Barrett Adolescent Centre Commission of Inquiry

Final Submissions made on behalf Ms Justine Oxenham

Preliminary

1. These are the final submissions made on behalf Ms Justine Oxenham, a former teacher at the Barrett Adolescent Centre School ('Barrett School').

2. Ms Oxenham worked at the Barrett School at the time of the of the Barrett Adolescent Centre ('BAC') closure, and moved with the school, initially to Yeronga, and then to the school's current location, at Tennyson. Ms Oxenham ceased working at the Barrett School in early March 2015.

3. Although Ms Oxenham remains an employee of Education Queensland, she is now on unpaid leave. Ms Oxenham's husband is a member of the Royal Australian Air Force, and has been posted to the Joint Operations Command, at Bungendore, near Canberra. In consequence, Ms Oxenham has moved to Canberra, and is now employed as a teacher in the ACT, at the Galilee School, which is an independent secondary school for disengaged and vulnerable young people aged 12 – 17 years, whom, for a myriad of reasons, are unable to access mainstream education.

4. Ms Oxenham gave evidence before the Commission of Inquiry on 25 February 2016. Her statements of evidence are now JOX.900.001.0001, and JOX.900.002.0001.

5. Ms Oxenham has worked as an educator specializing in special needs education for 20 years, and worked at the Barrett School for approximately 5 years. Ms Oxenham is well-positioned to provide insights and to afford views on the operations of the BAC, at least in terms of its inter-operability with the Barrett School; as well as to speak more generally in relation to the delivery of education services to adolescents with chronic and complex mental health conditions, such as those adolescents who comprised the Barrett cohort.[1]

The Approach adopted by these submissions

6. These submissions are intended to be responsive to matters arising out of the final submissions made by Counsel Assisting. Other than to make some broad observations in response to the '4 issues' identified in the final submissions by Counsel Assisting, Ms Oxenham's final submissions will be confined to educational matters.

The Key Issues:

7. Usefully, Counsel Assisting the Commission of Inquiry has distilled the Inquiry into 4 key issues:

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1 For convenience, throughout these submissions, we make references to the "Barrett cohort" as a general term to mean those who are sub-acute adolescent mental health patients: those with complex and chronic mental illnesses who require treatment at an in-patient facility. In the Report dated 30 October 2014 prepared by Associate Professor Beth Kotzé & Ms Tania Skippen [TSK.900.001.0001 at .0055] these young people were described as *"having various combinations of developmental trauma, major psychiatric disorders and multiple co-morbidities, high and fluctuating risk to self, major and pervasive functional disability, unstable accommodation options, learning disabilities, barriers to education and training, drug and alcohol misuse. In short, this was a cohort characterized by high, complex, and enduring clinical and support needs"*.

(1) **Firstly**, is there a need for a facility like the BAC, or its previously proposed replacement at Redlands? At the heart of that is an inquiry regarding the type of services that are required for young people such as those in the Barrett cohort, and specifically whether there remains a need for a Tier 3-type facility?

(2) **Secondly**, and related to (1), whether Queensland's sub-acute adolescent mental health patients can be accommodated in an acute ward, such as that at the Lady Cilento Children's Hospital Adolescent Mental Health unit?

(3) **Thirdly**, (and then so only if the First Question is answered in the affirmative), how did we get to the current position wherein there is no longer any extended treatment facility in Queensland, like the former BAC?[2]

(4) **Fourthly**, were the actual transitional arrangements for the (then) extant members of the Barrett cohort, after the announcement of the BAC closure on 6 August 2013, adequate?

8. In relation to the four key issues, Ms Oxenham now respectfully submits the following:

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[2] This third issue really invites an inquiry as to whether the closure decision was a sound one, supported by proper and detailed analysis.

Is there a need for something like the BAC?

9. Yes, there is an on-going (currently unfulfilled)[3] need for a 'Tier 3' adolescent mental health facility in Queensland, something akin to the BAC[4], albeit one with some changes, including further refinements, and improvements. Those refinements and improvements proposed in the final ECRG report[5] for a new Tier 3 sub-acute inpatient facility to replace the BAC appear worthy of endorsement by this Commission of Inquiry.

Can acute beds be used to fill the gap?

10. No. It is neither appropriate nor desirable for sub-acute patients to be accommodated in acute psychiatric beds.[6]

11. Acute beds are for those experiencing an acute mental health crisis, and should be preserved for use as such. These should be regarded as 'short stay' beds: utilized for only so long as it takes to immediately stabilize the adolescent patient, so that they may be re-located ("stepped down") to another, non-acute treatment context.[7]

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[3] Exhibit 63 – Statement of Phillip Hazell dated 5 November 2015 at paragraph 77 [WIT.900.005.0001] at [.0014]; see also Counsel Assisting final submissions, at paragraph [269].
[4] Exhibit 63 – Statement of Phillip Hazell dated 5 November 2015 at paragraph 77 [WIT.900.005.0001] at [.0016].
[5] ECRG Recommendations QHD.001.003.3074
[6] Exhibit 114 – Statement of Associate Professor James Scott dated 4 February 2016 at paragraph 28 [MNH.900.003.0001] at [.0006]; see also Transcript 7-43 about line 140 – Transcript 7-44 line 130; & Transcript 6-53, Lines 20 – 30; & Exhibit 179 at paragraph [175]
[7] Transcript T6-58 lines 20 – 30; Transcript T12-24, lines 10 – 15.

How has it come to pass that there are no extended-stay inpatient mental health treatment facilities for adolescents in Queensland?

12. In circumstances wherein Ms Oxenham submits that the first question needs to be answered in the affirmative, an answer to this third question is also warranted:

12.1 Ms Oxenham submits that, in and of itself, a decision that it was necessary to eventually close the BAC is unremarkable. The physical structure of the BAC was old, and becoming more dilapidated, and there were broader plans to redeploy the BAC site, for forensic mental health purposes. All of these were valid considerations. However, what becomes remarkable, is the fact of the decision to immediately close the BAC, without first supplanting it, with some other Tier 3 adolescent facility,[8] as had been recommended by the ECRG. It is this specific decision (ie: closure without replacement) that now bears close scrutiny by the Commission of Inquiry.

12.2 Ms Oxenham submits that this decision should be categorised as an instance of poor government decision-making,[9] arising on the basis of various poor advices emanating from within the senior echelons of Queensland Health and the West Moreton Health and Hospital Service ('WMHHS').

12.3 Here, no criticism is intended by Ms Oxenham towards either the former Health Minister, the Hon. Lawrence Springborg

[8] Exhibit 114 – Statement of Associate Professor James Scott dated 4 February 2016 at paragraph 28 [MNH.900.003.0001] at [.0006].
[9] Final Submissions of Counsel Assisting at [268].

MLA (who announced the closure decision publicly on 6 August 2013); or of the then Health Department Director-General, each of whom (and not unreasonably) accepted the departmental advices and assurances given to them by relevant subject matter experts.

12.4 Ms Oxenham submits that the analysis contained in paragraphs [177] – [235] (inclusive) of the final submissions by Counsel Assisting affords a useful exegesis of the factual process that gave rise to the closure decision.

12.5 It is submitted that it is critical to any informed understanding of the public policy problem ultimately caused by the closure of the BAC is seek to understand the basis put forward, in May 2012 (and ultimately accepted), to discontinue the Redlands Adolescent Extended Treatment Unit project ('Redlands project'), that had been intended as the replacement Tier 3 facility for the BAC. Without understanding that prior decision, it is not possible to fully contextualize the BAC closure.

12.6 The advice to discontinue the Redlands project appears to have been given to the (then) Queensland Health Director-General by Doctors Geppert, Kingswell, and Young.[10] Integral to that advice was a contention that the Redlands initiative did not represent a 'contemporary' model of service delivery, notwithstanding that something akin to it (ie another in-patient sub-acute facility) had been recommended by the ECRG.

[10] Counsel Assisting Final Submissions, at paragraphs [180] – [185].

12.7 Very close in time to the recommendation to end the Redlands Project, the WMHHB separately decided,[11] to close the BAC, ostensibly on the basis of certain advices contained in an agenda paper[12] prepared for the board by Ms Sharon Kelly.

12.8 Although several ostensible reasons for closure are expressed in the agenda paper, the agenda paper asserts that the BAC was not aligned with the strategic direction of the *Queensland Plan for Mental Health 2007-17*;[13] and, in light of an appreciation formed from the agenda paper, the minutes from the meeting of 24 May 2013 reflect that the WMHHB noted "a need to move as rapidly as possible to an alternative model".[14] Yet, the WMHHB were arguably misled, as the agenda paper contains a number of unsubstantiated assertions.[15]

12.9 Ultimately, when looking at the process that culminated in the making of the closure decision, and the abolition of any sub-acute in-patient alternative, it is submitted that the process affords a prime example of what has been described in the public administration literature as a "garbage can solution".[16] In garbage-can theory, an organization is a 'collection of choices looking for problems; issues and feelings looking for decision situations in which they might be aired; solutions looking for

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[11] At its board meeting, on 24 May 2013.
[12] WMS.9000.0001.00020.
[13] Counsel Assisting Final Submissions, paragraph [211].
[14] Counsel Assisting Final Submissions, paragraph [215].
[15] Counsel Assisting, Final Submissions, at paragraph [231].
[16] Michael D. Cohen, James G. March, Johan P. Olsen 'A Garbage Can Model of Organizational Choice' Administrative Science Quarterly, Vol. 17, No. 1 (Mar., 1972), pp. 1-25 http://www.jstor.org/stable/2392088

issues to which they might be an answer; and decision-makers looking for work'. When assessed from within this paradigm, the BAC closure was not an outcome derived from any rational, deliberative process,[17] rather it became the consequence of pre-conceived views – as held by some within Queensland Health - about the essential undesirability of the BAC/equivalent sub-acute in-patient treatment facilities; with those views then being afforded an opportunity to 'seize control of the agenda' because of a (then) prevailing fiscal context: Queensland Health had to find approximately $120 million in savings, within the first three months of the new Government's appointment.[18]

12.10 Therefore, at the heart of it, the BAC closure decision should be seen to have been essentially ideological. It was a matter driven by proponents of the end of sub-acute in-patient treatment facilities, with these to be replaced by what they personally regarded as "more contemporary" models of care.[19] The phenomenon has been described for the Commission by Professor McGorry as a "*microcosm of the kind of irresponsible deinstitutionalization that has plagued mental health reform over the past 3 decades*".[20]

12.11 In consequence of that particular view having prevailed over all others there are now critical capability gaps in Queensland's adolescent mental health system[21] and, collaterally, many of the

[17] Final Submissions of Counsel Assisting at [120].
[18] Consider, Exhibit 40 Affidavit of Dr Michael Cleary dated 21 November 2015 at paragraphs [27] & [32] (DMZ 900.001, at .0007 & 0009).
[19] Final Submissions of Counsel Assisting at [11].
[20] Exhibit 86, Statement of Professor Patrick McGorry dated 3 February 2016 at paragraph 56 [WIT.900.019.0001, at .0016-.0017]
[21] Exhibit 172 - Dr Breakey Supplementary statement, WIT.900.021.0001 at 0008, at Paragraph 37.

beneficial aspects of the former BAC model have also been lost to the system. This collateral loss was probably unintentional, yet was nonetheless a further by-product of a flawed approach to the closure decision.

Were the transitional arrangements adequate?

13. Finally, as to the fourth issue postulated by Counsel Assisting regarding the adequacy of the transitional arrangements, Ms Oxenham submits that the question invites no single answer. It necessitates a multi-tiered response. With the benefit of hindsight and the aide now given by all of the evidence received before the Commission of Inquiry, it is submitted that:

13.1 The transitional arrangements probably ultimately proved adequate in relation to some members of the Barrett cohort. This was more a case of good luck than good management, given that nothing had been planned in relation to transition prior to the making of the closure decision;

13.2 The transition arrangements were probably not adequate in relation to some other members of the Barrett cohort[22];

13.3 All of the transition arrangements needed to be effectuated within a context marred by haste. This feature could have been avoided, had the closure decision been handled within much longer timeframes, say another 12 – 18 months;

[22] Final Submissions of Counsel Assisting, at [380], consider here also paragraph [54] in the original statement of [redacted] Exhibit - 145 FAM.900.013.0001.

13.4 The exigencies caused by the looming closure deadline (itself an arbitrarily selected date) meant that, oftentimes, transition options for individual patients had to be accepted, as 'the best available, in all the circumstances'.[23]

14. At a *systemic level* (and specifically from an education perspective), the transitional arrangements were substantially inadequate. Here, the following considerations become germane to the discussion:

14.1 Although it is the true that there were individual educational plans up-loaded onto the 'One School' site for all those transitioning members of the extant Barrett cohort who required one, an unforeseen [24] consequence of the closure was the "uncoupling" of their further education from their healthcare. In consequence, those patients lost the immediate benefit of "close quarter" clinical and allied-healthcare support during their daily educational journey.

14.2 When considering adolescent mental healthcare holistically, the ability of educationalists, mental health clinicians, and allied-health professionals to collaborate in a specific multi-disciplinary interdepartmental milieu has now been lost to the State adolescent mental health system.

14.3 Currently, education delivery must take place within its "own stove pipe". Educators working with this particular student cohort have lost the advantages of "immediacy and constancy" - in terms of their ability to quickly access clinical and allied

[23] Final Submissions of Counsel Assisting, at [445].
[24] Within Queensland Health

healthcare assistance, whenever that need emerges in the classroom. Experience informs that the need arises constantly: oftentimes several times, daily.[25]

14.4 Educators have been left without any effective capacity to contribute in the case management of individual student/patients. Although the significance of this form of inter-departmental collaboration appears to have been amply understood within the Department of Education (and by the 'coal face' clinicians at the BAC), it appears that it was not a factor that was considered by WMHHB when making the BAC closure decision; and nor was it a feature considered when the decision was made to discontinue the Redlands project.

The Role of Education in the treatment of sub-acute mental health patients:

15. Ms Oxenham submits that the Commission of Inquiry needs to carefully consider and then make observations upon, as well as recommendations regarding, the role of education as a "normalizing influence" in the lives of adolescent psychiatric patients, such as those who comprised the Barrett cohort.

16. For present purposes reflection on some key passages within the evidence before the Commission of Inquiry will suffice to make the point.

17. Mr Kevin Rogers, one time principal of the Barrett School, put the phenomenon in these terms:

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[25] Transcript 18-56 at line [35] – 18-57 at line [14].

> *"In my opinion, the Barrett Adolescent Centre School provided its students with one aspect of their life that was stable when all other aspects of their life may have been disastrous. The Barrett Adolescent Centre School provided routine and a level of certainty for the students. It provided students with an opportunity to build their self-esteem, which I consider aided in their recovery. Many past students of the Barrett Adolescent Centre School have achieved great success in their lives, including one student who obtained an OP 1. I believe previous students' success stories provided all students at the Barrett Adolescent Centre School with hope for the future."*[26]

18. Many others support Mr Rogers' opinion. For example, in its recommendations, the ECRG observed that on-site schooling in any proposed future Tier 3 facility becomes an essential ingredient, as:

> *"Comprehensive education support underpins recovery and decreases the long term burden of illness. A specialized educational model and workforce is best positioned to engage with and teach this target group. Rehabilitation requires intervention to return to a normal developmental trajectory, and successful outcomes are measured in psychosocial functioning, not just absence of psychiatric symptoms. Education is an essential part of the life of young people. It is vital that young people are able to access effective education services that understand and can accommodate their mental health needs throughout the care episode. For young people requiring extended mental health treatment, the mainstream education system is frequently*

[26] Exhibit 110 - Affidavit of Mr Kevin Rogers WIT.900.014.0001 at paragraph [25]; see also Transcript 18-57 at lines [13-39].

not able to meet their needs. Education is often a core part of the intervention required to achieve a positive prognosis."

19. In her evidence before the Commission of Inquiry (given in her capacity as a parent of one young person treated at the BAC) observed that:

"Barrett has literally been a life saver - both and mine. attends the Queensland Education Department school incorporated into the Barrett structure, is engaging with peers and learning to negotiate social situations. has on-site access to OT, Psychology and Psychiatry, specialist mental health nursing, and other specialist services. has a personal treatment plan, as do all in-patients, and is engaged in activities that are designed to connect with the outside community and develop confidence and independence".[27]

…. "I hadn't realised about the huge issues of social detachment that was part of suffering from severe mental health issues and that many parents were very worried that their children would revert to their home behavior of not going to school because they weren't ready for an ordinary school environment, not leaving their room, not socially interacting. I stressed that, for many Barrett patients, this was their first ever opportunity to have friends in their own peer group."[28]

20. Finally, given that time constraints have meant that no opportunity has been afforded by Ms Oxenham's legal representatives to peruse any of the written submissions made by any party (other than those of Counsel

[27] Exhibit - 145 Statement of FAM.900.013.0001 at [.0241].
[28] Exhibit - 145 Statement of FAM.900.013.0001 at [.0299].

Assisting) Ms Oxenham hereby reserves the right to supplement these submissions, should the need for same arise.

[redacted]

Andrew McLean Williams,

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Chambers, 23 March 2016