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## TRANSCRIPT OF PROCEEDINGS

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**THE HONOURABLE MARGARET WILSON QC, Commissioner**

**MR P. FREEBURN QC, Counsel Assisting**

**MS C. MUIR, Counsel Assisting**

**IN THE MATTER OF THE COMMISSIONS OF INQUIRY ACT 1950**

**COMMISSIONS OF INQUIRY ORDER (No. 4) 2015**

**BARRETT ADOLESCENT CENTRE COMMISSION OF INQUIRY**

**BRISBANE**

**9.30 AM, TUESDAY, 23 FEBRUARY 2016**

**Continued from 22.2.16**

**DAY 12**

**RESUMED**

**[9.30 am]**

5 COMMISSIONER WILSON: Good morning, ladies and gentlemen. Are there any preliminary matters? Mr O'Sullivan.

10 MR O'SULLIVAN: May it please the Commission. There is one preliminary matter that is likely to become of some importance. I told you on Friday that there was an issue with the statement of the chief health officer concerning parliamentary privilege and I told you that - - -

COMMISSIONER WILSON: Yes.

15 MR O'SULLIVAN: - - - we would seek to address that and sort it out without needing to trouble the Commission about it.

COMMISSIONER WILSON: Yes.

20 MR O'SULLIVAN: Attempts have been made to sort that out and they have so far not succeeded and we do have a concern about the practical impact of the current position on you, Commissioner, and on the Commission. Can I just explain the issue and hand up a letter.

25 COMMISSIONER WILSON: Yes, please do.

30 MR O'SULLIVAN: I'll hand up a copy of a letter of 22 February 2016 and I'll make a copy available to those at the bar table. Now, what I'm giving you, Commissioner, is the letter that was sent in an attempt to do as we said and resolve the issue and the – if Commissioner, if you could read just briefly or scan the letter you will see that the first couple of paragraphs record what I said to you on Friday and the decision that you made is set out in paragraph 5 that you admitted it into evidence but noted that issues of privilege arose. Paragraph 6, we explained to Crown Law, who act for Dr Young, the position. The facts are set out at nine to 16 which we understand to be uncontroversial. Could you read those please,  
35 Commissioner.

COMMISSIONER WILSON: Yes.

40 MR O'SULLIVAN: The legal position is important and it is set out, in our submission, in paragraphs 17, 18 and 19 and 20. And our conclusions and the submissions we make about the legal position are set out at 22, 23, 24 and 25. The concern on the part of my client, as I mentioned to you on Friday, is he not inadvertently become in contempt of Parliament. At 26 we explain that point. At 27 and 28 we speak about some practical issues and then at 29 we explain why we're  
45 writing to Crown Law who act for Dr Young that she would have an interest in not being in contempt of Parliament. And then at 31 we say it's not appropriate for nothing to be done. And at 31 we set out the course of action that we say is

appropriate to be taken. Now, the detailed reasoning and submissions sit behind the contention that mere - - -

5 COMMISSIONER WILSON: Before you go on Mr - - -

MR O'SULLIVAN: I'm so sorry.

10 COMMISSIONER WILSON: Before you go on, Mr O'Sullivan, where can I get a copy of the document in question, readily?

MR O'SULLIVAN: The easiest way is the affidavit of Dr Young.

15 COMMISSIONER WILSON: Well, I don't know that that's in court and it probably should not be shown on the screen - - -

MR O'SULLIVAN: No.

COMMISSIONER WILSON: - - - in the circumstances.

20 MR O'SULLIVAN: Can I take you to the reasoning and then we can go to Dr Young's - - -

25 COMMISSIONER WILSON: Well, can I ask this: are you wanting to make full submissions on this now?

30 MR O'SULLIVAN: No, I'm not. I'm simply alerting you because what I was – I want to say two things, Commissioner. The first is the detailed reasoning behind the submissions we make about parliamentary privilege you will find attached in the letter of 10 November which you have, Commissioner. The practical issue is this, the preliminary view of the Crown is that it's not possible to waive parliamentary privilege and there's some authority in favour of that. But that creates a real problem because, as we understand it, what has happened in this Commission is a large number of documents which are privileged have been provided to the Commission in the form of estimates brief and PPQs. We have said in our written correspondence that that shouldn't be produced because it's in breach of privilege to do so and we've said also, in our written submissions, that the tribunal shouldn't refer to or rely upon that or put it into evidence because doing so is to impeach the proceedings of Parliament and amounts to a breach of privilege and contempt.

40 Now, the problem is this: it's plain from Dr Young's affidavit that staff in the Commission have been reviewing estimates briefings and have been taking instructions and considering what to do on the basis of those estimates briefings. We see that from Dr Young's affidavit and the notice that was issued to her. We understand from what we've been shown that there are very many other documents in that category. The inference is they have been looked at and reviewed by  
45 Commission staff. Now, the problem is that shouldn't have happened. It shouldn't have happened because the obtaining of that information is a breach of the relevant

legislation. Now, it shouldn't have happened and the position then is that the Commission has in its possession material that it has had regard to and it has been conducting itself on the basis of this information. And we can see from Dr Young's affidavit one thing they have done is ask her questions.

5

Now, the position we have been taking hitherto is that these problems can be solved by obtaining waivers of privilege in respect of these documents. If the position of the State is that can't be done and the privilege is absolute there is a real practical problem because at the moment we don't know - - -

10

COMMISSIONER WILSON: Mr O'Sullivan - - -

MR O'SULLIVAN: - - - how many documents there are - - -

15

COMMISSIONER WILSON: Just let me ask you this: these submissions which you're making this morning, do they affect the evidence about to be led from Dr O'Connell - - -

MR O'SULLIVAN: No, they don't.

20

COMMISSIONER WILSON: - - - and Mr Maynard.

MR O'SULLIVAN: They don't.

25

COMMISSIONER WILSON: Both of those men have come from interstate to give evidence. I would like to get on with their evidence. I will give you a full hearing - don't be concerned about that - but I would like to get on with their evidence - - -

MR O'SULLIVAN: I understand that.

30

COMMISSIONER WILSON: - - - this morning so that they can get away.

MR O'SULLIVAN: I understand that, Commissioner. I'm raising it now because my final submission is what you should obtain is assistance from Counsel Assisting. You should obtain assistance on this and you should obtain proper and full submissions from the Crown, from me and Counsel Assisting so it can be dealt with in an orderly way. That's all I wanted to say, Commissioner.

35

COMMISSIONER WILSON: Well, with respect, it's not really being dealt with in an orderly way just at the moment when I am presented with correspondence and not even a copy of the relevant document.

40

MR O'SULLIVAN: Yes.

45

COMMISSIONER WILSON: But I will give you a full hearing on the matter but not at the moment. I intend to proceed with the evidence of Dr O'Connell and Mr Maynard.

MR O'SULLIVAN: Good.

COMMISSIONER WILSON: Alright. Thank you. Yes. Is there anything else by way of a preliminary matter?

5

MR FREEBURN: Commissioner, can I deal with a couple of housekeeping matters.

COMMISSIONER WILSON: Yes, Mr Freeburn.

10 MR FREEBURN: Yesterday I omitted to tender and I should have tendered two documents and I now seek to tender them. The first is an email by Ms Kelly to Dr Kingswell and others of 7 August 2013. It's document MSS.001.001.0040.

COMMISSIONER WILSON: That will be exhibit 00223.

15

**EXHIBIT #00223 ADMITTED AND MARKED**

20 MR FREEBURN: And the next document is the second version of the issues register which I took Ms Kelly to.

COMMISSIONER WILSON: That's the one prepared by Dr Brennan, is it?

25 MR FREEBURN: I mistakenly said yesterday it was annexed to her affidavits. It's in fact in the documents that were supplied by her so my label is for second version of issues register and it's document DAB.004.0001.0037.

COMMISSIONER WILSON: That will be exhibit 00224.

30

**EXHIBIT #00224 ADMITTED AND MARKED**

35 COMMISSIONER WILSON: Are there any other preliminary matters? Yes, Mr Freeburn.

MR FREEBURN: I call Dr Anthony O'Connell.

40

**ANTHONY O'CONNELL, AFFIRMED**

**[9.40 am]**

**EXAMINATION BY MR FREEBURN**

45

COMMISSIONER WILSON: Thank you.

MR FREEBURN: Dr O'Connell, I'll take you first to your witness statement, and I understand there's a qualification you wish to make. Could we go to  
5 DTO.900.0001.0002. Now, if we can scroll down to paragraph 16A of your  
statement; it should be page 15. Now, you say there in 16A you cannot specifically  
recall seeing the note, meaning the briefing note, and do not have a copy signed by  
me, so you're unable to say whether you saw it. As I understand it, you have now  
subsequently seen a signed version?---Yes, I have. Yes.

10 Can I take you to that document, please; the document number is  
QHD.008.001.3858. Now, if we go to the last page, I think, we should see your  
signature on it – sorry – page 4 of the document. It's blocked out, but you've  
obviously seen a signed version?---Yes, yes. It has my signature there.

15 If we go back through – the way these briefing notes work is that there's a – or the  
way this one works is a brief to the Minister on the top and a brief to you in the  
remaining pages; is that right?---Yes.

20 And if we go back to page 1 of the document, the Minister's section, you see the  
second note:

25 *West Moreton Board considered the recommendations of the expert clinical  
reference group on 24 May and approved the closure of the Barrett Adolescent  
Centre depending on alternative appropriate care provisions for the adolescent  
target group and the meeting with the Minister.*

30 And then there's mention of the parent community, mental health sector and media  
interest; correct?---Yes.

35 And then there's a note about the proposed next stages of the strategy, and you see  
that must refer to the subject of the document, which is Barrett Adolescent Strategy  
Meeting; see the subject?---Yes.

40 What was the Barrett Adolescent Strategy?---The strategy was a strategy to move the  
services provided by the Barrett Adolescent Centre from that facility to elsewhere,  
and to adjust the model of care so it was more contemporary and suited the  
requirements of the patients and their families, in broad – in broad terms.

45 And so what was the next stage of that process that was being discussed?---The next  
stages were further consultation - - -

Okay?--- - - - and the development of the alternate models.

Now, your statement says – or your two statements say in a number of places that  
you have no recollection of being briefed on the ECRG report; correct?---Yes,  
45 except that, obviously, the ECRG report is included as an attachment in this  
document, which wasn't attached to the original version of this document which the  
Commission sent to me - - -

Right?--- - - - when I made my first statement.

I see?---So, clearly, there is a report from the ECRG as one of the two attachments to the – to the briefing note.

5

Can I just – if we go to page 3 of this document that’s on the screen - - -

COMMISSIONER WILSON: Excuse me. Before you do that, could I see the bottom of the page that was there before? It was 3858. Now, just scroll down a little, if you would. I see. Thank you.

10

MR FREEBURN: So if we go back to page 3, you’ll see there’s – at the bottom of the screen, if we scroll – we can see the heading Attachments. And do I take it, Dr O’Connell, that those attachments may well be misdescribed; is that right?---I say so, because the first attachment, which is described as agenda: Barrett Adolescent Strategy, is actually the report of the ECRG.

15

Right. But what I’m getting at is do you have a recollection of seeing the ECRG report or are you just accepting now that you’ve seen this fresh document that the ECRG report must have been attached? Do you see what I’m asking you? I’m asking you - - -?---Yes.

20

- - - about your recollection. Do you have a recollection of seeing it?---I don’t have a specific recollection of seeing it.

25

Okay?---But if it – if this is the attachment which did accompany the original brief that I signed, then I would have read it, because it was my practice to read the attachments unless they were 500 pages long, in which case I’d look for advice about them. But this is a document which is only about eight pages long, so I would have read it at the time.

30

Alright. If I could just mention a couple of things that are in the ECRG report, one is that a tier 3 service is essential; that’s one of the things that the ECRG says. Do you have a recollection of either seeing that in the report or understanding that an expert group was saying that?---At this moment in time, I don’t remember specifically seeing that. However, to my mind it seems quite a logical thing for such a group to say that they would expect that there would be a tier 3 service, which I take to mean extended treatment, institutionalised care for some patients. That would be something which wouldn’t surprise me at all to see in a recommendation. Now, the – the language of, you know, what tier is what - - -

35

40

Yes?--- - - - something which is fairly arbitrary that this group has come up with themselves, I think. But that doesn’t matter.

Yes. It’s really labelling?---It’s labelling, yes.

45

Yes. And the other thing that the ECRG report talk about is that they talk about the interim period, meaning if the Barrett Adolescent Centre closes and there is not a tier 3 available. So they're talking about that interim period, and they're saying it's associated with risk. Do you have a recollection of either seeing that in the report or understanding that concept?---I don't have a recollection of seeing that in the report; clearly, it is in front of me now. But, again, that doesn't surprise me, because there would have been a strong sense that a number of people had that there needed to be the ability to hospitalise for months on end some patients. And I must say, it was always my intention that if I continued as Director-General that the mixed services which would replace the Barrett Centre would include a mix of both inpatient beds and community support services.

Alright. Let's assume that you read it or you didn't read it. Is there – whether you read it or not, was there somebody in your office who had responsibility for looking at this document for providing advice about it and reporting about it?---The – the people who looked at the document were the people who are in the chain of signatories to the briefing note, so Dr Leanne Geppert, and then Sharon Kelly, and then the CEO of West Moreton, Lesley Dwyer. So - - -

Do you know that, or do you just assume that from the briefing note?---It's in the briefing note, and it comes as absolutely no surprise to me.

Right.

COMMISSIONER WILSON: Can I ask a question, Dr O'Connell? The three people you've just referred to were all associated with West Moreton?---Yes.

Was there anyone in the Health Department itself whose job it would have been to review this document and give you advice?---Yes, and in fact they have been consulted. Paragraph 9 in the brief says the consultation about the proposed next stages has been limited to Dr Peter Steer, who was the CEO of the Children's Services; myself; Dr Cleary, who was the Deputy Director-General responsible; and Dr Bill Kingswell, who was a senior psychiatrist in the Department.

Thank you.

MR FREEBURN: Can I take you to paragraph 10 of your original statement, please; it's page 6 and 7. Just scroll back up. You'll see the question being asked of you is to, in effect, explain your involvement in the decision not to proceed with the – let's call it the Redlands Project, and your answer is that your recollection of the decision to not proceed with Redlands is that it was, and then you set out six things in paragraph 10(a). The introduction to 10(a) talks about consultations between various stakeholders, including the QH Executive. Who were the various stakeholders; do you know?---I can't remember specifically, but I would – I would think that it would have included representatives from the Metropolitan South District, which the Redlands facility was located within, and, certainly, I know

5 that there had been correspondence from the then-head of that district to the Minister, from Professor Peel. It would have included, as I said here, the Queensland Health Executive, and each of those members of the executive, who are almost all deputy directors-general, would have sought advice from the relevant subordinate officers within their divisions.

10 Dr O'Connell, in that answer you said several times would have. Does that mean that you don't have any knowledge of it, but you're assuming that's what happened?---Yes, I assuming that that's what happened.

15 And who precisely are the QH Executive? Who's - - -?---They're the deputies director-general.

15 Dr Cleary?---Janette Young, the chief health officer; the head of infrastructure, who I think was John Glaister at the time - - -

And, again, you're assuming that those people were consulted?---Yes.

20 Now, you then give the six reasons, the first one being extended land acquisition timeframes, which meant that the timely and efficient running of this capital project were compromised. What does that mean?---There's a – there's a process that one goes through with the building of a new facility, new hospital buildings on an existing hospital site, which involves a number of steps, including purchasing the land, zoning it, getting infrastructure plans written. There's numerous steps which  
25 required before, eventually, the building goes up and it's commissioned. And there had been delays in a number of the steps.

30 Well, you're saying here, aren't you, that there's delays in acquiring the land?---Yeah. I've used the expression land acquisition timeframes in the broadest sense. It's not just the day you sign the contract, purchase the land. It's – it's the surrounding elements as well, assessing the value, you know, is it good value for the money, you know, all of those elements to – to – to the purchase.

35 You see, from other documents that the Commission has seen, the land was acquired within 12 months or so of the Queensland Plan for Mental Health being approved by cabinet?---Mmm.

40 That doesn't look to be a long period of time?---No, and that's why I'm referring – that's why I'm using this – this expression quite loosely. It's not just the day you buy the land. It's all of the processes before and after that. It was expected that this facility would have been opened, I think, before the date that I aborted the project.

45 So - - -?---So – so that gives you an idea of how many steps must have been delayed for us to reach this point.

Where did you get the information for that from?---For my statement in 10(a)(i)?

Yeah, 10(a)(i)?---I think that's in a – a cabinet-in-confidence briefing note.

That you had subsequently seen or that you saw at the time?---I would have both – I would have both seen at the time and, yes, have subsequently seen it.

5

See, 10(b) talks about delays in confirming the model of service delivery to inform the project definitions and schematic design. What were the delays there?---Well, there had to be consensus on how exactly were the patients going to be serviced. What percentage of patients would require long-term residential care, what facilities and services other than purely nursing care and psychiatric care would be required, so this whole decision about what percentage of the patients are going to now be serviced in the community, rather than as inpatients in long-term residential extended care. So – so that – that process of determining what the model of service was going to be was something which was going through ongoing stakeholder engagement and discussion amongst the relevant parties.

10

15

There had to be a document produced called the model of service, didn't there?---Ultimately, there would be likely to be a document produced, yes, but not all models of care are well-documented. Some models of care are historical practice and people are so familiar with them that it's not felt necessary to document them in detail.

20

So what did you understand the delay to be? Do you understand the delay to be existing at the time of the decision?---Yes. Yeah. The delays, as I said, were getting a consensus on what exactly would be the model of care, because that then determines how many rooms you need and how many kitchen facilities etcetera. You know, are there going to be parents staying in the facility while their adolescent children are there, for example? It all determines what the nature of the building, the architectural nature of the building has to be.

25

30

Dr O'Connell, does it accord with your recollection that a final or all but final model of care had been prepared about two years prior to this?---I don't – I don't recall it.

So where did this information come from?---It would have come from the advisors within the mental health branch who were informing the conversations on which the briefing notes was based.

35

Right?---Briefing notes were based.

40

So if we go back to the briefing note, the people that you mentioned before, Dr Geppert and those people; is that right?---Yes, some of them. Yes.

And that, with respect, was a different briefing note?---Sorry, yes, it is.

45

So are you able to say who – what advisors?---I can't say specifically, but it is most likely that it would have been the senior staff within the mental health branch, the chief psychiatrist etcetera.

The third item you mentioned there is:

*Challenges with the low-lying site at a time of sensitivity to health facilities being flood-prone.*

5

Again, where did you get that information from?---That's – that's my recollection. Certainly, we'd had a lot of discussions about the fact that there were one or two hospitals in Queensland which kept flooding whenever there was high rainfalls and cyclone-associated weather. And – and there was just a sensitivity, as I say, at the  
10 time to making sure that if we were putting up new buildings that we would try to avoid low-lying sites as much as possible.

So– just to get it clear, was this not just a drainage problem, it was a flooding  
15 problem that you recall?---Well, as I said, it was a general sensitivity to the fact that there had been facilities in – amongst the 182 in Queensland – hospitals – which had been prone to flooding, and this was a topical issue at the time and so it was a consideration that we would want to avoid any low lying sites.

You see as a part of this Commission process, we've had a look at – you know  
20 Professor Crompton headed a group called the capital project team or something like that, that ran this project?---Right. I – I - - -

You know who Professor Crompton is?---I know of him, yes.

25 Yes.

MS MELLIFONT: Your Honour, could I just – Commissioner, can I just object but  
only to clarify the name of the team. It's not the capital projects team, it's the facility  
– the facilities project team. They are actually different teams.  
30

COMMISSIONER WILSON: Thank you, Ms Mellifont.

MR FREEBURN: Thank you. Facilities project team. You may not have been  
familiar with the actual processes happening at the time but the facilities project team  
35 for this project had about 18 meetings or thereabouts and early on in October 2009 they note that the drainage issues had been resolved?---In which year, sorry?

2009?---Right.

40 But I gather from what you've said you've got no direct knowledge of any of this?---2009 was before my time as Director-General, yes.

Right. But where did you get the information that informs this paragraph, that there  
were challenges with the low-lying site?---I can't remember.

45

MR DIEHM: With respect, Commissioner - - -

COMMISSIONER WILSON: Yes, Mr Diehm.

MR DIEHM: - - - the question seems to assume that there is some incongruence between those two propositions and the assumption isn't valid. One is talking about  
5 drainage. One is talking about flood-prone.

COMMISSIONER WILSON: Well, with respect, Mr Diehm, as I'm following the questioning Counsel Assisting is gently challenging the reasons which are set out in this affidavit on the basis, I think, that they seem different from the other evidence  
10 that's before the Commission in some respects. Is that correct, Mr Freeburn?

MR FREEBURN: Yes. And I'm particularly focusing on what the source of the information is. That's why in each case I'm asking Dr O'Connell to try and identify, if he can, where the information has come from. And the question that my learned  
15 friend has just objected to was focused on where did that information come from.

COMMISSIONER WILSON: I'm going to allow the question.

MR FREEBURN: I'm not sure whether you answered, Dr O'Connell, but do you  
20 know where that information came from?---No. I can't remember where it came from, however, could I make the comment that even if it had been resolved in 2009 the process to resolve it may have been one of the factors which ultimately resulted in the fact that we got to this point in time and we were extremely late on the project  
25 plan.

Your fourth item is budgetary constraints. Are you able to give us any detail of what the budgetary constraints were?---It was – it was a combination of – of things. The – my recollection is that the actual project was over budget although I – I'd need to confirm the exact amounts to – to say that confidently. But certainly the  
30 environment at the time was that the – the Newman Government had come into power and we had a commission of audit which had identified that there had been significant overspending by the Health Department for the budgets that had been allocated to it for the previous two years and that it was necessary to reduce both operational spending and capital spending to stay within the budget that was allowed  
35 and so that would have been the environment in which this – this was considered.

And the fifth item talks about a community infrastructure designation or CID process. That's fairly frequent that a capital project has to go through that sort of process, isn't it?---Yes. Yes, it is.  
40

And - - ?---However, as it says in the second half of the sentence, it needed to come to grips with the fact that there was a significant koala population resident near the site which was causing delays.

45 And again, are you able to identify where that information came from?---A cabinet-in-confidence briefing note.

I see. And then you talk about an emerging clinical preference to care for patients currently treated in the BAC in a more community-based, closer-to-home models of care rather than an institutionalised model. And you – I think, elsewhere you explained – again, your supplementary statement explained what you mean by  
5 emerging clinical preference. But I think you said before, didn't you, that had you continued in the role you still envisaged that there would be some inpatient care and some community-based care?---Yes.

10 Okay?---And in fact there were a couple of beds in the Mater Hospital which were designated as appropriate for extended care of adolescent psychiatric patients and there was a plan to add an additional couple of beds when the new Lady Cilento Hospital opened - - -

15 I see?--- - - - of that type.

Now, this group of questions about these six things, you will see that I've been trying to find out the hard facts behind it, that is, where you got that information. What sort of system was in place to check these things. This is – sorry, I'll leave that. So did you have a system for checking facts that you were given?---It's always possible for  
20 the Director-General to pursue areas of – which aren't clear in the briefing note but generally speaking the briefing note comes from a Deputy Director-General or from a CEO of a health service. In this case, with regard to the Redlands project being terminated, it came from staff within the Department of Health and the relevant Deputy Director-General. So each of those Deputy Directors-General would have  
25 sourced information from the officers who – whose job it was to provide advice which supported the recommendations that the Director-General was being sought to approve and – and then some – some conversations of – would be had at the weekly executive meeting about issues which were pertinent to a couple of the Deputy Directors-General so that everyone was on the same page when the Director-General  
30 finally signed off on things.

Dr O'Connell, as I understood part of that answer you are saying that officers within the department report in this case a Deputy Director-General and then they report to you?---Yes.

35 And the mechanism for reporting to you is by the briefing note. Is that right?---Yes. And clearly it can be supplemented with telephone conversations, face to face meetings and the discussion of the topic at executive meetings but the Commission would have noticed that nearly all of the briefs which have been tabled have about  
40 six signatories to them. So it's generated by a fairly low-level officer but then it's checked by various officers who add a level of experience and expertise to the decision before it's then finally presented to the Director-General for approval. And then – and then the Director-General also has knowledge which perhaps even the officers below aren't aware of because the Director-General is doing things like  
45 attending Cabinet budget review committee meetings, having separate meetings with the Minister and the Premier and – and Treasury officials. So there are other

considerations which the Director-General can take into account in either agreeing to or vetoing a – a proposal for approval.

5 You see, I'm asking specifically not so much about policy areas, but about facts. If there was, say, a problem with flooding or koalas, don't you at least get somebody to go there and do a report or some sort of fact-checking?---No, because the problem with koalas would only appear on a document like this because it had already been examined. The alternative that you're implying is that someone's inventing a problem with koalas.

10

Or overstating?---Or overstating, yes. To what end though? The people who would be recommending these actions to me would be highly reputable people. You know, the two most relevant in this decision would have been a deputy director-general who's also the chief health officer, who had responsibility for the mental health  
15 branch at the time, and John Glaister, who's a senior – who was at the time a senior  
- - -

So - - -?--- - - - officer, previously director-general of a smaller department.

20

But isn't the point that what you're saying there is that there's a trust that you have that the level below you had done their job properly. But you know, don't you, that they're not the ones that are – that the deputy director-general isn't ascertaining the facts, is he?---There has to be a level of trust throughout the organisation. It's a massive organisation. It's got 182 hospitals. At the time, it had 85,000 employees,  
25 and we're spending \$12 billion a year. You know, it's larger than any of Australia's listed companies in terms of employees alone.

25

30 Yes?---So it's massive, and there has to be a sense of cascading down of both responsibility and accountability to officers below, and – and that's why the appointment of senior officers in a government department are such important appointments, because they have to be people who are able to prioritise, to balance, to assess situations and to be suspicious about decisions that are being asked of them.

30

35 You see, the other problem – the opposite way to look at it, Dr O'Connell – and we're really dealing with a decision-making process here – is that if you get a report from a junior officer that goes up the line through several steps to the deputy director-general, and then you to by these briefing notes, isn't the danger of Chinese whispers?---Yes, of course there's that danger, and, you know, it's possible that – that mistakes have been made at each level in the decision-making by each of the  
40 officers at each of the levels. But the more levels there are, the more secure the process is overall, but, possibly also, the more delayed the process is in – in acting.

40

45 Can I suggest that one way to avoid that risk that we've been talking about is for you to be able to say where's the report that underpins this briefing note?---Yes, and on numerous occasions I have done that. But I receive – I would have received dozens of briefs every week in the role, and in the end, as you say, you have to trust the people who are advising you and providing the information. Now, as I said, most of

45

the – those – the information that I've quoted in those six points came from a cabinet-in-confidence briefing.

5 You mentioned that in relation to two of them, I think?---I think they're all mentioned in cabinet-in-confidence briefing. So, in other words, this was – this was a – a set of factors and – and opinions which were held strongly enough that it was felt reasonable to advise the government in its decision-making about spending, you know, what the issues were.

10 The cabinet briefing notes or cabinet documents that you're talking about: don't they have the same providence as the briefing note that you've got? They can - - -?---Yes, and in fact – yes. And the – and officers within the various agencies which are privy to the note, such as Department of Premier and Cabinet, Treasury etcetera would also be at risk of not understanding or not being willing to check fact. But I can assure  
15 you that they did. They had low thresholds for checking on the facts which the Department's submitting the brief to cabinet had assembled.

Now, can I take you to a different topic.

20 COMMISSIONER WILSON: Before you move onto that, Mr Freeburn, can I ask a question which may sound a little naïve, but I'd be grateful if you'd clarify it for me. It was you who signed off on the cancellation of Redlands, wasn't it?---Yes.

25 You had the authority to do that?---Yes.

Why then was a brief in relation to it referred to cabinet?---Those cabinet notes were not – were not about the issue of should we abort the project. Those briefing notes to cabinet were about the progress of the infrastructure plan for mental health, how the various capital projects – of which there were many – were going. So the section  
30 which describes how was the Redlands project going had these notes in it. There are delays, it's over budget, there are issues with koalas.

I see. You're talking about an actual briefing note to cabinet as opposed to the review of the 10 year mental health plan which went to Cabinet in about  
35 2011?---Yeah. The – the Labor government at the time, until it was removed in March 2012, was very interested in how the progress of the various mental health infrastructure projects were going, because a number of them were delayed, and so there were, I recall, reasonably regular reporting on how they were progressing. So what I'm quoting is one of those updates to cabinet on how that project was going.

40 Thank you.

MR FREEBURN: Dr O'Connell, you see what I'm suggesting before was really that, ultimately, the briefing note that you get is a long distance from the actual facts  
45 on the ground. Do you appreciate that that looks to be a problem?---Yes. It's a – it's a – an intrinsic problem in the way that government works, and, in fact, it's one of the reasons why across Australia there was a move to devolve responsibility for

5 decisions which had previously been taken largely by Departments of Health as big, central bureaucracies down to a level which was much closer to what was happening on the ground, which is why all of the Australian states started to introduce what in Queensland we called hospital and health services, with their own board, 17 of those, so the decision-making could be brought down to a level where there was much more of a sense of the credibility of the information that was coming through.

10 Alright. You mention in paragraph 10(f) on page 8 of your statement the budget repair strategy – sorry – the - - -?---Fiscal.

- - - fiscal repair strategy. Sorry about that. Now – and I think you explained the background to this. There was a new government in March 2012?---Twelve.

15 And that fiscal repair strategy was an attempt to lower the costs and lower the health budget spend; is that right?---Essentially, yes. The – the overspend by the Department of Health, including through its 17 or so districts, as they were at the time, in the year before I became director-general was an underlying deficit of \$291 million. In other words, the system had overspent what Treasury had allocated. It doesn't appear that way in the annual statements because Treasury effectively bailed  
20 out the Department of Health towards the end of the financial year. But there had been a worsening overspend in the previous five years.

25 Okay. Now, I want to take you to a document. Commissioner, this is a document – or at least part of a document. It's cabinet-in-confidence. I propose to deal with this in a conventional hardcopy way, rather than put it up on the screen, if you don't mind.

COMMISSIONER WILSON: Very well.

30 MR FREEBURN: Thank you. And I've got a number of copies for – so I'll hand up a copy for you, Commissioner, and for the witness, and we've got copies to hand around. It may seem very old-fashioned to do it this way, but – now – so just to explain, Dr O'Connell, it's only pages 24 and 25. That's all we've been permitted to see for the moment. But do you recognise that as being part of a cabinet-in-  
35 confidence document?---Certainly labelled as cabinet-in-confidence.

Are you familiar with it?---There were monthly cabinet-in-confidence papers which went up, so it may well have been one of them.

40 Did they go through your office?---Yes. But as I said, that would mean that I had seen about 30 of them in my time as director-general. I can't remember the subject headings for each of them.

45 Yes, I understand. You'll see one of the pages is page 24 and another page is 25. So it obviously forms part of a larger document. So would this be one of the monthly cabinet budget review committee papers that went up from your office to cabinet?---It could well have been. It would have gone to cabinet. Not necessarily

the cabinet budget review committee, but, yes, it looks as if it is consistent with that. Yes.

5 Alright. Well, I gather from that answer you're not particularly familiar with the document or not particularly familiar with this document. But let's just see if it refreshes your memory. If we go to stage – see the heading in the middle of the page, Stage 1 of the Queensland Plan for Mental Health 2007-2017?---Yes.

10 And there's, sort of, a couple of general paragraphs about the investment under the Queensland Plan for Mental Health. And then in the large paragraph that commences "to abolish or defer", see the second sentence:

15 *However, deferring the Redland Bay 15-bed adolescent extended treatment unit funded under stage 1 of the Queensland Plan for Mental Health is an option.*

That means, doesn't it, it's an option to be cut?---Yes. To either defer or to cut, yes.

20 Do you notice the word used there is deferred? Was there ever a proposal that you were conscious of to defer the project?---I can't ever remember seeing it specifically but it's always possible when a capital project is stopped in a particular location it can be re-innovated at a later date or at some other location. It's always possible. So I wouldn't have – I wouldn't have excluded that as a possibility. And the further back you go in time, the more likely it was that it was considered that a 15 bed unit would've been appropriate. Because the further you go back in time, the more  
25 people were merely trying to physically replace the building which had been found to be problematic by the ACHS and the services within this aged building. As time moved on, other considerations started to be taken into account such as the sentence there of a re-scoping of the clinical service model for the unit.

30 You'll see the three reasons given there are multiple delays to date, an estimated budget overrun of 1.46 and recent sector advice?---Yes.

35 So are you able to say where – that would have come from somewhere in your department, would it, those three reasons?---Yes.

40 Do you know where?---I can't specifically remember but I can make a very intelligent guess that the issue of the budget overruns and the delays to the project would've come from the deputy director general responsible for infrastructure, John Glaister. And the proposal from the sector that there might need to be a re-scoping of clinical service model would've come from the Mental Health Branch.

45 And you'll see there's an identification of the potential cost saving of not proceeding with this project is 15.15 million in capital and 1.82 million in recurrent operating costs?---Yes.

So is it correct to say that one of the reasons for the cessation of the – or the deferring of the Redlands project was to save that capital cost and that recurrent cost?---Yes, one of.

5 One of?---And to put that in context, I was being asked to identify \$100 million in savings in a fairly short period of time before the end of the financial year between when the government was elected in March and the end of the financial year on June 30<sup>th</sup>, 2012.

10 Alright?---So we needed actually quite a few things at least of this order to add up to \$100 million.

If we looked at the rest of this document we might find other projects that went to getting – you said the figure was about 100 million?---To save. Yes. Because we  
15 were already – in that financial year we were, at that point, predicted to be 100 million over budget.

Now, can I just turn to page 11 of your written statement, please. Just to give it some context, you'd been asked about the briefing note for approval, that is the May  
20 briefing note. And you're being asked about the expert advice you sought. And you say:

*As DG I relied on advice given to me –*

25 this in (i):

*...I relied on advice given to me by the relevant DDGs, each of whom sought advice from the content experts relevant to the various aspects of the project. The authors of the briefing note carried out necessary consultations and  
30 considered that cessation of the project was appropriate. I considered that their reasons for the recommendation were justifiable.*

Is that the point that we were addressing before that you relied on the deputy DGs who themselves sought advice from what you describe as content experts?  
35 Correct?---Yes.

There's nothing in the briefing note that sort of says words to the effect of: for further information or for background see these documents or these expert reports, is there?---No, there isn't. But there is an opportunity for me to question the relevant  
40 signatories to the brief.

I see---And I didn't do that because what was being recommended in the brief seemed to be logical and consistent with the various conversations that I'd had over the previous many months about the issue. So this was no surprise that this brief  
45 came to me asking for the project.

Dr O'Connell, are you aware that a decision to cease Redlands with no other tier 3 on the horizon wasn't something that was recommended by the ECRG?---The - - -

MR DIEHM: With respect, Commissioner.

5

COMMISSIONER WILSON: Yes, Mr Diehm.

MR DIEHM: The decision to cease Redlands was made before the ECRG existed.

10 COMMISSIONER WILSON: That's true.

WITNESS: The - - -

COMMISSIONER WILSON: Just a moment, would you.

15

MR FREEBURN: Just a moment. I have to ask you a different question. Was the decision to cease Redlands, to your knowledge, based on any expert views?---Well, I believe it was based on the views which the relevant deputy DGs had sought to write the proposal. And I think it's worth noting that this wasn't an all or nothing decision in terms of the provision of extended care services. Those extended care services continued at the Barrett Centre. It just meant that they were occurring in a building which was old.

20

It's an old model?---Yeah. And – yeah, that's right. It was an old model but a model which was very popular with many people. So stopping the Redlands project was not equivalent to me saying I'm stopping all long term residential care for services for adolescents. It's merely saying that the option to move patients out of Barrett to Redlands is now off the table. We're going to have to think of other options to provide alternative services.

25

30

Dr O'Connell, you would have appreciated, wouldn't you, that the original Queensland Plan for Mental Health and the associated budget documents, they made a budget allocation for, in essence, the new model at Redlands?---No, they didn't.

35

Sorry, they made an allocation for a relocation to a site to be determined?---The cabinet briefing note which talks about the implementation of the Queensland Plan for Mental Health 2007 to '17 specifically says that there is no funding identified for the ongoing operations of the new 140 beds from two thousand and, I think, nineteen when they're meant to open. So there was a plan and there were a number of locations which were talked about as being the places for the services to go but there was no clear long-term funding for the operation of those beds after the initial capital outlay had been made.

40

I see. So your point is, yes, the Queensland Plan for Mental Health and its associated Cabinet documents did provide for a capital allocation for a new model but it didn't provide for recurrent expenditure beyond when?---I think it was about 2010.

45

But wouldn't the assumption be that the recurrent expenditure being spent on the old model would be spent on the new model?---No, no. These were 140 additional beds announced in the 2007 to '17 plan.

5 COMMISSIONER WILSON: Are you talking about what the plan said about  
extended treatment beds?---The plan talked about new beds, new facilities and of  
those there would be 140 new physical beds. And the Cabinet papers which  
supported the release of the plan could not identify the ongoing operational funding  
10 for those 140 new beds. There was money to build the buildings as long as they  
stuck to their project timelines and budgets but there wasn't funding for ongoing  
servicing and it was expected that the Department of Health would find the funds  
internally. Now, of course, this was happening at a time when internally the  
department was being expected to find 100 million in savings. Now, it is true that  
15 the 15 beds at Redlands were meant to be a replacement for the Barrett Centre and,  
yes, funding for those particular 15 could have been sourced from the funding which  
had previously been spent on the Barrett Centre, in theory, but the fact was that in the  
whole scheme of things there wasn't funding for the 140 new beds committed to in  
the plan. I think the other thing that's worth noting, Commissioner, is that the plan is  
20 a 10-year plan. It was promulgated in 2008 and any plan which goes for 10 years is  
very much at risk of being altered and I think this is a perfect example of a plan  
that's -- that's altered because the financial environment changed significantly  
halfway through the plan.

25 MR FREEBURN: The original plan was based on -- sorry. You may not have been  
a part of Queensland Health at the time but you would have assumed that the  
Queensland Plan for Mental Health and the provisions in it were supported by expert  
advice for each of the different segments?---Yes. Generally speaking, plans which  
are of that import are -- are well socialised with content experts, expert clinicians  
before they're -- before they're ready -- or before they're finalised.

30 Okay. Now, can I just take you to paragraph 16(f) of your witness statement which  
is on page 15 of the document. You see the bottom paragraph on that page?---Yes.

Continuing:

35 *I did not seek expert adolescent psychiatric advice at the time of this briefing  
note.*

40 Now, we've forward in time we're talking about a briefing note for noting addressed  
to you as Director-General on or about 8 July 2013?---Yes.

45 So you see there you say you didn't seek that advice as there were no immediate  
plans to close the BAC and the exact nature of alternative care provisions had not  
been delineated. Why? Can you explain that?---Because the briefing note had  
already consulted with relevant parties before it came to me.

5 So you're proposing to close this Centre and you haven't got expert psychiatric advice?---I wasn't planning to close the Centre at that time. The board of the West Moreton HHS was going through a process of planning the eventual closure of the Centre and had been consulting with various parties in the process. The BAC was to continue operating until, as the brief informed me, appropriate alternative arrangements had been made. Now, these events occurred, of course, after 1 July 2012 when the Hospital and Health Services had come into existence as statutory bodies - - -

10 Yes?--- - - - and under the Act had been given the responsibility for, you know, the operational management of the facilities within their geographical drainage area.

But they're not totally independent, are they, Dr O'Connell?---No. No, that's true.

15 And you had staff members who were involved in this. It was a statewide service. You were the system manager. Correct?---Yes.

I just want to, I think, deal with one more matter. Paragraph 19(c) of your supplementary statement. Now, operators, that should be DTO.900.00012.0001.  
20 And paragraph 19(c). Actually, I'll correct that. Can we go back a page to page 9 of the document, please?

25 Now, you see that paragraph in the middle which is 17(b) and you talk about the nature of your input into the closure decision and you say three things. Note the strategy proposed by the entity empowered to make the decision which is West Moreton.

Correct?---Yes.

30 You were reassured by the fact that:

*Relevant officers whose clinical opinions I trusted in the Department of Health had not expressed concern regarding the closure.*

35 Who - - -?---The eventual closure.

Regarding the eventual closure. So who were they?---They would have been the officers who had been consulted as part of the process of generating the – the note, and they – I – to – to mind, I think they included Dr Kingswell, Dr Cleary etcetera.

40 So you're, in essence, saying you're reassured by their silence. They didn't raise any concerns with you?---There were – there clearly were risks. There clearly were concerns that some people had had. There clearly was community interest. So this wasn't – this wasn't a situation where I wasn't cognisant of the potential risks, but  
45 the brief wasn't saying that the centre would close on a particular date, and it's only in hindsight that the Commission knows that it's closed in January 2014. At the time that I received these documents, there was no clarity about when the centre would

eventually close. And all I was receiving was advice that it wouldn't close until appropriate alternatives had been put into place. And knowing the pace that things happened in Queensland Health, I imagined that it would be at least a year between when this brief came and when the centre would ultimately close.

5

And you also say, thirdly, that:

10 *And to be reassured that the entity responsible for the decision intended that the future model of care was aligned to expert clinical opinion and research to ensure it was the best available outcomes for patients, and that the entity had placed dependencies on the closure that were consistent with my own views on the issue of the institutionalisation.*

15 So where is that reassurance?---In one of the paragraphs of the briefing note, which said that – which says that the board won't – just find – find the reference – it's in the briefing note on the Barrett Adolescent Strategy Meeting dated 12 July 2013, and it says the top issues are that the West Moreton Hospital and Health Board consider the recommendations of the expert clinical reference group on 24 May 2013 and that the board approve the closure of the BAC dependent upon alternative appropriate care provisions for the adolescent target group and the meeting with the Minister.

20

Dr O'Connell, that passage you've just read - those two sentences - is interesting, isn't it, because there's no connection between the first and second sentence, is there?---Yes, there is. There is.

25

30 Do you - - ?---You – you – you previously said to me that the expert clinical reference group said that there were concerns about the need to have a tier 3 service and that a transition arrangement, where it didn't exist, would be high-risk. But there's nothing in the second sentence which says that that's not what West Moreton considered would be what was developed. And, in fact, as I said, we knew that there were beds that could be made into long-term residential beds at the Mater, and that we were going to be adding even more when Lady Cilento opened. So, to my mind, there was nothing inconsistent between those two things, the recommendations of the expert advisory group and the board's intent to do this in a risk-averse way.

35

Did you read that passage as the West Moreton Health Service accepting the expert clinical reference group recommendations and acting on them?---I did read it that way. Yes.

40

Thank you, Commissioner.

45 COMMISSIONER WILSON: Dr O'Connell, you said in relation to the cessation of the Redlands Project that other options would have to be explored for alternative care. I take it from that and from your subsequent answers that in your mind there was always an inevitability about the facility on the Wolston Park campus closing and it was just a case of when?---Yes, exactly. In fact, this had been talked about way back to 2007/8, that because of the age of the building it would need to

eventually either be refurbished – which would have been at great expense – or, ideally, replaced. And back in those days, in 2007 and 8, the concept was well, we're just going to move the 15 beds to a new facility with 15 beds. But what occurred, of course, over the subsequent years was different financial pressures,  
5 budgetary pressures on the Department, a sense that in both national and state mental health plans we needed to move more to community-based support, never saying that there wouldn't be a need for some patients to be institutionalised for months on end, but saying that, increasingly, we would want to provide support in the community.

10 So, essentially, it was the age of the building and this idea that some proportion of the patients who had been cared for at an institution such as the Barrett Adolescent Centre could more appropriately be cared for in the community; is that what you're saying?---Yes. There – there – there's a couple of things I'd like to say in response to that. Firstly, another factor which emerged over the years between '07 and its  
15 eventual close was that the campus in which it was on was increasingly going to be used for forensic adult psychiatric patients, and everyone was of the opinion that that was high risk, to leave them in an environment where they could potentially be wandering in the grounds, you know, potentially in the presence of forensic adult patients. And then the other factor was that not only was there a sense that  
20 community support for these patients could be very appropriate and in fact best for some of them, but, that the occupancy of the 15-bed unit had only been, on average, about 43 per cent. In other words, on average, there had only ever been seven in there. So the question then was, well, do we build a 15-bed replacement, given that, you know, there's change of intent, or do we say well, we know that there's up to  
25 about seven who might need long-term residential care. Where can we provide that for them and how long would it be appropriate for them to be residents? Is it appropriate for them to stay in this facility for a couple of years, the way it was occurring with some of them, or is it more appropriate to allow them a six-month period, say, of intense support in a residential setting and then move them out to a  
30 supported community setting?

Can I ask you about the occupancy? You said on average, seven patients. Did you know how that figure of an average of seven was arrived at?---No, I don't.

35 Could it be just a count of how many patients were literally there on one night when some of the patients who were still patients of the Barrett Adolescent Centre happened to be on approved leave, which was part of their treatment and rehabilitation?---I think it would be unlikely that that was the case, but it may be the case. But even if it was the case, it doesn't necessarily mean that you have to have  
40 15 beds if half the patients aren't there; they're on leave for significant periods.

Well, the leave might just be overnight leave - - -?---Might be.

- - - or it might be for a few days. You really hadn't gone into how that figure was  
45 arrived at - - -?---No, no.

- - - is what I'm asking you?---No.

Another thing I'd like to ask you is this: you've spoken of the beds at the Mater and those that you envisaged being available at the Lady Cilento. Did you ever visit  
5 those beds at the Mater?---I can't remember visiting the beds at the Mater, no.

Did you know that they were what are referred to as swing beds in an acute ward?---I can't say that I did.

10 Well, if that were the case, would that have any effect upon your view as to their appropriateness?---Clearly, beds to support these kind of troubled adolescents should be pretty special beds, you know, in the sense of isolated from the run-of-mill beds, appropriately supported by the right nurse to patient ratios, and with more of a home-like setting if they're going to be spending months on end there. So yes, anything  
15 which suggests that the beds are, really, just a slight variant from an ordinary acute bed would be of concern to me. Yes.

Thank you---But I'd repeat what I said before, that there was no plan to close the Barrett Centre overnight, as soon as I approved this note going to the Minister or to  
20 say that he was going to meet with the board. This was something which was months to years ahead, and I believe was time to confirm exactly what the alternative arrangements were. And some of these patients, it was considered, might be moved to places like Cairns and Townsville, that they didn't necessarily have to be housed in, you know, an area near Ipswich or even Redlands or even the Mater, that there  
25 were other physical locations that could be either built or could be modified to be appropriate for those patients. And that was all something which I saw was going to be planned and delivered over a period of months to years after I left the role of director-general.

30 Alright. Thank you. Mr Freeburn, is there anything arising out of those questions?

MR FREEBURN: No. Thank you, Commissioner.

COMMISSIONER WILSON: Alright. Now, does anyone wish to ask questions?  
35 Yes, Mr Fitzpatrick.

MR FITZPATRICK: Commissioner, I'm slightly out of order, but can I just rise to inquire what my learned friend can or intends to do with the cabinet-in-confidence document or whether that is embraced by my learned friend Mr O'Sullivan's  
40 application.

MR FREEBURN: I don't think it is related to Mr O'Sullivan's application, because it's not a document that I understand is subject to parliamentary privilege.

45 COMMISSIONER WILSON: No. I think that there would be two quite separate issues, potentially. Mr O'Sullivan wishes to raise that as of parliamentary privilege, which I don't understand to have any relationship to this document. The issue which

might relate to this document is that of public interest immunity, because it is a cabinet-in-confidence document.

5 MR FREEBURN: Yes. I had proposed to discuss this issue with the other counsel, particularly Ms Wilson, and to see how it should go into evidence, if at all. There is another witness I'm going to take this document to, so for the time being could it just be marked for identification?

10 COMMISSIONER WILSON: Yes. It will be marked A for identification, and it will not be placed on the screen, and it will not be placed on the internet at this stage.

**MFI #A MARKED FOR IDENTIFICATION**

15 MR FITZPATRICK: Thank you. Thank you, Commissioner.

COMMISSIONER WILSON: Right. Now, cross-examination.

20 MS WILSON: Commissioner, I'd like to ask some questions, but I note the time. Would this be a convenient time to take the early morning break?

COMMISSIONER WILSON: Yes, it would. A 15 minute break, we'll come back at 20 past 11.

25 MS WILSON: Thank you, Commissioner.

**WITNESS STOOD DOWN**

30

**ADJOURNED** [11.04 am]

35 **RESUMED** [11.22 am]

**ANTHONY O'CONNELL, CONTINUING**

40

**EXAMINATION BY MS WILSON**

COMMISSIONER WILSON: Now, Ms Wilson, do you wish to cross-examine?

45 MS WILSON: Yes. Thank you, Commissioner.

I only have two or three questions for you, Doctor. It seems from your CV that you left Queensland Health in about August 2013?---Yeah, 13. Yes. Yep.

5 Yes. And you're now employed as a national adviser in health by KPMG Australia?---Yes.

10 So is it the case that since leaving Queensland Health you have not maintained detailed knowledge about any of the planned or available suite of services available to Youth and Adolescent Mental Health Services?---That's right. I was living in Ireland managing all of the hospitals in Ireland between leaving Queensland Health and starting with KPMG so I didn't keep contact with Queensland Health issues.

15 Okay. Now, can I just briefly take you to your first statement at page 31. And I can give the – we're here. And I'm looking at paragraph 40(b) which is at the top of the page. Okay. If we can stop there.

Perhaps just – have you got your statement there so you can see the hard copy?---Yes.

20 We can scroll down so we can see – to ensure that proper context is given. Can we just scroll down to the previous page, please? Okay.

25 That's where it starts and this refers to it's between Queensland Health and Children's Health. Do you see that?---Yes.

Okay. Just if you can take a moment to read that subparagraph. And if the operator could just go onto the next page. Okay.

30 Doctor – have you read that?---Yes.

I'm interested in that last sentence where you state that you saw that the Children's Health as having a facilitating role in developing alternative models of care for patients of the BAC throughout Queensland?---Yes.

35 Is it the case that the development of alternate models of care for patients was actually for all child and youth throughout the state and not just confined to those young people who were transitioning from the Barrett?---Yes, because clearly the people who eventually ended up in the Barrett Centre often came from across the whole state. And Children's Health Queensland had a responsibility for paediatric services throughout the state. So in both senses I agree with that you've just said.

40 But the services that are available across the state, would that be wider or narrower than looking at the patients transitioning from the Barrett?---Wider.

45 Thank you, Commissioner. I have no further questions.

COMMISSIONER WILSON: Thank you. Mr Fitzpatrick for West Moreton.

**EXAMINATION BY MR FITZPATRICK**

**[11.25 am]**

5 MR FITZPATRICK: Yes. Thank you, Commissioner.

Dr O'Connell, I'm Chris Fitzpatrick and I'm one of the counsel for West Moreton. I just have a few questions for you.

10 COMMISSIONER WILSON: Mr Fitzpatrick, try to speak into the mic would you, please?

MR FITZPATRICK: Yes. Thank you, Commissioner.

15 Now, Doctor, you were taken by my learned friend Mr Freeburn to paragraph 10 of your initial statement which begins sat page 6 of that document, 0006. And if we just scroll down, you'll be familiar with your response in paragraph 10(a)(i) to (vi) in which you identify the circumstances that informed the closure or the cessation of the – I withdraw that, the cessation of the Redlands project. Are you familiar with that part of your statement?---Yes.

20 Now, Dr O'Connell, I think that I'm correct to suggest that you became the director general of Queensland Health from June 2011?---Yes.

25 But that before that, I think for some years you held another senior position in the organisation. Is that correct?---Yes, I was CEO of the Centre for Healthcare Improvement which is a deputy director general position.

30 Yes. So you were at the senior executive level in the service from did you say 2008?---I first came to Queensland in 2009.

35 2009. But at all events – by the time in May 2012 when you've received the briefing note to which you've been taken to note or approve the cessation of the Redlands project, I take it that you were aware that the Redlands project had been entrain, at least in the planning stages, from about 2008. Did you know that?---Yes.

And it looks like from paragraph 7(a) of your statement, which is on page 0005, that you were aware that in that time some steps had been taken to progress the project. Is that correct?---Yes, yes.

40 And I gather from some evidence that you'd said that you'd given in-chief that you were aware that as at May 2012 the project was overdue for completion in spite of what had been done, as set out in paragraph 7(a) of your statement?---Yes.

45 There was still a long way to go?---Yes.

Is that correct?---Yes.

Nonetheless, were you aware what sort of expenditure had been incurred by the responsible entity in doing the steps that are set out in paragraph 7(a)?---I don't have them immediately available to be but, yes, I would have at the time been advised as to what the costs were.

5

Yes. Do you know whether those costs in themselves were significant?---Yes, because this is a significant infrastructure project.

Yes?---So they would've been significant.

10

Yes. So is it right to think that when you in May 2012 were asked to cease the project, that you assumed that there must've been a very good reason to do that?---Yes.

15

And am I also right to think, if you would go, please, to paragraph 10 of your statement again on page 6 – just scroll down – that in getting that response what you are saying is that the cessation of Redlands was an accumulation of each of those matters which you list in 10(a)(i) to (v)?---(i) to (vi). Yes.

20

Yes. And am I right to think from your answers to my learned friend Mr Freeburn that because of your position at the apex of Queensland Health as the director general, that you relied for your knowledge of some or all of the matters listed in (i) to (v) on advice from deputy directors general?---Yes, I did.

25

Yes. Who you'd worked with over a number of years as at May 2012 and had come to trust?---Yes. That would be a fair statement.

30

Now, concerning the matter in (vi) you've said that on your recollection that topic, namely, an emerging clinical preference to care for patients in more community-based, closer-to-home models was the most important factor in the decision to cease the Redlands project. Is that your evidence?---That's – that's why I said that it was most importantly. Clearly the budgetary constraints I'd probably rank as second.

35

Yes?---And then the other project issues which were causing the delays I'd rank as third. Yes.

40

Yes. And you say – I think I'm right – in your supplementary statement you were asked to expand on your source of knowledge for the matter listed in (vi) and you say that that was your own knowledge gained from discussion over a number of years with clinicians and other informants. Would you like to be taken to that part or do you accept that?---No, I do accept that.

45

Alright?---And it's worth noting that I worked in a paediatric hospital as a senior specialist in a paediatric hospital for at least a decade - - -

Yes?--- - - - before moving into my Health Department roles. So I was very familiar with, you know, issues of paediatric patients including adolescent patients having very different requirements to adults and - - -

5 Yes?--- - - - the – the special nursing and residential services that were required.

Yes. So am I right to think, Doctor, that by the time you came to consider the briefing note in May 2012 you were in no doubt that the reasons proposed for ceasing the Redlands project were genuine?---Yes.

10

Authentic?---Yes.

Necessary?---Yes.

15 And that the Redlands project – the accumulation of these circumstances was an insurmountable obstacle to the continuation of the project?---Between them all, yes.

Yes. Thank you. Excuse me, Commissioner.

20 Doctor, could I take you, please, to the briefing note of May 2012. It's - - -?---Yes, I have it.

You have it. It's – for the record, DTO90000010102. Now, could we go, please, to page 0115 which is the fourth page of the briefing note. And if we could – thank  
25 you. No, it's – the reference is – sorry – is 115. So it's TOC4. Yes. Thank you. And if we could just scroll up the page, please. Sorry, I think it's the next page that I'm looking for – page 115. I'm after page 115 – it's page 4 of the exhibit. So it's – that's it. Yes. Thank you. And if we could just scroll up the page, please – or down. Thank you.

30

Now, Doctor, I'm interested in the three names that appear across the page. Am I right to think that the author of the briefing note is Dr Geppert?---Yes.

35 Who – am I right about this – was then attached to Dr Kingswell's office. Is that correct?---Yes. I think so.

Yes. And then the document says that its content is verified by Dr Janette Young?---Yes.

40 Now, Dr Young, I think, is familiar to all of us as the current chief health officer and I gather that she was the chief health officer in 2012. Does that seem right?---Yes.

45 And so Doctor, what does the language content verified by Dr Janette Young imply?---It implies that with – within reason that she has checked the information that's contained in it and is comfortable that it is a reasonable recommendation.

I understand. Thank you. So you would have had, I assume, confidence by seeing her name appended to that briefing note?---Absolutely.

5 And then the document on its face is that it's been cleared by Dr William Kingswell. Now, is that Dr Kingswell who is a psychiatrist?---Yes.

10 And who was in May 2012 and, I think, currently although there may be some change in the title, the head of the Mental Health, Alcohol and Drugs Branch of Queensland Health?---Yes.

That branch being Queensland Health expert advisory service for matters relating to mental Health?---Yes.

15 So I assume that you took comfort about the accuracy and the contents of the briefing note by seeing his name there as well?---Absolutely.

20 Could we go, please, to page 0112 of the exhibit – 0112. Thank you. Could we go – scroll down, please, to the heading and the text underneath it Headline Issues. Thank you. Now, Doctor, are the top three issues which are captured there in dot points – are they, really, a summary of the various circumstances which you set out in paragraph 10(a), (i) to (vi) of your initial statement to the Commission?---Yes.

25 Those matters being, relevantly, that the project had encountered multiple delays of one kind or another; correct?---Yes.

That it had a estimated budget overrun in the amount that's stated there; correct?---Yes, almost 1.5 billion. Yes.

30 And that, additionally, recent sector advice proposes a re-scoping of the clinical service model and governance structure for the unit?---Yes.

Now, is that last sentence that I just read out, is that the same thing as what is in paragraph 10(a)(vi) of your statement?---Essentially, yes.

35 Can I just inquire, please, whether you can recall the source of the advice and from what sector it originated?---I can't recall, but, obviously, with Dr Geppert being the author and Dr Kingswell as the – one of our leading psychiatrists being the – the next level up in signatories to the brief, that I would have expected that they would have been dealing with the issue of what service models were appropriate in light of the national mental health plans and the state mental health plans which were current at the time - - -

40 Yes?--- - - - and – and would have been having conversations weekly with fellow psychiatrists around the state - - -

45 Yes?--- - - - and interstate - - -

Yes?--- - - - about these issues.

5 By the way, was it your understanding at this time that it was the – that it was Dr Kingswell’s unit that was interested to formulate the – the model care of the state?---Yeah. The mental health branch would have had intense interest in developing models of care which were current and which were consistent with the thinking which was emerging from national and state plans, and would have been keen that what was being done in this regard, you know, didn’t compromise patient care. If anything, it moved us in a direction towards different ways of delivering care  
10 which were more current, more consistent with those plans, and better for patients.

15 So when my learned friend, Mr Freeburn, asked you whether you had sought expert advice before ceasing the Redlands Project, it seems from your answers that you had the benefit of at least Dr Kingswell’s views on the topic?---Absolutely. And as I said, I would have expected that all three of those doctors who were signatories would have sought appropriate content advice on the matter. I was answering Mr Freeburn’s question assuming that he was asking me did I seek anyone additional to the people who were - - -

20 I understand?--- - - - named in the brief.

Yes?---And, clearly, I felt that I didn’t need to, because I had enormous respect for those three officers.

25 Alright. Thank you. Excuse me, Commissioner. Now, Doctor, we’ll – we can leave that exhibit, but I just wanted to ask you, please – you were asked some questions by my learned friend about a one-page document headed Cabinet-in-Confidence?---Yes.

30 Remember that?---Unfortunately, I don’t have it in front of me any longer.

No. Well, I just want to ask you a general question about it. Forgive my ignorance, but I take it that the reason that it’s headed Cabinet-in-Confidence is because it is proposed to be tabled before the cabinet; is that correct?---Yes, before cabinet or one of cabinet committees, yes.  
35

I understand. In other words, the document is potentially, at least, to inform the executive government of this state; is that correct?---Absolutely.

40 And so could the Commission assume, that being the potential purpose of the document, that those preparing it would be concerned to ensure a high degree of accuracy of its contents?---Yes.

45 Thank you. Now, Doctor, can I just return to your initial statement and ask you about paragraph 7(a) on page 0005. And what I’m interested in is the third and fourth sentence, where you say:

*Redlands site is the preferred option for a placement of BAC, which had been determined by the Australian Council on Healthcare Standards to be in need of urgent replacement.*

5 Now, by what means did you inform yourself about any determination of the Australian Council on Healthcare Standards? Is that something of which you were aware from reading, perhaps, a report or were you informed about it?---I can't remember exactly the source of that knowledge, but my recollection is that it was common knowledge that the council had made this determination about the standards  
10 of the – of the – of the – in the facility, and – and I would have trusted whoever had informed me of that case. It's something which could be checked, after all, because  
---

15 Yes?--- - - - these decisions are eventually public knowledge. So - - -

Yes?--- - - - I saw no point in pursuing the accuracy of the statement.

20 Yes. And your understanding was that it was the need to replace the fabric of the BAC premises that had informed the decision to move to Redlands?---Yes.

Can I just ask you, finally, please, about the contents at paragraph 40(a) of your initial statement, which you deal with. This is on page - - -?---Yes, I have it.

25 You have it. It's on - - -?---Page 30.

- - - page 0030. Thank you. Now, in subparagraph (a) you talk about the relationship between Queensland Health and my client, which obtained from 1 July 2012 with the introduction I assumed you mean of the hospital and health service – the *Hospital and Health Boards Act*?---Yes.

30 Correct. And apart from the legislation – that legislation, is it also true that the relationship, to your knowledge, was contractual, in the sense that there was a service contract which came into force between my client and Queensland Health?---Yes. There was – a significant element to the relationship was the contract or the number  
35 of things which included the purchase of services by the Department - - -

Yes?--- - - - from the health service, as well as the performance required of the health service to be met.

40 Yes. Could I ask, Commissioner, if the witness could look at document WMS.1007.0484.00021. Thank you. Could we go, please, to page 0035. 0035.

COMMISSIONER WILSON: Double zero three five, not 55.

45 MR FITZPATRICK: I'm sorry. Thank you. If we could just scroll down. Thank you. Now, Doctor, do you recognise there your signature executing the contract as the chief executive of Queensland Health?---Yes.

Could we look, please, at page 0027. And if we just scroll down to period of this service agreement, I take it, Doctor, that you have some familiarity with this document?---Absolutely.

5 Thank you. We see there that the service agreement commences on 1 July 2012 and runs for 12 months, until the end of June the next year. Was that your understanding?---Yes; standard one year contract with all of the health services. Yes.

10 Alright. If we look, please, at the next heading and just scroll slowly down, Amendments to the Service Agreement. You might just have a look at that, Doctor. I think that it continues over on to page 28. Thank you.

15 Am I right, Doctor, that that sets out the mechanism by which the written terms can be amended, in particular that it provides for four amendment windows in which notice of amendments can be given?---Yes.

20 Could we look, please, at page 00031. I'm sorry, if we could just go back, please, to page 00028. Thank you.

Now, Doctor, does that flow chart that's set out there, does that document, the process for negotiating and resolving amendments?---Is it accurate?

25 Does it – does it set out, on your understanding?---Yes.

Alright. And there is no mention there of the West Moreton Hospital Board as a party to that process?---The chair is mentioned - - -

30 I see?--- - - - in the second last box. So if there is lack of resolution of negotiations between the chief executive of the health service and the relevant Deputy Director-General then it is escalated to myself and the chair of the board.

I see?---And we have five days to negotiate and if not the Health Minister intervenes.

35 I understand. Alright. Now, Doctor, could we have a look, please, at page 31 – 00031. Now, under the heading Hospital and Health Service Accountabilities does, on your understanding, the first dot point there oblige my client to comply with the terms of the service agreement?---Yes.

40 And in particular, if we go to page 33 does the first line and continuing oblige my client to meet all of the accountabilities outlined including schedule 2, the Hospital and Health Service profile?---Yes.

45 And also nine which deals with the Mental Health Services?---Yes.

And then if we could go, please, to page 38 – yes. Thank you. If we could go, please, to page 41 and just scroll up a little, under the heading Statewide Services it

is recorded that my client has oversight responsibility for, among other things, adolescent unit services provided by The Park?---Yes.

5 And on your understanding that language would embrace the BAC as it existed as at 1 July 2012?---Yes.

Thank you. Excuse me?---And of course it specifically mentions adolescent unit services.

10 Yes. Thank you. Excuse me, Commissioner. Thank you, Commissioner. That's all I have.

COMMISSIONER WILSON: Thank you. Mr Diehm, do you have any questions?

15 MR DIEHM: He's my witness, your Honour, so - - -

COMMISSIONER WILSON: You'll come last.

20 MR DIEHM: - - - I might wait.

COMMISSIONER WILSON: Very well.

MR DIEHM: Thank you.

25 COMMISSIONER WILSON: Mr O'Sullivan.

**EXAMINATION BY MR O'SULLIVAN**

**[12.00 pm]**

30

MR O'SULLIVAN: May it please the Commission. Could you take up the first statement again at paragraph 48(a), Delium number 34. And I appear for the Minister – for the then Minister for Health, Dr O'Connell. Just read 48(a) to yourself. You will see the question you've been asked is at the top of the page. The question you were asked was:

35

*What was the Queensland Health proposed model of service delivery for children and adolescents who had previously met the criteria for admission to the BAC.*

40

The answer you give is at 48(a). Do you see that?---Yes.

Now, that was your understanding in July 2013?---Yes.

45 In your second statement – I won't ask you to read it, I'll read it out to you, Dr O'Connell. You said at paragraph 17(a) – you said you didn't raise any objections to the closure of the Barrett Centre as you believed that a course of action was

underway to make sure that the eventual closure of the BAC was to be done in a manner which provided appropriate care for those already patients of the BAC and those who may have been referred to the BAC had it not closed?---Yes. That's right.

5 Now, is it the case that during 2013 the welfare of patients – the adolescent persons who were at the BAC and who may have been on the wait list that the welfare of those patients was the principal concern you had in mind as Director-General?---In these matters, yes.

10 Yes?---Yes.

So in relation to the decision as to whether it should close and when it should close, am I right in thinking that patient welfare was a critical issue for you?---Absolutely.

15 And am I right in thinking that in your mind – and I will talk about discussions shortly – in your mind you understood and it was axiomatic that the BAC would not shut its doors unless and until proper and appropriate steps had been taken to look after the therapeutic welfare of those who were either patients or wait-  
20 listed?---Absolutely. I was greatly reassured by the statement in the brief from West Moreton that that was their intention as well.

You there are referring to the brief of 8 July two thousand - - -?---Yes.

25 - - - and thirteen?---Yes.

Now, do you recall having discussions with Mr Springborg who was your Minister at the time during 2013 about this issue?---We would have had conversations about this issue. I can't remember the dates and times but, yes, this was an issue obviously which I would talk to him about.

30 And what was the gist of what you had discussed with the Minister?---I think we were both of the same mind, that we wanted to provide services to these adolescent patients which were current and appropriate, that we wanted to eventually close the Centre because it was an aged facility. We wanted to replace it with a mixture of  
35 services which would be clinically appropriate for the patients. We wanted expert clinical input to that and we wanted the relevant health services which in this case were predominantly the West Moreton and the Children's Health Queensland to work with the mental health branch to make sure that the model of care that was eventually manufactured was appropriate for the patients.

40 And was it your understanding that – from what the Minister said to you that he – his view as Minister was that the facility should not close until the therapeutic needs of the patients at the Centre had been completely attended to?---That was my  
45 understanding of – of his thinking behind what he said to me. Yes.

Now, do you recall being asked a lot of questions about paragraph 10 of your first statement which concerned the briefing note that you signed in May 2012?---About Redlands?

5 That's right?---Yes.

Can you go to paragraph 10, about which you were asked many questions. It's Delium number 6, DPO.900.0001.0001 at page 6. You were asked a number of questions about (i) of 10(a). And you remember you were also asked questions about  
10 (ii) of 10(a). Do you recall being asked those questions and giving evidence?---Yes.

And it was suggested to you, among other things, well, what checks did you make about the truth or otherwise of information that you may have been provided about the matters at (i) and (ii). Do you recall that?---Yes.

15 Could the witness be shown QHD.006.005.2722. Commissioner, this is a briefing note to the Honourable Mr Wilson, Minister for Health, in 2011. Go, please, to page number 2728, the third-last page of the document. If the witness could be shown the entry under the Minister's comments. Now, it's been - - -?---Redacted. Yes.

20 - - - redacted. But are you able to say whether you had signed that briefing note?---Yes. I signed that briefing. Yeah.

Is it the case that it follows that at the time you signed it in late 2011 you would have  
25 read it before you signed it?---Absolutely.

If you turn to the first page of the briefing note, 2722. The fourth note down commencing with the words "the planning branch" – read that please?---The  
30 planning branch - - -

I'm so sorry. Just read it to yourself. It's okay. The Commissioner will be able to read it at the same time, Dr O'Connell?---Thank you. Yes.

Now, if you go over to paragraph 7, if you read that and pay attention particularly to  
35 the last sentence. You would have at that point been advised of that, I take it from your evidence?---Yes.

Paragraph 8, please?---Yes.

40 Paragraph 9, please. Now, just pausing at paragraph 9, do you recall that the Redlands facility was initially expected to be completed in 2011?---Yes. That's my recollection – that it was a date much earlier than these dates. Yes.

Yes. When you read this briefing note, I take it from that evidence that you would  
45 have understood that the date of October 2013 was already more than two years late?---Yes.

Paragraph 14, please. Now, the site that's being referred to at paragraph 14 – did you appreciate at the time, that is, the time of this briefing note, that it was a very large site next to the Redlands Hospital?---Yes.

5 And the Barrett – the replacement for the Barrett, if I might put it that way – the Redlands project – if we use that language – was to occupy only a small part of the site?---That's right. It's described as partial allocation at the beginning of the brief.

Yes?---Yes.

10

Can you read paragraphs 15, 16 and 17 to yourself, please?---Yes.

Are these matters that you would have been aware of when you signed this briefing note?---Do you mean prior to me signing - - -

15

No. When you signed it, you would have been aware of these matters being informed to you?---I absorbed those facts as I read the note, and - - -

20 That's right. And when you, in May 2012 approved cessation of Redlands, is it fair to say that – you tell me – would these have been matters that you were aware of at that time?---Yes. As I mentioned to the Commissioner earlier, updates on the progress of the various infrastructure projects within the mental health plan was something which we'd taken an interest in for many months. And so these – these facts were certainly facts which I was aware of, obviously, after reading them when I  
25 signed the brief. But then, you know, I'd been aware of before in other conversations.

I understand. I'll tender that but move on without giving it a number to the next document. QHD.005.001.3152. This is another briefing note to the Honourable  
30 Geoff Wilson, the Minister for Health. And you'll see the first page has some various stamps on it. If you turn, please, to Delium number 3154. There has been, for some reason, redaction of the signatures, but if you assume from me that the signatures above the Geoff Wilson appear to be from the Minister, the principal policy advisor has signed and the senior policy advisor has signed. Just assume that.  
35 If you just go down the page, you'll see it's – there's a series of civil servants' names. The last one is endorsed by Dr Tony O'Connell. Are you able to say whether you signed that briefing note?---Yes, I did.

40 Turn back to the first page, please. I take it from your earlier evidence you would have read and understood this at the time you signed it?---Yes, yes.

Read paragraph 3, please – Delium number 3152?---Yes.

45 At the time, in any event, is it right to say that you would have been aware of the January 2009 external review of the Barrett Centre?---Yes.

And whilst it's a number of years ago, the final report of that review is attachment 1. Would you have read that report?---Yes.

5 Over the page, please, to paragraph 9 – 3153. Can you read nine, 10 and 11 to yourself, please?---Yes.

10 Now, one's memory is never perfect, and you may not remember this, but doing the best you can, would it be right to say that you would have read and understood paragraph 11 when you executed this briefing note in the middle of 2011?---Yes, I would have.

15 You would therefore have understood that contrary to the information you were given in the earlier briefing note, I suggest, you were now being advised that the model of care in relation to the Redlands facility has not been formulated yet?---Well, certainly that paragraph suggests that the model hadn't been formulated. Yes.

20 Were you aware – can you recall - - -?---Are you implying that the other brief suggested that it had?

25 You suggested it had been formulated in 2010. In fact, it was put to you by Counsel Assisting that it had been finalised in – about two years ago, is what was put to you. You weren't shown a document. That was put to you. And I'm asking you whether you have any recollection – I drew your attention to the briefing note that said the model of care had been finalised in July 2010. I am now showing you another briefing note. There may be some way to reconcile them. But putting them aside, which speaks of completion of the Statewide Model of Service for the Adolescent Extended Treatment and Rehabilitation Inpatient Service which was being done by the Mental Health Alcohol and Other Drugs directorate?---Yes.

30 Do you have any, sitting here now, recollection of being informed that the mental health branch was undertaking a review of the statewide model of this service?---Other than that sentence in that brief, no. But I would say that many of the comments that you see in the Queensland and the national mental health plans and in the briefing notes all talk about currency of model of care.

35 Yes?---Now, currency of modelling of care implies that the model of care can change each time a new brief comes up.

40 Yes?---And that there's an opportunity to review it each time a new decision is being made about things like closing facilities, etcetera.

45 Yes. And you - - -?---So this is a dynamic thing of, you know, what's the state of the clinical model of care.

That's right. And you gave evidence earlier to the Commissioner that when one – given your experience in health administration, when one has a 10 year plan, one

assumes that things will change in that 10 years and the evidence you gave is that one of the things that will change is the fiscal environment?---Yes.

Do you remember giving that evidence?---Yes.

5

And in your evidence-in-chief, you've said in writing that good practice would involve an annual review of the budget in a 10 year plan. You remember that?---Yes.

10 Now, it's the case, isn't it – well, you tell me if I'm wrong, but when one has a 10 year plan, one of the things that may change in addition to the fiscal environment is views about clinical best practice?---It certainly would. Yes.

15 And is that – would one say – well, you maybe don't know. Is that particularly true of psychiatry? Is that an area where one finds developments in clinical practice, change in a way which is, say, different from other areas? Or you're not able to say?---I wouldn't say the frequency of change of models of care is any different to other specialty areas. But certainly psychiatry has developed a number of different models of care over the last five to 10 years, hence the prominence of Professor  
20 McGorry in the various adolescent models of care that he's promoted in Victoria and now internationally.

Yes. I understand?---So, yes, models of care in psychiatry can change.

25 Given your evidence that you would expect them to be no materially different from, say, paediatric care? Over a 10 year timeframe, would it be your opinion, your view, that one would expect to see changes in, if I can use that word, models of care?---Yes, yes. Although, I would say that the general trend in the models of care over that – the whole period that is pertinent to this matter was a trend towards more  
30 community based services rather than institutionalisation across the whole country.

Yes. And one of the sources of your own information about that is the evidence you gave in your second statement where you at some length explained why you have – and the source of your knowledge about the trend towards deinstitutionalisation and  
35 a move to community care. Is that right?---Yes. That's right. And I made reference to the Richmond Report from New South Wales.

Yes?---Yes.

40 Yes. Now, Commissioner, that document has already been tendered so one doesn't need to tender it again but could I take the witness quickly to two further documents to complete the picture for him. I'm not sure if one of them has been communicated. Now, the first document I'll take you to is Delium number QHD.007.002.1462. If that's not on the operator's list, I'll move on to another document. One of them is  
45 missing.

COMMISSIONER WILSON: It can be got up even if you haven't notified. But it will take a little longer, that's all.

MR O'SULLIVAN: I'm very conscious of time, Commissioner.

5

COMMISSIONER WILSON: Well, move onto another document if you wish.

MR O'SULLIVAN: Thank you, Commissioner. Could the witness be shown QHD.004.014.8371.

10

Now, just orientate yourself with this document. We've only been given three pages of it by the Commission. If you go to the third page you'll see that it's page 3 of 4 and there's no fourth page. So I can't show you whether you've signed it, Dr O'Connell. So I draw that to your attention. We don't have the last page. But if you go to the first page, please, Delium 8731, it's a briefing note to the director general. Can you read what appears down to the end of one, including the manuscript document, please? I'm so sorry, the manuscript entry. If I may be permitted, it's got the word NFA circled and then it's got – someone has written:

15

20

*CDP cannot go to tender when pre-tender estimate is above project budget, regardless of what steering committee decides. Three options: reduce scope, clarify assumptions with quantity surveyor to get a more accurate pre-tender estimate, or seek additional funds.*

25

And then there's a squiggle A-something and then a date of 22.02.12. Do you recall having seen this document in 2012?---I can't say that I remember seeing it.

Can you shed any light on what NFA means?---It's likely to mean not for action or not for advancement, to me.

30

And the signature or reference above the numbers, do you know who that is?---It's likely to be Aaron Groves. It's originated from his office.

35

You gave evidence in your statement – at paragraph 7(a), I'll just tell you, you said there from – that you understood it had not gone to tender. Does this help you to recall whether or not you were advised it didn't go to tender because the pre-tender estimate exceeded the project budget? Or you can't say?---Well, strictly speaking I can't say. But now that I read that handwritten sentence then, clearly, that would explain - - -

40

Yes?--- - - - why I was comfortable writing at a subsequent date that it hadn't gone to tender by October 2011.

45

Yes. And when you say the subsequent date, you mean in your statement?---Yes.

Yes. I understand. If you look, please, at the document itself which you may not have seen because it may not have been actioned to you, you will see that paragraph

11, 12 and 13 which provides context to what we then see at 14 and, importantly, 15. Do you see at 15 – I’m so sorry. In this document, someone has written that:

5           *The project steering committee has endorsed proceeding on the basis that a competitive tender will be received.*

Are you able to say who the project steering committee was?---No, I can’t remember who the members of that committee were. No.

10 No. Now, go back – if Dr O’Connell, could he be shown the document QHD.007.002.1462. Commissioner, that was the document that was not readily to hand which is now available.

COMMISSIONER WILSON: Thank you.

15

MR O’SULLIVAN: I will tender the document 8371. The - - -

COMMISSIONER WILSON: Well, after the witness is finished you can attend to these things. I’ll note that it will be tendered.

20

MR O’SULLIVAN: Thank you, Commissioner.

25 One-four-six-two – you will see there is an entry there Briefing Note Director-General and the date is September 2011 – a couple of months after you began in your role. If you to page 7 of 7, Delium number 1468, if we can scroll down you will see there’s a note the delayed delivery dates from mental health as noted by CBRC and then it says approved/not approved and I draw your attention to the fact there’s no signature there, Dr O’Connell?---Mmm.

30 This is the version we have but if you go down you will see it’s got a number of line items of public officers who have signed it. It says:

*Content verified by Glenn Rashleigh, Executive Director, Capital Delivery Program.*

35

?---Yes.

40 And then endorsed by John Glaister, Deputy General, Health Planning and Infrastructure. Is that the John Glaister that you were referring to when you gave evidence earlier about those who would be responsible for, in particular, managing long-term capital projects?---Yes.

Now, if you go back to the first page you will see there’s a note that says:

45           *Note the delayed delivery dates from mental health infrastructure projects is noted by CBRC.*

Is that a reference to the updates that were being provided to Cabinet to the delays to the mental health capital projects that you referred to earlier?---Yes.

5 And the evidence you gave in terms of your knowledge of those delays by reason of your awareness of what was in the Cabinet papers, you were referring there to the Cabinet papers identified here at this note. I withdraw that. Cabinet papers – I withdraw that. Papers of that kind?---Yes. Papers of that kind. Yes.

10 That’s right. Now, you will see there is another note that the very last one, Dr O’Connell – health planning infrastructure division – that John Glaister’s division?---Yes.

Continuing:

15 *As recently revised governance arrangements for this program of works and have appointed a new mental health program team dedicated delivery of all the current mental health infrastructure projects.*

20 ?---Yes. That was a way of escalating the sense of urgency about projects because a number of them had been delayed.

Yes. And paragraph 15, you will see that in this document the division are looking at revised governing council approval for stage 1. Can you see that?---Yes.

25 Now, when the project was – when you approved the cancellation of Redlands, one of the matters you were informed of in the briefing note is that it was over budget by 1.4 million?---Yes.

30 Is it your recollection that there was, in fact, no more – I withdraw that. That there had not been approval – there had not been approval by May 2012 to spend the extra anticipated 1.4 million that had been projected at that point?---That’s my recollection, yes.

35 Paragraph 20, please. Twenty is very similar to information provided to you in other briefing notes. Do you see that?---Yes.

Is it right to say that you would have been well-aware of the matters set out in paragraph 20 when you made the decision to cancel the Redlands project?---Yes.

40 Now, do you remember being asked various questions about who you may or may not have spoken to, what advice you may or may not have received by way of psychiatric – professional psychiatric opinion advice before you made the decision to cancel the Redlands project. Remember being asked a lot of questions about that?---Yes.

45 Would you take up your first statement, exhibit 4 – I’m so sorry, exhibit 5 of your first statement, Delium number 116. Commissioner, this is the document that you

have not been taken to much before. This comes after the briefing note of May 2012 that the witness signed which is TOC4.

MR DIEHM: The witness didn't sign the document.

5

MR O'SULLIVAN: I'm so sorry. No, what I said is the document he signed was TOC4. Let's be absolutely clear. Let's go to TOC4 0112.

10 This is the document I suggest you signed and if you go to page 115 – are you able to confirm that underneath that masking is your signature?---Yes, it is.

And you've signed that document on 16 May 2012?---Yes, I did.

15 If you turn to TOC5 which is page 116 you will see that that is a brief for approval of the Honourable Minister for Health which you can assume he signed on 28 August 2012 at the bottom of the page. Do you see that?---Yes.

20 Now, attached to that document – and I'm not suggesting you saw this at the time, Doctor, because your evidence makes it clear that you didn't sign this – your evidence-in-chief does. One-one-seven is a briefing note for approval to the Director-General which goes with the briefing note. You will see it's headed 12 Infrastructure Projects, Delium number 117. So if we just go back – I think it's not fair – can Dr O'Connell please see the whole of 116 – just if the witness could be shown what 116 is. If you just go further down you will see that – just stop there.

25

Do you see that the gist of this note is the Minister has been asked to approve a planned strategy for targeted rectification of prioritised infrastructure issues?---Yes.

30 And subsequent planning for 12 rural hospitals and he is to note the recommendation that \$41 million funding strategy for the rural infrastructure rectification capital program will be assisted by the three bullet points?---Yes.

I draw your attention to the second one?---Yes.

35 So he is noting the cessation of it in this document and if you go down you will see the Minister has approved – has given his approval as sought – approved the planned strategy. Do you follow?---Yes.

Yes. Now, look at 117. You will see that it says:

40

*Urgent briefing note for approval Director-General.*

?---Yeah.

45 You will see the date is 16 August 2012. I want to take you first to the last page, Delium number 120 – it's the last page of the document, Commissioner.

You will see that there's a signature there and someone has ruled through – I'm so sorry. It's difficult. I don't know why it's been - - -

5 COMMISSIONER WILSON: Look, Mr O'Sullivan, can I explain.

MR O'SULLIVAN: Thank you, Commissioner.

10 COMMISSIONER WILSON: I'm just conscious that many of these documents will find their way onto the Commission's website because they are exhibited to statements which have been admitted into evidence. The signatures have been redacted as a security measure – identity security. If a witness wants to see the unredacted version that can easily be done.

15 MR O'SULLIVAN: Yes.

COMMISSIONER WILSON: There's no secrecy about it or - - -

MR O'SULLIVAN: Good. Could he be shown an unredacted version of page - - -

20 MR DIEHM: Commissioner, Dr O'Connell has his statements with him and he can have access to them.

MR O'SULLIVAN: Thank you.

25 WITNESS: Yes. I am familiar with this and the signature - - -

COMMISSIONER WILSON: So you don't need to - - -?---The signature is not mine. My name has been crossed out, Commissioner. It's – I recollect Janette Young.

30 MR O'SULLIVAN: It's Janette - - -?---Who was acting Director-General at the time.

Precisely. Janette Young signed it. She was acting DG at the time?---Yeah.

35 So at the time you may well not have read this?---No, I didn't.

40 If you just go back to paragraph 14, which is Delium number 119. You'll see that the last item in this briefing note is that Dr Bill Kingswell, Executive Director, Mental Health recommended the cessation of the replacement adolescent extended treatment unit at Redlands and has no objection to the deferral of the Townsville medium secure rehabilitation unit. Now, because you didn't sign this document, the Commission can assume that you may not have read it at the time?---Of course I didn't.

45 Quite. Now, my question is this. Were you aware in either May – were you aware in May 2012 that Bill Kingswell had recommended the cessation of the Redlands unit?

I'm not suggesting that's true. I'm really inquiring as to whether you recall that you were provided with advice to that effect?---I'd need to check the brief in which I did actually approve the cessation of the project to see whether he was the signatory to it.

5 He was the signatory?---Well, then, I did.

Yes?---I was aware.

10 You would have – I understand that – we'll take it in stages?---And this brief actually occurs after that brief in which I approved.

15 That's right. That's right?---So this isn't – this isn't requesting the Minister to approve the cessation of the Redlands project. This is merely informing the Minister that that's one of the sources of funds to accumulate 41 million for these new projects.

20 Yes. Quite. And in terms of your understanding of Bill Kingswell having recommended cessation, is it – to the best of your recollection, did it come to your attention when you approved the cessation of the facility that Bill Kingswell, the Executive Director of Mental Health had recommended that that be done?---Yes. If he – if he was a party in that brief, yes.

25 We can confirm whether he was a party in the brief by going to Delium number 115?---Yes, he was.

At paragraph 10(a)(vi) of your statement, Dr O'Connell, you tell the Commissioner a number of reasons which reflects your understanding of why the decision was made not to proceed with Redlands?---Yes.

30 You say in (vi):

*Most importantly, there was an emerging clinical preference for community-based care.*

35 You say most importantly. Now, was that your professional opinion at – I withdraw that. Was that your opinion at the time in May 2012 that that was the most important actuating factor?---I think one of the marks of my time as Director-General was that I concentrated on the interests of the patients. So, yes, I think it would have been a feeling that I had both at that time and currently. The other – the other reasons can  
40 be surmounted to some extent. You can always eventually wait for koala approval to occur or you can always wait until funds become available to bridge the gap between the current spend. But something like, you know, a changing opinion about what's best for the patients – you know, you have to take into account, and it becomes a  
45 very significant factor in the – putting it all together.

When you say “my time as Director-General was”, in your mind, characterised by the focus on patients, as I understand your evidence, the reason you say the most

important factor in the cessation of Redlands was the emerging clinical preference. By that, am I understanding you to say that in your mind it was the interests of – I withdraw that – it was the best thing to do in the interests of the patients?---Yes.

5 Do you recall expressing that opinion to the Minister?---I can't remember specifically saying that to him about this point, but he knew that that was my overall way of working as Director-General. We shared that opinion.

That is to say, put patients first?---Yes.

10

No other questions.

COMMISSIONER WILSON: Mr Diehm – is there anyone else who wishes to cross-examine?

15

MR HARPER: Commissioner - - -

COMMISSIONER WILSON: Mr Harper, did you give notice?

20

MR HARPER: I haven't sought leave. My apologies.

COMMISSIONER WILSON: Well, how long will you be?

MR HARPER: Pardon me?

25

COMMISSIONER WILSON: How long will you be?

MR HARPER: About – between five and 10 minutes. No more than 10 minutes.

30

COMMISSIONER WILSON: Very well.

**EXAMINATION BY MR HARPER**

**[12.40 pm]**

35

MR HARPER: Dr O'Connell, my name is Justin Harper. I act on behalf of the parents of three former patients of the Barrett Adolescent Centre.

40

COMMISSIONER WILSON: You'll have to speak up, Mr Harper. Speak into the mic.

45

MR HARPER: My name is Harper. I act on behalf of three of the patients – three of the families of the patients. You were taken to a number of briefing notes that had been provided to the former Minister, Mr Wilson. Do you recall being taken to those?---Yes.

Is it fair to say that in none of those briefing notes was there ever a recommendation that either you or the Minister ought cancel the Redlands project? There was never such a recommendation in any of those?---I'd need to – I'd need to have the – the various briefing notes in front of me. They were certain – a number of them we've  
5 talked about, talked about the – the delays and options to deal with the delays and the overspend. And those options included changing the nature of the project and - - -

Well, can I take you to the one which is exhibited to your statement. And I'll take you firstly to document Delium DTO.900.0001.0105. Now, this is exhibit TOC3 to  
10 your statement?---Yes.

If we scroll forward to page 0111, the signature page. We need to go a little bit further. If we can go – scroll to the bottom of that page, you can see the date there: 16 August 2011?---Yes.  
15

Can I take you, then, back to - - -?---I note that I haven't signed it.

You haven't signed that?---The copy that you have doesn't have my signature on it.

20 Okay?---So this could well be a draft document that I never saw.

Well, it's been exhibited to your statement, Dr O'Connell.

25 MR DIEHM: Well, what's been exhibited to the statement is the document sent by the Commission to Dr O'Connell to answer questions.

COMMISSIONER WILSON: To be clear, Mr Harper, exhibit 1 to the statement is the document sent by the Commission to Dr O'Connell and it in turn had some documents attached to it which have been marked TOC1, 2, 3, etcetera, and it's one  
30 of those.

MR HARPER: Thank you, Commissioner.

35 Do you not recall seeing this document, then?---Could you take me back up to the top page.

So that's at 0105?---The first page. I do remember a brief on – on Weippin Street, which – which I noted, and I mentioned this earlier in my testimony – was partially assigned – that block of land was partially assigned to the extended treatment unit.  
40 I'm just noting that the copy that's here hasn't been signed by me, and I'm just a bit wary because one of the documents that the Commission sent me which I was questioned assuming that I had signed it, I hadn't actually signed – another person had signed it, so I'm just a bit careful about admitting to things which there's no hard evidence I ever actually signed or – or saw. Whereas if an exhibit exists which has  
45 my signature on it and I see it has my signature, then I'm much more comfortable talking to the issues.

Perhaps I might take you, then, to a couple of documents. I may have got – recorded the number wrong that my learned friend Mr O’Sullivan took you to. There was QHD.007.002.1462

5 MR FREEBURN: Commissioner, I can assist. That document: there does appear to be a signed version of that document. I can supply it to Mr Harper.

COMMISSIONER WILSON: Well, this is the document which Dr O’Connell said doesn’t bear his signature. You have a copy which does; is that what you’re saying?  
10

MR FREEBURN: The one that Mr Harper just took the witness to: there is a version with a signature on it.

COMMISSIONER WILSON: What’s the Delium reference?  
15

MR FREEBURN: QHD.006.0005.2722.

COMMISSIONER WILSON: Well, I suggest you show it to Mr Harper, with a view - - -  
20

MR FREEBURN: I will.

COMMISSIONER WILSON: - - - to it being shown to the witness.

25 WITNESS: Commissioner, documents which don’t have my signature could well have been documents which have been withdrawn because they have inaccuracies in them. So it’s only when – I see a version that has my - - -

COMMISSIONER WILSON: I perfectly understand your caution. I have no  
30 difficulty with it---Thank you, Commissioner.

Do you want that shown to the witness or not, Mr Harper?

MR HARPER: Commissioner, I don’t wish to take up too much of the  
35 Commission’s time.

COMMISSIONER WILSON: Could I see what it is, please.

MR HARPER: It’s the reference to that second document which I – to which I have  
40 referred. It’s not a signed copy of the briefing note which was provided to – as part of the witness’ statement.

MR DIEHM: The signed version is different to TOC3.

45 COMMISSIONER WILSON: In what respect is it different, Mr Diehm?

MR DIEHM: Well, I've just picked up – Commissioner, you might note with respect to TOC3 that there are highlighted parts.

COMMISSIONER WILSON: Yes, about a car park.

5

MR DIEHM: And I can see immediately in the first paragraph that there is a sentence:

*This may include a multi-storey car park on TOC3.*

10

that does not appear in the corresponding signed document. I haven't got further than checking that.

COMMISSIONER WILSON: It seems to be quite a different document. Well, some of the recitals at the beginning are the same. As it continues, it does seem to be quite different. As I say, the document that I've just been handed, which is QHD00600052722, is not the same as DTO90000010105. Do you want this second document, which does bear Dr O'Connell's signature to be put to him?

20 MR HARPER: I haven't had an opportunity to read it in detail.

MR DIEHM: I would like to read it, as well.

25 MR HARPER: Commissioner, if I might – I might be able to cut some of this short.

COMMISSIONER WILSON: Very well.

30 MR HARPER: There may be matters which are capable of submission based upon what the documents actually show. If I might ask some further questions of the witness, and it may be that that cuts those matters short, Commissioner. I don't wish to take up too much - - -

COMMISSIONER WILSON: Alright. Well - - -

35 MR HARPER: - - - of the Commission's time.

COMMISSIONER WILSON: - - - do that.

40 MR HARPER: Can I ask: when you gave evidence that – the effect that the most important consideration in your mind was the – when you gave evidence that the most important consideration for you was the welfare of the patients, was that your independent recollection of what occurred or were you relying upon your review of the various briefing notes which you had been provided?---It was a combination of both my personal view, the advice I was receiving and the – and the briefs.

45

Is it the case then – can I take you then to the briefing note which is ETO900.0001.0112. Now, this is the document by which you authorised the cessation of the Redlands Adolescent Extended Treatment Unit?---Yes.

5 Now, this was prepared, was it, to assist with the process of making submissions to the Cabinet Budget Review Committee?---We had a life independent of the budget review committee.

10 But this briefing note was to assist in the process of putting forward the Department’s submissions to the Cabinet Budget Review Committee, wasn’t it?---It was ultimately used – the decision that I made by approving this brief was eventually mentioned to cabinet, but I don’t – unless there’s a sentence in here which says that it is for CBRC I can’t remember that it was generated specifically for that purpose.

15 Can you read the first – paragraph 1, under Urgency?---Okay. Yes. Thank you. Yes. That’s very helpful. So – but I – I – I won’t - - -

Now, can I ask why - - -?--- - - - go back on what I said before, though.

20 Can I – sorry – I just have a question before you get to that question. Can I just ask: the first sub-heading, Urgency: why would that have been put into the briefing note?---That gives me a sense of the timing that needs to go with the decision that I’m being asked to make.

25 Yes. Sorry. I interrupted earlier. You were to make a comment about that paragraph 1?---So what I’m saying is that the reason for the brief is not just to inform CBRC for the purpose of the project agreements for capital projects. It has a life of its own. I’m being asked to make a major decision about capital infrastructure in the state, and the sense of urgency, timeliness of my decision has CBRC deliberations as a pertinent factor - - -

30 Okay. So is - - -?--- - - - but I’m being asked because this is a big decision.

35 Yes, I appreciate that. So is the timing of it at that time, the urgency, the motivator for the urgency of it was to assist the Department in its submission to the Cabinet Budget Review Committee?---It was one of the reasons, yes. But as I’ve said, the reason why I agreed – I approved the brief were a number of other reasons than just this, and those other reasons had been – I had been aware of for months before.

40 You mentioned that this was a serious decision, very serious decision for you to make, and that included the – on the clinical side, for the treatment of all of these patients within that Barrett cohort?---Yes.

Very important decision for them - - -?---Yes.

45 - - - their ongoing welfare - - -?---Yes.

5 - - - their ongoing treatment. Given that, as director general, would you have expected a detailed briefing note outlining all of those factors?---Not necessarily. It would depend on what advice I'd received verbally, what discussions we'd had at the weekly executive meetings, what other briefs I'd received to inform me about, you know, what consultations had occurred. I think it is important to note, Commissioner, that by approving the cessation of the project I wasn't closing the Barrett Adolescent Centre. Those inpatients were still going to receive that care. They were going to receive the same standard of care as they'd received for the previous few months, the day after I signed this. Nothing was changing in terms of  
10 the standard of care that the patients were receiving.

15 Would you accept though that over a number of years the Redlands project had been, in effect, the Department's answer to many of what the Department said were the problems with the Barrett Centre? Would you accept that proposition?---Absolutely, absolutely. And that was clearly the initial intent of going ahead with starting this whole project, to replace the Barrett Centre as it was in terms of its capacity.

20 So – but again then, are you saying that you would not necessarily have expected a detailed briefing note about all of those factors that you've mentioned when making a decision to terminate that alternative option?---That's right because as we've already discussed in my previous testimony, the process whereby the officers below me generate these briefs includes consultation with relevant content experts including the community. And there is an option – there is obviously an option for me to question whether that's occurred. But, you know, given that I know the people  
25 who are signatories, the officers below to be these briefs, and I trust the workman-like manner in which they go about generating the briefs and seeking, you know, a consensus opinion about what the best alternative is that they're recommending me to approve.

30 At the time – as at May 2012, would you be able to estimate how many staff your department had working on mental health policy?---I can't guess that at the moment. No.

35 Would it have been in the tens? Say, 20 or 30?---Well, there would've been – I think there would've been at least 100 people in the health branch.

40 Yes. And so is it your evidence that you would not have expected even one of those officers to write a briefing note detailing all of the relevant factors about the closure of Redlands?---The purpose of the briefing process is to summarise the information so that the director general can have the essential facts which are necessary to make the decision. So, as I've said earlier, I receive dozens of briefs every week as director general. It's not possible to have hundreds of pages of background material to accompany each brief. The briefs that I receive are all important matters.

45 COMMISSIONER WILSON: Can I ask - - -?---They all pertain to patients who are unwell and require the services. There are millions of occasions of service in the Queensland Health Service every year. So this is – yes, this is a process which

5 we've agreed could be made better by devolution of that decision-making to lower down in the hierarchy of who could make decisions. But the way that it existed then required the information to be succinct for the director general to make decisions based on the most pertinent facts trusting the advice that he was receiving from the second tier of officers within the department.

So you would've expected that those below you in the hierarchy would've done the research and that they would've summarised its outcome to you?---Yes.

10 And on the basis of that summary, which you would've trusted, you would've made your decision?---Yes. Although, if there were no issues that were relevant then it wouldn't necessarily appear as an item in the brief, even in summary form.

15 But in terms of what you would've expected your subordinates to do, would you have expected their inquiries to be merely verbal inquiries of people practising in Queensland or perhaps other parts of Australia? Would you have expected a literature search? Would you have expected a search of what developments might be taking place outside of Australia?---Each of those avenues is a possibility and – depending on the nature of the issue. If counsel is asking me were the consumers  
20 and the patients and relatives consulted - - -

No. Excuse me, just stick with my question for the moment?---Sure.

25 You said those were possibilities. Well, if those subordinate to you were advising you that a project such as Redlands should cease and that one of the reasons, indeed, one of the critical reasons why it should cease was that the model of care was no longer in step with thinking amongst psychiatrists, I'm asking you in what depth you would've expected them to have researched that question before summarising the results in that way. Do you understand my question?---Yes, I do. My answer is: not  
30 as much depth as I think your question implies. And the reason is that this sense of the model of care is changing was something which was becoming more obvious in many quarters. And, as I said, had already been encapsulated in the main mental health plans for both the country and for the state, that we were changing the way we were approaching the management of people with severe – even severe mental  
35 illness from more of a community – from an institutionalised approach to more of a community based approach. So it went without saying that the model of care was changing.

40 Well, I - - -?---And the informants to the plans were consumers as well as psychiatrists and health bureaucrats of these plans which existed at the time.

I understood your evidence before to be to this effect, and you can tell me if I'm wrong, that the Queensland Plan for Mental Health was devised as long ago as 2007 and 2008?---Yes.

45 That there was an ongoing progression in opinion as to the appropriate way of treating patients generally and, in particular, patients such as those treated by the

Barrett Adolescent Centre so that the advice your subordinates were giving you included any developments in thinking post the formulation of that plan. Is that correct?---Yes, yes, yes.

5     Alright. Well, insofar as there were developments in thinking post the formulation of  
the plan, would you have expected those developments to have been researched and  
documented in some way or would you have expected it merely to be word of  
mouth?---There would be documents which existed within the Mental Health Branch  
10     pertinent to the whole issue of increased communication and listening to patients and  
carers and families. I wouldn't necessarily have expected a brief such as this to have  
a paragraph in it which referenced that because, as I said, the overwhelming sense  
was there was this tidal wave of opinion which was emerging over the years that  
there was a move away from institutionalisation – not for everyone but increasingly.  
And so in that sense, especially with, you know, consumers saying that they would  
15     prefer to be at home, it made sense to me. You know, an adolescent from Cairns, I  
think, would prefer to be in Cairns in a facility rather than Barrett. Now, I would  
have to ask the patient whether they wanted that or not, but there is a sense that the  
plans, the emerging opinion – was all informed by consumers saying what they  
wanted. And what they wanted seemed to more community-based care – support in  
20     the community.

But, Dr O'Connell, my understanding at this stage – and it's not a final view – is that  
the young people who were managed at the Barrett Adolescent Centre really had  
exhausted other options before going there. They were adolescents. They weren't  
25     expressing preferences for where they went, necessarily. Some of them may well  
have been comparatively happy in the Barrett Adolescent Centre, but they weren't  
calling out to be kept in the community. They weren't expressing views one way or  
the other?---That – that may well be the case. They also might not have been aware  
of new models of care that were starting to emerge in Victoria which provided, for  
30     example, more community support for adolescents.

Alright?---One of the problems that we have, of course, is that we're talking about  
decisions which have to impact a number of areas. There are – these are decisions  
which have to have a financial basis to them. They're decisions which have to take  
35     into account emerging trends around Australia and the world. They have to listen to  
patients, but the mechanism for that doesn't necessarily manifest in a brief to a  
Director-General. And, as I said, many of these considerations were a kind of given  
in that they were – they were being mentioned repeatedly in the national and the state  
mental health plans. And the general direction was well-described.

40     Thank you. Mr Harper.

MR HARPER: So, Doctor, all of those matters which you've just mentioned in  
relation to what's happening in other states, in relation to what consumers might  
45     want, etcetera, is that pointing to perhaps an evolving change in mental health policy  
that was occurring at the time? Is that what you're saying?---Yes, yes.

5 And what you're saying, is it, is that this decision to close Redlands – one of the most if not the most important factor in that decision to close Redlands was that changing policy framework. Is that what your evidence is?---It is, but it's a policy – changing policy framework which is based on increasingly listening to mental health consumers about what they would prefer.

10 Okay. Well, can I ask on that – before this decision was made, was there any consultation with the families of the patients at the Barrett Centre?---I'm not aware of whether there was or not.

You never – obviously you never conducted any yourself?---No.

15 You would concede that this briefing note does not make reference to any consultation with the families of patients. Would you expect – in such a major change to policy, would you expect your department to have conducted that sort of consultation in your normal practice? In your normal practice as a Director-General at the time, would you have expected a major change in policy to be preceded by some consultation with those affected?---Yes. I would have expected that, and certainly I was aware that the officers in charge of West Moreton district, as it was before 2012 and Health Service subsequently, were in constant communication with staff and patients of the Barrett Centre, and I knew that because I was receiving briefs about a number of other matters pertinent to the Barrett Centre.

25 Nowhere in this briefing, though, are you informed about their response to this?---Not in this briefing note. No.

30 Are you saying that at another time you were advised of their response to a proposed closure of the Redlands facility?---I'm not saying that. I may have been, but I can't remember.

35 Can I ask for a major change in mental health policy, albeit incremental, resulting in a decision like this one to reflect that policy, would you think that that change in policy is within your role as a Director-General?---Yes. However, you'll note that – and we'd need to check the last page, but this brief is sent to the Minister for noting.

Yes?---The purpose of that is so that the Minister can veto the decision that I've made, because ultimately it's the government that sets the policy for especially major things like infrastructure commencement or cessation.

40 Well, but your evidence is that this - - -?---So - - -

Sorry?---So I have the power to stop a project, but I allow government via the Minister to veto that decision before it's promulgated.

45 So your understanding when you were a Director-General was that you were limited to, if you like, programmatic decisions – decisions about particular programs rather than overall policy direction?---It's a very difficult area to define. It's best informed

by what governments have promised before an election, because they tend to stick to those commitments. But – and by the publication of plans, but, as we’ve already heard today, plans can be amended, especially if they have a 10-year duration. But ultimately, the Director-General has to operationalise not only policy and  
5 government policy but common sense.

But that doesn’t extend, does it, to a major change in policy direction?---I’ve already told you that the Minister has the option to veto the decision that I made.

10 Now, if, in fact, the most important aspect of this decision was this changing policy direction, would you think – in your experience as a public servant, would you think it would be worthy of a full Cabinet submission for consideration by the full Cabinet?---Not necessarily. The Minister has often delegated responsibility for decisions of this magnitude.

15 Okay. And in your mind, in this case, the Minister had that power by being able to veto your decision when he was asked to note the briefing note?---And, of course, he has the option of then discussing it with his Cabinet colleagues or the Premier if he’s – if he wishes to.

20 Now, the Cabinet Budget Review Committee – that’s a permanent standing committee of Cabinet - - -?---Yes.

- - - in Queensland, isn’t it?---Yes.

25 Established under the Cabinet Handbook, yes?---Yes.

There are – well, at this time, were you aware were there some permanent members of that Cabinet Budget Review Committee?---Yes. The Treasurer is always on it.

30 Yes. And the Premier?---The Deputy Premier tends to be on it. The Premier tends to be on it. Yes. They don’t always attend all of the meetings, but yes.

35 When matters come before the Cabinet Budget Review Committee, it is common, isn’t it, for officials such as Directors-General to attend with their Minister at that meeting, isn’t it?---Yes. For – for the more significant decisions, the – you know, the Cabinet meeting may have two dozen matters that it’s discussing.

40 Talking about the Cabinet Budget Review Committee or CBRC meetings?---Both – both Cabinet and CBRC.

45 Well, I just want to take you to CBRC meetings. They are – you as Director-General would have attended CBRC meetings, wouldn’t you?---I wouldn’t have invariably attended meetings which had a health subject on them. It depended on whether the Minister requested my presence, whether the Cabinet Secretary approved my presence.

In the framing of the State budget each year the Minister and the Director-General would normally attend the CBRC meeting, wouldn't they?---Tended to, yes. Yes.

Can I ask was this briefing note which you've got exhibited at - - -

5

MR O'SULLIVAN: I object. What appears to be going on is trespassing on public interest immunity that protects all Cabinet discussion. Now, there needs to be some way of dealing with this, maybe a closed session or something but we've had no notice that this witness was going to be asked questions about what happened in

10

MR HARPER: Sorry - - -

MR O'SULLIVAN: Let me just finish. And I only object on the basis that if the Commission is going to hear evidence about what happened in Cabinet we need to set up some sort of framework for dealing with that.

15

COMMISSIONER WILSON: Mr Harper.

20

MR HARPER: Commissioner, I don't intend to go to any deliberations of the CBRC meeting. My purpose is to cross-examine about the purpose of this briefing note.

25

MR O'SULLIVAN: No, no. No, that's right. He asked if the briefing note went to Cabinet.

MR HARPER: No. I don't - - -

MR O'SULLIVAN: That's exactly what he asked.

30

COMMISSIONER WILSON: Well, if he did ask that I won't allow that question. Would you ask another question, Mr Harper.

35

MR HARPER: Yes. I've asked you some questions earlier about that first paragraph regarding CBRC?---Yes.

Is that paragraph an indicator that the motivation for you receiving this briefing note was related to funding issues associated with the budget position of Queensland Health?---Yes. I've already said the one of the six reasons I gave for ceasing the Redlands project was a budgetary reason. Yes.

40

Yes. You mentioned – I think in your evidence you mentioned that, I think, in answer to my learned friend, Mr Freeburn, that that – I think he needed to understand or the Commission needed to understand that you had been asked to obtain \$100 million dollars in savings across the Queensland Health budget and that this decision was part of that. Do you remember giving evidence to that effect?---Yes, I did. Yes.

45

Is it fair to say that actually the prime motivator in this decision was the savings – the financial savings which would be generated by the axing of the Redlands project. Was that the prime motivator - - -?---No.

5 - - - in this decision?---No, it wasn't. And it's why I volunteered that the most important reason, in my statement, was the consideration with regard to the changing model of care. But it certainly was a factor.

Commissioner, I've got no further questions.

10

COMMISSIONER WILSON: Very well. I'm conscious of the time and I'm conscious of all the staff in the hearing room needing a break. How long will you be, Mr Diehm?

15 MR DIEHM: Ten minutes, I think, Commissioner.

COMMISSIONER WILSON: Alright. Ten minutes.

MR DIEHM: Thank you, Commissioner.

20

**EXAMINATION BY MR DIEHM**

**[1.18 pm]**

25 MR DIEHM: Dr O'Connell, we'll start where we finished off with Mr Harper's questions on that briefing note concerning the closure of the Redlands facility. In the interests of time I will deal with it this way: is it right to conclude the following things about the document and the information that was before you at the time. Firstly, you were being made aware and, indeed, were already aware that there were  
30 significant problems with delays in the project?---Yes.

Was there any particular timeframe within which the project might successfully be completed as far as you were aware?---Well, we'd had dates mooted in previous  
35 briefs which talked about 2013 but clearly this was a situation where a number of factors were causing the delays and it would be difficult to predict exactly when we might be successful if we continued to pursue it.

It's fair to say that the delays were continuing, weren't they?---Yes.

40 So there was no known timeframe within which this project could be completed?---I – look, I would be guessing - - -

Yeah?--- - - - but that was the – the overwhelming feeling at the time.

45 Alright. There were budget overruns that meant that before the project could even be pursued further there was going to be a need to obtain further moneys in a tight fiscal environment?---Yes.

And you were told, as you were aware from your own experience as well as from briefings that you had received regarding this particular topic and other mental health related issues, that there was a move away from that form of model of service that was emerging?---Yes.

5

You were being made aware that there were other critical projects with respect to mental health care for people of Queensland that needed the funds and if they had the funds available to them could proceed immediately?---Yes. Planning could commence immediately. Yes.

10

Alright. They had better prospects of progression than the Redlands project?---Yes.

15

So the choice that you were being presented with, it's fair to say, is this: persist with the pursuit of a project that you don't know when it can be finished, you don't know whether it can be funded and there's uncertainty about whether it's even the right project to be pursuing, or reallocate the money to other projects that are also very important and which appear ready to be progressed?---Yes. That's a fair summary.

20

In the meantime, if the Redlands project wasn't to be progressed, the patients present and future for a service like the Barrett Adolescent Centre stood to continue to be serviced by that Centre?---Yes.

25

So can you tell the Commission in those circumstances whether you consider the decision that you made in signing this briefing note was one that was consistent with your objective of securing the best interests of the patients?---Yeah. I'm still confident now that that's the case.

30

Thank you. Can I ask you then about another matter that was canvassed by Counsel Assisting. It concerned paragraph 16(f) of your statement which related to the briefing note that you now know that you signed in July of 2013. It's at page 15 of Dr O'Connell's statement, for the benefit of the operators?---Yes.

35

It says there that you did not seek expert adolescent psychiatric advice at the time of the briefing note. At the time of making this statement you hadn't been provided with a signed copy of the briefing note and, more particularly, a copy of the briefing note complete with the attachments. Is that so?---Do you mean in the first set of documents that the Commission sent me?

40

Yes?---Yes.

At the time of making this statement?---At the time of making that statement. Yes.

45

Alright. Well, if the witness could then be taken, Commissioner, to the document that you've subsequently been provided which Counsel Assisting took you to, QHD008.001.3858. So this is the signed copy, and if the witness could be taken through then, please, to the attachment, the first attachment to that document should be about four pages in, I think. If we can go to the second page of that document,

thank you, and scroll down just a little further, please. Now, Dr O'Connell, you've said that you don't have a recollection of – a specific recollection of reading that document at the time that you signed the briefing note, but that it was your practice to read a document of that kind at the time of signing a briefing note, that is, a document of that length?---Yes.

Can I draw your attention to the first sentence of that paragraph at the bottom of the screen, "The ECRG comprised"?---Yes.

Now, again, recognising that you don't recollect the event of reading the document, but having regard to your practice of reading such documents and having regard to what you routinely took into account when considering briefing notes before signing them, would seeing a reference like that to the presence of distinguished child and youth mental health clinicians from Queensland and New South Wales as part of the ECRG have been something of moment to you when considering the document that you were being asked to sign?---Yes, it would have been very significant. And I also note that there were consumer and care representatives. But it is worth noting, Commissioner, that this conversation we're now having is about a brief which is about the closure of the Barrett Centre, which is a different topic to the topic which we were discussing earlier, which was briefing about the cessation of the Redlands Project.

COMMISSIONER WILSON: I appreciate that?---So we're getting closer to the point where the closure is becoming a reality, and as we get closer I'm more comfortable that we're appropriately seeking advice from experts and from clinicians and from patients and their families.

Thank you.

MR DIEHM: Thank you, Commissioner.

MR O'SULLIVAN: Commissioner, just - - -

COMMISSIONER WILSON: How long - - -

MR O'SULLIVAN: I'm so sorry.

COMMISSIONER WILSON: Mr O'Sullivan, yes.

MR O'SULLIVAN: I'm so sorry. I have another draft briefing note that's unsigned. Could I just find out in due course if the Commission has a signed version of that one, but not now?

COMMISSIONER WILSON: Of what? Of what?

MR O'SULLIVAN: Another briefing note with this gentleman's name on it, but it's unsigned. It looks like it's in draft. I didn't show it to him because it doesn't have

his signature, but I'm now told the Commission has signed versions of drafts which we've been provided with.

5 COMMISSIONER WILSON: Look, I think it's best if we break now for lunch. I really did think that Dr O'Connell's evidence should be finished well before lunch. I'll break until 2 o'clock. Would you sort this out, please, with Counsel Assisting, to the extent that you need to over the break? And if you have a short matter you need to put in cross-examination, I'll allow you to do it. Alright. How long do you expect to be when we return, Mr Freeburn, in terms of questions?

10

MR FREEBURN: I have nothing further.

COMMISSIONER WILSON: 2 o'clock.

15

**WITNESS STOOD DOWN**

20

**ADJOURNED**

**[1.27 pm]**

**RESUMED**

**[2.05 pm]**

25

**ANTHONY O'CONNELL, CONTINUING**

30

COMMISSIONER WILSON: I apologise for the delay, everyone. Yes, Mr Freeburn.

MR FREEBURN: Commissioner, 25 minutes of Delium searching hasn't uncovered a signed version of that document that Mr O'Sullivan mentioned. We will continue that process. I've mentioned that to Mr O'Sullivan. If one turns up we will supply it as soon as we can.

35

COMMISSIONER WILSON: Thank you. Are you content with that for the moment, Mr O'Sullivan?

40

MR O'SULLIVAN: I am. I'm conscious the witness is going back to Sydney. I could ask – I am perfectly content. I am told that it might turn up, that it may turn up in the future. One option is – I think there's no further questions of this witness. I think one option is while he's here I could ask him about the document that we do have, drawing his attention to the fact that he hasn't signed it.

45

COMMISSIONER WILSON: Well, is this a document that you had before? So if it is why didn't you put it to him before?

MR O’SULLIVAN: Because I didn’t have a signed version.

COMMISSIONER WILSON: Well, you still don’t have a signed one.

5 MR O’SULLIVAN: Correct. And we may not have – we may or may not get one.

COMMISSIONER WILSON: Well, are you asking for leave to ask another question now or not?

10 MR O’SULLIVAN: Well, I won’t – if it’s going to knock the timetable around, I won’t and we will move on.

COMMISSIONER WILSON: Well, I don’t want you saying later that you have been denied the opportunity to put a question which was critical. I’m giving you the opportunity now to tell me whether you want to ask a question or not.

15 MR O’SULLIVAN: I do.

COMMISSIONER WILSON: Alright. Well, can you be very brief about it.

**EXAMINATION BY MR O’SULLIVAN**

**[2.06 pm]**

25 MR O’SULLIVAN: QHD.004.014.8273. Another briefing note to the Minister for Health. If you go to the last page 8278, Dr O’Connell, you will see that it is unsigned but it has your name as endorsing it. Do you see that?---For endorsement.

I’m so sorry, for endorsement but there’s no signature?---Yes.

30 Yes. If we go back to the first page:

*Note – the department is proceeding with option A of the three options detailed herein.*

35 Do you see that?---Yes.

40 Turn to page Delium 8276 paragraph 18. These are the three options that are referred to in the note. Read that, please. Page 4 of 6, Commissioner, of the document.

The first page, you will note, said that the department is proceeding with option A, not B or C?---Yes.

45 This document is dated soon after you became Director-General. Do you have a recollection of this particular and rather detailed issue coming to your attention at

about June or July 2011?---Only in the vaguest terms of there needed to be options contemplated to deal with this issue of delays. Yes. But no – nothing more specific than that.

5 Thank you. I'll tender that document for what it's worth, Commissioner.

COMMISSIONER WILSON: Does anyone want to say anything about it? Alright. Well, that document will be marked as an exhibit in due course. Now, is there anything else anyone wants to ask Dr O'Connell or can I stand him down?

10

MR FITZPATRICK: Commissioner, mine is merely I neglected to tender the 2012/13 service agreement so if your Honour gives leave it can be attended to in due course.

15 COMMISSIONER WILSON: Alright. That will be given an exhibit number in due course, too. But there's nothing else? Thank you very much, Dr O'Connell?---Thank you, Commissioner.

You can stand down.

20

**WITNESS STOOD DOWN**

**[2.09 pm]**

25 MS MUIR: Thank you, Commissioner. I am calling the next witness and that is Ian Graham Maynard.

COMMISSIONER WILSON: Ms Muir, how long do you expect to be with Mr Maynard?

30

MS MUIR: Commissioner, I hope that I should be a little over an hour.

COMMISSIONER WILSON: Well, that will take us until quarter past 3. How long will the cross-examination take? Who's cross-examining Mr Maynard?

35

MR O'REGAN: Fifteen minutes, Commissioner.

COMMISSIONER WILSON: Yes. Anyone else?

40 MR FITZPATRICK: I have nothing at this stage, Commissioner.

COMMISSIONER WILSON: Alright. And who's representing Mr Maynard?

MR O'BRIEN: I am.

45

COMMISSIONER WILSON: You don't have any idea, at the moment, I suppose, how long - - -

MR O'BRIEN: I have no idea at the moment.

5 COMMISSIONER WILSON: Alright. Well, by 4 o'clock at the very latest we must finish this witness. Does everyone understand? Very well. Please come forward, Mr Maynard.

**IAN MAYNARD, SWORN**

**[2.10 pm]**

10

**EXAMINATION BY MS MUIR**

15 MS MUIR: Thank you, Commissioner. Mr Maynard, you've provided one statement to the Commission, and it's dated 1 February 2016; is that correct?---That's correct.

20 If we could go to 0022 of the statement, please, these paragraphs, 77 and 78, 223. I understand that you would like to correct something in these paragraphs?---Correct.

COMMISSIONER WILSON: Who took this statement? Was it the Commission?

MS MUIR: No, your Honour.

25 COMMISSIONER WILSON: Mr O'Brien, do you know?

MR O'BRIEN: No, that wasn't. No. No, it wasn't. It wasn't taken by the Commission.

30 COMMISSIONER WILSON: Alright. Did your solicitors take the statement?

MR O'BRIEN: Yes. My understanding is - - -

35 COMMISSIONER WILSON: How major are these corrections that need to be made, because you really should be attending to them, rather than Ms Muir?

40 MR O'BRIEN: I have raised that with Ms Muir. It's simply a matter of there being two draft – two briefing notes in the statement which Mr Maynard indicated in the statement that he - - -

COMMISSIONER WILSON: Don't tell me any more, Mr O'Brien. I'll give you leave attend to these corrections now by asking the relevant questions of Mr Maynard.

45

**EXAMINATION BY MR O'BRIEN**

**[2.12 pm]**

MR O'BRIEN: Yes, certainly. Mr Maynard, as Ms Muir, counsel assisting, has just mentioned, there – I understand there's a correction that you wish to make to paragraphs 77 and 78 of your - - -?---That's correct.

5 - - - statement. What are those corrections?---So in paragraph 77 I state that I had no recollection of a briefing paper relating to approval for interim services. I was provided with an unsigned early draft by the Commission. I have since received a signed draft and accept that that is my signature.

10 Yes. And what is the position in relation to paragraph 78, the second paragraph you mentioned?---So the copy that I was provided with was an early draft. Having seen the signed copy, I do recall the briefing note, and that is my signature on it.

Right. Thank you. That's all.

15

COMMISSIONER WILSON: Thank you. Yes, Ms Muir.

**EXAMINATION BY MS MUIR**

**[2.13 pm]**

20

MS MUIR: Thank you. Mr Maynard, you're presently the deputy chief executive of the National Disability Insurance Agency; is that correct?---That's correct.

25 And you have a Bachelor of Science with first-class honours, and have undertaken a number of courses, including an Advanced Management Residential Program and an Australian Company Director's course; is that correct?---That's correct.

30 From 23 September 2013 until 23 March 2015, you held the position of director-general of Queensland Health; is that right?---That's right.

35 Prior to taking on the role as director-general of Queensland Health, is it a fair summary of your CV that's attached to your statement that you had worked as the chief executive of the Public Service Commission for a year, and then in the years prior to that as the chief executive officer of Queensland Urban Utilities, and then as the chief operating officer and executive manager at the Brisbane City Council?---That's correct.

40 Can I just ask you briefly to explain what your role was as chief executive of the Public Service Commission, what that role entailed?---So that – that role entailed providing stewardship to the *Public Service Act*, providing support and mentoring to senior executive service officers, chief executive service officers within the Queensland Public Service, the culture and values of the Queensland Public Service, the industrial relations legislation relating to the Queensland Public Service, and  
45 broad reform and renewal activities of the government.

And you say in your CV that you held this role from 2012 to 2013, but you don't say a month. What month did you start in 2012?---In August of 2012.

5 So when you started in this position as the chief executive of the Public Service Commission, at that time were you familiar with the fiscal repair strategy that had occurred following the change of the state government in March 2012?---I was.

10 And you understood, did you, that the government had identified that there was a substantial budget deficit, which was projected to increase significantly in the near term if corrective actions were not taken?---Yes, that was my understanding.

And was it your understanding at the time that the government charter provided for a range of cost-cutting measures?---Yes.

15 As the chief executive of the Public Service Commission, did this fiscal repair strategy affect how you approached service delivery at that time?---Not – not specifically. That was within the responsibility of the chief executive of the relevant department or government agency.

20 But I wanted to ask you about whether or not in your role with the Public Service Commission, did you have much involvement, interaction with other government agencies?---Yes, I did.

25 And what was that involvement?---So that involvement was in a peer relationship, meeting on a regular basis with departmental heads, providing support and guidance as requested.

30 Were you aware at this time of the Commission of Audit that had been commissioned by the state government after it was elected?---Yes.

And did you read this report at the time?---I – I read the executive summary and some elements of the full report.

35 So you understood that this – I think it was an interim June 2012 report – raised concerns about budget management across a number of government agencies, and including Queensland Health?---In general terms, yes.

40 And did you know at the time that this report identified that debt across the Queensland Government at that time to increase to approximately 100 billion by 2017 to 2018?---Yes, I was aware of that.

45 So in your role as chief executive of the Public Service Commission, am I to understand your evidence that you did have dealings with both the Director-General and Deputy Director-General of Queensland Health at the time?---Yes, I did.

So when you took over the role of Director-General of Queensland Health you took over from Dr Tony O'Connell, who left the position on 15 August 2013; is that your understanding?---Yes.

5 And Dr Michael Cleary was acting director-general for Queensland Health in the interim, so that was between that month or so from when Dr O'Connell and you commenced?---Yes.

10 Prior to your role as director-general of Queensland Health, did you know anything about the Barrett Adolescent Centre at Wacol?---No.

15 Did you have any knowledge at all about mental health services in Queensland at the time you took on the role of Director-General?---Nothing more than being a member of the public and a broad awareness of the services that Queensland Health delivered.

20 If I could take you, Mr Maynard, to paragraph 10 of your statement, which is at IMA900.001.0003. Now, in this paragraph, you set out your key responsibilities as director-general of Queensland Health. And if you just want to have the chance to read over that again. So you talk about the idea of the scale of the Queensland public health system, and you set out a number of matters that show the breadth of that scale, including 17 hospital and health services, 200 hospitals, 75,000 full time employees. So when you took on this position obviously you had to get up to speed fairly quickly on a number of issues within your responsibilities?---That's right.

25 And can I ask you, what sort of handover do you get when you step into such a role? Did you get the opportunity to speak with Dr O'Connell at all before he – I understand he left in August but – and you didn't start until September, but was there any opportunity to sort of liaise with him prior to you assuming your role?---I don't recall there being any opportunity for a handover discussion with Dr O'Connell.

30 But Dr Cleary was acting when you stepped in as director general?---That's correct.

35 And did you have the opportunity to speak to Dr Cleary?---I did have the opportunity to speak to Dr Cleary.

And I gather you would have spoken to him quite a lot?---Yes, yes.

40 Now, if I could take Mr Maynard to paragraph 32 of Dr Cleary's statement which is DMZ.900.001.0009.

If you could just read paragraph 32. So, Mr Maynard, were you aware when you took over as director general, or perhaps even earlier, that in the first three months of the new state government's appointment, Queensland Health had been required to put in place savings strategies of approximately \$120 million?---I was aware that

savings strategies were required to put in place. I'm not sure I recall what the amount of quantum of that target was.

5 I understand you were in another position at that time. Were you aware when you took over as director-general though that the whole of government budget management strategy at the time required Queensland Health to look at expenditure that was discretionary could be deferred or was not effectively contributing to improved health outcomes?---I was aware of that requirement.

10 Now, would I be correct in my understanding that when you took on the position of director-general, or it was some time after, you had an understanding that there had been a decision to cease the planning of the 15 bed adolescent extended mental health unit at Redlands? Did you become aware of that when you stepped in as director-general of Queensland Health?---I became aware of that at some point.

15 What I was aware of in the months following my appointment as director general of Queensland Health is that there was a process of closing down the Barrett Adolescent Centre. I wasn't aware until some months later what options had been considered previously.

20 So if I could just take you a step back so I can understand your evidence. When you came in as the director-general, you came in on the 23<sup>rd</sup> of September 2013. And, of course, the announcement of the decision to close the Barrett Centre had been made on the 6<sup>th</sup> of August 2013. My question was in relation to what you had understood or what you had known about the Redlands project, the project to build the facility at Redlands prior to that?---I didn't have any knowledge specifically about that at the time.

25  
30 Did you subsequently get some knowledge?---I subsequently did get some knowledge but only after leaving Queensland Health.

Commissioner, you'll have to excuse me for a moment. Commissioner, could I just have a moment - - -

35 COMMISSIONER WILSON: I'm going to stand down for five minutes.

MS MUIR: Thank you.

40 COMMISSIONER WILSON: But if you need longer, would you get a message to me?

**WITNESS STOOD DOWN**

45 **ADJOURNED**

**[2.25 pm]**

**RESUMED** [2.35 pm]

5 **IAN GRAHAM MAYNARD, CONTINUING** [2.35 pm]

**EXAMINATION BY MS MUIR** [2.35 pm]

10 MS MUIR: Thank you, Commissioner.

COMMISSIONER WILSON: Ms Muir, do you wish to proceed this afternoon?

MS MUIR: I'm content to proceed.

15

COMMISSIONER WILSON: Alright. If you need another break, say so.

MS MUIR: Mr Maynard, in your statement, you say at paragraph 15, which is at  
20 .0004, that you reported to the Minister for Health and that you met weekly to  
discuss key priorities for the week ahead. Is that correct?---That's correct.

And am I right in understanding that for most of your tenure the Minister was  
Minister Springborg?---That's correct.

25 Am I correct also in understanding that Minister Springborg had an open door policy  
and almost literally because there was a door between your office and the Minister's  
office on the 19<sup>th</sup> floor of the Queensland Health building?---That's correct.

30 And the weekly meetings that you talk about in paragraph 15 of your statement – are  
they the executive management meetings?---They were generally a one-on-one  
meeting, and they were often followed by an executive management meeting where  
the Minister would meet with other members of the Queensland Health executive.

35 And so they're two separate things. There was a one-to-one meeting that you would  
have with Minister Springborg and then a more fulsome meeting with other  
executives from Queensland Health?---Correct.

40 And did you attend such executive meetings regularly during the time – your time as  
Director-General?---Yes.

And who else attended?---Those meetings were generally attended by the direct  
reports that I had – the other Deputy Directors-General.

45 And when you talk about the other Deputy Director-Generals, you set out in  
paragraph 12 in some detail who those Deputy Director-Generals were during your  
tenure as Director-General?---That's correct.

What sort of issues were discussed at these – I think they're called EMT meetings, aren't they?---EMT was slightly different. EMT was the executive management team, and that was a weekly or fortnightly meeting which only included the executive. It did not include the Minister.

5

Okay. So – and those EMT meetings – where were they held?---They were held in the main meeting room on my floor of the Queensland Health building.

10 And only the executives of Queensland Health attended the EMT meetings; is that your evidence?---That's correct.

And then the Minister didn't attend those meetings; he attended another meeting with you and the executives?---That's correct.

15 And did that meeting have a name?---I would just refer to it as the executive management group.

20 So the executive management group meeting that you had with the Minister – what sort of issues would you discuss?---They would generally be issues that were relevant at that period of time. It may be that the Minister was following up on the status of government priorities and any challenges or media issues that the department was tackling at the time.

25 So would I be correct in understanding that you might discuss different Health projects that are underway at those meetings?---Correct.

And that you might discuss the financial performance of your department?---Correct.

30 I'd like to take you to the diagram that's above paragraph 18 in your statement, which is at IMA.0005. Now, here, you reproduce a diagram which you located in the October 2014 report Transitional Care for Adolescent Patients at the Barrett Adolescent Centre. That was prepared by Associate Professor Kotzé and Tania Skippen?---That's correct.

35 And you make a number of observations or comments about the diagram insofar as you say – and correct me if I'm wrong – that it summarises the process?---Yes.

40 Can I just clarify what process are you referring to?---It summarises the governance process.

And am I correct in understanding that you say the diagram accurately reflects that process?---That's my understanding.

45 So insofar as individual hierarchy – and this is perhaps not directly related to the diagram, but I just would like to understand insofar as the individual hierarchy for accountability within Queensland Health is concerned– what was the

individual hierarchy at the time that you were Director-General?---Can I clarify in relation to general management of the department?

5 Yes?---So the hierarchy that was in place when I took up the position – the Director-General had a number of Deputy Director-Generals and then Directors of functional responsibilities that reported to them. And there were 17 Hospital and Health Services. Each had a chief executive and a board, and the chief executive and executive team were appointed by the board of the Hospital and Health Service. The Hospital and Health Service Board through the chair was accountable to the Minister.  
10 The chief executive of the Hospital and Health Service accountable to the board. And the Director-General had essentially a peer relationship with those chief executives.

15 Sorry. You appear?---A peer relationship with those chief executives.

When you use the expression peer relationship, perhaps can you explain in a little bit more detail what you mean?---The chief executive for the Hospital and Health Service reported to the board. They didn't report to the Director-General of Queensland Health. So while the Director-General of Queensland Health had overall responsibility for discharging obligations under the *Hospital and Health Service Act*, that was often done through the delivery of services which was governed by the Hospital and Health Service Board. So there was the ability there to influence – not direct managerial responsibility to control.

25 And if I was to understand, then, the group hierarchy as opposed to the individual hierarchy within Queensland Health, would I go to your diagram above paragraph 18 – would that assist?---The diagram above paragraph 18 relates to the governance process that was in place when I commenced as Director-General to support the transition of patients out of the Barrett Adolescent Centre.

30 So it's confined just for that – and the process that you were referring to then was the governance insofar as it concerned the Barrett Adolescent Centre?---That's correct.

35 So if we look at that diagram, it refers to the oversight committee. And that's along the top row?---Yes.

And in particular – I understand your evidence – Dr Cleary and Dr Kingswell were on that committee?---That's correct.

40 What was your understanding of the role of the oversight committee?---My understanding at the time was that that oversight committee was the key responsible officers for the provision of mental health services and care to adolescents and young people and the actual delivery of that service. So it had the chief executives of Children's Health Queensland, West Moreton Hospital and Health Service and two  
45 representatives of the department. And the committee had – essentially was a steering committee for the transition of patients out of the Barrett Adolescent Centre.

And then with reference to the diagram and Queensland Health, you say that's a reference to you as the Director-General; is that correct?---Yes.

5 And so does that mean that, underneath the Minister, you were the next person responsible for the process?---Yes.

10 And the process being-- you used that expression in your statement -- the process by which young people were being transitioned out of the Barrett Centre at that time?---That's correct.

15 You knew when you started as Director-General that an announcement had been made by Minister Springborg on 6 August 2013 that the Barrett Centre was to close; is that right?---At the time I commenced, no, that wasn't correct. I became aware after that point that that decision had been made back in August. So it wasn't something that I was aware of when I came into the role.

Okay.

20 COMMISSIONER WILSON: Sorry. There are two concepts there. There's the announcement on the 6<sup>th</sup> of August by the Minister and then you said something to the effect of not being aware that the decision had been made in August. What decision are you talking about and the decision by whom?---Commissioner, my apologies. I meant to refer to the announcement.

25 I see. Thank you.

MS MUIR: Thank you, Commissioner.

30 So you started as director-general on 23 September 2013. And at that time or shortly after, did you understand that about 13 days earlier Dr Anne Brennan had been brought in on the 10<sup>th</sup> of September to replace Dr Sadler who had been stood down as clinical director of the Barrett Centre?---I became aware at some point after commencing in the role that Dr Sadler had been stood down.

35 And did you become aware too that Dr Brennan was acting as clinical director for the purpose of the transitioning of the patients?---I don't recall being made aware of that specifically. However, as Dr Brennan was a party in reviewing some of the briefing notes that I subsequently received, I'd made that assumption. But I don't recall being briefed that Dr Brennan had replaced Dr Sadler.

40 So when you commenced then as director-general or shortly afterwards, did you have any idea of, or any understanding of how far the transition process was underway?---No.

45 And I appreciate, of course, Mr Maynard, that you're not a clinician but did you give any consideration at the time that it would be a fairly mammoth task that would require careful planning, that task being to close down and transfer or

transition adolescents with severe and complex mental health issues to other services? Did you appreciate what a mammoth task that was at the time?---At the time and as at today, I appreciate that the transition of any services involving young people and adolescents is a significant challenge.

5

In paragraph 17 of your statement which is at 0005, you say you have no direct involvement or role with the Barrett Centre. Now, I'm just interested in understanding why you say this, Mr Maynard. Weren't you the director-general for nearly the entire time that the young people were being transitioned out of the Barrett Centre?---That's correct.

10

And doesn't that – on at least the diagram that's above paragraph 18, at least looking at that diagram – give you some responsibility for the oversight of that process, that transition process?---Indirectly it gives me some responsibility.

15

So you say indirectly. What do you mean by indirectly? What was your indirect responsibility then do you say?---My understanding at the time is that a decision had been made to transition patients out of the Barrett Adolescent Centre, that a range of new services were being developed, that it impacted on a number of young people and that the Barrett Centre itself and the transition was being managed by West Moreton Hospital and Health Service and that there was a governance process in place at the clinical level working closely with young people to develop transition plans at the oversight level in terms of the statewide adolescent extended treatment and rehabilitation implementation steering committee and at an executive governance level through the chief executive and departmental committee. I had – the department had through Dr Cleary and Dr Kingswell two very qualified clinical representatives on the executive oversight committee. And I was confident that if there had been any matters that required the department to intervene, that they would have been escalated to me.

20

25

30

So when you talk about on the executive governance level. And is that executive governance this diagram?---Yes.

35

So on an executive level, you were responsible under the Minister for the overall process. Is that right?---That's correct.

When you took over the role of director-general, were you made aware at some stage of the expert clinical reference group report, or the ECRG report?---I don't recall being made aware of that report.

40

So you never read the report?---I never read the report.

Have you read it since?---I have read a summary of the recommendations and management action since.

45

You mentioned before that you were aware that there were to be some new services. And was it your understanding that those services

were to be put in place as a result of the ECRG report?---Yes. That was my understanding.

5 And so you've read, I think you said, the summary of the ECRG report. Is that right?---I've read the summary of the recommendations and management response to the recommendations.

10 And can I ask you, did you have any understanding of what a tier 3 service was at the time?---My understanding of a tier 3 service at the time was that it related to medium to long term residential care and treatment of young people and adolescents with a mental health condition.

15 And I think you've given some evidence before that as director-general you understood that there was a committee that was given responsibility for developing these services?---Yes. That's correct.

20 And you understood that the responsibility was with the Children's Hospital and Health Service Board?---With the Children's Hospital and Health Service Board. Correct.

And is that with a direct reporting line to you, the Children's Hospital and Health Service Board?---The Children's Hospital and Health Service Board through the chair reports directly to the Minister of Health.

25 Did you understand that the ECRG report had warned the interim arrangements, that is after the Barrett Centre closes and before a tier 3 is established, are at risk of offering suboptimal clinical care for the target group? Can you recall reading anywhere when you read the executive summary of any risks that had been identified?

30

MR O'BRIEN: Sorry.

COMMISSIONER WILSON: Mr O'Brien?

35 MR O'BRIEN: I object to the question, Commissioner. It's not been established when Mr Maynard actually read the summary. He gave evidence that he's read the summary but he was not asked and he's not given evidence about when he read that summary. That really needs to be explored before the question that's about to be asked is answered.

40

MS MUIR: I'm more than happy to – sorry, Mr Maynard. I should've done that before. When did you read the executive summary of the ECRG report?---Within the last week.

45 So you'd never read it when you were director-general of Queensland Health?---That's correct.

You did know though, did you, that the transition was occurring at a time when no new services were available; is that a fair proposition? Do you agree with that?---The transition occurred at a time when new services were being developed and interim services had been identified.

5

I realise earlier in your evidence you said when you came into the role of director-general you knew nothing about the Barrett Centre. As you were in your role for the months leading or during which the transition process was occurring, did you come to understand what conditions those young people had or what other services they may have accessed before accessing the Barrett Centre?---I – I developed a broad understanding of those young people’s conditions, the services that were provided by the Barrett Centre and through Queensland Health. I wasn’t aware of the services that they had been provided with prior to entering the Barrett Centre.

10

15

Were you aware that this group of young people were a group that – or many of whom had exhausted all other existing services before their admission to the Barrett Centre?---I had made that assumption.

20

So were you concerned then about the transitioning of the young people in such circumstances, knowing that you knew that there were new services being developed, you’ve said, but you knew at the time of the transition those new services hadn’t been implemented; is that your evidence?---I – I was aware that transitioning services for young people at any time is a – is a risk, and a risk that needs to be closely managed. I was confident through the governance structure that was in place and the strong focus at the clinical level on developing individual transition plans for each young person that their care would be taken account of. And so whether it was a permanent, ongoing service provided by state government, provided by a non-government organisation or an interim service, I was confident that clinicians had full control over that process.

25

30

You spoke to the Minister regularly, did you, during this time?---Yes, I did.

35

Did you know at all whether or not the Minister was receiving letters from concerned members of the public about the closure of the Barrett Centre?---I became aware later in 2014 that the Minister had received a number of letters in relation to closure of the Barrett Centre.

40

But is it your evidence that during the actual transition process you weren’t aware of any concerns being raised by members of the public or families or patients about the closure?---I – I was broadly aware that – that parents were concerned about the closure.

Now, if we could go to IMA.900.001.0060. Now, this is exhibit IGM4 to your statement, and it’s a briefing note for noting, dated 25 November 2013. I’ll take you

– perhaps if we can go to the bottom of the page – the second page – actually, there won't be a second – this is a briefing note for noting that is exhibit 4 to your statement. The bottom of the page, there's a – if we go down further, you'll see that there's – the signature has been redacted. Can you recall signing this briefing  
5 note?---Yes, I can.

Can I just take you then back to 4217 on this briefing note, which is the first page, and the second dot point. So as part of the top issues – the headline issues– that dot point says:

10 *The Minister for Health and West Moreton Hospital and Health Service Board gave a public commitment to ongoing provision of safe and comprehensive clinical care for Barrett Centre consumers during the transition to the new state-wide adolescent extended treatment and rehabilitation services.*

15 You agree that that's what the second dot point says?---Yes, I agree.

But what you agree, am I correct in understanding, is that the transition wasn't to those new statewide adolescent extended treatment and rehabilitation services, because those services were still being developed?---Correct.

20 And did you understand what that suite of services that was to be developed and implemented – what that suite of services were?---I had a broad understanding in terms of what that suite of services would entail. In terms of the period of transition and the interim nature of some of those services during transition, that – I was leaving that aspect to be managed by the clinicians and by oversight through the executive steering committee.

25 So if we go over the page then, to 0061, and you'll see there that there's reference in paragraph 6 to a gap in services, and then further in the paragraph there's reference to interim options will need to be provided until the new services are available. Can I just ask you two questions, then. What did you understand to be the gap in the services?---Subsequent to this briefing note, there was a further briefing note that came forward to approve funding to support those services. So the detail of those  
35 interim services I became aware of after this briefing note.

I can take you to that briefing note; it's the one that you clarified earlier with Mr O'Brien. I'll take you to that briefing note in a moment. I just have a couple more questions?---Sure.

40 Actually, I'll take you to that note now. If we could go to 0016 – WMS.0016.0001.16120. Commissioner, this briefing note is not one that's exhibited to Mr Maynard's statement, but it's one that he has a copy of and I will tender it at the end of Mr Maynard's evidence. I have some spare copies here – we've got it on  
45 the screen. Is this the briefing note that you mentioned a moment ago to me?---That's correct.

Okay. And – sorry, Mr Maynard – what were you going to tell me about the briefing note?---So the briefing note outlined the broad nature of the interim services that would be provided until more permanent services were in place.

5 Can I ask this: as part of your role as director-general of Queensland Health at the time, is it fair to say you were responsible to ensure the delivery of safe healthcare services for all Queenslanders?---That’s correct.

10 And just now focusing on that role in the context of the Barrett Centre closing and this new suite of services that was to be implemented, did you think that it was important to try and coordinate the closing of the Barrett Centre in timing with the development and implementation of this new suite of services being developed?---I was – I was relying on the advice that I had received up through the reporting line through the mechanism – through the hierarchy that we talked about earlier to  
15 determine what the appropriate care arrangements would be for each individual patient at the Barrett Centre. So from – from my perspective the – the risk was associated with transitioning to any service out of the Barrett Centre whether that was a permanent service or deemed by the – the treating clinician as being an appropriate interim service.

20 Mr Maynard, I might take you back to my question because what I was trying to understand – and I don’t think that you’ve answered me – is that about the coordination of and the timing of the closure of the Barrett in timing with the new services being available. I suppose, why was there such a rush – or what was the  
25 urgency in closing the Barrett Centre before the services were in place?---I – I was – I was aware of the age of the building, the particular location of the building being co-facilitated with an adult forensic mental health unit, some of the challenges that that represented and from my perspective that was a driver for moving forward into an alternate provision model.

30 Okay. Let’s talk about this co-location. How long had the Barrett Centre been located in that spot? What did you know about how long the Barrett had been there at the time?---At the time I didn’t know how long the Barrett Centre had been located there.

35 But you know now that it had been located at The Park since 1982?---Yes.

Okay?---That’s correct.

40 So again, what was the urgency then given that it had been located there for that period of time, what was the urgency in - - -

45 MR O’BRIEN: Well, I object to the question. He’s just said that he doesn’t know – he didn’t know at the time it had been there since 1982. And the question that’s just been asked is what was the urgency in light of the fact that it’s been there since 1982.

COMMISSIONER WILSON: Your response, Ms Muir.

MS MUIR: I'm content to move on, Commissioner.

COMMISSIONER WILSON: Thank you.

5 MS MUIR: Well, perhaps I can ask the question another way. When you were a  
Director-General of Queensland Health during this transition process, did you  
understand that there had been incidences arising from the location of the Barrett  
Centre at The Park that were of concern?---Yes. I had been made aware of – of  
10 incidences. I had been – my recollection is that I – I – I had been advised that there  
had been a review done following some incidents. I don't recall the nature of those  
incidents. But that review had recommended that it was not appropriate to continue  
with an adolescent and young persons' mental health facility co-located at – at The  
Park.

15 And did you understand from that review that there was a great urgency then to have  
the young people moved out of that location?---That – that was my understanding as  
to the sense of urgency.

COMMISSIONER WILSON: Can I ask a question to clarify there. You said you  
20 weren't aware of the circumstances of the various incidents. Did you know whether  
they were incidents between, on the one hand, Barrett Centre patients and, on the  
other, patients of the other facilities at The Park or whether they were incidents  
among Barrett Centre patients?---My understanding was – my understanding at the  
time was that the incidents related to the proximity of the Barrett Centre to – to the  
25 Park - - -

Thank you?--- - - - and the assumption I made was - - -

30 MS MUIR: So they were incidences relating to - - -?---To the proximity of the  
Barrett Centre to The Park and therefore related to – didn't relate to incidents  
between patients at the Barrett Centre.

35 Am I correct in my understanding of your statement that insofar as the Barrett Centre  
was concerned you relied on information to a great extent that was provided to you  
by Dr Michael Cleary who was the Deputy Director-General of Health Services and  
Clinical Innovation?---That's correct.

40 So is it your evidence that it was Dr Cleary providing you information about the  
concern in relation to the location of the Centre at The Park?---I – I don't recall  
specifically who did it. It may have been Dr Cleary or Dr Kingswell. It was likely to  
have been one of those two individuals.

45 In your statement you also say at paragraph 18(e) which is at .006 – and this is in  
relation to the process that – using that expression as you use it in your statement and  
you say that in relation to that process Dr Steer and Lesley Dwyer who were the  
chief executive officers of Children's Health and West Moreton Hospital and Health

Service, you say that you can't recall them raising any concerns with you during the transition of the Barrett Centre patients. Is that right?---That's – that's correct.

5 And likewise you say in paragraph 18(b) of your statement that Queensland Health was represented by Dr Cleary and Dr Kingswell and that you relied on them to bring any issues to your attention?---That's correct.

And you say that:

10 *During the process I do not recall any concerns being raised by Dr Cleary or Dr Kingswell.*

?---That's correct.

15 So if there had been any difficulties arising as part of the transition process you would have expected to have been told?---I would have.

And did you ever have concern to speak to Dr Brennan or any of the clinical care transition panel?---I – I have had discussions with Dr Stathis and that was in  
20 November 2014.

I can take you to - - -?---Sure.

- - - you cover that in your statement. I can ask you some questions about that in a  
25 moment, Mr Maynard, but that's November 2014. You accept, don't you, that the Barrett Centre closed at the end of January 2014?---Yes.

30 So just so I am clear, you relied on Dr Kingswell and Dr Cleary – you relied on them to raise any concerns they may have had but do I take it given that they both had clinical experience you didn't take any positive steps to inform yourself otherwise about the transition process?---The positive steps that – that I did take to inform myself were informal discussions to gain a better understanding over the – the three months from when I started to when the Centre closed. And when I received briefing notes that came up through either West Moreton Hospital and Health Service or  
35 through Children's Health Queensland that I would have informal discussions with Dr Cleary or Dr Kingswell to get some wider background.

40 And was that wider background in relation to what available services the patients were being transferred to or was it some other issues?---It – it would have related to – to a range of issues, the wider context, the appropriateness of the transition planning for each of the patients, the frequency with which the oversight committee was meeting, their general view as members of that committee as to how the individual transition care was progressing.

45 If I could just take you to paragraph 30 of your statement, at .0009, you state that you recall having a conversation with Dr Cleary at about the time the Barrett Centre closed about the rationale for closing the Barrett Centre. So prior to that time – and –

sorry, I withdraw that – at that time, you say that Dr Cleary told you – and we accept, I think, a moment ago you said you accept the Barrett Centre closed the end of January 2014. So it was at that point in time Dr Cleary told you, if I understand your evidence correctly, that the Barrett Centre was closed because research supported a  
5 model of care where individuals with mental health issues were treated in community rather than a group home?---That's – that's correct.

And so up until the Barrett Centre closing, did you have no idea why it was closing?---My – my – my response in paragraph 30(a) covers two – two issues: the  
10 reason – rationale for it being closed, as well as the rationale for the service delivery model that was being adopted to replace it.

But if I understand your evidence, at that time you hadn't read the ECRG report and you hadn't even read the executive summary; is that right?---That's correct.

15 Right. So you didn't have, apart from Dr Cleary's explanation to you, you had no other information or had no knowledge of any of the research that supported the model that Dr Cleary was talking about; is that right?---That's – that's correct. The – the context at that time, when I commenced as director-general, is that a decision  
20 had been made, a governance process was put in place to govern the implementation of that decision, that I was satisfied that that governance – the governance process and the members of the various governing boards were appropriately clinically qualified, and that I was being given updates and briefings to give me confidence that the process was progressing.

25 I just want to ask you a few questions briefly, Mr Maynard, about when the Barrett Centre closed and the timing of the centre closing, and if we could go to WMS.0016000116120, and this is a briefing note for approval on 20 November 2013. If we could just scroll down to the bottom of the note. Again, your signature  
30 has been redacted, but do you agree that this is a briefing note that was signed by you on 7 December?---I do.

Could we just go back up to the top of the briefing note. And – sorry, further down – sorry, a bit further – what was your understanding of– at this time - when the Barrett  
35 Centre was to close?---My – my understanding at – at this time was that a target closure date had been set, but that that was date was flexible, and that closure date was the end of January 2014.

40 Actually, I found my spot. If we go back up to (1) on this, under Urgency, you'll see there it says:

*The Barrett Centre will close by the end of January 2014.*

45 ?---Yes. I – I – I note that. I also note that this brief was prepared by the contract management unit within Queensland Health, and related to the provision of funding. The briefing notes that I relied on in relation to the actual transition of Barrett Centre

patients came up through West Moreton Hospital and Health Services, and those briefing notes all referred to a - - -

A flexible - - -?--- - - - flexible closure date.

5

And, look, I'll certainly take you to one of those briefing notes, because that's what they do say. I was just trying to understand why this note talks about a definite day of by the end of January 2014, and then, perhaps, if we could go to IMA.900.001.0067. And this is another briefing note for approval if we go to the  
10 bottom of the page – sorry – bottom of the document. And, again, your signature has been redacted, but this was signed by you on 6 January 2013?---That's correct.

Okay. So if we go back up to the document, and under the headline Issues, here, there's a flexible closure date at the end of January 2014. My question was why did  
15 it go from a definite date to a flexible closure date?---I – I – my understanding was there was never a definite date. That briefing note that we referred to earlier prior to this particular briefing note was drafted by a procurement contract management unit within the Department, who would not have had any responsibility or oversight or role in the transition of the Barrett Centre. They were a functional service provider.  
20 My understanding is that the closure date was always flexible, the target date being the end of January 2014.

But you still signed the earlier notes, saying that the Barrett will close. Did you read that at the time?---I don't recall reading that at the time. However, that – the purpose  
25 of that briefing note was to approve funding. It wasn't for the purpose of approving a closure date.

Okay. Commissioner, I just have a couple more questions. Mr Maynard, you received a letter from Dr Sadler in November 2014, so we'll go to that period of  
30 time. You touched upon that before when you were answering some of my questions; that's QHD.008.004.0193. Commissioner, this letter is not in evidence either, and I'll tender the letter as well. If we can go down. Now, do you recall receiving this letter from Dr Sadler at the time?---I do.

35 And did you know by this time that Dr Sadler was a child and adolescent psychiatrist and had been clinical director of the Barrett Centre for a number of years?---I did.

And he says in this letter to you that in his view, the closure of the Barrett was compromised by artificially rushed deadlines and as a result of inadequate alternative  
40 services were being in place before it was closed?--- Yes. I note that that's what he says.

And then you met with the parents and carers of former Barrett Centre patients on 23  
45 November 2014; is that correct?---On or about that date. Yes.

And you heard first-hand about their view about the shortcomings of the services their children were referred to following the closure of the Barrett Centre. Do you agree with that?---Yes.

5 Yes. And then, in fact, the notes of this meeting, which are exhibited to your statement, which I won't take you to because many of them have confidential information – but we can close the court if you'd like to go to those notes – would you agree, though, at this meeting Director-General you said you were open to discussion about tier 3 services but you were concerned that clinical experts might  
10 have a different idea to the parents?---Without referring to the notes, I accept that that's what I said at the time.

And did you recall that some of the – can we just go up – can we take the top document off for a moment, please. Do you recall being told that the concerns of the  
15 parents about what had happened post the closure were things such as they felt that some of the young people had been moved in a rapid timeframe into places that they felt that they didn't fit?---Yes. I acknowledge that was the concern raised by some parents.

20 And a concern about the lack of transfer policies and plans?---I accept – I don't recall that specifically, but I accept that the parents may have raised concerns in relation to transition plans, as well.

25 Can you recall that there were concerns, too, about the difficulty with an 18 year old being transferred into adult adolescent facilities - - -?---Yes.

- - - even though they were considered not to be developmentally an adult according to the parents?---Yes. I recall that concern being expressed also.

30 So following this meeting – and I realise, of course, that you were only Director-General until I think it was March 2015, wasn't it?---That's right.

So only for another four months. But I'm interested: did you take any action or cause any follow up following your meeting – well, your letter with – from Dr Sadler or  
35 your meeting with the parents and carers?---While I was Director-General until 23 March, I was on a combination of leave from 12 February. So essentially from 12 February, I didn't return to my office. The actions that I did take – and I made a number of commitments at that meeting with parents. I followed that up with a letter essentially outlining those commitments. That letter went to all of the parents that  
40 attended that discussion on 23 November. I followed up with Dr Kingswell around the provision of mental health treatment services and medium to long-term accommodation and the age bracket that that covered. And I was assured that we were working towards services that would cover and bridge that adolescent/adult divide. So to provide ongoing service after 18 years of age. I also made an offer at  
45 that evening, and I reinforced it in my letter to parents that if any parent wanted to have the services that were being provided to their child reviewed, Queensland

Health would immediately work with them to have that review undertaken in conjunction with their treating clinician.

5 Thank you, Mr Maynard. I don't have – I can't take you to that letter, because I don't have – it's not one that I've – it's certainly not attached to your statement and I at this point can't say that it's been produced, but we'll see if we can find it. And so that just leaves – I have one more question, and that is – Dr Cleary says in his statement that in 2015 following the change of government the Department of Health commenced early scoping work for a tier 3 facility. Now, I realise that you – and I should qualify that by saying he says should the construction of a facility be recommended – be a recommendation of the Commission. But my question to you is – you left in March 2015 and in that short time given that you were on leave from February, did you understand that – do you have any knowledge or understanding of this early scoping work?---No. I had no knowledge of that early scoping work.

15 And so no knowledge of the Youth Mental Health Commitments Committee that was established by Queensland Health to progress work relating to implementing government commitments?---I'm not aware of that committee.

20 Thank you, Mr Maynard. I have no further questions, Commissioner.

COMMISSIONER WILSON: Thank you. Any cross-examination? Yes. Mr O'Regan.

25

**EXAMINATION BY MR O'REGAN**

**[3.31 pm]**

MR O'REGAN: Thank you, Commissioner.

30

Mr Maynard, I appear on behalf of Mr Lawrence Springborg, the then Minister.

COMMISSIONER WILSON: Could you keep your voice up, please, Mr O'Regan.

35 MR O'REGAN: Mr Maynard, I think you referred in response to some questions from my learned friend that you had a number of discussions – sorry – you had regular discussions with the Minister in your role as Director-General?---That's correct. That's correct.

40 Do you recall whether any of those discussions touched upon the topic of the closure of the Barrett Adolescent Centre?---I – I recall only one discussion in January that related to the Barrett Centre, and that was in relation to the likely date of – of closure. And I – I expect that may have been in response to a briefing note that had been put up the line to his office.

45

And can you recall the content of that discussion – the gist of what was said?---Not – not specifically, but my recollection was it related to his acceptance that making any

public announcement should occur at a point in time after the Centre had closed rather than prior to the closure of the Centre.

5 And do you recall whether it was discussed why it would be appropriate to make the announcement after the closure?---I – I don't – I don't recall any specific discussion about that. The – my own personal understanding at the time was that to have made an announcement prior to the closure would have put undue pressure on clinicians and on the Barrett Centre. And that was not the objective. My understanding was that the closure date was a target date. There was flexibility in that date and the  
10 Centre would not be closed until appropriate transition plans had been implemented for all patients.

15 Now, if I said to you that it was the Minister's attitude and that he had expressed it to you that he felt that the Barrett Adolescent Centre should not close until appropriate replacement services were available for its consumers, in fact, that he wanted there to be no gap in services, would you agree with that?---I – I would agree that that was the general sense that the Minister had.

20 I beg your pardon?---That – that – that was my understanding of the general sense the Minister had in relation to closure of the Centre.

25 Okay. And it was your understanding that the West Moreton HHS and the Children's Health Queensland HHS – those entities who were responsible for implementing the transition were proceeding on that basis?---That's my understanding. Correct.

30 In your answers to my learned friend of Counsel Assisting, you – I think you said that no – none of the persons who reported to you in relation to the Barrett Centre raised with you any serious concerns to the effect that it would be inappropriate to close it at the end of January 2014 or that there would be a gap in services for the Barrett Centre patients were it to close in January 2014. Is that a correct summary of your evidence?---It is. From – my recollection is that there were only two matters that I was asked to act on during that time from when I commenced at Queensland Health till when I – till when the Barrett Centre was closed. The first of those was  
35 approving funding for the provision of interim services and the second was in relation to meeting with a peer at the Department of Community Services.

40 And that's the matter that's dealt with in your statement regarding the arranging accommodation?---That's correct.

Okay. And is it correct to say that accommodation was – which you understood to be satisfactory and appropriate was obtained for that patient?---That's what I was advised.

45 And so I take it that given no concerns to the effect that it would be inappropriate to close the Barrett Centre at the end of January 2014 was raised with you that it follows that you did not raise any such concerns with the Minister?---That's correct.

5 The – the briefing notes that came through and the informal discussions with Dr Cleary and Dr Kingswell gave me confidence that the – the panel of expert clinicians that was managing the transition period of these young people and the two oversight and steering committees that – that oversaw that process were – were managing that process effectively. I was confident that – that were there concerns about the closure date or were there concerns that appropriate care arrangements could not be provided that they would have been escalated up to me.

10 Okay. But to your recollection no such escalation occurred?---Correct.

15 I will take you to one – you’ve seen a number of briefing notes. I’ll just take you to another one. Could we have up on the screen, please, QHD.006.005.1169. You’ll see that’s a briefing note to the Minister but if we could scroll through to the second page we’ll see that it’s a briefing note for noting to the Director-General. And then if we could go to the last page which is Delium 1172. And you can see there’s a signature block there which has been blanked out but, Mr Maynard, you accept that you signed this briefing note?---I – I recall – I recall that briefing note. My – the – the briefing notes I signed would generally have a stamped or a handwritten date on it.

20 Yes. I must say the – if you scroll up just slightly a bit more. The hard copy I have the date is different in format to that which is appearing on the screen. I don’t know whether this – and the two Minister’s office for noting just on the hard copy I have, it has a manuscript tick rather than the typographical - - -

25 COMMISSIONER WILSON: Mr O’Regan, there’s nothing in this document which would identify a patient, is there? Because if there’s not I will ask the operator if she can put on the screen the unredacted copy. Just wait a moment.

30 MR O’REGAN: No, Commissioner. It doesn’t identify - - -

COMMISSIONER WILSON: Would you put the unredacted copy on the screen, please.

35 MR O’REGAN: And could – yeah, that’s consistent with the hard copy I have. Could we scroll through to the last page so that Mr Maynard may see the signature block?---Yes. That’s my signature.

40 Okay. And if we can just go down a bit further you will see that the persons through whom this briefing note has come to you is people from West Morton?---That’s correct.

45 Okay. Who you understood to be responsible for transitioning the patients at the Barrett?---That’s correct.

And if we could just go to the first page and if we could scroll down and it outlines there the transition service that’s proposed to be implemented in three phases. And

this – is it correct that this – this briefing note gave you comfort that appropriate arrangements and services could be put in place for the Barrett patients?---That’s – that gave me confidence and comfort that that was the case.

5 And may the witness now see LJS.900.001.0001 at .0058. Sorry, Commissioner, I should tender the previous document that I took the witness to.

COMMISSIONER WILSON: Alright. I’ll make a note of that and it will get an exhibit number in due course.

10

MR O’REGAN: And so you see it’s a briefing note for noting to the Minister. Can we go to the next page, please, which is 59. You’ll see that it’s – there’s an accompanying briefing note for noting to the Director-General. And if we go through to the fourth page, again, we’ll see that it’s been signed by yourself. So that’s Delium 61?---Yes.

15

Okay. And could we go to the second page which is Delium 59 which is the briefing note to the Director-General and if you look at under urgency number 1 urgent:

20

*The BAC is now in final stages of closure –*

And it says:

*All remaining inpatients have been discharged to alternative care options.*

25

And if we could go down to the key issues in paragraph 1 and if you could read that to yourself. Again, I take it that gave you confidence that appropriate care options had been provided for the patients of the Barrett?---Correct.

30

Can I take you, please, to your statement which is IMA.900.001.0001 and could we go to page 54 which is your CV or a page from your CV and for the heading 2013 to March 2015 where you list your employment as the Director-General, Queensland Health?---Yes.

35

And under the achievements I just note at the first dot point you say that you – or Queensland – it says it delivered a surplus of 391 million in 2013/14. I take that’s referring to Queensland Health has delivered a surplus of - - -?---That’s correct.

40

Okay. And that’s – as you understand it, that’s an accurate figure?---If – so if I can clarify, it’s – it would – that number is the aggregate of the Hospital and Health Service so it’s the – the department and the Hospital and Health Service - - -

Okay?--- - - - combined financial position.

45

Given your understanding of the financial situation of the department and the Health Services in 2013/14 had in late 2013 there been a proposal or a recommendation to the Minister to build a new bricks and mortar building to replace the Barrett Centre

and the Minister had wished to pursue that, do you think – and to give some context, let's say it was a project which required a capital spend in the vicinity of 15 to \$20 million. Do you think the money would have been available to progress that project?---If I can answer that by summarising my understanding of the financial situation during those months. So from January 2014 to September 2014 the Department had approved an additional \$1.8 million of recurrent funding to provide extended services. It had also committed to a further million dollars in recurrent funding to support an aftercare facility in Cairns and was considering a proposal put forward by the College of Psychiatrists requesting that further consideration be given to an additional \$5.4 million in spending. So my own experience during that period of time is that the Department was prepared to support financially whatever was required to provide appropriate care to young people and adolescents with mental health conditions.

15 COMMISSIONER WILSON: And you're talking about the period from January to September of 2014?---Correct. That - - -

Thank you---So prior to that period I had approved an additional \$2 million which translated into one million – \$1.8 million in terms of additional care and services. So the decision to expend more money was made prior to January 2013. And that was translated into committed contracts for additional services.

Sorry. The decision was made prior to January 2013?---Sorry, prior to January 2014.

25 No further questions.

COMMISSIONER WILSON: Any other questions? Mr Fitzpatrick, did you have some questions?

30 MR FITZPATRICK: I'll be very brief, Commissioner.

COMMISSIONER WILSON: Thank you.

35 **EXAMINATION BY MR FITZPATRICK** **[3.47 pm]**

MR FITZPATRICK: Mr Maynard, I'm Chris Fitzpatrick and I'm acting for West Moreton. I just have a couple of things. First of all, in – would you look, please, at paragraph 17 of your statement which is at page 0005 of that document. If we could just scroll down until we reach – thank you.

So you've there reproduced – borrowing, as you acknowledge, from an investigation report, you've there reproduced what your understanding or your interpretation of the reporting and governance structure that was in place as you understood for the transition of the Barrett patients. Is that correct?---That's correct.

Alright. Now, you'll notice that in the top set of frames, there appears the words:

*Chief executive and Department of Health oversight committee.*

5 Now, am I right to understand your evidence that the members of the oversight committee who reported to you were Drs Cleary and Kingswell?---That's correct.

Correct. And the impression you had from listening – or I have, and you'll correct me if I'm wrong – from listening to your evidence is that it was mainly them who  
10 reported to you concerning the transition arrangements?---So the nature of their reporting to me was informally through general catch ups and weekly meetings.

Yes?---The formal reporting that I received was by way of briefing notes?---Yes.

15 And am I also correct to understand that – speaking again perhaps broadly – that the effect of what they reported to you was that the transition arrangements were proceeding satisfactorily?---They – the advice that I had from Dr Cleary and Dr Kingswell was consistent with the formal briefing notes I was receiving from West Moreton Hospital and Health Service.

20 I see. Alright. Thank you for explaining that. Now, could – can you just look down, please, to the second – the box of four underneath the top tier. In your statement – and we can take you to it if we need to, but in paragraph 18(d) of your statement you say that:

25 *The chief executive each of CHQ, Dr Peter Steer and WMHHS, Lesley Dwyer reported to me as required.*

30 Is that the fact?---Yes. There were – there were regular opportunities where we met together. And there was an open door policy in terms of escalating any concerns that they may have had.

I understand. Now, it's only a small point but on the basis that that was the reporting that occurred, can I suggest to you that it would be more appropriate to amend your  
35 flowchart in paragraph 17 to create – to delete the West Moreton Hospital and Health Board from the reporting line and instead forge a direct reporting line between Ms Dwyer as the chief executive and you as represented by the Queensland Health box?---While my discussion and engagement would primarily have been with the chief executive - - -

40 Yes?--- - - - the management of the transition was within the operational responsibilities of West Moreton Hospital and Health Service which was overseen by the board.

45 Yes?---So while the practical outworking of that would be that the chief executive would escalate a matter to me if there was a matter, it would also be open to the board and the board to escalate directly to the minister.

Yes, yes. But in the – well, I’m not suggesting that the board had no relationship with the Minister. But it is true though, as I understood your answer to one of my questions a moment ago, that, in fact, you did receive briefing notes from Ms Dwyer?---Correct.

5

So could we perhaps compromise by placing the board to one side and forging a direct link between Ms Dwyer and you for the purposes of these transition arrangements?---What I could say is that I don’t recall having had any conversations with the board or the chair of the board in relation to Barrett Centre or Barrett Centre transition issues.

10

Alright. Well, now, you were asked, do you remember, about – by my learned friend Ms Muir about some advice that you received from Dr Cleary about the co-location of the BAC in The Park? Do you remember being asked about that?---I do.

15

Would you look, please, at paragraph 30(a) of your statement at page 0009. In subparagraph 30(a), do you there set out the timing and the substance of the advice that you received from Dr Cleary on that topic?---Yes.

20

Alright. And then, finally, Commissioner, could I ask, please, that Delium reference LJS00200010062 be displayed on the monitor.

COMMISSIONER WILSON: Yes.

25

MR FITZPATRICK: Thank you. Mr Maynard, would you look, please, at the document that is on the monitor in front of you and tell me do you have some recollection of this document?---I do.

30

Alright. Can I suggest that it is a document that is signed by you as the then-chief executive of the Queensland Health? I can take you to the page if you want?---No, that – that’s not necessary.

35

Alright. Am I right to suggest that this was a document which came into effect in July 2014, that it came into effect as and by way of amendment to a then-current service agreement between Queensland Health and my client, which I’ll take you to shortly. But am I to suggest that the purpose of and effect of this document was to remove from my client responsibility for the provision of adolescent mental health services at The Park?---I – I – I would need to have a look at the content of the document - - -

40

Yes?--- - - - to remind myself of what the purpose of the amendment was for.

45

Could we go, please, to page 0068 of the document. And if we scroll down, that, I suggest, is your signature?---Yes, it is.

Could we go, please, to page 0104 of the document. And you’ll see there that – and if we keep going down to state-wide services, you will see that by exclusion there is

no reference to adolescent mental – a state-wide adolescent mental health service at The Park?---Yes, I would accept that.

5 Alright. Commissioner, I think that document has been tendered already by my learned friend, Mr O’Sullivan.

COMMISSIONER WILSON: I think it has been.

10 MR FITZPATRICK: Thank you.

COMMISSIONER WILSON: Even if it hasn’t been, it’ll be marked as an exhibit.

15 MR FITZPATRICK: Thank you, Commissioner. And I’m also right, I think, that the principal document which was amended by this deed, and I can read into the record its reference; it is LJS0020010014; has also been tendered.

COMMISSIONER WILSON: Well, similarly, if it hasn’t been it will become an exhibit.

20 MR FITZPATRICK: Thank you, Commissioner. Excuse me. Thank you, Mr Maynard. That’s all I have, Commissioner.

COMMISSIONER WILSON: Yes.

25 MR DIEHM: Commissioner, I have one matter arising that is very brief.

COMMISSIONER WILSON: Would everyone remember that we have two and a half hours of video link starting at 5 o’clock.

30 MR DIEHM: Yes, Commissioner.

COMMISSIONER WILSON: Alright. Yes, Mr Diehm.

35 **EXAMINATION BY MR DIEHM** **[4.00 pm]**

40 MR DIEHM: Thank you. Mr Maynard, my name is Diehm, and I appear on behalf of Dr Cleary with respect to the questions I’m about to ask you. Did I understand your evidence correctly in answer to some questions from Ms Muir about the speed with which the Barrett Adolescent Centre was closed after the – after your commencement as director-general, that you had understood that that had something to do with there having been some incidents involving patients from elsewhere in  
45 The Park inappropriately engaged in some form or another with patients from the Barrett Adolescent Centre?---I was aware of a review that had been undertaken that had identified inappropriate behaviour as a result of the collocation of the Barrett

Centre, and the assumption I made was that that was inappropriate behaviour involving patients at The Park.

5 Now, I'm not asking you to descend into any detail, but you're saying that you understood that there was an actual incident that had occurred?---That – well, no detail was provided to me, so whether that was an assumption I made or whether it was concerns about the possibility of incidents occurring that – the – the advice I was given was that a review had been undertaken and identified concerns about inappropriate behaviour.

10

Alright. I just wanted to raise with you that – suggest to you that it wasn't that Dr Cleary had told you that there was any particular incident that had occurred that was a reason for there being some urgency in closing the Barrett Adolescent Centre?---I – I don't recall any discussion about a specific incident.

15

Thank you, Commissioner.

COMMISSIONER WILSON: Mr O'Brien.

20

**EXAMINATION BY MR O'BRIEN**

**[4.02 pm]**

25 MR O'BRIEN: Your Honour, just one brief matter. Could the witness be shown document WMS001600116120, the document that he was taken to in his evidence. If the document can be scrolled down a bit further, to the start of the document. Mr Maynard, you might recall that you were asked some questions under cross-examination by Counsel Assisting this Commission about this document, and in particular you were asked about the comments that were made or the statements that  
30 are made in paragraph 1 – if the document can be scrolled down to paragraph 1, under the heading Urgency – and you were asked some questions – or you were directed to the fact that there was a statement there:

35 *Critical, the Barrett Adolescent Centre, West Moreton Hospital and Health Service, will close by the end of January 2014.*

Remember being taken to that?---Yes.

40 Now, if – we know that document was signed off by you on 7 December 2013, and if the document can be scrolled down a bit further, to the bottom of the document. We see that date, 7 December 2013, is when you signed off on that document?---Yes, that's correct.

45 I think you gave some evidence that that was – and we can see from the start of the document that that was a document generated by the Direct of Funding and Contract Management Unit, Governance Branch?---That's correct.

What is exactly is that, and what is their role?---That's a – a function within the Department of Health that undertakes significant procurement activity and a range of contract management activities on behalf of both the Department, and in some cases, on behalf of the hospital and health services.

5

And do they play any role in terms of clinical decisions?---Play no role whatsoever in terms of clinical decisions. They are there to support appropriate and correct process for procurement and management of contracts.

10 Alright. Can the witness then be shown another document that he was taken to – well, I think he was taken to, QHD0060054217, which is exhibit 40 or witness statement, for the Commission. It's QHD0060054217.

15 COMMISSIONER WILSON: Mr O'Brien, you're taking him to an exhibit to his own statement.

MR O'BRIEN: Yes, I am. Yes.

20 COMMISSIONER WILSON: I think the other reference may turn it up more quickly.

MR O'BRIEN: Certainly. Thank you.

25 COMMISSIONER WILSON: IMA9000010060. Is that it?

MR O'BRIEN: Yes. Thank you, Commissioner.

30 Mr Maynard, this is a briefing note to you as Director-General. Firstly, can we go to the end of the document to identify your signature, as I understand it, on the third page – the last page. Do you recall signing that document?---I do.

35 And you can see that it's dated 2 December 2013. I take it when you sign these documents you have some stamp that you apply to identify the date?---Yes. I have a date stamp. That's right.

40 Now, if you go back to the start of the document we can see that it's requested by a senior departmental liaison officer. The subject obviously is the Barrett Adolescent Centre. The proposal is that the Director-General note the current status of consumers at the Barrett Adolescent Centre and provide this brief to the Minister for information. Can I then direct you to the second part of that note under the headline Issues heading, paragraph 2, the top issues are – and to the third dot point. Do you see that?---Yes, I do.

45 Continuing:

*A flexible closure date of the end of January 2014 for the BAC building has been announced. This date may change dependent on all consumers having appropriate transition plans in place and continuity of service delivery.*

5 You see that. So we know that this document was signed on 2 December 2013 about five days before the other document that I took you to which was from the procurement section. Could I ask you this question: this is obviously some tension between those documents in terms of the flexibility of a closure date. What was your understanding from the discussions you had with people below you – the clinicians,  
10 the people on the ground dealing with the transition as to what the appropriate situation was? Was it a fixed date or was there flexibility?---It was a – a target date that was flexible, conditional upon appropriate transition plans being in place for every patient of the Barrett Centre.

15 And to the extent to which – well, do you have explanation as to why that other document that I've taken you to has used that terminology? Was there any discussion at the time about there being a drop dead date where it had to close on a specific date?---I don't recall any discussion about there being a – a hard and fast closure date. The assumption I make is that it's a – that briefing note for approval of  
20 funding – for transitional services was generated by a function that really didn't have any day-to-day association with the transition of patients from the Barrett Centre and was called upon to put together a – or to – to govern the procurement process associated with some services. So I – I would have relied on the briefing notes that related to the specific transition process in respect of the criticality of the date as  
25 opposed to what may have appeared on one occasion in a briefing note from the contract management unit within the department. They had no oversight or responsibility in terms of the provision of transition care or the ongoing clinical care of patients at the Barrett Centre.

30 Nothing further.

COMMISSIONER WILSON: Ms Muir.

35 **EXAMINATION BY MS MUIR** **[4.09 pm]**

MS MUIR: Commissioner, just one matter - - -

40 COMMISSIONER WILSON: Yes.

MS MUIR: - - - I would like to clear for the record. Mr Maynard, you gave evidence – I took you to your statement where you said you met with some families at the end of November 2014 and you said that there were letters that you sent later.  
45 Those letters are exhibited at IGM10 to Mr Maynard's statement.

COMMISSIONER WILSON: In - - -

MS MUIR: For the record, Commissioner, document QHD.008.004.0193 which is the letter from Dr Sadler – I formally tender that as an exhibit and also the briefing note which is WMS.0016.0001.16120 – that’s the briefing note dated 20 November 2013. I should formally tender that as an exhibit, too, Commissioner.

5

COMMISSIONER WILSON: I just didn’t get that last one. The first one has already been tendered.

MS MUIR: The - - -

10

COMMISSIONER WILSON: The November one – could you say it again slowly for me, please.

MS MUIR: WMS - - -

15

COMMISSIONER WILSON: Yes.

MS MUIR: - - - .0016 - - -

20

COMMISSIONER WILSON: Yes.

MS MUIR: - - - .0001.16120.

25

COMMISSIONER WILSON: Alright. That will be marked as an exhibit and given a number. We’ll have an up to date exhibit list in the morning.

MS MUIR: Yes. Thank you, Commissioner.

30

MS WILSON: Commissioner, can I raise one matter and I’m reluctant - - -

COMMISSIONER WILSON: Yes, Ms Wilson.

35

MS WILSON: - - - to do so bearing in mind the time of the day and the long stint that we’ve got ahead of us. I now have some instructions in relation to the matters that Mr O’Sullivan raised this morning and the long and the short is – I don’t want to delay things now – is that we will - - -

40

COMMISSIONER WILSON: Well, first of all, do we need Mr Maynard for this - - -

MS WILSON: No.

COMMISSIONER WILSON: - - - or can I stand him down.

45

MS WILSON: You certainly can, Commissioner.

COMMISSIONER WILSON: Thank you very much, Mr Maynard. You can stand down?---Thank you, Commissioner.

5 **WITNESS STOOD DOWN**

**[4.11 pm]**

MS WILSON: I was a bit quick. The long and the short is that the State's position is that matter really should be set for argument and it should be done on Thursday morning because a matter that is being – will be ventilated in the argument will affect the evidence of that day.

COMMISSIONER WILSON: Well, let Mr Maynard go first, would you.

15 MS WILSON: I'm in your Honour's hands when you wish to mention it when Mr Freeburn is here and I note that Mr O'Sullivan is not here.

COMMISSIONER WILSON: Alright. Well, just bear with me a moment. You want it set down on Thursday morning because it affects whose evidence?

20 MS WILSON: There will be a witness that will be called that day – Mr Cleary – that there is going to be the argument that it will be canvassed that morning will affect.

25 COMMISSIONER WILSON: And how long do you anticipate this argument will take?

MS WILSON: I can't properly estimate because it affects significant issues for the State the Solicitor-General has been briefed and he will be conducting the argument. What I will try to do - - -

COMMISSIONER WILSON: Well, I'm going to require written submissions with respect to this and I want to allow all parties time to finalise such written submissions and for me to have time to consider them before the matter is heard. It's now late Tuesday. Can all of this be done by Thursday morning?

MS WILSON: We certainly can be in a position to provide written submissions by tomorrow afternoon.

40 COMMISSIONER WILSON: Well, then what time does that give other parties to respond?

MS WILSON: It is a matter that – I accept that it is not ideal but it is the circumstances that we are in.

45

COMMISSIONER WILSON: Well, I'm not going to say that I will set it down on Thursday at this stage. I think that all counsel should confer and hopefully by the conclusion of the video link tonight we will be in a position for me to give some directions about setting this down. But you must include Mr O'Sullivan and Mr  
5 Freeburn in this.

MS WILSON: Of course.

COMMISSIONER WILSON: And I want to make it clear to everyone that I want a  
10 clear statement of what the issue is and what the relevant documents are and then submissions from all concerned. Because at the moment it hasn't been presented to me in that way and it's very hard for me to know what the issue is and how long it will take to resolve it. Alright.

15 MS WILSON: Thank you, Commissioner.

COMMISSIONER WILSON: I will stand the matter down until 5 o'clock when the video link is expected to begin.

20 MS WILSON: Thank you, Commissioner.

**ADJOURNED** **[4.14 pm]**

25

**RESUMED** **[5.01 pm]**

30

COMMISSIONER WILSON: Mr Freeburn, we have Ms Dwyer by the video link.

MR FREEBURN: Yes.

35 COMMISSIONER WILSON: I'll need to administer the affirmation to her first.

MR FREEBURN: Thank you.

40 **CONDUCTED VIA VIDEO LINK**

**LESLEY DWYER, AFFIRMED** **[5.01 pm]**

45

**EXAMINATION BY MR FREEBURN**

COMMISSIONER WILSON: Mr Freeburn.

MR FREEBURN: Thank you. Ms Dwyer, my name is Freeburn. I'm one of the  
5 Counsel Assisting. I'm going to ask you a series of questions and other barristers  
may ask you a series of questions, okay?---Yes, that's fine.

Alright. Do you have a copy of your statement in front of you? - - ----Yes, I do.

10 We might see if we can test the technology by getting up a copy of your statement,  
and I want to particularly go to page 20 of the document. Now, you see page 20 has  
on it at the top 11.3, and I want to focus on it 11.4?---Yes.

Now, you see in 11.4 you explain how you supported the decision to close the BAC,  
and you then list the matters to which you attributed greatest weight; correct?---Yes.

15 And - - -?---That's correct.

- - - I want to first of all deal with paragraph – subparagraph (a). You see there that  
20 you speak about the fact that BAC was not a contemporary model of care, and then  
you say:

25 *I'm not a mental health clinician. However, I was advised and was able to  
confirm by considering the operations of BAC that the BAC model of care was  
contrary to the contemporary model, which emphasised community-based,  
locally-provided non-institutional care for patients not requiring acute  
admission.*

Now, can I just ask you: in the second line you talk about being advised. Who were  
30 you advised by?---I was advised by a number of people. I think, initially, I was  
advised by the director of mental health within Queensland Health, Dr Bill  
Kingswell, and also Dr Leanne Geppert. And then, as time went on, there were  
people within The Park, such as Dr Terry Stedman, Dr Darren Neillie and Ms Sharon  
Kelly that were also providing that advice. There were also, I think, other models  
35 that we had looked at in different states that provided us with a framework of what  
could be considered a more contemporary model.

Alright. Are you able to say in what respects it was not a contemporary model of  
care?---It was a residential model that had a length of stay that was quite long; I  
40 think, you know, sort of, an average from about, I think, 10 months. But some of the  
clients had been involved with Barrett for about two years. That meant that, for  
many of them, there was a dislocation from their family and social networks, and  
from what I had been advised and had been able to read, that that is something that is  
not considered to be contemporary for that long period in time. I was also aware that  
45 [indistinct] model that we had and particularly around the accommodation was also  
not what they would call a conducive, therapeutic environment.

5 Alright. And let's deal with the next concept you talk about. You talk about, towards the end of that subparagraph, the contemporary model which emphasised community-based, locally-provided non-institutional care for patients not requiring acute admission. That's talking about an emphasis, isn't it?---It's talking about, you know, sort of, the evidence that supports that adolescents are best treated close to where they live and close to where their family and social supports are, and also providing them with skills to be able to be cared for and supported in the community.

10 But I take it that you're dealing with most of the people who might need care, but you're not talking about a small group who might need inpatient care?---So I think there is a differentiation between those that are requiring acute admission, and so that is an acute phase. The Barrett model was, I think, designed to be much more of an intensive, therapeutic model that had – should have had an emphasis on rehabilitation.

15 Well, you're aware that the ECRG was saying that – and they use the expression tier 3, but we can use the expression subacute – but they were saying that that sort of model was an essential element?---My understanding was that that model though is predicated on not having an extreme length of stay and was to be used to be able to provide, I think, a period of stabilisation and intensive input so that then adolescents could be transitioned back into the community-based and locally-provided non-institutional model.

25 Well, I just want to get to the bottom of it. Were the ECRG saying that the suite of services available include a tier 3 or subacute bed-based option?---I'm sorry. I've missed it there. Was a – sorry.

Okay. Alright. I'll start again. Do you accept - - -?---Thank you.

30 - - - that the ECRG was saying that a tier 3 or a subacute bed-based option was an essential element?---I think the expert clinical reference group was very clear that in their expert opinion that they felt that that was required for a small number of adolescents from across the state.

35 And you accepted that?---I accepted that that was their opinion.

40 I take it from that answer you didn't agree?---As I said in the first part of my statement, I'm not a mental health clinician, and the reason that the expert clinical reference group, you know, was put into place was to be able to garner a range of expert opinions, but they were also asked to look at other states and other models. But their recommendation was that there was a tier 3 service as part of a suite of services for an ongoing state-wide adolescent mental health service.

45 Alright. And I think you spoke in your affidavit or in your witness statement about the process that you went through in appointing the ECRG?---Yes. I took advice on who would be, you know, sort of, I think, you know, sort of able to provide a broad range of opinions. It was a multidisciplinary group and needed to

involve people from not only across the state, I believe we also had an interstate person that was able to provide advice around alternate models as well.

5 Right. And it included community and carer representatives. Correct?---Yes. They were also part of the group.

Right. Can I just take you down to subparagraph (d) on that page. So hopefully yours has moved. Can you see that?---Yes. Yes.

10 And I may be able to deal with this very shortly but you see you say at towards the end of that paragraph – sorry, I’ll just read the whole of that subparagraph:

15 *The fact that the ECRG identified alternative options for the care of this cohort of patients and endorsed that the risks for this patient cohort could be effectively managed if BAC closed.*

Now, those last five words – I can’t find those in the ECRG report. Is that your implication from the ECRG report?---I don’t have the full report of what their recommendations but certainly that was the advice that I received. Following each meeting I was kept updated and that if there was a suite of services that they believed that that would form, I think, the framework for the adolescent mental health services at a statewide level going forward.

25 Alright. I’m going to go back in your witness statement one page to page 19. Now, I want to focus your attention, please, on 11.2(d). See that about - - -?---Yes. I’ve got that.

30 So can you just read that to yourself, please. So how did the Barrett Adolescent Centre not align with the Queensland Plan for Mental Health?---My recollection is that the model of care that was within the Barrett Adolescent Centre was based on an institutional model that was more residential, where there was dislocation from family and support networks and that there was not an element of community-based care. And so the Queensland Mental Health Plan actually talks to a non-institutionalised model and developing a range of, I think, individualised interventions and treatments for those with mental health.

40 But Ms Dwyer, you’d accept, wouldn’t you, that that principle of dealing with people in the community or near their family – that works for most patients but it doesn’t work for all of them, does it?---I – I think that’s a fair statement and the work of the Expert Clinical Reference Group certainly supported that as well. So this was not about developing one model, you know, sort of that was a one size fits all. It was around a suite of individualised services and packages of support.

45 And in fact the Queensland Plan for Mental Health and the associated budget documents actually provided funding for a new replacement of the Barrett Adolescent Centre. Correct?---That’s my understanding.

Alright. And if we look at paragraph 11.2, you are really there stating the considerations, recommendations, concerns and other things that were taken into account in coming to the decision to close. Correct?---Yes.

5 And if we look at (f) and (g) the things taken into account are the considerations and recommendations of the ECRG and the recommendations of the planning group?---Mmm.

10 How did those two things contribute to the decision to close the Barrett Adolescent Centre?---It was important that there were alternate models in place particularly for the group of adolescents that were currently cared for in Barrett. I considered that the recommendations of the Expert Clinical Reference Group but also the planning group – these were experts in the field of mental health and I put a heavy weight on their recommendations.

15 Wasn't the ECRG at least saying you need a tier 3 – that's essential – and that if there's a gap between closing Barrett and a new tier 3, that's associated with risk?---The ERCG – sorry, ECRG certainly did recommend that the tier 3 service was in place. However, I was also aware that the group of adolescents that remained at Barrett closer to the time of closure – there was not a recommendation that any of those particular adolescents would be requiring that tier 3 service.

20 Sorry, so you thought that there was nobody who would fall into that category?---Not across the state but of the adolescents that were remaining that the transition plans had found appropriate ongoing care for them.

25 I see?---I was also aware that there had been a decision to establish a tier 3 service but, however, I do recognise that there was going to be a gap from the closure of the Barrett until that was established.

30 So just to be clear about it, is it your view that nobody then at Barrett at the time the decision to close was made needed a tier 3-type facility?---Not in the way that the Expert Clinical Reference Group described it. The Commission is aware that some of the adolescents did go and transition into ongoing sort of residential – or care.

35 So where did you get that knowledge or information from, that none of the patients at the Barrett Adolescent Centre needed a tier 3 or tier 3-type facility?---As I said, the tier 3 that was described by the ECRG was a particular type of model but there were other models within the state that our adolescents transitioned into. I took that advice based on the individual transition plans that I was aware were being developed for each of the adolescents.

40 But the transition plans weren't developed until September 2013 onwards, were they?---That's correct.

45 So you're saying your decision was affirmed by subsequent events. Is that right?---The decision was that we would work towards a statewide

model and be part of that. It was not entirely West Moreton's, you know, sort of, I suppose, responsibility. That was done with other service providers and also with Queensland Health. What I'm saying is that what West Moreton concentrated on were the transition plans for each individual adolescent.

5

I see. You see the very next subparagraph – subparagraph (h):

*The views expressed by parents, carers and interested members of the public.*

10 ?---Yes.

At the time the decision was made to cancel – to either – well, at any time before August 2013 had the views expressed by parents, carers and interested members of the public been sought in an organised process?---I'm not too sure that I would say that there had been an organised process. Certainly, there had been, I think, you know, sort of, views expressed and meetings held. But we did establish a – you know, a parents and carers group once the – the ECRG was actually put in place. But, in fact, I was aware from a group of people, particularly parents, that they were concerned, particularly around a lack of detail around ongoing services.

15  
20

Okay. You were aware, weren't you, that a series of fast fact bulletins went out to people from a certain point; correct? ---Yes, I am. Yes, I am.

I think they started in about November 2012; does that accord with your recollection?---That's correct. That was following a statement that was made externally, that Barrett was to close, and what we wanted to do was provide information not only to the Barrett Adolescent Centre staff, but also to parents whose children were being cared for within the service.

25  
30 And didn't those fast facts start with the proposition no decision has been made?---That's correct.

And then those fast facts continued until after the decision was announced by the Minister on 6 August 2013?---That's correct.

35

And at that point, no consultation was made until after the decision, was it?

MS McMILLAN: Well, can I ask consultation with who?

40 WITNESS: There was no formal - - -

MS McMILLAN: Just a moment, please.

WITNESS: - - - I think, group or put together.

45

COMMISSIONER WILSON: Would you please – sorry – would you - - -

MR FREEBURN: I'm sorry, Ms Dwyer. I'm asked to clarify the question, so I'll clarify the question. Was there any consultation with parents, carers and interested members of the public before 6 August 2013?---I cannot, you know, sort of, recollect whether or not there had been; I apologise for that. But I certainly do not believe  
5 that there had been a formal process put in place.

Now, I want to take you back to paragraph – sorry – page 2 of your witness statement, please, and I'm going to ask you to read paragraph 5.2?---Yes.

10 You'll see there, in about the middle of that paragraph, you say:

*I heard there were issues regarding koalas on the site, and that, potentially, the site was too small or had other physical constraints.*

15 Where did you get that information from?---I would say that that was from staff within the mental health service themselves.

Which staff?---So I think at the time of my appointment, which was at the end of July, as I was having an induction and going from site to site, I was told that there  
20 were issues around a planned move of the Barrett Adolescent Centre to Redlands, and that there were environmental issues which were described to me as koalas being on-site that were difficult to move.

COMMISSIONER WILSON: Excuse me. I think there may be a problem with our  
25 video link. It would seem someone else has joined the link?---Okay.

Just bear with me a moment, please, Ms Dwyer. Alright. I think we're right now.

MR FREEBURN: It was probably the mention of koalas. So – now, I want to take  
30 you to a document, and we'll see if we can master the technology and get that up. The document is QHD.007.002.1617. Now, Ms Dwyer - - -

COMMISSIONER WILSON: Can Ms Dwyer see that?

35 MR FREEBURN: - - - can you see that there?---Not yet I can't, no.

Can you see it yet, Ms Dwyer?---No, I'm sorry. I may have it with me, but I would need more than the number to tell me what it is.

40 Okay. It's a briefing note for noting to the Honourable Lawrence Springborg MP, Minister for Health – it should be requested by you on 8 July – it's got various dates on it. It's exhibit 11 to your statement, but I'm not - - -

MS McMILLAN: Commissioner, my solicitor organised a bundle of documents.  
45 So it's document 8. If this witness looks at document 8 in that bundle.

COMMISSIONER WILSON: Alright. Did you hear that, Ms Dwyer?---Yes. The one that is attached to my statement is the project plan. No, I've got a different one, I'm sorry. I can see that now.

5 Apart from your statement, do you have a bundle which Ms Cameron organised for you?---Yes, I do.

Well, have a look at number 8 in that?---I'm afraid that it – unfortunately, my office hasn't quite put it that way, but anyway. So please bear with me.

10

That's alright. Take your time?---I have – I have the briefing.

The briefing note? Thank you. Is yours the one that's actually got a signature on the front page?---It doesn't have a signature as such.

15

Alright. Is it – at the top of the page - - -?---It - - -

- - - does the number end 1617?---It does.

20 Thank you. That's the one I want to take you to?---Yes.

Now, that's a briefing note that you prepared for the Minister?---I would not have personally prepared it. I would have signed it off as being appropriate to go forward. So it would have been requested by me.

25

Okay. Now, that document has some attachments to it. One is the ECRG report, and there should be a second document attached to it called Issues Synopsis?---Yes.

30 Now, if you go to the very last page, see there's a heading - - -?---Of the Issues Synopsis?

Yes. You see there's a heading - - -?---Yes.

35 - - - heading Key Messages?---Yes.

And was that document seen by you at the time?---I would have seen any attachment that was part of the brief. Yes.

40 And you'll see that it says:

*Adolescents requiring longer-term mental health treatment will continue to receive the high quality of care suited to their individual needs. BAC will close*

*at the end of December 2013 when alternate service options will become available.*

?---I see that.

5

What alternate service options were going to become available at the end of December 2013?---I'm not too sure that I can talk to specific service options. There were some that were occurring in the north of the state insofar as Townsville Hospital was opening some additional acute beds, but there was also the ability to engage with the non-government organisations. So I think this was – the statement is made predicated that we were still working at a state level as part of a group that were looking at alternate service options following the recommendations of the expert clinical reference group.

10

15

So is it true to say that you had in mind that there were alternate service options that were going to be available at the end of December 2013 but at this point it wasn't fixed or identified what they were going to be?---I think that the recommendations talked about a range of options, many of which were community-based, so this was not particularly talking about a bricks and mortar-based solution. And I think that in other documents you will have seen that although we were, you know, working towards an end of 2013 that we used the term a flexible closure date because we were going to maintain services for as long as possible until there were alternates available.

20

25

Can I just ask you what alternate service options were available as at August 2013 and then when Dr Brennan came on in September 2013?---As I said, there were service developments happening in the north of the state. There were also, I think, services – supportive services that we were looking at with a step-down service that was not in place in July but was recommended to be of value to some particular adolescents. There was also services that were starting to be developed. It was called a Y-PARC model that we were expecting that would occur within Brisbane South, as well. So I think that following the work of that group there were many other models, including – and I'm not going to get the name correctly right, but there was an assertive outreach model which was really based on a much more of a, you know, intensive service that would be caring for adolescents in the community. And so those were the models that were starting to emerge and be developed.

30

35

40

I want to deal with that concept of Y-PARC, and to do that, we can go back to the second page of this briefing note, which is actually the briefing note for noting to the Director-General. So it's page 1618?---That's correct.

And if you scroll down, you'll see paragraph 6?---Yes.

45

Now, I'm wondering whether – and forgive the cynicism, but the phrase “urgently progressing planning” – did that mean that nothing had yet started?---That is correct. As in, nothing had started insofar as there was not a Y-PARC service model, as I understood, within Queensland at that time.

But - - -?---But I was are because we had sent staff to have a look at a model that was available in Victoria.

5 See you did that about five or six weeks later, though – sorry, the staff went five or six weeks later, didn't they?---I – I can't recall the exact date. I apologise.

Was it Dr Stathis, Ms Krause, Dr Geppert and Dr Sadler who went to Victoria for a visit and included some Y-PARC facilities in that visit?---That's my recollection.

10 Right. So the words urgently progressing planning – there wasn't yet a written plan or any steps taken. Correct?---I think at the time of this briefing that would be correct. But I did not work at, you know, West Moreton and the Department of Health, you know, sort of were a separate – there may have been preliminary work done within the mental health and other, you know, sort of drugs and alcohol branch  
15 that I was unaware of.

Now, the Y-PARC service option didn't progress, did it?---I'm not too sure what occurred once I had actually left but there was certainly, I think, more than strong interest in that and I was also aware that further north in the state that that particular  
20 Hospital and Health Service had also looked at establishing a Y-PARC service in Cairns.

Well, people may have looked at it but by January 2014 when the Barrett Adolescent Centre closed was there a Y-PARC facility operating in Queensland?---No. There  
25 was not.

And can I ask you the same question about the Step Up Step Down concept. By January 2014 there was no Step Up Step Down facility operating in Queensland?---I'm not too sure that that is correct as in because there were models  
30 whereby adolescents could transition from acute care into community-based support services and if required then go back into an acute environment. But I'm not too sure whether I am describing that accurately based on the descriptor within the recommendations from the Expert Clinical Reference Group.

35 I want to deal with another document and we may see if we can find it if - - -?---Okay.

- - - if Ms Cameron's brief is like my one, it might be at tab 16. What I'm looking for – and I'll give the document reference - it's WMS.1000.0005.00099?---It would  
40 be more helpful for me if you told me what the document was.

Yes. I'm about to do that?---Sorry. Thank you.

45 So it should be at tab 17 and it should be a letter from Dr Chris Davis, MP to a Ms Brosnan. Do you have that at tab 17?---I do know that it's in here.

MS McMILLAN: Commissioner, I just want to check that the addressee of that letter isn't someone who might lead to an identification of a patient. I don't know the answer to that.

5 MR FREEBURN: I think the check has been made and - - -

MS McMILLAN: Alright.

10 MR FREEBURN: You might be able to see it on the screen now?---No, it's okay. I've got it. I knew it was in here. Sorry. Yes.

15 Now, Ms Dwyer, this is, I gather, a standard – if you have a read of it you will see that it's a standard form letter that's adapted for different people who have made inquiries or written letters; correct?---That's correct.

So it's one example of a number of letters in roughly this form?---That would be basically the case.

20 MS McMILLAN: Well, again, I don't – can this witness – sorry, just stop for a moment. I don't know that this witness can say that. She hasn't been asked whether she knows of the letter, knows anything about the drafting of it, recognises it.

COMMISSIONER WILSON: Mr Freeburn.

25 MR FREEBURN: Can you turn over the next page of that document, please?

MS McMILLAN: Yes. I see.

30 MR FREEBURN: So this is a document - - -?---Yes, I've got that.

This is a document that's cleared by you. So you may not have written it, but you certainly saw it before it went out?---I would see all letters written on behalf of Ministers or any brief going into the department.

35 Thank you. Can we go back to the first page, and I want to ask you to quickly read the fourth paragraph on that page?---Yes.

Now, in the fourth line, you say:

40 *The model of care under development is nearing completion, with work being undertaken to finalise the details of all service options including a tier 3 service.*

?---Yes, that's correct.

45 What was the model of care including the tier 3 service?---So the model of care was what was described as the various service options from community-based treatment

to the Assertive Outreach model to the Step Up Step Down and included both acute care and, at that point in time, there was still a view that we wanted to pursue the establishment of a tier 3 service, but at that point in time, the planning for that service was undertaken at a state-wide level, and West Moreton was concentrating on the transition plans for the adolescents that were currently within their care.

I see. You see, it suggests that what you're saying is that you were finalising the details of all service options including a tier 3; correct?---As I said, that was part of a broader planning group for Queensland, not necessarily under the remit solely of West Moreton.

Alright. You notice, don't you, that this is a response to an email dated 3 November 2013; that's in the opening paragraph?---Yes, I do.

So at that point, your evidence is that a tier 3 service was still contemplated?---I believe that nothing had been discounted at that particular point.

Alright. So nothing was off the table. Can you tell us what was available for the patients of the Barrett Adolescent Centre from September onwards?---For the patients of the Barrett Adolescent Centre, they were still being cared for within Barrett.

Well - - ?---Sorry, have I misunderstood your question?

Well, wasn't Dr Brennan involved in a process of transitioning those patients out of the Barrett Adolescent Centre from September 2013 onwards?---For those that were appropriate for discharge and where there were services available, that was part of the individual transition plans.

So are you able to specifically tell the Commission what was available in January 2014 for patients transitioning out of the Barrett Adolescent Centre?---So at that point in time, there were very few patients and so there was a range of options. And obviously as the chief executive, I don't have the details of individual patients and their care needs. However, I was aware that we had established a step-down facility – a residential facility in Greenslopes, that there were non-government organisations and acute care services that were appointed to transfer patients into – adolescents into so that there were services both within Metro South and Metro North, also up in Townsville but also community-based services, as well, that there had been a – I think, a care plan developed for each of those remaining adolescents to be transferred.

Ms Dwyer, can I just ask you about the transition process. And without dealing with specifics of patients, but was it correct to say that from September onwards there was something called the BAC Consumer Clinical Care Transition Panel?---That's my understanding. I was not part of that panel.

No. Dr Brennan was on that panel?---That is correct.

And above that was a project manager, Ingrid Adamson?---Yes.

And above that was the SWAETRS Project Steering Committee, correct?---I think I – I need to know what exactly those acronyms stood for. I'm sorry.

5

I think I can solve the problem for you?---Thank you.

It's Statewide Adolescent Extended Treatment Rehabilitation Service – Strategy – alright. I'll start again. State-wide Adolescent Extended Treatment and  
10 Rehabilitation Implementation Strategy. Breathe?---If you say so. Certainly there was a state-wide group or a system-wide group, rather, as well as what was happening individually. As I said earlier, West Moreton at that point in time was involved predominantly with the transitioning of the adolescents that were within the Barrett Adolescent Centre.

15

And above that, if it was necessary, was Chief Executive and Department of Health Oversight Committee?---That's correct.

And none of those things that we've just gone through – none of those existed before  
20 Dr Brennan got to the Barrett Adolescent Centre on 11 September 2013, correct?---The only group I'm unsure of is the one with the very long name – the state-wide group, because I think that there had been a group that had been established to oversight but I may be incorrect as far as the timing. As far as a  
25 formal group within Barrett, there had been the expectation as would be with any inpatient that there would be active discharge planning which is meant to take place, and there are meant to be plans at the minute of admission. And so there had already been discussions around what were the service options and the ongoing care needs for individual adolescents. But whether or not there was a formal group, I couldn't  
30 say.

30

Or And you probably also can't say when they started to become active?---No. I was certainly aware that once Dr Brennan came on board that, in fact, there had been, I think, a much more structured and multidisciplinary way of planning ongoing care needs for each of the adolescents.

35

Excuse me a moment, Ms Dwyer. Commissioner, that's all I have in open. There's some closed questions I wanted to ask about one of the matters.

COMMISSIONER WILSON: Well, do you want to do that now?

40

MS McMILLAN: I must say I think it's preferable to have it all dealt with in one go.

COMMISSIONER WILSON: Does everyone agree? Very well. The live  
45 streaming needs to be turned off, and those in the back of the courtroom who

normally cannot stay for closed hearing evidence will have to leave. Is the live streaming off?

5 COMMISSION OFFICER: Yes, it's off.

COMMISSIONER WILSON: When you're ready, Mr Freeburn.

MR FREEBURN: Thank you.

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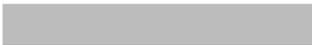
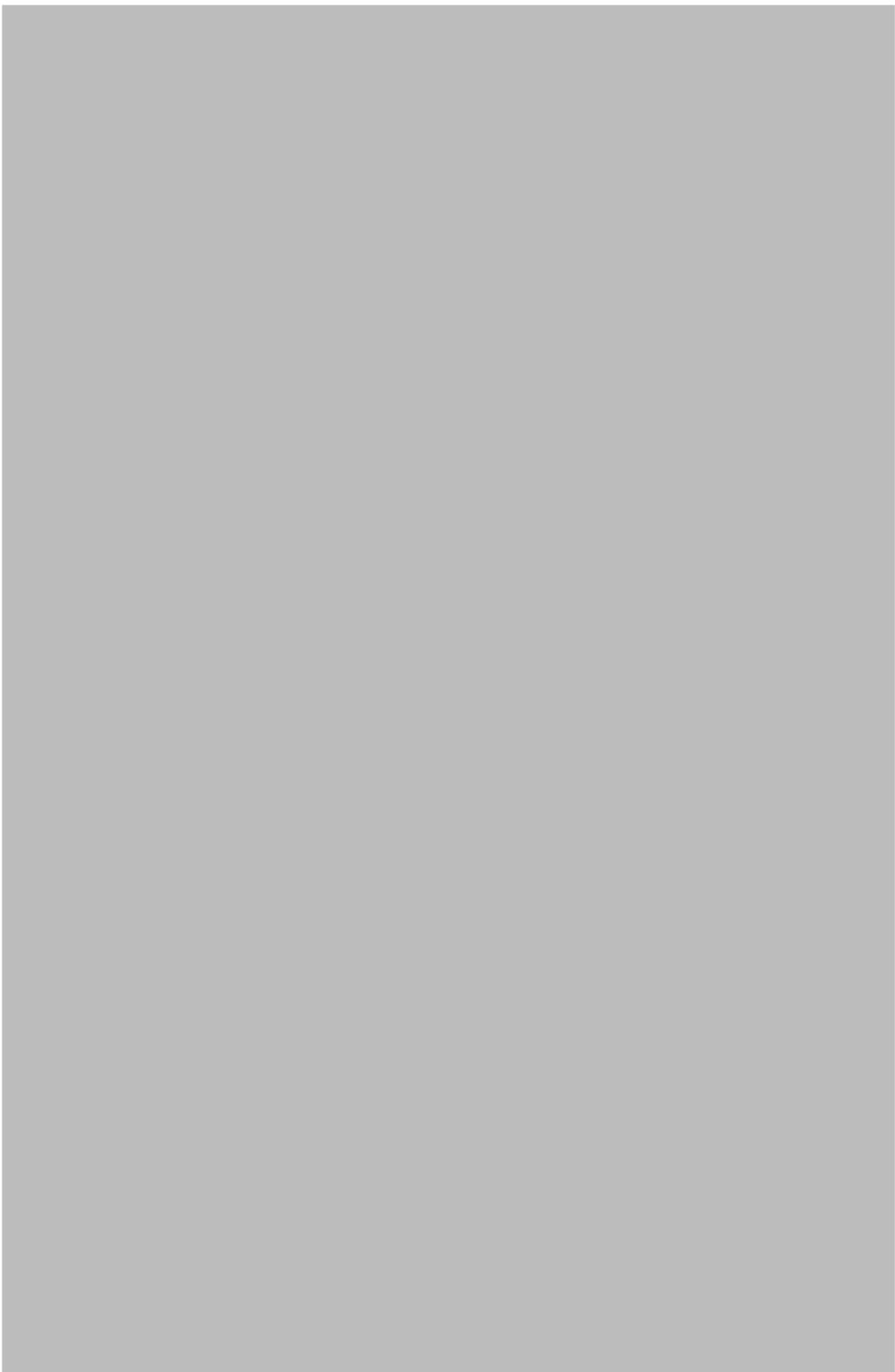
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**EXAMINATION BY MS WILSON**

**[6.01 pm]**

45 MS WILSON: Thank you, Commissioner. Ms Dwyer, can you hear me?---Yes, I can.

5 Okay. My name is Elizabeth Wilson, and I represent the state of Queensland. I just have one question for you, and it follows on from, I think, some evidence that you gave to my learned friend the Counsel Assisting, Mr Freeburn, and I just wanted to clarify this. I think you said that Ingrid Adamson was the project manager sitting above the BAC transition – BAC consumer clinical care transition panel; do you recall that?---Yes.

10 Okay?---Ingrid Adamson was the project manager for the group that was looking at the state-wide models. Ingrid Adamson was an employee of Children's Health Queensland.

Yes. That's the point: Ingrid Adamson was the project manager of a group known as SWAETRI. It was an acronym; S-W-A-E-R-T-I?---Yes, yes.

15 Thank you Ms Dwyer

COMMISSIONER WILSON: Who's next? Ms Rosengren, do you have any questions?

20

**EXAMINATION BY MS ROSENGREN**

**[6.02 pm]**

25 MS ROSENGREN: I do have some questions. Thank you, Commissioner.

COMMISSIONER WILSON: Are these in open court or closed?

MS ROSENGREN: They're in open court.

30 COMMISSIONER WILSON: Yes.

MS ROSENGREN: Thank you, Commissioner. Ms Dwyer, can you hear me?---Yes, just.

35 Is that better?---Yes. Thank you very much.

40 Thank you. I'm Jenny Rosengren, and I appear for Dr Sadler, and I just had a few issues that I was wanting to address with you. If I can ask Ms Dwyer to be taken to – or if you have a look at paragraph 5.20 of your statement; the Delium reference number is 0006?---Yes, I have that.

45 You will see there that you refer to the fact, Ms Dwyer, that from the time that you commenced at the – working for West Moreton in July 2012 that there were challenges attracting and retaining staff at the Barrett Adolescent Centre; can you see that?---Yes, I can.

And as for the reasons for these challenges, do I understand them to be that prior to the cancellation of the Redlands Project it was well-known that the Barrett facility would close with the proposed move to Redlands and some staff didn't want to work at that location. So that was - - -?---That's my understanding, yes.

5

And then once it was publicly known that the Redlands Project was not going ahead, it was difficult to retain and attract staff because there was a lot of general uncertainty about the future of the Barrett Adolescent Centre?---That's correct.

10 In terms of the difficulties experienced in retaining and attracting staff, to your knowledge was it the nurses and the allied health professionals, such as the occupational therapists, the social workers and the psychologists?---My understanding was it was predominantly the nursing staff, but, certainly, there would have been – but I probably don't have the detail around some allied health staff. My  
15 recollection is that that was a reasonable – reasonably stable staffing at The Park.

Okay?---Whereas nursing was – particularly for the Barrett was less so.

20 Okay. Can I then take you to – it's paragraph 5.18, which is - - -?---Yes.

You will see there that you raise some concerns about the model of care which the Barrett Adolescent Centre represented and if you go to - - -?---Yes.

25 - - - subparagraph (a) there you refer to the fact that it did not have rehabilitation as an element. Can you see that there?---Yes, I can.

30 What I wanted to know is how you arrived at that understanding. Was it told to you by someone or was it a conclusion you arrived at from your knowledge of the model of care that was being used the Barrett Adolescent Centre?---Okay. So probably two things that led to me forming that view. One was that it certainly had been expressed by both Dr Kingswell and also it had been alluded to by Dr Geppert and at that time I was becoming aware that there had been some previous reviews and although I have said in my statement that I am not a mental health clinician I have actually managed  
35 mental health services in two other states and it was a model that I had actually not come across particularly in the role that I had previously which had, you know, sort of undergone quite a lot of reform. As I said, I was aware that in fact, you know, sort of residential models or institutionalised models were no longer considered to be contemporary.

40 So is that what you mean when you say that it didn't have rehabilitation element is because it was an inpatient facility rather than a facility or a model of care more in line with what you considered to be a contemporary model of care?---Yes. And particularly I think I formed that view because of the extended length of stay for which many of the adolescents remained at the Barrett.

45

Did you – what do you actually mean by rehabilitation element?---I think the rehabilitation element is very much about staying connected to their family and

community but also a – I think I – I formed a view that there was almost a dependency model about, you know, sort of the relationship with Barrett that the adolescents that I had seen and what had been described very much saw that as, I suppose, that that was – had – had become their home rather than, in fact, they were there receiving treatment and home was where their family or significant, you know, sort of social connections were.

Did you ever discuss with Dr Sadler your concern that – or your view that the model of care that was being used there didn't have a rehabilitation element to it?---I certainly had long discussions with Dr Sadler about the model particularly in the first time that I met him he was very generous with his time and spent a lot of time with me and in a subsequent, you know, sort of meeting as well explaining the model and I may not have specifically asked about rehabilitation but I certainly would have explored why the adolescents stayed there so long, what other services were available, what sort of discharge planning would have taken place, that would have formed not only part of my induction but once I understood that Barrett had been already, you know, sort of determined that, you know, sort of it would not be staying on The Park long term which would - led to the development being explored at Redlands. I would have wanted to ask him about the model that is there. He explained the model. He also said the length of time that that model had been in place and that there had been to my, you know, sort of understanding very little change in that model.

Can you recall becoming aware that one of the reasons for the length of stay for some of these adolescents was the difficulties that were being experienced with the resourcing of staff at the Barrett Adolescent Centre from the time that you were there?---Not specifically, no.

Can you recall it ever coming to your attention that one of the other reasons for it was the lack of appropriate Step Down facilities at that time?---I think that that was assumed. As I said, Dr Sadler and others talked to me about what the statewide, you know, I suppose service model was at that point in time.

Okay. I now want to ask you some questions about Dr Sadler's standing-down, but it doesn't – I'm not asking you to – or asking you any questions which require any patient to be identified. You've indicated that you made the decision to stand Dr Sadler down. And was it you that made the request of Ms Kelly to inform Dr Sadler as to the decision that you had made?---That would be the normal course of events.

Can you recall whether you told Ms Kelly that she was to tell Dr Sadler that he was to have no ongoing contact with any Barrett adolescents, their families or staff members?---I don't recall that. However, pending an investigation, again, that would be normal to ask that person not to do so.

Did you become aware at any time that Ms Kelly had provided that direction to Dr Sadler?---Not specifically, no.

Okay. But do I understand from your evidence that it was your expectation from the time Dr Sadler was stood down that he would have no ongoing contact with the adolescents, their staff or their families – sorry – the staff at the Centre or the families?---That's correct.

5

Thank you, Ms Dwyer. That's all the questions I have for you at the moment?---Thank you.

COMMISSIONER WILSON: Mr Harper.

10

MR HARPER: I have no questions, Commissioner.

COMMISSIONER WILSON: Mr Ben McMillan.

15

**EXAMINATION BY MR McMILLAN**

**[6.11 pm]**

MR McMILLAN: Ms Dwyer, my name is Ben McMillan. I represent Deborah Rankin. Do you know who that person is?---No. I'm sorry. I do not.

20

Ms Rankin is a teacher and at some times the acting principal of the Barrett School. Do you know who I'm talking about?---No. I'm sorry. I may have met Ms Rankin in a broader meeting, but I don't believe that I have had any one-on-one discussions with her.

25

I want to ask you, first of all, please, about the meeting that you had with the Barrett Adolescent Centre staff on 9 November 2012. And you deal with that at paragraph 14.8 on page 27 of your statement. Do you have that paragraph?---Almost. Sorry.

30

That's alright?---Yes, I do.

Now, you say that you attended a meeting of the Barrett staff with Ms Kelly on that date. That was a meeting of the Barrett staff, including the staff of the Barrett School; is that right?---That's correct.

35

And you say in that paragraph that it was following that meeting that you formed the view that it would be preferable for the Barrett School staff to receive information directly from their department and not from the West Moreton Hospital and Health Service?---That's correct.

40

Did you communicate that view to Ms Kelly?---I believe I would have.

Are you aware that around about that time, Ms Kelly formed the view that any further meetings of the Barrett staff with her, at least, should be with the West Moreton Hospital Staff only and not with the Barrett School staff?---I was aware of that.

45

5 And did you agree with that course of action taken by Ms Kelly?---I agreed insofar as that there were questions that the education staff were needing to have answered that we were not in a position to do so for them. They needed to actually have their queries about ongoing employment answered by the Department of Education, not by West Moreton.

10 Yes. You've said that there in paragraph 14.8. There were other ways that you could have assured the school staff that they could be in contact with their department in relation to those particular concerns but otherwise involve them in ongoing communications and meetings about the future of the Centre, couldn't you?---They were involved in the day-to-day operations at Barrett Adolescent Centre, and they would have also been involved in the transition arrangements with staff in the individual care of adolescents. But anything other than that, it was not West Moreton's, I suppose, responsibility to be able to provide that information to  
15 the education staff.

20 Did you give consideration to whether a decision to exclude the school staff from meetings and communications about the future of the centre might cause the school staff and, indeed, the clinical staff to feel that they'd been divided?---I'm – you know, sort of – I can see that that would have happened. That was certainly not the intention.

25 You're aware, aren't you, that over many years, the education staff and the clinical and nursing and allied health staff at the Barrett Centre had worked as a multidisciplinary team?---I'm certainly aware of that.

And that that was critical in the delivery of care and treatment for the patients at the Barrett Centre?---That is correct.

30 Can I ask you now about another aspect of your statement, and I'm interested in paragraph 10.10 subparagraph (b) on page 18. In that paragraph, you describe attending a meeting with a number of people, including the Assistant Deputy Director-General of Education, on 2 September 2013. Do you have a clear recollection of that meeting sitting here today?---Yes, I do.

35 You say, in that paragraph, that one of the things you wished to raise in that meeting was you wished to advise the Assistant Deputy Director-General that based on your transition plans, it was likely that only one of the BAC patients was likely to require ongoing educational support; do you see that sentence?---Yes, I do.

40 What was the source of the information upon which you formed that opinion?---That – the source of the information was through the transition group, which was more than Dr Anne Brennan, and the plans that they had in place for the individual adolescents at Barrett, and based on the location of the adolescents, too, where they  
45 were transitioning to.

It's a little unclear from the way your statement is framed, but were you the person who communicated that particular information to the Assistant Director-General in that meeting?---I can't recollect, but I imagine it would be, because I would be the only person, I think, with that knowledge. Dr Cleary and Dr Kingswell would not.

5

Now, I presume you didn't have any personal familiarity with the patients at the Barrett Centre or their educational needs?---No, not at all.

10 So you relied upon advice that you were given as to which patients, if any, would be requiring ongoing educational support from the Barrett School?---This particular patient I did have some knowledge of, as in I have never met the individual but I have spoken with [REDACTED] mother, and so I was also aware of her desire to have ongoing educational support for the patient.

15 COMMISSIONER WILSON: Excuse me. Just a moment. If we're going to start talking about an individual patient, I will close the hearing. There's no problem in my doing that, but would you raise a flag of some sort before starting to talk about a patient.

20 MR McMILLAN: I can approach it in a different way, Commissioner.

COMMISSIONER WILSON: Very well.

WITNESS: I do apologise.

25

MR McMILLAN: I'm sorry. That might have been the form of my question, Ms Dwyer. Is it the case that you had some knowledge about a particular patient based on communications with that patient's family, without going into any details about that?---Yes. Yes, yes.

30

Did you have any other information about the other patients and their educational needs based upon conversations with Dr Brennan or anyone else from the Barrett Adolescent Centre?---The only information I would have is that at particular - - -

35 I'll just – I'll ask you to stop there. I'm not asking you what the information was; I'm asking you did you have access to information from some other source other than the family of that particular patient?---Only through the recommendation of the transition plan for individuals.

40 And when you say the transition plan, did you have access to documents that contained those plans, or did you rely upon oral advice from Dr Brennan or someone else?---I – I relied upon oral advice. It was not appropriate for me to see the individual care plans.

45 And from whom did you receive that oral advice?---I would have received that through a regular briefing that I received which would be verbal from Ms Kelly.

Thank you. And did you understand that Ms Kelly had any personal knowledge of the individual patients and their education needs or was she relying upon someone else in your expectation?---I would have thought that she would have been reliant upon the advice within the transition plan so the multidisciplinary group planning for  
5 the care of the individual adolescents.

Did you become aware some time after the closure of the Barrett Adolescent Centre at Wacol that 10 former patients of the Barrett Adolescent Centre in fact transitioned to the Barrett School at Yeronga?---No. I wasn't aware of that number. I did know,  
10 though, that there were, I suppose, individuals that were going to be attending that school.

You've said in your statement that as at the time of that meeting on 2 December it was your belief based on advice that only one patient would require ongoing  
15 educational support from the school. I'm trying to understand, if I can, where any discrepancy might lie in that information. Is it the case that you're able to give us any information about that or should we ask someone else?

MS McMILLAN: Well, I object - - -  
20

WITNESS: That advice was given based on the current - - -

MS McMILLAN: Just a moment. I object - - -

25 COMMISSIONER WILSON: Just a moment. Don't answer.

MS McMILLAN: I object to the form of the question. It implies that there was a discrepancy. This witness says I understood there was one, the source of the  
30 information. Mr McMillan puts to this witness there were 10 former that went to the school. How does that help you, one, this implicit assumption there's a discrepancy – there's not – between those two propositions and, secondly, the witness has already indicated the source of her information.

COMMISSIONER WILSON: Mr McMillan, how do you respond to that?  
35

MR McMILLAN: Well, your Honour, the witness raises a concern in this paragraph about the continuing existence, essentially, of the school based upon information that  
40 if it wasn't incorrect at the time, certainly it turned out to be incorrect only a short time later.

COMMISSIONER WILSON: So - - -

MR McMILLAN: I'm interested to explore with her about how that might have occurred and if she doesn't know, she doesn't know.  
45

COMMISSIONER WILSON: So you're, I think, drawing a distinction between what she said a moment ago about understanding there was only one patient likely to require ongoing educational support - - -

5 MR McMILLAN: Yes.

COMMISSIONER WILSON: - - - and what she subsequently said about being aware that in fact some patients – and she was not sure of the number – did transition so the Yeronga school.

10

MR McMILLAN: I don't think she said anything about the number of patients. I asked her whether she was aware of that.

15

COMMISSIONER WILSON: And I think her – well, you asked her if she was aware of 10 - - -

MR McMILLAN: Yes.

20

COMMISSIONER WILSON: - - - and according to my note she responded along the lines:

*I was aware that there were some but I wasn't aware of the number.*

25

MR McMILLAN: Yes. Thank you.

COMMISSIONER WILSON: So you're asking, what, in relation to those two statements?

30

MR McMILLAN: I'm asking her whether – well, I think I can rephrase the question more eloquently. The question I propose to ask her is whether she later discovered that the information she had in that meeting was incorrect or whether something changed to her knowledge - - -

35

COMMISSIONER WILSON: Well, isn't it self-evident.

MR McMILLAN: - - - over that transition.

40

COMMISSIONER WILSON: She said on the one account that she was told there was only one so that was a prospective position. There was only one likely to require it and she has acknowledged that, in fact, some did transition although she is not sure how many. I can't see there's necessarily a discrepancy between them. You might - - -

45

MR McMILLAN: I'm not suggesting the fault is that of the witness. I'm trying to ascertain whether at some stage later she discovered that the information she conveyed to the Assistant Director-General of Education was incorrect at the time that she conveyed it.

MS McMILLAN: Well, again - - -

COMMISSIONER WILSON: Well, I'm not going to allow the question, Mr  
McMillan, because it seems to me it's implicit in her saying she did become aware  
5 that, in fact, a number went to the Yeronga School that she must have become aware  
that what she'd said was wrong or that what she'd said was necessarily wrong.

MR McMILLAN: I'm happy to move on. Thank you.

10 Ms Dwyer, you were taken by Ms Rosengren to paragraph 5.18 of your statement,  
which is on page 6. And she asked you some questions about the source of your  
opinion in subparagraph (a) of that paragraph. Do you have that page again?---Yes, I  
do.

15 You gave some evidence in relation to why you considered that it did not have – that  
is, the BAC did not have rehabilitation as an element. And you described, I think,  
some of the things that essentially appear in paragraph (b), namely, the dislocation of  
the patient from their family, friends and social environment. Do you recall giving  
that evidence?---Yes, I do.

20 Were you aware – or did you ever receive advice that a number of the patients at the  
Barrett Adolescent Centre prior to their admission there had had extended periods of  
absence from school and other social groupings of their peers?---I was not given any  
specific advice about individuals.

25 Did you understand at any stage that some of the – or a number of the patients at the  
Barrett Adolescent Centre by virtue of the illnesses which brought them there had  
already experienced significant dislocation from their local communities prior to  
their admission?---Again, I wasn't advised about individual circumstances, but I may  
30 have assumed that to be the case given what I know about mental illness.

And, finally, Ms Dwyer, I wanted to ask you about the way the decision to stand Dr  
Sadler down was communicated to the Barrett Adolescent Centre staff and, through  
them, to the patients. Did you at any stage give a directive that the staff of the  
35 Barrett Adolescent Centre were to be told that Dr Sadler was on leave?---No, I did  
not.

Were you aware of any other member of the West Moreton staff giving that direction  
to the Barrett Adolescent Centre staff?---No, I wasn't.

40 Similarly – and the answers may be the same that flow from those questions – were  
you – did you give any direction that patients were to be told that Dr Sadler was on  
leave?---I don't recall giving a specific direction.

45 Is it possible that you did?---No, I don't believe so.

And are you aware of any member of your staff giving that direction?---No, not at all.

Thank you, Ms Dwyer. I have no further questions. Thank you, Commissioner.

5

COMMISSIONER WILSON: Ms Robb.

MS ROBB: Commissioner, I have one question in open court and then about five minutes of questions in closed court.

10

COMMISSIONER WILSON: Well, I'll just see what Mr O'Sullivan's position is. Mr O'Sullivan, are your questions in open court or closed court?

MR O'SULLIVAN: Open, if it pleases the Commission.

15

COMMISSIONER WILSON: Well, I'll deal with Mr O'Sullivan first, I think. Mr O'Sullivan.

20 **EXAMINATION BY MR O'SULLIVAN**

**[6.28 pm]**

MR O'SULLIVAN: May it please the Commission.

25 I act for the Minister for Health at the time?---Yes.

Do you remember being asked some questions about your evidence in paragraph 18(a) where you stated that – Delium number 6, Commissioner – you stated that your perspective as the chief executive of the service and having had previous experience managing mental health services was that the Barrett Centre involved a model of extended care which did not have rehabilitation as an element. Do you remember giving some evidence about that?---Yes, I do.

30  
35  
40 Now, following your appointment, did you obtain any information about the method or lack of method adopted in terms of a discharge plan for patients at the Centre?---I think that I had always assumed that that would be the case, but, in fact, given that in my first interactions around the centre that the length of stay was described to me, that created, I suppose, a question for me about the model of care, and later, people more expert than myself had obviously provided advice to me that the model of care was no longer considered to be contemporary.

45 You gave some evidence earlier about a – I think your evidence was that there was a lack of evidence to support discharge planning; do you recall giving that evidence?---Yes, I do.

And that was before Dr Anne Brennan was appointed. By that, did you mean that it came to your attention that there were not in place written plans to do with the

discharge trajectory of each patient?---I'm – I'm not too sure that I would say written plans, but I was advised, and also when I asked questions, there did not seem to be well-known plans from the multidisciplinary team about what the ongoing care away from Barrett would be for individuals. I'm not saying that not – some did; I  
5 wouldn't have that level of knowledge.

I understand. And your concern about that was the whole purpose of – in your experience, of care for those troubled adolescents. The whole purpose is to, if it can be done, rehabilitate them and allow them to return to the community and into  
10 society. That was the purpose – that was the therapeutic aim, wasn't it?---That's correct.

And so from the moment they've come into the service the object is to discharge them from the service as soon as that practicably can be done; is that  
15 correct?---That's correct.

And your concern when you took up your position and began speaking with Dr Sadler and began attending to the model at Barrett, am I right in thinking the concern that you formed in your mind is that there did not seem to be a focus upon  
20 rehabilitation and discharge; is that right?---Yes. If there was, it was not explained to me.

And when you spoke earlier of the length of stay, you had experience in previous states of mental health services. What length of stay – I withdraw that – you gave  
25 evidence to the Commissioner that the length of stay is something – the length of stay in Barrett was over and above what you had experienced before; remember giving that evidence? It was much longer than you had seen in the past?---I would preface that by saying I had actually not, for many years, seen an inpatient model or an institutionalised model for the care for adolescents. But when it was described to  
30 me that the average length of stay was around 10 months and some adolescents had received care over a two-month period, that, to me, appeared to be unusual and not something that I had a frame of reference to recognise.

I understand. And did you ask questions of Dr Kingswell or Dr Cleary of their  
35 professional opinion?---Yes. The first time I went to Barrett and was shown around, Dr Cleary and Dr Kingswell accompanied me.

Yes. And that first visit: is that the visit that you refer to in your statement at paragraph 5.4, Delium reference 3, where you say that you – in September 2012 you  
40 attended the centre with Dr Kingswell and Dr Cleary? Is that the incident you're referring to – I'll withdraw that – that was the occasion you were referring to?---That's correct. It wasn't planned that I would actually accompany the deputy director-general and Dr Kingswell. However, I had also planned to make a visit that day, and it was felt that we would be less disruptive to the adolescents and the staff if  
45 we went together, and, I suppose, it would be less onerous for Dr Sadler and Sue Daniel, who was the acting nurse unit manager, if we combined the visit.

Paragraph 5.5. Read that to yourself, please?---Yes.

5 That advice you received from the Executive Director of the Mental Health Branch that there was capacity in the system and closing the Centre would not create a bed capacity problem, that is, there was capacity for patients who would otherwise be at the centre to be accommodated in beds in other services, that advice you were given, did that remain your understanding after September 2012?---Dr Kingswell certainly did say that, that there were other beds. As I, I think, gained further knowledge around the service, I was aware that those statements were made based on  
10 predominately acute beds, but also based on the occupancy that was reported through Barrett Adolescent Centre.

15 I understand. And to be clear, acute beds refer to beds in a hospital for the most severe and complex cases: young persons who require an inpatient service in an acute ward?---That was my understanding and how it was explained at the time.

20 Yes. And the Barrett cohort – if I may use that term – the Barrett cohort was not as severe as the cohort I’ve just described to you?---Look, I’m not clinically qualified to form that view. I grew to understand that, in fact, the Barrett adolescents at times may have, I suppose, aligned with that definition.

25 I understand. And it was in that context that – I withdraw that. Do you remember being asked a series of questions about the position obtained in the second half of 2013 and early 2014 about service delivery and models of service? Do you remember being asked questions about that?---Yes, I do.

30 You’ll recall that was after the announcement was made. It’s the case, isn’t it, that it was not the responsibility of West Moreton to develop the state-wide services that were to be put into place; rather it was Children’s Health Queensland and the Mental Health Branch who were charged with that responsibility?---That is correct. The leadership for the development and therefore implementation of the services sat with Queensland Health.

35 And - - ?---And also Children’s Health Queensland.

40 And the key leaders in those organisations would be, I take it, in a better position to provide details of the services that were being developed or online during that period?---I think that there was a point in time where West Moreton very specifically said that we would concentrate on the transition; however, individuals did not step away, because we felt that we did have something to offer the development of those services, and certainly individuals stayed connected to those state-wide development plans.

45 Now, you were asked about risks. Do you remember being asked some questions about the ECRG report and risks? Do you recall that?---Yes.

And it was put to that, well, the ECRG identified that there was a risk if the Barrett Centre closed and there was no tier 3 service immediately available, and in that gap – in that gap between the closure of the Centre and the establishment of a tier 3 service, there was a potential risk. Do you remember that being drawn to your  
5 attention?---Yes, I do.

And when you advised the board of West Moreton on 24 May 2013 and you recommended closure, were you cognisant of those advice?---Certainly, we advised of the recommendations of the group, and my recollection was that the board was  
10 asked to note the recommendations, and the board supported the decision to continue to work through, you know, sort of towards a closure of Barrett, but there was I think at that time when we started to talk about a flexible closure date, that there was required to be services in place for those individuals.

15 Was it your understanding that the position of the board and your position was that the centre would not close for as long as it required to be open to provide services for its patients?---Correct.

It would only close after you and the board and Ms Kelly and those others charged with responsibility for these vulnerable young people were satisfied that appropriate  
20 arrangements had been made for their care following their discharge from the Barrett Centre?---Correct.

Do you consider that is what, in fact, happened?---Yes, I do.

25 Paragraph 5.19, page 6 of Delium – read that to yourself, please?---Yes.

You say that you were concerned – you were also concerned about the appropriateness of co-locating vulnerable adolescents – those who are the patients –  
30 the young people in the Centre – with patients with the index offences of some of the patients at The Park. And you say that the planned commencement of the extended forensic treatment and rehabilitation unit – an incident in late 2012 when two patients from the high secure unit absconded from The Park caused a close consideration of these risks. Now, when you say the index offences, what are you referring to?---I'm  
35 talking about whatever had occurred to place individuals under the care of a forensic order at The Park.

Yes, but in non-technical terms, what is the – what do you mean by the index offences of some of the patients?---Are you asking me to give examples?

40 Yes?---Of individual patients?

No, no, no. These - - -?---Because - - -

45 No, no. Not at all. Your evidence that you've given at 5.19 is a matter that was of concern to you was the vulnerability of the young people – I withdraw that. The vulnerability of the young people at Barrett to, as I understand your evidence – to

harm – some sort of harm from those persons who were adult persons at The Park facility. And you referred to two things: firstly, an incident of adult persons absconding from a high secure unit. The second thing you identify is the planned commencement of the extended forensic treatment and rehabilitation unit. I'm  
5 simply asking you to clarify your evidence about the index offences of some of the patients?---Okay. I think all I can say is that many of these patients had - - -

I shouldn't say – yes. I'm so sorry?---Sorry. Had committed offences that would be considered to be violent but also that there would be a concern if individuals were,  
10 you know, sort of not secure – you know, sort of at The Park. Hence as – you know, when we have people absconding. And there were two in particular of our high secure unit – that that caused concern because they may not abscond from the site, because the site is quite large. But, in fact, you know, sort of we were unable to secure their – you know, sort of, I suppose, areas that they were being cared for. And  
15 also the commencement of the extended forensic treatment and rehabilitation unit – that – the basis for that model is a much more open unit, because it is about rehabilitation and being able to transition people back either into care in the community or, on occasion, back into other secure facilities such as in prison, etcetera. But, in fact, there was going to be no large fence as we currently had  
20 around high secure. But the fact that we'd already had breaches within high secure, again, just heightened the concern on The Park. And although I made reference here around Barrett, it was actually – the concern was much broader around other patients of The Park, but also the general community.

25 I understand. The Commissioner formally asked a question about when the extended forensic treatment and rehabilitation unit actually opened and had patients admitted. Do you recall when that was?---You're testing my memory a little bit here.

30 If you can't remember, don't trouble yourself?---No, I'm – I'm – I'm sorry, but certainly during my time there.

Was the risk that you described in 5.19 – are you able to say the extent to which if, at all, it was addressed in the briefings that were provided to West Moreton in May 2014 - 2013?---Without looking at the brief, I believe we will have briefed around  
35 the intention of what the extent and forensic treatment rehabilitation unit would have been, which is a much more open unit. And the fact that The Park was taking on more and more of a high-secure forensic facility compared to what it had been traditionally in the past, I would be confident that we would have said that that was one of the decisions, and, certainly, anything that I had read prior to my  
40 commencement, particularly around looking for an alternate site, was based on the decision that that would be the role of The Park going forward.

45 At 10.9, page 17 of Delium: can you read 10.9 to yourself, please. So you give evidence about the Leader of the Opposition, Anastacia Palaszczuk, calling a meeting, as you recall it, at the Centre, and the Honourable Anastacia Palaszczuk attended with Jo-Ann Miller, who was the local member; the Minister for Health,

Lawrence Springborg; and Michael Cleary. Do you have a recollection of that occasion?---Yes, I do.

5 Now, why was that meeting called, as you recall?---I didn't call the meeting. I understood that, in fact, the Leader of the Opposition and the local state Minister – sorry, the local state member had called the meeting based on, I presume, being approached by either staff of – whether they were West Moreton staff or the Education Department, but, you know, sort of, from time to time, even, sort of, people would ask to come onsite. It may have been through parents, but it was – the meeting was not called by ourselves.

15 No. I understand. And do you recall whether – did – were you informed or did you obtain any impression of whether the local member, Jo-Ann Miller, was opposed or supported the closure of the centre?---My recollection is that Ms Miller was opposed to the closure of the Barrett Centre, but not necessarily opposed to the relocation of the identical model to a different location.

I understand. And how did you - - -?---At the time, she was - - -

20 I'm so sorry. I'm so sorry?---No, no. I was going to say, but opposed to the closure of Barrett.

25 And what was said or indicated that caused you to form that impression?---I believe that she may have actually said that directly to Dr Cleary as I was standing with him.

30 Was that view – the view of Jo-Ann Miller, was that something that you understand was taken into account by the board in making the decision that was made in May 2013 to close the centre?---No, I don't believe that that was taken into account. What we presented to the board was based on, I suppose, more, you know, with respect, expert opinion.

I have no further questions.

35 COMMISSIONER WILSON: Alright. Ms Robb.

**EXAMINATION BY MS ROBB**

**[6.49 pm]**

40 MS ROBB: Hello, Ms Dwyer. Can you hear and see me?---Yes, I can.

45 My name's Sally Robb. I'm acting for a number of the nurses, but not all of them, who worked at the BAC over its period of operation. I just had one question I wanted to ask you in open court that arose from some questions my learned friend Ms Rosengren asked you, and that was it was put to you – or you were asked whether or not you were aware that the length of stay of patients at the BAC was influenced by the permanency of the staff, and you answered that you hadn't heard

that. I just wanted to establish not only had you not heard that, but that had never been raised or offered as an established fact as to why patients may be admitted for between 10 months and two years?---It had never been established as a fact, and I have made the assumption, which is that it would be multifactorial.

5

Thank you. That's the only question I have in open court, Commissioner.

COMMISSIONER WILSON: Alright. The room is going to have to be closed again, the live streaming off and people in the back of the court to leave, please.

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When you're ready, Ms Robb.

MS ROBB: Thank you, Commissioner.

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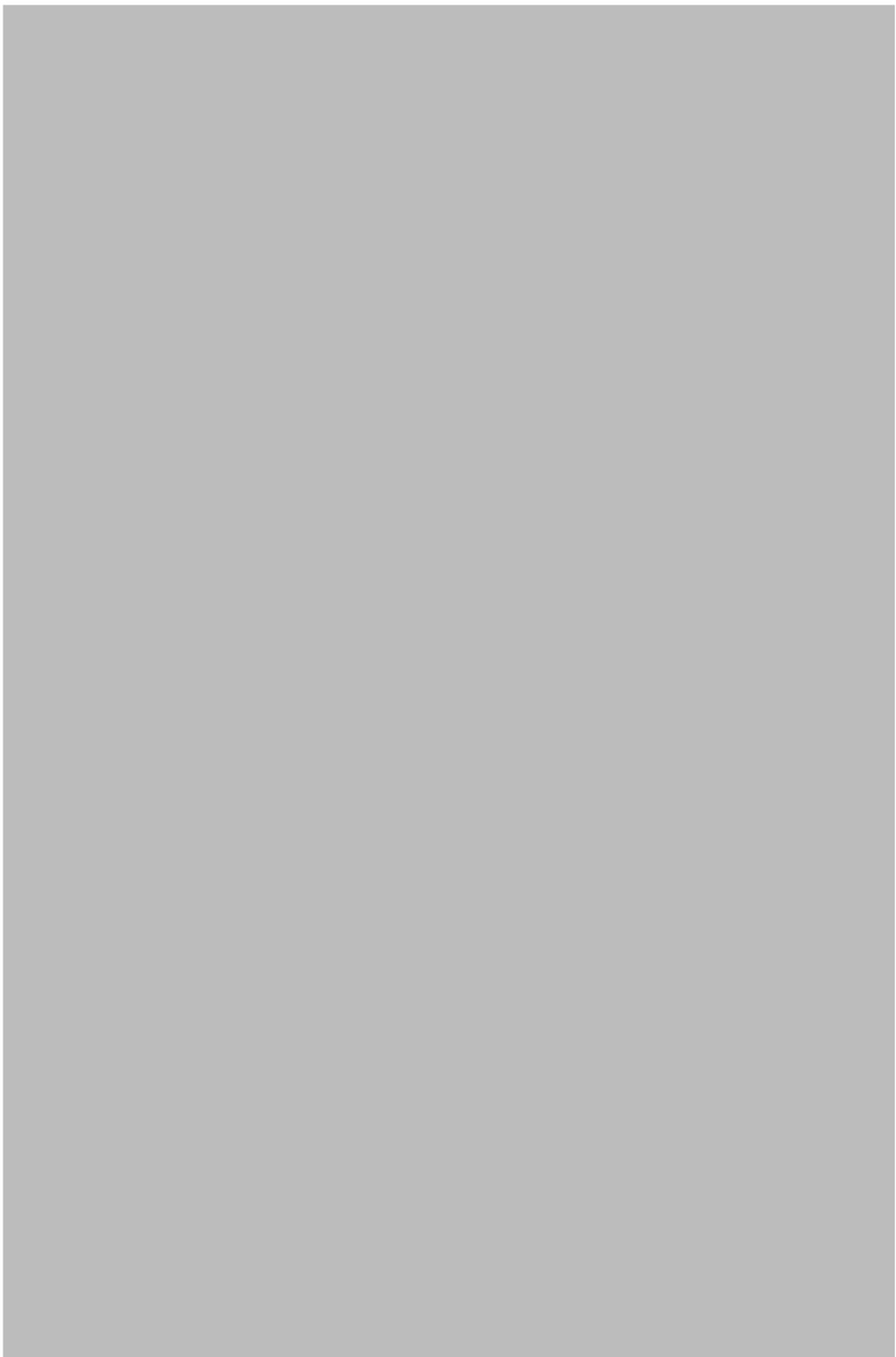
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40 **EXAMINATION BY MS McMILLAN**

**[6.57 pm]**

MS McMILLAN: Thank you. Ms Dwyer, I act for West Moreton. I think my voice, at least, might be familiar to you. Can I ask - - -?---It is.

45

Can I ask you: my learned friend, Mr Freeburn, asked you some questions about whether the views of parents and carers had been taken into account by 6 August

2013. It was the case, wasn't it, to your knowledge, that the ECRG had a consumer and carer representative each, didn't it, on it?---Yes, it did.

5 Right. Thank you. You were also asked some questions about Y-PARC; you remember that? Could the witness - - -?---Yes, I do.

- - - please see WMS.0011.000118810. Can you see that, Ms Dwyer?---Yes, I can.

10 Alright. And you - - -?---Whoops, yes [indistinct]

Right. So it's from Dr Geppert to yourself - - -?---Yes.

- - - and Sharon Kelly. Right. And you see that - - -?---Yes, that's - - -

15 - - - Bill – meaning Mr – Dr Kingswell – has met with David Crompton re the Y-PARC unit being established. So was that - - -?---Correct.

20 - - - at least one of the sources of your information as to the Y-PARC being established?---Yes, it was.

Right. Thank you. Commissioner, in due course I'll ask for that to be tendered. I – it may be an exhibit somewhere, but I'm not positive.

25 COMMISSIONER WILSON: Could you give me the Delium reference again? I didn't catch it.

MS McMILLAN: Yes; it's WMS - - -

30 COMMISSIONER WILSON: Yes.

MS McMILLAN: - - - .0011 - - -

COMMISSIONER WILSON: Yes.

35 MS McMILLAN: - - - .0001 - - -

COMMISSIONER WILSON: Yes.

40 MS McMILLAN: - - - .18810.

COMMISSIONER WILSON: Very well. That will be marked as an exhibit if it's not already in.

45 MS McMILLAN: Yes. And you'll see that what that email says is agree to accept the \$2 million for this purpose. They've guaranteed the service will accept referrals in alignment with the closure plans for BAC December/January, and you understood that to be December 2013/January 2014?---That's correct.

Right. Thank you. Just excuse me a moment. Yes. Thank you. I have nothing further.

COMMISSIONER WILSON: Mr Freeburn, do you have anything?

5

MR FREEBURN: Just a couple of things.

COMMISSIONER WILSON: In open hearing?

10 MR FREEBURN: Yes, please.

**EXAMINATION BY MR FREEBURN**

**[7.00 pm]**

15

MR FREEBURN: Ms Dwyer, referring to that email - - -?---Yes.

- - - did it go any further than this, that is, who's agreeing to accept the \$2 million?---Metro South.

20

MR FREEBURN: So they were saying they would accept \$2 million presumably, pursuant to one of these service agreements?---I think that they're saying here that it would happen in the amendment window, which is correct. It impacts on the service agreement. There are four amendment windows – or there was while I was there – throughout the financial year.

25

And do you know whether that happened or not in the amendment window?---I wouldn't have sight of Metro South's service agreement or amendment windows.

30 Alright. Mr O'Sullivan asked you a question which was along these lines – and I won't get it exactly right, but this is around about – he said something to the effect of it was your position that the Barrett Adolescent Centre would only close after you were satisfied that the transition plans were in place and were appropriate for each individual; do you remember those questions?---Yes, I do.

35

How and when did you become so satisfied?---I would take advice, and – from both Dr Brennan and her plan, also through Ms Kelly and Dr Geppert that there was a range of services in place on more than one occasion for an individual. They were described to me, and also whether or not the families had also been part of that transition plan. So I would take advice that the individual had the level of care that was considered to be clinically appropriate to their care needs.

40

You said a couple of times in that answer you would have or you would do these things. Does that mean that you don't have a specific recollection of getting to that point?---No, I certainly do recall that, you know, sort of, as – for the individuals that remained within Barrett, I was briefed as to what care options were available to them and what had been put in place. I required that level of briefing.

45

Alright. Were those individuals transitioned to existing services?---Not all. Not all.

Well, who were - - -?---In – sorry.

5 I'm sorry. What new services were they transitioned to?---So there were a couple of things that were established during this period, and one was the services provided by the non-government sector. So there was the residential service that opened at Greenslopes. There was also, during this period, the opening of the – or the  
10 extending of the acute service in Townsville with a Step Down and, you know, sort of community-based support program that was available there and also in the meantime there was the development of the Outreach model as well. So there was a range of models that – or support to a model of care that were coming online for those individuals. [REDACTED]

15 Just hang on. Just hang on, please. Alright. Well, we'll check those dates. Thank you, Commissioner. That's all I have.

COMMISSIONER WILSON: Now, does anyone else have any question of Ms Dwyer before she leaves the video link? No. Well, thank you very much, Ms  
20 Dwyer.

MS McMILLAN: Might she be excused? Because it sounds unlikely, given the particular technical issues, that she be required again.

25 COMMISSIONER WILSON: Ms Dwyer, I'll stand you down, which is what I've been doing with all of the witnesses. It is unlikely that you will be required again, but, in medical terms, it's a case of being on call, just in case. Alright. Thank you?---That's fine. Thank you very much.

30 Now, the video link can be turned off.

**WITNESS STOOD DOWN**

**[7.05 pm]**

35 COMMISSIONER WILSON: Now, there seem to be a couple of issues which are circulating either in correspondence or in intimations from counsel in the hearings, neither of which I intend to deal with in any substantive way tonight, but one is transition, and the meaning of the Terms of Reference in that regard, and the other is  
40 the parliamentary privilege point. Is there any other point? Alright.

MR O'SULLIVAN: Well - - -

COMMISSIONER WILSON: Mr O'Sullivan?  
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MR O'SULLIVAN: There may be, because depending on what you mean by transition, we – those instructing me wrote a letter which I think was sent this morning dealing with issues that may be encompassed by what you said, Commissioner, in the word “transition”. There may be other letters that have been written. But it concerns – it concerns the Commission’s current conception of the extent of its task, and I prefer not to say - - -

COMMISSIONER WILSON: Well, this is precisely what I’m talking about, that there seems to be correspondence circulating, some of which has come to the Commission, about the meaning of the Terms of Reference in relation to transition.

MR O'SULLIVAN: If that’s what, Commissioner, you’re referring to, then the answer to your question is no.

COMMISSIONER WILSON: There’s nothing else. Alright. Well, both of those matters need to be ventilated in a hearing and time needs to be set aside to do it. It needs to be done after everyone has had time to properly consider the matters and to prepare some written submissions, which should be circulated and which the Commission should receive in advance of the ventilation of the issues in an open hearing. Mr Freeburn, can I have your assistance as to a proposal for when these matters might be ventilated.

MR FREEBURN: My suggestion would be some time next week, and I propose to talk to Mr Hill to see if I could find us a slot some time next week. I haven’t had the opportunity to do that yet. But that’s as far as I’d got. I’m sorry.

COMMISSIONER WILSON: Well, what I’m concerned about is whether either or both of these issues affect the witnesses who are scheduled to give evidence this week.

MR FREEBURN: As I understand it – and I’ve had a brief conversation with Ms Muir about it – the parliamentary privilege issue would affect the evidence of Dr Cleary, but we’re reasonably confident that those parts that might be infected by parliamentary privilege can be hived off for the moment and the large bulk of his evidence otherwise dealt with. Now, I haven’t spoken to Mr O’Sullivan about that, but we’re reasonably confident that we could mostly dispose of Dr Cleary in that way.

COMMISSIONER WILSON: Has anyone else had the opportunity to consider whether that’s feasible?

MR O'SULLIVAN: I have.

COMMISSIONER WILSON: Mr O’Sullivan?

MR O'SULLIVAN: I think it is.

MS McMILLAN: I will be asking Dr Kingswell some questions that relate to some of those subsets of transition, so that will affect to some extent his evidence, the same with Dr Cleary. I doubt the other witnesses that'll have too much of an impact on for the rest of the week.

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COMMISSIONER WILSON: Does anyone else want to say anything? Mr O'Sullivan.

MR O'SULLIVAN: Sorry, I thought you were asking for a response to my learned friend, Mr Freeburn's question about the practicality of dealing with Dr Cleary in relation to the parliamentary privilege issue, and I think - - -

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COMMISSIONER WILSON: Well, I was, but Ms McMillan's volunteered something else.

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MR O'SULLIVAN: I'm so sorry. I think, most certainly, yes, with respect. The different issue I - I'm so sorry. The separate issue: I shouldn't be taken to be accepting that that issue - that - the transition issue may not require - depending upon the outcome, may not require the recalling of at least those witnesses.

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COMMISSIONER WILSON: Which witnesses?

MR O'SULLIVAN: The two that my learned friend, Ms McMillan, just referred to.

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COMMISSIONER WILSON: That's Kingswell and Cleary?

MR O'SULLIVAN: Yes. Yes, Commissioner.

COMMISSIONER WILSON: Alright. Mr Diehm.

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MR DIEHM: Commissioner, with respect to the parliamentary privilege issue I certainly - from what I've been able to understand of the issue that's raised concerning Dr Cleary's evidence, there should no difficulty in proceeding as Mr Freeburn has indicated.

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With respect to the other issue, to the extent it is to become a problem, if it ever does become a problem, a misunderstanding or a lack of commonality as to what the Terms of Reference in fact involve, it theoretically would involve the potential to recall quite a number of witnesses. So I wouldn't have thought that the Commission should be too concerned about it affecting Dr Kingswell or Dr Cleary's evidence alone, and we might just as well proceed until the matter is finally resolved.

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COMMISSIONER WILSON: Mr Duffy.

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MR DUFFY: Commissioner, as you know, I appear for Kingswell.

COMMISSIONER WILSON: You'll have to speak up.

MR DUFFY: I appear for Dr Kingswell, as you know, Commissioner. I don't even know what the issue is in relation to transition, so - - -

5 COMMISSIONER WILSON: Well, that's the point: you know, it's got to be ventilated when everyone can know what the issue is and make any submissions he or she wants to.

MR DUFFY: Yeah. I just didn't want to, by silence, be taken to be accepting what's floating around, because I just don't even know what the issue is or whether it will require anything or nothing of Dr Kingswell. I simply don't know.

COMMISSIONER WILSON: Very well. Mr McMillan.

15 MR McMILLAN: Your Honour, I'm in the same position as Mr Duffy. My client's scheduled to give evidence on Thursday. I don't know what the transition issue is, but, potentially, it may affect the questions that she's asked. Certainly, I have nothing to say about the parliamentary privilege [indistinct]

20 MS WILSON: Commissioner - - -

COMMISSIONER WILSON: Yes, Ms Wilson.

25 MS WILSON: - - - in terms of the parliamentary privilege, the proposal that has been set forward by Counsel Assisting in terms of Dr Cleary, that would be acceptable to the Crown. And in terms of when that should occur, perhaps if we could liaise with Mr Freeburn, who is in turn liaising with Mr Hill to be able to find a suitable time. And we'll be liaising in terms of the Solicitor-General's availability. And once we get that time, then I think we can get a framework of dates for submissions, and so that we can set that so there's some clarity around that.

30 COMMISSIONER WILSON: Well, what I'm - Mr Freeburn, are you wanting to say something?

35 MR FREEBURN: Can I just say something about the transition issue, and I think this might be behind Mr Diehm's point. At the moment, there is no objection to any particular section of the evidence, and so the transition point is a discussion in general terms, but absent a specific objection to evidence, and it may be that that issue can continue. From Counsel Assisting's point of view we're prepared to provide clarification of our views. But in the meantime, if a party feels that a question strays into an area beyond the Terms of Reference then, no doubt, they will raise it and it will be able to be dealt with on the spot. I'm just a bit concerned that we're going to have these discussions and they're going to be more broad-ranging than is necessary, and there may be an apprehension that counsel assisting or other parties are going beyond where they are when, in fact, that may not materialise.

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MS McMILLAN: Can I just say it's not simply a question of objection. It's how far we need to go in terms of with a number of these witnesses whilst those issues remain at large, and I'm not talking about the parliamentary privilege issue, because I have to say from my client's perspective, that's not something that we're particularly involved with, if I can put it that way.

COMMISSIONER WILSON: I've hesitated to express a preliminary view, but I think it may help if I do. I stress what I'm saying is a preliminary view, and I don't want people to go away thinking I have made up my mind about it. It is this: it never has been thought to be within the Terms of Reference of this Commission of Inquiry that it establish the causes of the deaths that occurred in June – two in June, and one in August of 2014. We all know that there's a coronial inquiry for that purpose.

It's not for me to delineate what inquiries the Coroner will think it proper to make, but I would think it is possible, if not probable, that he will consider the medical histories of these young people and the types of services that they went to after they left the Barrett Centre, and he may decide to do some evaluation of the care that they received leading up to the times of their deaths. That's a matter for him.

What this inquiry has to do is to fulfil its own Terms of Reference, and those Terms of Reference include an evaluation of the adequacy of the transition arrangements. Now, it's right that this inquiry's remit is more systemic in nature than the Coroner's, but in order to form an overall view about the adequacy of the transition arrangements, it seems to me necessary to consider the individual cases and then try to draw together the threads that emerge from those. I can't see how adequacy can be determined without looking at particular cases.

There is a question, of course, of when the transition strictly ended in each case, and that's a difficult one, and it may be that the Commission should indicate some line in the sand, some date beyond which it doesn't regard the transition, or is likely to regard the transitions as having continued. For the moment, I haven't formed a view about what that date might be. But in that sense, that is, the sense in which this Commission is charged with assessing the adequacy of the transition arrangements, and hence it has to look at what those arrangements were and it can only do so on an individual basis and then try to extract threads and themes from them, there may turn out to be an overlap with what the Coroner does. Ms Wilson?

MS WILSON: In terms of proceeding on the transition, I'm a bit unclear about where – what the questions that have been raised and what are the issues that have been raised, and I would appreciate an opportunity to be able to look at all of the issues that have been raised and then be able to provide submissions on that and get some instructions on that so I can do it in an orderly way.

COMMISSIONER WILSON: Well, perhaps the way forward is this, that I should direct those parties who have concerns about the interpretation of the terms of

reference relating to transition to express those concerns in a document addressed to the Commission which the Commission can then distribute to all parties so that everyone knows what the arguments are about.

5 MS WILSON: That would be of some assistance.

COMMISSIONER WILSON: Now, Mr O'Sullivan.

10 MR O'SULLIVAN: Is it satisfactory to you, Commissioner, that the letter that has already been written on behalf of my client serve the function that you've identified? Is a letter acceptable?

COMMISSIONER WILSON: Well, just bear with me a moment. Ms McMillan, your client has concerns, too?

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MS McMILLAN: Yes, and that – we've written to the Commission already about that.

20 COMMISSIONER WILSON: Yes. Does anyone else have concerns at the moment? I know that you don't all know what is on the table.

MS ZERNER: Commissioner, I represent Metro South and we've been liaising with counsel assisting in relation to some transition issues, so we've certainly raised some issues as well.

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30 COMMISSIONER WILSON: Well, it would be good if you could come up with one document between you. If the points are slightly different, well, you can say these are the State of Queensland's concerns or these are West Moreton's concerns, these are Mr Springborg's concerns, but one composite document in which you all join in one concern, if that's the case, or if you have different concerns, you set them out, just as I received a joint submission in relation to confidentiality. It would be very helpful to all concerned.

35 MR O'SULLIVAN: That will be done.

40 MS WILSON: Would a preliminary step be this: as I understand, a number of parties have been – have provided correspondence to the Commission setting out their concerns, and perhaps if the other parties – if we could get – we could understand those concerns so then we can get some context behind it all and get some information.

MS McMILLAN: We're happy immediately to send our letter to the other parties.

45 COMMISSIONER WILSON: Very well.

MS McMILLAN: There's no difficulty with doing that, so we can do that pretty much immediately.

COMMISSIONER WILSON: Well, if you identify the letter for me, I can ask Mr Hill to put it in the data rooms and that will be – that will solve it. Mr O’Sullivan, are you in the same position?

5 MR O’SULLIVAN: Yes, Commissioner.

MS McMILLAN: Ours was sent yesterday.

COMMISSIONER WILSON: Very well. Well, this evening – sorry?

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MS MELLIFONT: Commissioner, certainly Metro South would be agreeable to the emails also being released to the parties.

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COMMISSIONER WILSON: Well, I’d ask that the three parties who have concerns notify Mr Hill, with particulars of which letters or emails they agree to going into the data room and that will happen promptly.

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MS McMILLAN: Commissioner, can I just ask, just so I’m really clear – I probably – it’s my faulty understanding at this time of night. When you say the adequacy of transition involves necessarily looking at individual cases, am I right in understanding you mean individual cases of all the patients transitioned out?

COMMISSIONER WILSON: Well, there will be an issue of how many patients.

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MS McMILLAN: Yes.

COMMISSIONER WILSON: Should it just be those who were patients as at 6 August?

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MS McMILLAN: Yes, that’s what I - - -

COMMISSIONER WILSON: Yes. Alright. Well, I’d like to hear your submissions on that.

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MS McMILLAN: Alright. Can I consider that and then, as part – I just wanted to clarify that.

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COMMISSIONER WILSON: Is there anything else you want to raise, Mr Freeburn?

MR FREEBURN: We’re actually looking at the issue, I think, Ms Muir raised in her opening, that the outer limit was 41, and we can probably progress that some time in the next day or so.

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COMMISSIONER WILSON: Well, I can see there are some counsel in the room who are looking totally confused because they haven’t had any involvement in this issue. So the first direction I give is that this evening, please, counsel for West

Moreton, Mr Springborg and Metro South advise Mr Hill by email of which letters or emails they agree can be put in all parties' data rooms.

5 The second direction I will give is that by close of business on Friday, I have a joint submission or a joint statement of submissions from those with concerns. Having received that, I'll then, on Monday, give you directions about when it's going to be set down.

10 MR O'SULLIVAN: Now, I understand those directions relate to the transition point?

COMMISSIONER WILSON: Yes, they do.

15 MR O'SULLIVAN: Thank you. Do you wish to be addressed on the other point?

COMMISSIONER WILSON: Well, with respect to parliamentary privilege I am inclined at this stage to proceed with Dr Kingswell's evidence and Dr Cleary's evidence this week, hiving off any part which may involve the parliamentary privilege issue, and I would ask for written submissions from those concerned with  
20 the issue.

Now, let me say this: I think it's probably appropriate that those submissions start with those on behalf of Mr Springborg, who has raised the issue. They need to be circulated to the other parties, who should have a time to respond to the other parties  
25 and to the Commission a time to respond, and then I'll set it down.

MR O'SULLIVAN: Yes.

30 COMMISSIONER WILSON: Now, I won't give a timetable for doing that tonight, because I'll allow the parties to go away and see if they can agree on such a timetable, having regard to the availability of relevant people.

MR O'SULLIVAN: Yes.

35 COMMISSIONER WILSON: If they can't agree, then a timetable could be set by the end of the week.

40 MR O'SULLIVAN: Yes. In terms of – I understand what you wish to do, Commissioner, is that my side will circulate a document setting out the issues and our proposed solution to the problem.

COMMISSIONER WILSON: Yes.

45 MR O'SULLIVAN: We can do that by Monday.

COMMISSIONER WILSON: Could you do it this week? I know everyone's very busy, but I'm very concerned. Next week is the beginning of the third week of the hearings.

5 MR O'SULLIVAN: It'll be done. When do you want it, Commissioner?

COMMISSIONER WILSON: Could you do it by close of business on Friday?

MR O'SULLIVAN: Yes.

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COMMISSIONER WILSON: Alright. And then if I could have responses, please, by close of business on Monday.

MR O'SULLIVAN: Yes.

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COMMISSIONER WILSON: Alright. Thanks. Now, is there anything else that can be dealt with this evening? Well, thank you, all. Everyone's looking just a little weary, and it's quite understandable. We have only Dr Kingswell tomorrow?

20 MR FREEBURN: Yes.

COMMISSIONER WILSON: I propose we start at 10 o'clock, rather than 9.30, and I would ask that all counsel, please, to review their questions and be as efficient as possible, because I think an early day is very much deserved by all.

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**MATTER ADJOURNED at 7.27 pm UNTIL  
WEDNESDAY, 24 FEBRUARY 2016**