

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

**WRITTEN OUTLINE OF SUBMISSIONS ON BEHALF OF
DR MICHAEL CLEARY**

1. Dr Michael Cleary was the Deputy Director General, Health Services and Clinical Innovation Division (HSCIDD) from July 2012 to July 2015. He was also Acting Director General of Queensland Health during specific periods between February 2013 and July 2015.
2. The terms of reference applicable to Dr Cleary are 3(a), (b), (c) and (g):
 - (a) *the decision to close the Barrett Adolescent Centre (BAC) announced on 6 August 2013 by the then Minister for Health, including with respect to the cessation of the onsite integrated education program (the **closure decision**);*
 - (b) *the bases for the closure decision;*
 - (c) *without limiting paragraphs (a) and (b) above – the information, material, advice, processes, considerations and recommendations that related to or informed the closure decision and the decision-making process related to the closure decision.*
 - (d) -
 - (e) -
 - (f) -
 - (g) *any alternative for the replacement of BAC that was considered, the bases for the alternative not having been adopted, and any other alternatives that ought to have been considered.*
3. Issues pertinent to Dr Cleary are as follows:
 - (a) cessation of the Redlands Project;
 - (b) the decision to close the BAC; and

- (c) replacement services for the BAC.

WHO HAD THE LEGAL AUTHORITY TO CLOSE THE BAC?

- 4. On behalf of Dr Cleary there is nothing to add on this issue to those matters addressed in the corresponding part of the written submissions of today's date made on behalf of Dr O'Connell.

THE CESSATION OF THE REDLANDS PROJECT

- 5. Dr Cleary was not the decision maker regarding the cessation of the Redlands project. He was not in a position with any responsibility for mental health until 1 July 2012. He was not consulted regarding the August 2012 Briefing Note. However, in his opinion, in retrospect, it was appropriate to suspend the capital project given the environmental issues, the concerns about the model of care and the budget overruns.
- 6. Dr Cleary gave evidence¹ that Dr Kingswell recommended to Dr Cleary the need to move from institutional to community based care and indicated that the continuation of the Redlands project was not appropriate for a range of reasons including:
 - (a) the proposed unit continued a model of care that was not considered contemporary;
 - (b) there were difficulties regarding the koala corridor requirement;
 - (c) there was a water course on the site;
 - (d) there was a significant budget overrun of approximately \$1.4 million.

¹ Statement of Dr Cleary paragraph 27

7. As a result of the “Fiscal Repair Strategy” implemented following the change of State government in March 2012, there was a need to make budget savings across the whole of Queensland Health, in circumstances where the viability of the capital project was of grave concern.²
8. In cross examination Dr Cleary indicated that his main concern was about the advice that the mental health branch had been providing, that an “alternate service model” was appropriate and that was the key driver, rather than budgetary overruns and issues regarding the koala corridor and drainage issues. [T14-6 lines 21-31]
9. It is submitted that there is no reason to suspect that people such as Dr Cleary, despite having roles that required them to consider issues from a broader perspective in terms of the overall health system and its ability to provide health care for all of its constituent members, were not primarily concerned with the welfare of patients.

THE DECISION TO CLOSE THE BAC

10. The deinstitutionalisation of services provided at the Park was part of the reform agenda under the Queensland Plan for Mental Health 2007-2017 (QPMH). This plan included a project that had as an objective the decommissioning of the BAC and the construction of the Redlands unit.³
11. On 1 November 2012 as Deputy Director-General, Dr Cleary received a draft brief to the Director-General for approval to close the BAC. Dr Cleary returned the brief to the Executive Director MHAODB (Dr Bill Kingswell) and noted any consideration of changing the service model for this group of clients was a significant issue and, under the new operating model within Queensland Health, would need to be led by WMHHS

² Statement of Dr Cleary paragraphs 28, 29 and 30

³ Statement of Dr Cleary paragraph 98

through their Chief Executive, Board and Chair who were responsible for the service.⁴
[T14-25]

12. In late 2012 Dr Cleary became aware that there was a move for The Park to become a more focused area which dealt principally with forensic patients⁵ [T14-29 lines 13-15]
13. The idea that the BAC needed to be closed due to it being adjacent to a large adult forensic unit is supported by the evidence of others including the Nursing Director at the Park, Mr Pdraig McGrath [T19-12 lines 5-13].
14. Counsel for Dr Cleary rely upon the submissions also made on behalf of Dr O'Connell in relation to the *Work Health and Safety Act 2011*.
15. On 6 May 2013 Dr Cleary attended a meeting with Dr Steer, Lesley Dwyer, Sharon Kelly, Dr Kingswell and Dr Geppert to discuss the pathway for obtaining Ministerial consideration of a proposal from the WMMHB for the discontinuation of services provided through the BAC and for the development of a new model of care for adolescents with serious mental health issues in Queensland.⁶
16. On 17 June 2013 Dr Cleary attended a meeting with Lesley Dwyer, Dr O'Connell, Sharon Kelly and Dr Geppert where the WMHHS briefed the Director-General on the proposed new model of care for adolescents and the proposed discontinuation of services provided through the BAC. The meeting was to seek support from the Director-General for a meeting with the Minister.⁷

⁴ Statement of Dr Cleary paragraph 84

⁵ Statement of Dr Cleary paragraph 102

⁶ Statement of Dr Cleary paragraph 84(vii)

⁷ Statement of Dr Cleary paragraph 84(viii)

17. Dr Cleary in his evidence⁸ recalled that prior to a meeting with a Minister in July 2013 he met with Lesley Dwyer and Dr Bill Kingswell who raised the following concerns about the BAC:
- (a) the buildings were not considered suitable for service provision;
 - (b) the site of the BAC was adjacent to a large adult forensic centre; and
 - (c) the model of care was no longer consistent with best practice.
18. Counsel for Dr Cleary rely upon submissions also made on behalf of Dr O’Connell regarding “contemporary model of care” and the apparent misunderstanding in the submissions of Counsel Assisting as to what that was addressing when spoken of by the likes of Dr Cleary.

ALTERNATIVES TO THE BAC

19. The Chief Executive Officer Childrens Health Queensland was responsible for deciding upon suitable alternatives for patients transitioning out of the BAC.
20. Dr Cleary’s evidence was that a Tier 3 service was established by CHQHHS. The arrangements allowed for 2 extended treatment inpatient beds to be available at the Mater Children’s Hospital upon the closure of the BAC. Following the opening of the Lady Cilento Children’s Hospital (LCCH) these beds would transfer to the LCCH. Four extended treatment inpatient beds would then be available to support those adolescent clients that required Tier 3 services.⁹

⁸ Statement of Dr Cleary paragraph 80

⁹ Statement of Dr Cleary paragraph 125

21. Dr Cleary was a member of the Department of Health Oversight Committee. Terms of Reference for the Committee¹⁰ indicate that it was an advisory committee to Dr Peter Steer who was the person accountable for managing the development of the new services.
22. Dr Cleary recalls Dr Stathis and Dr Kingswell advised the Chief Executive Department of Health Oversight Committee (CEDoHOC) that given the transition to a community based model for patients of the BAC, the initial 2 extended treatment inpatient beds at the Mater were expected to meet the demands for this level of services. In Dr Cleary's view, this action mitigated the risk identified in the ECRG recommendations.¹¹ The minutes for the meeting of 17 October 2013 at item 5.1¹² show Dr Cleary and others being told by Peter Steer and Stephen Stathis that a bed based option would be part of the service, that it should not be in an acute unit but rather what was to be explored was 4-5 beds specifically for extended treatment and rehabilitation within a HHS "until longer term solutions were established."
23. In January 2014 a paper¹³ was given to the Committee that spoke of a plan to establish a 4 bed "safe and secure" sub-acute bed based unit (not suggested to be in an acute unit) and that by February 2014 an interim sub acute bed based unit at the Mater Hospital would be in place (again, there was no suggestion it was within an acute unit).
24. Dr Cleary gave evidence that a number of new mental health services have been implemented across Queensland in the last few years. This is as a result of the model developed by CHQHHS known as the AMHETI, which recommended five key service elements being:

¹⁰ DMZ.900.001.0595

¹¹ Statement of Dr Cleary paragraph 126

¹² IAD.900.001.0640-.0641

¹³ IAD.900.001.0688

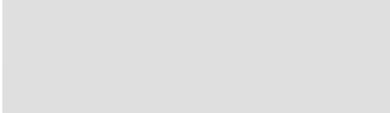
- (a) statewide subacute beds;
- (b) day programs;
- (c) assertive mobile youth outreach services;
- (d) step up/step down units; and
- (e) residential rehabilitation units (Youth Resi).¹⁴

25. As a result of this model a range of new services have been implemented.

COMMENTS ON TABLE 4C REASONS FOR CLOSURE

26. In relation Table No. 4C: Reasons for Closure¹⁵ Counsel Assisting have referred in reasons 8, 9 and 10 to a Briefing Note of 26 October 2012 as having been prepared or drafted by Dr Cleary. It was not. As Deputy Director-General, Dr Cleary did not draft briefs but received them. The briefing note of 26 October 2012¹⁶ was drafted by others and forwarded to Dr Cleary who returned the Brief with a note attached to it requesting changes before it would be considered.¹⁷


GW Diehm QC


CJ Conway
Counsel for Dr Michael Cleary
23 March 2016

¹⁴ Statement of Dr Cleary paragraphs 140 and 222

¹⁵ COI.028.0001.0225

¹⁶ QHD.004.013.9670

¹⁷ Statement of Dr Cleary paragraph 84 and [T14-25]