

BUNDABERG HOSPITAL COMMISSION OF INQUIRY

Memorandum

TO	Simon Alroe
FROM	Errol Morzone, Counsel Assisting Bundaberg Hospital Commission of Inquiry
DATE	19 August 2005
SUBJECT	Questions for Dr Steve Buckland relating to his term as Director-General of Queensland Health and General Manager Health Services, Queensland Health.

The Bundaberg Hospital Commission of Inquiry has held sittings since 23 May 2005. The terms of reference, the transcripts and the exhibits for the Commission can be readily obtained on the internet at www.bhci.qld.gov.au. It will be seen that the Commissioner has been appointed to make inquiries into, amongst other things, the circumstances surrounding the clinical practices of Dr Jayant Patel at the Bundaberg Base Hospital (where he was employed from April 2003 to April 2005), and to make recommendations as a result of any findings for certain systemic changes.

The Commission understands that Dr Buckland was the Director-General of Queensland Health from April 2004 until July 2005 and General Manager Health Services, Queensland Health from 2002 until 2004. Against that background, the Commission respectfully requests Dr Buckland's assistance in addressing the issues set out below which have arisen at the hearings. Some of those issues concern specific incidents.

1. Complaints Management Compliance

The Commission understands that:

- A. Under Queensland Health complaints management policy, there is a requirement for each district to provide an annual report (concerning complaints received and organisational improvements subsequently implemented) to the General Manager of Health Services, and to report generally on major risks to Queensland Health Audit and Risk Management Committee ("QHARMC").
- B. Health Service Districts are not all complying with the annual report to the General Manager of Health Services requirement.
- C. Aside from the provision of risk registers, there is no process for the Districts to provide ad hoc risk advice to QHARMC relating to specific complaints.
 - (i) What are the details of Dr Buckland's knowledge of the matters relating to compliance set out above?
 - (ii) Did Dr Buckland, while Director-General of Queensland Health, provide briefs to the Queensland Health Minister in relation to any of the matters relating to compliance alleged above?

- (iii) What steps did Dr Buckland, take, or know of, whilst Director-General of Queensland Health, to ensure that the districts complied with the complaints policy?

2. Hospital Bed Shortages and Reversal of Flow

It has been suggested in evidence that:

- A. Over the last 15 years the Royal Brisbane Hospital has downsized from 1,000 to 300 beds (see especially transcript 8 August 2005, especially page 3678).
 - B. There was a policy in the past known as "reversal of flow" (see the evidence of Dr Peter Cook and Dr Anderson). It is understood that the policy was that, as much as possible, patients should be encouraged to seek treatment in their regions of origin, rather than travelling to urban tertiary hospitals. It has also been suggested that: (a) the policy was in part responsible for the renovating of the major Brisbane public hospitals so that the number of beds was significantly reduced; (b) the policy has now been abandoned for a number of reasons.
 - C. Since reversal of flow has been abandoned the capacity of Tertiary Referral Hospitals has not matched the demand for such Hospitals to receive patients referred to them from the regions.
 - D. Between 2003 and 1 January 2005 Queensland Health imposed funding cut-backs upon the Prince Charles Hospital (See evidence of Con Aroney on 10 August 2005, page 3923).
 - E. In this context doctors (including Jason Jenkins, Charles Nankivell, Brian Thiele, Con Aroney and Peter Woodruff) have given evidence about a steady decline in the resources of public hospitals leading to an inability to treat patients. They have spoken of "access block" to surgery caused by shortfalls in terms of ICU beds, nurses, funding of consumables etc.
- (i) Does Dr Buckland have any knowledge of the reversal of flow policy? If so, what are the details of that knowledge?
 - (ii) Does Dr Buckland have a view in respect of the adequacy of funding for public hospitals? If so, what are the details of that view? If the funding was, in Dr Buckland's view, inadequate during his term as Director-General or General Manager, what steps were taken to increase funding? What is the process for increasing funding?
 - (iii) Does Dr Buckland agree that there is an inadequacy of beds in Tertiary Hospitals? If so, what steps have been taken to increase beds? What is the process for increasing bed numbers in Tertiary Hospitals?

3. Workloads of Clinicians

It has been suggested in evidence before the Commission that:

- A. Doctors in the public health system have worked, habitually, for long hours and that it severely affects their performance. One of the junior doctors from Bundaberg, Anthony Athanasiov, gave evidence that he would work up to 100 hours per week for extended periods.
- B. Doctor Edwin Nankivell complained to the Medical Board of Queensland about the hours doctors are regularly required to work. The Medical Board advised Dr Nankivell by letter dated 7 September 2004 (exhibit 215) that his complaint related to workplace conditions and

recommended that he take the matter up with the Australian Medical Association, Queensland Health or the Department of Industrial Relations. It is Dr Nankivell's view that doctors hours of work is not exclusively a workplace conditions issue. It is his view that doctors' hours of work bear a direct relationship to patient safety.

- (i) Did Dr Buckland, during his terms as Director-General or General Manager of Health Services, have any knowledge of doctors working excessively long hours in the public health system? If so, what are the details of that knowledge? Did Dr Buckland, during his terms as Director-General and General Manager of Health Services, have any concerns for patient safety arising out of long working hours for doctors? If Dr Buckland agrees that long working hours may be a patient safety issue, what steps have been taken, or could be taken, to reduce the problem? so, what are the details of that knowledge?
- (ii) Did Dr Buckland, during his terms as Director-General and General Manager of Health Services, have any knowledge of complaints made by Dr Nankivell, or other doctors, in respect of doctors working hours in the public health system? If so, what are the details of that knowledge?

4. Funding Arrangements and Elective Surgery Waiting Lists

It has been suggested in evidence before the Commission that:

- A. The waiting lists for elective surgery published by Queensland Health may be misleading in that they disclose the patients waiting for surgery, but not the people waiting to be reviewed to determine whether they need surgery (eg, exhibit 267, and see transcript 31 May 2005, especially page 550));
 - B. In the aftermath of concerns being raised publicly about Dr Patel, Queensland Health sent a Medical Review Team to the Bundaberg Base Hospital. The team prepared a report which is Exhibit 102. It will be seen in paragraph 1.1 that the Team found staff were concerned that there was an excessive emphasis on elective surgery targets. There has been other evidence that elective surgery targets were very important to the Hospital's funding, that the management between 2003 and 2005 were keenly aware of this (see evidence of Dr Nydam), and that Dr Patel may have received special treatment because he was instrumental in reaching targets (Annexure GF10 to Exhibit 225).
- (i) Did Dr Buckland, during his terms as Director-General and General Manager of Health Services, have any knowledge that official Queensland Health waiting lists did not disclose patients waiting to be reviewed for determination as to whether they need surgery? If so, what are the details of that knowledge?
 - (ii) Did Dr Buckland, during his terms as Director-General and General Manager of Health Services, have any knowledge of deliberate efforts to minimise the number of appointments for review of patients prior to booking same for surgery, so that the number of patients appearing on official Queensland Health waiting lists would be minimised? If so, what are the details of that knowledge?

- (iii) Does Dr Buckland agree that within Queensland Health there may be an excessive emphasis on elective surgery targets? How else might funding be distributed?

5. Medical Workforce Shortages

It has been suggested in evidence before the Commission that:

- A. There is a medical workforce crisis (See evidence of Dr Lennox, Dr Jeanette Young, and Dr Fitzgerald).
- B. Consistent with the above, Dr Diane Rowling was directed to conduct an investigation to review the reasons for poor recruitment and retention of anaesthetic staff specialists. This investigation was later expanded to look at other full time specialists.
- C. Dr Rowling produced a number of overheads which summarised problems of staff specialists and identified an increasing reliance on overseas trained senior medical officers to fill staff anaesthetist positions.
- D. Dr Rowling's studies culminated in a one-day workshop called the Medical Workforce Issues Workshop, which was attended by, among others, Dr Buckland.

- (i) Did Dr Buckland, during his terms as Director-General and General Manager of Health Services, of a medical workforce crisis? If so, what are the details of that knowledge?
- (ii) Does Dr Buckland recall details of the work of Dr Rowling set out above? If so, what are the details of that recollection?
- (iii) What steps in respect of addressing the medical workforce crisis did Dr Buckland, during his terms as Director-General and General Manager of Health Services, contribute to, and know of? Can Dr Buckland recommend any further steps that would address this issue?

6. Vincent Berg

It has been suggested in evidence before the Commission that:

- A. A person named Vincent Berg was employed as a psychiatrist at the Townsville Health Services District between 2000 and 2001.
- B. In late 2002, after Mr Berg had left the employ of the Townsville Health Services District, the management thereof discovered that his medical qualifications were forged. The District received written confirmation of that information on 2 December 2002 from the Royal Australasian College of Psychiatrists. That information had been relayed to the Medical Board in writing on 23 January 2002 by the Royal Australasian College of Psychiatrists.
- C. Dr Andrew Johnson, Executive Director of Medical Services of the Townsville Health Services District advised Dr Buckland, then General Manager of Health Services, of the effect of the above facts and circumstances by email. That email was sent shortly after Dr Johnson became aware of the effect of same in late 2002.
- D. In late 2002 Dr John Allan conducted an audit into Mr Berg's clinical performance based on the cases of Mr Berg's former patients he had treated at the Townsville Health Services District. That audit was completed on 7 January 2003. Dr Allan identified 60 patients that he considered to be high risk who needed to be contacted and reassessed.

- E. On 13 January Drs Johnson and Allan prepared and forwarded on a briefing note in relation to the above issues to the then Minister for Health, Wendy Edmond. Within Queensland Health briefing notes go first to the Zonal Manager, then to the General Manager Health Services and then to the Director-General's Office.
- F. Attached to the Briefing note (Attachment A) was Dr Allan's audit report and a communications plan proposed by Dr Johnson and Dr Allan. That plan proposed that the media be contacted and the information released to them. Then all patients be contacted and asked to come to the Townsville Hospital for a review. Part of the reason for proposing media exposure of the issue was that such exposure would ensure that any patients who had not been identified in the audit might also come forward and be reviewed.
- G. On or about 24 January 2003 Ken Whelan, District Manager of Townsville Health Services District received written advice from a member of the Queensland Police service that if the allegations against Mr Berg were proven he was liable for fraud under the *Criminal Code* and official misconduct under the *Crime and Misconduct Act 2001*.
- H. The management of the Townsville Health Services District were directed by Dr Buckland that there was to be no release of the above information and that Mr Berg's former patients were not to be contacted. By email dated 24 January 2003 (Attachment B) Dr Buckland advised Terry Mehan that there was no need to report the above issues to the Crime and Misconduct Commission.
- I. On 17 August 2005 the Commission received information from the Queensland Minister for Health, Stephen Robertson that Queensland Health had recently received an allegation that Mr Berg had molested the informant's son during an unofficial house call in October 2000.
- (i) To what extent does Dr Buckland agree with the chronology set out above?
 - (ii) Copies of the briefing note referred to above appear to have marked on them handwritten statements by Dr Buckland. One statement is to the effect that, "this brief is incomplete.....the Medical Board of Queensland position and view must be included." The other statement is to the effect that, "the process is appropriate, ethical and clinically sound given that the client base have a mental illness." What was the basis for the views expressed by Dr Buckland in those statements? Why was the Medical Board's view in respect of the issue essential to complete the brief? On what advice or clinical knowledge did Dr Buckland form the view that the approach was clinically sound?
 - (iii) On what basis did Dr Buckland form the view, as set out above, that the Vincent Berg matter should not be referred to the CMC?
 - (iv) Does Dr Buckland have any knowledge of the basis for the decision to refrain from contacting Mr Berg's former patients, and to refrain from releasing the above information to the media? If so, what are the details of that knowledge?
 - (v) Does Dr Buckland have any knowledge of attempts to apprehend Mr Berg once it became known that his qualifications were forged? If so, what are the details of that knowledge?

- (vi) Does Dr Buckland have any knowledge of steps taken to prevent another person with false qualifications treating Queensland public patients? If so, what are the details of that knowledge? What was Dr Buckland's role in respect of the development and implementation of such steps?

7. The Lennox Report

A. It has been suggested in evidence before the Commission that from late 2002 into to 2003 the Centre for Overseas Trained Doctors became insecure as a result of the failure of the funding received from the Australian Department of Health and Aging. A series of submissions including Attachment DRL7 were made relating to the ongoing funding of the Centre (para 17 of Exhibit 55 before the Commission). Approval was sought for the funding for the Centre in the amount of \$108,000 for the year 2003/2004. This was opposed by the then Director-General, Professor Rob Stable, consigning it to a level of funding at which its operations would certainly close.

- (i) What is Dr Buckland's response to this allegation?
- (ii) Why was the funding level reduced?
- (iii) What steps were put in place to enable the centre for overseas trained doctors to continue operating?
- (iv) Why did the Department cut the funding to the centre?

B. A business case was presented for integration of the IMG (International Medical Graduates) management incorporating operation of the Centre for Overseas Trained Doctors. A briefing dated 28 August 2003 (Attachment DRL9 of Statement of Dennis Roland Lennox) and letter (Attachment DRL10 of Statement of Dennis Roland Lennox) was prepared outlining the proposal to the Medical Board of Queensland. Dr Lennox has stated in evidence that it became evident from September 2003 that management of IMGs was no longer receiving Queensland Health's management support and the continued operation of Medical Jobs @ Health became untenable and it closed as a result.

- (i) Did the Centre lose the support of Queensland Health
- (ii) Why did the Centre lose support?
- (iii) What action did Dr Buckland take or authorize to secure the continuing services of the Centre?
- (iv) In Dr Buckland's opinion was the centre necessary?
- (v) If not why not?
- (vi) What other steps were put in place to assess and orient Overseas Trained Doctors into the Australian Health Care system?

C. A report written by Dr Lennox titled "Medical Jobs @ Health, Management of International Graduates" (Attachment DRL12 of Statement of Dennis Roland Lennox) to a Joint Over-seas Trained Doctor/Temporary Resident Doctor Support Committee approved by Queensland Health and supported by the AMAQ was apparently not progressed by Queensland Health at about this time (see paragraphs 27-31 of Exhibit 55 before the Commission). Dr Lennox has given evidence

that the Report as it was prepared dated August 2003 version was complete and in its final form.

- (i) Why was this report not progressed?
 - (ii) What did Dr Buckland know about the report?
 - (iii) Did Dr Buckland receive a copy?
 - (iv) What did Dr Buckland know of the risks in Queensland Health's increasing reliance upon International Medical Graduates and particularly those from non-English speaking backgrounds?
 - (v) What steps have been taken by Queensland Health during Dr Buckland's term as Director-General to deal with potential problems presented by IMG's?
 - (vi) What further steps might be taken now?
 - (vii) To what extent was Dr Buckland advised by his predecessor that this was an emerging issue?
- D. On 21 October 2003, a journalist, Hedley Thomas, asked Steve Rous of the Minister's office for a copy of "*a report by Qld Health's Dr Denis Lennox earlier this year into issues arising from overseas doctors*" by email.
- E. Kate O'Donnell replied to Mr Thomas by email dated 30 October 2003. Copies of that email were sent to the then Director-General of Queensland Health, Professor Rob Stable and Dr Buckland. Attached to that email were two documents that were the response to several of Mr Thomas' question. A document titled "media request" that contains the formal response from the Minister's office was that the "*report has not official and was not accepted or endorsed by Queensland Health Executive*".
- (i) Did Dr Buckland ever give to Ms Edmond a copy of the Lennox Report in any of its versions?
 - (ii) Was the Minister briefed in relation to the journalist's request and the answer to it?
 - (iii) Was the Minister briefed in relation to the existence of the report and the contents thereof?
 - (iv) If so, by whom, when and how was she briefed and was she told by Dr Buckland or anybody else to his knowledge that the report was not official and not accepted or endorsed by Queensland Health Executive
- F. In November 2003, the Courier Mail published a number of articles concerning an alleged major problem in the public health system, namely overseas trained doctors working with inadequate qualifications, particularly in regional areas. The articles received support from the Australian Salaried Medical Officers Federation and the Australian Medical Association.
- (i) What did Dr Buckland know in November 2003 of the risks inherent in Queensland and QH's increasing reliance in recent years on IMGs and particularly upon those from non-English speaking medical schools?

- (ii) Was Dr Buckland aware of the instances of adverse outcomes possibly attributable to a mismatch between competence and capability of some IMGs and the clinical expectations of them in Australian practice?
- (iii) Did Dr Buckland satisfy himself that QH's system of recruitment and selection of doctors was sufficiently sensitive and reliable to ensure appointment of only competent and capable IMGs? If so, how?
- (iv) During Dr Buckland's terms as, Director-General and General Manager of Health Services, did QH employ any system to ensure appropriate supervision of IMGs practice, of adequate induction into practice in the Australian health care system and into QH in particular, and of progress to vocational status within Australia?
- (v) Was Dr Buckland satisfied during his term as Director-General that QH was adequately marketing its medical practice positions to Australian graduates? Does he believe QH was recruiting its maximum share of Australian graduates?
- (vi) Was Dr Buckland satisfied during his term as Director-General that QH was recruiting the best available medical practitioners from the international medical workforce market? If so, how?
- (vii) Was the Minister briefed in relation to any concerns about IMG's during her term? If so, by whom, when and how was she briefed and what steps were taken in consequence?

G. In an article published in The Courier-Mail on 4 November 2003, the Premier, the Hon. Peter Beattie, was recorded as saying in relation to the Lennox report, "*When this final report is completed as opposed to a draft, then obviously Cabinet will want to have a very close look at it...If the reports in The Courier-Mail and the draft report are sustained in the final report then we will need to change our systems and we will*".

- (i) Was Dr Buckland aware of this comment having been made by the Premier?
- (ii) Was it accurate?
- (iii) If not, what steps did Dr Buckland take to correct the Premier's misunderstanding about the report and its concerns.
- (iv) Did Dr Buckland advise the Minister that the report was only in draft and, if so, on what basis?
- (v) Dr Lennox says that his final version of the report in August was final. Does Dr Buckland disagree?
- (vi) When was the report completed?
- (vii) What steps, if any, were taken to "change our systems" after completion of the report?

8. The Giblin - North Report

The Commission understands that:

- A. On 1 July 2004 Drs Peter Giblin and John North flew to Hervey Bay to commence an investigation into orthopaedic services of the Hervey Fraser Coast Health Services District. Those two doctors had been appointed to conduct that investigation by the then Director-General after concerns relating to the safety and standards of orthopaedic health

- delivery within the Fraser Coast region had been brought to the attention of the then Minister for Health, Wendy Edmond in November 2003.
- B. The report from the investigation (See exhibit 38) was submitted to Dr Buckland on 6 May 2005. The same day the report was delivered to Dr Buckland, Dr North received a facsimile letter from Dr Buckland confirming receipt of the report. In that facsimile the Director-General indicated "that there appears to be no hard evidence to support your recommendations." Dr Buckland then requested an urgent meeting for Drs North and Giblin to explain to Dr Buckland how they had come to their conclusions in the report.
 - C. The report made serious findings concerning, the management and provision of, orthopaedic services in the district, and the competence of the district's orthopaedic practitioners.
 - D. Drs Giblin and North did not want to meet with Dr Buckland, as requested, because they felt meeting with Dr Buckland might compromise their recommendations in the report. They also felt that such a meeting might not be covered by an unconditional indemnity from Queensland Health, which protected them from liability resulting from their findings and recommendations in the report. Those concerns were conveyed to the President of the Australian Orthopaedic Association, Dr John Harrison, who agreed with those concerns. He agreed to make contact with Dr Buckland on behalf of Drs Giblin and North. When Dr Harrison attempted to make contact with Dr Buckland by telephone he found Dr Buckland was not available. Dr Buckland did not return Dr Harrison's call.
 - E. Dr Fitzgerald then contacted Dr North to request an urgent meeting with Drs North, Giblin, Blenkin and Harrison to discuss the findings in the report. Because Drs North and Giblin feared the said indemnity would not cover such a meeting they refused. Instead, Dr North proposed that Dr Fitzgerald meet with Drs Harrison, Blenkin and Brazel, the incoming chairperson of the Australian Orthopaedic Association. Dr Fitzgerald advised that such a meeting was not possible and accordingly it did not occur.
 - F. On 11 May 2005, Chairman of the Bundaberg Hospital Commission of Inquiry, Tony Morris QC issued a summons to Dr Steven Buckland in his capacity as Director-General of Queensland Health. The summons required Dr Buckland to produce to the Commission a copy of the Giblin-North Report by 12 May 2005.
 - G. After the Commission received the report Senior Counsel Assisting the Commission, David Andrews SC, advised Queensland Health that the report would be made an exhibit of the Commission and would become publicly available. Queensland Health objected to that proposal on the basis that the report was highly defamatory, expressed conclusions which were not expressed to be made on the usual evidentiary support namely medical records, and referred to evidence of an unsafe kind in that it was not evidence within the direct knowledge of the source.
 - H. On 13 May 2005 the Commission ruled that the report would be made an exhibit and would become publicly available.

- (i) On what basis did Dr Buckland form the view that the findings and recommendations in the Giblin-North report were not based on hard evidence? The investigators made findings in respect of Dr Krishna's clinical reasoning based on responses to clinical scenarios put to him at interview. In what way were those findings in respect Dr Krishna's clinical reasoning capabilities deficient?
- (ii) If Dr Buckland formed the view that deficiencies in the Giblin-North report precluded implementation of its findings and recommendations, what steps did Dr Buckland, intend to take, and in fact took, to correct those deficiencies so that the serious concerns identified therein could be assessed?

9. Emergency Department Review – Rockhampton Hospital, Final Report, June 2004

It has been suggested in evidence (see the evidence of Dr Kelley) before the Commission that (see especially transcript on 8 July 2005, page 2236):

- A. Upon commencing work at the Rockhampton Base Hospital Emergency Department ("the Department") in March 2005 a specialist in emergency medicine, Dr William Kelley, Dr Kelley observed that there were major problems in the Department.
 - B. After working in the Department for 2 weeks Dr Kelley met with management of the Hospital and conveyed his concerns. He told them that, the Department was unsafe and dangerous.
 - C. The management of the Hospital then produced to Doctor Kelley a document entitled *Emergency Department Review – Rockhampton Hospital, Final Report, June 2004* (Exhibit 129). Upon inspecting the report Dr Kelley observed that his concerns were reflected in many of its findings and recommendations.
 - D. The Report was not made publicly available.
- (i) What are the details of Dr Buckland's knowledge of the quality of clinical services and patient safety at the Rockhampton Base Hospital?
 - (ii) What are the details of Dr Buckland's knowledge of the report referred to above? What steps in respect of responding to the findings and recommendations in the said report did Dr Buckland, during his term as Director-General, contribute to, and know of?
 - (iii) Was the report made publicly available? If a decision was made to refrain from so doing, what factors informed that decision?

10. Dr Jayant Patel

It has been suggested in evidence before the Commission that:

- A. On 16 December 2004, Peter Leck faxed Queensland Health Audit and Operational Review seeking advice in respect of complaints raised about Dr Jayant Patel's clinical competence and the complexity of surgery performed by Dr Patel at the Bundaberg Base Hospital (Exhibit 102). The next day, Rebecca McMahon from Audit and Operational Review replied by email, advising Mr Leck that Dr Gerry Fitzgerald, Chief Health Officer would be the appropriate person to investigate said complaints. Peter Leck was told that Dr Fitzgerald could not assist until January because of leave.

- B. On 4 January 2005 Peter Leck returned from leave and contacts Dr John Scott by phone and followed up with email to discuss the situation in respect of the complaints against Dr Patel. Dr John Scott sent an email on 11 January 2005 suggesting that Dr Fitzgerald would be back from leave in one week (see Exhibit 102).
- C. Dr Fitzgerald arrived in Bundaberg and interviewed witnesses and conducted his investigation into surgical services at the Bundaberg Base Hospital between 13 to 15 January 2005.
- D. Dr Patel advised Dr Darren Keating by letter dated 14 January 2005 that he would not be seeking an extension of his contract at the Bundaberg Base Hospital which was due to expire on 31 March 2005. Given Dr Patel had been employed under the Area of Need process, his clinical privileges to practice as a specialist in Australia was limited to the Bundaberg Base Hospital. Accordingly, by advising that he would not seek renewal of his contract, once it expired, in all likelihood Dr Patel was going to leave the country.
- E. On 22 March 2005 Rob Messenger tabled in the Queensland Parliament a letter from Toni Hoffmann which set out complaints in relation to the competence of Jayant Patel and the types of operations performed by him at the Bundaberg Base Hospital.
- F. On 24 March 2005 Dr Fitzgerald completed his clinical audit into surgical services at the Bundaberg Base Hospital and forwarded it on to Dr Buckland. On the covering memorandum accompanying the report (Attachment C) Dr Fitzgerald outlines serious concerns in respect of Dr Patel's surgical competence and the level of operations performed by him at the Bundaberg Base Hospital.
- G. By email dated 29 March 2005 (Attachment D) Dr Fitzgerald advised Peter Leck that Dr Buckland has received a copy of the clinical audit report. Dr Fitzgerald advised Mr Leck that he will forward him a copy of the report "as soon as Steve is happy." Dr Fitzgerald also indicates to Mr Leck that "we may need to arrange (sic) briefing of staff on the contents."
- H. On or about 7 April 2005 Dr Buckland advised Dr Fitzgerald that he had been told by the Bundaberg Base Hospital Director of Medical Services that there was a concern with Dr Patel's registration in Oregon, including that there had been limitations placed on Dr Patel's scope of practice there. On or about 7 or 8 April 2005 Dr Fitzgerald informed Jim O'Dempsey of the Medical Board of same. (See Dr Fitzgerald's evidence 15 August 2005). On or about 8 April 2005 Mr O'Dempsey conducted an internet search and discovered that Dr Patel's practising license in Oregon had had restrictions placed on it due to clinical incompetence.
- I. On or about 7 April 2005 Dr Buckland and the then Minister for Health, Gordon Nuttall spoke at a meeting attended by employees of the Bundaberg Health Services District. Either Dr Buckland or Mr Nuttall said that because the leaking of Ms Hoffmann's complaint to Mr Messenger had caused a denial of natural justice to Dr Patel, and because Dr Patel had left the country by then, Dr Fitzgerald's report would not be released (see especially evidence of Dr Nydam on 12 August 2005, page 4174).
- J. On 9 April 2005 the then Minister for Health, Gordon Nuttall announced a review of all clinical services at the Bundaberg Base Hospital. No

mention in that announcement was made of Dr Patel's problems with his registration in the United States (Attachment E).

- (i) To what extent does Dr Buckland agree with the chronology set out above?
- (ii) At what time did Dr Buckland first become aware of concerns in respect of Dr Patel? What are the details of that awareness?
- (iii) Why was it necessary that Dr Buckland "be happy" with Dr Fitzgerald's report before it could be forwarded to Mr Leck? Was Dr Fitzgerald's report a report that needed to be approved by Dr Buckland before it could be finalised? Did the possibility that Dr Buckland would not approve Dr Fitzgerald's report enter Dr Buckland's mind at any time? If so, what would have been the implications of carrying out such an intention for the, response to, and implementation of, Dr Fitzgerald's report? Did the possibility that Dr Buckland would require alterations to, or further investigations in respect of, Dr Fitzgerald's report enter Dr Buckland's mind at any time? If so, what would have been the implications for carrying out such an intention for the, response to, and implementation of, Dr Fitzgerald's report?
- (iv) Does Dr Buckland recall what was said at the meeting that occurred on or about 7 April 2005? Does Dr Buckland recall whether anyone said words to the effect of, or similar to, the statement that, because the leaking of Ms Hoffmann's complaint to Mr Messenger had caused a denial of natural justice to Dr Patel, and because Dr Patel had left the country by then, Dr Fitzgerald's report would not be released and would not be acted upon? If so, who said such words? Given Dr Patel had made it known, as early as 14 January 2005 that there was a strong possibility that he would leave the country after 31 March 2005, what was the utility of declaring that Dr Patel's departure from the country was a contributing factor towards the decision not to release the Fitzgerald report and to not act on it? Was there ever an intention within Queensland Health to release the Fitzgerald report, generally to the public, or to stakeholders such as the Queensland Nurses Union?
- (v) Why was no mention made, during the announcement of the review of all clinical services at the Bundaberg Base Hospital, of Dr Patel's problems with his registration in the United States?
- (vi) Does Dr Buckland have knowledge of an intention from anyone within Queensland Health and the then Minister for Health's Office, including himself, to put the Fitzgerald report aside and not act on it on the basis that Dr Patel left the employ of the Bundaberg Base Hospital and Australia shortly after the report was finalised? If so, what are the details of that knowledge? When did Dr Buckland form, or become aware of, such an intention?
- (vii) Given the evidence that; four reports known to the Commission (Giblin-North, Lennox, Fitzgerald, Waters) required approval of the relevant Director-General before they were finalised; and that until such approval was given the reports were not acted upon and not acknowledged officially by Queensland Health; is it Queensland Health policy that all sensitive reports be approved by the Director-General? How does Queensland Health determine how widely a report will be disseminated?

11. Inappropriate Disclosure of Information

The Commission has received evidence that:

- A. On 18 April 2005 the terms of reference for the review announced on 9 April 2005 (see above) were issued. That same day the Director-General verbally instructed the members of the review team to investigate all of the credentials and privileges of all the medical staff at the Bundaberg Base Hospital to check that there was no other problem existing there with other practitioners. Such an investigation was not explicitly authorised by the said terms of reference.
- B. On 16 June 2005 an article written by Sean Parnell entitled "Dr Death's error rate 'within limits' appeared in *The Australian* newspaper. That article contained information from the review team's interim report, including details of the failure by Bundaberg Base Hospital's Director of Medicine, Dr Peter Miach to obtain specialist registration in Queensland when he moved here from Victoria. Dr Miach's qualifications in Victoria were bona fide and accordingly, once he applied for registration in Queensland it would have been granted as a matter of course.
- C. On 29 June 2005 an article written by Hedley Thomas entitled "Question of murder not matter of intent" appeared in the *Courier Mail* newspaper. That article contained the same information that appears in the review team's final report. On 29 June 2005 Dr Keliher telephoned Dr Buckland to express concern that the report had been leaked to Mr Thomas.
 - (i) What were the details of Dr Buckland's direction to the review team to investigate all of the credentials and privileges of all the medical staff at the Bundaberg Base Hospital to check that there was no other problem existing there with other practitioners?
 - (ii) If such a direction was given, what was its purpose? What was the relevance of the directed task to the principal duties of the review team? Why was the direction communicated verbally but not in writing? Did Dr Buckland have any knowledge that there may be problems with the credentials and privileges of any of the medical staff at the Bundaberg Base Hospital, such as Dr Miach, before he gave such a direction? If so, what are the details of that knowledge?
 - (iii) What are the details of Dr Buckland's knowledge of the circumstances surrounding the disclosure of the review team's interim and draft reports?

12. The Bundaberg Mental Health Unit

The Commission has received evidence (see transcript 25 May 2005, especially page 43) that:

- A. On 11 May 2004 the state member for Burnett, Rob Messenger gave a speech in parliament concerning the Bundaberg Base Hospital Mental Health Unit. After the speech the press secretary to the Minister for Health, Cameron Milner approached Mr Messenger and said he wanted to set up a meeting between Steve Buckland, then Director-General of Queensland Health, Mr Messenger and the nurse.
- B. At the subsequent meeting, Mr Messenger said that the nurses sought whistleblower status and Dr Buckland agreed to same. The nurses then spoke about the problems they observed in the mental health unit for

about two hours. At the conclusion, Dr Buckland acknowledged that there were problems and said that there would be an independent review of the unit. Mr Messenger then remarked that it would be good if there was a review of the entire Hospital. Dr Buckland then slammed the table and exploded in a fit of rage. He said words to the effect that he didn't care if Mr Messenger was a member of parliament; he would not tolerate being told what to do. A short time later Dr Buckland apologised for the outburst.

- C. On 13 May 2004 Dr Mark Waters was appointed by Dr Buckland to conduct a review into the mental health unit at the Bundaberg Base Hospital. On or around the week commencing 13 July 2004 Dr Waters met with Dr Buckland to hand him a copy of the report and discuss its contents, so that Dr Buckland had the opportunity to ensure Dr Waters had covered all areas of concern and Dr Buckland could seek any further clarification that he may require. It was Dr Waters view at the time that, subject to any further inquiries that Dr Buckland requested be made, the report was finalised.
- D. At the meeting between Dr Buckland and Dr Waters, Dr Buckland read the report. Dr Waters asked Dr Buckland whether he was satisfied with the report. Dr Buckland replied that he was.
 - (i) Does Dr Buckland believe that the alleged details of the meeting between himself, Rob Messenger and the mental health nurses are correct? If he disagrees with part or all of the allegations, to what extent does he disagree?
 - (ii) Why was the report into the Bundaberg Health District Mental Health Services Unit shown to Dr Buckland before it was finalised? Was it the usual practice within Queensland Health, during Dr Buckland's period as General Manager of Health Services and Director-General, that Queensland Health executives consider drafts of reports from independent investigations before those reports were finalised? Did Dr Buckland ever require that alterations be made to reports from, or require further work on, independent investigations after the draft reports from same were referred to him? If so, what are the details of those requirements

12. Meeting of District Health Council Chairs

The Commission has heard evidence (see transcript 17 August 2005, especially page 10) that:

- A. On 16 March 2005 the District Health Councils Zonal Orientation Forum for Chairs with District Managers in attendance was held. At that meeting the then Minister for Health spoke and encouraged the District Health Councils to engage with their respective communities.
- B. Afterwards, Dr Buckland spoke and agreed with the Minister's comments but added that the Council's should leave the running of Hospital's to Queensland Health's clinicians and managers.
 - (i) Does Dr Buckland agree with the alleged details of the above meeting of the District Health Council Chairs? If he disagrees with part or all of the allegations could he provide details of his disagreement?

- (ii) What does Dr Buckland believe is the appropriate role of the District Health Councils?

13. General Issues

The Commission has received evidence that:

- A. Dr Nankivell made repeated complaints to Queensland Health about dangerous and unacceptable waiting periods for patients (see exhibit 212 – especially the attachments). His statement contains a letter addressed to the then Director-General, Dr Stable, outlining a number of concerns. Dr Nankivell's concerns were given some corroboration by Dr Pitre Anderson (exhibits 199 and 200; transcript 25 July 2005).
 - (i) Was Dr Buckland aware of such complaints and issues surrounding dangerous waiting periods for patients during his period as General Manager of Health Services and Director-General?
 - (ii) If so, what are the details of that knowledge, and what steps were taken in consequence.
- B. Numerous doctors have given evidence about low morale amongst doctors and nurses in the public system brought about by, inter alia, an inability to treat patients well (having regard to funding inadequacies), excessive rules, a focus on money rather than patient welfare, a perceived lack of responsiveness to clinical concerns, and a lack of a role for clinicians in management of hospitals.
 - (i) Was Dr Buckland aware of such complaints and issues during his period as General Manager of Health Services and Director-General?
 - (ii) If so, what are the details of that knowledge?
 - (iii) Was Dr Buckland ever informed, during his period as General Manager of Health Services and Director-General, that any staff within Queensland Health received performance bonuses as part of their remuneration? If so, what are the details of that information?
 - (iv) Is Dr Buckland aware of a Queensland Health a policy of discouraging the engagement of VMO's in favour of more staff specialists? If so, what are the details of that policy? If so, what are the details of such a policy and awareness?
- C. The Commission website contains a number of discussion papers. Does Dr Buckland wish to make any comments about those papers?
- D. During Dr Buckland's period as General Manager of Health Services and Director-General, how did Queensland Health compete for budget funds? What was the avenue, if any, for clinicians or bureaucrats to explain any circumstances where deaths or adverse outcomes were being caused by underfunding? Does Dr Buckland consider that the budget process should be altered?