year so she could go out and have affairs and was always at the casino. There is no evidence in the banking records that supports this, so I conclude it is untrue. She had asked Mr Bird to move back in so he could look after the children after her death. He also told her that when they were together they were well off. The only time money was tight was when MQ was born and Mrs Bird wanted to take a year off work.<sup>297</sup> Again this is not true.

167. SK confirmed in her evidence she never met Mr Bird until she met him on the dating site.<sup>298</sup> Her relationship with Mr Bird became an intimate one within two weeks of them meeting.<sup>299</sup> When SK moved into the View Street property, her ex-husband moved back into their previous home in Kingston which SK had moved out of.<sup>300</sup> She used some of the money she obtained from a settlement with her ex-husband to pay for an extension on the View Street property and on "*living expenses and different things*".<sup>301</sup> Despite putting money into the View Street property her name was not put on the title. She got some of the money back when the property settlement was reached in December 2015.<sup>302</sup> After the View Street property was destroyed by fire, it was rebuilt but it was only ever registered in Mr Bird's name. The rebuild was financed by the insurance company.<sup>303</sup> This is despite SK paying for some things in the house. She did

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<sup>297</sup> Exhibit 36a- affidavit of SK.

<sup>298</sup> T220 line 4.

<sup>299</sup> T220 line 28-29.

<sup>300</sup> T221 lines 7-13.

<sup>301</sup> T221 lines 33-34 and T222 lines 1-3.

<sup>302</sup> T222 lines 2-12.

<sup>303</sup> T250 lines 3-35.

not pay rent after the house was rebuilt.<sup>304</sup> In her view, when she paid money to Mr Bird she was simply paying her share.<sup>305</sup> SK received a letter from WH which indicated their affair had continued, and that is why in October 2011, he promised to cease seeing her again.<sup>306</sup> SK says she only met WH once, between February and October 2011, at 5 View Street when she went around for dinner. SK and Mr Bird were going to attend a concert at Wrest Point that evening, but halfway through the dinner, WH turned up because she thought she was attending the concert with Mr Bird. That interaction ended with lots of yelling and screaming, and both women leaving which left Mr Bird on his own.<sup>307</sup> During their relationship, SK says Mr Bird continued to see Dr Radcliff in Launceston.<sup>308</sup>

168. Mr John Denehey gave a statement to police on 16 November 2023, during the hearing of this inquest, and he was called to give evidence. He said he met Mr Bird some months ago when he bought something from him. They got on well. About seven weeks ago, he started living with Mr Bird in a caravan on Mr Bird's property after Mr Denehey had issues with people he was living with. While living with Mr Bird, Mr Denehey helped clean up Mr Bird's block of land and helped him buy several cars. He exchanged a generator with Mr Bird in return for a different generator Mr Bird gave to him. He stopped living with Mr Bird a week prior to giving his statement because Mr Bird accused him of stealing some wheels. Mr Denehey told Mr Bird not to accuse him of things or he would speak to police about what Mr Bird had told him about the death of his wife. Mr Denehey says one afternoon while he was living with Mr Bird, they were talking in Mr Bird's shed at which time Mr Denehey says Mr Bird was stressed about this inquest. Mr Denehey told him not to stress because if he had done nothing wrong then he had nothing to worry about. In his affidavit, Mr Denehey says,

*"I asked Mark if he had anything to worry about and he smirked at me. Mark said hypothetically you could get someone who was heavily asleep and set them up in a chair, put a rope around their neck and then pull the legs of the chair out from under them. I believe Mark was telling me how he killed his wife".*

Mr Denehey is of the view that a lot of what Mr Bird says is lies.<sup>309</sup>

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<sup>304</sup> T223 lines 8-27.

<sup>305</sup> T226 lines 33-34.

<sup>306</sup> T227 lines 23-25.

<sup>307</sup> T227 line 34 to T228 line 7.

<sup>308</sup> T234 lines 6-12.

<sup>309</sup> Exhibit C64- affidavit of John Denehey.

169. In his evidence Mr Denehey, said he first met Mr Bird when he approached him about some cars on his property and asked if he wanted to sell them.<sup>310</sup> Mr Denehey was interested in the cars because he restores them.<sup>311</sup> The men did a deal whereby Mr Bird exchanged three cars for solar panels.<sup>312</sup> The vehicles were not registered.<sup>313</sup> Mr Bird's property was on the main road, which Mr Denehey thought was the Huon Highway at Geeveston.<sup>314</sup> He has known Mr Bird for at least two years.<sup>315</sup> Mr Denehey said he did not know Mr Bird had previously been to prison, he did not know him while he was in prison and he himself has never been to prison apart from a period of seven hours in the early 1990s.<sup>316</sup>
170. Mr Denehey says Mr Bird would ask him to sell items for him which included everything from HDMI cords to bullets and magazines, cars, furniture, generators and the like.<sup>317</sup> Mr Denehey says Mr Bird would buy and sell "*stuff at the markets and so forth...*".<sup>318</sup> Mr Denehey said they became friends and then told each other about their respective personal lives.<sup>319</sup> He says Mr Bird told him about his time in the military, and about his health and the medication he consumed which made him docile.<sup>320</sup> They would visit each other and Mr Denehey then started buying Mr Bird food and even taking food down to Mr Bird because he did not think Mr Bird was eating.<sup>321</sup>
171. When Mr Denehey moved onto Mr Bird's property, there were two caravans and a hut which Mr Bird lived in. Mr Denehey helped Mr Bird build the hut.<sup>322</sup> He says Mr Bird "*was always chasing the next deal...he's a wheeler dealer... buying and selling stuff...swaps stuff and trades stuff... anything from washers all the way up to vehicles*".<sup>323</sup> He thought he and Mr Bird got on very well and he considered him a really good friend.<sup>324</sup>
172. Then there was the altercation between them about the wheels. Mr Denehey says Mr Bird was "*going off his head... screaming and yelling about the wheels*". He did not recognise

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<sup>310</sup> T639 lines 12-14.

<sup>311</sup> T642 lines 10-11.

<sup>312</sup> T647 lines 5-9.

<sup>313</sup> T646 line 10.

<sup>314</sup> T642 lines 25-27.

<sup>315</sup> T640 line 15.

<sup>316</sup> T640 lines 20-38. No doubt Mr Denehey was denied police bail and he was detained before being released on bail when he appeared in court.

<sup>317</sup> T649 line 40 to T650 line 8.

<sup>318</sup> T650 lines 10-15.

<sup>319</sup> T650 lines 23-32.

<sup>320</sup> T651 lines 3-9 and lines 18-27.

<sup>321</sup> T652 lines 5-20.

<sup>322</sup> T654 lines 27-41.

<sup>323</sup> T655 lines 12-21.

<sup>324</sup> T655 line 32.

the person he saw at that time as the person he knew as Mr Bird.<sup>325</sup> Mr Denehey says he had never seen that side of Mr Bird before.<sup>326</sup> Mr Bird was always quiet and calm.<sup>327</sup> Mr Denehey says he paid Mr Bird \$200 per fortnight in rent and he bought Mr Bird's milk, his food and his cigarettes.<sup>328</sup> He says he only received cash from Mr Bird once or twice, and the amount was not significant and that was in respect of deals they had done.<sup>329</sup> After Mr Denehey left, he texted Mr Bird about getting his property back and also asked about money he was owed for the work that he had done, but Mr Bird replied by saying the money he was owed was for staying on his property, paying rent and using the solar power.<sup>330</sup>

173. There was then the following exchange between counsel assisting, Ms Fox, and Mr Denehey:

"You've indicated in your affidavit that Mr Bird had told you that ah he was stressed about the court case which was – ..... Yes he came back one day – – happening at the time . . . . – he was all stressed about um something about his daughter find out he was lying um his partner also found out about him um lying about stuff and that and he was just all stressed out. And I said – I asked him 'what was wrong' –

Alright just just stop for a minute. What court case – ..... Ah this one ah that we're actually sitting now.

Alright thank you go on. .... Um and then ah I asked him 'are you alright' and ah he said 'oh' he was just worried and you know about– and I said but worried – I said 'you got nothing to worry about though Mark' and he said 'yeah but um people were pointing that you know like the lies' and I said 'what lies' you know like and um anyhow there was something took – and then it proceeded on that um I asked him – I said 'Mark if you've got nothing to worry about and if you didn't do it then you don't worry about anything, just *hakuna matata* it' it means like I'm – it means no worries you know like don't worry about it, so why are you getting all stressed. And um I said you know like and he said that people like the lies were catching up with him, and I said well – and he – I said well ca- and his misses was upset with him at the time, and I said eh I – the exact words from Mark' s mouth, I

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<sup>325</sup> T656 lines 25-40.

<sup>326</sup> T657 line 12.

<sup>327</sup> T657 lines 33-34.

<sup>328</sup> T657 lines 18-34.

<sup>329</sup> T659 lines 10-15.

<sup>330</sup> T658 lines 9-16.

said well ah I said 'if you stre - ' oh he said 'she' s not my misses' he said 'don't call her my misses' and I said 'oh sorry like you know like I didn't mean to what' s name', he said 'I I would get rid of her' he said 'but she knows too much' and I said 'knows too much about what Mark' I said 'what are you going on about' and he he – then he – I said 'Mark did you do it' and ah and meaning Mark did you do this to your wife. He smirked at me. Right. Eh ah and I pull up what' s name. The conversation went on again ah about other things and ah other stuff. Then I said to him – Mark, I said 'Mark if you didn't do it, why are you worried. But if you did like how – like if – how did you do it' you know and he said:

*'what if I put – say someone was in – ah had overdose of their medication, like a heavy dose of their medication and I was to – they were to be sat on a chair on top of a table with a rope around their neck, then the back part of the chair to be lifted up.'*<sup>331</sup>

174. As to the lies catching up with Mr Bird, he advised Mr Denehey there had been evidence at this inquest that he had been sleeping with a woman, but he had told his current partner he had not slept with that woman. Then his daughter would not speak to him because of something about cards that had been hidden away from them and he was worried about it. His whole mood had changed since this inquest started.<sup>332</sup>
175. Mr Denehey says the police came to him and started asking questions about a generator and things that had been stolen from Mr Bird. However, Mr Denehey says Mr Bird refused to give his property back and then made allegations to the police about Mr Denehey stealing from him. When the police came to speak to Mr Denehey, that is when he made the statement about what Mr Bird had said about this case. All of Mr Denehey's property that remained at Mr Bird's property has been disposed of by Mr Bird.<sup>333</sup> Mr Denehey had had enough of people thinking they could take and do what they wanted with his property.<sup>334</sup>
176. In the cross-examination of Mr Denehey, there was evidence of the text messages that passed between him and Mr Bird when they had their falling out. The cross-examination had no bearing on the veracity of Mr Denehey's evidence. Some of the information in the text messages corroborated some of his evidence which appears in his affidavit and which he gave on oath. An extract from one of the messages of 12 November 2023 at 10:30pm is as follows:

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<sup>331</sup> T660 line 18 to T661 line 15.

<sup>332</sup> T662 lines 1-12.

<sup>333</sup> T662 line 36 to T663 line 33.

<sup>334</sup> T663 line 37-39.

*“I’ve nothing to hide or lie about as you explained in detail how you did it and laughed about it telling me that how you murder someone make it look life taken own – make it look like taken own life. Ya braved about it and now it’s your turn to be held accountable for the murder of ex -wife”.*<sup>335</sup>

177. Mr Denehey made it clear during cross-examination that Mr Bird never said that he murdered his wife.<sup>336</sup> He only gave the scenario which commenced with “*what if*”, which is set out at the end of the quoted passage in paragraph 173. He was challenged about whether this conversation took place and he confirmed it did.<sup>337</sup>

*Financial position*

178. Two joint Commonwealth Bank accounts in the name of Mr and Mrs Bird, one held at the Murray Street Hobart branch and the other at the Kingston branch, were closed on the Tuesday after Mrs Bird’s death. They had a total credit balance of \$778.43.<sup>338</sup>
179. Mr Bird and SK, then known as SI, were granted letters of administration by the Supreme Court with respect to Mrs Bird’s estate on 14 January 2011.<sup>339</sup>
180. Contact was made with the life insurance company, which held Mrs Bird’s life insurance policy, by Mr Bird on or about 6 August 2010, at which time copies of Mrs Bird’s record of death, Mrs Bird’s birth certificate, Mr Bird’s birth certificate, and Mr and Mrs Bird’s marriage certificate were supplied.<sup>340</sup> Prior to this, the insurer advised Mr Bird by letter of 21 July 2010 that provided the requirements of the policy were met then the amount payable under the policy was \$251,167.41.<sup>341</sup>
181. Mr Bird was contacted by the Retirement Benefits Fund Board (the RBF), by letter of 27 July 2010, in order to determine the beneficiary of Mrs Bird’s death benefit. Mr Bird returned the required documents on or about 2 August 2010. By letter of 12 August 2010, the RBF indicated to Mr Bird it was satisfied he was entitled to the benefit which was estimated to be \$143,576.38. He was required to complete an application in relation to payment of the benefit, which was received by the RBF on 17 August 2010, and which he sought in a lump sum payable into a Commonwealth Bank account held at the Oatlands branch. By letter of 2 September 2010, the RBF advised Mr Bird the sum of \$144,160.62 had been deposited into his nominated bank

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<sup>335</sup> T687 lines 38-43.

<sup>336</sup> T698 lines 20-34.

<sup>337</sup> T703 lines 4-12.

<sup>338</sup> Exhibit C53.

<sup>339</sup> Exhibit C51 part 1 page 8.

<sup>340</sup> Exhibit C51 part 1 pages 13-19.

<sup>341</sup> Exhibit C51 part 3 pages 4-5.

account.<sup>342</sup> The bank records show this sum was paid into a Commonwealth Bank account held at the Oatlands branch on 2 September 2010. The next day, \$100,000 was withdrawn from that account, and after other deductions on that day, the account had a credit balance of \$37,833.09. There were subsequent credits received from a Commonwealth super fund, and a benefit from the DVA and a Commonwealth family payment every fortnight or so. Another DVA payment was paid into one of Mr Bird's Westpac bank accounts.<sup>343</sup> By 29 September 2010, the credit balance of the Commonwealth account held at the Oatlands branch had fallen to \$13,773.24 but was boosted by a \$20,000 transfer from the Rams home loan account. There were further credits from the home loan account to this account of \$17,000 on 15 October 2010, \$20,000 on 29 October 2010, \$15,000 on 5 January 2011, \$27,000 on 25 January 2011, \$2000 on 16 February 2011, and there are many other debits and credits recorded on this account from other Commonwealth Bank accounts held by Mr Bird. By 30 June 2011, this account had a closing balance of \$2254.99.<sup>344</sup>

182. Mr and Mrs Bird refinanced their home loan with Rams on or about 25 September 2009; the total amount borrowed being \$305,000. By the time of Mrs Bird's death in July 2010 the amount owing had fallen to approximately \$301,500 and there were no redraws. An amount of \$100,000, which is part of the proceeds Mr Bird received from the RBF, is credited on 3 September 2010. By 16 February 2011, Mr Bird had redrawn \$101,000 from this loan and in excess of \$299,000 was then owing. On 19 May 2011, there is a direct credit of \$127,000, leaving a balance owing of just over \$171,000. Between 13 July 2011 and 28 May 2013, a further \$111,500 was withdrawn from this home loan leaving a balance owing of \$286,000. Two further withdrawals were made in June and August 2015 before the loan, in the sum of \$274,361.51, was paid off on 23 March 2016.<sup>345</sup>
183. The bank records show Mr Bird's eBay purchases continued after Mrs Bird's death. It is clear he received all the proceeds of Mrs Bird's RBF entitlement and there are 2 large credits, one in the Westpac records for \$113,000 on 17 February 2011 and a \$127,000 payment off the home loan on 19 May 2011, which seems to me to represent the majority of the life insurance payment. There were no other large amounts due to Mr Bird at that time because he was yet to set fire to the View Street property and make the fraudulent insurance claim. That did not occur until December 2012.

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<sup>342</sup> Exhibit C52.

<sup>343</sup> Exhibit C63.

<sup>344</sup> Exhibit C56.

<sup>345</sup> Exhibit C68.

*The police Investigation*

184. At approximately 12:25pm on 8 July 2010 Constable Banks-Smith was tasked to attend Mrs Bird's home. She arrived at approximately 12:30pm and as she walked towards the house, she heard a male's voice yelling out to her from the garage which was adjacent to the house. She entered the garage and observed a male person, who she later learned was Mr Bird, carrying out CPR. He appeared distressed and she told him to perform the breathing component of CPR while she began chest compressions. Mr Bird was then on the landline and he informed the operator she was there. Senior Constable Kregor arrived soon after and Constable Banks-Smith and Mr Bird continued CPR until the ambulance arrived at approximately 12:35pm, at which time the ambulance officers took over treatment. Constable Banks-Smith observed ambulance personnel remove a red neck scarf from Mrs Bird's neck.<sup>346</sup>
185. Constable Banks-Smith in her evidence says she was the investigating officer for the coroner.<sup>347</sup> She prepared the Police Report of Death for the Coroner<sup>348</sup> which was completed after Mrs Bird was taken to the mortuary.<sup>349</sup> That document suggests the cause of death was a suspected suicide.<sup>350</sup> She was junior to the other police officers at the scene, namely Senior Constable Kregor and Detective Senior Constable Button. Constable Banks-Smith does not recall receiving any direction in respect of any forensic testing or measuring from those officers, but given she was junior to them, if she had received such a direction then she would have followed it.<sup>351</sup> In particular, there were no measurements taken at the scene<sup>352</sup> or any finger print or DNA testing of the Stanley knife or the shoes,<sup>353</sup> the rope or an examination of the knots in it,<sup>354</sup> the note and the photograph,<sup>355</sup> the step ladder or the mobile phone.<sup>356</sup> All that was seized was the note and the phone.<sup>357</sup> Constable Banks-Smith says she was informed by the police radio room when she was tasked to attend that this case involved a suspected hanging, and when she got there, what she observed reinforced that view and that's why none of the testing mentioned above was done. It appeared to

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<sup>346</sup> Exhibit C17- affidavit of Constable Banks-Smith

<sup>347</sup> T141 lines 31-33.

<sup>348</sup> Exhibit C1- Police Report of Death for the Coroner.

<sup>349</sup> T150 lines 1-11.

<sup>350</sup> See pages 2 and 6 of exhibit C1- Police Report of Death for the Coroner.

<sup>351</sup> T150 lines 20-31.

<sup>352</sup> T138 lines 29-42.

<sup>353</sup> T139 lines 31-37.

<sup>354</sup> T139 line 31 to T140 line 11.

<sup>355</sup> T141 lines 22-29.

<sup>356</sup> T142 lines 12-18.

<sup>357</sup> T145.

Constable Banks-Smith there were no suspicious circumstances.<sup>358</sup> In addition, she formed the view that the note found at the scene was a suicide note.<sup>359</sup>

186. Constable Banks-Smith went through some of the messages on Mrs Bird's phone and made a note of them in her notebook which she no longer has. The notebook was kept for seven years.<sup>360</sup> There is however a description of the relevant messages in the Police Report of Death for the Coroner, which I infer Constable Banks-Smith copied from her notebook. The relevant entry in her report is as follows:

On Thursday the 08<sup>th</sup> July 2010 at 09:30 Mark BIRD left his wife Helen BIRD, hanging out the washing at their house at 5 View Street, Blackmans Bay.

Mark left the house as Helen wanted to get some house work done. At 10:54am Mark called Helens mobile-0488299789, but she didn't answer. At 10:57am he sent her a text saying 'when you get this ring me. I have tried your mobile and home and no answer are you still in bed ha haxxx'. At 11:01 he called again and left a message 'Oh hi hel(?) I assume you must be asleep. I left a message on the phone. I'll be home about 11:30'.

Mark arrived home about 12:00pm the front door was open. Mark went inside the house and looked for Helen but couldn't find her. He called her mobile at 12:18pm but nothing. He tried the mobile again at 12:20pm and heard it ringing from the shed, which is adjacent to the house. Mark went into the shed and saw Helen hanging from the roof supports by rope. Mark cut her down using a stanley knife and called '000'.

187. Senior Constable Kregor confirms the evidence of Constable Banks-Smith and says she asked Mr Bird and Constable Banks-Smith whether they were alright to continue treatment and as they indicated they were, she went outside to direct the ambulance officers into the garage. When they arrived, she took Mr Bird out of the garage and into the main house to speak to him in relation to events that had led to the incident.<sup>361</sup>
188. Senior Constable Kregor arranged for Mr Bird to identify Mrs Bird, which he duly did, and thereafter, Senior Constable Kregor identified the body to Raymond Charlton who is a member of the mortuary staff.<sup>362</sup> Mrs Bird was then transported to the mortuary at the RHH. There, and as a result of an examination conducted by Dr Roger Booth, he pronounced her life to be extinct.<sup>363</sup>
189. Detective Senior Constable Button from Kingston CIB attended the Bird family home at approximately 12:40pm on 8 July 2010 "in relation to a reported hanging". On her arrival, Constable Banks-Smith was present in the garage at the side of the house with ambulance personnel who were working on Mrs Bird. Senior Constable Kregor was present inside the kitchen area of the home with Mr Bird. Detective Senior Constable

<sup>358</sup> T154-T155.

<sup>359</sup> T143 lines 5-36.

<sup>360</sup> T148 line 35 to T149 line 16.

<sup>361</sup> Exhibit C18- affidavit of Senior Constable Kregor.

<sup>362</sup> Exhibit C3- affidavit of Senior Constable Kregor.

<sup>363</sup> Exhibit C2- affidavit of Dr Roger Booth.

Button received a briefing from Constable Banks-Smith and went inside and spoke to Mr Bird, who advised her Mrs Bird had been ill for a couple of days but had rallied that morning and he had gone out walking his dog. He had attempted to call her several times but received no reply and assumed she had gone to sleep. He said he came home to find the house open and while trying to ring his wife again, he heard her phone ringing in the garage. He went into the garage where he found her hanging, he cut her down and commenced CPR while waiting for an ambulance.

190. Detective Senior Constable Button made some telephone calls to arrange some support for Mr Bird and then returned to the garage where ambulance personnel were continuing in their attempts to resuscitate Mrs Bird. Constable Banks-Smith showed her a note she said she found on a workbench in the garage under a photograph of three children. The note was in the form of a letter which appeared to have been written by Mrs Bird to her husband *“but did not take the form of a suicide note. It did, however, indicate that she was not happy with her current circumstances”*. Shortly after Detective Senior Constable Button read the note, ambulance personnel ceased their attempts to resuscitate Mrs Bird and Mr Bird was formally advised that his wife was deceased.
191. After the ambulance officers departed, Detective Senior Constable Button examined the garage. She noted Mrs Bird’s upper clothing had been cut off by ambulance personnel and there was a scarf lying on the floor near her body. An aluminium step ladder was standing in the garage not far away from where Mrs Bird’s feet were positioned. There was a Stanley knife inside a crock style shoe on the garage floor. A length of blue rope was hanging from the rafters. There was a ligature mark on Mrs Bird’s neck. Everything else in the garage appeared neat and well maintained.
192. With Mr Bird’s permission, Detective Senior Constable Button searched the inside of the residence. She was looking for paper similar to the medical paper that the letter found in the garage was written on. Her search was unsuccessful. She also checked for any indication of recent drug or alcohol consumption by Mrs Bird but found nothing. The house was generally well-kept and tidy. Once Constable Walker and Sergeant Adlard from Forensic Services of Tasmania Police arrived, Detective Senior Constable Button examined Mrs Bird and found no indication of trauma other than the ligature mark on her neck.
193. Over the following day, she assisted with investigations into this death and obtained a number of affidavits. She noted several concerns were raised by various people who

knew Mrs Bird, and all those people described her as a very loving and devoted mother who would not willingly leave her children.

194. On Tuesday 13 July 2010, Mr Bird attended the Kingston police station at the request of Detective Senior Constable Button where she, with the assistance of Detective Sergeant Kregor,<sup>364</sup> conducted a video recorded interview. On 19 August 2010, she removed a silver Sony Ericsson telephone owned by Mrs Bird from the Kingston property store and conveyed it to forensic services for examination. The phone was returned on 20 August that year and Detective Senior Constable Button later received a report with an analysis on the phone, but no relevant information was detected. As a result of her observations at the scene and her subsequent investigations, Detective Senior Constable Button did not discover any evidence to suggest the death of Mrs Bird was anything other than a suicide by hanging.<sup>365</sup>
195. In her evidence Ms Button said she retired from Tasmania police in 2016.<sup>366</sup> She was tasked by the radio room to attend Mrs Bird's home and she spoke to Constable Banks-Smith when she arrived. Constable Banks-Smith was in the garage and Senior Constable Kregor was in the kitchen with Mr Bird. She was briefed by Constable Banks-Smith in the garage but she cannot recall what she was told.<sup>367</sup> She suspects she would have spoken to Senior Constable Kregor but she cannot remember what she was told. She then spoke to Mr Bird. Apart from that conversation and subsequently speaking to him to arrange an interview, she did not speak to Mr Bird between 8 and 13 July 2010.<sup>368</sup>
196. When Constable Banks-Smith showed her the note, Constable Banks-Smith was definitely wearing gloves and Ms Button had also put gloves on.<sup>369</sup> Ms Button thought the note was a letter from Mrs Bird to her husband and not a suicide note. She agreed she was the senior officer present and she directed the letter to be seized for forensic testing, and she says she gave that direction to forensics officers.<sup>370</sup> Ms Button then went on to say that no direction is required because it is standard procedure for such a letter to be tested, even at a suspected suicide and even in 2010. She says because she did not complete the file she did not follow this issue up. She only assisted

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<sup>364</sup> This is a different police officer to Senior Constable Kregor who was present at the scene on 8 July 2010.

<sup>365</sup> Exhibit C16- affidavit of Detective Senior Constable Button.

<sup>366</sup> T157 lines 18-19.

<sup>367</sup> T158.

<sup>368</sup> T160.

<sup>369</sup> T161 lines 21-26.

<sup>370</sup> T162.

Constable Banks-Smith after that day. She then said whoever completes the file would make sure they got all the test results back.<sup>371</sup>

197. Ms Button says Senior Constable Kregor was senior to Constable Banks-Smith who was fairly junior. Ms Button confirmed the rope went with body but she did not know what happened to the top part of the rope; that is the part that remained hanging over the rafter.<sup>372</sup> Ms Button says she was not aware of any forensic testing and nor did she direct any forensic testing on the rope, knife, shoes, ladder and photograph. She did not recall a mobile phone being found at the scene.<sup>373</sup> She did not direct any DNA or fingerprint testing on anything seized from the crime scene and she did not direct anybody to take any measurements.<sup>374</sup>
198. Ms Button says Mr Bird told her in the kitchen that he did not work because of pain and injuries, and he had taken the dog for a walk that morning.<sup>375</sup> The concerns which were raised and which are mentioned in her affidavit led to the recorded interview “*just to confirm a few things*”.<sup>376</sup> The phone was sent to forensics to check on what police had been told.<sup>377</sup> Ms Button says that after the interview and after information as to what was on the telephone was provided to her, she does not recall doing anything else. That she said was probably due to workload but she does not now know what, if anything else, she did.<sup>378</sup> She confirmed there was nothing to suggest, subject to the receipt of toxicology results, that the death was other than by suicide.<sup>379</sup>
199. Constable Walker says he arrived at 5 View Street Blackmans Bay with Sergeant Adlard at approximately 1:15pm on 8 July 2010. He received a briefing that Mrs Bird had been located hanging in the garage by a family member and that paramedics had attended the scene and attempted to resuscitate her. He conducted an examination of the scene and noted a blue, red and white rope which matched the rope used as a ligature, piled in the corner of the garage. A Stanley knife was visible in a left slip-on style shoe located beside Mrs Bird. An aluminium ladder was set up and positioned beside Mrs Bird. On a workbench at the rear of the garage, there was a photo frame containing a picture of three children. Under the photo frame was a handwritten note

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<sup>371</sup> T163.

<sup>372</sup> T164.

<sup>373</sup> T165.

<sup>374</sup> T166 lines 1-4.

<sup>375</sup> T168 lines 13-19.

<sup>376</sup> T169 lines 6-19.

<sup>377</sup> T169 lines 40-44.

<sup>378</sup> T170.

<sup>379</sup> T170 lines 30-34.

with the title “To Mark” and beside it was a mobile phone. Constable Walker took a series of photographs,<sup>380</sup> a description of which is set out in his affidavit. At the conclusion of his examination, he was asked to photograph the master bedroom of the premises, with reference to blister packs of medications located in the walk-in wardrobe. A description of those photographs<sup>381</sup> is also set out in his affidavit.<sup>382</sup>

200. In his evidence, Constable Walker indicated he did not speak to any occupant of the house during his examination, and on arrival he was briefed and then he followed a standard methodology that is used to examine a sudden death scene.<sup>383</sup> He took photographs of the rope because information provided to him in the briefing was that Mrs Bird had used the rope to hang herself.<sup>384</sup> Constable Walker took no measurements of the rope or ladder, and there was no investigation conducted on the rope.<sup>385</sup> He placed the rope in the body bag with Mrs Bird so that the pathologist could refer to it.<sup>386</sup> Constable Walker took no items for fingerprinting or DNA testing, and he was not directed at any time to do so.<sup>387</sup> He would preserve an item like the letter found at this scene so that it could be subsequently tested, but it would be taken by the investigating officer and if that officer wanted the letter tested at a later date, then it would be provided to forensic services. He says he was not asked to perform any forensic testing and there was no discussion about forensically testing the note at the scene.<sup>388</sup> This exhibit was placed in a plastic sleeve by him which would enable it to be fingerprinted at a later date. The practice is not to put exhibits that are to be subject to DNA testing in plastic.<sup>389</sup> He wore rubber gloves the whole time he was at the scene, which therefore included when he placed the letter in the plastic sleeve.<sup>390</sup> Constable Walker said the rope could not be fingerprinted but DNA testing could have been performed on it, but that was not discussed. It would be for the officer with carriage of the investigation to ask for testing to be done.<sup>391</sup> Where his evidence differs from the other officers’ evidence with respect to forensically testing items seized at a scene, I accept Constable Walker’s evidence given he has worked in forensic services for many years and would be familiar with such protocols.

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<sup>380</sup> Exhibit 19b.

<sup>381</sup> Exhibit 19b.

<sup>382</sup> Exhibit 19a- affidavit of Constable Walker.

<sup>383</sup> T114.

<sup>384</sup> T119 lines 6-10.

<sup>385</sup> T119 lines 36-43 and T121 lines 1-2.

<sup>386</sup> T121 lines 10-18.

<sup>387</sup> T124 lines 30-36.

<sup>388</sup> T125 lines 27-33 and T126 lines 4-6.

<sup>389</sup> T126 lines 13-17.

<sup>390</sup> T126 lines 34-35.

<sup>391</sup> T126 lines 39-42 and T127 lines 1-7.

201. On 22 December 2010, Constable Banks-Smith showed Ms Campbell the note which was found at the scene. Ms Campbell indicated it looked like Mrs Bird's handwriting and it was written on paper from work. A sample of Mrs Bird's handwriting from a patient's file was provided so that it could be compared to the note.<sup>392</sup> The handwriting in the letter found at the scene and the patient's file is the same. I am satisfied the letter was written by Mrs Bird.
202. The note found by police at the scene says the following:

*"Dear Mark*

*For me this year has been a shocker, not knowing what was happening with my job at the Royal and the disappointment of not getting it, along with the extra financial strain with the children's sporting commitments and your need to get a set of drawers of (sic) the land cruiser has stressed me out more than I know how to deal with. I was hoping, after you moved back in and the way you spoke about me I really thought you were determined to make a big effort to help get our family get back on track, and despite the fact you say you do mean all those things you said about me, I'm afraid your actions do not show it. It seems to me that you would rather hurt my feelings and assume I can cope/deal with things while you support/councell (sic) other strange women who come crying on your shoulder.*

*I have supported you through a lot of illness these last 10 years and I honestly thought that you might have shown some of that support to me.*

*I'm sorry if I yell and carry on but I don't feel I'm being heard and as for the children not wanting to talk to me and tell me things, I find that devastating beyond words – they are my life!*

*You are all I have and I have you, but if you don't feel that you love me back anymore, please tell me so we can stop this charade and we can both move on. I can't live under this pressure anymore, it is making me ill.*

*Love Helen".<sup>393</sup>*

203. The forensic services division of Tasmania police provided a report which sets out the calls and texts made from Mrs Bird's mobile telephone on the day of her death. They are as follows:

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<sup>392</sup> Exhibit C20- affidavit of Sheila Campbell.

<sup>393</sup> Exhibit C21- note found at the scene.

- *Good morning [UC]. R u playing 2day? Can I call you? Mum XO* (no time recorded on data).
- *Good morning you can call in 20 minutes* (received 9:01am from her son UC)
- *Call* (received 10:08am from UC).
- You missed a call from 0409 463 950, who did not leave a message. (received 10:54am from Mr Bird's mobile).
- *When you get this ring me. I have tried your mobile and home and no answer are you still in bed ha ha XXX.* (received 10:57am from Mr Bird's mobile).
- Mr Bird called again and left a message: *Oh hi hel(?) I assume you must be asleep. I left a message on the phone. I'll be home about 11:30.* (Received 11:01 AM from Mr Bird's mobile).
- You missed a call from 0409 463 950, who did not leave a message. (Received 12:18am from Mr Bird's phone).
- You missed a call from 0409 463 950, who did not leave a message. (Received 12:21pm from Mr Bird's phone).<sup>394</sup>

204. Mr and Mrs Bird's home telephone service was also checked by police the results were as follows:

- On 7 July 2010, calls were made to Mrs Bird's work at 7:58am and 9:57am.
- On 7 July 2010, a call was made to the Grosvenor Street medical practice at 10:45am.
- On 8 July 2010, a call was made to Mrs Bird's work at 8:40am.
- On 8 July 2010, a call was made to Grosvenor Street medical practice at 10:07am.
- On 8 July 2010, at 12:24pm the 000 call was made.<sup>395</sup>

205. The report from Ambulance Tasmania indicates the emergency services call was received at 12:28pm and an ambulance was immediately dispatched, and it arrived at the Bird family home within nine minutes. Paramedics were with Mrs Bird one minute later. The history which was provided to the paramedics was as follows:

*"Helen was last seen by her husband at approx 0930 this morning. He returned home at around 1220 to discover the house open and not able to find Helen. At approximately 1225 he stated he was in the backyard trying to call Helen when he*

<sup>394</sup> Exhibit C23- Tasmania police Forensic Services Report.

<sup>395</sup> Exhibit C23- Tasmania police Forensic Services Report.

*heard her phone ringing in the garage. On entering he found her hanging from a rope tied to the roof supports. He cut her down and started CPR on advice of TAS comms staff. On arrival AT, police and husband were performing adequate CPR. On initial check nil pulse nil breathing in asystole. Helen had large ligature mark on her throat and neck. Nil signs of other trauma”.*

The initial assessment of the paramedics was a non-accidental hanging.

206. The forensic pathologist Dr Donald Ritchey conducted a post-mortem examination on 9 July 2010.<sup>396</sup> He noted the presence of a multicoloured, patterned silk scarf and a paper bag containing a synthetic rope ligature which was within the body bag. He also noted the following medical intervention: taped gauze covered needle punctures of the bilateral antecubital fossae, left fifth and sixth ribs were fractured in the midclavicular line, and the right fourth and sixth ribs were fractured in the midclavicular line. He says the rib fractures were simple, transverse and they had minimal surrounding haemorrhage. As to any signs of violence he says:

*“High around the upper neck is in an oblique ligature abrasion located above the thyroid prominence. Laterally the ligature abrasion is angled sharply upward, being centred 2 cm above the left earlobe and 5.5 cm below the right earlobe. Posteriorly the ligature abrasion continues its upward angle where it disappears into the hairline...*

*There are faint petechiae of the palpebral conjunctivae.*

*Internally there is no trauma of the neck. There is subcutaneous compression of the tissues underlying the ligature abrasion, however there is no haemorrhage or trauma of the strap muscles or base of the tongue. The hyoid bone and thyroid cartilage are atraumatic.*

*The rope contained within the paper bag consists of braided red, white and blue synthetic fibres that has been taped and cut into 2 pieces.*

*There are no restraint or defensive type injuries of the fingers, hands, wrists, forearms or upper arms”.*

207. The remainder of Dr Ritchey’s thorough examination found no natural cause of death. In addition to his examination, he also considered the results of histology, toxicology and microbiology, and he concluded Mrs Bird’s cause of death was asphyxia due to

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<sup>396</sup> Exhibit C4- affidavit of Dr Donald Ritchey.

hanging. He noted the position in which she was found and that the ligature abrasion was consistent with this opinion. He also considered the contents of what was described as a suicide note was consistent with his opinion and that Mrs Bird had no suspicious or restraint type injuries of the fingers, hands, wrists, forearms or upper arms.

208. In his evidence, Dr Ritchey said the following:

- The rope depicted in the scene photographs is consistent with the rope mentioned in his affidavit;<sup>397</sup>
- The ligature abrasion described in his affidavit is consistent with a hanging;
- The ligature abrasion in this case did not have the braid pattern from the rope that is often seen in the base of a ligature abrasion and that may have been due to the scarf, which Mrs Bird was wearing, being between the rope and the skin;
- He saw nothing that caused him to believe the ligature abrasion was inconsistent with the rope found at the scene;
- He explained that petechiae are brown spots that can form on the palpebral conjunctivae which aligns the eyelids and which represents bleeding. They are seen in people who have had neck compression in partially suspended hangings where people's feet might be on the floor or where their knees are contacting with the floor. When pressure is put on the neck it shuts off the venous return, without shutting off the arterial supply of blood, which rapidly increases intracranial pressure to the point where blood is no longer flowing through the brain and the increased blood pressure causes little blood vessels in the linings of the eye to burst. Their presence suggests the mechanism of death was neck compression but there are other things that can cause people to have petechiae. Typically, when somebody is fully suspended and the entire weight of the body is on a rope which is tight around the neck, you do not expect to see petechiae;
- He was shown photograph number 18, which depicts the rope found at the scene but no noose and that before being cut had formed a long U-shape. He indicated such a mechanism could be used to hang oneself and the ligature abrasion is consistent with such a mechanism;
- The rib fractures were caused during aggressive CPR and the minimal amount of blood around the fractures suggests Mrs Bird was dead and did not have any blood pressure at the time those fractures occurred;

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<sup>397</sup> Exhibit 19b- photograph 21.

- A person can be rendered unconscious by manipulating pressure points to the neck because when a person is strangled it is not the airway that is crushed, it is the blood supply or the blood return which is interrupted. He termed such a manoeuvre as a carotid sleeper hold, where an arm is put around somebody's neck and the trachea and Adams Apple are in the V of the neck and pressure is applied to the sides of the neck using fulcrum compression. By this method, significant pressure is employed to a broad area of the neck without causing trauma and you can render somebody unconscious in under 10 seconds if you have effective carotid compression. He noted these holds have been outlawed by police departments around the world because they can kill;
- Dr Ritchey thought there would be sufficient time for somebody who is strong enough to hang somebody after rendering them unconscious using such a hold before they regained consciousness and the physical findings at autopsy would still point to a hanging as the cause of death;
- It was possible that someone could be rendered unconscious and be hung in the manner that Mrs Bird seemed to be hung and there would be no evidence at autopsy to show whether a person was unconscious or conscious at the time they were hung;
- The petechiae found in this case is consistent with Mrs Bird being rendered unconscious by a carotid sleeper hold and it is equally as consistent with a hanging; and
- No family members were present at the autopsy and it was not open to the public.<sup>398</sup>

209. During cross-examination, Dr Ritchey said it was not necessary, after a sleeper hold was applied, for Mr Bird to carry someone up a ladder, slip a noose on someone's head and not produce any forms of bruising on her body for death to occur. If one end of the rope was tied and somebody is rendered unconscious by such a hold, and the rope is put around the neck and pulled so most of their body weight is supported, then such a death could occur.<sup>399</sup>

210. Mr McLachlan-Troup says the results of toxicology set out in the affidavit of Andrew Griffiths, who was a forensic scientist at Forensic Science Service Tasmania (FSST), were negative for alcohol and carboxyhaemoglobin, which is formed in red blood cells when haemoglobin is exposed to carbon monoxide.<sup>400</sup> Caffeine was present and

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<sup>398</sup> T254-T264.

<sup>399</sup> T265 lines 3-15.

<sup>400</sup> Exhibit C6- affidavit of Andrew Griffiths.

hyoscyamine/atropine was present at a high therapeutic level, but this was more than likely used by attending paramedics. Paracetamol, which provides temporary relief of mild to moderate pain and reduces fever, was also present. Mr McLachlan-Troup is a forensic scientist with FSST. He said in his evidence that he has worked for about 30 years in a number of different forensic toxicology laboratories and he has been employed by FSST since 2012. As part of his work, he would report on 400-500 coronial cases per year and he has almost exclusively reported on all coronial cases in Tasmania since 2018.<sup>401</sup>

211. Mr McLachlan-Troup said in his evidence, testing for alcohol and carboxyhaemoglobin is the same now as it was at the time Mrs Bird's death. Drug screening however has changed. At the time of Mrs Bird's death, either a comprehensive drug screen or a limited drug screen was conducted. In this case a limited drug screen was conducted. A comprehensive drug screen could detect up to 150 different drugs, whereas a limited drug screen could detect 130 different drugs. Drug screening today looks for up to 300 different drugs. The decision on which drug screen to conduct was determined by the toxicologist. The only information he or she would be provided with is the Police Report of Death for the Coroner and a summary of the case provided by the pathologist. Sometimes a pathologist would ask for testing for a certain drug; however generally the decision as to what screening to conduct was left to the pathologist. Comprehensive drug screening was done where it was thought drugs were involved in the death, whereas a limited drug screening was performed where the cause of death was obvious; like in the case of a hanging.<sup>402</sup>

212. Mr McLachlan-Troup advised that a limited drug screen would detect the following drugs:

- Diazepam;
- Seroquel (Quetiapine Fumarate);
- Xanax (Alprazolam);
- Flunitrazepam;
- Escitalopram (Lexapro);
- Cymbalta (Duloxetine); and
- Desvenlafaxine (Pristiq).

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<sup>401</sup> T525-T526.

<sup>402</sup> T527-T529.

All these medications are central nervous system depressants; that is a physiological state that can result in a decreased rate of breathing, a decreased heart rate and loss of consciousness which might possibly lead to coma or death.

213. Stilnox and Panadeine Forte, which are central nervous system depressants, could be detected on the limited drug screening, whereas sodium valproate could only be detected on a comprehensive drug screening and meloxicam would not have been detected on either screening. Sodium valproate is a central nervous depressant whereas meloxicam is not.<sup>403</sup>
214. The drugs mentioned in paragraphs 212 and 213 have been prescribed to Mr Bird over the years.<sup>404</sup>

*Further Police investigation*

215. Detective Senior Constable Nicolette Munro attended, on 6 January 2017, a house fire at 4916 Huon Highway, Geeveston which was the residence of Mr Bird. The house was completely destroyed by fire. She commenced an investigation and discovered a number of insurance claims Mr Bird had lodged, including two previous fire claims which he made in respect of his previous residence at 5 View Street Blackmans Bay. Later that month, she obtained a statutory declaration from SK. On 23 January 2017, Detective Senior Constable Munro commenced an investigation in relation to the fire at Geeveston and the previous fires and insurance claims submitted by Mr Bird. While conducting this investigation, a number of witnesses raised concerns about Mrs Bird's death, and as a result, Detective Senior Constable Munro reviewed the coronial file and the findings made by Coroner McTaggart. This review identified a number of potential witnesses who had not provided affidavits when the death was originally investigated. Detective Senior Constable Munro therefore obtained these affidavits, which have all been tendered at this inquest, and she conducted a review of telephone records obtained at the time of the initial investigation and information provided by Mr Bird during that investigation. Her investigation determined Mr Bird was having an affair at the time of Mrs Bird's death which he did not disclose to police. In addition to these enquiries, Detective Senior Constable Munro obtained, by way of a warrant, documents from the RBF, the Commonwealth Bank, Pace Financial Services, Westpac and the records of Dr Radcliff. Further affidavits were obtained from UC and DJ, and Mrs Bird's family in the UK.

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<sup>403</sup> T532-T539.

<sup>404</sup> See the records of Dr Ratcliff at exhibit C42.

216. In addition, Detective Senior Constable Munro says tests were conducted on 29 September 2020 at Kingston police station using synthetic rope similar to the rope found and allegedly used by Mrs Bird at the time of her death. The testing was done to determine whether the rope would fray if it was cut while supporting weight. Detective Senior Constable Munro says Mrs Bird weighed 68 kg at the time of her death<sup>405</sup> and so 70 kg of weight was suspended by a rope which was then cut using a Stanley knife. The test was video recorded and photographs were taken of the cut ends of the rope. The test demonstrated the rope frayed significantly when cut while supporting the weight. The rope was then cut without holding any weight and this test showed minimal fraying. Detective Senior Constable Munro says this test supports the hypothesis that Mrs Bird was not cut down from the rope which was located tied to the rafter in the garage. It therefore appears that the rope when cut in the garage was not supporting any weight. Although she does not say so, this is because the photographs taken by Constable Walker at the scene on 8 July 2010 show the rope allegedly used by Mrs Bird exhibited minimal fraying. Detective Senior Constable Munro was assisted in performing these tests by Detective Sergeant Lee Carr and Detective Senior Constable Michael Manning.<sup>406</sup>
217. On Tuesday 15 June 2021, Detective Senior Constable Munro collected Mr Bird from Risdon prison. He was conveyed to Bellerive police station to take part in a video recorded interview regarding the death of his wife. Detective Senior Constable Munro says Mr Bird obtained legal advice prior to the interview and he then answered “*no comment*” to all questions put to him during the interview. He was thereafter conveyed back to prison.<sup>407</sup>
218. Detective Senior Constable Munro confirmed in her evidence she was not at all involved in the investigation of Mrs Bird’s death during 2010 and 2011, but became involved after investigating Mr Bird in January 2017<sup>408</sup> in relation to dishonesty and fraud,<sup>409</sup> and while conducting that investigation she saw cause to reopen the police investigation into Mrs Bird’s death.<sup>410</sup> She explained in relation to Mrs Bird’s phone, the download only captured what was actually stored on the phone, for example messages. Sometimes the phone stores recent calls to and from the phone but they are not always captured. Further data can be retrieved from call charge records from

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<sup>405</sup> See exhibit C4- affidavit of Dr Ritchey at page 4.

<sup>406</sup> Exhibit C50- affidavit of by Detective Sergeant Lee Carr.

<sup>407</sup> Exhibit C49- affidavit of Detective Senior Constable Munro.

<sup>408</sup> T542 lines 40-44.

<sup>409</sup> T543 lines 2-4.

<sup>410</sup> T543 lines 16-18.

the telephone carrier, but that was not obtained for this mobile phone.<sup>411</sup> Detective Senior Constable Munro said she prepared a file for the coroner seeking a determination that the case be reopened and she was essentially investigating this case off the side of her desk for a couple of years.<sup>412</sup> Her Detective Sergeant, Detective Sergeant Lee Carr, reviewed her investigation file before it was submitted to the coroner, but before that could occur, the referral had to be approved by Detective Inspector Michael Smith.<sup>413</sup> Detective Senior Constable Munro tried to locate the rope and she determined it had gone with Mrs Bird's body to the mortuary but thereafter it had not been kept,<sup>414</sup> and it was and still is common practice for the rope to go with the body.<sup>415</sup>

219. Detective Senior Constable Munro says in her experience in cutting people down who have suicided, some of their weight can be taken by the person cutting them down, but because of the weight on the rope there is some fraying.<sup>416</sup> In this case, Detective Senior Constable Munro looked at the rope in detail, which was depicted in the photographs, under a microscope to identify each thickness and the type of weaving. Then she went and purchased rope which she believed was similar to the rope in the scene photographs.<sup>417</sup> Thereafter, she conducted the tests described in paragraph 216.
220. In cross-examination, Detective Senior Constable Munro says although in the initial interview with police Mr Bird used the word spontaneous when describing his relationship with WH, he denied there was any infidelity in the marriage.<sup>418</sup> She was asked when she commenced her investigation whether it was her belief Mrs Bird had hung herself. She indicated she did not know and she did not express any such belief to anyone she took affidavits from.<sup>419</sup> She was next asked whether she disclosed to anyone prior to taking an affidavit that Mr Bird was having an affair. She answered this in the negative.<sup>420</sup> She would, however, have said to witnesses that concerns had been raised that Mrs Bird would not have taken her own life, but she did not put to the witnesses whom she took a statement from that she believed Mrs Bird had not hung herself and nor did she say to those witnesses she was determined to prove that.<sup>421</sup> It was put to Detective Senior Constable Munro that her testing of the rope also

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<sup>411</sup> T545 lines 24-34.

<sup>412</sup> T547 lines 19-31.

<sup>413</sup> T548 lines 5-17.

<sup>414</sup> T548 lines 36-38.

<sup>415</sup> T549 lines 1-3.

<sup>416</sup> T552 lines 22-26.

<sup>417</sup> T551 lines 35-39.

<sup>418</sup> T558 lines 1-8.

<sup>419</sup> T559 lines 30-40.

<sup>420</sup> T560 lines 1-3.

<sup>421</sup> T565 lines 6-20.

supported the hypothesis that when Mr Bird cut Mrs Bird down he was supporting her. In response to that proposition, she said if there was no weight on the rope then she would expect there to be no fraying on the rope.<sup>422</sup>

221. Detective Senior Constable Munro was recalled to give evidence with respect to some evidence given by Mr Bird in his evidence in chief. She says on 8 December 2023, she conducted experiments at Kingston police station based on evidence given by Mr Bird in this case on 29 November 2023. The evidence given by Mr Bird was that there was a slip knot in the rope when he observed Mrs Bird hanging in the garage. He says he sat her on his knee and pulled the rope down and cut it; supporting her bodyweight. Once cut, the slip knot fell apart.<sup>423</sup> She measured the length of rope from the crime scene photographs and established the total length of rope from where it was tied off on each end of the beam in the garage was 94 cm long (there was a knot in the rope and this measurement included the knot in the rope). The rope was cut at 66 cm from the long side and this length included the knot. She tied a 9 mm poly rope to a beam at the Kingston police station and the point at which the rope was cut was marked on the rope. She video recorded her experiments with the rope. She was assisted by Detective First-Class Constable Brett Suttor.<sup>424</sup> The rope appears to be similar to the rope found at the crime scene and it was tied off to a beam in a similar fashion to that shown in the crime scene photographs. First-Class Constable Suttor then tied a slip knot in the rope and put some weight in the loop. The knot did not slip. He untied the rope and then tied another slip knot in the rope, and again it did not slip when weight was put on the loop. This was repeated 3 more times and the knot in the rope did not slip significantly downwards when weight was placed on the rope. It was determined that cutting the rope did not result in the slip knot coming undone. It was also determined the knot that was already in the rope before the slip knot was tied would have left an impression on Mrs Bird's neck.<sup>425</sup> There is no mention of such an impression in Dr Ritchey's affidavit.
222. To verify her measurements, Detective Senior Constable Munro, given there were no measurements taken at the scene, counted the marks on the ropes where the colour changes on them. She says there are eight strands of thread between the start of one segment and the next one, so each segment has eight threads in the crime scene photographs. She checked that against her test rope and even though they are differently coloured, there are still eight threads between the coloured segments. Each

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<sup>422</sup> T570 lines 21-26.

<sup>423</sup> T748 line 34, T749 line 29 and T750 lines 4-8 and line 34.

<sup>424</sup> Exhibit C66a- affidavit of Detective Senior Constable Munro.

<sup>425</sup> Exhibit C66b- video made by Detective Senior Constable Munro on 8 December 2023.

segment is 2 cm, and therefore knowing that, she was able to calculate the lengths for her experiment. She measured the 2 cm length from her test rope but says the test rope has the same number of threads between the colours as the original rope.<sup>426</sup>

223. Data was obtained from Mrs Bird's mobile telephone from 1 August 2008 up until the date of her death. That data was compiled in a document which sets out the calls and text messages Mrs Bird received from Mr Bird, and what she sent to him during that period.<sup>427</sup> The evidence in that document shows a busy family who were juggling the work and caring commitments of Mrs Bird, and the sporting and other commitments of the three children, who it appears participated in soccer, rugby, Tae Kwon Do, cricket, and athletics. There appears to have been interstate and intrastate sporting trips for the children. The messages show the odd minor disagreement. There is messaging between Mr and Mrs Bird on or about 2 August 2008, in which Mrs Bird says to Mr Bird he is going to have to make some adjustments as she has, and she asks whether he is prepared to do so. He indicates that he is. At that stage, they are, based upon the evidence, separated. On 19 March 2009, Mrs Bird sends a message to Mr Bird indicating that she feels he is not being entirely honest about WH, who I infer is WH given that WH wrote to Mrs Bird on 2 occasions, and she asks Mr Bird to tell her the truth. On 24 April 2009, Mrs Bird raises a concern with Mr Bird about their finances, and then on 23 April 2010 while Mr Bird is away, he indicates he has run out of money and Mrs Bird indicates he has "*cocked up*". She has then transferred some money into his account. The Westpac bank statements indicate Mr Bird overdrew his account on 22 April 2010 and Mrs Bird deposited funds (\$620) which are described as "*cock up*" and which reached the account on 27 April 2010.<sup>428</sup> On 20 May 2010, there is a message from Mr Bird which Mrs Bird has read, which indicates her credit card limit had been approved. The messages and missed calls on the date of Mrs Bird's death and which are referred to in paragraph 203 are the final entries in this document. The messages Mr Bird sent her that morning are the most loving in all the messages sent by him since 1 August 2008.

## Discussion

224. Having considered all the evidence in this matter I have come to the conclusion that there are four possible ways in which Mrs Bird may have died. They are suicide by way of hanging, accident, she died as a result of the conduct of a person or persons

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<sup>426</sup> T836 line 26 to T837 line 10.

<sup>427</sup> Exhibit C41.

<sup>428</sup> See exhibit C63 page 87.

unknown, or finally, Mr Bird was involved in her death. I will deal with each of these possibilities in turn.

225. I do not accept the police hypothesis that Mrs Bird died by way of suicide. The reasons for this are:

- Although considered to be a suicide by police, they arrived at the scene with that mindset because of what they had been told by Radio Despatch Services (RDS) of Tasmania police. The information from RDS must have come from Mr Bird as he called 000.
- The note or letter is not a suicide note. It is a note in which Mrs Bird expresses her despair with respect to the position she finds herself in. It is an ultimatum to her husband. It is not written shortly prior to Mrs Bird's death but postdates the time after Mr Bird returned to live with Mrs Bird and after she invited him to return in early August 2008. In addition, as Mr Bird conceded, the drawers for the Landcruiser which are mentioned in the letter were purchased in 2008 or 2009, and that after he moved back in, the family was in significant financial stress.<sup>429</sup> The note does refer to the unsuccessful job application which Mrs Bird was likely advised about prior to Christmas 2009 or in early 2010.
- The evidence establishes Mrs Bird's children were her life. She would not have left them behind particularly with someone who was incapable of properly looking after himself, let alone his children.
- Mrs Bird was also very dedicated to her career.
- Mrs Bird had advised Ms Campbell, on the morning of her death, she was attending a training course at work that afternoon. When found, she was wearing professional attire from which I draw the inference that she fully intended to participate in the training course that afternoon.
- There is no evidence whatsoever that Mrs Bird has ever mentioned suicide, let alone evidence of suicidal ideation or a prior attempt at suicide. Mr Bird does mention a text he showed to WH which he alleged was from Mrs Bird, and he told Mr Bowden and others at a lunch of a suicide attempt in the days leading to her death. I do not accept this evidence because, for the reasons previously stated, I do not accept Mr Bird as a witness of the truth. It is also interesting to note in that regard that at no stage did Mr Bird tell police of the text or the alleged suicide attempt.
- The evidence of both Dr Hodgman and Ms Hyslop is Mrs Bird was not a suicide risk and she was successfully working on running the household by herself, and

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<sup>429</sup> T858 lines 26-38 and T859 lines 19 and 39.

that she would manage a separation better than most, and that this was a likely outcome. That is a separation from Mr Bird, rather than suicide, was the more likely outcome. Ms Edwards says she would not have been surprised if Mrs Bird told her she was going to separate from Mr Bird.<sup>430</sup>

- Her family say she was very happy when she visited the UK some 4 weeks or so prior to her death and she was looking forward to returning for her sister's 50<sup>th</sup> birthday in two years' time.
- Mrs Abbott says Mrs Bird's suicide was a complete shock.
- Mrs Bird's friends, for example Ms Stevenson and Ms Vincent, say there is no way Mrs Bird would have taken her own life and that if she was in mental distress, then she would have confided in them.
- Mrs Street says she was totally shocked that Mrs Bird would have committed suicide.
- In the four years that Ms Campbell worked with Mrs Bird, she had only ever seen Mrs Bird low once and that was about two years prior to her death. Otherwise, Ms Campbell says Mrs Bird was a cheerful, hard-working, reliable and excellent nurse.
- Mrs Burbury says that life for Mrs Bird was keeping her family going. She was always very positive.
- Ms Gargioni says the mode of suicide was strange because she knew Mrs Bird had access to end-of-life drugs which Mrs Bird could use. Ms Gargioni does not believe Mrs Bird would take her life in a way where she could be discovered by her children.<sup>431</sup> I agree.
- There is no doubt Mrs Bird's relationship with Mr Bird was in disarray and fraught. It is clear she was a very private person who kept the extent of her difficulties from her friends and family, and outwardly she remained a bubbly, positive person. Despite this, her close friends did know her relationship with Mr Bird was in difficulty, however they were unaware of the extent of those difficulties. This does not mean, as was suggested by Mr Bird and Ms Battams, that her despair was so great that this led to her suicide. One person who did know the extent of the problems between Mr and Mrs Bird is the psychologist Ms Hyslop and her opinion, which I accept, is clear. That opinion is Mrs Bird was not a suicide risk.<sup>432</sup>

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<sup>430</sup> Exhibit C13- affidavit of Catherine Edwards.

<sup>431</sup> Exhibit C27- affidavit of Emma Gargioni.

<sup>432</sup> See paragraph 81.

226. There is no evidence Mrs Bird had mentioned or threatened suicide, and there is no evidence of suicidal ideation. There was therefore no reason for her to be experimenting with ropes or other methods of harming herself and that experiment going wrong thereby leading to her death by accident or misadventure. I have often seen in suicide cases evidence whereby people experiment or test out a cause of death before going through with it. There is absolutely no evidence of this occurring in this case. Mrs Bird was a capable, pleasant, fair, likeable and assertive woman who was coping with the circumstances in which she found herself and whose priority was her children and their future. Mrs Bird therefore did not die by accident.
227. There is no evidence a person or persons unknown were involved in Mrs Bird's death; that is she was killed by some random passersby.
228. The financial records show Mr and Mrs Bird's financial position was in a parlous state and Mr and Mrs Bird were in significant financial stress. The extent of that stress is demonstrated by the fact that Mr Bird's mother paid for Mrs Bird's funeral.<sup>433</sup> Mr Bird had a spending addiction. When confronted with this evidence, Mr Bird conceded the household was living beyond its means and he was extravagant with money.<sup>434</sup> While Mrs Bird was alive, she provided Mr Bird with pocket money for in excess of 2 years,<sup>435</sup> which it seems he only started to repay from about April 2010. Those repayments obviously did not continue after Mrs Bird's death. The Rams mortgage was, prior to Mrs Bird's death being paid off; albeit slowly and there were no re-draws on that account until after her death. Mrs Bird was doing her best to manage the family's difficult financial circumstances. On her death, Mr Bird was paid Mrs Bird's death benefit and his share in her life insurance payment. When combined, these payments amounted to approximately \$390,000. The banking records we have show Mr Bird received lump sum amounts of \$144,000 and \$113,000, and there is also a lump sum payment off the Rams mortgage in the sum of \$127,000.<sup>436</sup> After Mrs Bird's death, Mr Bird's spending continued unabated.<sup>437</sup>
229. With the passing of Mrs Bird, Mr Bird was able to, and did, continue his affair with WH and/or with SK. Both WH and SK say Mr Bird was in a relationship with them when they believe he was also in a relationship with the other or with other people.<sup>438</sup>

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<sup>433</sup> T753 line 12.

<sup>434</sup> T854 lines 17-23, T856 lines 13-14 and T891 lines 4-7.

<sup>435</sup> See paragraph 107.

<sup>436</sup> See paragraphs 181 and 183.

<sup>437</sup> See paragraph 182.

<sup>438</sup> See paragraphs 46, 93, 145, 146, 165, 166 and 167.

230. Mr Bird was a much larger person than Mrs Bird. He was more stockily built than her and he was taller.<sup>439</sup> He was therefore clearly stronger than her. There is evidence Mr Bird could be verbally and physically aggressive, which included comments that he wished to dispose of people he did not like, and he felt physical and verbal aggression towards his family. Dr Radcliff however put these types of comments down to Mr Bird simply expressing his feelings or ruminations. I do not accept this innocent explanation. This is because Dr Ratcliff never questioned anything he was told by Mr Bird, he never verified or attempted to verify what Mr Bird told him about what occurred in East Timor, or anything else for that matter. He thought the fires involving Mr Bird were an unfortunate co-incidence and he accepted Mr Bird's explanation of SK's "*sudden change of attitude to him*"; that is Mr Bird was unable to explain it when it was her evidence which led to the convictions and sentence on the very serious arson and fraud charges. In addition, there is evidence of violence on Mr Bird's part which includes him assaulting two nurses at St Vincent's Hospital, he was threatening and abusive towards SK and would squeeze pressure points on her hands, and he left a number of animals at the Geeveston property which were burned alive as a result of him setting fire to it. As paragraph 145 establishes, Mr Bird grabbed WH and forced her off his property and he threatened her. Mr Bird's behaviour towards Mr Denehey at paragraph 172 shows how volatile and aggressive Mr Bird can be.
231. Mr Bird tied the rope to the rafter in the garage prior to Mrs Bird's death.<sup>440</sup> I do not accept his explanation as to how the rope was configured when he found Mrs Bird and how the slip knot came out of the rope when he cut her down. The reason for this are the tests conducted by Detective Constable Munro and her colleagues which cast significant doubt on Mr Bird's version of events. First, the tests detailed in paragraph 216 suggest the rope did not support Mrs Bird's full body weight. Second, the tests described in paragraph 221 suggest a slip knot would not have slipped sufficiently to constrict Mrs Bird's neck and cause her death, it did not slip out when the rope was cut and there was no mark left on Mrs Bird's neck by such a knot.
232. On 8 July 2010, Mrs Bird spoke to her workplace at 8:40am (for 5 minutes and 37 seconds),<sup>441</sup> she spoke to Grosvenor Street Medical Practice at 10:07am (for 42 seconds), and she spoke to her son, UC, at 10:08am (for 4 minutes and 41 seconds).<sup>442</sup> Mr Bird did purchase some flowers on 8 July 2010 and he did buy

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<sup>439</sup> Exhibit C4- affidavit of Dr Ritchey records Mrs Bird's weight at 67.8 kg and her height at 1.76m. Exhibit C65- HMP Risdon records- admission document including photograph. Mr Bird is 1.88m tall.

<sup>440</sup> T842 line 26.

<sup>441</sup> See paragraph 204.

<sup>442</sup> See paragraphs 203 and 204.

something at Big W.<sup>443</sup> Of note is the fact that the bank statements suggest Mr Bird had never bought flowers for Mrs Bird prior to the date of her death and that it is difficult to accept Mr Bird purchased cigarettes as claimed in his record of interview when he only spent \$16.65 at Big W.<sup>444</sup> There is no record of Mr Bird using his card to buy a coffee at Gloria Jeans, although he may have used cash despite his last cash withdrawal from an ATM occurring on 1 July 2010.<sup>445</sup> Google maps suggests a trip from Mr Bird's home in View Street to the Channel Court Shopping Centre in Kingston takes 8-9 minutes. A trip to that shopping centre from his home and return including time allowed for parking and the shopping would take no longer than 35 minutes. Mr Bird visited WH and Ms Edwards that morning. It is likely those visits occurred in that order because Ms Edward's home was closer to Mr Bird's home than WH's home, and he would not have had enough time to visit WH after leaving Ms Edward's home sometime after 12:00pm and be back in time to phone emergency services at 12:24pm. In addition, WH says he visited her before midday.<sup>446</sup>

233. We therefore know Mrs Bird was alive at about 10:13am and was found hanging at 12:24pm. The only corroboration for Mr Bird's version of events that morning is that he went shopping, and he was seen by WH and Ms Edwards. Assuming Mr Bird went shopping sometime after Mrs Bird's phone call to UC, there was still plenty of time between then and 12:24pm for him to go shopping, visit WH and Ms Edwards, and for him to have been involved in Mrs Bird's death. If he had gone shopping before the phone call between Mrs Bird and her son, then he had even more time. I am therefore satisfied to the *Briginshaw* standard, given the exclusion of all other hypotheses and the evidence against Mr Bird, that he was involved in Mrs Bird's death.

### **Formal findings**

234. On the basis of the evidence tendered and taken at the inquest, I make the following formal findings pursuant to section 28(1) of the Act with respect to Mrs Bird:
- a) The identity of the deceased is Helen Frances Bird.
  - b) Mrs Bird died in the following circumstances:
    - (i) At some time after 10:13am, which is approximately when Mrs Bird's call ended with UC, Mrs Bird was incapacitated either because she was asleep

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<sup>443</sup> See paragraphs 106 and 107.

<sup>444</sup> See paragraph 107.

<sup>445</sup> See paragraph 107.

<sup>446</sup> At T275 lines 5-7 WH says Mr Bird visited her at around 11:00am or 11:30am.

due to her illness or because of the actions of Mr Bird. The latter is more likely.

- (ii) The actions of Mr Bird were likely to be that he either used the method explained by Dr Ritchey at paragraph 208 or that he used a method he was very familiar with, that of chroming; whereby a solvent was sprayed or poured onto a rag or into a bag and Mrs Bird was forced to breathe in the toxic fumes, thereby rendering her unconscious.
  - (iii) Mrs Bird was not incapacitated by way of an overdose administered to her by Mr Bird given the toxicology results. The only drug which was detected at a high therapeutic level was hyoscyamine or atropine, and 3 mg of atropine was administered by ambulance personnel.
  - (iv) While Mrs Bird was incapacitated, Mr Bird has then placed a rope around Mrs Bird's neck and he has partially suspended her resulting in death by asphyxiation.
  - (v) Mr Bird has likely used the method explained to Mr Denehey at paragraph 173 or one such other method as that explained by Dr Ritchey at paragraph 209.
  - (vi) Mr Bird has then made the scene look like a suicide scene by placing Mrs Bird's phone, the photograph and the letter on the work bench in the garage.
  - (vii) The missed calls and texts to Mrs Bird, the purchases from the florist and Big W, and the visit to Ms Edwards were contrived by Mr Bird in order to provide himself with an alibi. He did not disclose a visit to WH's home as he was in a relationship with her.
  - (viii) Mr Bird then gave a false version of events to police, and to friends and family, that he had come home and entered the house, but Mrs Bird was not present. He has then said he went into the backyard and phoned her mobile, and upon hearing her phone was ringing in the garage he entered the garage.
  - (ix) He then falsely told police, family and freinds he observed Mrs Bird hanging by a rope from the rafter of the shed. He then advised police he cut her down and propped her up against her VW vehicle.
  - (x) Mr Bird then phoned 000 and has provided CPR until the arrival of ambulance personnel.
- c) The cause of Mrs Bird's death was asphyxia due to hanging; and
- d) Mrs Bird died at her home at 5 View Street Blackmans Bay between 10:13am and 11:30am on Thursday 8 July 2010.

**Conclusion**

235. In conclusion, a brief **comment** needs to be made about the initial police investigation. It was inadequate. Investigating police should not accept what they are told or what appears, from the scene, to be a death by hanging. Such a death should be treated as a suspicious death until investigations conclusively establish otherwise.
236. I extend my appreciation to Ms Letitia Fox for her professionalism, dedication and the extensive assistance she provided as counsel in this difficult inquest.
237. I acknowledge and thank Detective Senior Constable Nicolette Munro for her very thorough and persistent investigative work which she carried out many years after the initial police investigation had determined Mrs Bird died by way of suicide. Without that work the initial determination would have remained. Detective Senior Constable Munro deserves the highest possible commendation.
238. I convey my sincere condolences to the family of Mrs Bird and to all those who knew her, loved her and felt her loss.

**Dated:** 29 October 2024 at Hobart in the State of Tasmania.

**Magistrate Robert Webster**  
**Coroner**

<b>Annexure: List of Exhibits</b>
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No.	TYPE OF EXHIBIT	NAME OF WITNESS
<b>Original Exhibits Folder I</b>		
C1	REPORT OF DEATH	Cst J Banks-Smith
C2	LIFE EXTINGUISHED AFFIDAVIT	Dr Roger Booth
C3	AFFIDAVIT OF IDENTIFICATION	Cst Sandra Kregor
C4	POSTMORTEM AFFIDAVIT	Dr Donald Ritchey
C5	TOXICOLOGY REPORT	Mr Andrew Griffiths
C6	VACIS REPORT	Ambulance Tasmania
C7	GP HEALTH SUMMARY	Grosvenor St. General Practice
C8	CLINICAL PSYCHOLOGIST	Elizabeth Hyslop
C9	AFFIDAVIT (sister)	Suzanne Brown
C10	AFFIDAVIT	Stephanie Thompson
C11	AFFIDAVIT	Sheila Campbell (a)
C12	AFFIDAVIT	Tania Street
C13	AFFIDAVIT	Catherine Edwards
C13A	AFFIDAVIT	Catherine Edwards 13/07/2020
C14	AFFIDAVIT	Jane Burbury
C14A	AFFIDAVIT	Jane Burbury
C15	AFFIDAVIT	Triesa Blackburn
C16	AFFIDAVIT	Ex Cst Robyn Button
C17	AFFIDAVIT	Cst J Banks-Smith
C18	AFFIDAVIT	Cst Sandra Kregor
C19 a&b	AFFIDAVIT & PHOTOGRAPHS	Ex Cst Rodney Walker
C20	AFFIDAVIT (handwriting)	Sheila Campbell
C21	SUICIDE NOTE	Helen Bird
C22 a-c	INTERVIEW – DVD & TRANSCRIPT	Mark Gordon Bird
C23	MOBILE PHONE RECORDS	Tasmania Police
C24	OFFENCE REPORT 268523	Tasmania Police
C25	PROPERTY RECEIPTS	Tasmania Police
C26	AFFIDAVIT	Helen Roberts – signed 14.7.2020

<b>C27</b>	<b>AFFIDAVIT</b>	<b>Emma Gargoni – signed 20.7.2020</b>
<b>C28</b>	<b>AFFIDAVIT</b>	<b>Jane Kent – signed 21.7.2020</b>
<b>C29</b>	<b>AFFIDAVIT</b>	<b>Jacqueline Vincent – 21.7.2020</b>
<b>C30</b>	<b>AFFIDAVIT</b>	<b>Pamela Stevenson – signed 13.08.2020</b>
<b>C31</b>	<b>STATUTORY DECLARATION</b>	<b>Steven Bowden – 21.04.2017</b>
<b>C32</b>	<b>AFFIDAVIT</b>	<b>UC – signed 21.09.2020</b>
<b>C33</b>	<b>AFFIDAVIT</b>	<b>DJ – signed 18.08.2020</b>
<b>C34</b>	<b>AFFIDAVIT</b>	<b>Helena Blundell – signed 24.06.2020</b>
<b>C35</b>	<b>AFFIDAVIT</b>	<b>WH – signed 24.07.2020</b>
<b>C36a</b>	<b>AFFIDAVIT</b>	<b>SK – signed 17.7.2020</b>
<b>C36b</b>	<b>STATUTORY DECLARATION &amp; NOTES</b>	<b>SK – signed 16.01.2017</b>
<b>C37</b>	<b>AFFIDAVIT</b>	<b>John Brown – signed 31.8.2020</b>
<b>C37A</b>	<b>PHOTOGRAPH –ROPE</b>	<b>John Brown</b>
<b>C38</b>	<b>AFFIDAVIT</b>	<b>Camille Newton – signed 5.10.2020</b>
<b>C39</b>	<b>AFFIDAVIT</b>	<b>Taigh Moseley – signed 23.09.2020</b>
<b>C40</b>	<b>AFFIDAVIT</b>	<b>Tracey Giles – signed 5.11.2020</b>
<b>C41</b>	<b>PHONE RECORDS BETWEEN HELEN BIRD AND MARK BIRD</b>	<b>Mark Bird</b>
<b>C42 a - e</b>	<ul style="list-style-type: none"> <li><b>a- MEDICAL RECORDS</b></li> <li><b>b- NOTES</b></li> <li><b>c- AFFIDAVIT – 3.7.2023</b></li> <li><b>d- TRANSCRIPT OF NOTES</b></li> <li><b>e- Notes prior to 2002</b></li> <li><b>f- Letter to Firearms</b></li> </ul>	<b>Dr Eric Ratcliffe</b>
<b>C43</b>	<b>DEATH INSURANCE LETTER</b>	<b>AXA – Wendy Thorpe Chief Operations Officer</b>
<b>C44</b>	<b>STATE OF TASMANIA V MARK GORDON BIRD, COMMENTS ON SENTENCING</b>	<b>Brett J</b>
<b>C45</b>	<b>MEDICAL RECORDS</b>	<b>Grosvenor Street General Practice</b>
<b>C46 a-e</b>	<b>ARUNTA CALLS</b>	<b>Mark Bird</b>
<b>C47</b>	<b>AFFIDAVIT</b>	<b>Mark Bird 12.7.2023</b>
<b>C48</b>	<b>VETERANS AFFAIRS RECORDS</b>	<b>Department of Veterans' Affairs</b>

<b>C49</b>	<b>AFFIDAVIT</b>	<b>Nikki Munro</b>
<b>C50</b>	<b>AFFIDAVIT &amp; VIDEOS</b>	<b>Lee Carr Detective Sergeant</b>
<b>C51</b>	<b>PACE FINANCIAL RECORDS</b>	
<b>C52</b>	<b>RBF RECORDS</b>	<b>Helen Bird</b>
<b>C53</b>	<b>COMMONWEALTH BANK RECORDS</b>	<b>Helen Bird</b>
<b>C54</b>	<b>COMMONWEALTH BANK MASTERCARD RECORDS</b>	<b>Helen Bird</b>
<b>C55</b>	<b>COMMONWEALTH BANK RECORDS</b>	
<b>C56</b>	<b>COMMONWEALTH BANK RECORDS &amp; ANALYSIS OF FINANCIAL RECORDS</b>	<b>Mark Bird</b>
<b>C57</b>	<b>AFFIDAVIT &amp; LETTER</b>	<b>Robert Giles</b>
<b>C58</b>	<b>AFFIDAVIT</b>	<b>Deborah Abbott</b>
<b>C59</b>	<b>AFFIDAVIT</b>	<b>Suzanne Brown</b>
<b>C60</b>	<b>AFFIDAVIT</b>	<b>Jenni Mandersloot</b>
<b>C61</b>	<b>HOBART CLINIC RECORDS</b>	<b>Mark Bird</b>
<b>C62</b>	<b>FIREARMS RECORDS</b>	<b>Mark Bird</b>
<b>C63</b>	<b>WESTPAC BANK RECORDS</b>	<b>Mark Bird</b>
<b>C64</b>	<b>AFFIDAVIT</b>	<b>John Denehey</b>
<b>C65</b>	<b>RISDON PRISON RECORDS</b>	<b>Mark Bird</b>
<b>C66A</b> <b>C66B</b> <b>C66C</b>	<b>AFFIDAVIT</b> <b>DVD</b> <b>PHOTOGRAPS OF THE ROPE</b>	<b>Nikki Munro</b>
<b>C67</b>	<b>PREMIUM PROPERTY RECEIPT</b>	<b>5 View Street</b>
<b>C68</b>	<b>RAMS DOCUMENTS</b>	<b>Rams</b>