



## STATE CORONER'S COURT OF NEW SOUTH WALES

<b>Inquest:</b>	Inquest into the death of Mark LUCIC
<b>Hearing dates:</b>	31 August 2015 -4 September 2015
<b>Date of findings:</b>	15 October 2015
<b>Place of findings:</b>	State Coroners Court, Glebe
<b>Findings of:</b>	Magistrate Harriet Grahame, Deputy State Coroner
<b>Catchwords:</b>	
<b>File number:</b>	2014/61133
<b>Representation:</b>	Peter Bain – Coronial Law Advocate – Advocate assisting the Coroner  Ms M Fleeton instructed by Ms K Crilly for the NSW Ambulance Service  Mr D Drewett instructed by M Kheir, Kheir Lawyers for Ms Lori Wainstein.
<b>Findings:</b>	<p><b>Identity of the deceased</b></p> <p>The identity of the deceased is Mark Lucic</p> <p><b>Date of death</b></p> <p>Mark died on 26 February 2014</p> <p><b>Place of death</b></p> <p>Mark died at Royal North Shore Hospital, St Leonards, NSW</p>

**Cause of death**

Mark died from an intracerebral haemorrhage as a result of hypoxic ischaemic encephalopathy, triggered by an intravenous injection of an unknown liquid

**Manner of death**

Mark's death was accidental. It is not established whether Mark injected himself.

**These findings have been written without the benefit of a transcript.**

IN THE STATE CORONER'S COURT  
GLEBE  
NSW  
SECTION 81 CORONERS ACT 2009

### **REASONS FOR DECISION**

1. This inquest concerns the death of Mark Lucic.

#### **Introduction**

2. Mark was born on 7 January 1986 to Vinka and Ante Lucic. He had an older brother Alen and two sisters, Kety and Sandra. Mark was very proud of his Croatian heritage and demonstrated great love for his family and close circle of friends.

3. As a child Mark suffered from a number of significant medical conditions. He was born prematurely and as a consequence suffered complications with his bowel and digestive system. He had a large section of his bowel removed as a baby and spent a lengthy period in hospital. He had ongoing difficulties and lived with a colostomy bag for many years. Later in childhood he was hospitalized for a hip complaint that also required surgery. He apparently suffered a serious adverse reaction to the anaesthetic at that time. Throughout childhood, Mark had a variety of other medical issues including asthma, allergies and certain ongoing digestive issues.<sup>1</sup>

4. Mark was very close to his mother, who died in 2011.

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<sup>1</sup> Statement of Kety Lucic, Tab 16, Exhibit 1 and Evidence at Inquest 1/9/15

5. Mark married in his early twenties but that marriage ended in divorce. Later he became involved with Jessica Von Sperl and they had a child, Gabrijela, in 2012. While there were considerable difficulties in that partnership, Mark adored his daughter Gabrijela and they remained in contact until his death.

6. Mark remained close to his family and had a firm group of longstanding and loyal friends.

7. After his separation from Jessica, Mark reconnected with a young woman he had known in teenage, Lori Wainstein. At the time Mark was working as an electrical apprentice. Mark and Lori commenced seeing each other around August 2013 and he soon moved in with Lori to the house she was renting at 68 Holsforth Crescent, Gordon. Both Mark and Lori were committed to the relationship and it appeared to both their families that the couple were in love and planning a future together.

8. Lori Wainstein also came from a close family. She had experienced some difficulties throughout childhood and continued to struggle with an ongoing substance abuse issue in adulthood. Around the time she and Mark were getting to know each other Lori was committed to becoming drug free and was undertaking a drug withdrawal program. At the time the couple commenced living together, Lori's parents were hopeful for her future and happy that she had met such a wonderful and caring young man.<sup>2</sup>

9. Mark was experiencing considerable stress in the months preceding his death. He had difficulties securing regular contact with his daughter and he had been disqualified from driving. He was very concerned about the effect of this on his future employment. Mark was also experiencing some uncharacteristic difficulties and stresses within his circle of friends, which appeared to relate, at least in part, to his new relationship with Lori. It was clearly a period of some turmoil and significant change for Mark.

10. Around 4pm on 25 February 2014 Lori collected Mark from Meadowbank TAFE, where he had been studying as part of the requirement for his

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<sup>2</sup> Mrs Karen Wainstein, Evidence at Inquest 3/9/15

apprenticeship. They returned home to Gordon. Within a couple of hours an ambulance had been called to the property and Mark was being treated for a suspected overdose of Suboxone. Mark was taken to the Royal North Shore Hospital where, despite treatment, he remained in a critical condition.

11. Mark's friends and family quickly gathered at the Hospital, devastated by what was unfolding. Many were shocked that drugs could possibly be involved. They could not believe what had happened or that their beloved friend or relative was so seriously ill.

12. Doctors advised the family that Mark could not survive. Life support was removed and Mark was pronounced dead at 6.30pm on 26 February 2014.

### **The Role of the Coroner**

13. The role of the Coroner is to make findings as to the identity of a nominated person, and in relation to the date and place of his or her death. The Coroner is also to address issues concerning the manner or cause of the person's death.<sup>3</sup>

14. In this case, it is clearly established that Mark died at the Royal North Shore Hospital, on 26 February 2014, having been taken there by ambulance the previous evening. This inquest has been convened to address the cause and manner of his shocking death and to attempt to provide some clarity in relation to the circumstances leading up to his arrival at hospital.

### **Issues to be investigated**

15. An issues list was circulated prior to the inquest, with the following matters identified

- Whether a delay in calling "000" contributed to Mark's death? Would earlier treatment and resuscitation attempts have saved Mark?

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<sup>3</sup> Section 81 Coroner's Act 2009 (NSW)

- Whether a further delay of the Ambulance arriving at the Gordon address contributed to Mark's death? The delay was caused by issues with the satellite navigation system of the ambulance.
- Whether the equipment used by Ambulance Officers in treating Mark was faulty or damaged? If so, did this in any way contribute to Mark's death?
- Who injected the Suboxone into Mark?
- If Mark injected himself, was it a deliberate act of suicide?
- Did the injection of the drug, directly lead to Mark's death?

### **The Evidence**

16. The inquest ran over five days and heard oral evidence from medical experts, ambulance and police officers, members of both the Lucic and Wainstein families and from a number of Mark's and Lori's friends and associates. A significant amount of documentary evidence was tendered including medical and expert reports, photographs, witness statements and Governmental policy documents. A recording of the "000" call was also played.

### **Background – Did Mark use drugs?**

17. It was immediately clear that following Mark's death many of his friends and family were shocked that he appeared to have died in relation to a drug overdose or reaction. Mark's sister Kety gave evidence that she was aware that Mark had smoked cannabis and used cocaine<sup>4</sup> when he was younger, but she was not aware that his drug use had continued or extended to other substances or to intravenous use. She knew Lori had been treated for heroin dependency and believed that Mark was supporting her through the rehabilitation process. Kety and other members of the Lucic family were certainly unaware that Mark had tried heroin himself or that he may even have been struggling with a growing problem.

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<sup>4</sup> Statement of Kety Lucic , Exhibit 1, Tab 16 and evidence at Inquest 1/9/15

18. When the inquest began some of Mark's friends entirely rejected the possibility that Mark would have used drugs regularly or have ever injected himself with heroin. Mark Nabulsi and Mark Farajian were both close to Mark Lucic over a number of years and held the view that Mark did not use drugs and that prior to meeting Lori he was strongly against the use of intravenous drugs of any kind.<sup>5</sup> Their evidence was largely supported by Hooda Ghaffari, who also gave evidence at the inquest. Mark's friends also spoke of his fear of needles and the difficulties he experienced even getting a tattoo or submitting to medical tests as clear evidence of the unlikelihood of him being involved with heroin.

19. It appears that Mark's friends may have been unaware of changes that were occurring in Mark's life. It is certainly clear that there was conflict in the friendship group once Mark started seeing Lori, who his friends obviously disliked and distrusted. An attempt was made to talk about the issues and this resulted in some separation and distance between the friends in what turned out to be the last months of Mark's life. Unfortunately, it seems that it was during these final months, unbeknownst to his friends, that Mark had indeed begun using or experimenting more heavily with drugs.

20. It is important to recognise that it was in this context that stories about what really happened began to circulate after Mark's death. It was an atmosphere of distrust, hurt and confusion. Rumours spread and what were referred to at the inquest as "chinese whispers" occurred as devastated family and friends tried to make sense of what had happened. Not all of these accounts were reliable when closely reviewed and a number of witnesses could no longer recall with accuracy what had been said in the days following Mark's death.

21. Mark's cousin Daria Farac gave evidence at the inquest.<sup>6</sup> Her relationship with Mark had been a close one and it appears that she was more aware of Mark's domestic life with Lori in the period before his death than either Mark Nabulsi or Mark Farajian. Daria told the Inquest that both Mark and Lori had disclosed to her that they had been using heroin occasionally. There is no reason for Daria to

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<sup>5</sup> Evidence at Inquest 2/9/15 Mark Nabulsi, Mark Farajian, Hooda Ghaffari

<sup>6</sup> Evidence of Daria Farac at Inquest 2/9/15

concoct a story of this kind. It was Daria's evidence that early in the relationship Lori had indeed been drug free, but occasional use had commenced. Daria said the drug use was not something that Mark was proud of or that he even wanted her to know about. It was Daria's understanding that Lori injected Mark when they used.

22. Daria was in a difficult position, giving evidence at the inquest, given that she was the only family member claiming direct knowledge of Mark's recent drug use. It meant exposing her own drug use and also her prior inability or reluctance to tell the family what Mark had been going through at the time. I largely accepted her evidence, although at times she appeared to downplay her own participation in the events she described. I am of the view that she had direct knowledge of the fact that Mark and Lori had commenced occasional use of heroin.

23. I have also closely examined the text messages sent between Mark and his friends and relatives over the relevant period. There is no doubt that these messages also establish that Lori and Mark had commenced at least occasional use of heroin. There are a number of references to "using" which I can safely infer in the context refer to heroin use. (see for example text message 7163 ) There are also messages which refer to the purchase of drugs (see for example text message 7435) and to withdrawing from drugs (see for example text message 7440). A small number of messages directly indicate Mark was using. For example on 20 February 2014 Lori sends a message to Mark which reads "I'm at home was thinking bout getting on can save some for u for when u get home". After a couple of further messages trying to dissuade her from this course, he writes back "...I know your slowly cleaning up!! When you going and can you wait for me to use?"<sup>7</sup> It was Lori's evidence<sup>8</sup> that when she used, Mark became jealous if he could not use as well. It is noteworthy that on the day of Mark's collapse, the following exchange occurs between Lori and Mark

*ML                    how ya feeling ??*

*LW                    I feel ok I had some suboxone how u holding up?*

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<sup>7</sup> Text message 7485, Exhibit 1, Volume 4

<sup>8</sup> Evidence at Inquest, Lori Wainstein 4/9/15



*ML Not good at all depressed!! I want to die now*

*LW Are you depressed or withdrawing?<sup>9</sup>*

24. These and other messages indicate that Mark had an uneasy relationship with his own developing drug use. On the one hand he wanted Lori to stay well and at least control her drug use, on the other hand when drugs were available, he found it hard to refuse.

25. Lori gave evidence<sup>10</sup> that she was initially drug free when she and Mark commenced their relationship. It was her recollection that the first time they used together was on her birthday, 11 November 2013. It had been her suggestion but Mark was “a willing participant”. She told the Court that their use continued after that and became at first a weekly occurrence, mostly at weekends. Later it was more frequent.

26. It was Lori’s evidence that Mark had never specifically told her that he had tried heroin before. It seems to me most unlikely that there was not a discussion between them about whether or not he had used intravenous drugs before, given the nature of their relationship. She told the Court that Mark had watched her inject and that he then injected himself, “he knew what he was doing”. She denied ever injecting him. Interestingly, Chris McLure, Lori’s former partner gave evidence that she had once injected him, albeit years ago.

27. Lori gave evidence that she used other drugs with Mark as well, including Buprenorphine, MDMA and acid. She told the court she had also used drugs with Daria Farac. She said that she was aware that Mark had previously used Suboxone.

28. Forensic evidence revealed that various people appeared to have used at the Gordon house, however, there is no evidence that could establish any person had used at the same time as Mark. Peter Ammendola<sup>11</sup>, whose DNA was found on

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<sup>9</sup> Text message 7623-7625, Exhibit 1, volume 4

<sup>10</sup> Evidence at Inquest, Lori Wainstein 4/9/15

<sup>11</sup> Evidence at Inquest, Peter Ammendola 31/8/15 For forensic evidence see the statement of Detective Garth Murray at paragraph 111 onwards.

waste taken from a syringe kit found at the Gordon residence gave evidence that he had used with Lori and Chris McLure but never with Mark.

29. In my view Lori was not entirely honest with the Court about her drug use with Mark. It is not plausible that she had no knowledge about the extent to which he had or had not used intravenous drugs prior to their relationship. Given her own longstanding drug use history I think it is likely she assisted Mark when they commenced using together. However, whether he learnt to inject himself or continued to rely upon her is not a matter that I can have any certainty about.

30. On the balance, I am of the view that Mark and Lori commenced their relationship with the hope that Lori could remain drug free. When she recommenced heroin use, Mark was drawn in too. Whether he had used heroin before is unclear but he made a choice to try it with his partner and it became part of their relationship. It appears to have been something intimate they did together and not something he wanted others to know about. I am of the view Mark remained conflicted about his use, given it is something that I accept that he had previously spoken against. He may have been curious to know more about the substance that Lori had such difficulty giving away. He may have wanted to try the drug prior to meeting Lori, but never had the opportunity. He may have tried it before. These propositions remain entirely speculative given that it is impossible to say with any certainty when Mark first used heroin.

31. The very fact that drugs are illegal means that their use is often disapproved of and so takes place in great secrecy. Mark's flatmates and work associates appear to have been wholly unaware of what was going on, his friends and family certainly were. There is little doubt that Mark knew his friends and family would be upset, angry or very concerned if they knew. He tried to keep his use private and probably believed he had it under control. Only Daria from the immediate family knew. While it is difficult to know the extent of his heroin use, I am satisfied that by 25 February 2015 Mark had used heroin on numerous occasions. It is interesting to note that he had a number of fresh injection sites when examined at autopsy, but given that it is likely at least some of those marks were caused during his medical care, the injection marks alone are not conclusive.

### **What Happened on Friday 25 February 2014?**

32. There is ample evidence that Mark was not feeling well when he left for TAFE on 25 February 2014. While there is some evidence that he had been exposed to diesel fumes at work the previous week, I think that given the text messages between Mark and Lori, he was more likely to have been withdrawing.

33. That afternoon Lori picked him up and they drove home to 68 Holsford Crescent. It appears from the text messages that Lori had already taken some Suboxone and was feeling a little better. Exactly what happened when they got back to the house remains somewhat unclear.

34. It was Lori's evidence<sup>12</sup> that she picked Mark up from work and they returned home to get something to eat. At this stage she said she was still planning to take Mark to the doctor. Mark went to their bedroom while she went to the kitchen to make sandwiches. In the statement she gave police, Lori stated that shortly after returning home she entered the bedroom with the food and "discovered Mark on the bed with a syringe in his hand. He said "Lori, I feel really hot, I feel really hot". She threw the plate of sandwiches on the table and asked him "what have you taken". He told her "Suboxone". She told him to lie down and that everything would be okay. Mark had not told her that he was going to take the Suboxone while she was in the kitchen making the sandwiches"<sup>13</sup>

35. She described what had occurred in some detail, Mark wanted his asthma puffer and was then pushing her away. She said he had a seizure and was apparently shaking. In her statement she also described how she tried to give him mouth-to-mouth resuscitation but was again pushed away. He vomited and she tried to give him something to drink and placed him in the recovery position. At some stage she rang her friend Chris McClure for advice.

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<sup>12</sup> Statement of Lori Wainstein, Exhibit 1, Tab38, also Evidence at Inquest 4/9/15

<sup>13</sup> Statement of Lori Wainstein, Exhibit 1, tab 38, page 2

36. The account Lori gave at the Inquest differed slightly to her earlier account, however she remained firm that when she came into the room, Mark had already injected something and was obviously unwell.

37. It is somewhat unclear where the Suboxone is said to have come from. Lori gave a specific explanation of going to Kings Cross with Mark, presumably to buy drugs some weeks earlier. She claimed that Mark had gone off by himself and later returned. They did not talk about what he had been doing or if he had scored drugs. Her account of this interaction appeared to me most implausible. I am aware from the flavour of their text messages that they talked openly about the purchase and sharing of drugs. It seems quite implausible that while Lori had developed a habit, she would go with him to Kings Cross on what she assumed was a drug buying mission and not even inquire about whether he had made a successful purchase, let alone whether he was prepared to share it.

38. It was Lori's evidence that some time later Mark gave her Suboxone and it appeared to be her suggestion that he may have bought it on this Kings Cross expedition and saved it for her to use later. It was an explanation for the appearance of the Suboxone that I find highly implausible.

39. Other versions were also before the Court. Kety Lucic, for example reported that Lori had informed her that Mark had found her old prescription for Suboxone around the house.<sup>14</sup> Oddly enough there is no record of Lori having ever been prescribed Suboxone prior to Mark's death. Both Mark Farajian and Hooda Ghaffari recalled Lori telling them the Suboxone was hers and had been in a drawer.<sup>15</sup> Daria Farac's initial evidence<sup>16</sup> was that Lori had firstly told her that she had "got it ready" and given it to him. According to Daria, Lori later told her "Actually I didn't give it to him. Mark took the heroin himself". However, at the Inquest Daria was unable to recall this conversation and could not confirm the words spoken. It was made more unreliable as it appears to be the only reference to heroin having been taken that evening.

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<sup>14</sup> Statement of Kety Lucic, Exhibit 1, tab 16

<sup>15</sup> Statements of Mark Farajian and Hood Ghaffari, Exhibit 1, Tabs 22 and 23

<sup>16</sup> Statement of Daria Farac, Exhibit 1, Tab18

40. It was suggested to Lori's ex-partner Chris McLure that he had supplied the couple with the relevant Suboxone. It was a suggestion he vigorously denied. A number of witnesses gave evidence that Suboxone could be bought without prescription on the street.

**Did Lori's delay in contacting Emergency Services contribute to Mark's death ?**

41. Lori gave evidence that she did not know what to do so she rang her ex-partner Chris McLure who had some experience with overdoses.

42. Phone records indicate that Lori called Chris McLure about 5.30pm and the call lasted 10 minutes and 18 seconds. Chris McClure gave evidence at the Inquest<sup>17</sup> and confirmed that he gave Lori certain advice about what to do and the call terminated with him telling Lori to call the ambulance. He said she sounded scared and worried about Mark and that she said Mark had taken a shot of Suboxone. She told him that she had walked into the bedroom and Mark had apparently already shot up.

43. Chris specifically denied having given Suboxone to Lori. He agreed that he had just signed on to a Suboxone program himself, however he had only received his first take away dose that evening, after Lori's call. This appeared to be consistent with the evidence given by his prescribing Doctor, Dr Paul Russell.<sup>18</sup>

44. With hindsight, there is little doubt that calling an ambulance immediately would have been preferable to the course taken by Lori. While I accept that she rang Chris because she genuinely believed he was an appropriate person to assist her, that confidence was entirely misplaced. However, it is impossible to guess at the exact result of delaying the call to the ambulance. Dr Farrer was prepared to say that emergency personnel should be called as soon as possible, but even then it may be impossible to save the life of a drug user after an overdose. The expert evidence could not say more than it was important to get help as soon as possible.

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<sup>17</sup> Evidence at Inquest Chris McLure 3/9/15. See also his statement Exhibit 1, tab 37

<sup>18</sup> Evidence at Inquest, Dr Paul Russell 2/9/15

45. The fact that drugs are illegal and often taken secretly inevitably means that those present frequently wait too long to get medical attention, either for fear that family members will find out about the drug use or that the police will become involved. This is a well known and longstanding problem. I am of the view that these kinds of issues were operating on Lori's mind on 25 February 2014.

46. The Inquest received education material produced by the NSW Police Force's Drug Programs Co-ordination Unit<sup>19</sup> which included advice to drug users about the importance of getting someone to hospital as soon as possible. It stresses that "police are only called to an overdose if there is any danger to the ambulance officers or if the person dies". However there appears to be an ongoing fear and reluctance on the part of some users to call for help for fear of the legal repercussions.

47. Lori's approach to call a friend first was clearly misguided. However it is impossible to say that had a call been made any earlier Mark's life would have been saved, it may be that the damage was already done.

### **Did Mark inject himself?**

48. As previously stated, it was Lori's evidence at the inquest that Mark injected himself on February 25 2014, as he always did. Suspicion among Mark's family and friends that Lori had injected Mark remained strong, even when the accounts relied upon proved somewhat unreliable.

49. Perhaps the strongest evidence that Lori injected Mark comes from her own words as recorded in the "000" call.<sup>20</sup> Her first explanation to the operator is that "there's been a shot of Suboxone administered through an old cotton..." The use of the passive tense is somewhat disarming as it appears a slightly unnatural expression in the circumstances. It was a deliberate choice of words. However, if Mark had injected himself it would seem more probable that Lori would describe

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<sup>19</sup> Exhibit 8, "Heroin and the Law" pamphlet.

<sup>20</sup> Transcript of "000" call, Exhibit 1, Volume 2, Tab 1. Also DVD recording, exhibit 2.

what had happened in more direct terms. Nevertheless one must be careful not to put too much weight on the construction of this sentence, particularly taking into account the stressful situation that was unfolding.

50. A little later, the following exchange occurs,

*Operator Ah ok, so he's overdosed has he?*

*LW I don't know if it's an overdose, I've never had anyone react like this ever*

51. There is the possible inference here that Lori herself has some involvement or agency or control over what has been going on and is not a bystander who has just come in at the end of his injection.

52. Later the operator checks what has happened. She says "Ok, now you gave it to him just now have you?" and Lori answers simply "yep". Again one must be careful not to read too much into a stressed "000" call, but it is clearly the Operator's understanding that the caller has been involved in the injection and on the face of it Lori confirms it.

53. I certainly have some suspicions, based in part on the "000" call and on the evidence of Daria Farac about Mark and Lori's regular practice, that Lori being the more experienced user usually injected Mark and that it is likely she assisted him on 25 February 2014. However, given Lori's denial and the lack of any other eyewitness I am unable to make a firm finding on this issue. If Lori injected Mark, I have no doubt that she did it on his specific instruction.

### **The role of NSW Ambulance**

54. It was necessary to examine the treatment provided to Mark by NSW Ambulance. In particular in relation to any possible delays caused by the Satellite Navigation System and in relation to the oxygen equipment used.

55. At the commencement of the Inquest the "000" call was played. The call went for 16 minutes and 53 seconds and the Court heard Lori Wainstein speak with an operator and receive advice and assistance until the arrival of Ambulance

Officers Randell Gatti, John Butler and Alan Bradley. There is no doubt that the call was conducted appropriately and in accordance with the relevant procedures and protocols.<sup>21</sup>

56. During the Inquest, Ambulance Officers Gatti and Bulter gave evidence that they were heading in the general direction of Gordon when it was discovered that the address that had been given was not registering with the Ambulance satellite Navigation system. As a result they immediately got out a UBD street directory that they carried in accordance with Ambulance Policy.<sup>22</sup> I am of the view this caused no appreciable delay.

57. The Officers were also questioned about the route they took and the possibility that a wrong turn may have delayed them. It appears that there was a short delay caused by the confusing nature of the intersection and traffic lights at the Pacific Highway /Ryde Road- Mona Vale road and the off-ramp to Ridge Road. The confusion necessitated turning back in congested traffic. It may be that this delayed the Ambulance by up to 2 minutes. However I am satisfied that it was a routine problem of the type that frequently occurs in the city and could not have been avoided.

58. The other issue examined of relevance to the NSW Ambulance was in relation to the possibility that some of the equipment used to treat Mark was faulty. In particular Ambulance Officers were questioned about the BVM (Bag ventilation Mask) used on Mark.<sup>23</sup>

59. Ambulance Officer Gatti gave evidence that he discovered the BVM he took out to use on Mark had a small crack. He explained that the nature of the equipment was that it was designed to maintain a seal for a wide range of individuals. He found that he could maintain a seal on Mark by exerting more pressure over the mask at the point of contact. He was thus able to ensure that the delivery of oxygen was not impaired. Further he told the Inquest that had he been

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<sup>21</sup> see SOP 2013-014 Dispatch – Emergency Response Standards Policy , Exhibit 9

<sup>22</sup> See SOP2009-47 Portable Satellite Navigation Unit Navman 150S, SOP 2009-047,Exhibit 9, see also statement of Wayne Harris

<sup>23</sup> A BVM was tendered through Officer Gatti on 31 August 2015 Exhibit 3 and the Court was later taken to SOP2011-001 in relation to the relevant equipment.



concerned he could have used the spare adult BVM that had also been brought into the house or if necessary use the paediatric mask.

60. In any event the Inquest heard that both Officers Butler and Bradley were designated Intensive Care Paramedics and were trained to perform intubation, which is known as the “gold standard” of oxygen delivery. In Mark’s case the BVM mask was used as a precursor to the intubation that took place within minutes of arrival and which then utilised the same BVM apparatus, after having removed the mouth attachment.

61. I am satisfied that there is no discernible issue identified in relation to oxygen delivery.

62. It is telling that Mark’s brother Alen Lucic, also a paramedic gave evidence that he considered that the care given to his brother by the Ambulance Service was “exceptional” and any delay was completely understandable under the circumstances. I accept and share his view

#### **What caused Mark’s death?**

63. Lori told the triple “000” operator that Mark had injected Suboxone. When the ambulance arrived Mark was certainly exhibiting signs consistent with some kind of opiate overdose.

64. Suboxone is a brand name for a preparation that contains both Naloxone and Buprenorphine. Suboxone can be impregnated into a soluble film that is designed to be taken by placing it under the tongue, where it can be released. This method of delivery is called sub-lingual and is used so that the dose is released slowly. However it is known that from time-to-time intravenous drug users will attempt to extract the drug from the film and inject it.<sup>24</sup>

65. This is exactly what Lori told the Ambulance and Hospital had happened. Initially telling the operator “there’s been a shot of Suboxone administered through an old cotton “and later “but this is washed out from the cotton and I don’t

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<sup>24</sup> Evidence at Inquest of Dr Paul Russell 2/9/15, evidence at Inquest of Dr Farrer 31.8.15

know if he had a dirty shot or something like that".<sup>25</sup> While I accept that Lori would have been significantly distressed she is nevertheless quite firm about what has happened and in my view she is most unlikely to be concocting a story at this crucial time.

66. Her account to ambulance officers is quite specific, apparently having the following conversation with Officer Randell Gatti<sup>26</sup>

*LW He has taken 8mg of Subox iv. It was put in cotton*

*RG What do you mean by, in cotton?*

*LW It was an oral strip that was diluted and drawn into cotton*

*RG Are you sure it was 8mg of Suboxon ?*

*LW Yeah, it was definitely in the original packaging*

*RG Where did you get if from ?*

*LW It was given to me by someone. He wouldn't have had the whole amount. It was diluted a couple of days ago.*

67. After he died an autopsy was conducted on Mark at the Department of Forensic Medicine in Glebe. The direct cause of death was noted as intracerebral haemorrhage with the antecedent causes being noted as hypoxic ischaemic encephalopathy and drug toxicity (buprenorphine/naloxone).<sup>27</sup>

68. The mechanism of death was summarized as a death "...following intravenous drug administration. This had likely caused respiratory depression, hypotension and organ hypoperfusion. Following resuscitative measures, there was a period of rebound hypertension, likely resulting in reperfusion injury and massive intracerebral haemorrhage."

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<sup>25</sup> Transcript of "000" call, Exhibit 1, Volume 2, Tab 1.

<sup>26</sup> Statement of Ambulance Officer Gatti, Exhibit 1, tab 12

<sup>27</sup> Autopsy Report for the Coroner in relation to Mark Lucic, Exhibit 1, Tab 4

69. However, while toxicology results showed the presence of insignificant quantities of Diazepam, Nordiazepam, and Temazepam, as well as Naloxone, there was no Buprenorphine found. This was somewhat confusing as Lori had, from the start, told Ambulance Officers that Suboxone had been used.

70. The presence of Naloxone was not surprising as it is a drug routinely used in suspected opiate overdoses and was appropriately given to Mark by Ambulance Officers at the scene. However, on the face of it, one would have expected some trace of Buprenorphine, on the clear history given by Lori.

71. Dr Farrer, a consultant Forensic Pharmacologist prepared two statements and gave evidence on this issue.<sup>28</sup> Initially he worked on the basis that the NSW Forensic & Analytic Science Service (FASS), which had conducted the testing on the blood sample, had a detection limit of 0.05 mg/L in relation to Buprenorphine. He was of the view that given the time the blood was taken the absence of a result in those circumstances did not preclude the intravenous administration of a still substantial dose of Buprenorphine at around 5.30pm.

72. Dr Farrer expressed the view<sup>29</sup> that there were studies which indicated that fatal doses of Buprenorphine had been recorded below the stated FASS detection level. It was thus in his view very difficult to state categorically one way or the other whether Mark had died as a result of an overdose of Buprenorphine when none had been detected but the detection level was as high as 0.05mg/L.

73. It became clear during the Inquest that there was conflicting evidence in relation to the actual detection level used by FASS. In contrast to the information initially supplied by FASS which put the detection limit in relation to Buprenorphine at 0.05mg/L, the supplementary certificate supplied<sup>30</sup> stated the Buprenorphine detection level used in relation to Mark's blood was 0.001mg/L, that is significantly more sensitive than originally stated. This caused Dr Farrer to state that it threw into some real doubt whether the Buprenorphine was indeed responsible for Mark's death. He was of the view that the symptoms described

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<sup>28</sup> Dr Farrar, Exhibit 1, Tab 9, and evidence at Inquest 31/8/15

<sup>29</sup> Dr Farrar, Exhibit 1, tab 9 (second report) dated 20/8/15)

<sup>30</sup> Tab 6, Supplementary Certificate of Analysis (under the hand of Rajeev Malhotra)

were consistent with an opiate overdose but it was, given the uncertainty involved, impossible to state it categorically.

74. Unfortunately, although Buprenorphine is highly fat soluble and only remains in low concentration in the blood, no bile or fat samples were retained for further testing. Dr Anthony Ansford gave evidence on the last day of the Inquest. He was one of the Supervising Pathologists from the Department of Forensic Medicine in relation to the autopsy conducted on Mark. He confirmed that the bile which had been taken was not retained or tested.<sup>31</sup> When questioned about the cause of death Dr Ansford stated that the reported symptoms were consistent with an overdose, but conceded it was possible they were also consistent with some other kind of severe reaction. While he remained of the view that a drug overdose was the most likely cause, an allergic reaction of some kind could not be excluded on the evidence now available

75. There was some evidence that Mark had a number of allergies, including nuts and certain anaesthetic drugs.<sup>32</sup>

76. Given there was no Buprenorphine detected and the Naloxone range was at least consistent with the dose given by paramedics, I have considered the possibility of some kind of anaphylactic reaction to the substance injected which may have contained an unknown impurity. On the available evidence, it cannot be discounted entirely.<sup>33</sup> I have also considered the possibility that Mark suffered a brain haemorrhage unrelated to an injection. However, given that I accept Lori's evidence that there was an injection, the coincidence of this happening at the same time as the injection but being completely unrelated is something I regard as inherently implausible.

77. The result of the conflicting medical evidence is that I cannot be certain to the requisite standard that Mark's death was caused by the injection of the substance Suboxone. It may be that Mark attempted to use Suboxone but the

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<sup>31</sup> See Exhibit 6

<sup>32</sup> Statement of Kety Lucic Exhibit 1, Tab 16, see also Exhibit 7 Correspondence of Dr Magdy Maximos and various Hospital records Exhibit 1, Volume 2, Tab 3

<sup>33</sup> See evidence at Inquest of Dr Anthony Ansford, 4/9/2015

“cotton” Lori referred to had been well and truly depleted by the time Mark came to use it. It may be that a miniscule amount of Suboxone was injected alone or with some unknown impurities. However, I am satisfied that an injection of some sort triggered the catastrophic events that caused Mark’s death.

78. While there were some discrepancies in the accounts given to others after the event, it is clear that Lori told the “000” operator about a shot of Suboxone. She repeated that to the ambulance officers and to treating doctors at the Hospital after arrival. I am of the view that Lori believed that Mark had a shot of liquid which had been washed through an old cotton previously used to administer Suboxone.

**Is it possible Mark committed suicide?**

79. I have carefully considered the evidence in this regard. Certainly Mark’s old friends and relations were of the unanimous view that Mark would never take his own life.

80. There is no doubt that Mark was under considerable pressure at the time. He was concerned that losing his driver’s licence would mean that his apprenticeship position was in jeopardy. He was experiencing considerable difficulties in organising consistent and appropriate contact with his daughter. A number of witnesses described him as being depressed or having difficulties<sup>34</sup>. However there is nothing in the private text messages between Lori and Mark to indicate despair or that he was considering suicide. Mark had previously come through many very difficult times and it is most likely that he would have again, had his life not been cut short. There was nothing in the account given by Lori to suggest he was contemplating suicide after she brought him home from TAFE that afternoon.

81. In my view self- inflicted death can be safely ruled out. Whatever happened to Mark on 25 February 2014, it was a tragic accident.

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<sup>34</sup> Evidence at Inquest of Karen Wainstein 3/9/15 and Kety and Alen Lucic 1/9/15

## **Conclusion**

82. Having considered all the evidence I am unable to establish to the requisite standard whether Lori injected Mark on 25 February 2015 or whether he injected himself. I have no doubt that an injection took place and I consider it possible Lori assisted in this regard. However, given that Mark is dead, only Lori knows what really occurred and she denies it. While I accepted her as a witness of truth in relation to some issues, I have remaining doubts as to her truthfulness on this subject.

83. I have little doubt that Mark wanted a dose of something to make himself feel better when he returned home on 25 February 2014. The text messages suggest that he was feeling sick. I think it most likely that Lori is telling the truth when she says an old cotton was washed out to give Mark some relief from the withdrawal symptoms he was suffering. Surprisingly no Buprenorphine has been found in his blood. It may be a fault in the testing process, It may be that had we been able to test a bile sample a trace of Buprenorphine would have been found. It may be that with a history of allergies Mark reacted to some unknown substance or impurity in the liquid that was injected. Whatever the case I am of the view that an injection triggered the medical catastrophe that followed.

## **Findings required by section 81 (1) *Coroners Act 2009* NSW**

84. As a result of considering all the documentary evidence and the oral evidence heard at inquest, I am able to make the following findings.

### **Identity of the deceased**

The identity of the deceased is Mark Lucic

### **Date of death**

Mark died on 26 February 2014.

**Place of death**

Mark died at Royal North shore Hospital, St Leonards

**Cause of death**

Mark died from an intracerebral haemorrhage as a result of hypoxic ischaemic encephalopathy triggered by an intravenous injection of an unknown liquid.

**Manner of death**

Mark's death was accidental. It is not established whether Mark injected himself.

I offer my sincere condolences to Mark's family and friends and to Ms Lori Wainstein. Mark's premature death must be extremely difficult to bear. He was clearly a well-loved young man who is dearly missed by many.

I close this inquest



Harriet Grahame

Deputy State Coroner

15 October 2015