

**10.47am: Justice Byrne first summarised the defence case for the jury.**

He said barrister Michael Byrne QC, for the accused, told the jury in his closing address that family, friends and the Baden-Clay children had never seen them argue or be violent.

He said Mr Byrne told them that even when confronted with an angry mistress in Toni McHugh, he did not grow violent.

Justice Byrne said Mr Byrne told the jury it should find his client did not kill his wife.

He said Mr Byrne told the jury not to speculate and to use evidence to support any inference they would draw.

He said Mr Byrne told the jury no blood was found in the house.

Mr Byrne asked the jury how the accused killed his wife on the prosecution case, Justice Byrne said.

He said that forensic pathologist Dr Nathan Milne was unable to establish a cause of death and there were few injuries on the body.

He said Dr Milne could not say whether a possible bruise in the ribs was caused before or after death.

He said Mr Byrne told the jury the pathologist was unable to exclude drowning, toxicity or falling from a height into water as possible causes of death.

Justice Byrne said Mr Byrne submitted there was no discernable cause of death.

He took the jury to features of the police investigation.

Justice Byrne said Mr Byrne told the jury Baden-Clay gave consent for police to examine the house, look at the cars and around the house.

Mr Byrne, he said, told the jury a crime scene warrant was taken out on the Baden-Clay house at Brookfield.

He said Sen-Sgt Ewen Taylor found no blood or obvious signs of a clean-up inside the home.

He said Mr Byrne told the jury none of the Baden-Clay children heard a fight between their parents, nor car noises on the night of April 19, 2012.

He said Mr Byrne argued Ms Baden-Clay was wearing pyjamas on the night of April 19, 2012, consistent with evidence from one of the children, but was found wearing her walking clothes.

He argued a blood stain found in the Holden Captiva could not be aged and was mistaken for spilled soft drink.

Justice Byrne said Mr Byrne told the jury that on the prosecution case, the accused stopped the car near the bridge and managed to get the body through the grass, drove home and parked it in the car port.

He said Mr Byrne asked the jury whether such a scenario was possible.

He said Mr Byrne submitted an absence of mud in the car was significant.

Justice Byrne said Mr Byrne argued his client had no intention of leaving his wife for Ms McHugh and it was not likely he killed his wife to be with her.

He said Mr Byrne told the jury that when the accused confessed to the affair with his wife there were no raised voices.

He said Mr Byrne told the jury they should reject a premeditated killing or a sudden explosion of temper on the night of April 19, 2012.

He said Mr Byrne argued there was no evidence his client had a violent temper.

Justice Byrne said Mr Byrne told the jury it was "ridiculous" he would murder his wife over financial pressures.

He said Mr Byrne told the jury the position of the body was below the high water mark.

He said Mr Byrne told the jury Baden-Clay never sought to conceal the marks on his face other than to say they were shaving cuts, caused by using an old razor in a hurry.

Justice Byrne said Mr Byrne argued that while experts who assessed the injuries thought they were consistent with fingernail scratches, they could not be certain the marks were not caused by a razor.

He told the jury Mr Byrne said Ms Baden-Clay was first treated by psychiatrist Dr Tom George in 2003 and had symptoms of low mood, anxiety and teary.

He said Mr Byrne argued the deceased was experiencing the same symptoms when visiting her GP in 2011.

He said Mr Byrne took the jury to the evidence of Dr Michael Schramm and psychologist Rosamund Nutting.

Justice Byrne said Relationships Australia counsellor Carmel Ritchie thought Ms Baden-Clay was a "conflict avoider".

He said Mr Byrne argued symptoms of her past depression were recurring and there was a "high chance" she was relapsing in her depressive illness.

He said Mr Byrne told the jury that on April 18, 2012 the accused and his wife had a question and answer session about the affair at Mt Coot-tha, then returned home to news that Baden-Clay's brother had a new baby boy.

He said Mr Byrne asked the jury to consider whether the deceased had always wanted a son and whether the new baby's birth led to her increasing her medication on the morning of April 19, 2012.

Justice Byrne said Mr Byrne told the jury that after Ms Baden-Clay returned home that night, they revisited questions asked at Mt Coot-tha the night before, and she stayed up, thinking about the affair when the “rawness opened up”.

He said Mr Byrne asked the jury whether it was possible Ms Baden-Clay took a tablet and went for a walk, perhaps in disorientation, and by 4am, hallucinated and “ended up in the creek”.

He said Mr Byrne told the jury Baden-Clay had no reason and no apparent means to kill his wife.

Justice Byrne said Mr Byrne told the jury his client told Ms McHugh to tell police the truth, contrary to the conduct of someone who had just killed his wife.

He said Mr Byrne contended that once you assessed the whole of the evidence you would not convict his client.

Prosecutor Todd Fuller QC, concluding his final argument, said Baden-Clay was under pressure from his wife, lover and business.

**11.07am: Supreme Court Justice John Byrne turned to summarising the closing address by the prosecution.**

He said Crown Prosecutor Todd Fuller QC told the jury Ms Baden-Clay had her last child some six years before learning her husband’s brother was welcoming a baby boy into his family on April 18, 2012.

He said it would take a considerable time to walk 13km to the Kholo Creek Bridge at Anstead and Ms Baden-Clay was a “reluctant exerciser”.

Justice Byrne said Mr Fuller contended Baden-Clay knew the area around Anstead as he had dealt with properties in the area.

He said Mr Fuller told the jury mud was unlikely to be found in the Holden Captiva because there had been no rain on April 19, 2012.

He told the jury Mr Fuller said a police officer who injured himself while recovering the body did so on the mud bank, not walking down from the bridge.

He said Mr Fuller told the jury the position of Ms Baden-Clay’s body was consistent with it having been rolled or pushed.

Justice Byrne told the jury Mr Fuller used the evidence of a hydrologist to remind the jury there was not enough water to have moved Ms Baden-Clay’s body.

He said Mr Fuller argued there were no diatoms found in the body, consistent with her not having drowned.

He said Mr Fuller told the jury the bruised chest and chipped tooth was consistent with a struggle.

Justice Byrne said Mr Fuller argued Ms Baden-Clay had used Zoloft since 2003 and had been using it in a 100mg dose for seven months before her death.

He said Mr Fuller argued she did not experience “serotonin syndrome”.

He said Mr Fuller said Ms Baden-Clay’s friends said she was excited and happy in the days and weeks before her death.

Justice Byrne said Mr Fuller told the jury that by April, 2012, she took her husband to see two counsellors and by the 19th of April was not depressed or affected by drugs.

He argued that only the person who killed Ms Baden-Clay knew how it was done.

He said Mr Fuller told the jury six leaf species were found entwined in Ms Baden-Clay’s hair and jumper but just two of the species were found at Kholo Creek.

He said Mr Fuller argued all six plant species were found around the couple’s Brookfield home.

Justice Byrne said Mr Fuller told the jury the blood of the deceased was hidden from view in the Holden Captiva until the seats were folded up. He argued it was consistent with an injury causing Ms Baden-Clay to bleed on the night she was killed.

He said Mr Fuller submitted experts identified two distinct injuries on Baden-Clay’s face: one consistent with fingernails and the other consistent with shaving marks to disguise them.

He said Mr Fuller said the marks were consistent with their being a close struggle.

He said Mr Fuller contended the scratches were Ms Baden-Clay’s “mark on him” and showed he used violence against his wife.

Justice Byrne said Mr Fuller argued the phone charger was on the accused’s side of the bed and the only evidence that his wife had it that night came from Baden-Clay himself.

He said Mr Fuller argued Baden-Clay was under financial pressure, relationship pressure from his wife and his mistress Toni McHugh.

He said Mr Fuller characterised the testimony of the accused as “scripted”.

Justice Byrne said Mr Fuller told the jury his wife had become involved in the business after discovering the affair and when he resumed the relationship with Ms McHugh, it was restricted.

He said Mr Fuller told the jury Baden-Clay did not have the courage to leave his wife and told Ms McHugh he loved her during various meetings.

He said Mr Fuller argued the accused went to counselling with his wife on April 16, 2012.

He said Mr Fuller told the jury Baden-Clay “made up a story” when testifying about the secret emails he wrote to Ms McHugh, promising to leave her by July 1, but in evidence claiming he did it to “placate” her.

Justice Byrne said Mr Fuller argued Baden-Clay had to either tell his wife about the impending meeting with his mistress on April 20, 2012 or do nothing.

He said Mr Fuller argued the risk to Baden-Clay the two women would meet at the conference were significant, both professionally and personally.

He said Mr Fuller told the jury the accused did not know if his wife was on medication and expressed that she was "fine" to police on April 20, 2012.

Justice Byrne said Mr Fuller argued Baden-Clay had an opportunity to kill, scratches on his right cheek he had lied about, long-term tension with his wife, tension with Ms McHugh, problems with his business and debt, discussion with Ms McHugh on the evening of April 19, 2012 and the possibility his wife would find out he had continued the affair at a real estate conference the next day.

He said Mr Fuller contended the encounter was personal, violent and effective.

**11.11am: Brisbane Supreme Court Justice John Byrne has asked a jury to retire to consider a verdict in the trial of Gerard Baden-Clay.**

Baden-Clay, 43, has pleaded not guilty to murdering his wife Allison at their Brookfield home and to dumping her body 13km away at the Kholo Creek Bridge at Anstead on April 19, 2012.

He asked the jury to retire at 11.10am.

Justice Byrne discharged three reserve jurors who had patiently listened to evidence over the past month.

He thanked them for their service.

***The jury re-entered the court room at 12.38pm.***

Justice Byrne told the jury they would not receive a copy of his summing up at the request of the prosecution and defence counsels.

It retired again to deliberate shortly after.

**The jury returned to the court at 1.10pm, after they had been deliberating for two hours.**

Justice Byrne said he had three times warned the jury not to enquire of anything to do with the trial outside the court room.

He said a juror had apparently downloaded from the internet material on how a jury might approach its "great responsibility of deliberating on a verdict".

He thanked the jury for bringing the matter to his attention.

"Now everyone appreciates a juror's job is rarely easy and we all understand a juror are often anxious about performing their role," he said.

"They want to do it well and responsibly and will look for assistance. But I repeat, that assistance must come from the court and only from the court, and not some external source."

Justice Byrne told the jury they had a guide to deliberating in a form that was approved by the court available to them in the jury room.

“You scarcely need to know what some overseas commentator speaking about a very different system of jury trials, happens to think. So the document will be retained by my associate and not returned to the jury room.”

He reminded the jury not to enquire outside of the court room about anything that related to the trial.

“You must not use any aide, such as a textbook to conduct research, and except in this court room, you must not in any way seek or receive information about questions that arise in the trial, or about the accused, or about any witnesses or the deceased, for example by conducting research using the internet, or by communicating with someone by phone, email or Twitter, through any blog or website, including social networking websites, such as Facebook, LinkedIn and You Tube,” he said.

***The jury has returned to its deliberations.***