Briefing paper for community stakeholders
Public hospital services in the ACT

Background

There is a need to enhance public hospital facilities on the north side of Canberra to accommodate the growing health needs of the ACT population over the next 20 years.

In October 2009, the ACT Government and the Little Company of Mary Health Care (LCMHC) announced in-principle agreement to a proposal for the ACT Government to purchase Calvary Public Hospital from LCMHC and for the ACT Government to operate the hospital. Purchasing the hospital would mean that the Territory would be able to capitalise the Calvary Hospital assets and that any future investment to expand the hospital would not result is a loss of the Governments accounting books.

The in-principle agreement included proposals to enable LCMHC to retain land on the Calvary Hospital campus at Bruce to enable a private hospital to be built and operated by LCMHC. The agreement also included a proposal for LCMHC to purchase Clare Holland House from the ACT Government on the strict condition that the Clare Holland House site continued to be used solely for the purpose of providing a public palliative care service.

Following the public consultation and opposition to this proposal from key stakeholders within the Catholic Church, LCMHC announced in February this year that it would withdraw from the in-principle agreement because it did not feel it was feasible to get the necessary approval from the Holy See to proceed with the sale within a reasonable timeframe.

Following this announcement, the ACT Government held extensive discussions with LCMHC to explore alternative options. The ACT Minister for Health met with LCMHC on a number of occasions to discuss possible options to enable a new proposal to be developed and carried out.

It was outlined to LCMHC that the preferred way forward for the Government, under the circumstances, would be for the Territory to purchase Calvary Public Hospital and for Calvary Health Care ACT to continue to operate the hospital under a renegotiated Operating Agreement. The Minister for Health also outlined that the Government would introduce legislation to the Legislative Assembly which would entrench the role of Calvary Health Care ACT under the new Operating Agreement with annual funding and performance agreements.

Extensive negotiations on this proposal occurred and the Chief Minister and Minister for Health met with the Archbishop as well as other representatives from LCMHC and the Catholic Church to further discuss an appropriate way forward that would be suitable to both parties.

Before proceeding further, the Territory sought advice, through Treasury, from PricewaterhouseCoopers on the accounting treatment of the draft Operating Agreement that had been developed through the negotiations.

In April 2010 the Australian Accounting Standards Board released an exposure draft (ED 194) of a proposed international public sector standard which proposed that the Government apply the same principles as private operators when accounting for service concession arrangements. Based on this exposure draft and the changes it proposed, PricewaterhouseCoopers provided accounting advice to the Territory on the proposed arrangement and advised that the proposed Calvary Network Agreement (the operating agreement) if signed would result in a service concession arrangement which meant that the Territory would be able to register the hospital on its accounting books as its asset and would not

need to buy the asset in order to achieve this. This would mean that the Territory would be able to capitalise the Calvary Hospital assets without legal ownership.

This advice was unexpected and significant and obviously changed the course of action for both the Government and LCMHC. There was no way the Territory could foresee this advice and given the obvious changes it posed, the office of the Auditor General was contacted to provide a view on the current arrangements. The Audit Office then engaged a major accounting firm, which was not PricewaterhouseCoopers, to provide it with advice on this issue and to review the advice received from PricewaterhouseCoopers. A final report was provided by the Audit Office in early July 2010 which confirmed that the Territory could choose to recognise a service concession asset in line with ED 194 and interpretation 12.

Following this advice, the ACT Minister for Health met with LCMHC and discussed this matter and the advice. This meeting was arranged to ensure that LCMHC was aware of the advice available to the Government and the implications of it.

LCMHC has advised that it does not support or agree with the Government's interpretation that the current Agreements constitute a service concession arrangement and LCMHC has sought its own legal and accounting advice, however LCMHC continues to disagree with the Government's interpretation.

Throughout this whole process the Government's main aim was to protect this investment for the Territory. If the Territory was to invest hundreds of millions of dollars into building new facilities on the Calvary Hospital site, under the previous advice and accounting standards that were in place at the time, this would have resulted in the Government gifting the facilities to LCMHC and not being able to capitalise on the investments made.

Analysis of Options

There are now four options available to the Government based on the circumstances outlined above.

Option 1

The first option available to the Government is to proceed with the Service Agreement in its current form. This option is being considered by the Government in the event the other options are not viable.

Option 2

LCMHC's preferred option is for it to maintain Crown Lease for the land, with a lease purpose clause that the land is to be used for hospital and ancillary purposes. The current wording around this proposal outlines that the Crown Lease would not be linked to any requirement for Calvary Health Care to provide public hospital services under an agreement.

A new Activity Funding Agreement (AFA) for the funding of public hospital services between Calvary Health Care and the Territory would be agreed or developed. On commencement of the AFA, all existing Agreements would be terminated. The specific details for the funding agreement are proposed as follows:

- The AFA will be for a fifteen year term. Finalisation of any negotiation for a renewal of the AFA must occur no later than two years before it expires.

- The AFA will contain an Annual Service Annexure which provides for agreed service level targets and caps and the resultant total funding.

- Calvary Health Care is responsible for the maintenance, repair or development of the Public Hospital assets (both external and new), and the Territory will provide Calvary Health Care funding for this purpose.

- The Agreement would contain an independent dispute resolution process.

In relation to new buildings required while an AFA is in place, Calvary Health Care would sub-lease to the Territory the portion of the Crown Lease upon which the buildings will be constructed. The sub-lease will be for 30 years, with the land reverting back to Calvary Health Care after that time. The Territory would not pay to receive the sub-lease. The Territory would lease the newly constructed buildings to Calvary Health Care under a building lease of 30 years and at the end of the 30 years the building belongs to Calvary Health Care for a "peppercorn" amount. Calvary Health Care would not pay for the lease so long as the building was used for public hospital purposes.

This is not considered a viable option for the Territory as the short term of the AFA, at fifteen years, provides uncertainty regarding assets created by public investment and would require the Territory to pay for LCMHC assets before the end of their useful life without adequate compensation. Further, the option of gaining access on a sub-lease and then sub sub-leasing it back to LCMHC appears to only serve the purpose of avoiding a service concession arrangement and there is no benefit for the Territory in supporting this option. The proposal also lacks specific details to establish the accounting treatment with a reasonable degree of certainty.

Option 3

LCMHC has expressed a view that it does not believe that Calvary Private Hospital is viable in its current form whereby it is imbedded within the public hospital. This arrangement, according to LCMHC, has created a number of inefficiencies which will ultimately render the private hospital unviable.

The Territory could therefore assist LCMHC in developing a stand alone private hospital as a public good investment. This would result in a private hospital being available on the north side of Canberra that does not have the same operating issues as the existing Calvary Private Hospital and free up all existing beds at Calvary (Private) Hospital for public hospital use.

If the Territory did wish to consider this option, it would need to consider that the cessation of the Calvary Private Hospital has an open timeframe and it is likely that in the interim the Territory would still need to purchase the additional beds required to service the public health needs of the community.

The issue of the jeopardy around the operation of the public hospital and the recognition of the asset is not resolved in this option.

It is possible to conclude that there may be a public benefit over a 10 year period to the ACT Government having a private hospital operating on a different site.

Option 4

The fourth option is for the Government and LCMHC to continue operating under the Service Agreement in its current form and for the Government to further undertake preliminary planning and analysis of the hospital requirements on the north side of Canberra. This planning would take into consideration the acknowledgment that there needs to be continued public and private hospital presence on the north side of Canberra.

The demand for public hospital services continues to grow and the Territory is already reaching the physical capacity limits within the public hospitals. There is a need to heavily invest in additional bed capacity in order to meet this demand.

Preliminary demand projection estimates have been undertaken in 2008. However, as part of the detailed planning work on long term hospital needs which has been running alongside the final CADP work, these demand projections will be revised upwards.

Under this option, the ACT Government would explore the idea of developing a new hospital on the north side of Canberra.

Under option 4, the Territory could maximise the opportunities for rational role delineation between facilities and create networked, cross territory services. It is possible that a network of three clearly delineated public hospitals could exist including:

- Canberra Hospital – this could remain as the central tertiary referral facility for the ACT and region with a capacity of around 860 beds;
- A third hospital situated on the north side of Canberra;
- Operation of sub/non acute beds for public patients from Calvary Hospital.

Further planning and analysis of this option.

The Government will continue to negotiate with LCMHC on the most financially appropriate way forward to deliver the best health system for the people of the ACT and surrounding region – both from a health planning point of view and financially – and seek the support of all stakeholders in progressing this matter to a point of finalisation.

The ACT Government remains committed to discussing the future health service delivery arrangements with all interested parties.