

**In the matter of the *Commissions of Inquiry Act 1950*
Commissions of Inquiry Order (No. 4) 2015
Barrett Adolescent Centre Commission of Inquiry**

AFFIDAVIT

DR ANTHONY O'CONNELL, c/- Avant Law, Company Director, solemnly and sincerely affirms and declares:

In response to questions posed in a request for further information dated 29 January 2016, I say:

Attachment "AOC-1" is a copy of a letter from the Barrett Commission of Inquiry dated 29 January 2016. This further Statement is provided in response to that letter.

Position of Director General

Question 1 – In paragraph 2, Dr O'Connell refers to having held the position of Director-General of Queensland Health from July 2011 until 15 August 2013. Was Dr O'Connell carrying out his usual duties as Director-General up to 15 August 2013? For example, was he on accrued leave or holidays leading up to this date, or was he in the process of some form of handover to the new Director-General? If Dr O'Connell was on leave prior to 15 August 2013, for how long?

1. In response to question 1, I advise I was carrying out my usual duties as Director-General until 15 August 2013.

Replacement unit for the BAC

Question 2 – With respect to paragraph 6:

- (a) has Dr O'Connell sought further documents from Queensland Health (in addition to his archived emails) that are yet to be provided to him? If yes,***

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Signed

Taken by:

Secretary/Justice of the Peace

AFFIDAVIT OF DR O'CONNELL

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what are these documents and whom did he make the request of and when? What was the basis for any refusal by Queensland Health to supply the requested documents?

- (b) The Commissioner has power to make further documents available to Dr O'Connell. Please provide details of any further document(s) which might assist Dr O'Connell to respond more fully to question six, and state where these documents can be located.*

2. In response to question 2, I advise:

- (a) I have not sought documents from Queensland Health because I was originally required to provide a statement to the Commission responding to 51 detailed questions (relating to matters which occurred up to nine years prior) within eight business days of receiving the Notice of Requirement, which I considered was inadequate time for me to comfortably identify exactly which documents would gainfully inform my statement, and also be sufficient time for the Queensland Department of Health to retrieve those documents and provide them to me. The Queensland Department of Health provided me access to my archived emails (of which there are thousands), but this did not eventuate until five business days before the statement was required. Queensland Health counsel of her own volition sourced and provided me with a small number of documents regarding my role description and appointment as Director-General. This assisted me in answering Question 1 in the original request.
- (b) To assist in providing a more detailed answer to question 6 in the original request, I would require access to all the Budget Papers and Cabinet briefs pertaining to the Budget Papers for the period 2007-2013, much of which time I was not working in Queensland. It is my expectation that the information sought would be as readily apparent from the documents to an officer of the Commission as it would to me. I therefore respectfully suggest that the Commission seek the information directly from the entity representing the State, Crown Law.

Question 3 – The Commission has in its possession a document entitled, Redland and Wynnum Hospitals Health Service Plan Queensland Health June 2011. Is this the Preliminary Infrastructure Plan referred to by Dr O'Connell at paragraph 7(a)? If not,

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[Redacted Signature]

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please provide a copy of the Preliminary Infrastructure Plan or otherwise provide details of the date of this document, its author and how and where it can be located.

3. In response to question 3 I advise I do not have in my possession a copy of a document entitled *Redland and Wynnum Hospitals Health Service Plan Queensland Health June 2011*, nor a copy of the *Preliminary Infrastructure Plan* referred to at paragraph 7(a) of my statement and so am unable to provide either document. Nor can I provide details of the documents, or confirm whether these are in fact the same document. My reference to the Preliminary Infrastructure Plan at paragraph 7(a) was informed by Commission document TOC-3 (a briefing note to Minister Wilson) that made reference to a Redland Hospital Preliminary Infrastructure Plan (PIP). In that document it notes that "The PIP will be informed by the Health Service Plan..." implying that they are two separate documents.

Decision not to proceed with Redlands

Question 4 – With respect to paragraph 10(a)(vi), provide details of the 'emerging clinical preference to care for patients currently treated in the BAC in more community-based "closer to home" models of care'. In particular state:

- (a) ***The sources of Dr O'Connell's knowledge, including when and from whom it was gained;***
- (b) ***The timeframes involved in the 'emergence' of the clinical preference.***

4. In response to question 4 I advise:

- (a) My comment in paragraph 10(a)(vi) regarding the 'emerging clinical preference' is based on numerous conversations I have had over the last two decades with adult and child psychiatrists, executives within state health departments and health care planners, as well as documents authored by mental health specialists. One of these documents is the QPMH 2007-17 that states that the "Plan aims to develop a coordinated approach that provides a full range of services that: ... enable people who live with a mental illness to participate meaningfully in society." It goes on to say, "A stronger role is envisaged for the non-government sector as a key partner in delivering comprehensive community based care and support." It also has as one of its five Priorities for reform: "Priority 3: Participation in the community: Build capacity to assist and support people with mental illness to live full and meaningful lives in the

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community." As these are conversations going back many years I am not able to provide names of the parties involved or dates of the conversations.

- (b) The beginnings of these emerging preferences probably first appeared in a public conversation after the release of the Richmond Report in 1983 written for the NSW Department of Health. In Oct 2014 the NSW Mental Health Commission¹ said that it was republishing the report on-line because the Report "is a valuable and much cited resource". It went on to say "The Richmond Report was about redressing the imbalance between institutionalized hospital care and community care in mental health services while advocating strongly for a more decentralized and integrated model of care and support." David Richmond AO, author of the report has said, "Under the report, some institutions were targeted for closure, but not before both growth and compensatory community services were provided. As institutions were closed the funding which previously supported institutional care would transfer to community care and support." It was always my intention that a similar process of shifting focus and resourcing would occur while I was Director-General in Queensland, and the statement by WMHHS that I have quoted in paragraph 16(d) "*Board approved the closure of BAC dependent on alternative appropriate care provisions for the adolescent target group*" reassured me that WMHHS shared my opinion. I have not suggested that there is never a need for certain mental health patients to be hospitalized (acutely or in extended bed-based care), nor have I acted in a way that would suggest that. The BAC did not close while I was Director-General.

Question 5 – With respect to paragraph 11(iv), can Dr O’Connell state and elaborate on what “the original reason for the investment” was?

5. In response to question 5 I advise that with regard to paragraph 11(e)(iv), I understood that the original reason for the RAETU was to eventually replace the BAC service in a new facility, and was made at a time when this was considered the most appropriate course of action.

May 2012 Briefing Note

¹ <http://nswmentalhealthcommission.com.au/node/1521>

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Question 6 – With respect to paragraph 11(f), is it Dr ‘Connell’s evidence that a decision had been made to close the BAC, at the time when the decision was made to cease the Redlands project (that is, in May 2012)? If yes, state the source of that knowledge and the approximate date when it was gained.

6. In response to question 6 I advise with regard to paragraph 11(f) it is my evidence that from at least as early as Oct 2008 it was the intention to move the BAC service to another site, with the preferred site being Redlands. The source of that knowledge is briefings such as Commission document TOC-3, subsequent discussions which occurred when I became Director-General (the exact parties to the discussions and dates I am unable to recall), and Cabinet-in-Confidence papers in 2011.

Question 7 – Did Dr O’Connell’s understanding as to the plan to close the BAC change at any time between May 2012 and July 2013? If yes, state when and how. In respect of this question, the Commission draws Dr O’Connell’s attention to his evidence at paragraph 16(f).

7. In response to question 7 I advise that my understanding of the plan to move BAC service significantly changed between May 2012 and Jul 2013 because the operational responsibility for such decisions moved from the Department of Health to the WMHHS on 1 July 2012. In that 14-month period I received information regarding the due diligence that WMHHS was conducting to ensure that the transfer of services out of the old BAC buildings was appropriately managed.
8. For example, I received a copy of a Memorandum that the CEO of WMHHS sent to all HHS Chief Executives on 12 November 2012 advising them that the Redlands AETU project had been discontinued, that the old BAC buildings were no longer fit for purpose, that WMHHS in partnership with MH Branch QH was commencing discussions with key experts, other health services and staff regarding the future model of adolescent mental health care in Queensland. That Memorandum stated that, “We need to ensure that it (*the model*) is aligned to expert clinical opinion and research to ensure the future model of care provides the best available outcomes for our patients.”
9. I also received a copy of an email from Dr Cleary to the Minister on 29 November 2012 which stated “There is a clear policy direction to ensure that young people are treated

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close to their homes in the least restrictive environment, recognizing the need for safety and cultural sensitivity and with the minimum possible disruption to their family, educational, social and community networks."

10. I also received a copy of an email from Dr Cleary to the Minister on 4 December 2012 that noted, "The National Mental Health Service Planning Framework clearly recommends community-based and non-acute care settings for the care of mental health consumers, particularly young people." That email also drew the Minister and my attention to the fact that a child psychiatrist Dr Brett McDermott from the Mater had stated at the Queensland Child Protection Inquiry that he was concerned about the possible closure of the BAC.
11. All of these communications reassured me that those directly responsible for transfer of services out of the old buildings and the development of appropriate alternatives were concerned that the best services would be delivered to the clients and that they were cognizant of concerns that needed to be addressed.

Question 8 – With respect to paragraph 12(d), does Dr O’Connell accept that ‘alternative care arrangements’ did not exist at the time when he left his role as Director-General, in the sense that alternative care arrangements were still to be developed?

12. In response to question 8 I advise that in the last few months of my time as Director-General I do not recall being briefed on the development, details or progress of "alternative care arrangements". I am therefore unable to report on the progress of those developments over that period, and therefore unable to exactly describe the state of development of alternative arrangements at 15 August 2013.

July 2013 Briefing Note

Question 9 – With respect to paragraph 16(b):

- (a) ***During the time when Dr O’Connell held the position of Director-General, was he aware of the existence of the Expert Clinical Reference Group (more commonly known as the ‘ECRG’) and, if yes, what was his understanding of the role of the ECRG?***

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(b) In the event that Dr O'Connell was unaware of the existence of the ECRG during the time when he was Director-General, by what means did Dr O'Connell satisfy himself as to the clinical basis for the decision to close the BAC?

13. In response to question 9 I advise that with respect to paragraph 16(b):

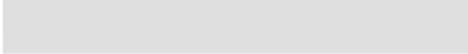
- (a) I have no recollection of being briefed on the ECRG.
- (b) The BAC did not close while I was Director-General and I did not approve the conclusive date of its closure. This was a matter for the WMHHS in consultation with the HHSs that would take up the care of the existing BAC patients, in consultation with the Mental Health Branch in the months before the closure. The clinical basis for the decision to close the BAC was a matter for consideration between the WMHHS, CHQHHS, in consultation with the Mental Health Branch and relevant stakeholders in the months before the closure.

Question 10 – With respect to paragraph 16(f), Dr O'Connell's evidence is that the briefing note was 'one for [his] approval'. Can Dr O'Connell explain the purpose of him receiving a brief 'for noting'? In particular, is it Dr O'Connell's evidence that receipt of a brief for noting meant that, as Director-General, he was not in a position to:

- (c) **Ask questions of the author(s) of the briefing note as to whether or not 'expert adolescent psychiatric advice' had been obtained by them; and/or**
- (d) **Recommend/request that 'expert adolescent psychiatric advice be obtained?**
14. In response to question 10 I advise that the Director-General receives Briefing notes for noting (that are intended ultimately for the Minister) in order to identify issues that may be important to add to the Brief in order to more fully brief the Minister on the matter. The Director-General is in a position to ask questions of the authors and to seek additional advice.
15. The brief clearly states that there was not an intention to close the BAC until certain dependencies had been met, and that both my Deputy Director-General responsible for clinical safety and standards of clinical care in the health services, and the

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psychiatrist heading the Mental Health Branch were consulted regarding the Strategy. I was comfortable that these physicians could be trusted to appropriately advise me if they had concerns regarding the Strategy. The Queensland Commissioner for Mental Health was also briefed before I received this Briefing. None of those parties expressed concerns to me in the matter.

16. I also noted that the Strategy had not been finalized (paragraph 12 in the Briefing note).

Date of Closure

Question 11 – With respect to paragraph 19:

- (a) *Dr O’Connell held the position of Director-General at the time when a decision was made to close the BAC. Is it Dr O’Connell’s evidence that he had no input into the decision to close the BAC (as distinct from the decision that the closure date for the BAC would be January 2014) (“Closure Decision”)?*
- (b) *Provide details as to the extent and/or nature of Dr O’Connell’s involvement and/or input into the Closure Decision and the position of those other persons involved in making the Closure Decision;*
- (c) *On what date was the Closure Decision made;*
- (d) *Provide details of any consultation by Dr O’Connell with experts and/or stakeholders (and when) with respect to the Closure Decision, and state:*
- (i) *The nature of that consultation;*
- (ii) *What advice/views were given by those experts and stakeholders prior to the Closure Decision, and how influential each of the perspectives was to Dr O’Connell’s decision-making and/or input into the Closure Decision.*

17. In response to question 11 I advise that regarding paragraph 19:

- (a) It is not my position that I had no input into the decision to close the BAC. My position is that my input as Director-General was limited. The decision to close the BAC was the responsibility of the WMHHS in consultation with the HHSs that would receive the BAC patients. In May 2012 the Strategy that proposed the closure of the BAC had not been finalised. From 1 July 2012, after the enactment

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of the Hospital and Health Boards Act, the responsibility for operational decisions was devolved to the HHSs, in other words the role of the Director-General fundamentally changed on 1 July 2012 to a role in which operational decisions deliberately became more distant from the Director-General. Using information such as the material contained in the May 2012 briefing note, I did not raise any objection to the closure as I 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..

- (b) The nature of my input into the Closure Decision was to note the strategy proposed by the entity empowered to make the decision, to be reassured by the fact that relevant officers whose clinical opinions I trusted in the Department of Health had not expressed concern regarding the eventual closure, 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 that it provided the best available outcomes for patients and that the entity (WMHHS) had placed dependencies on the closure that were consistent with my own views of the issue of deinstitutionalisation.
- (c) The decision that closure of the BAC would ultimately be necessary was made before 2008. I am not aware of when the WMHHS confirmed the actual date of closure, though of course I am aware that on 6 August 2013 the Minister announced that closure would occur some time in 2014, but with no definite date given.
- (d) I had no consultations with experts and stakeholders prior to the Closure Decision. I delegated consultations to the entity ultimately responsible for the Closure Decision namely the WMHHS and CHQHHS and to my officers responsible for Mental Health and clinical standards of health care delivery.

Question 12 – In paragraph 26€, Dr O’Connell states that he was not involved in the decision to announce the Closure Decision on 6 August 2013. Please explain what information if any, Dr O’Connell was given at the time, about the announcement being

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made. For example, was he consulted/told that it was about to happen. If so, by whom and when.

18. In response to question 12 I advise I have no records that enable me to answer this question.

Question 13 – Dr O’Connell’s evidence at paragraph 19 is that he understood, at the time when he left the position of Director-General (that is, August 2013), that ‘alternative care locations and models needed to be developed in order of a satisfactory transfer of patients out of BAC’. With respect to this evidence:

- (a) What was the source and/or basis of Dr O’Connell’s understanding as at August 2013?**
- (b) What avenues were available to Dr O’Connell, during the time when he still held the position of Director-General, to have input/oversight/influence into:**
 - (i) The implementation of the Closure Decision in circumstances where alternative care locations and models were not yet in place;**
 - (ii) The development of alternative care locations and models;**
 - (iii) Ensuring alternative care locations and models would be in place prior to the closure of the BAC;**
- (c) What input/oversight/influence did Dr O’Connell have, while still in the position of Director-General, in respect of each of the matters at (b)(i)-(iii) above? In the event that Dr O’Connell did not have any input/oversight/influence, state the reason(s) for this.**

19. In response to question 13 I advise that:

- (a) My understanding of the need for alternatives was informed by the Memorandum from CEO WMHHS in November 2012 to all CEOs of HHSs, and the Briefing from CEO WMHHS (TOC-6) dated 8 July 2013 both of which confirm that it was the intention of WM HHS to establish alternative care arrangements before closing BAC, which was consistent with my own long-held understanding of the concepts behind de-institutionalisation of mental health services.
- (b) In the nine days between when the Minister announced on 6 August 2013 that the closure of the BAC would occur in 2014 and when I left office as Director-

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General on 15 August 2013, there was very little opportunity to have input or oversight into the matters raised in the question. Theoretically I could have met with the WMHHS Board or CEO and sought detailed information about the transition process and alternative services but that may have overstepped the intended role and position of Director-General under the decentralised arrangements which had been in place since July 2012.

- (c) The operational aspects relating to the location, development and nature of the alternative arrangements were the responsibility of the relevant HHSs. I received briefings (as described in my previous answers) that provided the background and general direction for what was considered necessary to establish an adequate replacement arrangement for the BAC services. The governance model in place did not allow for significant input beyond this. Further having been advised that the entity responsible for the decision intended that the future model of care was aligned to expert clinical opinion and research to ensure that it provided the best available outcomes for patients and that the entity (WMHHS) had placed dependencies on the closure, and where no date had been given for the closure (the Minister's announcement indicating this would occur in 2014) I believed the matter was proceeding appropriately at the time I ceased to be Director-General.

Question 14 – At paragraph 22, Dr O’Connell gives evidence that he ‘kept no personal notes’ Is it Dr O’Connell’s evidence that he did not ever keep any personal notes (in the sense of never having made any personal notes)? Alternatively, is it Dr O’Connell’s evidence that he did not keep any personal notes, in the sense that his personal notes remain in the possession of Queensland Health? In the event it is the latter, please provide details as to the relevance of these personal notes to the Commission’s Terms of Reference and state where and how they can be located.

20. In response to question 14 I advise I kept my own personal hand-written notes relating to some of the meetings I conducted as Director-General for my personal use. A few months after I left the role of Director-General I destroyed these notes as I was moving overseas for what was planned to be a number of years. I also sometimes made hand

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written notes on briefing papers or on note paper kept with briefing papers. These should still be in the possession of Queensland Health. However I cannot recall making hand written notes specifically for any paper relating to the matters the subject of this Inquiry.

Queensland Plan for Mental Health

Question 15 – With respect to paragraph 28:

- (a) Has Dr O’Connell ever read the Queensland Plan for Mental Health? If yes, state when and in what capacity?**
- (b) Did Dr O’Connell read the Queensland Plan for Mental Health at the time when he was Director-General? If yes, state in how much detail and in what circumstances;**
- (c) What are ‘national health meetings’? Please provide details as to the purpose of these meetings, how frequently they are held, who the attendees are etc.;**
- (d) On what basis does Dr O’Connell make the statement in paragraph 36(b)?**

21. In response to question 15 I advise that regarding paragraph 28:

- (a) I have been asked in the request for Supplementary Statement if I have read the *Queensland Plan for Mental Health QPMH* (which is not the document referred to in paragraph 28 of my original statement). QPMH is a document that was included in the background documents the Commission sent me in December 2015. I remember that it was a document referenced in some of the briefs to me regarding Mental Health capital/infrastructure issues, and I read it around the time of receiving those briefs.
- (b) As noted above I read the Plan as Director General. I remember that it was a document referenced in some of the briefs to me regarding Mental Health capital/infrastructure issues, and I read it around the time of receiving those briefs.
- (c) The national health meetings referred to in paragraph 28 are meetings of Directors-General and Health Ministers from around Australian states and territories, which occurred a number of times each year (as AHMAC and the

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COAG Health Council). Other meetings such as occasional meetings with the National Mental Health Commission also occurred.

- (d) Development of the National Mental Health Service Planning Framework project was an action recommended in the fourth National Mental Health Plan of 2009. The action is described in that plan as *“Develop a national service planning framework that establishes targets for the mix and level of the full range of mental health services, backed by innovative funding models.”* The framework aims to achieve a population based planning model for mental health that will better identify service demand and care packages across the sector in both inpatient and community environments. As far as I am aware the Framework itself was still being developed in August 2013 when I left the role of Director-General.
- (e) My statement in paragraph 36(b) is merely based on my personal opinion that any Framework that aims to describe a mix of services should have an appropriate mix of services described. I would defer to clinical experts to prescribe the ratios within the mix.

Statewide Services

Question 16 – With respect to paragraphs 30(a) and (b), is Dr O’Connell able to state the names of the relevant statewide service plans and state and national policies?

22. In response to question 16 I advise I cannot currently name all the state and national plans and policies from memory. When the Director-General is briefed on matters that require reference to state or national plans, they are referenced in the Brief. At that time, the Director-General can read the relevant sections.

Question 17 – The Commission can make available to Dr O’Connell, any further document(s) which he requires in order to better respond to questions 30(a) and (b). To that end, can Dr O’Connell provide details of how and where the relevant statewide service plans and state and national policies he refers to, can be found?

23. In response to question 17 I advise I no longer work for Queensland Health, and have not for two and a half years. If the Commission feels that my answers to questions 30(a) and (b) could be better, the Commission could request the Queensland

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Signed: [REDACTED]

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Department of Health Mental Health Branch to supply "all state and national policies, plans and protocols relevant to the BAC."

ECRG and Planning Group

Question 18 – In respect to paragraph 36(b), elaborate on what is meant by ‘an appropriate mix of bed-based and community-based care models’. In particular, explain what Dr O’Connell means by a ‘bed-based’ care model and state whether or not this includes a model of care such as that at the BAC.

24. In response to question 18 I advise that my use of the term "bed-based" in paragraph 36(b) refers to both acute and long-term residential accommodation in hospitals and other mental health facilities. It includes the BAC model as it existed in 2013. By an "appropriate mix" I mean a ratio of community-based and bed-based care that is appropriate for the clinical needs of the patients and determined by the HHS and its clinical expert staff responsible for the delivery of the service. I have no preconceptions about what that mix should be.

Transition Arrangements

Question 19 – The Commission does not accept that Dr O’Connell has adequately answered questions 48(b) to (i). Whilst the Commission accepts that Dr O’Connell was no longer in the position of Director-General at the time when the BAC was closed, it remains that Dr O’Connell was Director-General at the time when the decision was made to close the BAC (that is, the Closure Decision, referred to above). The Commission requires that Dr O’Connell provide more complete evidence in response to questions 48(b) to (i) in this context.

25. In response to question 19 I advise that with regard to my answers to questions in the original request for statement:
- (a) Question 48(b): I cannot possibly know whether additional funds were allocated to CYMHS "upon the closure of the BAC" as I had no control of the funds spent by QH at the time of the closure. Decisions about what monies needed to be redistributed in the months before the closure were also beyond my time in control of QH monies. Decisions about how monies would be distributed had not

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been made in the nine days between the announcement of the closure of the BAC and my departure.

- (b) Question 48(c): I am not aware of what framework for non-specialist services appropriate for adolescents previously in need of tier 3 services was developed. Such a matter is an operational matter that is the area of expertise of Mental Health Branch. I suggest the Commission seek this information from that entity.
- (c) Question 48(d): I am not aware of what arrangements were made with non-government organisations. Such arrangements would be the responsibility of each of the HHSs that were managing the transition of patients out of the BAC, and tailored to their own local circumstances and resources.
- (d) Question 48(e): I am not aware of whether any training was offered to these organisations. If appropriate or needed, this would be the responsibility of each of the HHSs that were managing the transition of patients out of the BAC, and tailored to their own local circumstances and resources.
- (e) Question 48(f): I am not aware of whether any training was offered to these staff. If appropriate or needed, this would be the responsibility of each of the HHSs that were managing the transition of patients out of the BAC, and tailored to their own local circumstances and resources.
- (f) Question 48(g): At the time I left QH, there were 68 child and adolescent mental health beds in the state, with the intention of two outside BAC being potentially able to accommodate long-term residential patients. On the opening of the Lady Cilento Hospital (which occurred after I left QH) there was a plan to add another two of those long-term beds.
- (g) Question 48(h): I cannot remember specific meetings on the matter of future delivery of BAC type services; meetings of this nature would have been more likely held by the relevant DDG and staff of the MH Branch with relevant HHSs and clinicians.

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(h) Question 48(i): I am not aware of whether any of these organisations were contacted. If appropriate or needed, this would be the responsibility of each of the HHSs that were managing the transition of patients out of the BAC, and tailored to their own local circumstances and resources.

26. All the facts and circumstances herein deposed to are within my own knowledge save where such are stated to be from information only and my means of knowledge and source of such information appear on the face of this my affidavit.

Affirmed by **DR ANTHONY O'CONNELL** on *SIXTH* February 2016,
at *CHATSWOOD* in the presence of:


.....
Deponent


Justice of the Peace/Solicitor

Julia Aimee Selby
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Barrett Adolescent Centre Commission of Inquiry

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This is the annexure marked with the letter 'AOC-1' referred to in the Affidavit / Statutory Declaration of Dr Anthony O'Connell sworn/affirmed/declared before me at Chatswood on the day 6th of February 2016

One page only
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JUSTICE OF THE PEACE
IN NSW
NUMBER 188900
JULIA ANNE SELBY

By email to: [REDACTED]

Dear Mr McCay

Barrett Adolescent Centre Commission of Inquiry – Dr Anthony (Tony) O'Connell – Further Questions

I refer to the witness statement of your client Dr O'Connell dated 6 January 2016 ("Statement"), recently produced to the Barrett Adolescent Commission of Inquiry ("Commission"). The Commission thanks Dr O'Connell for his assistance to date.

As you are no doubt aware, counsel assisting propose to call Dr O'Connell to give oral evidence at the hearings. The date for such evidence is currently listed as 23 February 2016. Prior to Dr O'Connell giving evidence, there are a few matters that the Commission would like clarified by him by way of a supplementary statement.

Questions for supplementary statement

References below to 'questions' are to those in the Notice of Requirement to Give Information in a Written Statement dated 8 December 2015. References to 'paragraphs' are to those in the Statement.

Position as Director General

1. In paragraph 2, Dr O'Connell refers to having held the position of Director-General of Queensland Health from July 2011 until 15 August 2013. Was Dr O'Connell carrying out his usual duties as Director General up to 15 August 2013? For example was he on accrued leave or holidays leading up to this date, or was he in the process of some form

of handover to the new Director-General? If Dr O'Connell was on leave prior to 15 August 2013, for how long?

Replacement unit for the BAC

2. With respect to paragraph 6:
 - a. has Dr O'Connell sought further documents from Queensland Health (in addition to his archived emails) that are yet to be provided to him? If yes, what are these documents and whom did he make the request of and when? What was the basis for any refusal by Queensland Health to supply the requested documents?
 - b. the Commissioner has power to make further documents available to Dr O'Connell. Please provide details of any further document(s) which might assist Dr O'Connell to respond more fully to question six, and state where these documents can be located.
3. The Commission has in its possession a document entitled, *Redland and Wynnum Hospitals Health Service Plan Queensland Health June 2011*. Is this the *Preliminary Infrastructure Plan* referred to by Dr O'Connell at paragraph 7(a)? If not, please provide a copy of the *Preliminary Infrastructure Plan* or otherwise provide details of the date of this document, its author and how and where it can be located.

Decision not to proceed with Redlands

4. With respect to paragraph 10(a)(vi), provide details of the 'emerging clinical preference to care for patients currently treated in the BAC in more community-based "closer to home" models of care'. In particular, state:
 - a. the source(s) of Dr O'Connell's knowledge, including when and from whom it was gained;
 - b. the timeframes involved in the 'emergence' of the clinical preference.
5. With respect to paragraph 11(iv), can Dr O'Connell state and elaborate on what 'the original reason for the investment' was?

May 2012 Briefing Note

6. With respect to paragraph 11(f), is it Dr O'Connell's evidence that a decision had been made to close the BAC, at the time when the decision was made to cease the Redlands project (that is, in May 2012)? If yes, state the source of that knowledge and the approximate date when it was gained.
7. Did Dr O'Connell's understanding as to the plan to close the BAC change at any time between May 2012 and July 2013? If yes, state when and how. In respect of this question, the Commission draws Dr O'Connell's attention to his evidence at paragraph 16(f).



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8. With respect to paragraph 12(d), does Dr O'Connell accept that 'alternative care arrangements' did not exist at the time when he left his role as Director-General, in the sense that alternative care arrangements were still to be developed?

July 2013 Briefing Note

9. With respect to paragraph 16(b):
- a. during the time when Dr O'Connell held the position of Director-General, was he aware of the existence of the Expert Clinical Reference Group (more commonly known as the 'ECRG') and, if yes, what was his understanding of the role of the ECRG?
 - b. in the event that Dr O'Connell was unaware of the existence of the ECRG during the time when he was Director-General, by what means did Dr O'Connell satisfy himself as to the clinical basis for the decision to close the BAC?
10. With respect to paragraph 16(f), Dr O'Connell's evidence is that the briefing note was 'one for [his] noting not for [his] approval'. Can Dr O'Connell explain the purpose of him receiving a brief 'for noting'? In particular, is it Dr O'Connell's evidence that receipt of a brief for noting meant that, as Director-General, he was not in a position to:
- a. ask questions of the author(s) of the briefing note as to whether or not 'expert adolescent psychiatric advice' had been obtained by them; and/or
 - b. recommend/request that expert adolescent psychiatric advice' be obtained?

Date of Closure

11. With respect to paragraph 19:
- a. Dr O'Connell held the position of Director-General at the time when a decision was made to close the BAC. Is it Dr O'Connell's evidence that he had no input into the decision to close the BAC (as distinct from the decision that the closure date for the BAC would be January 2014) ('Closure Decision')?
 - b. Provide details as to the extent and/or nature of Dr O'Connell's involvement and/or input into the Closure Decision and the position of those other persons involved in making the Closure Decision;
 - c. On what date was the Closure Decision made;
 - d. Provide details of any consultation by Dr O'Connell with experts and/or stakeholders (and when) with respect to the Closure Decision, and state:
 - i. the nature of that consultation;
 - ii. what advice/views were given by those experts and stakeholders prior to the Closure Decision, and how influential each of the perspectives was to Dr O'Connell's decision-making and/or input into the Closure Decision.

12. In paragraph 26(e), Dr O'Connell states that he was not involved in the decision to announce the Closure Decision on 6 August 2013. Please explain what information if any, Dr O'Connell was given at the time, about the announcement being made. For example, was he consulted/ told that it was about to happen. If so, by whom and when.
13. Dr O'Connell's evidence at paragraph 19 is that he understood, at the time when he left the position of Director-General (that is, August 2013), that 'alternative care locations and models needed to be developed in order for a satisfactory transfer of patients out of BAC'. With respect to this evidence:
- a. What was the source and/or basis of Dr O'Connell's understanding as at August 2013?
 - b. What avenues were available to Dr O'Connell, during the time when he still held the position of Director-General, to have input/oversight/influence into:
 - i. the implementation of the Closure Decision in circumstances where alternative care locations and models were not yet in place;
 - ii. the development of alternative care locations and models;
 - iii. ensuring alternative care locations and models would be in place prior to the closure of the BAC.
 - c. What input/oversight/influence did Dr O'Connell have, while still in the position of Director-General, in respect of each of the matters at (b)(i)-(iii) above? In the event that Dr O'Connell did not have any input/oversight/influence, state the reason(s) for this.
14. At paragraph 22, Dr O'Connell gives evidence that he 'kept no personal notes'. Is it Dr O'Connell's evidence that he did not ever keep any personal notes (in the sense of never having made any personal notes)? Alternatively, is it Dr O'Connell's evidence that he did not keep any personal notes, in the sense that his personal notes remain in the possession of Queensland Health? In the event it is the latter, please provide details as to the relevance of these personal notes to the Commission's Terms of Reference and state where and how they can be located.

Queensland Plan for Mental Health

15. With respect to paragraph 28:
- a. has Dr O'Connell ever read the *Queensland Plan for Mental Health*? If yes, state when and in what capacity?
 - b. did Dr O'Connell read the *Queensland Plan for Mental Health* at the time when he was Director General? If yes, state in how much detail and in what circumstances;
 - c. what are 'national health meetings'? Please provide details as to the purpose of these meetings, how frequently they are held, who the attendees are etc;

d. on what basis does Dr O'Connell make the statement in paragraph 36(b)?

Statewide Services

16. With respect to paragraphs 30(a) and (b), is Dr O'Connell able to state the names of the relevant statewide service plans and state and national policies?
17. The Commission can make available to Dr O'Connell, any further document(s) which he requires in order to better respond to questions 30(a) and (b). To that end, can Dr O'Connell provide details of how and where the relevant statewide service plans and state and national policies he refers to, can be found?

ECRG and Planning Group

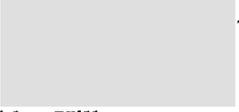
18. In respect of paragraph 36(b), elaborate on what is meant by 'an appropriate mix of bed-based and community-based care models'. In particular, explain what Dr O'Connell means by a 'bed-based' care model and state whether or not this includes a model of care such as that at the BAC.

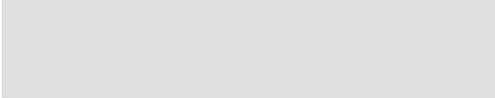
Transition Arrangements

19. The Commission does not accept that Dr O'Connell has adequately answered questions 48(b) to (i). Whilst the Commission accepts that Dr O'Connell was no longer in the position of Director-General at the time when the BAC was closed, it remains that Dr O'Connell was Director-General at the time when the decision was made to close the BAC (that is, the Closure Decision, referred to above). The Commission requires that Dr O'Connell provide more complete evidence in response to questions 48(b) to (i) in this context.

You are requested to provide this response by **10 February 2016**. If there is any difficulty in providing the response by that day, can you please let us know.

Yours sincerely


Ashley Hill
Executive Director
Barrett Adolescent Centre Commission of Inquiry
29/01/2016


Julia Aimee Selby
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