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Minister for Information Technology and Innovation
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Hon Rob Valentine MLC
Chair
Legislative Council Government Administration Subcommittee A – Inquiry into Acute Health

Dear Chair,

Thank you for your letter of 14 December 2017, requesting further information following my appearance at your hearing on 12 December 2017.

Before I address your specific areas of interest, I would like to make a few points.

I find it very concerning to hear both yourself as the Chair and Ruth Forrest as Deputy Chair make public statements speculating that I may have misled the Committee. I attended in good faith and answered all questions accurately and honestly.

Given the politically charged debate around the delivery of health care in Tasmania, and the high level of media interest in this topic with a State election due in a few months, it concerns me that the Committee's work is being drawn into a political argument and process.

With regard to the existence of a Deloitte report, I stated:

I am happy to inform the committee that this work has included interviews and surveys of leaders and managers across the health system, not just in THS, to gather individual perspectives on how they're working as a health system to achieve strategic objectives. This has been undertaken in part with support from Deloitte. It has presented interview and survey results, but it has not prepared a report.

I know you will be interested and I am happy to tell you that I have received a briefing by way of a presentation from Deloitte very recently as part of a Cabinet subcommittee meeting.

This is clear and simple – there was no report from Deloitte to the Government last Monday, nor is there a report now – it is yet to be provided. However, what did occur was the consultants from the Deloitte verbally presented survey and interview results to a Cabinet Subcommittee on Monday, 11 December 2017, which I attended by telephone.

I was further surprised to hear you as Chair claim it was unexpected that the Government had released the New Beds Implementation Team Summary last Saturday (Attachment 1) – especially as I told the committee this is what I intended to do:

Noting that this work does relate to a Cabinet process, there are longstanding conventions in place. I am aware of your interest; I am aware of the public interest. While I stand by my statements on this matter to those who would prefer to believe otherwise that there is no report, I have asked the new bed implementation team to prepare a summary for public release, including progress on the opening of the 120 additional beds and treatment recliners, as well as key findings from the work undertaken by Deloitte.

It is clear that my evidence on this matter was accurate, and I provided your subcommittee with full explanations in good faith.

The fact was, and is, that Deloitte has not yet provided a written report the government – rather, they have briefed the Cabinet subcommittee. I subsequently requested the New Beds Implementation Team to summarise the information presented into a written summary for public release – exactly as I told your Committee I would.

I note your request for details of the Deloitte Assessment including the Terms of Reference. As I have previously stated, this material is Cabinet in confidence.

As you would be aware, the precedent of maintaining Cabinet confidentiality is well established, and important in ensuring that Government can receive frank and fearless advice.

Any limitation on this freedom would severely undermine the performance by Government of its executive duties. I attach the letter from Lara Giddings MP, to the Legislative Council Government Administration Committee 'A' in relation to cost reduction strategies of the Department of Health and Human Services, which details this important principle.

I also note a public suggestion in the media from yourself as Chair that Government should release individual survey responses. When the survey was sent to staff, it was made clear that Deloitte would keep individual responses confidential:

All answers captured by the survey will be kept strictly confidential. Results will only be reported on as summaries of the survey results, with no way of identifying any individual respondents. To provide a further level of confidentiality, data will not be reported below a sample size of five people. In addition, the THS cannot request the raw data from Deloitte.

With regard to your other questions, I can provide the following additional information.

Confirmation of the discharge process from acute health services

The precise discharge process can vary depending on which of the major hospitals a patient is at, the sort of condition a patient is recovering from and which ward the patient is discharged from.

With respect to the North West Regional Hospital, there are twice-daily Bed Management Meetings where representatives of all wards attend and discuss the day's anticipated discharges, as well as existing acute inpatients whose care may be suitable for transfer to sub-acute beds or facilities. Multi-disciplinary Discharge Planning Meetings also occur weekly and a review of all current patients discharge needs occurs, with referrals among the team as necessary.

At the Royal Hobart Hospital, medical rounds occur on medical inpatient wards with all medical patients including outlier medical patients reviewed prior to 1030 before commencement of multidisciplinary ward meetings on Ward 2J and Assessment and Planning Unit (APU). Further multidisciplinary meetings are conducted, with discussion of the discharge plan for each patient, and Cardiology ward rounds led by consultants occur daily.

The Department of Medicine at the LGH commenced "rapid rounding" in 2016, which "Rapid rounding" occurs in the morning on medical wards and includes the care team and senior decision makers, led by a senior nurse with a consultant present.

The THS has been working to implement a more streamlined, systematic process for patient discharge, in line with Patients First initiatives, feedback from GPs and recommendations arising from regular reviews and audits of discharge summary processes.

Review of discharge summary practices is ongoing, with education and training available for junior doctors regarding discharge summaries.

Confirmation that the tender for 4k project included 7 additional beds

The Government has made capital funding available for the full fit-out of twenty-nine (29) beds, with the tender released on Saturday, 16 December 2017 including all six Paediatric Mental Health beds.

I am advised that the request for tender provides the option to submit an expression of interest to fit out a further seven beds.

If bids are received that provide for all beds, including the seven, within the funding envelope provided – we will do the work immediately.

If a bid cannot be accommodated within budget, funding that component will be considered in future budget processes, alongside operational cost of those beds, with a further tender not be required.

Who is undertaking review for obstetric services for north-west of Tasmania

I am advised that Dr Rupert Sherwood (Head of Gynaecology, Western Health), Ms Patrice Hickey (former President of the Victorian branch of the Australian College of Midwives) and Ms Lesley Arnott (consumer representative) are conducting the review. The review will include significant consultation with key stakeholders.

Please consider this letter a public submission to your Inquiry.

Yours sincerely



Michael Ferguson MP
Minister for Health

19 December 2017

Attachment 1

Premier

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Mr Stuart Wright
Committee Secretary
Legislative Council Government Administration Committee 'A'
Parliament House
HOBART TAS 7000

23 APR 2012

Dear Mr Wright

On 13 April 2012 the Hon Ruth Forrest MLC wrote to me concerning an Inquiry being undertaken by Legislative Council Government Administration Committee 'A' in relation to the cost reduction strategies of the Department of Health and Human Services. In that letter she asks if I would direct my reply to you.

As I understand it Ms Forrest is requesting that I provide the Committee with "A copy of any advice from the Department of Treasury and Finance... [provided to Cabinet] ... concerning the recommended model of local health networks to be established in Tasmania."

It has long been the practice of Governments in Tasmania (and other Westminster system governments elsewhere) to claim public interest immunity when considering such requests.

Cabinet documents, which include the advice provided to the Cabinet, are a class of documents that, irrespective of their actual contents, belong to a class which the public interest requires to be withheld from production. That this is so has been long-recognised by Parliaments and the courts alike.

Documents in this class are typically those which reveal the deliberations of the Cabinet or the views of individual members of the Cabinet expressed before Cabinet has reached a concluded and collective view on a matter of policy. In a well-known passage in Commonwealth v Northern Land Council (1993) 176 CLR 604 the High Court unanimously said at par 6 (footnotes omitted):

"But it has never been doubted that it is in the public interest that the deliberations of Cabinet should remain confidential in order that the members of Cabinet may exchange differing views and at the same time maintain the principle of collective responsibility for any decision which may be made. Although Cabinet deliberations are sometimes disclosed in political memoirs and in unofficial reports on Cabinet meetings, the view has generally been taken that collective responsibility could not survive in practical terms if Cabinet deliberations were not kept confidential. See U.K., Parliament, Report of the Committee of Privy Counsellors on Ministerial Memoirs ("the Radcliffe Committee"). Despite the pressures which modern society places upon the principle of collective responsibility, it remains an important element in our system of government. Moreover, the disclosure of the deliberations of the body responsible for the creation of state policy at the highest level, whether under the Westminster system



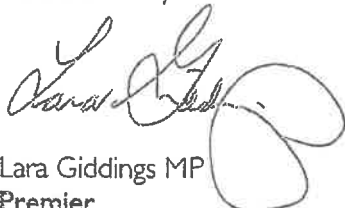
or otherwise, is liable to subject the members of that body to criticism of a premature, ill-informed or misdirected nature and to divert the process from its proper course (See *Conway v. Rimmer* (1968) AC, per Lord Reid at p 952; *Sankey v. Whitlam* (1978) 142 CLR, per Mason J. at pp 97-98; U.K., Parliament, Departmental Committee on Section 2 of the Official Secrets Act 1911 ("the Franks Committee"), (1972), Cmnd.5104, vol.1, p.33). The mere threat of disclosure is likely to be sufficient to impede those deliberations by muting a free and vigorous exchange of views or by encouraging lengthy discourse engaged in with an eye to subsequent public scrutiny. Whilst there is increasing public insistence upon the concept of open government, we do not think that it has yet been suggested that members of Cabinet would not be severely hampered in the performance of the function expected of them if they had constantly to look over their shoulders at those who would seek to criticize and publicize their participation in discussions in the Cabinet room. It is not so much a matter of encouraging candour or frankness as of ensuring that decision-making and policy development by Cabinet is uninhibited. The latter may involve the exploration of more than one controversial path even though only one may, despite differing views, prove to be sufficiently acceptable in the end to lead to a decision which all members must then accept and support."

It is also pertinent to note that the Parliament has specifically recognised the special, and confidential, status of Cabinet documents in the provisions of the *Right to Information Act 2010* (RTI Act) and prior to that the *Freedom of Information Act 1991*. In particular I refer you to section 26 of the RTI Act which provides, *inter alia*, that:

- "Information is exempt [from disclosure] information if it is contained in –
- (a) the official record of a deliberation or decision of the Cabinet; or
 - (b) a record proposed by a Minister for the purpose of being submitted to the Cabinet for consideration; or
 - (c) a record that is a copy of, or a copy of part of, a record referred to in paragraph (a) or (b); or
 - (d) a record, the disclosure of which would involve the disclosure of a deliberation or decision of the Cabinet, other than a record by which a decision of the Cabinet was officially published."

Despite Ms Forrest's suggestion that Cabinet documents could be provided as in-camera evidence, I intend to uphold the fundamental principle of Cabinet confidentiality, and I am unable to accede to her request.

Yours sincerely



Lara Giddings MP
Premier

cc Hon Ruth Forrest MLC
Secretary, Department of Treasury and Finance