

TRANSCRIPT OF PROCEEDINGS

INQUIRY INTO THE COVID-19 HOTEL QUARANTINE PROGRAM

BOARD: THE HONOURABLE JENNIFER COATE AO

DAY 17

10.00 AM, TUESDAY, 15 SEPTEMBER 2020

MELBOURNE, VICTORIA

**MR A. NEAL QC appears with MS R. ELLYARD, MR B. IHLE,
MR S. BRNOVIC and MS J. MOIR as Counsel Assisting the Board of Inquiry**

**MR D. STAR QC appears with MS J. DAVIDSON, MR T. GOODWIN AND
MR J. HARTLEY for the Chief Commissioner of Victoria Police**

**MS J. FIRKIN QC appears with MS S. KEATING for the Department of
Environment, Land, Water and Planning**

**MS C. HARRIS QC appears with MS P. KNOWLES and MR M. McLAY for
the Department of Health and Human Services**

**MS J. CONDON QC appears with MS R. PRESTON and MR R. CHAILE for
the Department of Jobs, Precincts and Regions**

**DR K. HANSCOMBE QC appears with MS H. TIPLADY for the Department
of Justice and Community Safety**

**MR R. ATTIWILL QC appears with MS C. MINTZ for the Department of
Premier and Cabinet**

HOTEL QUARANTINE PROGRAM INQUIRY 15.09.2020
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Law in Order Pty Ltd
T: +61 02 9223 9200
W: www.lawinorder.com.au

MR S. STAFFORD appears for Mr Chris Eagle

MS R. WALSH appears for IKON Services Australia Pty Ltd and Mr Michael Girgis

MS S. McNICOL QC appears with MR E. NEKVAPIL and MR D. PORTEOUS for the Minister for Police and Emergency Services

MS A. ROBERTSON appears with MS E. GOLSHTEIN for MSS Security Pty Ltd

MR A. WOODS appears for Rydges Hotels Ltd

MR A. MOSES SC appears with MS J. ALDERSON for Unified Security Group (Australia) Pty Ltd

MR R. CRAIG SC appears with MR D. OLDFIELD for Wilson Security Pty Ltd

MS D. SIEMENSMA appears for Your Nursing Agency (Victoria) Pty Ltd

CHAIR: Good morning, Ms Ellyard.

MS ELLYARD: Good morning, Madam Chair. Before we start, as I understand it, today there are a couple of new appearances to be announced. First, as I understand it, there is an appearance to be announced on behalf of the Minister for Police and Emergency Services and I call on those representing the Minister to announce their appearance.

MS McNICOL QC: Good morning, Board. This is Sue McNicol and I act for Lisa Neville, who is the Minister for Police and Emergency Services.

CHAIR: Good morning, Ms McNicol, and thank you.

MS ELLYARD: I also understand there is an appearance to be announced on behalf of Mr Eagle, who will be a witness later today and I call on them.

MR STAFFORD: If the Board pleases, my name is Stafford and I seek leave to appear on behalf of Mr Eagle.

CHAIR: Thank you, Mr Stafford, that leave is granted.

MS ELLYARD: I will pause for a moment in case there are any other additional appearance, Madam Chair, of which I'm not aware. I'm conscious there may be other appearances announced later in the hearings. But if no one is coming forward, may I indicate the way in which I propose to proceed today.

CHAIR: Yes.

MS ELLYARD: There will be two witnesses called to give oral evidence. The first is Commissioner Andrew Crisp who appears, but before I call on Mr Crisp, I have given notice to the leave to appear parties of a proposal that certain documents be tendered, and I want to take the opportunity to tender them now.

The first is a statement of Mr Craig Lapsley, the former Emergency Services Commissioner and that document is WIT.0001.0049.0001. It has been on the hearing book and is available. It is relevant to your Inquiry, and I tender that document now.

CHAIR: Thank you. Exhibit 140.

EXHIBIT #140 - STATEMENT OF CRAIG LAPSLEY

MS ELLYARD: Secondly, there are some materials on the hearing book that reflect contact that has been had between the Board of Inquiry and the Commonwealth Government, relevant to matters --

CHAIR: Ms McNicol, are you appearing because you have something to say? You are on mute, Ms McNicol.

5 MS McNICOL QC: I beg your pardon. I simply wanted to add that I have two juniors, Mr Emrys Nekvopil and Mr Doug Porteous. Sorry.

CHAIR: Thank you.

10 MS ELLYARD: I will invite Ms McNicol to turn off her camera, as that matter has been resolved. I was saying, Madam Chair, that the Board has been in
correspondence with the Commonwealth Government regarding the extent to which they have information that they might be available to offer on a voluntary basis given
15 the Terms of Reference and the scope of the powers of the Board's Inquiry. I want to tender firstly a letter sent on behalf of the Commonwealth Government dated 10
September 2020.

CHAIR: Exhibit 141.

20

EXHIBIT #141 - LETTER SENT ON BEHALF OF THE COMMONWEALTH GOVERNMENT DATED 10 SEPTEMBER 2020

25 MS ELLYARD: Secondly, a voluntary submission made on behalf of the Commonwealth Government together with a number of attachments, all of which appear under that heading on the hearing book.

CHAIR: That voluntary submission and the attachments will be Exhibit 142.

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EXHIBIT #142 - VOLUNTARY SUBMISSION OF THE COMMONWEALTH GOVERNMENT, WITH ANNEXURES

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MS ELLYARD: Finally, for present purposes, before I call Commissioner Crisp, I have given notice of a proposal to tender the recordings of three meetings which occurred at the State Control Centre on 27 and 28 March, which relate to what became the Hotel Quarantine Program. They are all available in recordings in a redacted form, although I understand there may be applications in due course for
40 further redactions. May I give the document numbers and indicate that I propose to tender them as a bundle of three. The first recording is from 27 March. The document reference number is DOJ.511.001.001_R. The second is the recording of a meeting on 28 March at 10.00 am, document reference number
45 DOJ.501.001.8443_R. The third one, also of 28 March at 6.15 in the evening, is DOJ.501.001.8210_R.

CHAIR: Thank you. Those documents will be marked in a bundle as Exhibit 143.

**EXHIBIT #143 - RECORDINGS AND TRANSCRIPTS OF THREE
5 MEETINGS AT STATE CONTROL CENTRE ON 27 AND 28 MARCH 2020**

MS ELLYARD: May I indicate for the benefit of the leave to appear parties that
10 transcripts of those recordings are in the process of being prepared. I do not
understand that they are yet on the hearing book but they will be available in due
course as an aide-memoire to the recording.

CHAIR: And will attach themselves to that same exhibit?

15 MS ELLYARD: That is the proposal, Madam Chair, yes. We can let the interested
parties know when they are available.

CHAIR: So the recordings plus transcripts will be Exhibit 143.

20 MS ELLYARD: Thank you, Madam Chair.

With those preliminary matters done, may I call Commissioner Andrew Crisp and
invite your associate to take him through the formalities.

25 CHAIR: Commissioner Crisp was just on the screen and he appears to have
disappeared. Are you able to hear us, Commissioner Crisp?

I'm not sure what's happened there, Ms Ellyard.

30 MS ELLYARD: I understand there was some investigation of the potential for a
technical difficulty at the witness' end. I see Commissioner Crisp appears again.

CHAIR: Thanks, Commissioner Crisp. We just had momentarily lost the
connection to you, I'm told.

35 MR CRISP: My apology, Madam Chair.

CHAIR: Thank you. Commissioner Crisp, I'm sure you understand for the purposes
of giving your evidence you need to take a solemn promise and I understand you
40 wish to take the affirmation for that purpose.

MR CRISP: That's correct.

CHAIR: I will ask my Associate to administer the affirmation to you. Thank you,
45 Madam Associate.

ANDREW CRISP, AFFIRMED

EXAMINATION BY MS ELLYARD

5

CHAIR: Thank you, Commissioner Crisp, I'll hand you over to Ms Ellyard now.

10

MS ELLYARD: Commissioner, could you tell the Board your full name.

A. It's Andrew Stewart Crisp.

15

Q. You are the present Emergency Management Commissioner for the State of Victoria; is that right?

A. That's correct, Ms Ellyard.

20

Q. You have prepared a number of statements in response to requests that were made of you by the Board.

A. That's correct.

25

Q. There are three in total that I will take you to. Do you have copies of those three statements with you?

A. Yes, I do.

30

Q. Two of them bear the same date. May I take you first to the longer of the two statements, dated 14 August 2020, which is document DOJ.600.002.0088_R. Have you got a copy of that longer statement with you, Commissioner?

A. Yes, I do, Ms Ellyard.

35

Q. Are the contents of that statement true and correct?

A. They are.

40

EXHIBIT #144 - FIRST STATEMENT OF ANDREW CRISP

45

MS ELLYARD: In that first statement, Commissioner, you refer to documents by a number of ID numbers using the Inquiry's document management system. Are those the documents to which you have had regard and which you would wish to form part of the evidence contained in the first statement?

A. That is correct.

5 Q. I tender those documents, being attachments to the first statement of Commissioner Crisp.

CHAIR: Exhibit 145 will contain the attachments to the first statement.

10 **EXHIBIT #145 - ANNEXURES TO FIRST STATEMENT OF ANDREW CRISP**

15 MS ELLYARD: You have made a second statement of the same date, which is DOJ.600.002.0001_R. Have you got a copy of that second shorter statement?

A. Yes, I do.

20 Q. It is a statement of some two pages within an annexure, which has been marked as annexure A?

A. That's correct.

25 Q. Are the contents of that statement, together with the annexure, true and correct?

A. Yes, they are.

Q. I tender that second statement with the annexure, Madam Chair.

30 CHAIR: Exhibit 146.

EXHIBIT #146 - SECOND STATEMENT OF ANDREW CRISP

35 MS ELLYARD: Finally on this point, Commissioner, you have provided the Board more recently with a third statement, dated 12 September 2020.

40 A. That's correct.

Q. You have that statement in front of you?

A. I do.

45 Q. Are the contents of that statement true and correct?

A. They are.

Q. I tender that third statement, Madam Chair, document ID DOJ.600.003.0005.

CHAIR: Exhibit 147.

5

EXHIBIT #147 - THIRD STATEMENT OF ANDREW CRISP

10 MS ELLYARD: In that third statement, Commissioner, you again refer to some documents which I understand you would wish to be taken as part of your evidence as contained in that statement.

A. That's correct, yes.

15

Q. You have also provided to the Board, in addition to those specific exhibits, a number of other documents largely comprising text message extracts, in some cases with redactions, which are relevant to the Board's terms of inquiry; is that right?

20 A. That's correct.

Q. Those exhibits and additional documents, Madam Chair, are contained in the folder on the hearing book as the attachments to the third statement and I tender those documents.

25

CHAIR: Exhibit 148 will be the bundle of attachments to statement number 3 of Commissioner Crisp.

30 **EXHIBIT #148 - ANNEXURES TO THIRD STATEMENT OF ANDREW CRISP**

35 MS ELLYARD: Commissioner Crisp, the Board has heard already through a number of other witnesses in general terms about the existence of an emergency management structure and framework in Victoria. In your first statement at paragraphs 4 and following you set out some of your particular duties and then the roles that Emergency Management Victoria plays, particularly with reference to pandemics. Can I ask you briefly to summarise for the Board what is the function and role of Emergency Management Victoria as an agency.

40

A. Emergency Management Victoria as an agency, it is an agency of only two people, that is, the CEO and myself. But its staff actually provide support to me to acquit my responsibilities as Emergency Management Commissioner.

45

Q. So the agency itself only has the two employees but it has available to it resources from across relevant Government Departments; is that the position?

A. It does have its staff but in technical terms, in terms of their employment, it's through the Department of Justice and Community Safety.

5 Q. Why do we have Emergency Management Victoria, what is its remit?

A. We have got to go back in history, in terms of the emergency management situations the State has faced over many, many years. I guess to bring it back to some more recent times, if you go to 2009 and with the Black Saturday fires, so as a
10 result of the Royal Commission, and then if we follow that up and then we had the significant floods in 2010 and 2011, and there was a white paper written as a result of those events. So after the fires we moved to having a role of the Fire Services Commissioner. Then with the floods and the white paper, it was thought there was a
15 need for an all-hazards, all-emergency approach in the State. Subsequently the *Emergency Management Act 2013* --- the original Act is the 1986 version, so 2013, then put into effect the arrangements that we have at the moment. What it primarily aims to do is to ensure that there's clear accountability in relation to those that have an emergency management role and that it is an opportunity to ensure that everyone is focused on, primarily, as it should be, keeping our community safe.

20 Q. One of the documents that you have produced as part of the attachments to your initial witness statement is the Emergency Management Manual, a very substantial document that has a number of different sections, some of which I will come to in more detail. Firstly as a general question: having regard to the evidence you have
25 just given, what is the role and purpose of the Emergency Management Manual?

A. I think quite simply it operationalises the legislation. So it sets out, whether it's in the State Mitigation Plan, the State Emergency Response Plan, the State Recovery Plan, roles, responsibilities and functions of those that again aim to deliver that
30 overall outcome of keeping the community safe. So it operationalises the legislation.

Q. It does so, as I understand it, under three key themes of mitigation, response and recovery.

35 A. That's correct.

Q. With each of those being the three separate stages that need to be planned for and dealt with in relation to any emergency or potential emergency?

40 A. That's correct.

Q. Can I ask you about the potential interaction of the *Emergency Management Act* and Emergency Management Framework, with the Act under which the Board has heard a State of Emergency was declared in relation to COVID-19 and the Act under
45 which certain actions were then taken. The evidence is that a State of Emergency was declared under the *Public Health and Wellbeing Act*, quite a different piece of legislation, and that various steps that were subsequently taken were taken pursuant

to powers and decisions made by the Chief Health Officer and others. Does the existence of that separate source of power to declare an emergency have any impact on the relevance or otherwise of the Emergency Management Manual and the frameworks that you are involved in?

5

A. We certainly have to be conscious of the two pieces of legislation and how they interact. So there's very clear roles and responsibilities for the Chief Health Officer under the *Public Health and Wellbeing Act* and then once a State of Emergency is enacted, and again we are just very conscious of how we ensure that works, and the *Emergency Management Act* supports the overall health emergency.

10

Q. So the Emergency Management Framework established under the *Emergency Management Act* is still the framework available to be used; is that right?

15 A. Yes.

Q. In the event a State of Emergency is declared under different legislation?

A. That's right. A State of Emergency could be declared and you would not look to the --- there's no requirement, if a State of Emergency is declared under the *Public Health and Wellbeing Act*, for anything to happen in relation to the *Emergency Management Act*. It's just that's the way they should work together. Again, the *Emergency Management Act* provides a useful framework and as we have seen through this emergency, under which various actions and operations have come together.

20

25

Q. We mentioned a short time ago that the Emergency Management Manual operationalises, to use your word, the emergency management legislation under these three key themes of mitigation, response and recovery. Thinking in particular about the way in which the hotel quarantine system was ultimately established under the Emergency Management Framework, was it a mitigation activity, a response activity or a recovery activity, as you saw it?

30

35

A. I saw it as primarily a response activity.

Q. So can I perhaps ask you to explain what's the difference between response and the other two limbs of emergency management planning?

40

A. So mitigation is what is done to, as best we can, mitigate the impacts of a particular emergency. Response, as indicated, is very much about the here and now and how we respond to an actual or imminent event. And then the recovery is what is needed to be done to enable the community to recover as a result of that emergency.

45

Q. Thank you. Chapter 3 of the Emergency Management Manual, has, as I understand it, the State Emergency Response Plan, so the plan for the response phase of any emergency. I will ask that that be brought up on the screen so I can ask

you some questions about it. The document --- particular reference within the document is DJP.600.001.0555. The document starts at 0501, but if we could go to page 0555, Mr Operator.

5 While that is being brought up, Commissioner, the page that I'm going to be taking you to, which is DOJ.600.001.0555, refers to the State Emergency Response Plan and to subplans. I take it you are familiar with that?

A. Yes, I am, yes.

10

Q. What is the distinction between the emergency plan itself and subplans?

A. So if we want to use, for example, for the State Health Emergency Response Plan, where it might be relevant to a particular sector, as obviously the SHERP is, and it sits as a subplan of the State Emergency Response Plan. It provides, I guess, some greater detail, more specific detail, in relation to the potential emergency.

15

Q. Thank you. We have now had brought up the page number. In the middle of the page we see there is a reference to the SERP, the State Emergency Response Plan, which comprises part 3 and part 7 and the appendix, and then the subplans. Is that right?

20

A. That's correct.

Q. Can I ask, Mr Operator, that we move to page 0557 in the same document, just a couple of pages along. We see here a number of, effectively, definitions. There's a reference to emergency response and there's a distinction that is then drawn between emergencies and major emergencies. Can I ask you to speak to that distinction, please, Mr Crisp?

30

A. Just with regards to where there's a greater --- a likely greater impact on the community as a whole.

Q. So who makes the assessment of whether an emergency has reached a level of impact that it becomes a major emergency?

35

A. So there's criteria around fires, you know, so one of the criteria around that is where it's likely to not be extinguished within 24 hours. But with this --- it's not a declaration as such, it's just as a result of what the impact is or the potential impact is.

40

Q. So it doesn't of itself make any difference to the way a response is organised or implemented, the fact it is a major emergency as opposed to an emergency?

A. No.

45

Q. Can I ask, Mr Operator, that we go over to page 0561 in the same document, so a

few more pages along, and zero in on a diagram that is shown on that page. We see here, Commissioner Crisp, a document which refers to issues of command, control and coordination.

5 A. That's correct.

Q. There are then definitions of each of those things that follow. Perhaps while we have this diagram on the screen, can I ask you please to describe to the Board the difference between coordination, control and command in an emergency
10 management context.

A. So control is --- if we want to use this current example, so with the Department of Health and Human Services being the control agency, they are responsible for the response to this particular emergency. So they are the control. So that's control and that can operate across a number of agencies because they could be in support of the
15 Department of Health and Human Services in relation to control.

Coordination is bringing together all those resources and those agencies and departments to work in support of the control agency.

20

And then command is that line of command that sits within a particular --- within a control agency, so DHHS will have their own command structure, as will other --- Victoria Police will have its own command structure in relation to how it will support the control agency.

25

Q. If we go a couple of further pages over, Mr Operator, to the document ending 0564, a couple of pages on in the same document, there's a heading "Class 2 emergencies" and a diagram. We see the issues of coordination, control and command reflected in a different way. Perhaps can I ask you, Commissioner, by
30 reference to the particular case that we are dealing with, the Hotel Quarantine Program, how do these three levels of responsibility work?

A. Going to control, so the class 2 State Controller for this emergency is the Department of Health and Human Services and was for Operation Soteria. So the
35 command is then housed in the Department of Health and Human Services as the control agency structures itself to deliver against the outcomes of that particular operation. The coordination is the piece with the other agencies that are working in support of DHHS, so whether --- again, if it's Victoria Police or Department of Jobs, Precincts and Regions or any other organisations and agencies, so how they
40 coordinate in relation to supporting the control agency.

Q. Thank you. That can come from the screen, Mr Operator, but we will come back to this document again momentarily.

45 There is some evidence that is going to be given later this week, Commissioner, from those who had the role of State Controller - Health, drawing a distinction between the terms controller and command, so saying words to the effect, "I was the controller

but it didn't mean I was necessarily in command." Can I ask you to explain whether that distinction is a relevant one or one that you can understand being sought to be made by people who were the controller?

5 A. I'm not aware of any evidence along those lines, or what might be presented to the Inquiry. But for me, control and command are two very different parts of an emergency.

10 Q. So to take this example, as I understand it, there would be a line of command within DHHS and a line of command in any other agency involved in the program.

A. That's correct.

15 Q. Each of them would then be controlled or subject to the authority of the controller in a relevant sense; is that right?

A. Yes. If it's --- yes, that's correct.

20 Q. And then there's also the coordination role that would be being played, in this case by your organisation, to ensure that all of those relevant command structures were brought together and managed in an appropriate way?

25 A. Yes, working with the State Controller to ensure that they are supporting, there is coordination.

30 Q. Can I ask you about the role of class 2 controllers and we will come in a moment to the issue of class 1 and class 2. If we could have back up the same document on the screen, that is DOJ.600.001.0089, a few pages further on from where we left the matter. We see here a reference to the class 2 State Controller and the duties or responsibilities of the State Controller. As I understand it, the State Controller in any emergency sits above any particular incident, is responsible for the overall response to the emergency; is that right?

35 A. That's correct.

40 Q. There is again going to be some evidence given to the Board tomorrow, in part by Mr Helps, who was one of the people who had the role of class 2 State Controller, about the distinction that might exist between the role of a class 2 Controller and the role of a class 1 Controller. His evidence is going to be that the title of State Controller could be confusing because it might give the impression that someone is in charge, the way they would be in class 1 but in fact they are not relevantly in charge in class 2. You may not be aware of that particular evidence. But can I ask you: the title State Controller does give the impression of being in charge. Are they in charge?

45 A. Are they in charge of? Sorry?

Q. Of the response to the emergency?

A. So they are in charge of --- the way it's actually unfolded --- to certain parts of the response.

5

Q. Okay. Is there a distinction that you would draw too as, as I understand it, Mr Helps will draw in his evidence, between the level of charge or control that someone has as a class 2 controller, paired, for example, to a controller of a class 1 emergency, like a fire?

10

A. Yes. That's definitely what I have observed through this particular emergency, if I want to compare it with some --- the recent fires that we had, and a class 1 State Response Controller and their responsibilities, it is somewhat different to a State Controller in this particular class 2 emergency.

15

Q. Can I ask you about Incident Controllers, by going to page 590 in this same document, Mr Operator. Down the bottom, there's a role in the hierarchy of response arrangements for an Incident Controller and between the Incident Controller and the State Controller there is sometimes a Regional Controller, as I understand it, depending on the nature of the emergency. In the context of the Hotel Quarantine Program were there incidents in the way in which we might understand that term in a flood or a fire context?

20

A. One way that you could look at the hotels would be as an incident. So when we think about this overall emergency, the State is almost the incident. However, you can break that down by way of structure, as has happened to other parts of this emergency, where we have had outbreaks say, in the Colac area, where again an incident management team has been established.

25

Q. So one could think of --- it would be arguable whether or not this was done in the context of hotel quarantine. On one view any location where quarantine was occurring could be understood to be an incident within a broader emergency; is that right?

30

A. Yes, it definitely could be regarded that way.

35

Q. But at the same time one could also regard the incident as occurring all through Victoria, and the whole of Victoria being the incident?

40

A. That's correct.

Q. Can I turn then to the question of control agencies and support agencies about which the Board has already heard something, and I do so by moving within the same document, Mr Operator, to page 0717. That is a part of the manual now in chapter 7, Commissioner, where the responsibilities of different agencies are set out.

45

There is a difference between the agency that is the control agency and the agency

that is the support agency. As a matter perhaps of philosophy or principle, why is that distinction a distinction that is drawn?

5 A. It is always very important to know who is in control, who is running a particular operation, and the distinction is which other agencies are providing support to the control agency.

10 Q. If we go over to the next page, 0718, we see on that page and the succeeding page --- and perhaps if it is possible, Mr Operator, to show both pages at once, though it may not be --- a list of potential emergencies and identification of who will be the control agency for each emergency.

A. That's correct.

15 Q. All emergencies are classified as being class 1 or class 2.

A. That's correct. Yes. There is a class 3 but I know we are more focused on 1 and 2.

20 Q. We see, for example, if one looks to the second of the two pages under the heading "Plague or epidemic or contamination", there is a reference to human disease, with DHHS as the control agency.

25 A. It is --- sorry, it's just under --

Q. It might be hidden by your screen. But as I understand it, it is not controversial?

A. Yes, I have read it so I'm aware of that.

30 Q. Are you able to explain the process by which there was this allegation of responsibility for the purposes of this table of different potential emergencies to different agencies?

35 A. I'm not exactly sure when that was undertaken. So I'm sorry, I really can't add too much more to what we are looking at in front of us now.

40 Q. Would it be fair to say, as one looks at it, that it appears that potential emergencies have been allocated to agencies that might be thought to have pre-existing expertise and/or pre-existing readiness to respond to such an emergency?

A. That's the way it appears, Ms Ellyard.

45 Q. So, for example, the SES, if we look at the first page, is the control agency for an earthquake, a flood or a landslide?

A. Yes.

5 Q. If we go over to pages 721 to 726 in the same document, perhaps starting with page 721, Mr Operator, chapters 6 and 7 of the manual go on to allocate responsibility not only for response, which is what we have just been looking at, but also for relief and recovery efforts. You are aware of that, I take it, Commissioner Crisp?

A. That's correct.

10 Q. As I understand it, there will often be a distinction between who might be the control agency for the purposes of a response and then who will be responsible for support and then relief and recovery; is that right?

A. That's correct.

15 Q. So, for example, if we look at the support services for a response, firstly, there's an allocation of primary responsibility or presumed responsibility for response activities, again it would appear, based on who has pre-existing knowledge or expertise?

20 A. That's correct.

Q. And then if we go over to subsequent pages, please, Mr Operator, there is a heading "Assistance and agencies for relief and recovery" and that is the third of the three phases with which the Emergency Management Manual is concerned; is that right?

A. That's correct.

30 Q. There are the subsequent pages which we don't need to go to. Allocation is given of different responsibilities to different agencies. We see, for example, DHHS referred to in a different context, the context of relief, in certain cases.

A. That's correct, yes.

35 Q. One way that might work in practice is, for example, if we think about a fire, DHHS is not the control agency for the fire but they do have potential responsibilities either as lead agency or support agency in the relief effort?

40 A. Yes, that's right. They can be both the control agency --- well, they can be the control agency and a support agency.

Q. Perhaps just a close-up on this issue, can I ask that we go in this same document to page 0761. This is the heading in chapter 7 which spells out the various roles in prevention, mitigation, response and relief that the Department of Health and Human Services will have?

A. Yes, that's correct.

Q. Under the heading "Response Activities", it refers to the fact it is the control agency for human disease and epidemics?

5

A. That's correct.

Q. It also has to work through the State Health Emergency Response Plan, which you have described as a subplan, to ensure coordinated health and medical responses to emergency incidents?

10

A. That's correct.

Q. And direct the strategic health response, amongst the other responsibilities that it's given?

15

A. That's correct.

Q. If we go to page 0764, we see a similar allocation of responsibility for the Department of Jobs, Precincts and Regions. Is that right?

20

A. That's correct.

Q. And so, for example, we see under the heading "Response Activities" if there's an agricultural or chemical contamination or a biosecurity issue in relation to animal or pest outbreaks, it would be the DJPR that took the control agency role in any response?

25

A. Yes, as they are at the moment for avian influenza.

30

Q. Thank you, the document can come from screen. As I think perhaps you have already agreed with me, Commissioner Crisp, it appears that the decisions that were made about the allocation of control agency roles and the decisions that were made about the allocation of support agency roles were made according to what might be expected to be the expertise of the relevant agencies. Would that be fair comment?

35

A. That's correct.

Q. If that's true for which agency is going to be given control, would you also expect or does the Emergency Management Framework contemplate that those who are given particular roles within a control structure or within a command structure will also have what I'll call subject matter expertise?

40

A. Sorry, could you repeat the question?

45

Q. Certainly. You have agreed with me that the Emergency Management Manual appears to contemplate that the control agency for any particular emergency will be

the agency with the best fit of pre-existing skills and readiness?

A. That's right, as an agency or organisation.

5 Q. And whoever is the control agency is then the one who appoints the State Controller and has relevant command responsibilities; that's right, isn't it?

A. For a class 2 emergency, that's correct.

10 Q. For a class 2 emergency. So my question is: in your view, does the Emergency Management Framework contemplate or assume that individuals given responsibilities within that class 2 emergency will themselves have, as their agency overall has been deemed to have, relevant subject matter expertise?

15 A. They should have the expertise to acquit the role and function that's given to them.

Q. Paragraph 13 of your first statement, you refer in response to a question that was asked of you to a number of plans or pieces of pre-existing work that were available
20 as at the time of the COVID-19 pandemic or the Hotel Quarantine Program and which were in place by way of activity planning or structure ahead of the Hotel Quarantine Program. I want to take you just to a couple of them. Firstly, to one you have already mentioned, which was the State Health Emergency Response Plan, one of the subplans that sits under SHERP. That is a document which has the following
25 document ID, and I'll ask that it be brought up: DOJ.600.001.1026.

This is the plan that you have annexed to your statement and that we have already touched on, Commissioner Crisp

30 A. That's correct.

Q. It is a document which has a particular focus on the Victorian health system and on the way in which the health system will prepare for and respond to health emergencies.

35

A. That's correct.

Q. If we can go to page 1037 within this document, there is a reference there to various types of health emergencies, and including, firstly, public health emergencies
40 where DHHS is the control agency, the final dot point under that heading is:

Human diseases such as communicable diseases, gastro and respiratory outbreaks

45 A. That's correct.

Q. Perhaps for the avoidance of any doubt, the coronavirus and COVID-19 would be

understood under the Emergency Management Framework and under this plan to be a public health emergency where DHHS is the control agency?

A. Correct.

5

Q. And then if we go on in this document, firstly, to page 1054 and 1055 --- if they could be displayed side by side, we will go to page 1054 first, to make it legible. This table is headed "Key functions in a health emergency (DHHS as both control and support agency)". We see there a table which has a table for functions where DHHS has the role of control agency and one where DHHS is a support agency?

10

A. That's correct.

Q. There is a reference firstly to you?

15

A. Yes.

Q. And the function you play where DHHS is the control agency. It gives a summary there of what you would do. In practical terms for a health emergency, what level of day-to-day responsibility would you as Emergency Management Commissioner have in the operation of a class 2 emergency --- the response to a class 2 emergency?

20

A. It's varied, depending on I guess the phase or the stages of this particular emergency. From --- I remember being in communication with the Chief Health Officer back in January, just --- I think it was the day before we had our first case. Not long after that, I think on 2 February, I chaired a State Emergency Management Team meeting when it looked as though we were going to have a number of cases, so that was very early in relation to getting together agencies and departments, for them to review their business continuity and pandemic plans and better understand interdependencies across those various plans. That was very, very early days. As we moved into more of I guess the response and the operational phase, I have undertaken my role in relation to coordination on a number of occasions when various operations have had to be established and I have worked with and supported the State Controller in relation to establishing a number of those particular operations. So it has varied depending on the phase of the emergency.

25

30

35

Q. The next function on that page refers to the State Controller, and this is the State Controller for a class 2 emergency, to use the terminology of the Emergency Management Manual. The SHERP contemplates that the Secretary to the Department of Health and Human Services will appoint the State Controller and then under those dot points there it says that the Public Health Commander will be appointed State Controller for identified public health emergencies, and then the presumption is that in other cases it will be the State Health Coordinator.

40

45

A. That's correct.

Q. If we then go over to the next page, which is 1055. The second function there is the Public Health Commander, so we have just seen that the assumption or this table suggests that in identified public health emergencies the Public Health Commander will be the State Controller. We see here that the SHERP contemplates that the
5 Public Health Commander function is performed by the Chief Health Officer ---

A. That's correct.

Q. --- who reports to the State Controller but it appears, if we read these two bits of
10 the table together, the Public Health Commander might also be the State Controller in Public Health emergencies.

A. Yes, it could be read that way.

Q. I don't know if you have had drawn to your attention, Commissioner Crisp, the
15 statement of Mr Lapsley, your predecessor, which I tendered shortly before your evidence began this morning.

A. I have read that statement.

20

Q. We don't need to bring it up, but at pages 16 to 18 of his statement he gives some evidence about why it would be that a person in the position of the Chief Health Officer would be appointed the State Controller. I'll just --- his statement includes, at page 18, in answer to a question, "Why was the Chief Health Officer as Public
25 Health Commander stated in the SHERP to be appointed the State Controller? Were there particular skills that made that appear to be an appropriate plan?" He refers to the fact that they are the most senior and primary public health officer in the State of Victoria and as the most senior doctor in Victoria, they have been appointed by the Secretary to that role and that that's why, in Mr Lapsley's understanding, there was an
30 assumption that the Chief Health Officer would be the State Controller in a health emergency.

Are you aware of --- perhaps from your own discussions or involvement --- of why it was that the SHERP was set up in this way, with the perhaps assumption that the
35 Chief Health Officer would be the Public Health Commander and/or the State Controller?

A. No, I haven't had any discussion with anyone about the rationale of what's in the SHERP.

40

Q. Perhaps it would be consistent with the rationale that exists in other parts of emergency management planning, that responsibility is given to those who have appropriate subject matter expertise for the task that is required to be done?

45 A. I can certainly understand why it's written this way in the SHERP.

Q. Mr Lapsley goes on in his evidence, in answer to question 12, at the bottom of

page 18, that in his view, on first principles, it would be prudent to appoint someone with public health experience or medical qualifications, but perhaps not necessarily a doctor, perhaps the Chief Nurse and Midwifery Officer or a Deputy Chief Health Officer or a Senior Paramedic, but in any event someone with health expertise.

5 Would you agree with the general principle that that makes sense to appoint someone to the role of State Controller for a health emergency, someone who has health expertise?

10 A. Again, I can understand why the SHERP says what it says in relation to the role of the Chief Health Officer being the State Controller.

Q. Because in part it turns, I suggest, on the question of: what is the necessary skill set of the State Controller, what is the State Controller going to be doing?

15 A. I agree. And we see that change throughout the different stages of this particular emergency.

20 Q. And can I ask you perhaps to provide us with some evidence of the contrast that might exist, if we step away from a class 2 emergency and think about a class 1 emergency, like a fire, where there's a slightly different arrangement, the State Response Controller is not a State Controller but performing, as I understand it, a very similar function. What is the process by which potential State Response Controllers for a fire are identified and then appointed?

25 A. So the role of appointing State Response Controllers --- and again, it's based on their expertise and experience for managing major emergencies. And when we talk about class 1 emergency, it's fires, or those emergencies where one of the fire agencies or the SES is the control agency.

30 Q. Would it be reasonable to expect that anyone who is appointed the State Response Controller in response to, for example, a major fire, would be likely to have had firefighting experience?

35 A. Yes, that's correct. However, there are occasions where the State Response Controller is a senior member of the State Emergency Services.

40 Q. And by a senior member of the State Emergency Services, meaning someone who has experience perhaps in other kinds of natural disasters but not necessarily specifically fires?

A. That's correct, and experience in managing a major operation.

45 Q. Is there in your observation sometimes a tension then between the skillset required to manage an operation, which might be thought of as general logistical and management skills, and the skillset particular to the emergency, so whether or not someone actually knows about fires?

A. Yes, that is correct. You can have the technical experience and expertise but it is also that piece about how to manage and how to run an operation.

5 Q. Thank you. That can come from the screen now, thank you, Mr Operator.

You say in your first statement, Commissioner Crisp, that you are aware of the fact that in this case when a State Controller - Health for the class 2 emergency was appointed, it wasn't the Chief Health Officer, it was somebody else.

10 A. That's correct.

Q. And as I understand it that wasn't a decision or an appointment that gave you concern at the time?

15 A. No, it didn't. The rationale was explained to me and I agreed.

Q. When you say the rationale was explained to you, who was it who explained the rationale and what was it?

20 A. It was Deputy Secretary Melissa Skilbeck, who explained that given the current obligations and responsibilities of the Chief Health Officer, it would possibly be difficult for him to assume the role of State Controller.

25 Q. As far as you are aware, had there been a State Controller appointed for a class 2 health emergency prior to this year?

A. Not --- not in the two years that I've been in this role.

30 Q. In the two years you have been in this role, this was the first time that there was a health emergency, a class 2 health emergency, as contemplated by the emergency management arrangements?

A. That's correct.

35 Q. And as I understand your evidence, you were told that the assessment had been made that having regard to the Chief Health Officer's other functions, he might not have the necessary time or capacity to undertake the State Controller role?

A. That's correct.

40 Q. And although I take it you were aware at the time that there was this assumption in the SHERP, the particular State Health Emergency Response Plan, there was an assumption that it would be the Chief Health Officer?

45 A. That's correct.

Q. But you were satisfied by the reasons that you were given by Ms Skilbeck?

5 A. Yes, I was satisfied by the reasons that were given by the Deputy Secretary. But it's also been about how do you ensure that connection between public health and if you want to term it, sort of the loose management arrangements and how we were structured. Again, I had to be satisfied that there was that connect between the State Controller and Public Health.

10 Q. If we use the model that we have discussed and the diagrams that we have looked at before, DHHS as the control agency had appointed their State Controller who wasn't someone with public health expertise. Would you therefore have had the expectation that within their command structure they would ensure that appropriate public health knowledge was available to those carrying out the command and then the control functions?

15 A. Yes, that's correct, sort of their command structure, as you put it, quite rightly.

Q. So within the DHHS command structure it was your expectation that there would be appropriate availability of public health expertise?

20 A. Yes, there's the Public Health Incident Management Team that sits within the Department of Health and Human Services. There is also the State Health Incident Management Team which works across the health services, and then when the State Control Team, it comprises both the --- it comprises the Chief Health Officer, the Public Health Commander, the State Health Coordinator, and the State Health
25 Commander.

Q. So perhaps, picking up your reference there to the State Control Team, we are talking about a class 2 emergency that has been declared for the whole of Victoria and in respect of which I think, as of early February 2020, two State
30 Controllers - Health had been appointed?

A. That's correct.

35 Q. Consistent with the existence of that emergency and those appointments, there was a State Control Team at which those controllers are represented but also the Chief Health Officer was a member of that control team; is that right?

A. That's correct.

40 Q. And that was a team responsible not merely for the matters connected with hotel quarantine, with which the Board is concerned, but the management of the class 2 emergency more generally?

45 A. That's correct.

Q. Can I turn to a different topic, and by directing your attention to paragraphs 26 and 27 in your initial statement, where you describe firstly being consulted by the

Minister for Health in advance of her decision to declare a State of Emergency and then give evidence of the advice you yourself gave the Premier a couple of days later to declare a State of Disaster. Do you recall that in your evidence?

5 A. Yes, I do.

Q. We now know that a State of Disaster was more recently declared. But can I ask you to explain, what was the difference between a State of Emergency and a State of Disaster, so that although you knew a State of Emergency had been declared on 16
10 March, you were a few days later writing to the Premier giving your advice that it would be open to him to declare a State of Disaster.

A. Yes. That's correct, Ms Ellyard. So we look at I guess the threshold around significant and widespread dangers to the public. I believe that threshold had been
15 met. It's also then about the powers available under a State of Disaster and whether they would have been of value with regards to where the emergency was at that particular time. I was also mindful of the declaration of a State of Disaster during the fires, where it sent I believe a very strong message to the community about the seriousness of what the State was confronting with fires, so some of it was definitely
20 around messaging, but it was about --- that was the first time a State of Emergency had been declared and the State of Disaster would have provided additional powers, if it was found to be that there was a gap with regards to anything within the State of Emergency.

Q. So when you say it was the first time, I think you mean it was the first time that a State of Emergency in relation a disease emergency had been declared under the
25 *Public Health and Wellbeing Act*?

A. That's correct, a health emergency.
30

Q. Am I right in understanding that your assessment was that there was the potential for, firstly, the availability of additional powers that might plug any gaps if there was a State of Disaster but also a reinforcing for the community of the significance of the disease that was facing the community, if it was called a disaster?
35

A. That's correct.

Q. Would it have made any difference --- and we know from your statement that the Premier responded to you at that time, at the end of March or early April, indicating
40 that he wasn't minded to declare a State of Disaster, but later on, in August, you made a similar recommendation again and he accepted your recommendation. But as at 27 March when the Hotel Quarantine Program was established, would it have made any difference to control and command arrangements if we had been in a State of Disaster as opposed to a State of Emergency?
45

A. That would have been a decision for the Minister for Emergency Services, and I'm not sure, based on that, that scenario, what the answer would be.

5 Q. So would it have made a difference, for example, if the Hotel Quarantine Program was being set up, would there have been the need for some decision-making about whether responsibility for that was going to lie with your Minister, the Minister for Emergency Services or with the Minister for Health and the Department of Health and Human Services?

10 A. If we are already in a State of Disaster and there was an operation being established, I'm sure the Minister for Emergency Services would want to be consulted in relation to the control arrangements for that particular operation.

15 Q. Assuming that she --- I understand, this is now a hypothetical --- but were she to be consulted, would you have been having regard to the allocation of responsibilities for different kinds of emergencies that we have been looking at in the Emergency Management Manual in giving her advice about who should lead the Hotel Quarantine Program?

A. Yes, that would be part of the briefing I would give to the Minister.

20 Q. Can we turn then now to the events of 27 March and following, Commissioner, which you in part deal with in your third statement, your most recent statement, of 12 September. In that statement you refer to being present at a meeting --- this is paragraph 5 of your statement, and I gather you have had your memory refreshed by reading certain notes that you made at the time?

25 A. That's correct, Ms Ellyard.

30 Q. And you now recall that you became aware that there was going to be a Hotel Quarantine Program in a meeting with Minister Neville that you believe took place before the formal announcement by the Prime Minister that there was to be such a program?

A. That's correct.

35 Q. Are you able to say what was the context of that meeting, was it one called specially or was it a standard meeting that you had with the Minister?

A. It was a standard meeting I had with the Minister.

40 Q. And who else, from your recollection, was present at that meeting?

45 A. From my recollection, the Chief Commissioner of Police, Graham Ashton at that time; the Deputy Secretary in the Department of Justice and Community Safety; and an acting Deputy Secretary CEO of Emergency Management Victoria.

Q. You say that you now recall you first learned of the program in that meeting. Can you recall from whom in the meeting you learned that there was to be an

announcement of a Hotel Quarantine Program?

A. Only based on the brief notes I made in my logbook on that day, that I believe that it was Minister Neville that briefed us in relation to the program.

5

Q. That it was going to be established?

A. That's correct.

10 Q. Outside of the note that you have made, do you have any recollection of the details, if any, that were discussed in that meeting about what the program was going to involve?

A. No, I don't.

15

Q. So there's a note that you have made to the ADF and to private security, as I understand it, in what I understand to be the notes you took during that meeting with Minister Neville and others. Are you able to recall what those notes were about? No, I'm sorry, I can't. Q. Have you had your attention drawn to the

20 statement of the then Chief Commissioner of Police, Mr Ashton, who is going to be giving evidence later this week?

A. Yes, I have.

25 Q. And you will then have had your attention drawn to the evidence that he gives in his statement of his recollection of this meeting, which he agrees with you he was present for. And, in particular, I'm looking at paragraph 2.41, Madam Chair, and I'll read out relevant bits to you, Commissioner Crisp.

30 Mr Ashton recalls, as you do, that Minister Neville was the one who refer to the fact that there was going to be enforced quarantine in hotels. Mr Ashton then recalls you saying that Emergency Management Victoria was assisting with the coordination of the program but that the Department of Jobs, Precincts and Regions would be running it. Do you recall whether that was your understanding as at 1.30 or 2.00 on
35 the 27th?

A. I have no recollection of those comments being made.

40 Q. Do you have a recollection of having that understanding, at this early time, that this was going to be a job run with your assistance by the Department of Jobs, Precincts and Regions?

A. My recollection is the first time I became aware of that program coming into being was when I was briefed by Minister Neville.

45

Q. So you don't recall having any pre-existing knowledge at the time of that meeting that DJPR were going to be running it?

A. No, I don't.

5 Q. Mr Ashton is then going to give evidence, as I understand it, he then asked you if you knew or could confirm what Victoria Police's role was and that you said private security guards were going to be used. Do you recall saying that to him at that meeting?

10 A. No, I don't.

Q. Was that a view or an understanding that you had as at this time, about 2 o'clock or so on 27 March, that private security would be involved?

15 A. I can only comment, Ms Ellyard, with the fact that I wrote "private security" in my logbook. There was something there about private security. Whether I have written it or Minister Neville was briefed, I have no recollection of the actual conversation.

20 Q. Perhaps just bringing together Mr Ashton's statement and your own first statement, you say at paragraph 43 of your own first statement that at some time prior to a teleconference which happened later this same afternoon at about 4.30, at some time prior to that you were informed that the Department of Jobs, Precincts and Regions had been allocated responsibilities for finding accommodation and security contracts. Can you recall how and when you found that out?

25 A. No, I can't. I know there was quite a bit of conversation going on at the State Control Centre at that time but I'm not sure from whom I gained that knowledge.

30 Q. When you say there was a lot of conversation going on in the State Control Centre, may I take it that you were physically located in the State Control Centre on this day?

A. That's correct.

35 Q. And a number of meetings were held, some in person, some by teleconference or a combination, over the course of the day?

40 A. There was --- the main meeting to pull together this operation was the one I believe that was at 4.30 pm but there were conversations, I guess more informal conversations, occurring before then.

45 Q. If we stay with paragraphs 43 and following of your first statement, Commissioner, where you say that you became aware some time before 4.30 --- although as you've said you can't recall precisely when and how that the Department of Jobs, Precincts and Regions had been allocated certain responsibilities for sourcing accommodation and private security contracts. You go on to say in paragraph 44:

This allocation was made before [the operation] sat formally within the emergency management arrangements

5 I take it you say that those decisions, whoever they had been made by, occurred prior to the Hotel Quarantine Program being an emergency management operation?

A. That's correct.

10 Q. You then say at paragraph 45 at around about the time of, or during, the
teleconference, you had a conversation with the Secretary in which you and she
discussed the desirability of the Hotel Quarantine Program being brought under
ordinary emergency management frameworks. Can I ask you, why was it your view,
as I take it it was, that it would be desirable for the operation that had started with
15 DJPR to be brought into emergency management arrangements with DHHS as the
control agency?

A. So for me at that time, we had this framework that worked around setting up an
operation and we can coordinate a number of different agencies and organisations to
20 support. And we were in a health emergency so in my mind I kept coming back to,
it's the Department of Health and Human Services as the control agency that should
be leading this particular piece of work. I certainly saw a critical role for DJPR in
terms of a support agency, which is what they ultimately fulfilled.

25 Q. Quite a large amount of the work that had to be done to establish the program
between the time of the meeting at 4.30 and midnight the next night, when the
requirement for quarantine came into effect, was work of a logistical and resourcing
nature rather than health-specific work; is that fair?

30 A. Yes, that's a fair assessment. But I would make the point that from the first
minute or the first day of this operation there has been very much a focus on the
health and wellbeing of people that were returning from overseas.

35 Q. But certainly, as I understand it, even in the arrangements that ended up being put
in place with Operation Soteria as an emergency management response led as control
agency by DHHS, a substantial amount of that logistical work ended up still being
done by the Department of Jobs, Precincts and Regions?

A. That's correct.

40 Q. Can I ask you to explain the distinction perhaps between being the control agency
and being the agency --- not to imply also that DHHS weren't working hard, there
has been plenty of evidence that they were, but if a substantial amount of the work by
an agency that is technically the support agency, does that suggest that they ought to
45 be the control agency if they are the ones doing a substantial amount of the work?

A. No, in my opinion this fitted in as part of the overall health emergency. There

were people --- both State Controllers are very experienced around emergency management and running operations and also had that connection obviously back into the Department of Health and Human Services. So in my mind that was the right structure in which this operation should sit.

5

Q. You have produced a number of versions, a number of iterations of what became the Operation Soteria management plan, the first of which I understand was prepared inside Emergency Management Victoria on the 27th, but perhaps you'll correct me. Can I ask that this document be brought up, DOJ.600.001.1573. It is in an appropriately redacted form, to deal with some sensitivities that have been raised by the Department of Justice and Community Safety. Are you able to recognise this document, Commissioner?

10

A. Yes, I can.

15

Q. Am I right in understanding that perhaps by reference to the second dot point, that this is a document prepared on 27 March after the initial planning meeting that you have referred to in your evidence?

20

A. That's correct. Sorry, Ms Ellyard, can I just go back. You mentioned about EMV doing this work. It was actually led by the State Consequence Manager, so this plan was undertaken as part of our State control of an arrangement.

25

Q. Can I ask you to unpack that distinction. What is the distinction you are drawing between Emergency Management Victoria on the one hand and the State Consequence Managers on the other hand?

30

A. Emergency Management Victoria is not an emergency organisation. It has staff. Some of those staff will fulfil various roles when there is an operational emergency running. So it wasn't EMV, this was being done in the State Controller as part of your emergency management arrangements and the work was being led by the State Consequence Manager, who was --- who is an employee of EMV, but was doing it as part of the State Controller team as the State Consequence Manager.

35

Q. Thank you. And the document was prepared by them, as I understand it, but I take it you had some capacity to oversight or ensure the accuracy of the document with the arrangements that you understood were being put in place?

40

A. Sorry, your question, Ms Ellyard?

45

Q. You have made a distinction that this document wasn't done by Emergency Management Victoria, and I just want to --- and you have explained the logistics of who it was doing the work of preparing this document. But I take it that this is a document which you had the capacity to influence or call for changes to if you thought it didn't reflect appropriately the planning as the planning continued?

A. That's correct.

5 Q. And so in this document, which is the outcome of the first meeting or which was prepared after the first meeting, there isn't, as I understand it, any reference to the proposal that the Hotel Quarantine Program become a specific response activity under the Emergency Management Framework and be led as control agency by DHHS?

A. Not in this document.

10 Q. Does that reflect the fact that although the issue had been discussed between you and Ms Falkingham and then was discussed the next morning, as I think you say at paragraph 50 of your first statement, the Secretary, on this first day, it had not yet been determined, although people might have already had a view that it would be appropriate that this would be an emergency activity done by DHHS as control
15 agency under the Emergency Management Framework?

A. That's correct. There was ongoing discussion with regards to this piece of work.

20 Q. And so the Board has heard evidence, for example, from Ms Febey, who was present on behalf of the Department of Jobs, Precincts and Regions at the initial meeting you convened on 27 March, that at that time she understood that the Department of Jobs, Precincts and Regions were going to be running the operation and as I understand it that was an awareness that you had as well on the 27th, that primacy or the lead role had been allocated, at least initially, to that Department?
25

A. That's correct.

30 Q. And as I understand what you have said, whether or not it sat inside or outside the Emergency Management Framework didn't necessarily affect who was going to be doing the on-the-ground work, it might be that a large amount of on-the-ground work would continue to be done by other agencies in a support role, even though technically control had gone to DHHS. Is that right?

35 A. Sorry, what was your question, Ms Ellyard?

40 Q. My question was, based on your earlier experience, as I understand it, the fact that Ms Febey's understanding turned out to be wrong and she wasn't going to be part of the agency leading it didn't necessarily mean that there wasn't going to be substantial work for her agency to do; it was just that it was going to be do it not as the lead agency but as a support agency to DHHS?

A. That's correct.

45 Q. So doesn't that have the potential to add in additional layers of management or structure by making the work of DJPR, just sticking on the DJPR example, no longer work that they just lead for themselves but now work that they need to do under the control of DHHS?

5 A. It was important to put a control structure around this particular operation and again based on our experience of our running operations about having a control agency and then support agency, being really clear as to their role, it is really important and useful in terms of achieving a good outcome.

10 Q. Just to tease that out a bit further, if I may, Commissioner, obviously you convened this initial meeting on 27 March for the purposes of assisting in the coordination of the response. It wasn't yet formally an emergency management response but nevertheless I take it you saw it as part of your role to bring relevant agencies together for the purposes of planning?

A. That's correct, yes. That's one of my roles, is that coordination piece.

15 Q. But am I right in understanding that in your view that wouldn't have been an appropriate model going forward, for you to be merely convening relevant people outside of the formal emergency management structures? You thought there was a role not only just for people sitting around a table but also for a structure which would better define the different roles people were going to play?

20

A. That's correct.

25 Q. As I understand it, we will play before the break a section of the recording at the meeting at the State Control Centre on 28 March, in the evening, which has recently been marked as one of the exhibits. You made it plain, I think, Commissioner, in that meeting, towards the end of it, who was in charge and how things were going to work. Can I ask that the operator play for us a section of the recording which is DOJ.501.001.8210. Can I ask that it be played from 52.08 through to 54.10.

30

[Audio recording played]

35 *MR CRISP: I guess probably a nice segue in terms of how this is actually going to work at the State level. So everyone, well, most people will be well aware that we have a State Controller - Health, Department of Health and Human Services is the control agency. So we want to fit this as a discrete operation into the overall state operation. So as of tomorrow morning, we will have a Deputy State Controller - Health; not a person from DHHS. So Chris Eagle from DELWP is on the line at the moment. So Chris will be the first of those to take on that Deputy State Controller role who will sit over this particular operation.*

40

45 *And Jason touched on it before in terms of who's in charge. It is the Department of Health and Human Services for this operation because, as I said, it fits in with the State's structure and under the State Controller - Health. However, as we've discussed, and it is evident by the number of people in the room and on the phones, there are various departments and agencies and*

organisations that will be playing a support role, as we used to under our emergency management arrangements, to the Department of Health and Human Services and supporting the Deputy State Controller.

5 *So does anyone have any questions around that? I just wanted to be absolutely clear in relation to who is in charge of this operation.*

MR WEIMAR: I think it's a really good summary, Andrew. It's Jeroen here.

10 *MR CRISP: Thank you.*

And every operation needs a name. It's only a little thing but it's important. So this will be Operation Soteria. It is spelt S-O-T-E-R-I-A. So in Greek mythology, Soteria was the goddess or spirit of safety and salvation, deliverance and preservation from harm. So I thought that was quite appropriate.

15

Well done, Jason, you win the prize for the best name of an operation. So it will be Deputy State Controller responsible for Operation Soteria.

20

[Audio recording ended]

MS ELLYARD: Thank you, Mr Operator, that can stop now. Commissioner, that is your voice that we hear towards what I understand to be the end of a meeting that had gone for about an hour on the evening of 28 March?

25

A. That's correct.

30 Q. You might feel you have already answered it but why was it that you felt the need or felt it was appropriate to make those remarks that we have just heard you make, confirming beyond any doubt that this was DHHS's operation as control agency?

A. That was the reason, so it was absolutely clear as to who was running the operation.

35

Q. Had there been a lack of clarity, as you understood it, prior to that time?

A. As I said earlier, there had been some discussion about whether it was going to be DJPR that was leading it. Again, I had further conversations with a number of secretaries on the 28th where it was agreed that would be an operation that would sit within our State arrangements and that was the point I wanted to make, and I wanted to be really clear, as we should be with all our operations, about who was in charge, and that's what I did in that meeting.

40

45 Q. You refer there to the Deputy State Controller being Mr Eagle. Is the role of Deputy State Controller one that is contemplated by the Emergency Management Manu

al?

A. Yes, it is. There's reference to State Controller or State Response Controllers being able to appoint Deputy State Controllers.

5

Q. We have discussed before that the State Controller - Health were responsible for the response to the emergency across the whole of Victoria. The Deputy State Controller was going to have specific responsibilities as Controller for Operation Soteria; is that right?

10

A. That's correct.

Q. So the Hotel Quarantine Program?

15

A. That's correct.

Q. Thinking about that discussion that we had earlier about the difference between coordinating, controlling and command, where did the Deputy State Controller sit and which particular function or functions were they performing?

20

A. So they were in that control line. So going from the State Controller to the Deputy State Controller. So in the line of control.

Q. And in terms of who was in command, was it still the case that each relevant agency involved, either as control agency or support agency, would have their own line of command?

25

A. That's right, they would have their own command structure.

Q. And were they accountable to the Deputy State Controller?

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A. Yes. Yes.

Q. And when we say accountable, does that mean that the Deputy State Controller had the power or the authority to direct the Commanders, if he or she took the view that such direction were required?

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A. Yes. I'm not sure we ever got to the point where there was a need to direct but those support agencies are working in support of the control agency.

40

Q. So, for example, the evidence of Ms Febey was that, leaving aside the question of whether it was a clear reporting line, she understood herself as obliged to follow any directions that might be given to her by the Deputy State Controller. Would that be consistent with the role of the Deputy State Controller?

45

A. That's correct.

Q. And similarly I think Ms May, who was the DJPR Commander, understood that she was relevantly reporting to the Deputy State Controller, and you would agree that that's the appropriate reporting line?

5 A. Yes, that's correct.

Q. Perhaps --- we have talked about and you have given evidence that the purpose of clear command, control and coordination arrangements is to ensure account --- I'm paraphrasing you, Commissioner --- to ensure there's appropriate accountability for the work being done in response to an emergency. If something on the ground isn't being done or isn't being done well, under a command, control and coordinate structure, who is accountable in the sense of being the one responsible for that deficiency on the ground?

15 A. So it depends on where it might occur within that line of control and about who is immediately responsible and who might ultimately be responsible.

Q. So if we take an example in a hotel of lack of appropriate cleaning arrangements at a particular hotel where the Hotel Quarantine Program is being conducted, so an on-the-ground deficiency or perceived deficiency, is that a command issue, a control issue or a coordination issue in the first instance?

A. It's in that line of control, so it's not so much about the coordination.

25 Q. So it's control but not command?

A. No --- well, command sort of sits more within the agency itself. While we sat this operation under a State Controller, then it's in that line of control.

30 Q. To the extent that any deficiency came to the attention of the State Controller or the Deputy State Controller, sorry, it's within their power to have that remedied?

A. That's correct.

35 Q. And is the expectation under this structure that they will give a direction that it be remedied and that until they do so, no one has to fix it, or is there an expectation that even before the State Controller gives such a direction, there will be someone within the relevant agency who is identifying and fixing such things?

40 A. Yes. There's an expectation that if you want to look at that line of control, whoever is closest to where there has been an issue is actually doing something about it, so it is clear where there is a supervisory role, that they are aware of what their roles and responsibilities are and ensuring that what need to be done is done.

45 Q. Thank you, Commissioner. I haven't finished my questions, Madam Chair, but I have got enough to go to make me submit that it might be appropriate to give the witness and everybody else a break.

CHAIR: A mid-morning break, certainly. We will take a 15-minute break now, Commissioner Crisp. It is just on 11.30 so we will be back at 11.45.

5 A. Thanks, Madam Chair.

MS ELLYARD: Thank you, Madam Chair.

10 **ADJOURNED** [11.29 AM]

RESUMED [11.45 AM]

15

CHAIR: Yes, Ms Ellyard.

MS ELLYARD: Thank you, Madam Chair.

20 Commissioner, I want to in part return to the question of private security companies and the role that they were to play. You have already given some evidence about the recollections of Mr Ashton, of what occurred in the meeting with Minister Neville and you have explained in general terms the level of awareness that you had and when about private security companies being involved.

25

In your third statement, at paragraphs 6 to 9, you give some further evidence, having as I understand it refreshed your memory of a review of certain text messages that you sent at or around this time.

30 A. That's correct.

Q. Having read those text messages, can you tell the Board what, if any, recollection you have of discussions with Mr Ashton or anyone else on this day about whether Victoria Police had a view or a preference about the extent to which they, as opposed to private security, should be used in the Hotel Quarantine Program?

35

A. I stepped out of the meeting, the 4.30 meeting, on 27 March and took a phone call from Graham Ashton, Chief Commissioner at the time. I can't --- and I'm basing that on looking at my phone records. I can't recall the conversation. However, a short time later I sent a text message to Assistant Commissioner Mick Grainger, who was in the meeting that I had stepped out of, as the Victoria Police representative, and I sent him a message --- Ms Ellyard, I don't know, are you going to bring it up or do you want me to --

40

45 Q. I am going to, so that everyone can see it. I ask the operator to bring up document DOJ.515.001.0014. As I understand it, Commissioner, your recollection is that this is a text you sent to Assistant Commissioner Grainger after having concluded a

conversation with Chief Commissioner of Police Graham Ashton?

A. That's correct.

5 Q. And you are drawing our attention in particular to the first message from you in the blue writing, toward the top of the page here?

A. That's correct:

10 *I stepped out to speak to Graham and I let him know you're in this meeting, as he's only just come out of VSB*

which is the Victorian Secretaries Board:

15 *.... he made it clear in VSB that private security is the first security option --- hotels, motels --- and not police."*

Q. As I understand it from this message, whilst you had been convening the meeting at the State Control Centre, the Victorian Secretaries Board had also been meeting?

20

A. That's correct, that's my understanding.

Q. You were aware that Mr Grainger, though not physically present with you in the room at State Control Centre, was participating in the meeting that you had convened to discuss the Hotel Quarantine Program?

25

A. That's correct.

Q. And so as best you can recall, why did you send this text message to Assistant Commissioner Grainger?

30

A. Just to advise him of what appeared to be the discussion about the role of police.

Q. We're not going to play the whole recording of the meeting, Commissioner Crisp, but I take it you have listened to the entire recording of the meeting of 27 March?

35

A. That's correct.

Q. And we hear you come in and out at least a couple of times; is that right?

40

A. That's correct.

Q. And as I understand your evidence, it's your recollection that after the conversation with Mr Ashton and perhaps around about the same time or certainly close to the time that you sent this text message, you raised the issue of Victoria Police's views and private security in the meeting?

45

A. That is correct.

Q. And you extract the relevant extract at paragraph 9 of your third statement. But
5 may I ask the operator to play the relevant portion of the recording. The recording is
document DOJ.511.001.0001. Could I ask that it be played from 53.10 through to
54.16.

[Audio recording played]

10 *MR MOLNAR: is there any post-accommodation screening, that sort of
thing?*

*MR CRISP: Sorry, John, can we get --- again, apology, I missed, I had to step
15 out again --- but in terms of security at accommodation, have we covered that?
Is it private security, Victoria Police? I understand that the preference of
Victoria Police or the Chief Commissioner is that private security be the first
line of security and police to respond as required. Is that your understanding,
Mick?*

20 *MR GRAINGER: Yes. It's Mick Grainger here. Absolutely that's our
preference.*

*MR CRISP: So I'm just curious as to who's going to take responsibility around
25 contracting private security? Is that DJPR? Claire?*

*MS FEBEY: Yes, I understand that's for us to take up. So I'd like to have a
30 follow-up conversation with Mick and just to understand a little bit more about
how he sees that best working and then we're happy to make sure that the right
arrangements are made, both in hotels and also for exploring what the
arrangements might be for transport as well.*

[Audio recording ended]

35 MS ELLYARD: Thank you, Mr Operator, that can stop now.

Again, Commissioner Crisp, we hear your voice there.

A. That's correct.

40 Q. And I take it that, perhaps unbeknown to you at the time, although you will have
heard it since, that earlier in the meeting, at a time when it wasn't being chaired by
you because you were outside the meeting, there had in fact been a limited discussion
involving Ms Febey and Assistant Commissioner Grainger about what Victoria
Police might see as security arrangements, but you raised it for the purposes of
45 clarity in the terms that we have just heard it, when you came back into the meeting?

A. That's correct, because I wasn't aware whether that issue had been addressed

while I was out of the room. I just wanted to check.

5 Q. So you refer in the extract that we have just heard to the preference of Victoria Police. Where did responsibility lie for decision-making on this issue of how security arrangements would be in place? As you understood it, was it for Victoria Police to express a binding preference or could there have been a decision to require Victoria Police to do it, even though they didn't want to?

10 A. I guess it goes back to my state of mind when I went into that meeting and I believed that the DJPR had been tasked by Department of Premier and Cabinet with this operation and had already made those arrangements in relation to private security as one element of this particular operation.

15 So that was the sort of thinking I took into that meeting. It was, as we heard then from Assistant Commissioner Grainger, it was confirmed at that time in relation to what the position of Victoria Police was then.

20 Q. If Victoria Police's position had been, hypothetically, "No, we think we should be there," would that have carried the day or was the fact that DJPR had already been tasked to stand up private security something that would have meant that you turned down any offer from Victoria Police to play the frontline role?

25 A. No, it certainly wouldn't have done. If the offer had have been made, there would have been a further discussion about what that looked like. But that wasn't the case. We heard quite emphatically the position of at least Assistant Commissioner Grainger in that meeting.

30 Q. Did you yourself have a view about the appropriateness or otherwise of using private security guards in the Hotel Quarantine Program?

A. I guess in terms of a view I thought they would have been a suitable line of appropriate workforce to use in the hotels.

35 Q. So I take it that if you had been concerned that they weren't going to be appropriate, you would have raised it?

40 A. Definitely, yes, definitely. Again, based on my work experience, I've worked a lot with private security and the thinking --- my thinking was, you know, well-trained, well-supervised private security in this type of role would have been efficient and effective.

45 Q. Are you aware of the evidence that Ms Febey, whose voice we also heard in that recording, gave on how it was that she came to understand that she had been directed in this meeting to engage private security?

A. I haven't heard Ms Febey's evidence but I have heard that mentioned, that line, but I have not heard it directly.

Q. Her evidence was that she went into the meeting that we're talking about, a portion of which we have just heard, unaware of whether or not private security would be required and left the meeting with a understanding that she had been
5 directed by the meeting to procure private security. From your perspective, was any such directive given in the meeting that private security be obtained by DJPR?

A. Not at the time when --- the times when I was in the meeting. I can't recall DJPR being directly tasked to source private security.
10

Q. As I understand it, Ms Febey would say that in the extract that we have just heard, following on from Assistant Commissioner Grainger expressing Victoria Police's preference that private security be used, and you then saying, "Well, who's going to take the responsibility?" and Ms Febey saying, "Well, I understand that's for us,"
15 Ms Febey understood herself as being tasked by the meeting --- not necessarily by you specifically but tasked by the meeting to obtain private security. Have you got a view on that?

A. That's the view of --
20

DR HANSCOMBE QC: I'm sorry to interrupt. I object to that question. Ms Febey's evidence was quite clear that she made no suggestion that Commissioner Crisp had given any such direction. To enquire of Commissioner Crisp as to his hypothesis as to Ms Febey's internal state of mind concerning a direction "from the meeting" really
25 won't be helpful, in my submission, and it is beyond what he might reasonably be expected to give evidence about.

MS ELLYARD: Madam Chair, I thought I made it clear in the question that Ms Febey wasn't saying the directive was given by the Commissioner, but
30 nevertheless I understood her evidence to be that she left the meeting to understand herself to have been directed, and in my submission this is the witness who was chairing the meeting and had chaired it for the purpose of bringing people together and he is capable of commenting on whether or not he understood such a directive to have been given by anybody else.
35

CHAIR: Yes, Dr Hanscombe, I think there is a difference between being asked as to Ms Febey's state of mind as to whether or not Commissioner Crisp heard in the meeting any such direction being given, and I understand that's the question that's being asked, rather than --- and if it's not, hopefully it is now corrected.
40

DR HANSCOMBE QC: Yes. If that is the question then I don't press the objection. It was the notion of direction "from the meeting."

MS CONDON QC: Madam Chair, it is Ms Condon on behalf of the Department of
45 Jobs, Precincts and Regions. If it might assist, Ms Febey's evidence on this point appears at page 435, lines 20 to 30 of the transcript. She was asked directly about this by me.

CHAIR: Thank you, Ms Condon. Do you want to read it out, Ms Condon, given you are right there? Have you got it?

5 MS CONDON QC: I can provide the reference to the Board.

CHAIR: If you are actually in the transcript, I'm happy for you to read out the question and answer.

10 MS CONDON QC: Thank you. Let me just --- it's in the published transcript of --- yes, I do have it. The question was asked by me, Madam Chair, in these terms:

15 *Question: It was suggested to you about why you say that Mr Grainger had given a directive to engage in private security at the meeting on 27 March. Your response was that you said Mick Grainger said private security is to be the first line of security.*

Answer: Yes.

20 *Question: Once Mick Grainger had made it clear that it was Victoria Police's preference, did Mr Crisp then say, "So just curious as to who's going to take responsibility around contracting private security? Is that DJPR? Claire?" Is that what he said to you, Ms Febey?*

25 *Answer: He did.*

Question: So when you used the word "directive" in your evidence, is that based upon your understanding of what Mr Crisp said to you towards the end of the meeting?

30 *Answer: That's right. The decision had been made and we had been tasked.*

That's the relevant portion of the evidence, Madam Chair.

35 CHAIR: Thank you.

MS ELLYARD: With that piece of Ms Febey's evidence read to you, Commissioner Crisp, may I invite you to comment on your understanding of whether or not any directive of the kind that Ms Febey has described in her evidence had been given to her?

40 A. I go back to also earlier in that meeting, where there was --- where I believe Ms Febey said about being responsible for the end-to-end process. Later in the meeting, when I came to this particular point, for me it was just affirming a position
45 that I thought that DJPR did have responsibility for that end-to-end process, including security.

Q. Did you understand that it was in this meeting that there had been a decision taken that there would be private security guards or did you understand that decision to have already been taken prior to the meeting starting?

5 A. I understood that a decision had already been made prior to the meeting.

Q. But as I understand it you are not able to say who made that decision?

A. No, I'm not.

10

Q. And as I understand it you can't now recall precisely how you became aware of the decision, only that you knew it before this meeting started?

A. That's my recollection.

15

Q. Thank you. Perhaps just to finalise this point, I think you have already indicated that you yourself believed that well-trained and appropriately resourced security guards were appropriate for use in the Hotel Quarantine Program. If you hadn't, what capacity did you have at this stage to do something about that or to seek to persuade whoever had made the decision to make a different decision?

20

A. It would have been exploring other options that were available to us, whether that was police and/or protective service officers and I would have taken up a conversation with the Chief Commissioner and DHHS as the control agency about what our other options might be.

25

Q. I appreciate that it's a hypothetical, but in the event that you and the Chief Commissioner of Police, for example, maintained your differing views, you thinking it should not be private security and the Chief Commissioner thinking it should be private security, how would that difference of view have been resolved?

30

A. As you suggest, Ms Ellyard, that is a hypothetical and I --- I have not really thought it through, I'm not sure I can comment on it.

35

Q. The question goes to where ultimate decision-making power lay in the operation of this program. It appears from the evidence that everyone --- that no one spoke against the private security decision. But I'm seeking to explore, in the event that there had been a fundamental disagreement between different agencies about a particular matter --- and I'm using private security as the example --- what would be the mechanism by which a view was reached about whose view was going to prevail? Is it a consensus model or is there some way in which ultimately someone in the chain gets to make the call?

40

A. I'm sure it would be --- we worked in terms of a consensus model. Whether there's not an opportunity to --- to transfer a part of the operation to another agency, there is provision in the legislation for that to occur. But I believe it needs to be with the consent of the other agency. So I would have sought some legal advice around

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that particular scenario and just tried to work it through.

5 Q. At the time of the meeting that we have just heard part of, the operation hadn't yet formally transitioned into the Emergency Management Framework, with DHHS as the control agency. And you have given evidence that that had occurred and the Board understands that it occurred over the weekend. The Board has heard some evidence, still sticking with this idea of the role of police and the role of private security, it continued to be the view of some, including Ms Febey herself, that there was a role for 24/7 presence of Victoria Police members at the hotel sites and that 10 that view was expressed to DHHS in its capacity as the control agency. The evidence of Victoria Police is that they didn't receive at the time any such request. But again, just teasing out the understanding of this framework, hypothetically, if a control agency requests a particular form of support from the support agency and the support agency, for whatever reason, doesn't want to give it, what is the mechanism 15 that exists to resolve that difference of opinion between what a control agency thinks they need and what a support agency thinks it's appropriate to offer?

20 A. I'm not sure that we have ever come across the situation like that and I'm sure we would arrive at a consensus in relation to what the appropriate option would be to achieve whatever the outcome of whatever the operation is.

Q. Thank you.

25 CHAIR: Mr Crisp, just before you leave that topic, Ms Ellyard, did you, in reference to you taking legal advice, do you have an understanding of whether or not ultimately were there not a consensus reached, whether you as the Emergency Management Commissioner had the capacity to direct Victoria Police to perform any role in the Hotel Quarantine Program?

30 A. My understanding, Madam Chair, is I couldn't direct at that point. But I would have sought legal advice.

35 CHAIR: When you say "at that point", do you mean to distinguish between at that time and some other time, that you would have a capacity to direct?

A. No, my apology, Madam Chair, I didn't mean that. I just meant generally.

40 CHAIR: "Generally" meaning throughout this response, you take the view that you don't have the legal power to direct Victoria Police to engage in a Hotel Quarantine Program?

A. No, I don't believe that is the case, Madam Chair.

45 CHAIR: Thanks, Ms Ellyard.

MS ELLYARD: Thank you, Madam Chair. Commissioner Crisp, I want to turn to a different issue now, which is one that you responded to in your first substantive

statement at paragraph 68 and following, and it's about the request made by you or through you to the ADF for assistance. Perhaps first of all, by way of general background, as the Board understands it there were various ADF representatives present at the State Control Centre on 27 March and involved in the planning and preparation processes over this weekend; is that right?

A. That's correct.

Q. And is that unusual or was that standard practice in the State Control Centre?

A. Look, you know, the reality is it becomes almost sort of standard practice since the start of the year, with the ADF providing similar support into the State Control Centre. So when the COVID emergency began, you know, we were very quick to again call on our ADF colleagues to support us.

Q. And you say at paragraph 68 that since 16 March, the date on which the State of Emergency was declared by the Minister for Health, you had at the date of your statement made 24 requests for ADF assistance to support Victoria's general COVID response. I don't want you to give me the details of all of them but can you give a sense of the spectrum of requests that were made across that period and across Victoria?

A. Yes. So it was --- we think from a planning, logistics, intelligence, working in support of Victoria Police, you know, vehicle checkpoints they have been involved in, they had been working directly into DHHS. So with regards to contact tracing, data entry, in more recent times they have been supporting Ambulance Victoria. So a wide range of functions.

Q. In the second sentence of paragraph 68 of your first statement you refer to the circumstances in which the ADF can be requested to support the State. What's the criteria or criterion that applies to when and how a request can be made?

A. It's primarily where the State has exhausted its resources or there's not another commercial option available.

Q. So in that --- I'm sorry, please complete your answer?

A. Or if it's urgent, it would override those elements.

Q. The issue of the extent to which the ADF might be helping and in which capacity was discussed, as I understand it, during the meeting of 27 March. I want to play to you one relevant portion. Mr Operator, if I could ask that we hear from the document that is DOJ.511.001.0001, commencing at 00.00.59.40 and going through to 00.01.25.00.

[Audio recording played]

.... close to the existing testing centres that we've got, so that makes some sense. The Pacific Islander exemption has been revoked

[Audio recording ended]

5

MS ELLYARD: I'm sorry, I'll just pause that. I'm sorry, I think I have given the wrong reference. That doesn't sound quite right. I'll just confirm, DOJ.511.001.0001, 00.59.40 through to 01.00.25.

10 [Audio recording played]

MS STITT: with the hotels. And a general question that we were asked to make sure we understood is what role the ADF will play, please?

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MR CRISP: It's Andrew Crisp here. Again, that's why we went through this particular process, to identify where there was a lack of capability or capacity to undertake any of the phases of this operation. I suggest that at this stage we can manage this. The ADF will be doing just exactly what they're doing at the moment, helping us to plan for this particular operation. So at this stage we don't see a need for boots on the ground, so to speak.

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MS FEBEY: Thanks, Andrew, that's very helpful to clarify that.

[Audio recording ended]

25

MS ELLYARD: Thank you, Mr Operator. We can cease that recording. Commissioner, we hear you again there are on that recording answering a question.

A. That's correct.

30

Q. And you refer there to having gone through a process to identify whether there were enough resources for the various phases of the operation. I understand you mean by that the various stages through which passengers would be being taken from their return into Victoria through their placing at hotels?

35

A. That's correct.

Q. Phases which included appropriate arrangements at the airport, appropriate arrangements for transport and then appropriate arrangements at the hotels themselves?

40

A. That's correct.

Q. Would I be right in understanding that had you identified a need for assistance because there weren't sufficient resources at any of those stages, that would have been a circumstance where you would have or could have made a request for ADF assistance?

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5 A. Yes, where I could have, that would definitely have been a consideration. Again, going back to my experience over the 19-20 fires, we made many, many requests of the ADF and we were very well supported, so I'm always very appreciative of the support they've provided.

10 Q. You made no request on this day because the view you formed at this time was there wasn't a need for assistance beyond the planning and logistical assistance that was already in place?

A. That's correct.

15 Q. But would the Board be right in understanding, based on your experience, that had you made such a request you would have expected it to be given proper consideration by the ADF?

A. That's exactly right. I can't think of too many instances with all the requests over this year that we have been refused.

20 Q. The question as to the potential role for the ADF in the Hotel Quarantine Program then was discussed again at the meeting the following night, the meeting on the evening of 28 March. Can I ask, Mr Operator, that we play the following portion of document DOJ.501.001.8210, starting at 00.56.19 through to 00.57.00.

25 [Audio recording played]

MR CRISP: ADF, anything further that you wish --- might wish to raise?

30 *MR MOLNAR: No, Andrew. Just noting that the news tonight mentioned that ADF will be patrolling the corridors of hotels. Not in Victoria.*

35 *MR CRISP: Yeah, thanks, John. Yes, there's some interesting media reporting about the role of the ADF. We greatly value the role they have been playing in terms of supporting us with planning, but at this stage we --- I guess, it is important, I've said it before but I'll say it again, that at this particular point in time we certainly don't see the need for ADF boots on the ground in support of this operation.*

40 [Audio recording ended]

MS ELLYARD: Thank you, Mr Operator, that can come from the screen. Commissioner Crisp, this was a conversation that you had with one of the ADF representatives at the meeting on the evening of 28 March, where it was drawn to your attention --- although perhaps you already knew --- that there were reports that 45 the ADF were boots on the ground, to use your words, in New South Wales?

A. That's correct. There was a conversation with a senior ADF liaison officer.

Q. And did you know prior to the liaison officer mentioning it that there were reports or any suggestion that the ADF would have a role walking corridors in hotels in New South Wales?

5

A. I can't recall.

Q. But nevertheless, as we heard you say there, your view was that there wasn't a need at that time for that resource to be called for from the ADF in Victoria?

10

A. Based on the planning we had done on each of those phases that you have mentioned, we didn't see a need at that time.

Q. At paragraph 69 of your first statement, and we are now moving ahead through to around 25 June, you give evidence in paragraph 69 and following of a request that was subsequently made by you on 24 June for ADF personnel to provide compliance and monitoring support at the hotels. Can I ask you, perhaps by reference to paragraphs 70 and following of your statement, to tell the Board how you came to make that request?

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20

A. So --- sorry, Ms Ellyard, I'm happy to speak to this. I don't know if you are going to put something up at the same time.

Q. No, I'm not going to take you to any document, Commissioner. I just wanted to have you tell us, as best you can recall, how you came to be aware of the perceived need for this resource and what you did about it once you knew?

25

A. Thank you for clarifying that. So a meeting on 24 June involving the ADF, the Deputy Secretary from the Department of Health and Human Services and I believe the State Controller at the time --- DHHS were working on options analysis in terms of another workforce that could be brought in to replace private security. It was in that meeting where the Deputy Secretary pointed out, went through a list of issues with regards to private security, justifying the need to look for another workforce, which work was underway. Obviously with the ADF in the room as part of that meeting, it was about exploring whether in fact the ADF could take on at that time a role in the hotels. And we continued through with that discussion and we went to numbers, so I asked the Deputy Secretary, "So, how many resources would you require to replace the private security resources that you currently have?" and I was given the number of 850. So I then followed up in terms of having someone draft a request for assistance for me. At that time we were exploring a number of requests for assistance. So there was --- if my recollection is correct, there was planning and intelligence roles, so separate requests for assistance, but also the Department of Health and Human Services were also looking for people to undertake testing and then there was also a request in relation to securing transport, if there was a need to physically move samples around the State or interstate. So there was a lot of work happening on that day in relation to requests for assistance.

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45

Q. And amongst those other requests, as I understand paragraph 69 of your statement, you submitted a request for 850 personnel, that being the number that had been given to you by the Department of Health and Human Services as the number that they would require?

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A. That's correct.

Q. Did the number start out as smaller than that? I think some of the text messages that have been produced suggest that there might have been an increase from the original expectation to the final figure of 850?

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A. That's correct. And I'm not sure --- I don't think I was aware of that 50 to 100, the other number that was mentioned, prior to the conversation about exploring the ADF option and then submitting the request for assistance.

15

Q. Having submitted the request for assistance on the 24th, you go on to say at paragraph 71 of your statement that you rescinded that particular request, leaving aside the other ones that I think you persisted with --- you rescinded the particular request for 850 ADF personnel following a conversation that you had with the Secretary of the Department of Justice and Community Safety. Could you tell us about that conversation and why it was that it led you to rescind the request for ADF personnel?

20

A. Yes. So again it's part of the work that was happening, and I was privy to in that meeting, I knew there was discussion about other options being explored, within our existing resources within the State. When I had the conversation with the Secretary on the morning of the 25th, the Secretary explained to me that things would be --- would move more quickly in relation to exploring those other resources, and police and protective service officers was particularly mentioned, and I was asked if I would rescind the request for the 850 ADF, based on the fact that there was going to be a further meeting that day to continue to explore those other resource options.

30

Q. As I understand it, Commissioner, you made the request to the ADF effectively at the request of the Department of Health and Human Services, who were looking to replace one resource with an ADF resource; is that right?

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A. So ---

Q. So it was the Department of Health and Human Services who raised the resourcing issue with you, that led you to make the request?

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A. That's correct.

Q. But then it was the Department of Justice and Community Safety Secretary who advised you of there effectively being no further need for that request for assistance?

45

A. That's correct.

Q. Is that right?

A. That's correct.

5

Q. And does that reflect some planning that was in place at that time and which came to fruition shortly later, whereby the Department of Justice and Community Safety assumed greater responsibility for the Hotel Quarantine Program?

10 A. That's correct. And I also --- I guess it was an assumption, I didn't specifically ask, but the Secretary of the Department of Justice and Community Safety had spoken to the Secretary of the Department of Health and Human Services before she had the conversation. But as you quite rightly pointed out, I was completing that request on behalf of Health and Human Services.

15

Q. On and after the 25th, did you become aware of what position was finally reached and who was, if anyone, going to replace private security in the Hotel Quarantine Program?

20 A. I did attend a meeting later on the 25th where there was discussion about police and protective services officers taking on that role. I attended a meeting the following day, where there was discussion about using resources from Corrections Victoria within the Department of Justice and Community Safety as that option. I understood from that meeting that was the option that was going to be taken
25 forward for approval, but I had no role in that.

Q. From your understanding, did that ultimate decision that you learned about --- you weren't involved in --- to transfer aspects of work in the Hotel Quarantine Program to the Department of Justice and Community Safety, did that affect the emergency
30 management arrangements that were in place and DHHS's role as control agency or were we beyond that point by June, of still relying strictly on the Emergency Management Framework for the delineation of where responsibility lay?

A. So we had moved on somewhat when it came to June. And there was --- I believe
35 the term is an administrative order which sort of transferred basically the powers and responsibilities from the Minister for Health and Human Services to the Attorney-General to take absolute responsibility in relation to this particular program. So then in terms of the emergency management arrangement, we still are using those arrangements, but what we have done is that the Secretary of the
40 Department of Justice and Community Safety has become an area of operations controller, particularly for Operation Soteria, so that's now separated from the Department of Health and Human Services, both in terms of the ministerial piece but also with the Secretary. We've done that in relation to also the Secretary for Jobs, Precincts and Regions, around business engagement. So we have completely shifted
45 our State Control Team model. So there was a need as part of my legislative responsibilities to ensure effectively control, where I saw what was the State Controller really coordinating a lot of different operations, and so that's when I have

put forward the proposal that the Secretary of the Department of Health and Human Services take on the role of the State Controller. And the State Control Team then, due to the scale and complexities of the emergency and the phase we were in at that time, which needed that quick action, became all of the Secretaries of the Chief
5 Commissioner of Police, the Chief Health Officer and myself.

Q. I think this touches on some evidence that you gave earlier when I asked you, Commissioner Crisp, about the differences that Mr Helps' evidence seems to suggest he observed between the extent to which class 1 or class 2 controllers were in control
10 and you have said I think in part of your answer that you observed that the controllers were in control of certain parts of the operation. Do I understand your evidence to be that as time moved on from March into April, May and then June, the scale and complexity of the COVID-19 response meant that there needed to be a departure from the original assumption in the response plan that everything by way
15 of control agency would be done by DHHS?

A. Yes, that's correct. We, you know --- scale and complexity, we needed to move, I needed to be assured that there was effective control and now with having the Secretaries as part of that State Control Team, as I said, along with the Chief Health
20 Officer and the Chief Commissioner and myself, and again it also fits with regard to the changes that the Government made in relation to its Cabinet structure. And so with the new State Control Team, it is very clear in its terms of reference that it is implementing, it is implementing decisions of CCC. At the same time it has a responsibility around activating and deactivating functions and operations and
25 providing that overall operational assurance.

Q. Thinking particularly about what happened to the Hotel Quarantine Program and recognising as the Board understands that it is not presently operating in the way that it was during the time that we are concerned with, that is now --- that became an
30 activity for which the Department of Justice and Community Safety assumed control agency responsibility; is that right?

A. That's correct.

Q. And similarly I think you have indicated that in respect of certain business-related matters arising as a consequence of the health emergency, the Department of Jobs, Precincts and Regions has been made the control agency for that aspect of what
35 would otherwise be a health response led by DHHS?

A. That's correct. That's around business engagement. And also in relation to personal protective equipment as well. So yes, we have --- we have had to be flexible and we have had to adapt our model. Due to the emergency management arrangements and the provisions within the State Emergency Response Plan, if we want to go back to that, an area of operation somewhat, I'm thinking about
40 geographic areas but it's also functions and activities, so the transfer of control of parts of this operation are consistent with what's in the legislation and also within the State Emergency Response Plan.
45

Q. You mentioned that you needed to be satisfied as part of your responsibilities under the legislation that appropriate control arrangements were in place. Would I be right in understanding that --- I should ask more directly --- did you have
5 concerns at any stage, thinking about the Hotel Quarantine Program, as to the adequacy of control arrangements?

A. No, not while the quarantine program was running. I didn't have any concerns. It was more when we had a number of other operations that were being established,
10 such as the lockdown of the public housing towers, that I saw the State Control Team, it was doing a lot more work in relation to coordinating a range of different operations that were occurring at that time. And so what was the State Control Team has now become the State Coordination Team. As I said, we have elevated the representation on the State Control Team to ensure that we do have that control
15 across the whole of the public service.

Q. So does the --- do the changes that have been made that you have just summarised, Commissioner Crisp, do they in your view call into question the adequacy of the framework that existed as at 27 March to deal with the Hotel
20 Quarantine Program? Has it been necessary to step outside the framework to make some of these changes that you have been describing?

A. No, at the time on 27 March I was --- I was comfortable in relation to that operation, the way it was set up. The move I have been explaining more recently is
25 when we --- when we had significantly more operations running, greater scale and complexity in relation to the overall impact of this emergency on the State.

Q. Okay. Because one argument might be put that the transfer of responsibility for the Hotel Quarantine Program away from the Department of Health and Human
30 Services to the Department of Justice and Community Safety suggests that perhaps that's where it should have been from the beginning and that there's been the correction of an identified error. I take it from your evidence that you wouldn't describe it in that way?

A. No, I wouldn't.

Q. And you would instead say that DHHS was so overloaded that decisions were made to remove discrete operations from their control capacity so that they could
40 work on other things?

A. Yes, the latter. We got to a point with all these operations that one State Controller could not sit above so many Deputy State Controllers with a whole range of different operations. Some of them were escalated to the Secretary that DHHS has taken on. So part of that control piece is that span of control, and in my opinion the
45 Secretaries could not sit over all those operations.

Q. Thank you. May I ask you now some questions about, I suppose, the environment

in which all of this work was being done, and that's the existence of National Cabinet and the role that you saw being played by the decisions and actions of National Cabinet. Again, you may or may not be aware of the evidence that is going to be called tomorrow from other witnesses of their observation that the existence of that
5 National Cabinet level made a difference to what would otherwise have been control arrangements within the State. Was that an observation that you made?

A. This --- and I don't want to misuse that word "unprecedented", because it has been overused. But with this particular emergency, there was a need for national
10 coordination around this and decisions were being made at a national level that were impacting on us. So it was quite reasonable that that be coordinated through the National Cabinet. However, at times it did create some pressure on some of the operational activities within the State, with Soteria and the quarantine program being an example where it had to be established within basically 36 hours. But not to
15 suggest that one --- for one minute that it wasn't the right thing to do for the country as a whole at that point in time.

Q. But it was different from other emergencies where complete decision-making power would have resided within the State and within the State Government
20 structures?

A. Yes, and you've just got to look at the 19-20 fires, where that was the case, you know. Even though we had fires across a number of different States, it sat very much with the State in terms of the vast majority of what we did and what we were
25 responsible for.

Q. When you say "19-20 fires", you are not talking about fires 100 years ago, I take it?

30 A. No, no, no.

Q. You are talking about the fires over the previous summer?

A. Yes, 2019. I thought that the first time I heard that myself.
35

Q. Thank you. Just a couple more questions on this issue of control and command matters. I asked you some questions earlier about how you came to be aware and your state of satisfaction with the proposal that the Chief Health Officer would not be the State Controller - Health, and that instead other people would be appointed to that
40 role and hold that role. And you gave evidence that you were satisfied with that. As part of that state of satisfaction, did you yourself have any discussions with the Chief Health Officer about the proposal that he wouldn't be the State Controller?

A. No, I don't recall a conversation with the Chief Health Officer, no. Not on that
45 particular issue.

Q. Do you recall being aware at any stage of his own view about whether or not he

had the capacity or availability to perform the role of State Controller - Health?

A. No, I don't recall a conversation on those lines.

5 Q. I think you will have heard, Commissioner, that there has been various pieces of
evidence given to the Board about the extent to which on the ground --- and when
I say "on the ground", I mean in hotel locations --- there was confusion or differences
of opinion about which agency was in charge during control. Are you aware in
10 general terms that that evidence has been given?

A. Yes, in general terms, I am.

15 Q. And perhaps before I ask you what you think might have been the cause, if any, of
such confusion as seems to have existed, can I ask you to tell the Board, by reference
to a fire as an example, how does decision-making and responsibility start at the
location of a fire and then grow up? I understand from the manual that it appears that
in the case of a fire or a flood, you start at a physical location and then step back,
which is perhaps the opposite of the class 2 health emergency, which started for the
20 whole of the State and then narrowed down to hotel locations. Could you explain the
process that exists for a fire and how accountability is organised on the ground and
then higher up?

A. Yes. So with regards to a fire, and a very simple example, Ms Ellyard and
Madam Chair, is where a local brigade might go out to a fire and if they can control
25 that fire, it's under control, great. If they can't, and with some additional support ---
but it gets to a point where they need to then make a decision about they don't have
control, and transfer of control of that particular fire will go to an incident control
centre. Once it goes into an incident control centre, it comes into a line of control
that works its way up to the State Response Controller.

30 Q. So the people who are fighting the fire are still the same people but they are now
not accountable on their own for decision-making about how the fire will be fought;
is that right?

35 A. That's right, there will be an Incident Controller with an Incident Management
Team that will take on that responsibility with whoever is the most senior person was
on the fire ground that was running that particular fire.

40 Q. Can I ask you then to reflect on the hotel context, where it doesn't arise in that
hierarchy, it arises in perhaps a reverse hierarchy, where decisions are made at a
State level that are then put into practice with more and more granular detail, is that
model in the Emergency Management Framework of incidents and regions and
State-wide control useful and applicable in the hotel quarantine context?

45 A. I think it is applicable. It's different but it can be applied in that way. If, you
know --- my recollection of the organisational chart, once the --- I think if you look
at sort of more version 2 of Operation Soteria, where the Emergency Operation

Centre has been established by the Department of Health and Human Services, it actually shows a structure, so it shows --- my recollection is it shows sort of hotel accommodation with team leaders in charge and then it's going up to the Deputy State Controller and the State Controller. So that is a similar framework to that that I have just explained in relation to fire.

Q. I think what you are describing there is an example of a command structure, of the way in which DHHS were being organised, reporting up to the Deputy State Controller; is that right?

A. We would still say control. Where you have got a State Controller and it is going through a Deputy State Controller, then that's that line of control. In relation to, if you looked at the Emergency Operation Centre set up by DHHS, if there are other roles and responsibilities that they were responsible for, that could have been a line of command within their organisation. But for me, if you want to use that fire analogy, what we are talking about in relation to the hotels is that line of control.

Q. Perhaps to continue the fire analogy, if we can, where we start to involve not just one agency but multiple agencies in support roles, here it was the Department of Jobs, Precincts and Regions who contracted the hotels, in a fire context it might be the SES or Ambulance Victoria, I presume, depending on the issues that arise; can I ask you, where there's multiple agencies on site at a fire, how is it understood which agency is in control?

A. So again it's who the control agency is. So it's that --- if it's public land, it's Forest Fire Management Victoria. So what they would do with their structure, so an Incident Control Centre, there would be an Incident Controller, and going back to earlier questioning, it would be someone with the appropriate experience, obviously it would be the Incident Controller, and that person would have an Incident Management Team, so a number of different functions --- operations, planning, logistics, intelligence and the like --- would form their team. Where you have got representatives from support agencies, there could be an Incident Emergency Management Team which picks up a broader range of support agencies.

Q. In that structure that you describe, the Incident Manager from the control agency would be expected to be someone with some expertise in, to use the fire analogy, fighting fires?

A. That's exactly right.

Q. There's a clear delineation in the Emergency Management Manual between class 1 and class 2 emergencies and it appears that a lot of structures that exist have been used more for class 1 emergencies because of their nature and prevalence compared to class 2 emergencies. Is that a fair observation?

A. Yes, yes, it is, when it comes to definitely fires and floods. So other examples, though, one that is used fairly regularly in terms of class 2 is also to appoint a State

Controller - Heat, because it being an emergency in its own right. Also when it looks like there's potential issues on our power supply, it's State Controller - Energy. And for the fires and the impact earlier this year, there was also a class 2 State Controller - Wildlife.

5

Q. Why is that class 1 and class 2? What is, as you understand it, the rationale for the division into those two categories of emergency?

10 A. That's a very good question. I'm not exactly sure. I have been asking the same question since I came into the role and I have already asked for some work to be done about what more we can do to --- in my mind, an emergency is an emergency. I can understand in relation to class 2 at time, because it might not appear to be as simple as a fire or a flood, you might have other legislation you need to take into account, or national arrangements that do provide some complexity, but for me an
15 emergency is still an emergency, the definition is still the same.

20 Q. One distinction might be --- and I think this is perhaps part of the distinction that you are drawing --- between an emergency that exists at a particular and precise physical location in time versus an emergency like a pandemic that is diffuse in its effect and ongoing.

25 A. That's right. But they are very different --- there are some very different powers. I explained previously about how I appoint a State Controller for a class 1 emergency State Response Controller. Also in relation to a class 1 emergency, I have a step-in power if I don't believe the State Response Controller is ensuring that there is control of that particular emergency. Under a class 2 emergency, that's not the case, I can direct a Controller to ensure that they are complying with the State Emergency Response Plan but I don't have a similar step-in power as I would for a class 1
30 emergency.

Q. That suggests that, to some extent, a class 1 emergency would be seen as more likely to require your direct involvement than class 2 emergencies?

35 A. I'm not sure of the thinking behind it. But I think it's --- I don't think, I know it is something that needs to be explored.

40 Q. And so perhaps can I ask you to speak a little bit more. You said that you have got some work underway or that you have called for some work to be done. Perhaps thinking by particular reference to any learnings from the Hotel Quarantine Program, if that's relevant, what's the kind of work that you are contemplating being done in this area?

45 A. So only, I think it was only two or three weeks ago, the new Cabinet, CCC, actually it approved a funding and resource bid from Emergency Management Victoria, the organisation, but working with others in our sector, firstly for some additional resources to work in the State Control Centre to deal with our capability and capacity but also there is funding there to undertake significant review of our

operating model across all emergencies. So it will look at everything from policy and legislation through to actual physical infrastructure.

5 Q. And is there a timeframe within which you anticipate that work being done, Commissioner?

10 A. There is a need to bring back some early work based on the Inspector-General's early work in relation to the fire and the Royal Commission, to something fairly --- well, towards the end of the year. But then by the middle of the year, because this is a significant piece of work that we need to undertake, to really set up emergency services in our sector and in support of our community, so there is a timeframe around that and it is the middle of next year but with some early work later this year.

15 Q. Thank you, Commissioner. You may feel that you have already answered this through some of the matter that we have just been discussing, but given the evidence that you are aware of and the role that you played in the Hotel Quarantine Program or observed and monitored being played by those sitting under you in the emergency management hierarchy, do you yourself have any comments or reflections that you would wish to offer the Board about the suitability or appropriateness with hindsight of the emergency management model and any changes or tweaks that you might recommend if the Hotel Quarantine Program were to be re-established?

20 A. Thanks, Ms Ellyard. I think --- sorry, my starting point has to be that we have very sound structures, systems and processes around emergency management. And that's built on, as I started this process, with many serious events that have occurred in Victoria. But there's also opportunity to look at how we can do things better and that's certainly what we should be doing and we are learning all the time. So we have touched on the issue around legislation. I think there is definitely a need to look at our legislation around class 1 and class 2 emergencies. It is also this role of State Controller, and I touched on it before when I explained about the new State Control Team. I know everyone wants to see one person that's accountable. But what we have seen through this particular emergency and the way the State Control Team is working at the moment, we have Secretaries that are responsible for specific parts of this operation. So the State Control Team is --- has a shared responsibility and accountability in relation to the emergency itself. There should always be the lead agency, but I think that we need to move away from thinking it's all about a single State Controller and that person has to be responsible for everything. It's more about, what does State control look like, as a starting point, and that might be a State Controller but it could be, as we have seen in more recent times, it could be a completely different mechanism.

45 So I think we need to open up our minds and build on, as I said, the really good work that's been done than in this State to further strengthen our emergency management arrangements.

Soteria itself, we all know and I have said it previously, it was stood up very, very quickly and it was the emergency management arrangements I believe that enabled

for that to occur as quickly as it did. Certainly we have learnt over time, and you would have seen each of those operational orders improve as we have come up with each version, with Public Health, with the health coordinators, with the public Commanders from the EOC all taking shared responsibility for approving those particular plans. I think it is really important --- the question often gets asked about me, should I be in charge? I'm happy to explore this as part of a review of our legislation, but when you look at what my responsibility is, it's about ensuring there are control arrangements in place, it's about ensuring there's that coordination piece. So that's why I can't sit in that --- well, at this stage, that line of control, because I'm providing that assurance piece. So I need to be at arm's length to ensure that others are actually doing what they should be doing. And the way the legislation is written, it's all about the powers of the Emergency Management Commissioner to ensure that that actually occurs.

15 But we can look at all of that again. So the legislation is very much a big piece of this.

Specifically around Soteria, it's quite understandable that the conversation has gone to private security, it's gone to Victoria Police, it's gone to the Australian Defence Force. What we have seen and we have learned through this particular emergency is what a new role might actually look like. If you were going to write --- if you were going to go through a job and task analysis in relation for people to be working in hotel quarantine, it would probably look different to anything that we have got at the moment. It's more akin to where the Department of Justice and Community Safety has gone with regards to --- it's a customer service piece. We know that there was a lack of the AOs, the administrative officers, to enforce. So that's another legislative piece we need to look at in relation to AOs. So is it a workforce that does have some power that would be completely new and different to what we know of those existing workforces?

30 The other piece that many of us have learnt through all of this, it's about the workforce itself but it's about the behaviour of the workforce. And I have read the various plans and I have gone over them and the thinking is about, we potentially cross our emergency services and other workforces, we'll lose 40 per cent of our workforce in a pandemic because they either become ill themselves or they are looking after a family.

40 What we have seen through this particular emergency, and this is not a criticism or a judgment, we have seen people for very good and very sound reasons that have not been prepared to go and work in certain environments, and we have seen that in aged care and in other settings. Please, I don't --- that's not a judgment at all, but I think we have to learn from this in terms of the training we provide to our people that work in these more sensitive settings during a pandemic. We know there have been pandemics previously but none of us have lived and worked through a pandemic such as this and we have been learning through it this, and it's important that we do document all this and we are much better positioned for whatever might confront us in the future.

I have touched on the emergency management side of things. The Department of Health and Human Services do have a very strong core in relation to emergency management because as you touched on earlier, Ms Ellyard, in terms of recovery, they have responsibility for that at a regional level. They performed a range of different roles, but they became stretched in relation to their resources to stand up incident management teams and we have seen those down at Colac, we saw them in the public housing towers, we brought in the emergency management people that work in our sector to support those people. So we do need to look at capability and capacity in relation to emergency management across our sector as a whole.

Q. Thank you, Commissioner.

A. Sorry, while I have got the opportunity ---

Q. Okay.

A. Again, what we have also learned through Soteria and other operations, and again there have to be positives that come out of this in relation to the public housing towers, in our emergency services sector we talk about having community as the centre of everything we do and we should never lose sight of that. But again we need to put that into practice I suggest a lot more than what we do. We saw in the towers when they were locked down, when we actually had members of the community on the Incident Management Team. So for me, for a Soteria in the future or any of other operations around a pandemic, how do we better involve the community in our thinking and our decision-making? Because again, it's all about people.

Q. Thank you, Commissioner. Madam Chair, those are the questions that I have for the Commissioner. I'm on notice of a number of potential applications which may or may not be pursued in light of the evidence that has already been given. May I call firstly on Ms Condon on behalf of the Department of Jobs, Precincts and Regions to see if she wishes to press any part of her application?

MS CONDON QC: Thank you, Ms Ellyard. Madam Chair, I do wish to press a number of aspects of our application. I wonder, with the Board's indulgence, if I might have the opportunity to pursue those matters after lunch because I suspect they won't be completed in five minutes.

CHAIR: Yes. Perhaps just for the purposes of being able to communicate with the next witness after Commissioner Crisp, if we can get a sense from other parties with leave to appear as to whether or not they have matters they want to put. Yes, Mr Attiwill?

MR ATTIWILL QC: Thank you, Madam Chair. As you know, I act on behalf of the Department of Premier and Cabinet. I will be seeking leave just in relation to one topic and I expect to be about --- not more than 10 minutes.

CHAIR: All right, thank you, Mr Attiwill.

MS ELLYARD: I'm aware of Victoria Police, and I see Ms Harris as well.

5

CHAIR: Yes. Ms Harris as well. Mr Star?

MR STAR QC: Yes, Madam Chair, I do seek leave to deal with certain matters which I would estimate would take 10 to 15 minutes.

10

CHAIR: Thank you. And Ms Harris?

MS HARRIS QC: Madam Chair, there is only one matter I would like to raise and I expect it would take no more than about three minutes.

15

CHAIR: All right. That being so, I think it is convenient to take the lunch break now. Commissioner Crisp, I'm sure you have heard and understood that there are various other parties who wish to put some matters to you. I ask you to return at 2.00, after the lunch break, for that to happen.

20

A. Yes, Madam Chair.

CHAIR: Thank you.

25

ADJOURNED

[12.55 PM]

RESUMED

[2.00 PM]

30

CHAIR: Have you worked out amongst yourselves the order in which you wish to proceed or does it not matter?

35

MS CONDON QC: I'm certainly ready to proceed, Madam Chair.

MR STAR QC: Same here, so whatever is most convenient for the Board. I thought it might be useful to go next, just because the witness has dealt with in his oral evidence matters which concern my client.

40

MS CONDON QC: I'm in the Board's hands.

CHAIR: Given you have got some discrete issues, Mr Star, we might start with you.

45

MR STAR QC: Thank you.

CROSS-EXAMINATION BY MR STAR QC

MR STAR QC: Commissioner Crisp, can you hear me okay?

5

A. Yes, I can. Can you hear me?

Q. Yes, I can. My name is Mr Star and I appear for the Chief Commissioner of Police.

10

A. Thank you.

Q. I'm going to direct your attention back to the day of the meeting held at the State Control Centre, held at 4.30 pm or thereabouts, on Friday, 27 March 2020.

15

A. Yes.

Q. You have already given evidence in your witness statement and with Counsel Assisting today that prior to that first meeting at 4.30 pm on the Friday you had an understanding that the decision to use private security companies had already been made. That's correct?

20

A. Yes.

Q. And indeed you had already been informed that the DJPR had been allocated responsibility by the DPC for sourcing accommodation and private security contracts for what became Operation Soteria before that 4.30 pm meeting?

25

A. That's correct.

30

Q. To the best of your knowledge, the decision to use private security companies in the Hotel Quarantine Program was not a decision made by Victoria Police or the Chief Commissioner of Police?

35

A. Not that I'm aware of.

Q. Thank you. I'm asking, of course, of your knowledge. Again focusing on your knowledge, at the time and even sitting here today, you have no knowledge of Victoria Police or the Chief Commissioner of Police making a recommendation to use private security companies in the Hotel Quarantine Program before the decision to use private security was made?

40

A. Sorry, Mr Star, would you mind just repeating that question?

Q. Of course. I'm suggesting to you that you have no knowledge of Victoria Police or the Chief Commissioner making a recommendation to use private security in the Hotel Quarantine Program before the decision for private security was made.

45

A. I have no knowledge of Victoria Police or the Chief Commissioner making that recommendation.

5 Q. Furthermore, you have no knowledge that Victoria Police or the Chief Commissioner of Police was consulted about private security being used in the Hotel Quarantine Program before the decision to use private security was made?

10 A. I'm sorry to do this again to you, Mr Star, but would you mind repeating that?

Q. Of course. You have agreed with me a moment ago that you have no knowledge about the Chief Commissioner of Victoria Police making a recommendation for the use of private security companies in the Hotel Quarantine Program. That's correct?

15 A. That's correct.

Q. And I'm asking a slightly different question now, and that is that you have no knowledge of Victoria Police or the Chief Commissioner of Police even being consulted before the decision was made about whether or not private security should be used in the program?

A. That's correct, I have no knowledge of that.

25 Q. I just want to go briefly to the meeting that you had earlier that day with the Minister and Chief Commissioner Ashton and the other people you referred to. Would you agree that this was a relatively brief meeting and that it finished so you could all watch the Prime Minister's announcement about what was occurring that day?

30 A. Look, I don't recall that specifically, that you mention about finishing early because of that reason. I just --- looking at my notes, I really can't say how long the meeting went for.

35 Q. Can you recall that you watched or listened to the Prime Minister's announcement on that day?

A. Yes, that's my recollection, I did watch the Prime Minister's announcement.

40 Q. And the meeting with the Minister and Chief Commissioner Ashton and the others, that occurred before the Prime Minister's announcement?

A. That's correct.

45 Q. Can you recall if --- I'll withdraw that. We all know that this was an online meeting which was occurring at this time, and you have referred to having a Microsoft Teams invite for 1.30 pm that day. Can you recall if you were in the meeting with the Minister before Chief Commissioner Ashton joined the conference?

A. No.

Q. You just don't know?

5

A. I have no recollection of that, no.

Q. Can I suggest to you that the meeting did not start at 1.30 pm but started by around 2.00 pm?

10

A. I have no recollection of that. I'm going on what I have got in my calendar with my Teams meeting invitation.

Q. And I take it from that that you just don't know if the meeting started later? It may well have started later than 1.30 pm that day?

15

A. I'm not --- I have no recollection, Mr Star.

Q. Now, at this meeting --- may it be the case that you already knew by the time of this meeting of the DJPR's involvement in the program?

20

A. Sorry, prior to the Minister's meeting, Mr Star?

Q. Yes.

25

A. I have no recollection of having any prior knowledge of that or a note to that effect.

Q. I think your evidence is --- and correct me if I'm wrong --- that you were briefed about it at this meeting with the Minister. That's correct?

30

A. That's correct.

Q. And I'm suggesting to you that you may well have had some knowledge about the Hotel Quarantine Program and the DJPR's involvement even shortly prior to that meeting. May that have been the case?

35

MS CONDON QC: Madam Chair, I object to that question because there are two distinct propositions in there so I ask that my learned friend break both of them down.

40

CHAIR: Yes.

MR STAR QC: I'm happy to do that.

45

CHAIR: Yes.

MR STAR QC: Commissioner Crisp, would you accept that you may have known of the Hotel Quarantine Program prior to the meeting with the Minister at or around --- whether it's 1.30 pm or 2.00 pm --- on 27 March? May that have been the case?

5 DR HANSCOMBE QC: Now I object to the question. The question which was supposed to be broken down wasn't knowing about the Hotel Quarantine Program, it was knowing about the use of private security in that program. The question about knowledge of the Hotel Quarantine Program traverses far beyond that bound.

10 MR STAR QC: I will try and deal with them each discretely, Madam Chair.

CHAIR: Thank you.

15 MR STAR QC: Commissioner Crisp, I'm asking about your knowledge at or prior to the meeting with the Minister and which was joined by Chief Commissioner Ashton and others. Do you understand that?

A. That's correct, yes.

20 Q. May you have had some knowledge about the use of private security before that meeting?

A. I cannot recall being made aware of any information about private security before that meeting.

25 Q. I know you can't recall it, but do you accept that you may have had knowledge even before this meeting about the use of private security?

30 MS CONDON QC: Well, Madam Chair, I object. It has been asked and answered.

CHAIR: Understandably, yes.

35 MR STAR QC: Commissioner Crisp, during this meeting with the Minister and Chief Commissioner Ashton, you don't recall the Chief Commissioner making a recommendation about the use of private security, do you?

A. No, I don't.

40 Q. And you don't recall the Chief Commissioner in this meeting being asked for his recommendation or view as to whether or not private security should be used in the Hotel Quarantine Program?

A. That's correct, Mr Star, I have got no recollection of that.

45 Q. But what you do understand and know is that the decision about the use of private security, you understood that decision had been made before the 4.30 pm meeting commenced at the SCC?

A. That's my belief.

5 Q. And you've given some evidence about a phone call you had with Chief Commissioner Ashton during the course of that SCC meeting; is that correct?

A. That's correct. Yes.

10 Q. And of course that phone call was after the decision to use private security had already been made, to your knowledge?

A. That's correct.

15 Q. Certainly you regarded the agencies that were participating in the meeting from 4.30 pm onwards on 27 March were constructively cooperating and trying to engage with each other over a difficult situation; is that correct?

A. That was definitely the case.

20 Q. And that was also the case with Victoria Police?

A. Yes.

25 Q. And --- and its representative?

A. Yes, definitely the case, Mr Star.

30 Q. And as far as you're aware, at and prior to that meeting at 4.30 pm on 27 March, Victoria Police hadn't refused any request for assistance that had been made to it?

A. Not that I was aware of, Mr Star, no.

35 Q. You didn't understand that Assistant Commissioner Grainger at this meeting on 27 March was making a formal direction about what police would and would not do in the program?

MS CONDON QC: Madam Chair, I object to that question. How can this witness in any meaningful way enquire into Assistant Commissioner Grainger's state of mind.

40 MR STAR QC: I thought I had asked about Commissioner Crisp's understanding, but I'll reframe the question for clarity, Madam Chair.

CHAIR: Thank you.

45 MR STAR QC: Commissioner Crisp, do you recall the exchange which you have given evidence about involving Assistant Commissioner Grainger at the 4.30 pm meeting on 27 March?

A. Yes. At that time when I came back into the meeting, yes.

5 Q. And you did not yourself understand Assistant Commissioner Grainger as giving a formal direction about what Victoria Police would and would not do in the Hotel Quarantine Program, did you?

10 A. My recollection is that Assistant Commissioner Grainger put a position in relation to Victoria Police. Whether that --- I'd take that as a formal direction or not, I'm not so sure.

15 Q. Well, I'll put it to you, just so there's clarity about it. You did not understand Assistant Commissioner Grainger as making a formal direction in this meeting, did you?

A. Could you just --- what do you mean by "formal direction", Mr Star?

20 CHAIR: Mr Star, I think the fairest way to do this is to go to the word, because they are there in Commissioner Crisp's statement number 3 at paragraph 9.

MR STAR QC: Thank you, Madam Chair.

25 Commissioner Crisp, do you recall the exchange where there is reference to what a preference of Victoria Police was at that time?

A. Yes, based on my statement, yes.

30 Q. Yes, you do. At the time of the meeting, you did not understand that Victoria Police was making a decision or a formal direction as to whether it be the first or second tier of security; is that correct?

A. Would it be possible to have a look at the words?

35 Q. Yes.

A. Again, I --- I'm not sure what you mean by "formal direction".

40 Q. You understood that the decision about the use of private security had already been made. That's correct?

A. That was my understanding, yes, Mr Star.

Q. And that decision had already been made prior to the meeting?

45 A. That was my understanding.

Q. And you have got no knowledge of Victoria Police participating in that decision,

do you?

A. No, I don't.

5 Q. And what I'm putting to you is what was said in the meeting by Assistant Commissioner Grainger was not the decision or a direction for the use of private security in the program, do you accept that?

10 DR HANSCOMBE QC: Madam Chair, I object to this. This has now been asked four or five times. The words of the text traffic speak for themselves.

MR STAR QC: I withdraw the question, Madam Chair.

15 DR HANSCOMBE QC: If the Board please.

MR STAR QC: No further questions, Madam Chair.

CHAIR: Thank you, Mr Star.

20 Ms Condon?

MS CONDON QC: Thank you, Madam Chair.

25 **CROSS-EXAMINATION BY MS CONDON QC**

30 MS CONDON QC: Commissioner Crisp, I appear on behalf of the Department of Jobs, Precincts and Regions. I want to ask you some questions regarding the meeting at 2.00 pm on the Friday, that you have already been asked some questions about. As I understand your evidence, you say to the Board that that's the first time you became aware of the involvement of the DJPR; is that correct?

35 A. Sorry, Ms Condon, are you referring to the Minister's meeting?

Q. Yes, the Minister's meeting at 2.00 pm on the Friday.

40 A. I'm still --- in my evidence, I talk about the Teams meeting at 1.30, so my apologies if there was some confusion over that. Sorry, what was your question again?

45 Q. I'm asking you about the meeting with Minister Neville, the then Chief Commissioner of Police, Graham Ashton, and I think there's another representative there from the Department of Justice and Community Safety.

As I understand your evidence, that is the first time that you become aware of the involvement of the DJPR in the Hotel Quarantine Program; is that correct?

5 A. No, that's not correct, Ms Condon. I have no recollection of what was actually said in the meeting. I'm only going on my notes from that meeting, which is very brief, and I've got written down "Private security", I've got the ADF written down, but I haven't written "DJPR", so I have no recollection of DJPR being mentioned in that particular meeting.

10 Q. Thank you. As you've indicated to the Board, you have scant notes of that meeting; is that the case?

A. That's correct.

15 Q. And what you can say is that the topic of private security was no doubt discussed, because that would reflect your notes; correct?

A. That's correct.

20 Q. The topic of the ADF was obviously also discussed because that would reflect your notes; is that the case?

A. That's correct.

25 Q. But beyond that, as I understand what you say to the Board, you simply have no independent recollection of what transpired at that meeting at 2.00 pm; correct?

A. That's correct.

30 Q. And that would follow, would it not, that you have no independent recollection of any conversations about the question of private security; correct?

A. That's correct.

Q. Beyond the fact that it was clearly discussed? Is that the case?

35 A. Well, I have written "Private security" so I assume there would have been some conversation for me to have actually written that.

Q. One assumes that, doesn't one, from your notes?

40 A. That's correct.

45 Q. You were asked some questions by Counsel Assisting in respect of Chief Commissioner of Police Graham Ashton's recall of that meeting, so I'm going to ask you some questions about that. And as I understand it, you simply have no recollection of any exchange with Graham Ashton on the topic of private security; is that your evidence?

A. That's correct.

5 Q. And I think Ms Ellyard took you to some aspects of Graham Ashton's account of this meeting. You have been made aware, have you not, that Mr Ashton has given some detail about an exchange with between him and yourself at this meeting at 2.00 pm?

A. That's correct.

10 Q. And what he says is that you confirmed that Emergency Management Victoria was assisting in the Hotel Quarantine Program and that the DJPR would be running it. Does that accord with your recollection?

A. I have no recollection of that conversation.

15

Q. But you are not disputing, surely, Commissioner, that at some stage on 27 March it's conveyed to you that the DJPR is at that point running the operation end to end; correct?

20 A. That's correct.

Q. And --

25 DR HANSCOMBE QC: I object to that. What does "running the operation end to end" mean?

MS CONDON QC: I'll rephrase it, Madam Chair.

30 That as at the Friday afternoon on 27 March, you became aware, did you not, Commissioner, that the DJPR at that point had been designated the lead agency; correct?

A. That's my understanding, yes.

35 Q. Just going back again to the exchange that Mr Ashton says he had with you about the question of Victoria Police's role and private security, Mr Ashton says that he asked you if you could confirm what Victoria Police's intended role was and whether or not Victoria Police would be asked to guard the hotels. Do you have any recollection of him making that query of you?

40

A. No, I don't, Ms Condon.

45 Q. In fact, Mr Ashton says that you gave him the indication that private security guards would be used to guard the hotels. Do you have any recollection of conveying that specific matter about the role of private security to Mr Ashton?

A. No, I don't.

Q. But you are not suggesting to the Board, Commissioner, are you, that Mr Ashton is incorrect in his recall of that exchange?

5 A. Sorry, what was your question?

Q. You're not suggesting to the Board that Graham Ashton's recollection of that exchange with you is incorrect, are you?

10 A. I'm speaking of my recollection and I don't have any recollection of that conversation.

Q. Well, I appreciate that. But I'm perhaps asking you something a little bit different. Graham Ashton will give evidence, no doubt, that that is an exchange that he had
15 with you. You appreciate that, don't you? Yes? You appreciate that, don't you, that he's going to give evidence of that?

A. Yes, I believe he will be. That's a matter for the Chief Commissioner, the former
20 Chief Commissioner.

Q. Yes. But you are not suggesting to the Board that Graham Ashton is incorrect in his recall of this exchange with you about private security, are you?

25 DR HANSCOMBE QC: I object to that. It's been put ---

CHAIR: It's been put and --- you are right, Dr Hanscombe, it's been put and answered already.

30 MS CONDON QC: Thank you, Madam Chair, I'll move on. Thank you.

Graham Ashton also indicates in the course of this exchange about the role of private security that you told him that private security guards would be used to guard the hotels, which would be coordinated by DJPR. Now, no doubt your answer to me would be the same, that you simply have no recollection of that; correct?
35

A. I have no recollection, that is correct.

Q. You would also no doubt have no recollection that Graham Ashton was eager to know about what the intended role of Victoria Police was at this meeting at 2.00 pm
40 on Friday the 27th; would that be the case?

A. I have no recollection of that conversation.

Q. So, as I understand it, Commissioner Crisp, your state of mind when you leave the meeting chaired by Minister Neville is this --- please correct me if I've got it wrong
45 in any way: what you say to the Board is that the question of private security was discussed in some way; is that right? The topic was discussed?

A. Yes, reflected by my notes, yes, I'd suggest that's the case.

5 Q. And you're unsure whether the role of the DJPR in any context, be it as a lead agency or support agency, was discussed in that 2.00 pm meeting; is that the case?

A. That's correct.

10 DR HANSCOMBE QC: That's not fair puttage, in my submission. The question was --

MS CONDON QC: I think the witness agreed with the propositions. But in any event.

15 DR HANSCOMBE QC: The question was put in the context, "your state of mind when you left the meeting". That was back in March. What he's now being asked is what is his recollection of the meeting now, as he sits there in that witness box. That is an unreasonable question, I would submit.

20 MS CONDON QC: Madam Chair, with respect to my learned friend, that is actually not what I'm asking. I am asking about Commissioner Crisp's state of mind back on 27 March when he left that meeting. That is what my question is directed to, not now. Perhaps I'll make it clear for the benefit of the counsel for the Department of Justice.

25 CHAIR: Yes.

30 MS CONDON QC: Commissioner Crisp, what I'm asking you now is when you left that meeting at 2.00 pm, and I appreciate it's not a meeting in the physical sense, but when that meeting was concluded, your state of mind was, as I understand it, the topic of private security had been discussed; is that correct?

35 A. There's a note in my log of "private security" so there's an assumption that private security was discussed.

Q. Yes. And as I understand it, your state of mind was when you left that meeting that you hadn't been given any information about the role of the Department of Jobs, Precincts and Regions at that stage; is that the case?

40 A. Not that I can recall.

Q. Thank you. So the next relevant meeting, which we will get to in a moment, is the meeting you convened, as part of Emergency Management Victoria, at 4.30 at the SCC; correct?

45 A. As the Emergency Management Commissioner, yes, in my coordination role with this emergency.

5 Q. Yes. What you say to the Board --- and again I'm asking you about your state of mind back then, very much so --- you are very confident, aren't you, that when you went into that meeting at 4.30, that the decision to use private security had been made; correct?

A. That was my understanding, yes, Ms Condon.

10 Q. As I understand it, it was perhaps more than that. Not only had the decision to use private security been made, your evidence to the Board earlier was that the DJPR had already made those arrangements in relation to private security as one element of this particular operation. Now, is that correct?

15 A. Sorry?

Q. This was your evidence earlier today, Commissioner Crisp --- so I'll read it to you again. What you told Madam Chair was that before the meeting at 4.30, it was your understanding, firstly, that the DJPR had been tasked by the DPC, the Department of Premier and Cabinet; correct?

20

A. Yes, that's correct.

Q. As I understand it, when you make that assertion, what you're saying there is that you knew before 4.30 that the DJPR had been tasked to lead the operation, correct, in a general sense?

25

A. That's correct.

Q. Yes. And that you were of the understanding that the DJPR had already made those arrangements in relation to private security as one element of this particular operation; correct?

30

A. That was --

Q. That was your evidence earlier. Yes. And so, again, as I understand your evidence, to paraphrase, what you are saying there is that you have a firm belief that not only has the decision to use private security already been made before 4.30 but that there in fact have been arrangements in train in relation to the question of private security; correct?

40

A. I believe at that time that DJPR were looking at running the operation.

Q. Yes. But I'm actually asking you something a little bit more discrete. I would like you to focus and grapple with the question about your assertion that the DJPR had already made those arrangements in relation to private security. That was your evidence. Do you accept that?

45

A. I'm not sure that was my evidence, that I said they had made arrangements.

Q. Well, perhaps --- Madam Chair, I am actually quoting from the transcript. I don't have the relevant transcript number in front of me --- transcript page reference, but
5 that is my note from Commissioner Crisp's evidence this morning. So perhaps we can return to that.

CHAIR: Ms Condon, just let me understand where the point is going, because in Commissioner Crisp's third statement and indeed in the tape-recording, you'll recall
10 that exchange where Commissioner Crisp is asking Ms Febey of your client who is going to take responsibility around contracting. So I'm not sure where the point is going.

MS CONDON QC: I'll take Commissioner Crisp to the transcript of the meeting
15 itself.

CHAIR: Thank you.

MS CONDON QC: Thank you, Madam Chair. As I understand it, Commissioner
20 Crisp, what your evidence has been is that prior to the meeting at 4.30, you weren't sure where you gained that information or knowledge about the fact that you were of the belief that the DJPR had already made arrangements in relation to private security; correct?

25 A. That's correct.

Q. Thank you. Now, in between 2.00 pm and 4.30 pm you have no direct contact, I take it, with anybody from the DJPR; correct?

30 A. No, I can't recall that.

Q. Well, for example, Claire Febey, who represented the DJPR at the meeting at 4.30, as I understand it you are not suggesting that you had had any prior communication with her prior to the meeting at 4.30 you chaired; correct?
35

A. I can't recall if I did or not.

Q. Well, did you not, as I understand it, in preparation for your third statement, in which you indicated that you had had a conversation with Graham Ashton during the
40 course of the SCC meeting, did you not check your phone record and texts for any relevant communications, Commissioner?

A. I checked some records but I had a lot of conversations in those two hours. I'm not suggesting I did have a conversation but I just can't recall.
45

Q. Well, when you chaired the meeting, do you agree with this proposition about your state of mind: after you get off the phone to Graham Ashton, there's a relevant

exchange, you have been taken to it --- and perhaps, Madam Chair, I appreciate it has been done but I think it's important, out of fairness to Commissioner Crisp, that I take him to that relevant exchange at the conclusion of the 27 March SCC meeting, if I may?

5

MS ELLYARD: Madam Chair, may I interject at this point. I don't wish to shut out my learned friend from relevant cross-examination, but I did cover these points. If she's got specific points to put by way of instructions or clarification, I don't object to it, but I had understood her to be pursuing the questioning that had not already been covered, and in a general sense at least, without the benefit of such specific instructions as she holds, I did cover this, in my submission.

10

MS CONDON QC: I appreciate that, Madam Chair. There is obviously a matter that I specifically want to put to Commissioner Crisp about that exchange with Claire Febey and I thought it might be prudent for him to have the benefit of seeing it again. I'm in the Board's hands.

15

CHAIR: This is the exchange that is extracted in Commissioner Crisp's statement number 3?

20

MS CONDON QC: Yes.

CHAIR: Commissioner Crisp --

25

MS CONDON QC: Well --

CHAIR: Is that right?

MS CONDON QC: Yes, Madam Chair.

30

CHAIR: Commissioner Crisp, do you have a copy of your statement number 3 with you?

A. I do, Madam Chair. I'll just access it.

35

CHAIR: Please open it, turn to the second page. Ms Condon has got something she wishes to put to you with respect to the contents of that section of your statement.

MS CONDON QC: Thank you, Madam Chair.

40

Commissioner Crisp, do you have that before you?

A. Yes, I've got the statement and I'm on the second page, so paragraphs 6 to 9.

45

Q. Thank you. Essentially what I want you to turn your mind to is when you came back into the meeting after speaking with Graham Ashton and you said:

.... *but in terms of security and accommodation, have we covered that? Private security, Victoria Police. I understand the preference of Victoria Police or the Chief Commissioner is that private security be the first line of security and the Police to respond as required.*

5

Assistant Commissioner Grainger says:

Absolutely that's our preference.

10 Q. When that was conveyed to you, you didn't raise any objection to that course; correct?

A. No, I didn't.

15 Q. And not only that, insofar as the next --- perhaps I'll withdraw that and take you to the next question you ask:

So just curious as to who is going to take responsibility around contracting private security? Is that DJPR? Claire?

20

Now, Commissioner Crisp, as I understand your evidence to the Board, you already knew, did you not, that the DJPR had made arrangements in relation to private security prior to 4.30? Isn't that your state of mind or wasn't that your state of mind?

25 A. Yes, as I went into that meeting, that was my belief, that they --- and as Claire also mentioned earlier in that meeting, about being responsible for the end-to-end process of this operation.

30 Q. Yes. But what I'm suggesting to you, Commissioner Crisp, is logically why would you need to ask the question about who was going to take responsibility around contracting private security, "Is that DJPR," when as I understand your evidence to the Board, you already knew that prior to 4.30?

35 A. Sorry, Ms Condon, your question?

Q. Well, my question is, Commissioner Crisp: if you already knew that the DJPR had already made arrangements with respect to private security, including contracting, it is not necessary for you to ask that specific question of Claire Febey, is it?

40 A. That was my way of putting it, just in terms of clarification for DJPR.

Q. Well, what I suggest to you is this, Commissioner Crisp: that you didn't have any understanding prior to the meeting at 4.30 and in fact you did give that task to Claire Febey on behalf of the DJPR. I presume you are going to reject that proposition?

45

A. That's correct.

Q. As

in you reject that proposition?

A. I reject the proposition that I tasked Claire Febey.

5 Q. Yes. Just pardon me a moment, thank you, Madam Chair.

Thank you, Commissioner Crisp. Yes, Madam Chair, they are the questions.

CHAIR: Thanks, Ms Condon.

10

MS ELLYARD: I am conscious that Ms Harris had a matter, Madam Chair.

CHAIR: Yes, Ms Harris.

15 MS HARRIS QC: Madam Chair, if I could very briefly ask Commissioner Crisp a question about command within an agency. He gave a little bit of evidence about that and there's one point I wanted to --- or just I wanted to clarify that and expand upon it a bit.

20 CHAIR: Yes, I will give you that leave, Ms Harris.

MS HARRIS QC: Thank you.

25 **CROSS-EXAMINATION BY MS HARRIS QC**

MS HARRIS QC: Commissioner Crisp, you gave a little bit of evidence about
30 command within an agency, whether a support agency or a control agency, and you gave the evidence that that agency would have its own command structure; do you recall that?

A. That's correct.

35 Q. I just wanted to clarify or expand upon that a tiny bit from what that would mean by reference to the Emergency Management Manual. Looking at the State Emergency Response Plan, which is part of the Emergency Management Manual, part 3.2.4 of the State Emergency Response Plan states that command is the internal direction of personnel and resources operating vertically within an agency. Each
40 agency has a chain of command which is the agency's organisational hierarchy that identifies the link between each individual and their supervisor.

Is that internal organisational hierarchy within an agency what you were referring to when you referred to the control or support agency's command structure?

45

A. Yes, that is the explanation or definition of command within an organisation.

Q. And the manual goes on to say that each agency responding to an emergency must identify the Commanders responsible for supervising agency personnel and the agency chain of command. Does that apply to a support agency as well as a control agency?

5

A. Sorry, I just missed that last part.

Q. The reference in the State Emergency Response Plan to each agency which responds to an emergency having to identify the Commanders responsible for supervising agency personnel and the agency chain of command, that applies, doesn't it, to both a support agency and a control agency?

10

A. That's right. At a State level, those support agencies would have a State Agency Commander representing their organisation's (unclear) team.

15

Q. So that --- when the manual goes on to say that Commanders escalate agency issues and provide direction on agency issues through the agency chain of command, that is through that Agency Commander that you just referred to?

20

A. That's correct.

Q. When we refer to agency issues, is that the issues that are the designated functions of that agency in the particular emergency?

25

A. That's correct.

Q. And if one is considering --- you gave some evidence in response to a question from Counsel Assisting about something that on the ground, in operations on the ground, may be being done or not being done and who had accountability for that. You said that it depends on where it might occur within that line of control and about who is immediately responsible. I wanted to ask: might that area of immediate responsibility at first instance fall within the agency command structure?

30

A. So if --- if the activities is within a line of control, so that's where it actually sits, so if you want to use Soteria, if you want to again go to the State Controller through a Deputy State Controller, to the Commander hotel accommodation to a team leader, that's the line of control. Command --- if I could use again the Emergency Operations Centre as an example, if the Emergency Operations Centre took responsibility for Operation Soteria, so hotel quarantine, it took it out of the line of control. So the public, the Commander did not report up into the Deputy State Controller and the State Controller, then that sits within the Department of Health and Human Services as part of their command structure within the organisation.

35

40

Q. If we are looking at a support agency, if there's a command structure within a support agency, and we are looking at a designated function of a support agency, that responsibility of the Agency Commander for servicing agency personnel would apply to those designated functions of that support agency, wouldn't it?

45

A. That's correct.

MS HARRIS QC: Madam Chair, I have no further questions. Thank you.

5

CHAIR: Yes, Mr Attiwill.

MR ATTIWILL QC: Thank you, Madam Chair.

10

CROSS-EXAMINATION BY MR ATTIWILL QC

MR ATTIWILL QC: Commissioner, it's Richard Attiwill here for the Department of Premier and Cabinet.

15

A. Mr Attiwill.

Q. I want to ask you some questions about paragraph 43 of your first statement. If you could have that handy, that would be useful.

20

I just want to take you through this and ask you a number of questions. You say:

25

Prior to the [telephone conference] referred to at paragraph 46 below, I was informed that the Department of Jobs, Precincts and Regions had been allocated responsibility by the Department of Premier and Cabinet for sourcing accommodation and private security contracts for what became Operation Soteria.

Commissioner, you will then see that obviously the further telephone conference that's referred to at paragraph 46 is the one that you have been asked a number of questions about, being the telephone conference at 4.30 pm, later that day.

30

A. Yes.

35

Q. You were asked some questions by Counsel Assisting in relation to this and at [draft] transcript page 1344, line 3, you were asked how and when you found this out, and this is what you said earlier today:

40

No, I can't. I know there was quite a bit of conversation going on at the State Control Centre at that time but I'm not sure from whom I gained that knowledge.

Do you recall giving that evidence earlier today?

45

A. Yes, Mr Attiwill.

Q. Now, when you say that there was quite a bit going on, do you agree that in this period between, say, 1.30 pm and 4.30 pm you were extremely busy?

A. That's correct.

5

Q. And you were engaged in numerous telephone conversations during that time?

A. That's correct.

10 Q. And numerous telephone conferences and videoconferences?

A. I don't recall too many videoconferences but there was a lot of activity in the State Control Centre in the main, with people who were actually working in there on how we would start developing a plan.

15

Q. Were you also engaged in exchanging of documents, emails and other documents like that with persons too or not?

A. No, I can't really recall whether there were too many at that time, Mr Attiwill.

20

Q. Do you agree with me that at paragraph 43 that I have taken you to, you don't identify the source of the information that you are setting out there, do you?

A. No, I don't, Mr Attiwill.

25

Q. Do you agree that you don't identify whether the source of the information was from a document or a person? Do you agree with that?

A. That's correct, I haven't identified a document.

30

Q. But you don't identify whether the information that you were given was from a document or from a conversation, do you?

A. No, that's correct. Yes, that's correct.

35

Q. And you would agree with me, wouldn't you, that you simply don't remember whether it was a conversation or from a document?

A. That's correct, I don't remember.

40

Q. And do you agree that it is possible that you might have formed that belief from a number of different pieces of information, sources of information?

A. I'm just not sure, Mr Attiwill. I --- I can't recall.

45

Q. You just don't know?

A. No, I just don't know.

5 Q. And it's possible, then, isn't it, that the belief that you had about the information was formed from your receipt of a number of different pieces of information? That's possible, isn't it?

A. It is possible.

10 Q. And it's possible that you formed that belief about the matters that you set out at paragraph 43 that I've taken you to from reading something, being told something and really your own assumptions about those matters. That's possible, isn't it?

15 A. I'm not really sure that is right. I just have no recollection about what did take place at that time.

Q. Now, if you have still got paragraph 43 there, Commissioner, if I could just read on the next sentence, so after the words "Operation Soteria" you say this:

20 *I was not consulted in relation to this allocation of responsibility and I am not aware of the circumstances in which the Department of Jobs, Precincts and Regions was allocated this responsibility.*

25 You would agree with me, wouldn't you, that whatever information you obtained certainly didn't inform you of the circumstances by which this allocation was said to have been made? Do you agree with that?

A. Yes, I agree with that.

30 Q. And you simply don't know?

A. No, that's correct.

35 Q. And also too you agreed that in relation to the source of the information, that is, about what you had been told about the allocation, you didn't know in relation to that source where it had come from?

A. No, I have no recollection of that.

40 Q. Now, I wanted to ask you some brief questions, and I'm conscious that you have already been examined on it, so I'll be brief and I'm going to ask you particular questions that I hope you haven't already been asked, just about the planning telephone conference that commenced at 4.30 pm on 27 March. If you could, just for convenience, have your third statement with you, at paragraph 9 where you do extract that.

45 A. Yes.

Q. Now, once you asked a question of Mick Grainger of Victoria Police concerning the use of private security and he responded, you then asked the question, and that's the one I want to ask you about, where it says:

5 *So just curious as to who is going to take responsibility around contracting private security. Is that DJPR?*

Do you see that?

10 A. That's correct, yes, I see that.

Q. And do you agree that you asked this question because you obviously wanted to get an answer to it?

15 A. Yes. I asked it because I was looking for clarification or confirmation from DJPR that they were going to undertake that task.

Q. When you say "confirmation", it's because when you asked the question you weren't certain of the answer, were you?

20

A. I was not 100 per cent certain. But based on what had been said earlier, I was fairly certain.

Q. When you say what had been said earlier, you have already agreed with me you don't know whether you were told or read the matters that you had to form that belief, do you?

25

A. No, that's right. But I was also referring to Ms Febey's comments about being responsible for the end-to-end process which was part of this meeting as well.

30

Q. But here you are asking a very particular question, not just as broad as "end to end". Do you agree with that?

A. That's right.

35

Q. And you're asking a very specific question here, aren't you? You're wanting to know who's going to take responsibility around contracting private security. That's the question you wanted to answer to, didn't you?

40 A. Yes, I was looking for confirmation of that.

Q. When you say you were asking for confirmation of it, you wanted to know the answer, though, didn't you, at that meeting?

45 A. That's correct.

Q. Now, Ms Febey answered your question and she says these words:

Yeah, I understand that's for us to take up.

5 It's right, isn't it, that when she said that, you believed that when she was referring to "us" that she was obviously referring to the Department of Jobs, Precincts and Regions?

A. Yes, that's what I believed.

10 Q. And you have only extracted part of the transcript, and obviously the whole of the recording and the transcript apparently is about to be made available. But she never used the word "allocated", did she?

15 A. Sorry, Mr Attiwill? She didn't --

DR HANSCOMBE QC: That's not a fair question. If he's going to be asked if she used that particular word, he ought to be taken to the recording.

20 CHAIR: Yes.

MR ATTIWILL QC: In the answer that is extracted at paragraph 9, she doesn't use the word "allocated", does she?

25 CHAIR: No, she doesn't, Mr Attiwill, but the objection is to a different issue, which is you have put a broad-ranging question about whether or not throughout the course of that entire transaction, that word wasn't used. It's a proper objection.

30 MR ATTIWILL QC: I will confine it to the answer to the question that was asked that's relevant to the Board's inquiry.

CHAIR: Thank you.

35 DR HANSCOMBE QC: In that case I object to the question because the extract there speaks for itself. It was not written down.

MR ATTIWILL QC: Right, yes.

40 Now, you would agree that when you went into this telephone conference at 4.30 you had no knowledge at all that DJPR had made any particular arrangement with respect to private security. Do you agree with that?

A. I didn't have any specific knowledge, no, of what they had done to secure private security.

45 Q. You had no knowledge?

A. No.

Q. Do you agree with that?

A. That's right.

5

MR ATTIWILL QC: I have no further questions, thank you.

MS ELLYARD: I understand that to be the end of the applications for leave to cross-examine, Madam Chair. I pause for a moment in case Dr Hanscombe wishes to ask any questions of Commissioner Crisp as her witness.

10

DR HANSCOMBE QC: I'm grateful to my learned friend. I realise that it's taken a long time, if the Board pleases, but I'm try to be as brief as I may.

15 CHAIR: Thank you, Dr Hanscombe.

CROSS-EXAMINATION BY DR HANSCOMBE QC

20

DR HANSCOMBE QC: Commissioner Crisp, it was put to you that you may have been the person who tasked --- that was my learned friend's word --- Claire Febey with the job of arranging the contracting around private security. Do you remember that being put to you?

25

A. Yes, words to that effect.

Q. Is it the case that the control agency for emergency is the body which is in a position to allocate tasks or responsibilities?

30

A. That's correct, it is the role of the control agency, yes, the State Controller.

Q. It wasn't your role because you are the coordinator of these things; is that correct?

35

A. That's right, that was my role with this, was coordination.

Q. So it wasn't your job to do that, to allocate such a task?

40

A. No, that's correct.

Q. So when you said you wanted confirmation when you asked Ms Febey that question, was that in your role of coordinating?

45

A. Yes, that's correct, it was part of pulling together that whole operation.

Q. Is that your normal modus of operating, to check with people around the table what you understand each of them is going to do?

A. Yes, that's correct, that is an approach I do take.

5 Q. That's your common mode of operating in these meetings?

A. That's correct.

10 Q. And I think you have already told the Board that your preference in the meetings is to achieve a consensus, to go round and achieve a universal consensus understanding of who's doing what?

A. That's definitely the case.

15 Q. And this was part of this normal mode of operation --- no more, no less?

A. That's right.

20 Q. A number of questions were put to you by Mr Star for the police as to whether you had knowledge of recommendations or consultations or whatever about the use of private security. What you did know was that the Assistant Commissioner Grainger expressed "an absolute preference" that private security be used.

A. Yes, that was the comment he made.

25 Q. And that's your knowledge of his position on that topic?

A. That's correct.

30 Q. Can I turn, if I may, to the use of --- potential use of Defence Force personnel in the role that private security did in fact take up; that is, providing security to the quarantine program in the hotels. You're familiar with that topic. You were asked a number of questions about Ms Ellyard about that.

35 A. Yes, yes.

Q. You have a good understanding of who has legal powers to do what in Victoria; is that correct?

40 A. That's correct.

Q. And in particular in a previous life you were a highly ranked police officer yourself?

45 A. That's correct.

Q. And it is the case, is it not, that Defence Force personnel, who have come in to assist a State, have no coercive powers of the nature that the police can exercise?

A. That's correct.

5 Q. And in fact such people are in exactly the same position with respect to their legal ability to control people as any other civilian?

A. That's correct.

10 Q. So although they might be dressed in camouflage and have big boots, they were exactly the same from the point of view of their legal powers of control as the private security personnel; is that correct?

A. That's correct.

15 Q. And that's why you told the Commissioner --- I withdraw that. That's why you told the Board that the difference would only be training and discipline, or words to that effect. Is that right? I withdraw that. I phrased it badly.

20 You told the Board that what mattered was the level of training --

CHAIR: And "supervision", I think was the word.

25 DR HANSCOMBE QC: And "supervision", yes. That's my error. I apologise to the Board. I confused it with "discipline".

CHAIR: That's all right.

DR HANSCOMBE QC: Do you remember telling the Board that?

30 A. I do, Dr Hanscombe.

35 Q. So if the private security people had exhibited similar levels of skill and supervision, there would have been no difference as to whether they were used or Defence personnel were used. Do you agree?

A. Yes, that's correct.

40 Q. Now, in the first instance, of course, these people are private employees so their employer has immediate supervision over them. But to the best of your knowledge, at all times the contracting party was the Department of Jobs, Precincts and Regions. Is that right?

A. That's my understanding.

45 Q. And do you have knowledge of the nature of those contracts, in particular whether they required the tasks to be carried out with a suitable level of skill and supervision?

MS CONDON QC: Madam Chair, before Commissioner Crisp answers that, I object to this question. As I understand it, the Commissioner would not be able to give any evidence as to the particulars of the contracts entered into.

5 DR HANSCOMBE QC: He can say that.

MS CONDON QC: He is not the appropriate witness, with respect.

10 DR HANSCOMBE QC: I asked him, does he have any knowledge. If he has no knowledge, he can say that.

CHAIR: You can answer that question, Commissioner Crisp.

15 A. Thank you, Madam Chair. I have no knowledge, Dr Hanscombe.

DR HANSCOMBE QC: Do you have --- I withdraw that.

20 So that means, doesn't it, that since the private security people --- had they been adequately skilled and supervised, would have been no better and no worse than the ADF personnel?

25 MS CONDON QC: Madam Chair, I object to that question as well. It contains a factual presumption as to those matters, which is beyond the realm of this witness' knowledge.

DR HANSCOMBE QC: I can see that this is a sensitive subject. I don't press the question any further. They are all the questions I have, if the Board please.

30 CHAIR: Thank you, Dr Hanscombe.

MS ELLYARD: Thank you, Madam Chair. I don't have any questions in re-examination of the Commissioner. I am conscious that the Board may have some, before I invite you to excuse him.

35 CHAIR: I want to take you finally back to one matter, Commissioner Crisp, before I excuse you, and it's a matter that I think you have been asked a considerable number of questions from a range of the parties with leave to appear, about this issue about command and control. So I hope to be able to come to a position of clarity with respect to your view about that and I ask these questions obviously through the
40 lens, through the very particular lens, of the Terms of Reference of this Inquiry and the Hotel Quarantine Program.

A. Yes, Madam Chair.

45 CHAIR: So you have been asked a number of questions about the contents of the Emergency Management Manual and the legislation that underpins it and the plans that have been made and taken to the structures of command and control.

I understand in summary your evidence to be that you understand those two terms to mean as follows: the command structure is a structure that relates internally to an agency engaged in the emergency, so that there is a command --- I think you have said vertical command structure that goes up and down the agency itself?

5

A. That's correct, Madam Chair.

CHAIR: And the control structure, sometimes referred to I think in the manuals and plans as a horizontal structure, or a structure that attaches itself to what can otherwise be called the lead role?

10

A. Yes.

CHAIR: So what I just want to be clear about is two things with respect to your evidence, and the first is perhaps best done by reading to you from a section of Mr Lapsley's statement that you have been taken to, but I'll just go back to that statement. I'm on page 21 and it's in answer to --- Mr Lapsley is asked this question at question 18:

15

20 *Why was it important that there should be a control agency in the Response Plan?*

So he is being asked general questions about emergency management and the structure of the plans he was engaged in. He gives this answer to that question:

25

It is a fundamental premise to have a single agency designated for the leadership and management of an emergency so there is no ambiguity of who is accountable for the management of the emergency.

30 Do you agree with that part of his answer to that question, Commissioner Crisp?

A. Yes, I do agree with that. Are you going --

CHAIR: I'll just go on to the next part of it and then I'll ask you to comment more generally:

35

It also enables a clear understanding of who holds accountability for developing capability and the system to support a response to a particular hazard. A further benefit of having a control agency identified is to maximise the use of finite resources and avoiding duplication of effort.

40

Is that again propositions that you would agree with?

A. Yes, that's a reasonable proposition, Madam Chair.

45

CHAIR: All right. Now, earlier on in your evidence, I understood you to be --- and it's perhaps my misunderstanding, which is why I just want to take you back to it.

I understood you to say that you observed something different happen in the way in which this emergency was responded to, such that the controller was in control of certain parts. Do you remember giving that answer?

5 A. Yes, I do.

CHAIR: So what I wanted to clarify with you is that that was your observation, that the control agency, the Department of Health and Human Services, was in control of certain parts of this emergency. Firstly, is that --- was that something that concerned
10 you, that they appeared --- that your observation was that they were in control of certain parts; and what follows from that is that they weren't in control of other parts?

A. Yes, thanks, Madam Chair. So definitely DHHS, the control agency, and have been and still continues to be the control agency, that is really clear. What I was
15 referring to with regards to other parts of the operation not sitting directly with the Department of Health and Human Services as the control agency, it's once we got to that point with Operation Soteria where that administrative order was put in place, to transfer that responsibility from Health and Human Services to DJCS, so that's done as part of the *Emergency Management Act*, so it's done in a very controlled way.
20 I wouldn't like it to be thought that DHHS wasn't the control agency, there isn't control around this particular emergency.

Similarly, what's happened, and I mentioned some other examples around business engagement, enforcement around business engagement, so those functions have been
25 transferred under section 39 of the legislation to other Secretaries. So it's really clear, and it's documented, that they have responsibilities for those parts of this emergency and they now form part of this new State Control Team, to ensure that there is that effective control because you've got all the State Secretaries or the most senior public servants along with the Chief Commissioner, the Chief Health Officer,
30 and myself. It goes to that point, and apologies if I don't make it all that well --- we have a State Controller or a State Response Controller but this emergency has meant that we have had to set up other models or other mechanisms and structures to ensure that there is that controller at a State level.

35 CHAIR: So when you gave that answer that I took you to just before, about being in control of certain parts, you're actually answering about what happened towards the end of June, when the program was restructured? Is that what you meant?

A. That's right. And then it was actually on 27 July when this new State Control
40 Team was established and a number of those functions were transferred across.

CHAIR: I see. Thank you. Anything arising out of that for anyone?

45 Ms Harris?

MS HARRIS QC: Madam Chair, there might be, on that theme, there might be one point that it might be useful to ask Commissioner Crisp's views on, and it relates to

the statement about complex emergencies in the Emergency Management Manual and shared accountability. If I could perhaps just raise that with Commissioner Crisp.

5 CHAIR: Yes.

FURTHER CROSS-EXAMINATION BY MS HARRIS QC

10

MS HARRIS QC: Commissioner Crisp, in part 7 of the Emergency Management Manual Victoria there is some discussion about complex emergencies. Would you say that this emergency as a whole was a complex emergency?

15 A. I would agree with that, both complex and in terms of scale.

Q. In terms of distribution of responsibilities and function, if you like, amongst the control agency and support agency, you are aware, aren't you, that it is the case that the DJPR held the contracts and the contract management role for hotels, security and cleaning, and in that sense they had that agency --- the first-instance agency responsibility for those contracts? That's your understanding, isn't it?

20

A. That's right, as a support agency.

25 Q. Yes. So what I wanted to ask: there's a statement in the Emergency Management Manual that --- I'll quote it now:

30 *There are complex emergencies where a shared accountability across a number of agencies occurs. In these cases there is a need for a single agency to be responsible for the collaborative responsible agencies for the purposes of consistency. The term "control agency" will be used to describe this lead agency role.*

35 Given that this was a complex emergency, does that describe in your view the arrangements that took place here?

40 A. It does. But as I explained to Madam Chair, we have taken all --- the complexities have gone to another level, where there has actually had to be a structure that's never been implemented in the State for an emergency, with other Secretaries taking on those Controller roles.

MS HARRIS QC: Thank you, Madam Chair, that's all I wanted to clarify.

45 CHAIR: Thank you. Nothing further, Ms Ellyard?

MS ELLYARD: No, thank you Madam Chair.

CHAIR: Thank you very much, Commissioner Crisp. Thank you for your attendance at the Board. You are now excused, you can turn your camera and microphone off.

5 A. Thank you, Madam Chair. Thank you, Ms Ellyard.

THE WITNESS WITHDREW

10

MS ELLYARD: Madam Chair, may I invite the Board to take a short break before the next witness. In doing so, may I indicate for the benefit of the parties with leave to appear that transcripts of the State Control Centre meeting recordings have been uploaded to the leave to appear section of the hearing book. I apprehend there may
15 be some applications for redactions before they are released more publicly, but the transcripts themselves have been uploaded.

CHAIR: Thank you, Ms Ellyard. We will take a 10-minute break while the next witness is being made ready. Thank you.

20

MS ELLYARD: If the Board pleases.

ADJOURNED

[3.14 PM]

25

RESUMED

[3.24 PM]

30 CHAIR: Yes, Ms Ellyard.

MS ELLYARD: Thank you, Madam Chair. The next witness is Mr Christopher Eagle. He appears and I invite your Associate to take him through the oath or affirmation process.

35

CHAIR: Mr Eagle, I understand you wish to take the oath for the purposes of giving your evidence; is that correct?

MR EAGLE: Yes, that's correct.

40

CHAIR: Thank you. I will hand you over to my Associate while that is being done. Madam Associate.

45 **CHRISTOPHER BRETT EAGLE, SWORN**

CHAIR: Thank you, Mr Eagle. I'll hand you over to Ms Ellyard now. Thanks, Ms Ellyard.

5 MS ELLYARD: Thank you, Madam Chair.

EXAMINATION BY MS ELLYARD

10 MS ELLYARD: Mr Eagle, would you tell the Board, please, your full name, your occupation and the department you work for?

15 A. My name is Christopher Brett Eagle. I'm currently a Deputy Chief Fire Officer with the Department of Environment, Land, Water and Planning.

Q. You made a statement in response to a request made of you by the Board?

A. That is correct.

20 Q. Have you got a copy of that statement with you?

A. I do.

25 Q. It's dated 11 September 2020?

A. Correct.

Q. Are the contents of that statement true and correct?

30 A. They are.

Q. I tender the statement, Madam Chair.

35 CHAIR: Exhibit 149.

EXHIBIT #149 - STATEMENT OF CHRISTOPHER BRETT EAGLE

40 MS ELLYARD: Mr Eagle, in the statement you refer to and you footnote a number of documents which have been numbered by reference to the document management system the Inquiry is using. I understand those are documents that you have had a look at for the purposes of making your statement or wish to include in your evidence for the purposes of today?

45 A. That is correct.

Q. I tender that bundle of documents, Madam Chair, being the bundle of attachments to Mr Eagle's statement as contained in the hearing book.

CHAIR: That will be marked Exhibit 150.

5

**EXHIBIT #150 - ANNEXURES TO STATEMENT OF CHRISTOPHER
BRETT EAGLE**

10

MS ELLYARD: Mr Eagle, notwithstanding your substantive role with the Department of Environment, Land, Water and Planning, your involvement with the Hotel Quarantine Program arose because you were asked to and did take up a position in a structure that had been established under the Emergency Management Framework specifically for the Hotel Quarantine Program; is that right?

15

A. That is correct.

Q. And prior to being asked to take up that role you indicate at paragraphs 3, 4 and 5 of your statement what your past experience had been in matters of emergency management. Can I ask you to summarise that experience, please, for the Board?

20

A. So I have been a Deputy Chief Fire Officer, which was a change in title but not role from Assistant Chief Fire Officer with the Department of Environment, Land, Water and Planning for four years. Prior to this I worked for the Country Fire Authority, commencing at a firefighter, moving through the ranks up to district manager or operations manager. During that time, both with CFA and DELWP, I have had experience primarily in class 1 emergencies, ranging from small emergencies through to level 3 emergencies.

25

30

Q. We have heard in evidence this morning that for practical purposes class 1 emergencies largely means fires and floods, natural disaster of that kind. Is that the kind of matters you have been involved in?

35

A. Correct.

Q. At paragraphs 4 and 5 you refer to a particular training in levels of what you call incident control. Could you tell the Board what you mean by "incident control"?

40

A. So the control function of an incident relates to the overall direction of the incident. That control function starts with an individual having all control functions, which would be the case at a level 1 incident, which would be a small incident attended to by a single agency. Under the AIIMS model, the functions are then delegated by the Incident Controller to other functional areas. The incident control remains with the Incident Controller.

45

Q. When we speak of control, I don't know if you have been online and were

listening to the evidence that was given by Commissioner Crisp earlier today?

A. No, I wasn't.

5 Q. He spoke of control as being an aspect of emergency management that is understood as a level of horizontal control across an incident or across an emergency. Is that the way you're using that term too?

A. Correct.

10

Q. Can I ask you about the circumstances in which you came to take up the role that you had in Operation Soteria. You deal with this at paragraphs 7 and 8 of your statement. But could you summarise how was it firstly that you came to know there was a Hotel Quarantine Program and then that you came to be asked to play a role in it?

15

A. So I was made aware generally I think when it was announced on the Friday night, as many in the community were. I had no understanding of what that meant at that time. On Saturday, 28 March I received a text message from our Chief Fire Officer asking whether we could attend a teleconference later that day. Upon dialling into that teleconference, the Emergency Management Commissioner explained what was going on and what the ask was of DELWP. The Emergency Management Commissioner then left. On that teleconference was the Chief Fire Officer and a number of Deputy Chief Fire Officers and we had a discussion around what the role was and whether we were able to assist.

20

25

Q. When you speak about the role, we have heard the role described as Deputy State Controller - Health.

30

A. That is correct.

Q. Is that the role that you're talking about?

A. That is correct.

35

Q. And as I understand from your statement, ultimately from 28 March onwards, you and a colleague also from DELWP shared the role of Deputy State Controller - Health, alternating with four days on and four days off; is that right?

40

A. That is correct. We commenced in that role on Sunday, 29 March.

Q. You were the one who took effectively the first shift; is that right?

A. That's correct.

45

Q. You have attached to your statement and referred to at paragraph 81 a handover that you prepared by way of a written handover on 1 April to your colleague who

was to share the role with you. I'll ask that document be brought up, Madam Chair. It's document DELW.0001.0020.0450. And paragraph 81 of your statement, Mr Eagle, if you want to go to it, is where you refer to this note. Do we see there, Mr Eagle, a document that's been prepared by you?

5

A. Correct.

Q. And as I understand it these were the very early days of the inquiry and you preparing, for your colleague's benefit, a summary of what had been put in place over those very early days by way of firstly a daily structure of meetings?

10

A. Correct. This was my first handover notes to pass information on to my other Deputy Chief Fire Officer.

Q. And it would appear from this first part that we can see here that there was a daily meeting which you as Deputy State Controller were required to attend which was chaired by the State Controller - Health?

15

A. That's correct, the 0900 meeting.

20

Q. There was also a meeting to be chaired by you or your colleague at 1.30 every day?

A. Correct.

25

Q. And there are a number of other specific tasks referred to as being tasks as I understand it that were set to take place at certain times during the day?

A. Correct.

30

Q. Can I ask that we scroll down, please, Mr Operator, to the lower part of that first page and over to the next page. Perhaps just bringing up the heading under "Structure", the top part of the page, you have referred there in the first dot point under "Structure", "Not an IMT but a virtual operational management team". What did you mean by that?

35

A. In class 1 emergencies --- and this was my document to try and explain to my colleague the information that I had worked out over the past few days to ensure seamless transition between him and I. It was trying to give him further information to get him up to speed. What we respond to class 1 emergencies, it's always set up with an Incident Management Team. This incident wasn't set up that way, and this was trying to explain to my colleague how it was set up, how it was operating, to try and give him a bit of an understanding when he first walked in the next morning.

40

Q. It wasn't an Incident Management Team but it was a virtual operational management team. What is the difference between those two things, from your perspective?

45

5 A. You might find in any manual or framework a reference to a virtual operational management team. This document went along with a phone call that was followed up to explain that. What I meant by that was there were a number of agencies that had a series of responsibilities as described in the Operation Soteria operations plan. They operated within their agencies to deliver those functions but all needed to connect up very well as the passengers moved from arriving at the airport through to the accommodation being used and then subsequently in our care during the 14 days of their stay.

10

Q. You then say:

DHHS lead in EM [I take you it you mean emergency management] sense.

15 A. Correct.

Q. I take it you meant by that they are the control agency as that term is used in the Emergency Management Manual?

20 A. That is correct.

Q. Then you refer to --- and perhaps this is what you have just said, each agency undertaking their bit of jigsaw, under the guidance of DHHS. Can I direct your attention to the two bottom dot points, firstly the one that begins, "DJPR providing logistics". Do you see that?

25

A. I do.

Q. You refer there, and this is a phrase that is repeated at other points in your document, that:

30

[They are doing that] all under guidance of DHHS of tasking and safety requirements.

35 Can I ask you what you meant by that, "under guidance of DHHS of tasking and safety requirements"?

A. So part of my role in this coordination function was ensuring that questions and information that agencies had was brought to DHHS's attention and then they provided information back. What I observed was because it was a public health incident and DHHS were the lead agency, a lot of questions that other agencies --- or a lot of the information that the other agencies wanted were technical in nature, therefore asked DHHS a significant number of questions to get that guidance around task --- around safety requirements and how different things worked relating to security, in this case what I have described as security, cleaning and catering.

45

Q. So just to make sure I understand you, Mr Eagle, I take it that what you meant by

that is there were various agencies performing tasks, a number of issues they raised with you about the way in which they should do their job or what their requirements were, were matters for DHHS as the lead agency to give guidance on?

5 A. That is correct.

Q. And that was because they were questions that related to health matters or matters more within DHHS's expertise?

10 A. That is correct.

Q. And so when you say "under guidance" does that mean that you were reflecting on what you had observed in practical terms of requests coming to you for advice and you obtaining or directing the relevant advice be provided back to the agency that needed it?

15 A. That's correct.

Q. You then in the final dot point refer to:

20

DHHS in control of accommodation venues

That is in distinction to DJPR, who you have described as providing the logistics. Can I ask you to explain what, as at the time you prepared this document, was the distinction that you had observed between the logistical role and the control role?

25

A. So prior to my commencing in this operation, DJPR had undergone contract management negotiations in contracting a number of accommodation venues. When we --- when I first started in this role, DJPR were selecting the hotels to be brought online in what order. Due to some requirements that DHHS had further information on and wanted to be involved with, during that first four-day period there was a decision made by the State Controller - Health that DHHS wanted to control the selection and the standing up of accommodation venues, but due to the way --- and I didn't know this at the start, it was something that I learnt during those first four days, the authorised officers on site have a significant legal requirement or legal obligation in terms of how the direction orders work and the authorised officers are the ones that make a lot of decisions on site, so that's what I meant by "in control of", it's the way the authorised officers had to undertake the directions notice and what could and couldn't be approved under the directions notice.

30
35
40

Q. Thank you. You go on in that final dot point to refer to the authorised officers on site and you refer to them effectively as being a "division commander by our terminology". And by "our terminology", you mean the terminology you and your colleague would use in your pre-existing emergency management roles?

45

A. That is correct.

Q. So this was your reporting to your colleague at 1 April about what you had observed or what had been developed as the structure. Did this remain the structure for the succeeding month while you and your colleague were performing the role of Deputy State Controller?

5

A. No, this started to change from 18 April, when the Emergency Operations Centre stood up and our role transitioned from doing a lot of this work as the Deputy State Controller and the coordination functions to support. When the Emergency Operations Centre was stood up, there was a number of changes because they actually put into place an Incident Management Team and a number of different other mechanisms.

10

Q. Did you observe that to make any difference in particular to what you have said in that last dot point there about the extent to which DHHS was in control of the venues?

15

A. I didn't observe any changes. In that last two weeks, after 18 April when I was on --- still in the role, I was very much supporting the DHHS Commander. I had very little to do with the Emergency Operations Centre or how the actual activities played out in the field.

20

Q. Thank you. Mr Operator, that can come from the screen. Thank you very much.

If we think about what your role involved, Mr Eagle, you have described the daily timetable in the document we have just looked at and it is extracted at paragraph 25 of your statement as well. But at paragraphs 18 and following of your statement, if you want to have regard to that, you describe firstly your role and functions at the State Control Centre. Is the Board right in understanding that you were physically at the State Control Centre during the periods of time that you were on duty as the Deputy State Controller?

25

30

A. That is correct. I went down to the Emergency Operations Centre one afternoon for a period of half an hour, just prior to it actually coming online, just to have a look at the facility where it was as a bit of visual undertaking.

35

Q. But other than that, you performed your duties as Deputy State Controller both before and then during the transition that you have described from the State Control Centre?

40

A. That is correct.

Q. You have described in paragraph 18 your role at the State Control Centre as acting as a coordinator between the agencies and State Controller - Health?

45

A. That is correct.

Q. And you then describe receiving directions and information from the State

Controller - Health. What kind of matters would be the subject of directions from the State Controller - Health?

5 A. So I'm trying to think of an example, but in relation to the accommodation venues and the --- the State Controller - Health wanted to have the control over which venue was put online in what order. That was one thing where the State Controller - Health was the one who made that decision and then passed it to myself to go and advise the other agencies.

10 Q. And then at paragraph 20 you refer to escalating matters from the various agencies to the State Controller or to the State Agency Commander. Just pausing there, the evidence that the Board has heard today from Commissioner Crisp is that the model in use would have been within each agency, including DHHS as control
15 Agency Commander with each of those Agency Commanders then feeding into and being coordinated by you in your role as Deputy State Controller. Is that how you experienced the structure?

20 A. Correct. However, the State Agency Commander for DHHS was slightly different because they were the lead agency so a lot of their information flow was direct to the State Controller - Health due to the nature of the information flow and the relationship between the State Controller - Health and the State Agency Commander from DHHS.

25 Q. Okay. So there were some times when they didn't go through you, they went straight from Agency Commander to State Controller - Health?

A. Correct. Still within the agency of DHHS.

30 Q. I see. So you say then that you would escalate matters from agencies to the State Controller or to the DHHS State Agency Commander. Is an example of that an issue that we spoke about earlier, if questions came up from one of the support agencies that required guidance or advice, you would, to use your word, escalate that either to the State Controller - Health or to the DHHS Agency Commander for the purposes of
35 getting the answers that other agencies wanted?

A. That's correct.

40 Q. It also seems there were some decisions that you could make yourself or actions that you could take yourself?

A. Matters pertaining to the operational nature of Operation Soteria. None of those were public health matters.

45 Q. So that's the distinction that I think you draw later on in your statement between public health related issues and operational issues. You say at paragraph 24 of your statement that you were accountable in relation to emergency management

coordination. Who did you understand was accountable for the public health aspects of the Hotel Quarantine Program?

5 A. For Operation Soteria I reported to the State Controller - Health. I'm aware that the State Controller - Health reported in more broadly to the Department of Health and Human Services and they had a number of other functions in place but I had no interaction with the broader Health and Human Services arrangements.

10 Q. So your role as Deputy State Controller - Health had "health" in the title but what you were really doing was coordinating the logistical arrangements of the program, rather than also coordinating in any hands-on sense the delivery of public health services or public health expertise; is that right?

15 A. Correct.

20 Q. And am I right in understanding that as far as you were aware, and you deal with this at paragraphs 27 and following of your statement, anything that came to you from another agency that was public health related or DHHS related, you would send on up or across, as it were, to the State Controller or the Agency Commander of DHHS?

A. That is correct.

25 Q. Was that a difficulty in the sense that were there a number of matters that were raised with you on behalf of other agencies or within the operation that needed --- that couldn't be dealt with by you that needed to be sent across to DHHS or up to the State Controller because they were public health related?

30 A. I found no difficulty in that escalation process.

Q. Was it a common thing to need to escalate public health related matters as opposed to operational matters that you might have been able to resolve at your level?

35 A. As you can imagine, with an operation that's never been done before, there was a significant volume of questions that were raised. I didn't find any difficulty in passing those on.

40 Q. So when we use the term "public health", what are you referring to as being encompassed in public health related matters?

45 A. That's a terminology that I only picked up during this operation. It was one where the State Controller - Health, in our conversations would refer to the public health team and the public health component of DHHS. I have no knowledge --- or a broad understanding of who or what that relates to.

Q. Okay. So issues relating to authorised officers, for example, did you have any

awareness of whether what they were doing was regarded by DHHS as part of public health or as opposed to something else?

A. No, I have no understanding or awareness.

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Q. Were issues raised with you about authorised officers and the way in which they were working on site or sometimes perhaps not always available on site?

A. I don't recall any specific examples. I know in conversation, authorised officers and their roles were discussed and at one stage we were advised by the State Controller - Health that they were to provide briefings on site. As I say, my knowledge of the role of authorised officers increased during that period of time as I started to understand what the directions notice meant and how it operated at the airport and the hotels but I don't recall any specific examples when it was raised with me about the way they functioned.

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Q. Did the DHHS Agency Commander in any relevant sense report to you or was accountable to you, given that you were the Deputy State Controller?

A. No, nobody within Operation Soteria actually reported to me. It was an information flow from the State Agency Commander, sometimes through myself to other agencies, sometimes from the State Agency Commander direct to other agencies, sometimes from the State Agency Commander to the State Controller - Health.

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Q. What about any power that you had to give directions or require that things be done? Given that you were accountable for the emergency management function, did you have the power as you saw it to give directions about logistical matter or matters within your field of responsibility?

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A. No, there was no powers delegated to me under any Act or legislation of DHHS. All activities I undertook was on the direction of the State Controller - Health.

Q. The Board has heard from a couple of witnesses working with DJPR, which as we understand it was a support agency, most particularly Ms Febey and Ms May, who held in turn the role of effectively Agency Commander for DJPR, that they regarded themselves as obliged to follow directions from you. That wasn't your understanding of the hierarchy between them as Agency Commanders and you as the Deputy State Controller?

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A. All of my directions came from the State Controller - Health, so any directions that I passed on to Ms Febey or Ms May was on the direction from the State Controller - Health. It wasn't my direction as such.

Q. I see. Thank you. You were asked some questions about the extent to which you had any --- and you deal with this at paragraphs 31 and following --- were guided or directed by the State Controller - Health, the Emergency Management Commissioner

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or the Chief Health Officer, and I understand from the evidence that you have given that your primary reporting line and lines through which you received direction was the State Controller - Health; is that right?

5 A. That is correct.

Q. And you had an awareness that other people within the DHHS structure were also reporting through to the State Controller - Health, not just you?

10 A. That is correct.

Q. But reporting to the State Controller - Health in relation to Operation Soteria, did that always go through you or did it sometimes go direct from one agency or another to the State Controller - Health?

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A. No, many times conversations and directions occurred direct from either the DHHS State Agency Commander to the State Controller - Health or from other Agency Commanders through to the State Controller - Health.

20 Q. Wasn't it your role as Deputy State Controller to be the one responsible for the structure of the program? Didn't it make your life more complicated or difficult if people didn't have to report through you, they could report around you?

25 A. I didn't find that experience. It actually meant that a lot of information can be passed on and acted upon much quicker than having me as a filter point. It also meant that the State Controller - Health could actually provide direct information and have the conversations and answer the questions and clarify the questions the agency had, rather than me having to listen, interpret it and pass it on in the correct manner.

30 Q. When that occurred, would you be copied in or made aware of the directive or advice that had been given by the State Controller - Health to an agency?

35 A. I am aware of occasions where that occurred but I can't say with any degree of certainty that it occurred every single time.

40 Q. You said in answer to the Board's question at paragraph 32 that you didn't yourself receive any direct guidance or direction from the Chief Health Officer. Did you have any contact with the Chief Health Officer in the role that you were performing?

45 A. No, whilst I heard the Chief Health Officer or the Deputy Chief Health Officer on meetings I attended in the State Control Centre meetings and I heard the State Controller - Health talking to members --- the Chief Health Officer and other members in the Public Health Department, I never had that direct interaction.

Q. Similarly you have said that you didn't receive any direct guidance or direction from the Emergency Management Commissioner but you did provide information to

him if there was a request made of you. Is that the level of your direct interaction with him?

5 A. The Emergency Management Commissioner and I were based in the State Control
Centre at the same time. The Emergency Management Commissioner would pass on
information that pertained to the operations, directly to myself. So there were some
complaints that went through to various members of Parliament, that the
Commissioner passed them on to me to action or task to somebody else. There were
10 obviously many conversations where the Commissioner was in the office as the State
Controller - Health and myself or the Deputy State Controller - Health shared the
same office, so there were many conversations which I either heard or was in
attendance to when the Commissioner was in the office.

15 Q. At paragraphs 57 and following of your statement, Mr Eagle, you respond to a
couple of specific matters that were raised with you in questions from the Board.
The first relates to a concern that the Board understood was raised with you by
Ms Febey of the Department of Jobs, Precincts and Regions about data entry and
issues relating to the quality of data. Do you remember that issue being raised with
you by her?

20 A. I do.

25 Q. And you have described at paragraphs 57 and following what you understand to
have been the process that was followed after those concerns were raised. Can I just
ask you to summarise for the Board what were the steps, if any, that you directly
took and what did you understand to be the action taken in response and by who?

30 A. The first couple of days of the operation, I had been, in conversations where the
State Intelligence Unit function of the State Control Centre was working on some
data collection and assisting to collect the data and share it with agencies. Ms Febey
raised this as well in one of the conversations over the days following that there was
some further work where it actually transitioned from the State Intelligence Manager
doing this work into DHHS doing the work and turning it into an internal system.
35 I saw a number of emails, and I can't be sure that they were all the emails, across
conversation between members of DHHS and where they were going and some ideas
that they thought might work. The end result was that DHHS took that function on
as the lead agency and then the ultimate outcome was they developed a program that
could be used in the field to enter data directly into. But I had no involvement in the
development of that program.

40 Q. You say at paragraph 63 of your statement that from the emails that you observed,
you considered that the matter was being appropriately progressed and that you didn't
need to do any further escalation yourself. If you had had a concern that that matter
wasn't being appropriately resolved, what was your power or obligation as Deputy
45 State Controller to try and get the issue resolved?

A. I would go to the State Controller - Health, discuss with him and highlight that the

agencies had brought that to my attention again and it still seemed to not be resolved and then let them continue to undertake that as a function of DHHS.

5 Q. At paragraphs 65 and following you answered some questions posed to you by the Board in relation to an issue that the Board understands was raised with you also by Ms Febey on 30 March about her view that the private security were not adequate security in the hotels and she made a request of you that you escalate a request for a permanent police presence at each hotel. Do you recall that issue being raised with her by you?

10 A. I do.

Q. Again, what did you do in your capacity as Deputy State Controller in relation to that request from DJPR?

15 A. That matter was raised with both the State Agency Controller for DHHS and the State Controller - Health. I was aware, based on comments that I got back, because I got some initial information to provide back to Ms Febey about what to do in the short term that evening and was aware the State Agency Commander was going to
20 continue on to look at what the arrangements were and how things could be improved. And I was aware of meetings in the following days between DHHS, DJPR and Victoria Police, but I was not involved in those meetings.

Q. Similarly, I take it if you had formed a view that this was an issue that wasn't being appropriately managed, you would have had, as you saw it, the power and the responsibility to escalate it to the State Controller - Health?

25 A. That is correct.

30 Q. May I ask you then, perhaps by reference to your experience in other kinds of emergency management, in the context, Mr Eagle, particularly as you have described class 1 emergencies, how would you describe, in perhaps emergency management structure terms, what each hotel location was? Would that be comparable to an incident in the way you might use the term or would you rather have said that the
35 whole program was an incident or something else?

A. It's not something I have thought about until now. But I wouldn't break it up --- if it was up to me and I had that authority, and I don't and I didn't, but I wouldn't have thought that each hotel would be an incident. That would get too complex. It's
40 possible that if you tried to overlay the entire AIIMS structure, each hotel may be a division, but that conversation was never raised or discussed or had up to this point now.

Q. Thinking about what we said earlier, the evidence that there would be a chain of command within each agency which is a vertical line and then a control line which was used sitting across the top of agency, what did you understand to be the line of command at each location? You said earlier you understood DHHS were relevantly
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in control. Does that mean they were in command in the emergency management sense at hotels?

5 A. I had no understanding of how each hotel was set up, I didn't have that level of knowledge and had no need to know that level of knowledge. My understanding as part of the process of transitioning after 18 April to the Emergency Operations Centre was that they started to use that function or control across hotels, as opposed to Agency Commander, as you have described.

10 Q. I take it you mean you observed, as the transition started to happen, that there started to be a command structure involving all of the hotels?

15 A. I never had any part of what happened on the ground, I never had any involvement or knowledge. I'm only going off what the version 2 of the operational security plan said.

20 Q. I understand. Do I take it that you didn't have --- or perhaps I should ask you this: the Board has received evidence from a variety of sources, including hoteliers, security guards and representatives of various departments, that at least some of those people from time to time observed a lack of clarity or were uncertain themselves about who was in command on the ground at a particular hotel site and in particular whether it was the authorised officers or the team leader or DJPR or somebody else.

25 During the period of time you were performing your duties as Deputy State Controller, were concerns of that kind about a lack of clarity of control or command ever raised with you?

30 A. I don't recall any conversations about the specifics of hotel operations to that level of detail.

MS ELLYARD: Thank you. Thank you, Mr Eagle.

35 Madam Chair, those are the questions that I have for Mr Eagle. I'll stand to be corrected but I'm not aware of any applications to cross-examine him, although I'm conscious that his own counsel may have some questions. Perhaps I'll pause to see whether anyone is going to make an application that perhaps I've missed.

40 CHAIR: It seems not, Ms Ellyard.

MS ELLYARD: I will pause a moment longer in case Mr Stafford, who I understand acts for Mr Eagle, has his own application to raise any matters.

45 MR STAFFORD: Madam Chair, I would indicate I have no questions.

CHAIR: Thank you, Mr Stafford.

MS ELLYARD: In that case, Madam Chair, unless you have any questions of Mr Eagle ---

CHAIR: No.

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MS ELLYARD: --- I'll ask you to excuse him with our thanks.

CHAIR: Yes. Thank you, Mr Eagle, thank you for your attendance at the Board. You are now excused so you can turn off your camera and your microphone. Thank you.

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THE WITNESS WITHDREW

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MS ELLYARD: Madam Chair, that concludes the evidence for today.

May I indicate who the witnesses are tomorrow and the order in which they will be called.

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CHAIR: Thank you.

MS ELLYARD: Firstly, Professor Sutton; secondly, Dr van Diemen; thirdly, Mr Helps; fourthly, Ms Spiteri. And Mr Ihle, who will be appearing tomorrow, will be tendering the statement of Ms de Witts but not calling her. The relevant statements and documents are on the hearing book as I understand it and I invite anyone who has not yet given notice to Mr Ihle of their applications for cross-examination to do so.

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CHAIR: Thank you, Ms Ellyard. We will adjourn now until 10.00 tomorrow. Thank you.

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MS ELLYARD: If the Board pleases.

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**HEARING ADJOURNED AT 4.03 PM UNTIL 10.00 PM ON WEDNESDAY,
16 SEPTEMBER 2020**

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