PART 1  INTRODUCTION

1. During the hearing in Hobart from 11 to 13 November 2019, the Royal Commission received evidence about Southern Cross Care (Tas) Inc (SCC), an aged care provider, in the period 30 June 2016 to 1 July 2019 (the **relevant period**).

2. SCC is a not-for-profit incorporated association that was established in 1972 by the Knights of the Southern Cross. It is now the largest not-for-profit aged care provider in Tasmania, operating nine residential aged care facilities, 13 retirement villages and three regional home care services.

3. The purpose of the case study was to inquire into SCC’s clinical governance arrangements and leadership during the relevant period, in circumstances where two facilities operated by SCC, Yaraando Hostel (Yaraando) and Glenara Lakes, were found to have not met a number of the expected outcomes of the Accreditation Standards in late 2018.

PART 2  SUMMARY OF PROPOSED FINDINGS

4. On the evidence before the Royal Commission, the following conclusions are available.

   (a) SCC did not have sufficiently robust systems or processes for ensuring that facility-level management received QPS audit reports along with feedback and direction from the executive management level on improving deficiencies identified in those audits.

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1 Exhibit 13-17, Hobart Hearing, Statement of Stephen Shirley, 30 October 2019, WIT.0549.0001.0001 at 0004 [18].
3 Section 54-1(d) of the Aged Care Act 1997 (Cth) required an approved provider of a residential care service to comply with the ‘Accreditation Standards’ made under s 54-2. Section 10 of the Quality of Care Principles 2014, as in force between November 2014 and June 2018, provided that the Accreditation Standards ‘are the standards specified in Schedule 2’. Schedule 2 in turn specified the Four Standards: Management Systems; Health and Personal Care; Care Recipient Lifestyle; and Physical Environment and Safe Systems.
(b) During the relevant period:

(i) the policies and procedures established by SCC to guide the provision of clinical care at Glenara Lakes and Yaraandoo were inadequate in that they were not comprehensive and were not kept up-to-date;

(ii) SCC did not have an effective process for ensuring that comprehensive and current policies and procedures were available to care staff at residential aged care facilities.

(iii) the standard complaints handling process that was intended to operate at all SCC facilities was not well understood at Glenara Lakes;

(iv) the process for responding to complaints and feedback at Yaraandoo was poorly established;

(v) there were no effective systems in place at either Glenara Lakes or Yaraandoo to ensure systematic collection and analysis of complaints information; and

(vi) information about complaints from Yarandoo and Glenara Lakes was escalated to executive management level on an ad hoc basis.

(c) The decision to approve staffing changes at Yaraandoo in late June 2018 as part of the implementation of the Pathway to Break Even Strategy (the Strategy) was focused on financial considerations without an equivalent or sufficient assessment of clinical risks associated with the decision. The processes for measuring and assessing the clinical risk associated with the decision were inadequate, having regard to the following matters:

(i) the team responsible for the implementation of the Strategy at Yaraandoo, including the decision to recommend approval of reduction in care staff hours in June 2018, comprised:

   1. two executive managers who did not have clinical qualifications (the Executive Manager Finance and the Director of Residential Business Services); and

   2. an inexperienced facility manager;
(ii) the facility manager felt under considerable pressure to implement staff reductions as part of the Strategy, which was presented to him, in particular by the Director of Residential Business Services, as a necessity;  

(iii) at the beginning of June 2018, the Executive Manager Finance queried with the Director of Residential Business Services whether the facility manager was ‘complying under pressure’ with the Strategy, and observed there was a need for the facility manager to be ‘totally transparent about changes and whether it will impact on his ability to deliver Quality of Care or put unreasonable burden on his staff’;

(iv) the Director of Clinical Care at the time had nothing to do with the decisions made about rosters at Yaraandoo to reduce care staff hours; and

(v) assessment of potential clinical risk associated with the staffing changes was limited because the Director of Clinical Care was not visiting Yaraandoo.

PART 3 EVIDENCE

5. The following documents were tendered:

(a) the Southern Cross Care Tasmania Tender Bundle;

(b) a statement of direct experience witness, Helen (Ellie) Charmion Valier;

(c) a statement of the Clinical Care Coordinator, Yaraandoo, Tammy Louise Marshall;

(d) a statement of the former Nurse Adviser/Administrator, Yaraandoo, Jo-Anne Cressey Hardy;

(e) a statement of the Nurse Adviser/Administrator, Yaraandoo, Kylie Maree Bennett.

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4 Transcript, Patrick Anderson, Hobart Hearing, 11 November 2019 at T6680.7-14.
5 Exhibit 13-2, Hobart Hearing, Southern Cross Care Tasmania Tender Bundle, tab 92, SCT.0013.0001.0064.
6 Transcript, Pauline Robson, Hobart Hearing, 12 November 2019 at T6814.22-25.
7 Transcript, Pauline Robson, Hobart Hearing, 12 November 2019 at T6817.16-18.
8 Exhibit 13-2, Hobart Hearing, Southern Cross Care Tasmania Tender Bundle.
9 Exhibit 13-3, Hobart Hearing, Statement of Helen Charmion Valier, 31 October 2019, WIT.0599.0001.0001.
11 Exhibit 13-5, Hobart Hearing, Statement of Jo-Anne Cressey Hardy, 4 November 2019, WIT.0496.0001.0001.
12 Exhibit 13-6, Hobart Hearing, Statement of Kylie Maree Bennett, 11 October 2019, WIT.0500.0001.0001.
(f) a statement of the former Facility Manager, Yaraandoo, Patrick John Anderson;¹³
(g) a statement of direct experience witness, Mary Catherine Sexton;¹⁴
(h) a statement of direct experience witness Ann Mary McDevitt;¹⁵
(i) a statement of direct experience witness, Judith Anne King;¹⁶
(j) a statement of the former Facility Manager, Glenara Lakes, Peter Graham Williams;¹⁷
(k) a statement of the former Facility Manager, Glenara Lakes, Helen Mary Marshall;¹⁸
(l) a statement of the State ACFI Coordinator, SCC, Andrew George-Gamlyn;¹⁹
(m) a statement of the former Director of Finance, SCC, Andrew Charles Crane;²⁰
(n) a statement of the former Executive Manager, Home Care and Residential, North/North West SCC, Pauline Robson;²¹
(o) a statement of the Chief Executive Officer (CEO), SCC, Richard Anthony Sadek;²²
(p) a statement of the Chairman of the SCC Board, Stephen Shirley;²³
(q) a statement of the former Chairman of the SCC Board, Raymond John Groom.²⁴

6. Each of the people identified above also gave oral evidence.

7. Ms Carolyn Wallace held the roles of Director of Clinical Services and Executive Manager Clinical Services at SCC during the relevant period.²⁵ Ms Wallace retired in

¹³ Exhibit 13-7, Hobart Hearing, Statement of Patrick John Anderson, 26 October 2019, WIT.0578.0001.0001.
¹⁴ Exhibit 13-8, Hobart Hearing, Statement of Mary Catherine Sexton, 6 November 2019, WIT.0602.0001.0001.
¹⁵ Exhibit 13-9, Hobart Hearing, Statement of Ann Mary McDevitt, 4 November 2019, WIT.0600.0001.0001.
¹⁶ Exhibit 13-10, Hobart Hearing, Statement of Judith Anne King, 5 November 2019, WIT.0611.0001.0001.
¹⁷ Exhibit 13-11, Hobart Hearing, Statement of Peter Graham Williams, 31 October 2019, WIT.0611.0001.0001.
¹⁸ Exhibit 13-12, Hobart Hearing, Statement of Helen Mary Marshall, 27 October 2019, WIT.0603.0001.0001.
²⁰ Exhibit 13-14, Hobart Hearing, Statement of Andrew Charles Crane, 1 November 2019, WIT.0559.0001.0001.
²³ Exhibit 13-17, Hobart Hearing, Statement of Stephen Shirley, 30 October 2019, WIT.0549.0001.0001.
²⁴ Exhibit 13-18, Hobart Hearing, Statement of Raymond John Groom, 23 October 2019, WIT.0550.0001.0001.
February 2019. Ms Wallace was not requested to prepare a witness statement for the purposes of the Hobart Hearing and was not called to give evidence at the hearing. Counsel Assisting do not propose that the Commissioners make findings which are critical of Ms Wallace’s conduct.

PART 4 RELEVANT FACTS

A. BACKGROUND

8. In November and December 2018, the Australian Aged Care Quality Agency (Quality Agency) found that the Yaraandoo and Glenara Lakes facilities did not meet a number of expected outcomes of the Accreditation Standards. A summary of the relevant events and regulatory findings with respect to each facility is set out below.

Yaraandoo

9. From 2 to 8 November 2018, assessors from the Quality Agency conducted a review audit at Yaraandoo. At the time of the audit there were 79 care recipients, of whom approximately 60 were identified as receiving high care.26 The delegate found that 18 of the 44 expected outcomes were not met, including 1.6 (human resource management), 2.4 (clinical care), 2.5 (specialised nursing care), 2.8 (pain management) and 2.12 (continence management).27 The assessors made the following observation in support of the recommendation on expected outcome 1.6:

[m]anagement reported the home has been running at a financial loss for some time and the organisation has reduced staffing hours in eight of the nine aged care sites. …

We reviewed communiques to unions and other stakeholders noting a staff reduction in two stages. Stage one commenced on 13 August 2018 and involves the following:

A reduction in 14 hours per day for care staff. Eight hours on the morning shift and six hours on the evening shift.

A reduction in 15.2 hours of Registered Nurses per fortnight …28

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26 Exhibit 13-2, Hobart Hearing, Southern Cross Care Tasmania Tender Bundle, tab 175, SCT.0011.0004.0129 at 0130.
27 Exhibit 13-2, Hobart Hearing, Southern Cross Care Tasmania Tender Bundle, tab 175, SCT.0011.0004.0129.
10. On 9 December 2018, the Secretary of the Department of Health imposed sanctions on Yaraandoo. The sanctions included a prohibition on funding for new care recipients and revocation of SCC’s approval as a provider of aged care services unless SCC agreed to certain actions including the appointment of an adviser and administrator and training. Sanctions were imposed for a period of six months, which was subsequently extended.

11. To comply with the sanctions, on about 19 November 2018, SCC appointed Ms Jo-Anne Hardy as an adviser and administrator.

12. On 11 December 2018, the Quality Agency decided that SCC had not complied with expected outcomes 2.4 (clinical care), 2.8 (pain management), 2.11 (skin care), 2.12 (continence management) and 2.14 (mobility and dexterity) in a way that had placed or may have placed, the safety, health or wellbeing of a number of care recipients of Yaraandoo at serious risk.

13. On 12 and 13 June 2019, assessors from the Aged Care Quality and Safety Commission (the Quality Commission) conducted a site audit against the 44 expected outcomes at Yaraandoo. They found that the service did not meet six of the expected outcomes including 1.6 (human resource management), 2.1 (continuous improvement), 2.4 (clinical care), 2.8 (pain management) 2.10 (nutrition and hydration) and 2.11 (skin care).

14. Ms Hardy resigned in July 2019 and was replaced by the then facility manager at Yaraandoo, Ms Kylie Bennett.

15. On 17 July 2019, the Aged Care Quality and Safety Commissioner decided that SCC had not complied with expected outcomes 2.8 (pain management), 2.10 (nutrition and...
hydration) and 2.11 (skin care) in a way that had placed or may have placed, the safety, health or well-being of a number of aged care recipients at Yaraandoo at serious risk.36

16. The sanctions expired on 8 August 2019.37 As at the dates of the hearing, Yaraandoo had only 54 residents out of a total of 82 allocated places.38

17. When asked during the hearing what went wrong at Yaraandoo, Mr Sadek attributed the problems that arose to a lack of support from all members of the executive management team to ‘a young facility manager’,39 and to SCC having ‘allowed Yaraandoo to be isolated without support from a clinical involvement perspective. We didn’t put enough resources into training and education’.40

**Glenara Lakes**

18. Between 4 to 14 December 2018, a review audit was conducted by the Quality Agency at Glenara Lakes, which resulted in findings that seven of the 44 expected outcomes were not met, including 1.6 (human resource management), 1.8 (information systems), 2.4 (clinical care), 2.7 (medication management), 2.8 (pain management) and 2.11 (skin care).41

19. On 7 January 2019, the Aged Care Quality and Safety Commissioner decided that the failure to meet expected outcomes 2.4, 2.7, 2.8 and 2.11 had placed or may have placed, the safety, health or wellbeing of a number of care recipients at Glenara Lakes at serious risk.42

20. On 31 January 2019, the Quality Commission conducted an assessment contact at Glenara Lakes and found that the service did not meet expected outcomes 2.1 (continuous improvement) and 2.7 (medication management).43

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36 Exhibit 13-2, Hobart Hearing, Southern Cross Care Tasmania Tender Bundle, tab 273, SCT.0011.0006.0015.
37 Exhibit 13-6, Hobart Hearing, Statement of Kylie Maree Bennett, 11 October 2019, WIT.0500.0001.0001 at 0019 [66].
38 Transcript, Richard Sadek, Hobart Hearing, 12 November 2019 at T6825.16.
39 Transcript, Richard Sadek, Hobart Hearing, 12 November 2019 at T6834.45-6835.3.
40 Transcript, Richard Sadek, Hobart Hearing, 12 November 2019 at T6835.8-10.
41 Exhibit 13-2, Hobart Hearing, Southern Cross Care Tasmania Tender Bundle, tab 202, CTH.1033.1002.1682.
42 Exhibit 13-2, Hobart Hearing, Southern Cross Care Tasmania Tender Bundle, tab 207, SCT.0010.0009.0002.
43 Exhibit 13-2, Hobart Hearing, Southern Cross Care Tasmania Tender Bundle, tab 216, SCT.0010.0003.0147.
21. Following an assessment contact in March 2019, the Quality Commission assessors recommended that Glenara Lakes be found not to have met expected outcome 2.7 (medication management). However, after considering further evidence, including SCC’s response, on 17 March 2019 the Quality Commission notified SCC that it was satisfied that expected outcome 2.7 was met.\(^{44}\)

**SCC Board and clinical governance arrangements during the relevant period**

22. The Board of SCC is comprised of eight non-executive directors, each of whom act on a voluntary basis.\(^{45}\) Mr Shirley has been the Chairman of the Board since 1 July 2018.\(^{46}\) Neither Mr Shirley nor his predecessor, Mr Groom, hold medical or clinical qualifications.\(^{47}\)

23. During the relevant period, the SCC board has included two members with clinical experience, namely a medical practitioner and a nurse.\(^{48}\)

24. The arrangements for clinical governance at SCC during the relevant period can be summarised as follows.

25. **Board Audit and Risk Committee.** The Audit and Risk Committee was one of four Committees of the Board. It comprises two Board members (both of whom hold medical qualifications)\(^{49}\) and each of the members of the Executive Management Team.\(^{50}\) Minutes of the Committee were tabled at Board meetings and the Chair of the Committee gave a verbal report of key issues contained in the minutes.\(^{51}\) The Audit and Risk Committee had responsibilities with respect to clinical governance at SCC including (among other things):

(a) to consider all issues of significance which may increase the risk exposure of SCC;

\(^{44}\) Exhibit 13-2, Hobart Hearing, Southern Cross Care Tasmania Tender Bundle, tab 239, SCT.0008.0015.0540; Exhibit 13-2, Hobart Hearing, Southern Cross Care Tasmania Tender Bundle, tab 232, SCT.0010.0003.0163 at 0167.
\(^{45}\) Exhibit 13-17, Hobart Hearing, Statement of Stephen Shirley, 30 October 2019, WIT.0549.0001.0001 at 0003-0004 [13].
\(^{46}\) Exhibit 13-17, Hobart Hearing, Statement of Stephen Shirley, 30 October 2019, WIT.0549.0001.0001 at 0001 [1].
\(^{47}\) Transcript, Raymond Groom and Stephen Shirley, Hobart Hearing, 13 November 2019 at T6847.11-14; T6848:1-4.
\(^{48}\) Transcript, Raymond Groom, Hobart Hearing, 13 November 2019 at T6862.27-34.
\(^{49}\) Transcript, Raymond Groom, Hobart Hearing, 13 November 2019 at T6862.27-40.
\(^{50}\) Exhibit 13-16, Hobart Hearing, Statement of Richard Anthony Sadek, 25 October 2019, WIT.0492.0001.0001 at 0024 [95].
(b) to review and monitor annual internal quality and risk management audit program and ensure that internal audit schedules adequately address the requirements of SCC;

(c) to ensure that adequate systems and internal control processes are established and maintained to ensure compliance with accreditation and other applicable legislative requirements.\(^52\)

26. **Internal audits.** SCC utilised a process of internal audits at each facility conducted by a Continuous Improvement and Training officer.\(^53\) An action plan was developed at the conclusion of each internal audit which identified any issues requiring remediation.\(^54\)

27. **QPS Benchmarking.** During the relevant period, SCC utilised Quality Performance Systems (QPS) Benchmarking Reports across its facilities.\(^55\) Yaraandoo and Glenara Lakes had participated in the QPS Benchmarking process since 2005.\(^56\) QPS Benchmarking Reports provide an assessment of how well a facility is performing in particular areas (for example falls and pressure injuries) against national benchmarks.\(^57\) Data for QPS Benchmarking Reports was recorded and reported at the facility level by the Facility Manager or clinical staff.\(^58\) The Director of Clinical Services provided a written summary of the QPS Benchmarking Reports to the Audit and Risk Committee.\(^59\)

28. **Meetings.** Clinical governance arrangements during the relevant period also included standing meetings involving facility and executive level staff and external professionals.\(^60\) Former Facility Manager at Glenara Lakes, Ms Helen Marshall, gave evidence that representatives from each facility attended state wide meetings, known as ‘quality and safety meetings’, which were chaired by the Director of Clinical Services. However, Ms Marshall did not attend these meetings because she was directed by the Director of Clinical Services that ‘[f]acility managers were not to attend these meetings’.

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\(^53\) Exhibit 13-16, Hobart Hearing, Statement of Richard Anthony Sadek, 25 October 2019, WIT.0492.0001.0001 at 0023-0024 [91]-[92].

\(^54\) Exhibit 13-16, Hobart Hearing, Statement of Richard Anthony Sadek, 25 October 2019, WIT.0492.0001.0001 at 0024 [92].

\(^55\) Exhibit 13-16, Hobart Hearing, Statement of Richard Anthony Sadek, 25 October 2019, WIT.0492.0001.0001 at 0021 [80(c)].

\(^56\) Exhibit 13-16, Hobart Hearing, Statement of Richard Anthony Sadek, 25 October 2019, WIT.0492.0001.0001 at 0026 [104].

\(^57\) Transcript, Helen Marshall, Hobart Hearing, 12 November 2019 at T6750.28-T6751.4

\(^58\) Transcript, Peter Williams, Hobart Hearing, 12 November 2019 at T6740.4-7; Transcript, Helen Marshall, Hobart Hearing, 12 November 2019 at T6750.13-21.


\(^60\) Exhibit 13-16, Hobart Hearing, Statement of Richard Anthony Sadek, 25 October 2019, WIT.0492.0001.0001 at 0007 [26].
meetings. During the period that Ms Marshall was facility manager at Glenara Lakes, a lifestyle coordinator with no clinical expertise, and the ‘maintenance man’ (until his resignation from the committee) represented the Glenara Lakes facility at the quality and safety meetings. SCC also conducted facility manager meetings, at which matters including financial performance and ACFI management were discussed. It is unclear on the evidence whether or not clinical or quality of care issues were routinely discussed at facility manager meetings.

29. During the relevant period and at the time of the Hobart Hearing, SCC did not have a Clinical Governance Committee.

30. Since November 2018, SCC has committed to implementing changes with respect to its clinical governance arrangements. At the time of the Hobart Hearing, SCC was in the process of establishing a Clinical Governance Committee, which will comprise senior managers, a Board member and external members with clinical expertise.

31. The Committee will report to the Board regularly and assume responsibility for tasks previously performed by the Audit and Risk Committee. It is intended that the Committee will (amongst other things):

   (a) provide oversight and assurance that the organisation’s clinical governance and quality improvement policies and frameworks are effective;
   (b) provide oversight and assurance that the organisation has in place transparent and consistent processes within defined clinical governance structures; and

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62 Transcript, Helen Marshall, Hobart Hearing, 12 November 2019 at T6762.41-T6763.11.
64 Ms Helen Marshall says only financial issues were discussed during her time: see Transcript, Helen Marshall, Hobart Hearing, 12 November 2019 at T6754.44-6755.24. By contrast, Ms Robson said that facility manager meetings discussed more than finances, and did discuss whether there were any systemic quality issues across the organisation: see Transcript, Pauline Robson, Hobart Hearing, 12 November 2019 at T6819.45-47.
66 Exhibit 13-17, Hobart Hearing, Statement of Richard Anthony Sadek, 30 October 2019, WIT.0549.0001.0001 at 0007 [32].
68 Exhibit 13-17, Hobart Hearing, Statement of Stephen Shirley, 30 October 2019, WIT.0549.0001.0001 at 0015 [36].
(c) provide oversight and assurance that the organisation has in place robust monitoring, audit and quality improvement processes for clinical and personal care services. 69

32. Following an organisational restructure in July 2019, SCC has created the position of Manager of Quality and Risk who will perform clinical governance functions. 70

**SCC’s Financial Performance**

33. SCC’s annual report for the year ending 30 June 2018 71 reports an accounting surplus of $1.611 million, which was described by the Treasurer, Mr Chris Jones, as, ‘a disappointing result being well short of the surplus of the prior year and falling considerably below the year’s Budget estimate.’ 72 The surplus for the previous year was $2.794 million. Mr Jones attributed the result to there being no indexation on government subsidies, a 3.5 per cent wage increase and the ongoing effect of ACFI rule changes announced in 2017. 73

34. For residential care, Mr Jones noted a net surplus of $116,500 compared to $975,000 the previous year. He pointed out that the result for the 2018 year was inclusive of interest income of $2.618M. He observed that:

> Our ACFI claiming was well managed but still declined by 0.8% on the previous year. Residential Aged Care costs increased by 1.4% to that of the 2017 Financial Year. 74

35. Mr Jones described the outlook ahead in these terms:

> The Aged Care Industry will continue to be a complex industry. Margins will remain tight, with the industry struggling to maintain occupancy and ACFI funding due to budget reductions in Government Funding. 75

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70 Exhibit 13-16, Hobart Hearing, Statement of Richard Anthony Sadek, 25 October 2019, WIT.0492.0001.0001 at 0022 [88]-[89], 0035 [140].
71 Exhibit 13-2, Hobart Hearing, Southern Cross Care Tasmania Tender Bundle, tab 305, RCD.9999.0237.0040.
72 Exhibit 13-2, Hobart Hearing, Southern Cross Care Tasmania Tender Bundle, tab 305, RCD.9999.0237.0040 at 0055.
73 Exhibit 13-2, Hobart Hearing, Southern Cross Care Tasmania Tender Bundle, tab 305, RCD.9999.0237.0040 at 0055.
74 Exhibit 13-2, Hobart Hearing, Southern Cross Care Tasmania Tender Bundle, tab 305, RCD.9999.0237.0040 at 0056.
75 Exhibit 13-2, Hobart Hearing, Southern Cross Care Tasmania Tender Bundle, tab 305, RCD.9999.0237.0040 at 0057.
36. The 2018-19 budget for SCC projected a residential care operational loss of $1,996,638 but a total surplus of $1,716,646, owing to a non-operational surplus of $3,713,284. The non-operational surplus is due to interest income from the refundable accommodation bonds paid by residents: $2,676,157 in 2018/19 and $2,544,717 in 2017/18; and income from term deposits: $1,236,967 in 2018/19 and $1,386,740 in 2017/18.76

37. The actual consolidated result for 2019 was a loss of $3,518,486.78 For residential care there was a net deficit of $1,642,613, well down from the $116,454 surplus of the previous year.79 Presumably that was driven, at least in part, by the expenditure required to rectify the shortcomings at Yaraandoo identified in the sanctions process, which Mr Sadek said was in excess of $1 million.80

B. ISSUES WITH CLINICAL GOVERNANCE DURING THE RELEVANT PERIOD

38. It is submitted that, for the reasons set out below, the evidence received by the Royal Commission indicates deficiencies in the operation of SCC’s clinical governance and executive leadership during the relevant period in four respects.

(a) Firstly, the processes for the exchange of information from the executive management level to facility managers was inadequate during parts of the relevant period. In particular, the QPS Reports – which contained important analysis and benchmarking of the clinical data that was collated and provided by clinical staff at SCC’s facilities – were not provided to at least some facility managers.

(b) Secondly, the support provided to facility managers by members of the executive management team in relation to clinical matters was deficient in that the policies and procedures provided to guide the provision of clinical care at facilities were inadequate and not up-to-date.

(c) Thirdly, SCC’s complaints process was poorly understood and insufficient at Yaraandoo and Glenara Lakes.

76 Exhibit 13-2, Hobart Hearing, Southern Cross Care Tasmania Tender Bundle, tab 268, SCT.5009.0001.0001 at 0001_0020.
77 Exhibit 13-2, Hobart Hearing, Southern Cross Care Tasmania Tender Bundle, tab 268, SCT.5009.0001.0001 at 0001_0020.
78 Exhibit 13-2, Hobart Hearing, Southern Cross Care Tasmania Tender Bundle, tab 268, SCT.5009.0001.0001 at 0001_0020.
79 Exhibit 13-2, Hobart Hearing, Southern Cross Care Tasmania Tender Bundle, tab 268, SCT.5009.0001.0001 at 0001_0003.
(d) Fourthly, decision-making at the executive management level in relation to the implementation of the Strategy at Yaraandoo was focused on financial risk without an equivalent or sufficient focus on clinical risk.

(a) Inadequacy of information flow between executive management and facility managers

39. Mr Richard Sadek, CEO, said that it was his understanding that the quarterly QPS reports were distributed to the Director of Clinical Services, the Director of Residential Business Services and the facility managers. However, the evidence before the Royal Commission indicates that, at least for a period during 2018, some facility managers did not in fact receive the quarterly QPS reports, notwithstanding that they contained information about areas of improvement required at the relevant facility.

40. Helen Marshall was the facility manager of Glenara Lakes from 15 January 2018 until 26 October 2018. When shown the quarterly QPS Report for the second quarter of 2018 (April – June), Ms Marshall said she had no recollection of seeing it before. Further, she gave evidence that she did not believe that she was told of the results of this audit. Notably, the report states:

The Quality of Care Audit results have decreased by 7.16% to attain 80.82% compliance. Note the downward in the results over two reporting cycles and the scorecard identifies a number of critical and high priority clinical practices requiring improvement. The review of care plans is 30.77% compliant and it will be important to ensure these are reviewed. Communicate with staff the consequences of the non compliant area on resident care as well as the accreditation process. Observations, resident weights, bowel charts, blood glucose monitoring, sensory loss, specialized needs and palliative care all require improvement.

41. Ms Marshall said that she was not told of these ‘critical and high priority’ clinical areas that required improvement. This is notwithstanding the report’s recommendation that these be communicated to staff. Ms Marshall gave evidence that she would have liked

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82 Exhibit 13-12, Hobart Hearing, Statement of Helen Mary Marshall, 27 October 2019, WIT.0603.0001.0001 at 0002 [8(a)].
83 Exhibit 13-2, Hobart Hearing, Southern Cross Care Tasmania Tender Bundle, tab 107, SCT.5014.0001.0068 at 0068_0004.
85 Transcript, Helen Marshall, Hobart Hearing, 12 November 2019 at T6752.27.
87 Transcript, Helen Marshall, Hobart Hearing, 12 November 2019 at T6754.8.
to have seen this information. It is clearly information that should have been provided to her.

42. Ms Marshall’s evidence was that she was ‘never told Glenara Lakes had not met the benchmarks’.

43. Mr Peter Williams was the facility manager of Glenara Lakes from 11 February 2019 until 19 April 2019. He gave evidence that in the short time he was facility manager, there were some audits in relation to which Glenara Lakes received low results. Mr Williams did not recall the SCC executive requesting action in response to the audit result outcomes, or otherwise discussing them with him. When asked what he would have expected, he responded:

I would have expected at a corporate level a clinical governance committee would have reviewed the information the audit results coming from not only Glenara Lakes but all of the Southern Cross Care facilities, analysing what was presented so that the organisation in and of itself knew where the deficits were and then, you know, clear direction about what needed to be improved. But given the fact that the executive manager client services position was vacant, given the fact that the executive manager home care north, north-west was vacant, I don’t believe that that was actually happening during – during the time I was appointed, which again led me to believe that there was a failure of the governance processes to ensure that they were robust.

44. Mr Williams described what he regards as the hallmarks of good clinical governance in an aged care setting as:

Clinical governance, in my view, simply should clearly articulate the joint responsibility and accountabilities of staff on the ground, managers and executives. It would have components of monitoring, so understanding what’s going on within the facility, not just looking at clinical but looking at all components of business, financial, clinical, human resources. So understanding what’s going on in the business, having a clear mechanism for reporting up to the executive information, 45 and then having a process where the organisational executive are clearly analysing information that’s

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88 Transcript, Helen Marshall, Hobart Hearing, 12 November 2019 at T6754.4.
90 Exhibit 13-11, Hobart Hearing, Statement of Peter Graham Williams, 31 October 2019, WIT.0609.0001.0001 at 0002 [6].
91 Transcript, Peter Williams, Hobart Hearing, 12 November 2019 at T674019-29.
92 Exhibit 13-11, Hobart Hearing, Statement of Peter Graham Williams, 31 October 2019, WIT.0609.0001.0001 at 0006 [36]; Transcript, Peter Williams, Hobart Hearing, 12 November 2019 at T6740.40.
93 Transcript, Peter Williams, Hobart Hearing, 12 November 2019 at T6740.44-T6741.6.
coming to them and then providing direction back down to the facility to give guidance and direction of what should be – should be done.\textsuperscript{94}

45. Ms Tammy Marshall began working as the Clinical Care Coordinator at Yaraandoo on 15 June 2015.\textsuperscript{95} Ms Marshall gave evidence that she was not directly involved in the audit and reporting process until February 2019.\textsuperscript{96} She said that quarterly QPS reports were included as an agenda item for discussion at the Leadership Team Meetings, although ‘physical copies of the QPS reports were not usually made available at the meeting and outcomes and trends were not recorded in the meeting minutes.’\textsuperscript{97}

46. Ms Marshall said that copies of the QPS reports were now made available at the meetings.\textsuperscript{98}

47. In her oral evidence, Ms Marshall said that quite often the quarterly QPS reports were not shared with her, and she did not know what the outcome was.\textsuperscript{99} She explained that there ‘were a few occasions when the report was discussed at a leadership meeting, but it certainly didn’t feed back through relevant department meetings.’\textsuperscript{100} She said staff were not provided with feedback from the audit reports that surveyed their attitude to work.\textsuperscript{101}

48. Mr Patrick Anderson was facility manager of Yaraandoo from 23 October 2017 until 11 February 2019.\textsuperscript{102} He gave evidence that SCC had an audit schedule, which comprised internal audits and QPS audits.\textsuperscript{103} At Yaraandoo, a registered nurse or the Clinical Care Coordinator would complete the audits and he would analyse the results and report in writing in relation to them to Pauline Robson, Regional Director, and Carolyn Wallace, Clinical Director, on a monthly basis.\textsuperscript{104} He stated that feedback or minutes from Board

\textsuperscript{94} Transcript, Peter Williams, Hobart Hearing, 12 November 2019 at T6739.39-47.
\textsuperscript{95} Exhibit 13-4, Hobart Hearing, Statement of Tammy Marshall, 30 October 2019, WIT.0581.0001.0001 at 0002 [7].
\textsuperscript{96} Exhibit 13-4, Hobart Hearing, Statement of Tammy Marshall, 30 October 2019, WIT.0581.0001.0001 at 0008 [32].
\textsuperscript{97} Exhibit 13-4, Hobart Hearing, Statement of Tammy Marshall, 30 October 2019, WIT.0581.0001.0001 at 0006 [24].
\textsuperscript{98} Exhibit 13-4, Hobart Hearing, Statement of Tammy Marshall, 30 October 2019, WIT.0581.0001.0001 at 0006 [24].
\textsuperscript{99} Transcript, Tammy Marshall, Hobart Hearing, 11 November 2019 at T6625.31-32.
\textsuperscript{100} Transcript, Tammy Marshall, Hobart Hearing, 11 November 2019 at T6626.8-10.
\textsuperscript{101} Transcript, Tammy Marshall, Hobart Hearing, 11 November 2019 at T6629.8.
\textsuperscript{102} Exhibit 13-7, Hobart Hearing, Statement of Patrick Anderson, 26 October 2019, WIT.0578.0001.0001 at 0002 [4(a)].
\textsuperscript{103} Exhibit 13-7, Hobart Hearing, Statement of Patrick Anderson, 26 October 2019, WIT.0578.0001.0001 at 0002 [6].
\textsuperscript{104} Exhibit 13-7, Hobart Hearing, Statement of Patrick Anderson, 26 October 2019, WIT.0578.0001.0001 at 0002-0003.
and Audit and Risk Committee meetings in relation to audit results was not provided to facility managers.105

49. Ms Robson said that she emailed the QPS reports to facility managers. Her oral evidence was that:

I noticed that all the facility managers I did share the QPS reports, I actually emailed them. My rule was not to follow up with those. It was made really clear that that was a clinical issue and I had to take a step back from that.106

50. Ms Robson also said that at the monthly facility manager meetings:

[W]e reviewed audit outcomes to determine if there were any patterns of concern across the organisation. … These meetings were an opportunity to share knowledge and practice. Although initially the Director of Clinical Services was a regular attendee, she gradually stopped travelling the northern meetings and eventually her attendance at the southern meetings became sporadic. Her role was to raise and address any areas of clinical concern. There were no significant indicators.107

51. Ms Robson’s evidence about the discussion of audit results at monthly facility manager meetings is inconsistent with Ms Helen Marshall’s evidence that ‘the QPS was never raised’108 at the meetings she attended with other facility managers during 2018, and that the discussion ‘was purely financial’.109 Ms Marshall said that ‘[f]inancial matters took into account our ACFI income and the break-even strategy’,110 but this was ‘never correlated’ with issues arising from the QPS reports.111

52. Although Ms Robson said that she did email the QPS reports to facility managers,112 facility manager meetings did consider whether there were ‘any systemic quality issues across the organisation’,113 and SCC had Clinical Care Coordinator meetings and an Audit and Risk Committee, she nonetheless accepted that SCC did not have ‘a strong, robust, clinical governance system’.114

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105 Exhibit 13-7, Hobart Hearing, Statement of Patrick Anderson, 26 October 2019, WIT.0578.0001.0001 at 0003.
107 Exhibit 13-15, Hobart Hearing, Statement of Pauline Robson, 28 October 2019, WIT.0560.0001.0001 at 0009 [10.4].
111 Transcript, Helen Marshall, Hobart Hearing, 12 November 2019 at T6755.18.
112 Transcript, Pauline Robson, Hobart Hearing, 12 November 2019, T6817.34.
113 Transcript, Pauline Robson, Hobart Hearing, 12 November 2019, T6819.4647.
114 Transcript, Pauline Robson, Hobart Hearing, 12 November 2019, T6820.4-9.
53. When it was put to Mr Sadek that there had been issues with SCC’s clinical governance because information had not been getting through to the right people, Mr Sadek did not deny the criticism, but referred to ‘the new organisational structure which was ultimately approved by the board recognises the fact that we had to strengthen the reporting and review processes that you’re referring to.’

54. On the evidence before the Royal Commission, it should be accepted that in the relevant period, SCC did not have sufficiently robust systems or processes for ensuring that facility-level management received QPS audit reports along with feedback and direction from the executive management level on improving deficiencies identified in those audits. Mr Williams’ evidence, that these components of monitoring and mechanisms for reporting information, are hallmarks of good clinical governance should be accepted.

(b) Inadequacy of policies and procedures

55. A further issue relating to clinical governance arising from the evidence is the adequacy of SCC’s policies and procedures during the relevant period.

56. Mr Williams gave evidence of difficulty locating relevant policies and procedures, and of inadequacy in SCC’s clinical policies and procedures. He said:

Where the policies were housed on the local intranet it was difficult to navigate. Often things that I was searching for that might be something like catheter management, there was no policy that I could find. I know that Southern Cross Care did subscribe to Joanna Briggs Institute which is a nurse-led evidence-based program where you can log on and look at what the best evidence is but that was also out of date. I think it was last updated in 2015. So my experience told me that this didn’t contain the most contemporary and up to date information around clinical practice so it was difficult to then deliver appropriate care if I was trying to update a policy or change the way I wanted staff to operate.

57. Mr Anderson and Mr Williams gave evidence about the lack of a formal processes at Yaraandoo and Glenara Lakes, respectively, for updating policies and procedures. Mr Williams observed that policies and procedures at Glenara Lakes were ‘mostly past

115 Transcript, Richard Sadek, Hobart Hearing, 12 November 2019 at T6834.41-43.
116 Transcript, Peter Williams, Hobart Hearing, 12 November 2019 at T6739.39-47.
117 Transcript, Peter Williams, Hobart Hearing, 12 November 2019 at T6741.15-23.
118 Exhibit 13-7, Hobart Hearing, Statement of Patrick Anderson, 26 October 2019, WIT.0578.0001.0001 at 0004; Exhibit 13-11, Hobart Hearing, Statement of Peter Graham Williams, 31 October 2019, WIT.0609.0001.0001 at 0003 [12].
Mr Williams observed that there was ‘no policy committee or clearly defined process establishing who was accountable to review and update these documents’.120

58. Mr Anderson said that there was a lack of policies at Yaraandoo for clinical procedures, such as inserting catheters.121

59. Ms Helen Marshall expressed the view that SCC’s policies and procedures were ‘[l]acking’, in that they ‘didn’t have detail on clinical procedures, how to perform clinical procedures… They didn’t have a lot of information.’122

60. Ms Bennett said that ‘limited guidance and support material to inform the delivery of up to date care services’ contributed to quality and safety issues at Yaraandoo.123 Similarly, the Clinical Care Coordinator at Yaraandoo, Tammy Marshall, gave evidence that ‘During my time that I’ve worked at Southern Cross Care I feel that we lacked systems. Policies were somewhat outdated and difficult for staff to locate.’124

61. Ms Robson said that, with the benefit of hindsight, she would have done things differently by being ‘more insistent on the clinical governance support’ for the facilities that were in trouble.125 In relation to the further support that was needed, Ms Robson said:126

I requested training in meetings. It didn’t happen. I requested clinical support to those sites. It didn’t happen.

62. Ms Robson said that at least three facility managers, including Mr Anderson, ‘raised issues about the need to further improve the policy and clinical documentation to support managers.’127

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119 Exhibit 13-11, Hobart Hearing, Statement of Peter Graham Williams, 31 October 2019, WIT.0609.0001.0001 at 0007 [38]. See also, Transcript, Peter Williams, Hobart Hearing, 12 November 2019 at T6741.15-23.
120 Exhibit 13-11 Hobart Hearing, Statement of Peter Graham Williams, 26 October 2019, WIT.0609.0001.0001 at 0007 [38].
123 Exhibit 13-6, Hobart Hearing, Statement of Kylie Maree Bennett, 11 October 2019 WIT.0500.0001.0001 at 0012 [50(c)].
126 Transcript, Pauline Robson, Hobart Hearing, 12 November 2019, T6818.11-12...
63. In oral evidence, Ms Robson appeared to acknowledge that the policies and procedures in place to support SCC facility managers were not adequate during the relevant period. She said that, with the benefit of hindsight:

   If I had to go back, it would be looking at ensuring a full analysis of some of the quality governance factors that seem to be missing, the training, the education, the policy development.  

64. Based on the evidence discussed above, it should be accepted that during the relevant period:

   (a) the policies and procedures established by SCC to guide the provision of clinical care at Glenara Lakes and Yaraandoo were inadequate in that they were not comprehensive and were not kept up-to-date; and

   (b) SCC did not have an effective process for ensuring that comprehensive and current policies and procedures were available to care staff at residential aged care facilities.

   (c) Inadequate complaints process at Yaraandoo and Glenara Lakes

65. Mr Sadek said that the process for raising complaints across the whole of SCC was that:

   the complaint would be referred to the – by the clinical care consultant in the first place, then escalated to the facility manager, then to the director of residential business services or, indeed, the director of clinical services depending on the nature of the complaint. And if it wasn’t resolved through that process it would have been referred to me. 

66. A number of witnesses gave evidence that SCC’s complaints process was not understood, or did not function effectively at Yaraandoo and Glenara Lakes.

67. Ms Judith King, whose husband Neville is a resident at Glenara Lakes, said that she was aware of the use of compliments and complaints forms at Glenara Lakes, and that she did ‘fill that in on multiple occasions, but I didn’t get a response using that. I found it more effective to do an email or a letter’. Ms King gave evidence that she spoke to staff ‘[o]ver and over constantly’ about using a wheelchair to move her husband, Neville, around rather than encouraging him to walk. Ms King also raised concerns about the

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128 Transcript, Pauline Robson, 12 November 2019 at T6819.34-36.
130 Transcript, Judith King, Hobart Hearing, 12 November 2019 at T6719.46-47.
administration of Neville’s medication with nursing staff and the facility manager. Ms King said ‘I had raised my concerns and there had been no change.’ On 2 October 2018, Ms King emailed Mr Sadek because:

There had been so many ongoing issues. And it’s tiring having to go ... through the same thing multiple times every week with no change.

...

I wasn’t progressing. I tried really hard to progress it in the facility, but nothing was changing. So – and Neville’s health was being compromised, so I took it to the next level.

68. Ms Ellie Valier said that she was not told about a process by which she could raise issues when her husband, Mr Brian Harvey, first moved to Yaraandoo. Ms Valier raised repeated concerns about her husband’s care at Yaraandoo, in particular concerns around continence care, medication management, the existence of a care plan and a lack of staff. In her witness statement Ms Valier stated that:

It was frustrating to raise complaints and to receive responses that did not address obvious underlying issues such as understaffing. It was also frustrating not to receive meaningful answers to basic questions that I raised on multiple occasions like … the availability of Brian’s care plan.

69. Ms Helen Marshall said that she was not made aware of a standard complaints handling procedure at Glenara Lakes or more broadly at SCC. Ms Marshall’s evidence was that data about complaints was not collected or analysed for trends and root causes of those trends. Ms Marshall agreed that the complaints process at Glenara Lakes was ad hoc, and depended on her judgment about what she thought was appropriate. However, her evidence was that senior management and the board were made aware of ‘significant complaints’. Ms Marshall said that she included information about complaints in her monthly facility manager reports. Ms Marshall’s evidence was that she did not get a response to the matters that she raised in her facility manager reports.

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132 Transcript, Judith King, Hobart Hearing, 12 November 2019 at T6722.4-5.
133 Transcript, Judith King, Hobart Hearing, 12 November 2019 at T6721.31-6722.17.
134 Transcript, Helen Valier, Hobart Hearing, 11 November 2019 at T6607.11.
135 Exhibit 13-3, Hobart Hearing, Statement of Helen Charmion Valier, 31 October 2019 WIT.0599.0001.0001 at 0016-0017 [142].
137 Transcript, Helen Marshall, Hobart Hearing, 12 November 2019 at T6764.29
138 Transcript, Helen Marshall, Hobart Hearing, 12 November 2019 at T6764.34.
139 Transcript, Helen Marshall, Hobart Hearing, 12 November 2019 at T6747.22-23.
from anybody up the chain of command. However, she received support from the Director of Residential Business Services, who 'sat in on a couple of complaints issues with me'.

70. Ms Jo-Anne Hardy, adviser and administrator at Yaraandoo from November 2018 to July 2019, said that the complaints handling mechanism at Yaraandoo was 'fairly scant'. According to Ms Hardy:

normally what you would expect to see with a robust feedback mechanism and robust CI system is a register of complaints, comments, compliments. And there was one but it was – it wasn’t very fulsome which indicated to me that the feedback mechanism hadn’t been supported and encouraged.

71. Mr Sadek said that the complaints process at Yaraandoo 'could have been improved on'. However, ultimately he accepted that the complaints process at Yaraandoo was 'virtually non-existent'.

72. Based on this evidence, it should be accepted that during the relevant period:

(a) the standard complaints handling process that was intended to operate at all SCC facilities was not well understood, at least at Glenara Lakes;

(b) the process for responding to complaints and feedback at Yaraandoo was poorly established;

(c) there were no effective systems in place at either Glenara Lakes or Yaraandoo to ensure systematic collection and analysis of complaints information; and

(d) information about complaints from Yarandoo and Glenara Lakes was escalated to executive management level on an ad hoc basis.

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141 Transcript, Helen Marshall, Hobart Hearing, 12 November 2019 at T6747.33.
143 Transcript, Jo-Anne Hardy, Hobart Hearing, 11 November 2019 at T6640.45.
144 Transcript, Jo-Anne Hardy, Hobart Hearing, 11 November 2019 at T6640.45-T6641.2. See also Exhibit 13-5, Hobart Hearing, Statement of Jo-Anne Cressey Hardy, 4 November 2019, WIT.0496.0001.0001 at 0009-0010 [41].
(d) Decision making – Implementation of the Pathway to Break Even Strategy at Yaraandoo

Overview of the Pathway to Break Even Strategy (the Strategy)

73. The Strategy was implemented at SCC’s residential aged care facilities from around June 2016.\(^{146}\)

74. According to Mr Crane, the former Director of Finance of SCC, following the Commonwealth funding decisions in about 2016, SCC was operating at a loss on a cash basis.\(^{147}\)

75. One aim of the Strategy was to reduce direct care expenditure across SCC residential aged care facilities.\(^{148}\) As part of the Strategy, all except two of SCC’s residential aged care facilities\(^ {149}\) were directed to adopt a direct-care expenditure target of 60% of total revenue.\(^{150}\)

76. Mr Crane objected to describing the Strategy as a ‘policy’, which he said ‘is something that you mandate’.\(^{151}\) According to Mr Crane:

> We were trying to define a framework that we could put guidelines or markers in the ground that we were going to work towards.

> ... There was a deliberate and – a deliberate design feature that we wanted to make sure the facility managers had a large say in how they moved to this position. We said that the overall target at its most benign point we could which was below the industry average.\(^{152}\)

\(^{146}\) Although the precise date of implementation is not clear on the evidence, Mr Sadek said that the 60 per cent target was proposed and adopted for the 2016/2017 financial year for all SCC residential aged care facilities: Exhibit 13-16, Hobart Hearing, Statement of Richard Sadek, 25 October 2019, WIT.0492.0001.0001 at 0013 [48].

\(^{147}\) Transcript, Andrew Crane, Hobart Hearing, 12 November 2019 at T6793.32-34.

\(^{148}\) Exhibit 13-17, Hobart Hearing, Statement of Stephen Shirley, 30 October 2019, WIT.0549.0001.0001 at 0011 [48].

\(^{149}\) Transcript, Andrew Crane, Hobart Hearing, 12 November 2019 at T6799.10-11.


\(^{151}\) Transcript, Andrew Crane, Hobart Hearing, 12 November 2019 at T6794.5-6.

\(^{152}\) Transcript, Andrew Crane, Hobart Hearing, 12 November 2019 at T6794.6-26.
77. Mr Sadek described the Strategy as an objective devised by Mr Crane in conjunction with Ms Robson, the then Director of Residential Business Services. Mr Sadek said in his statement that:

Implementation of the pathway to break-even objective, and the associated 60% expenditure target, was the responsibility of each Facility Manager in conjunction with the Director of Residential Business Services and the Executive Manager Finance. This was to be implemented on the condition that the quality of care was not compromised and all regulatory requirements were complied with.

The Director of Residential Business Services was responsible for monitoring implementation of the break-even objective and individual site performances and reporting to the Budget and Finance Committee and the Board on its effectiveness each month.

78. Mr Sadek further said:

Implementation and monitoring of the break-even objective was the responsibility of each Facility Manager and the Director of Residential Business services, with input as required from the Manager Clinical Services, People and Culture, Director of Finance and the Chief Executive Officer. The break-even objective was also regularly discussed at the monthly Executive Management Team meetings.

The Board was provided with progress reports on a monthly basis via the Budget and Finance Committee.

79. Ms Robson said that she was tasked with responsibility for the implementation of the Strategy, and worked together with Mr Crane and the relevant facility manager. Ms Robson described it as ‘a working collaborative approach’. Mr Crane agreed that he ‘was actively participant in implementing the Strategy in relation to Yaraandoo.

80. Neither Mr Crane nor Ms Robson had a clinical background.

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154 Exhibit 13-16, Statement of Richard Sadek, WIT.0492.0001.0001 at 0013 [49]-[50].
155 Exhibit 13-16, Statement of Richard Sadek, WIT.0492.0001.0001 at 0014 [51]-[52].
156 Transcript, Pauline Robson, Hobart Hearing, 12 November 2019 at T6796.35-38.
158 Transcript, Pauline Robson, Hobart Hearing, 12 November 2019 at T6814.44.
159 Transcript, Andrew Crane, Hobart Hearing, 12 November 2019 at T6796.1-6.
160 Exhibit 13-14, Hobart Hearing, Statement of Andrew Charles Crane, WIT.0559.0001.0001 at 0001 [4]-[6]; Exhibit 13-15, Hobart Hearing, Statement of Pauline Robson, WIT.0560.0001.0001 at 0001-0002.
81. Mr Crane said that:

under the pathway model, the facility manager was the strongest advocate and the strongest control in that place. We stressed to them that if they had any doubts about quality of service delivery under this model – under this framework, then they must say it.\[161\]

82. Ultimately, the Strategy was approved by the CEO and the Board of SCC.\[162\]

**Implementation of the Strategy at Yaraandoo**

83. In March 2017, Mr Crane sent an email to Ms Robson in which he observed that most facilities were progressing in the right direction towards the break even strategy with the exception of Glenara Lakes and Yaraandoo. He observed that since 2013, Yaraandoo had increased labour costs by 46\% as opposed to an ACFI increase of 18 per cent. He added;

I have real concerns that any attempt is being made by Manager to move to break-even. We need to take some action - or he will embarrass us.\[163\]

84. At the same time, the QPS benchmark report for the quarter ending in March 2017 showed that Yaraandoo was worse than the benchmark in relation to 12 of 25 benchmarked categories, including employee satisfaction and a number of clinical categories (medication, wound infections, pressure injuries total, pressure injuries (facility acquired) aggressive episodes, resident falls – both general and with injury).\[164\] By the end of the June 2017 quarter, the figure was eight of 20.\[165\]

85. The Strategy was implemented at Yaraandoo from August 2018, following discussions between Mr Anderson, Ms Robson and Mr Crane from November 2017 to June 2018.

86. In a document headed ‘Yaraandoo half year budget review and pathway to break-even operating position plan (Pauline Robson; Patrick Anderson and Andrew Crane – 22 December 2017’, a plan is set out to address the losses incurred in the first quarter of $17.79 per resident per day.\[166\] The document proposes a target change of position of

\[161\] Transcript, Andrew Crane, Hobart Hearing, 12 November 2019 at T6796.18-21.
\[162\] Exhibit 13-14, Hobart Hearing, Statement of Andrew Crane, WIT.0559.0001.0001 at 0005 [8].
\[163\] Exhibit 13-2 Hobart Hearing, Southern Cross Care Tasmania Tender Bundle, tab 28, SCT.0013.0001.0174 at 0174.
\[164\] Exhibit 13-2, Hobart Hearing, Southern Cross Care Tasmania Tender Bundle, tab 30, SCT.0011.0003.0031 at 0032.
\[165\] Exhibit 13-2, Hobart Hearing, Southern Cross Care Tasmania Tender Bundle, tab 36 at SCT.0011.0003.0002.
\[166\] Exhibit 13-2, Hobart Hearing, Southern Cross Care Tasmania Tender Bundle, tab 50, SCT.0013.0001.0187 at 0187.
$17.00 per resident per day, ‘either from an increase in ACFI or a reduction in costs’. The plan proposes a possible combination of changes, including a reduction of $10 per resident per day in the direct care costs. The document states:

Our task is to deeply understand and implement changes that deliver $17 PRPD over January to March 2018 – ensuring they are apparent in financial statements in the last quarter of FY2018.

87. Mr Crane said that initially, Mr Anderson developed a plan to cut hours at Yaraandoo that was not supported because it was ‘too extreme’. In oral evidence, Mr Crane said:

[T]he original plan was the 23 hours and we – we argued he was – Patrick was very firm that that could be achieved. He put out his list of how he would go about it. We then moved to a point of saying that is too difficult to pursue. We – we were not insensitive to the – how difficult this was, especially if the – if what as I assessed, and this is my own personal assessment, that the trust post EBA was a difficult environment.

88. An employee satisfaction survey carried out at Yaraandoo in April 2018 identified a strong negative staff sentiment. Issues identified in the survey included: poor communication between staff and between staff and management, staff working short ‘just about every day’, shortages of equipment, a lack of proper gloves, linen shortages and ‘poor staffing level in comparison to workloads/Not enough staff to do the job properly’.

89. Ms Robson was asked in oral evidence whether she was aware of the problems with the workforce at Yaraandoo. Ms Robson said:

I was aware that Yarandoo was a difficult place. It’s also why I organised for a competent facility manager who was achieving the break-even who had very similar outward circumstances, as in being a remote, away from Hobart facility and how she was able to provide support to him in managing some of the issues. I also had the HR manager go up and have individual meetings with staff and with Mr [Anderson]. There wasn’t feedback that there were issues that should slow it down. We slowed down the process on two occasions to enable full consultation to occur.

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167 Exhibit 13-2, Hobart Hearing, Southern Cross Care Tasmania Tender Bundle, tab 50, SCT.0013.0001.0187 at 0187.
168 Exhibit 13-2, Hobart Hearing, Southern Cross Care Tasmania Tender Bundle, tab 50, SCT.0013.0001.0187 at 0187.
169 Transcript, Andrew Crane, Hobart Hearing, 12 November 2019 at T6797.36-37.
170 Transcript, Andrew Crane, Hobart Hearing, 12 November 2019 at T6797.41-46.
171 Exhibit 13-2, Hobart Hearing, Southern Cross Care Tasmania Tender Bundle, tab 80, SCT.0012.0004.0098 at 0098-0099.
172 Transcript, Pauline Robson, Hobart Hearing, 12 November 2019 at T6815.10-17.
90. From June 2018, Ms Robson arranged for two experienced facility managers to attend Yaraandoo regularly because she ‘had some concerns about what was happening at Yaraandoo’.\textsuperscript{173} One of the facility managers also had regular phone contact with Mr Anderson. However, Ms Robson said that no issues were raised with her from those calls.\textsuperscript{174}

91. Mr Crane’s concern about the implementation of the Strategy by Mr Anderson at Yaraandoo is evident from an email he sent to Ms Robson on 1 June 2018, in which he stated:

\begin{quote}
We need Patrick to be totally transparent about changes and whether it will impact on his ability to deliver Quality of Care or put unreasonable burden on his staff. Is he genuinely ok with them or is he complying under pressure. I assume it is the later.

Following Planning day - I feel we should not be exposed by this change. If EMT is not fully supportive of strategy (which we know it is not) and Helen, Alex and possibly Bobby have doubts then we could be hang out to dry.

I know your instinct will be to push through and you are probably correct but we have done this up to now for significant financial benefit of SCC but I doubt it is either supported or appreciated.\textsuperscript{175}
\end{quote}

92. When asked about this email, Ms Robson said that Mr Anderson:

\begin{quote}
was under pressure to reduce the staffing costs that had grown to the extent that the facility was making an operational loss every month.\textsuperscript{176}
\end{quote}

93. Mr Anderson said in oral evidence that he did feel under pressure to implement staff cuts to achieve the 60 per cent target. Mr Anderson said:

\begin{quote}
[T]he cuts were presented to me as something that was a necessity. It was, we would be shutting down at some point in the future if we did not make these cuts, and there was a sense of urgency that was conveyed to me, in particular by Pauline Robson, every time we met about it saying that the board is … I believe one time her exact words were, ‘The board is hopping mad. They’re jumping up and down about this. They’re demanding that, you know, action be taken about this.’ And I guess the most honest way I could
\end{quote}

\textsuperscript{173} Transcript, Pauline Robson, Hobart Hearing, 12 November 2019 at T6811.29.
\textsuperscript{174} Transcript, Pauline Robson, Hobart Hearing, 12 November 2019 at T6811.36-38.
\textsuperscript{175} Exhibit 13-2, Hobart Hearing, Southern Cross Care Tasmania Tender Bundle, tab 92, SCT.0013.0001.0064.
\textsuperscript{176} Transcript, Pauline Robson, Hobart Hearing, 12 November 2019 at T6813.24.
put it is I felt as though if I didn’t comply that my employment would be ceased.  

94. Mr Anderson was not the only facility manager who felt under pressure to deliver staff cuts as part of the implementation of the Strategy. Ms Helen Marshall said in oral evidence that her decision to resign as facility manager of Glenara Lakes was made in part because:

I felt I could no longer manage the facility under – under the constant pressure of having to cut staffing and which would impact on the resident care, and I pride myself on … not managing a facility that will compromise resident care and I couldn’t stay.

95. Ms Marshall agreed that an adequate consideration of financial performance ought necessarily to involve examining the clinical performance of the facility, however there is no evidence that this occurred. There followed this exchange:

COMMISSIONER BRIGGS: ……So [Southern Care has] nine facilities, there are nine facilities managers in the room. Was not one of you brave enough to raise these quality issues or performance issues to balance out what may well have been quite a tight hierarchical structure, according to the evidence we’ve heard?

MS MARSHALL: I was the only one who opposed the break-even strategy.

……

MR KNOWLES: What did you have to say in that regard?

MS MARSHALL: I said that I couldn’t compromise anymore staffing cuts, I couldn’t compromise the quality of care to the residents at Glenara Lakes. And I actually said, “If I have to cut one more hour, I will go.” And go I did.

96. Ms Tammy Marshall was asked about the vision of SCC as she perceived it:

MR BOLSTER: If I asked you, “Was it apparent to you that Southern Cross Care had a vision, had a goal, had a sense of what it meant to be an aged care provider?”, what would your answer have been? Was there a vision there?

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179 Transcript, Helen Marshall, Hobart Hearing, 12 November 2019 at T6755.8-36.
MS MARSHALL: Well, there’s certainly a vision to save on costs. But I feel that that vision wasn’t looked upon as to the effect it would have on the facility and its residents.\textsuperscript{181}

97. Despite at least Mr Crane having concerns on 1 June 2018 that Mr Anderson was proposing to implement staffing changes as part of the implementation of the Strategy at Yaraandoo under pressure, and Mr Crane’s perception that the Executive Management Team was ‘not fully supportive’ of the Strategy, the final changes for the purpose of implementing the Strategy were nonetheless approved by Mr Sadek at the end of June 2018.\textsuperscript{182}

98. For Yaraandoo, the changes were proposed in two stages,\textsuperscript{183} involving reductions of:

(a) 15.2 hours registered nurse hours a fortnight;
(b) 14 hours of kitchen and servery staff per fortnight;
(c) 14 hours per day of extended care assistant time; 8 hours in the day shift and 6 hours in the afternoon shift.

99. The second stage involved a further reduction of eight hours of extended care assistant time in four months, in the event that there was no ACFI uplift of $4 per resident per day.\textsuperscript{184}

100. Mr Sadek approved the changes, having rejected an earlier recommendation that involved reducing three ECA positions on the basis that that recommendation was too severe, would have caused industrial chaos and would have compromised the quality of care.\textsuperscript{185} He said that in approving the changes, he acted on ‘the recommendation of [an] experienced management team’.\textsuperscript{186}

101. Ms Robson also said that in the case of Yaraandoo, that was a recommendation by herself and Mr Crane ‘put to the finance budget committee on how to manage the operational losses of Yaraandoo based on an expectation from the board and the CEO

\textsuperscript{181} Transcript, Tammy Marshall, Hobart Hearing, 11 November 2019 at T6632.35-41.
\textsuperscript{182} Exhibit 13-2, Hobart Hearing, Southern Cross Care Tasmania Tender Bundle, tab 92, SCT.0013.0001.0074 at 0064.
\textsuperscript{183} Exhibit 13-2, Hobart Hearing, Southern Cross Care Tasmania Tender Bundle, tab 100, SCT.5003.0001.0075 at 0075.
\textsuperscript{184} Exhibit 13-2, Hobart Hearing, Southern Cross Care Tasmania Tender Bundle, tab 132, SCT.5002.0001.0014_E at 0057.
\textsuperscript{185} Transcript, Richard Sadek, Hobart Hearing, 12 November 2019 at T6826.40-6827.7.
\textsuperscript{186} Transcript, Richard Sadek, Hobart Hearing, 12 November 2019 at T6831.20-21.
which was reasonable, which was that services continued to be financially viable and not make a loss month after month.\textsuperscript{187}

102. According to Ms Robson, the Director of Clinical Care, Ms Wallace had nothing to do with the decisions made about rosters.\textsuperscript{188} Ms Robson said that she, Ms Robson, visited Yarandoo "regularly", however:\textsuperscript{189}

\[T\]he director of clinical care did not go up to that facility. We also had a quality coordinator who was meant to go up and support and do audits. That wasn't particularly forthcoming in that time.

103. Mr Sadek accepted that, in approving the reduction of hours at Yaraandoo, he relied upon assurances from Ms Robson that care was not going to be compromised, even though she was not a clinician.\textsuperscript{190} Further, Mr Sadek was clearly aware that Mr Anderson was a very inexperienced facility manager. The following exchange occurred during Mr Sadek's oral evidence:

MR BOLSTER: Right. So you had the – you had this proposal from Ms Robson who had no clinical role. The facility manager was someone who was very young and very inexperienced in the role. What gave you comfort from their assertions that this would have no clinical effect on the people at Yaraandoo?

MR SADEK: The advice that was not only given to me but also expressed to the executive management team meetings by the director of residential business services that appropriate support mechanisms are being put in place for him to act appropriately.

104. Mr Sadek subsequently said:

I was satisfied in respect of a report … that in August 2017 – '18, the accreditation audit had made a – undertaken a contact visit and assessed - undertook a review of eight outcomes and assessed them as being compliant. I was also comforted by the fact that at regular executive management team meetings there weren't any indications or expression of issues at Yaraandoo in a clinical sense. I was also satisfied that at audit and risk there were no major issues suggested. And in addition, I hadn't received,
105. However, when pressed on the issue of the complaints process at Yaraandoo, Mr Sadek accepted that it was virtually non-existent.192

106. Ultimately, when Mr Sadek was asked what had given him confidence in the assurance from Ms Robson, who did not have a clinical role, and Mr Anderson, who was an inexperienced facility manager, that the proposed reduction of hours at Yaraandoo would not impact on the quality of care, Mr Sadek said ‘Because I have the utmost trust in my managers’.193

107. On the evidence before the Royal Commission, it should be accepted that the decision to approve staffing changes at Yaraandoo in late June 2018 as part of the implementation of the Strategy was focused on financial considerations without an equivalent or sufficient assessment of clinical risks. In particular, the processes for measuring and assessing the clinical risk associated with the decision were inadequate, having regard to the following matters:

(a) the team responsible for the implementation of the Strategy at Yaraandoo, including the decision to recommend approval of reduction in care staff hours in June 2018, comprised:

   (i) Mr Crane and Ms Robson, two executive managers who did not have clinical qualifications; and

   (ii) Mr Anderson, an inexperienced facility manager;

(b) Mr Anderson felt under considerable pressure to implement staff reductions as part of the Strategy, which was presented to him, in particular by Ms Robson, as a necessity;194

(c) at the beginning of June 2018, Mr Crane queried with Ms Robson whether Mr Anderson was ‘complying under pressure’ with the Strategy, and wrote that there was a need for Mr Anderson to be ‘totally transparent about changes and whether

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193 Transcript, Richard Sadek, Hobart Hearing, 12 November 2019 at T6829.32-33. See also at T6831.20-24.
it will impact on his ability to deliver Quality of Care or put unreasonable burden on his staff';

(d) the Director of Clinical Care, Ms Wallace had nothing to do with the decisions made about rosters; and

(e) assessment of potential clinical risk associated with the staffing changes was limited because the Director of Clinical Care was not visiting Yaraando.197

2 December 2019

Paul Bolster

Zoe Maud

Counsel Assisting the Royal Commission

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195 Exhibit 13-2, Hobart Hearing, Southern Cross Care Tasmania Tender Bundle, tab 92 SCT.0013.0001.0064 at 0064.
197 Transcript, Pauline Robson, Hobart Hearing, 12 November 2019 at T6817.16-18.