

MEDIA RELEASE

NSW BAR ASSOCIATION WELCOMES RELEASE OF EARLY RESULT OF INQUIRY INTO CONVICTIONS OF KATHLEEN FOLBIGG

5 June 2023



The NSW Bar Association welcomes the release by the Hon. T F Bathurst AC KC of his firm view of the result of the *Inquiry into the convictions of Kathleen Megan Folbigg* that there is reasonable doubt in relation to each of her convictions.

The Association also welcomes the swift pardoning of Ms Folbigg by the Governor consequent on the recommendation by Attorney General Michael Daley that there be granted an unconditional pardon prior to the delivery of Mr Bathurst's comprehensive report, and her release from custody.

"The pardon today is due to the diligent work of Ms Folbigg's advocates, her legal representatives and those assisting Mr Bathurst AC KC," says Gabrielle Bashir SC, President of the NSW Bar Association.

"The appeal and review provisions available in NSW ensured legal avenues of challenge remained available to Ms Folbigg as science advanced and new and compelling evidence became available that tended to undermine propositions foundational to findings of guilt in the original trial and appeals.

"The Inquirer stated the expert evidence before the Inquiry underpins the reasonable possibility of the natural death of three of her children and, accordingly, a reasonable doubt also in relation to the fourth child. It was in this context that her diary entries have now been re-considered, with the Inquirer concluding the entries were explicable as the words of a grieving, possibly depressed and traumatised mother, and typical of responses of some parents whose children have died from natural or unexplained causes.

"We note in particular the summary that 'none of the behaviours of Ms Folbigg can be described as anything but normative of young mothers of infant children' and that the 'balance of evidence was that she was a loving and caring mother'.

"In these circumstances, the immediate unconditional pardon upon the Attorney's recommendation permitted the release of Ms Folbigg from custody prior to the delivery of the Inquirer's report and any consideration by the NSW Court of Criminal Appeal of quashing of the convictions of Ms Folbigg."

The Association awaits delivery of the final report of the 2022 *Inquiry into the convictions of Kathleen Megan Folbigg* by the Hon. TK Bathurst AC KC before providing further comment.

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