

**10.55am: Mr Fuller reminded the jury of evidence heard during the trial relating to Baden-Clay's business dealings.**

He said Baden-Clay would not have been able to clear his debts to his three friends if he sold his real estate business in 2012.

Mr Fuller said it was not an option available to him.

He said Baden-Clay told Relationships Australia counsellor Carmel Ritchie on April 16, 2012 that his wife does not trust him.

Mr Fuller tells the jury the accused told Ms Ritchie he is there because his wife wants him there and he wants to "wipe the slate clean".

He said Ms Ritchie brought Ms Baden-Clay back into the room after her session with the accused.

"That gives you an insight into how their relationship was, that gives you an insight into what things were like leading up to the week of her disappearance," he said.

Gerard Baden-Clay has been accused of murdering his wife Allison. Picture: Richter Nathan

Gerard Baden-Clay has been accused of murdering his wife Allison. Picture: Richter Nathan

He took the jury to April 18, 2012.

Mr Fuller said mistress Toni McHugh told the jury she was having almost daily contact with the accused and had been doing so since December, 2011.

He said Baden-Clay made up a story to explain the contact between him and Ms McHugh.

Mr Fuller said Baden-Clay was trying to distance himself when he told police the discussion he had with his wife was on April 18, 2012.

He said Baden-Clay told the jury it was not pre-planned and they phoned his parents to see if they could come and babysit for them.

Mr Fuller said Baden-Clay's parents watched their favourite television program and the accused joined them, while his wife went to bed.

He asked whether it was possible Ms Baden-Clay wrote the questions down in her diary that night.

Mr Fuller said Ms Baden-Clay spent the day planning for the future and talking about the business.

He said Karen Nielsen gave evidence to say Ms Baden-Clay had been engaged and excited about the future on April 19, 2012.

He said staff at the real estate business also spoke of her being in a good mood that day.

Mr Fuller said Ms Baden-Clay phoned the hair salon at 4.38pm, perhaps to say she was running late, and was there until around 7pm.

He said the children were at a cross country carnival that day and had dinner at their grandparents.

Mr Fuller said the jury was not told about the conversation Baden-Clay had with Toni McHugh, until she gave evidence of it.

He reminded the jury there was a number of phone calls between the accused and Ms McHugh between 5.03pm and 5.40pm.

“We know that’s inflamed once he says, oh, there’s something I need to tell you,” he said.

Mr Fuller said Baden-Clay had given evidence that he was not concerned about these two women coming together at the real estate conference the next day.

“He doesn’t even have the courage to say straight up, Allison is going to be there tomorrow,” Mr Fuller said.

He said Ms McHugh had “lost it” on a number of occasions: when the affair with the accused was discovered and when Phil Broom, a business partner, told someone she was involved with the accused and the conversation reached Ms Baden-Clay at the school canteen.

“What does she tell you about her reaction to that telephone call? Is it all about herself or does she say, consistent with what she told him on the last occasion they met... she says ‘it’s unfair on the both of us, it’s unfair on Allison not to tell her and let her know that I will be there’,” he said.

Mr Fuller said Ms McHugh was angry during the phone call because the accused had not told her there was a risk she would run into his wife at the conference.

“It speaks of the level of intimacy between them. You might think that’s a significant pressure on him as of 5.40pm that afternoon, how’s he going to deal with that? Just ignore it?,” he said.

Mr Fuller said Ms McHugh asked the accused what he was doing when he told her he might have to sell the business.

“She said she challenged him about what role Allison Baden-Clay would have in the business once they separated,” he said.

“It’s almost as if the roles had been reversed. Toni McHugh used to be in the business, used to be the one he saw every day, now that’s Allison Baden-Clay. The future? Undecided,” Mr Fuller said.

He said if Ms McHugh had disclosed to his wife at the conference that her husband was still deceiving her and had been since December, it would have been “catastrophic” for Baden-Clay.

“What was going to happen if Allison Baden-Clay found out for a second time? So what were his choices? His choices were to tell Allison about the pending meeting the next day or to do nothing about it,” he said.

“He tells you he did nothing about it because he had no concern, even against that background...”

Mr Fuller said although his wife gave him an ultimatum the first time he hadn’t really made a choice and tried to keep things going “as they were”.

“He was going to be shown as disingenuous in each of the counselling sessions they had gone to... so he was either going to be a coward or a fool,” Mr Fuller said.

“You would think the personal risks to him both professionally and to his personal life were huge.”

He said Baden-Clay had no explanation for the 1.48am phone charge connection, other than to say it must have been his wife who placed it on charge, on April 20, 2012.

Mr Fuller said the accused made a series of phone calls to his wife straight away.

“Why is it that straight after 6.32am that he then begins a series of calls at 6.32am, 6.38am and 6.41am?” he asked.

He showed the jury a text he sent to his wife asking “where are you?” at 6.41am.

“Is that part of the role of the anguished husband? Making the calls and sending the texts? He tells you there was a text earlier than that, as well,” Mr Fuller said.

He said he called his parents at 6.44am, did not get an answer, and they spoke again at 6.46am.

Mr Fuller said the accused had then made a call to police before looking on the streets for his wife, assuming she had her phone with her.

“He tells you he didn’t want to be an alarmist. 6.55am and 6.56am talks to his sister and his father,” he said.

He said by 7.09am the accused called Kate Rankin and discovered his wife was not meeting her until 8am.

Mr Fuller said Nigel Baden-Clay arrived at the house and he and his sister drove around Brookfield to search for Ms Baden-Clay.

He said by then it was 7.15am.

Mr Fuller said the accused made a 000 call while he was stopped at Deerhurst Street.

“He then returns home and reverse parks the car back into the car port,” he said.

He said police arrived at 8am.

Mr Fuller said the line of questioning, or to use his words “interrogation”, from police was so concerning his father hired him a lawyer.

“It is for you to determine what level of anxiety there might have been,” Mr Fuller said.

He said Baden-Clay was initially uncertain of the route his wife took when she walked but that crystallised in his later conversations with police.

Mr Fuller said the accused was unsure whether his wife was in bed with him the night before and when asked about the relationship, he tells the police about the affair.

He said Baden-Clay did not call his wife's friends or family until after the accused first called his own friends.

Mr Fuller said the accused told police it was out of character for his wife to be away and she had never done such a thing before.

He said his wife's mental health was good despite a past history of depression, which was managed by medication, and he wasn't even sure if she was currently medicated.

Mr Fuller said the accused made no reference to her mental health or adverse reactions to medication or behaviour.

"In this trial all these things have been amplified way out of proportion in an attempt to distance himself..." he said.

Mr Fuller asked the jury why Baden-Clay would not have told police his wife's mental health had been in decline on April 20, 2012.

"From the man who lived with her 24/7, lived with her, worked with her. You might think what he's attempting to paint from that is that everything is just fine, mentally, emotionally, relationship-wise," he said.

"There is nothing to explain why his wife isn't home, this has to be some misadventure. She's gone for a walk, she'll be home soon."

He said Baden-Clay told police he thought his wife must have slept in the bed at the Brookfield Showgrounds on April 21, 2012.

"Do you think she was likely to go for a walk that next morning when she was time poor and they had to change roles, he had to take responsibility... that all had to be changed around because Allison had to get to the conference," he said.

"She didn't have time for the lunches, she'd been to the hairdresser the night before, this was important."

He said it was highly unlikely Ms Baden-Clay would have been walking the streets of Brookfield that morning in light of what she had planned that day.

Mr Fuller said the accused then spoke about "15-minutes last night" in his second and third interviews with police.

"He tells you on the 19th it was just a couple of catch-up questions yet he's talking about 15 minutes last night," he said.

"He is at pains, at great pains, to say nothing came out of that... she's not a yeller, she didn't vent, it's all good."

He showed the jury a photo of Ms Baden-Clay's journal with questions and answers, adding they would have been asked on April 19, 2012 in a 15-minute venting session as recommended by Ms Ritchie.

He asked the jury to look at the nature of the questions in light of the fact the affair ended some seven months earlier.

“Attempting to get the parameters of what his relationship with Toni McHugh was,” he said of the questions.

He read through them: did you go to the movies, how many times? How paid for hotels?

“The sordid detail of it. Why did they leave the house on the 18th to do that? Is it not more likely this is something you would do in your own home? The layout of her house, the kicker you might think,” he said.

Mr Fuller said Baden-Clay told the jury in evidence things were crossed out when his wife asked them.

“Do you regret the whole thing or just being caught?” he read another question from the diary.

He took the jury to another page in which Ms Baden-Clay wrote: “I couldn’t go back to her, even if I wanted to.”

Mr Fuller said that was a statement from the accused.

“He made that statement to her, again it was simply a lie. Something that was completely disingenuous. He knew if he picked up the phone and said Toni McHugh I’m coming to you now, she would agree,” he said.

Mr Fuller took the jury to a drawing by Baden-Clay of the unit where he met Ms McHugh.

He said Baden-Clay called his wife’s family at 9.51am on April 20, 2012.

“It takes him three hours to get around to letting her parents know of his concerns for his wife, after police have been at their house for nearly two hours, there is a major search underway... It shows you what his priorities perhaps were,” Mr Fuller said.

He said between 9.30am and 9.37am the accused had called his three friends.

Mr Fuller said the accused called his wife’s best friend at 9.58am.

He said Ms McHugh phoned him at lunch time that same day.

“What’s the first thing she asks him? ‘Did you argue?’ Why did she ask that? Because she knows what the tone of the telephone conversation was the night before... he says no, there is no argument, but tells her to lay low,” he said.

Mr Fuller said Baden-Clay had no option but to tell Ms McHugh to tell the truth.

***The trial will resume at 11.15am.***

**11.42am: Mr Fuller told the jury Baden-Clay contacted his mistress Toni McHugh and tells her he loves her.**

"Is that just to retain her loyalty in all of this? What loyalty is there to retain when all he has said to her is just tell the truth?" he asks.

Mr Fuller said the accused wanted to see her because she had learned about other women he'd had sex with during police interviews following Ms Baden-Clay's disappearance.

"He feels the need to explain himself... he told her to fall in love with someone else because 'things weren't looking good for me'," he said.

Mr Fuller said Baden-Clay had throughout his relationship with Ms McHugh manipulated her and kept it from others who were close to him: wife, parents, work mates.

"A man who admits to you he is willing to do and say whatever he needs to keep up the status quo," he said.

He said the accused was confident in the loyalty of Ms McHugh.

"You might think to this day it is all about him, his life, his business, his needs," he said.

He showed the jury a page from Ms Baden-Clay's journal again, written on April 18, 2012.

Mr Fuller said Ms Baden-Clay wrote about finding the "whole thing so dirty", tempered with "maybe I'm prudent?"

"But we know how she feels because the last thing she writes is she still gets sick to her stomach," he said.

"He had the opportunity, ladies and gentlemen, he had access to the vehicle that contains the blood of his wife, he lives in the house where the combination of leaves were found in his wife's hair is an exact match.

"He has the scratches on his right cheek, he lies about those scratches. He attempts to disguise them. We have long-term tension in the relationship with his wife and despite counselling and a need to confront his behaviour, it hasn't changed."

Mr Fuller said there was tension in Baden-Clay's relationship with Ms McHugh.

"We don't have to rely on what they are saying we have it in black and white in those four emails," he said.

He said there was tension in Baden-Clay's business and the money he owed his close friends.

Mr Fuller said Baden-Clay discussed his relationship with Ms McHugh on the same night his wife disappeared.

"We have the real prospect of his wife and Toni McHugh coming together, the real prospect of him finally being exposed for the man that he was. The way he was finally exposed in this trial," he said.

Mr Fuller said the accused had a lot to lose.

“This wasn’t about the pressures on her, her mental health, the drug usage, her wandering off in the middle of the night completely inexplicably. This was a man having to deal with consequences of his own actions, actions over a long period. Perhaps he felt he had no other choice, no other choice but to take his wife’s life,” he said.

“That’s not to say it’s premeditated, but when a decision had to be made that decision was made and consistent with how he behaved in his relationship up until that time with both of those women, he calmly and rationally decided to cover it up.”

He said the jury might find it highly unusual for Ms Baden-Clay to have been in the grip of a depressive episode or suffering from Serotonin Syndrome when she was a long-term Zoloft user.

Mr Fuller said the jury might think it was unusual a person would cut themselves with a razor when they looked like fingernail scratches.

“The scratches on his face show he was in close contact with his wife, that she was struggling... It was close, it was personal, it was violent,” he said.

“As I said yesterday, it was effective. What could have been in this man’s mind as he carried that out..? His frustrations from his marriage?... The double life? The risk to him of it all coming crashing down?

“Like he told Carmel Ritchie, he just wanted to wipe the slate clean.”

**11.59am: Supreme Court Justice John Byrne began his summary of the trial to the jury.**

He told the jury they were the judges of the facts and not to be influenced by media reports or events outside of the court hearing.

He said the jury could assess witnesses for credibility and to help them determine the strength and reliability of their evidence.

Justice Byrne said the evidence of a witness could be deemed unreliable for many reasons, he said an observation of something said or done was prone to being mistaken and memory faded with time.

He said memory could be affected by stress and other distractions. He said it could also be distorted through the suggestibility of others.

“Some people can come to believe they said things which they did not say but afterwards wish they had said,” he said.

Justice Byrne said there was a need for care in evaluating the reliability of witness testimony.

He told them to take care when assessing the reliability of neighbours who heard, for example, “sounds in the night” around Brookfield.

He took the jury to the burden of proof, which rested on the prosecution to prove the guilt of the accused.

Justice Byrne said Baden-Clay was presumed to be innocent and could only be convicted if the prosecution established he was guilty.

He said the prosecution had to prove the guilt of the accused beyond a reasonable doubt.

He told the jury if it was left with a reasonable doubt about guilt, it's duty was to acquit: find not guilty.

Justice Byrne said this was a circumstantial case as no one had seen the accused kill his wife. Gerard Baden-Clay has been accused of murdering his wife Allison. Picture: Richter Nathan

Gerard Baden-Clay has been accused of murdering his wife Allison. Picture: Richter Nathan

He said it was not necessary for facts to be proved with direct evidence, and they could also be proven through direct, circumstantial evidence or both.

Justice Byrne said the jury should dismiss all feelings of sympathy or prejudice in the trial.

"No such emotion has any part in your decision," he said.

He said the accused was not obliged to give or produce evidence in the trial.

Justice Byrne said the burden of proof had not shifted to the accused because he chose to give evidence, and it still rested with the prosecution.

He said the jury should not hold it against the accused that he did not provide a formal statement to police.

**1.02pm: Justice John Byrne said a person who caused the death of another, directly or indirectly, was deemed to have killed the person.**

He said to convict Baden-Clay of murder, the jury had to be satisfied beyond reasonable doubt that he caused the death of his wife and did so with an intention to kill or cause her grievous bodily harm.

He said the prosecution case was that the accused killed his wife and that he intended to do so or to cause her grievous bodily harm.

He said the defence case was the accused did not kill his wife and although she died unnaturally, it was reasonable to suggest she died from alcohol or sertraline toxicity, drowned or suffered the effects of serotonin syndrome which led to her drowning or falling to her death.

He said manslaughter was the unlawful killing of a person in circumstances where there was no intent to do so.

Justice Byrne said if the jury could not find the accused guilty of murder, it was open to it to return a verdict on manslaughter.

He cautioned the jury on evidence heard in the trial about what Ms Baden-Clay may have said.

"There is a risk a witnesses' testimony is not a reliable account of what happened," he said.

Justice Byrne said a witness may have misheard or misinterpreted what was said by the deceased. Crown prosecutor Todd Fuller.

He said it was up to the jury to determine whether the accused told falsehoods to the police.

Justice Byrne said the jury had heard evidence from numerous expert witnesses in the trial.

He took the jury through the evidence of each of the expert witnesses, including forensic pathologist Dr Nathan Milne.

He said the body showed signs of both putrefaction and mummification and showed signs of hypostasis, which meant it was moved into the position in which it was found soon after death.

Justice Byrne said Dr Milne said there was no evidence of injuries to the hands, hyoid.

He said there was a probably injury on the internal lining of the chest wall, between the 4th and sixth ribs. He said there was a chipped tooth but no other abnormalities and no sign of sexual assault.

He said Dr Milne found the deceased did not die of natural causes.

He said Dr Milne thought alcohol and sertraline toxicity was an unlikely cause of death but he could not rule it out.

Justice Byrne took the jury to the evidence of entomologist Dr James Wallman, who said he thought the body may have been deceased for about 11 days. He could not say whether the body had been submerged in water.

Justice Byrne said forensic scientist Dr Amanda Reeves obtained a DNA profile from the deceased.

He said she found a possible second DNA contributor under one of her fingernails but it was below the reportable threshold.

Justice Byrne said Dr Olaf Drummer told the jury about sertraline and its metabolite, adding that the normal therapeutic range was between 50mg and up to 200mg.

He said Dr Drummer could not think of a single case where sertraline was associated with a person's death not in combination with other drugs.

He said Dr Drummer found alcohol levels would be heightened in a decomposing body because it would produce alcohol.

He said if an overdose had occurred, he would have expected much higher levels in the liver.

Justice Byrne said Dr Drummer thought sertraline did not contribute to Ms Baden-Clay's death.

He took the jury to the evidence of forensic toxicologist Dr Michael Robertson, who accepted the deceased may or not had sertraline in her stomach at all when she died, due to the level of decomposition.

He said it was likely Ms Baden-Clay had a tolerance to it, as a long-term user.

Justice Byrne said Dr Robertson thought it was unlikely sertraline would have contributed to her death.

He said botanist Dr Gordon Guymer examined six plant species, four that were entwined on the hair of the deceased, including Crepe Myrtle, Cat's Claw Creeper, eucalypt leaves and Fish Bone fern. He said Lillipilly and Chinese Elm were found on the deceased's body.

He said Dr Guymer found only eucalypts and Chinese Elms at Kholo Creek while all six were found at the Baden-Clay home in Brookfield.

Justice Byrne turned to the relationship between the accused and his mistress, Toni McHugh.

He said that the affair was discovered and ended in September, 2011, but resumed again in December that year.

Justice Byrne said the accused went to Ms McHugh and told her he loved her.

He said at some stage the accused suggested they should not meet again until after he left his wife.

He said there was some correspondence between them in which the accused planned to leave his wife by 1 July, 2012.

Justice Byrne said that by mid-April 2012 the pair were in regular contact.

He said they spoke by phone for more than 29 minutes on the evening of April 19, 2012.

He said Ms McHugh lost it when he told her his wife would likely be at the same real estate conference as she was attending the next day.

Justice Byrne said Ms McHugh told the accused she needed to know what his plan was and how he was going to change things so they could be together.

He said Baden-Clay's response was that he was thinking of selling the business.

He said the next day, Ms McHugh called the accused, and he told her his wife was missing.

Justice Byrne said Baden-Clay replied that he had not argued with her.

He said the next day, Baden-Clay told Ms McHugh to "tell the truth" to police.

He said he called her again later that day, while she was in a police interview, asking whether she had told them they were together.

Justice Byrne said she told him "yes".

He said they met for the last time in June, 2012, at a block of units in Fortitude Valley, in which Baden-Clay told her "things aren't looking good for me, you should fall in love with someone else".

***Justice Byrne's summing up resumes at 2.30pm.***

**3.25pm: Justice Byrne continued his summing up of the case to the jury.**

He said psychiatrist Dr Tom George did not think Allison Baden-Clay was depressed beyond the first two sessions she had with him because he prescribed her medication.

He said she answered a questionnaire on whether she had thought about self-harming, to which she answered: "hardly ever".

Justice Byrne said Dr George did not re-administer the test for suicide because it was his belief she was not depressed.

He said Ms Baden-Clay saw Dr Nicholas Bourke about the stresses on her marriage. He said it was the GP's belief Ms Baden-Clay was not suicidal.

Justice Byrne took the jury to the evidence concerning psychiatrist Dr Michael Schramm.

He said Dr Schramm stated around three per cent of people who suffered depression took their lives, while fewer than half did not leave a note.

He said Dr Schramm reviewed patient notes but did not actually assess Ms Baden-Clay himself.

Justice Byrne said Dr Schramm thought maternal attachment was a protective element in the face of suicide.

He said it was his opinion any adverse effects of Zoloft would ordinarily become apparent at the time of taking the drugs.

Justice Byrne took the jury to the evidence of Relationships Australia counsellor Carmel Ritchie.

He said Ms Ritchie saw Ms Baden-Clay and was left with the impression Ms Baden-Clay's depression was well-managed at the time but admitted she did not directly ask about it and had no formal psychological or medical qualifications.

***The summing-up was interrupted briefly when a juror's chair broke.***

Justice Byrne said the accused agreed eventually he would sit down and listen to his wife for no more than 15-minutes every second day.

He said Baden-Clay was initially resistant to the idea and saw it as regressive.

He said Ms Ritchie testified that Ms Baden-Clay was "overjoyed" when her husband agreed to go to counselling with her.

Gerard Baden-Clay has been accused of murdering his wife Allison. Picture: Richter Nathan

Gerard Baden-Clay has been accused of murdering his wife Allison. Picture: Richter Nathan

Justice Byrne took the jury to the journal that belonged to Ms Baden-Clay.

He said the deceased spoke to Fiona Christ around 8.30am on Thursday April 19, 2012.

He said about half an hour later she spoke to another woman and then attended a four-hour training session for work.

He said that when they parted around 1pm the trainer was left with the impression she was very positive about the future.

Justice Byrne said Ms Baden-Clay went to the hairdressers that afternoon, while the accused spent just under half an hour on the phone to Ms McHugh.

He said the accused's mobile phone was connected to a phone charger at 1.48am on Friday April 20, 2012.

Justice Byrne said the accused told police he cut himself shaving in a rush.

He said Baden-Clay called his father and sister and then drove away from the house to look for his wife at 7am.

He took the jury to the evidence of Constable Kieron Ash, who was one of the first officers to arrive at the Baden-Clay home.

Justice Byrne said Constable Ash looked around the home and found an empty box of medication prescribed to the deceased.

He said Sgt Andrew Jackson gave evidence that Baden-Clay told him he was a "heavy sleeper" and he did not know whether his wife had slept in the bed the night before.

He said the accused told police he was rushing to get his girls up when he cut himself.

Justice Byrne said "I don't think so" when asked if anything happened the previous night that might have set his wife off.

He said the accused told police he and his wife had a 15-minute session.

"We had one last night and there were some difficult things we talked about," he told them.

Justice Byrne turned to the evidence of Sen-Constable Cameron Simmons.

He said Baden-Clay told him he did not know if his wife slept in the bed with him the night before.

He said Sen-Constable Simmons told the jury Baden-Clay said his wife was taking medication for depression but "it may be she is not any more".

Justice Byrne said Baden-Clay told him his wife was "pretty good" and when asked if there were any signs she was depressed, he answered "no".

He said Baden-Clay told the officer they had a 15-minute session, after which he had washed the lunchboxes and they had discussed the next day together.

"She actually had a list of questions for me," he told them.

Justice Byrne said Baden-Clay told police he thought the questions were the sort that weren't beneficial, because they kept dredging things up again.

He said the accused told him things were dire financially and he had not been able to buy new razors for six months.

Justice Byrne said the accused told Sgt Gregory Matthews he left his wife up watching The Footy Show when he went to bed at 10pm.

He said he told the officer his wife may have been in bed with him because her side of the doona was folded back.

He said Baden-Clay told the officer his wife's mental estate was "predominantly up".

Justice Byrne said the accused told Sgt Matthews his wife would usually walk with her phone and leave while it was still dark.

He took the jury to the evidence of Dr Candice Beaven.

He said Baden-Clay told her he used one motion to injure himself, later adding it must have been a couple but he didn't notice because he was rushing.

Justice Byrne said the accused went to see Dr Renu Kumar.

He said the accused told her he was using an old razor and it was "a rush job".

Justice Byrne took the jury to the evidence of Sen-Sgt Ewen Taylor.

He said there was no presumptive positive test for blood inside the house or car port and no obvious sign of a clean-up.

He said the Holden Captiva known as "Sparky" was examined on April 22, 2012.

Justice Byrne said blood was found in the back of the car.

He said Sen-Constable Carl Streeting examined the car and found a flow rivulet of blood.

He said the officer could not tell how long the blood had been there.

Justice Byrne took the jury to the evidence of Dr Margaret Stark.

He said her work involved interpretation of injuries and identification of their causes.

He said she testified the injuries were of two types: three yellowish abrasions and more recent, red ones.

He said Dr Stark said the yellowy injuries resulted from contact with a rough surface and were typical of fingernail scratches.

Justice Byrne said Dr Robert Hoskins did not examine the accused but used photographs of the injuries to form his opinions.

He said it was “implausible” the injuries on Baden-Clay’s face were caused by a disposable safety razor.

He said Dr Hoskins thought the razor blade may have caused the second type of injury on Baden-Clay’s face.

He thought the three broader abrasions were likely to have been caused earlier in time than the smaller, red ones.

Justice Byrne turned to the evidence of Dr Leslie Griffiths.

He said the doctor estimated the broad abrasions were at least 48 hours old when he inspected them at 7.15pm on April 22, 2012.

He said Dr Griffiths thought the injuries on the face of the accused were abrasions, not cuts or nicks, as one might have expected from a razor blade.

Justice Byrne turned to the financial evidence surrounding Baden-Clay.

He said the accused borrowed \$270,000 from three friends and by April, 2012, had repaid only a few instalments of interest to them.

He said the loan followed Baden-Clay’s business running in to trouble at the beginning of 2011, when he moved to a larger premises and as a result of the floods.

Justice Byrne said Baden-Clay called Sue Heath asking for \$300,000 to save him from becoming bankrupt.

He took the jury to allegations the accused told a number of lies.

He said the prosecution contends Baden-Clay lied to police about the scratches on his face.

Justice Byrne said it would be wrong to approach the case on the basis that if the accused told lies, he must be guilty.

“Importantly, with one possible exception, any lies he has told, whether to the police or when testifying, are relevant only to his credibility,” he said.

Justice Byrne said the jury could not hold a lie against the accused supporting an inference he murdered his wife unless it was satisfied the statement in question was false and the accused knew it was.

He said that in order to establish the accused lied about the injuries to his face, the prosecution had to prove the injuries were not caused by a razor.

He said the defence contended the accused did not tell a lie.

Justice Byrne said the lie had to be concerned with a circumstance or event of the death of his wife and told because the truth of the matter incriminated him.

“That is, he must of lied, because he believed the truth would show he murdered his wife,” he said.

He said if Baden-Clay lied for some other reason, it could not be used as evidence he murdered his wife.

Justice Byrne told the jury that in order to find a person guilty of murder it needed to find proof of an intention to kill or cause grievous bodily harm.

He told the jury that to find Baden-Clay guilty of murder they must be satisfied of two things: that he caused his wife’s death and that he intended to at least cause her grievous harm.

“Were you to find the accused not guilty of murder, you will then consider him not guilty or guilty of manslaughter,” he told them.

Manslaughter is the unlawful killing of a person without intent, the judge said.

**In Queensland, both murder and manslaughter carry a maximum sentence of life imprisonment.**

**4.20pm: Justice John Byrne told the jury it should be satisfied the conduct of the accused was able to be explained in another way, for example, as a result of panic, before drawing an inference that was adverse to him.**

He told the jury to carefully consider the conduct of the accused.

He said the accused testified he did not kill his wife and was never scratched by her.

Justice Byrne said Baden-Clay told the jury he got the marks on his face while shaving in a rush.

He said he gave evidence of his wife’s depression and told the jury after taking Zoloft, his wife gained weight and their sex life became non-existent.

He said the accused had an affair with a woman while his wife was pregnant.

Justice Byrne said by August, 2008 he had started a physical relationship with Toni McHugh.

He testified he told Ms McHugh his loyalty was to his wife and children and when she pushed for things, he would tell her whatever she wanted to hear.

He told the jury Ms McHugh would become angry and agitated and Baden-Clay would hold out against her until the physical relationship resumed.

Justice Byrne said the accused told the jury of his wife’s depression and her repeated reiteration she was not depressed.

He said Baden-Clay told the jury that his business partners stopped selling real estate in September, 2010.

Justice Byrne said the business moved premises and in January, 2011, nine new sales people were hired.

He said the accused trained the new staff when the floods came and had a “catastrophic effect” on the business.

Justice Byrne said the accused’s partners wanted to close the doors but he offered to buy them out.

He said the accused wanted to buy out his partner’s share of the rent roll, paying his two partners \$30,000 and keeping up interest payments to them.

He said Baden-Clay borrowed about \$90,000 from three friends to keep the business running.

Justice Byrne said Baden-Clay told the jury business was improving by 2012 and he maintained an off-again, on-again relationship with Ms McHugh.

He said the accused told the jury he got back with her “for the sake of the business”.

Justice Byrne said Baden-Clay’s wife confronted him about the affair and it ended. He said he told Ms McHugh he did not want to be with her and instead wanted to be with his wife and children. He said Ms McHugh threw things at him and became angry.

He said Baden-Clay’s wife joined the business and took on a more active role, while he was banned from going out at night because she did not trust him.

He said the accused told the jury he met with Ms McHugh in December and he told her he loved her.

“He testified that in fact, he did not,” Justice Byrne said.

He said the accused’s wife was unaware his relationship with Ms McHugh had resumed as he used a secret phone account to contact her and deleted the calls between them from the call log in his mobile phone.

Justice Byrne said the accused testified that Ms Ritchie told him it would be useful for his wife to talk about her feelings and ask questions about the affair.

He said the accused initially resisted but eventually agreed to taking part in the 15-minute sessions.

He said Baden-Clay told the jury he was trying to help his mistress find something other than him to fixate on and to distance himself from her.

“In my weakness I tended to roll over and say whatever she wanted to hear,” he said.

Justice Byrne said the accused told the jury he would agree to anything Ms McHugh asked in order to keep her happy.

He said Baden-Clay emailed he would be separated from his wife by July 1, 2012 but in evidence, told the jury he had no intention of doing so.

He said the two of them went to Mt Coot-tha on April 18, 2012 to do the 15-minute session.

Justice Byrne said the accused told them they had not finished all the questions his wife had.

He said that at his wife’s request he drew a diagram of Ms McHugh’s home.

He said the accused went to a chamber of commerce meeting the next day and has no knowledge of how the blood of his wife came to be in the family's Holden Captiva.

Justice Byrne said Ms Baden-Clay told his wife he was very remorseful and appreciated her strength and forgiveness as they sat at home going through follow-up questions on April 19, 2012.

He said the accused woke up just after 6am to find his wife was missing.

He said he was using his normal razor, which was quite old and blunt, and was really rushing.

Justice Byrne took the jury to Baden-Clay's testimony of what took place on April 20, 2012.

He said the accused told the jury his business was turning around by then and his professions of love to Ms McHugh in the weeks before his wife's disappearance were just to "placate" her.

He said Baden-Clay told his mistress in a secret email he would leave his wife by July 1 and even told some of his staff he loved her.

He said the accused first told his wife he did not love her in 2009.

Justice Byrne said the accused agreed he may have told Ms McHugh in 2011 he was not ready to leave his wife but one day wanted to go to her unconditionally.

He said Baden-Clay did not consider he was in a relationship with her after December, 2011, even though they had met for sex at least twice and spoke on the phone with some regularity.

He said the accused told the jury he had no fear of his wife and Ms McHugh running into one another at the real estate conference on April 20, 2012.

Justice Byrne said the accused denied putting his wife in the Holden Captiva or dumping her body at the Kholo Creek Bridge.

***He will continue his summing up of the case on Thursday at 10am.***