

TRANSCRIPT OF PROCEEDINGS

INQUIRY INTO THE COVID-19 HOTEL QUARANTINE PROGRAM

BOARD: THE HONOURABLE JENNIFER COATE AO

DAY 23

10.00 AM, WEDNESDAY, 23 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

MS G. SCHOFF QC appears with MR A. SOLOMON-BRIDGE and MS K. BRAZENOR for the Hon. Jenny Mikakos MP, Minister for Health

DR S. McNICOL AM QC appears with MR E. NEKVAPIL and MR D. PORTEOUS for the Hon. Lisa Neville MP, Minister for Police and Emergency Services

MR D. COLLINS QC appears with MR N. WOOD and MS T. SKVORTSOVA for the Hon. Martin Pakula MP, Minister for Jobs, Precincts and Regions

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. Good morning, Minister.

MS ELLYARD: Good morning, Madam Chair. There's an appearance to be announced, Madam Chair, on behalf of the first witness, and I'll call on Mr Collins to
5 make that appearance.

MR COLLINS QC: Madam Chair, my name is Collins and I appear with Mr Wood and Ms Skvortsova for Mr Pakula.

10 CHAIR: Thank you, Mr Collins.

MS ELLYARD: The first witness this morning, Madam Chair, is the Hon. Martin Philip Pakula MP, who is being called in his capacity as the Minister for Jobs, Precincts and Regions, and I'll ask your Associate to administer the affirmation to
15 him.

CHAIR: Yes, thank you. Minister, you understand that you need to take the affirmation for the purposes of giving your evidence this morning, so I'll call upon my Associate to administer the affirmation to you. Thanks, Madam Associate.
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THE HON. MARTIN PHILIP PAKULA MP, AFFIRMED

25 CHAIR: Thank you. Thanks, Minister, I'll hand you over to Ms Ellyard now.

MS ELLYARD: Thank you, Madam Chair.

30 **EXAMINATION BY MS ELLYARD**

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

35 A. Martin Philip Pakula.

Q. And you hold office as a Minister in the present State Government?

40 A. I do.

Q. Your ministerial responsibilities are?

45 A. I am the Minister for the Coordination of Jobs, Precincts and Regions COVID-19; the Minister for Industry Support and Recovery, Business Precincts, Trade, Tourism, Sport, Major Events and Racing.

Q. The Department of Jobs, Precincts and Regions is one of the --- is the Department

which provides support to you in the course of your ministerial duties or is accountable to you for the performance of the Government's program?

5 A. It is.

Q. You have provided a statement in response to a request made of you by the Board. Do you have a copy of that statement with you?

10 A. I do.

Q. It is dated 21 September 2020. Are the contents of that statement true and correct?

15 A. They are.

Q. I tender that statement, Madam Chair.

CHAIR: Exhibit 195.

20 **EXHIBIT #195 - STATEMENT OF THE HON. MARTIN PHILIP PAKULA MP**

25 MS ELLYARD: May I direct you first to paragraph 2 of your statement, Minister, in which you were asked about whether, prior to the announcement made on 27 March, you were aware of any discussions about the possibility of any quarantining, mandatory quarantine of returned travellers. As I understand your statement, you weren't aware of any such discussion.

30 A. That's correct.

Q. So how was it that you first became aware that a there was a proposal or indeed a decision had been taken that such a program of mandatory quarantine was to be
35 implemented in Victoria?

A. I found out about it on 27 March. I have indicated that to the best of my recollection I found out about it as a consequence of a phone call from Mr Phemister on the afternoon of 27 March and that is how I became aware of it.

40 Q. Thank you. As at 27 March, as I understand from paragraphs 3 and 4 of your statement, you were aware that some work was being done to identify hotel stock that could potentially be used for those needing to self-isolate for the purposes of COVID-19; is that right?

45 A. That is correct.

Q. Could you tell the Board, please, what that work was as you understood it?

5 A. Yes. On 20 March there had been a decision of the Expenditure Review Committee to allocate some funding to my Department for the purposes of acquiring hotel rooms for what became known as the Hotels for Heroes program and I believe in that period between 20 March and 27 March my Department had commenced having some discussions with hotels and I believe with the Australian Hotels Association to that end.

10 Q. Thank you. As I understand your recollection, you first learned of the Hotel Quarantine Program from a conversation with Mr Phemister, the Secretary to the Department of Jobs, Precincts and Regions. Are you able to recall whether you had had any discussions or notifications from the Premier or from his office about the possibility of such a decision being announced on that day?

15 A. No, I don't believe that I had.

Q. Do you recall becoming aware of or perhaps even watching a press conference that was conducted by the Premier at about 3 o'clock on the 27th at which the Hotel Quarantine Program was raised?

A. I can't recall whether I watched that press conference or not, Ms Ellyard.

25 Q. As I understand it, you learned of the existence of the program from Mr Phemister. Was it in the same conversation that, as you say at paragraph 5 of your statement, you learned that his Department was to play a role in the quarantine program?

30 A. Yes. Well, I believe I only had one conversation with him that day so I believe that to be the case.

Q. You say at paragraph 6 that it is your recollection that you were told that DJPR would be the lead agency and you understood from that that DJPR would be "in charge". Can I ask you, firstly, to understand what you mean by lead agency or what you understood him to be meaning by it?

40 A. Yes. Look, it was a brief conversation. It from my perspective followed on from the work that was already being done in regards to Hotels for Heroes. We didn't have a lengthy enough conversation for me to gain an appreciation of what that meant but it would --- you know, in my understanding it was that we would be responsible for --- for being in overall control, but we didn't go into any details about what that would mean. It was my expectation that we would have a later conversation, you know, potentially the following week about what that would mean in effect.

45 Q. As far as you are aware, why he was he calling you to have this brief conversation?

A. Look, from my recollection, it was really just --- it was just to provide me with an update and some information about the decision of the National Cabinet.

5 Q. Would you have ordinarily expected that you might have heard of that decision from the Premier or from those in his office before you heard about it from the Secretary to your Department?

10 A. Not necessarily. On some days a meeting of the Cabinet or the Crisis Council happens immediately after meetings of the National Cabinet, but that wasn't the case on that day. So I wasn't surprised to hear about it from my Secretary.

15 Q. Did Mr Phemister tell you the source of his knowledge, both that there was to be a program and that DJPR was to be the lead agency in it?

A. No, I don't believe he did.

20 Q. At paragraphs 8 and 9 you answer questions from the Board about how it was that you came to understand that DJPR wasn't going to be the lead agency and that instead DHHS would. Could you tell the Board how it was that you came to that knowledge?

25 A. Again, it would have been a phone call from Mr Phemister. I've indicated that it was some time between the 28th and the 30th, I think it was most likely on the 28th, and he called me to let me know that there had been a change.

30 Q. You indicate at paragraph 9 that you weren't consulted ahead of that change. Would you have expected to have been consulted regarding the transfer of the operation away from your Department to another Department?

35 A. I didn't --- I didn't hold that expectation at the time. It was --- it was something that had been seemingly determined at a bureaucratic level and I just --- I took Mr Phemister's information on board but there had been no prior discussion with me about that.

40 Q. And it didn't raise any concerns for you?

A. Not particularly, other than I was aware that Mr Phemister was a bit put out by it and --- but beyond that it didn't raise any concerns for me.

45 Q. Did you have any understanding of the reason why the change was being made?

A. No, I didn't. And to this day I'm not really quite sure, other than I would surmise that there was some discussion amongst agency heads and it led to a change in the decision, but I don't know why that decision was made.

Q. The evidence before the Board is that the decision was made to reflect the

existence of a public health emergency as declared under the *Public Health and Wellbeing Act* and the Department of Health and Human Services being designated as the control agency for human disease emergencies under the Emergency Management Framework. Is that something that you have since become aware of, the role of DHHS being attributable at least in part to its status under the *Emergency Management Act*?

A. Yes, I am.

10 Q. Thank you. At paragraph 10 of your statement you respond to a request for information about the extent to which you received updates or briefings about the work of DJPR staff in the program. Can I ask you to explain the process by which you received information and what kinds of details you were receiving?

15 A. Yes. I wasn't in receipt of detailed or written briefings. I have a weekly meeting with Mr Phemister in his capacity as Secretary of the Department. I also have a fortnightly meeting with Ms Serbest. Those meetings are principally and primarily about her --- in regards to her role as chief executive of Global Victoria and in my capacity as Minister for Trade. But on occasion, and I would stress only on rare
20 occasion, a matter relating to the program would come up in those conversations. More often than not, Ms Ellyard, it came up because the Department may have been responding to an issue that I had raised with them. So, for example, I had occasionally received representations from other members of Parliament or emails from returned travellers complaining about the quality of food that they were being
25 provided with or matters of that nature. And on some occasions they would come back to me at a briefing to let me know whether or not those issues had been resolved.

30 Q. From the discussions that you had, what did you understand to be the scope of work, if I might use that expression, that the Department was responsible for in the Hotel Quarantine Program?

35 A. From those discussions, it was my understanding that the Department was primarily responsible for things such as logistics. So greeting returning passengers at the airport and providing them with a snack or something of that nature, organising check-in, organising the provision of meals and dealing with special requests like laundry or particular cuisines that may have been requested by certain travellers.

40 Q. And, as I understand paragraph 11 of that statement, having that understanding of the work being done, you were not troubled by the proposition that staff from your Department would be carrying out those functions?

A. No, I wasn't.

45 Q. And there was no suggestion made to you that they weren't doing that properly?

A. Not at any stage, no.

Q. At paragraph 12 you answer a question about whether or not you became aware of any concerns within your Department about the way in which the program was being managed, including any concerns about the way it was being managed by DHHS.

5 You say you didn't become aware of any concerns until after the Inquiry was established. Do I take it from that answer that you have since become aware that some concerns were held within your Department?

A. I have.

10

Q. And in general terms what's your understanding of what those concerns were?

A. Well, I --- I became aware some time after the establishment of this Inquiry that there had been certain representations made by my Department to other agencies about various aspects of the program and some of that --- some of those concerns I believe have been the subject of evidence to this Inquiry by officials of my Department. So whether that was concerns in regards to whether or not there ought to be a police presence or concerns about whether or not passengers should be allowed out of their rooms, but those concerns were only concerns that I became aware of once this Inquiry had commenced or had been called.

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Q. Were those concerns that once you found out about them, you thought were matters that you ought to have been made aware of sooner?

A. Not especially. Particularly given that I am aware and was always aware that there was a process that was in place through the Operation Soteria emergency operations protocols effectively, whereby I was aware that concerns of that nature were being stepped up through that process.

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Q. Perhaps it raises a question of the division between what is managed by Mr Phemister and those reporting to him on the one hand versus the matters that are to be brought to your attention in your capacity as Minister. What is, from your perspective, the dividing line between things that you might expect to be managed by Mr Phemister's level or below, and things that you would expect to have brought to your attention?

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A. Look, in the context of --- in the context of this operation, given the bespoke management arrangements or the bespoke oversight arrangements that had been created for it, I'm not surprised that, particularly given the role of the *Emergency Management Act*, that concerns that were raised or concerns that existed were being dealt with through that process in the context of the overall operational responsibility that was held by DHHS.

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Q. Thank you. In addition to the logistics task that you have referred to in answer to question 10 and just now, I take it you were also aware that there had been some work done by way of contracting, procuring services that had been done by your Department?

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A. Look, I was certainly aware that the Department had entered into arrangements to procure hotels. I was --- I was aware also that other services had been engaged but I didn't have specific knowledge of contracts as such in regards to those services.

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Q. So you say at paragraph 13 that in fact you had some direct involvement in terms of approving a list of hotels, rather than any specific contractual terms. But you had drawn to your attention and you approved a list of hotels that were proposed to be used for the Hotel Quarantine Program?

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A. That's correct.

Q. And why was it that your approval was sought or required for the hotels?

15 A. I don't know --- I don't know why the Department specifically sought my authorisation for the hotels as distinct from other contracts they were entering into. In fact, I would imagine that the Department would have had a sufficient delegation to do that without my authorisation in any case. I --- I can surmise that because there had been some discussion about the range of hotels in the preceding week, in the
20 context of the Hotels for Heroes program, the Department may have taken the view that it would be prudent to just put, effectively, that list under my nose.

Q. Other than the proposed list of hotels, do I understand from paragraphs 13 and 14 of your statement that you weren't given, firstly, details of other kinds of contracts
25 that were going to be entered into or, secondly, with whom those contracts were going to be entered into?

A. That is correct.

30 Q. And so do you recall being aware, for example, that contracts were going to be entered into for the provision of security services at the hotel location?

A. No, I wasn't.

35 Q. Do you recall that contracts were going to be entered into for the purpose of cleaning at the hotels?

A. No. No, I don't.

40 Q. Does it --- would that be a level of detail about an operation of that kind that you would ordinarily expect to be made aware of?

A. No. The fact is that Departments, and my Department is no different to many
45 others, routinely enter into thousands of service contracts or contracts of other sorts every year. It is not typical for Ministers to be necessarily apprised of the details or even the fact of contracts that are being entered into in those circumstances.

Q. Is that the case regardless of the size of the contract, size in terms of dollars?

5 A. It would be --- it would be very uncommon in my experience for ministerial approval to be sought for the entering into of contracts. It's not that it never happens but it is very uncommon.

10 Q. So do you recall how it was that you became aware that private security --- as I take it you have become aware --- that private security was engaged and was contracted by your Department to provide services in the Hotel Quarantine Program?

A. Look, I don't recall specifically how I became aware of that. It may have been from media reportage, it may have been from a conversation, but I don't have a specific recollection of how I became aware of that.

15 Q. Do you recall whether you became aware of it before or after this Board of Inquiry was announced?

A. I was aware of it before the Board of Inquiry was announced.

20 Q. Perhaps it flows from the evidence you have given, Minister, that you weren't aware of the specific contracts. But I take it, in answer to questions in paragraph 15, you say in circumstances where you weren't aware of the contract you weren't in a position to form a view about whether the terms of those contracts were appropriate?

25 A. That's correct.

Q. And I take it you relied upon the Department to enter into such contracts on such terms as they considered appropriate in the circumstances?

30 A. That's correct.

Q. But I take it you are now aware of the range of contracts that were entered into on behalf of the State of Victoria by your Department for particularly thinking about cleaning and hotels and security services?

35 A. I'm aware of the --- of the names of the companies that have been --- that were contracted in regards to security services. I'm not yet --- I'm not even now particularly cognisant of the companies, the specific companies, that were engaged for cleaning services.

40 Q. So from the material provided to the Board, it appears that the contracts that were entered into by your Department were an important component of the Hotel Quarantine Program, in that, firstly, they established the locations at which people would be quarantined. Do you accept that?

45 A. I do.

Q. Secondly, that the contracts established the primary means by which there was going to be enforcement or supervision of those in quarantine, by means of security services. Do you accept that?

5 A. I do.

Q. And, thirdly, the contracts were going to establish the cleaning mechanisms that were going to be in place in the hotels, including in respect of rooms where people who had tested positive for COVID-19 were being housed. Do you accept that?

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A. Yes, I do. Subject to whatever other oversight might have been provided, of course, by the Department of Health and Human Services.

Q. Of course. But those three layers of contracting were crucial components of any effective quarantine program: where people would be, how they would be kept there, and how clean the places they were being kept would be. Do you accept that?

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A. Yes, I accept that.

Q. They were all matters that were being procured for the benefit of the program by your Department and I understand from your evidence that you weren't aware at the time, and do I take it that you are not aware now, of the details of what those contractual arrangements were?

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25 A. That's correct.

Q. And, again, perhaps you feel you have already answered this, Minister, but is that usual or unusual, that you wouldn't be aware in your capacity as Minister of the details of such contract?

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A. It is usual.

Q. So perhaps I might draw to your attention a couple of aspects of the contracts and invite you to comment on them. Firstly, on the theme of hotels, the contracts entered into through the Department of Jobs, Precincts and Regions included provisions that made the hotels themselves responsible for training and infection control in relation to their own staff and the use of PPE and for the cleaning of the hotels, with a carve-out where a room had actually been used by a COVID-positive person. So one aspect of the contractual arrangement was that responsibility for training of staff, the use of PPE and cleaning in general terms was placed on the hotels involved. Similarly, in the case of the contracts for the security companies, responsibility for use of PPE, in the sense of making sure people wore it, training and safety inductions were placed as part of the responsibility of the contracting security companies.

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45 If you will accept from me that that's the case and that was a feature of both the contracts, it would appear that responsibility for some fairly key matters relating to infection control and cleaning were contracted out, if I might use that expression, so

that responsibility lay with private companies, the hotels and the security businesses. May I invite you for your view on the appropriateness of that in the context of a Government-mandated quarantine program.

5 A. My view --- my view would be, Ms Ellyard, that I don't think --- I think it's appropriate to put some obligations on those parties that have been contracted. I don't take from it a suggestion that there were no obligations on anybody else in addition to that. So I don't, for example, believe that because those --- what I would describe as --- prudent provisions are contained in a contract, that that necessarily means there's no other training or supervision that might be in place on the ground, if you like, from, for instance, an authorised officer.

15 Q. Thank you, Minister. One of the features of the security contracts was that it was permissible in certain circumstances for security contractors to engage subcontractors, and indeed the evidence is that all of them did and there was a very substantial use of subcontracting in the Hotel Quarantine Program, which means that there was a further transfer or sharing of responsibility for these matters down the chain, further away from Government, into potentially a second layer of private accountability. Would your answer be the same about the appropriateness or the 20 prudence of the contracts in those circumstances?

A. Look, I --- I'm not aware of the specifics of those provisions and I'm --- I don't really hold a strong view about that. I think it's --- it's best --- I think my answer is that it's best if the contractual relationship is held as close to the contracting parties as possible.

30 Q. And would you agree with this proposition --- and I'm directing your attention, Minister, to paragraphs 20 and 21 of your statement --- that to the extent responsibilities of that kind are contracted out, there would need to be appropriately close supervision and management of those contracts to ensure that contractual obligations are being met?

A. Yes, I would agree with that.

35 Q. And are you in a position to make any comment on the extent to which these contracts --- thinking particularly about security for the purposes of your answer --- whether these contracts were appropriately supervised and managed with regard to compliance with PPE and infection training?

40 A. I'm not really in a position to make a comment on that.

45 Q. Perhaps picking up the evidence you gave a couple of moments ago, it appears from the evidence the Board has received from members of the Department of Jobs, Precincts and Regions that they had an expectation that there would be relevant infection control training and guidance provided by the Department of Health and Human Services as part of Operation Soteria. I take from your answer that that's your understanding as well, that there was to be that role performed by the

Department of Health and Human Services?

A. Yes, that's correct.

5 Q. And what's the reason why you have that understanding, that in addition to pure contractual terms, the Government was actually going to, through the Department of Health and Human Services, take on some responsibility for those matters directly?

10 A. Twofold, Ms Ellyard. One, because I'm aware and was aware at the time that the Department of Health and Human Services were the control agency in the Hotel Quarantine Program; and, secondly, because the Department of Health and Human Services, one would presume, has greater expertise in matters of infection control than any other Government Department would have.

15 Q. There's evidence before the Board that at least at some locations or in the experience of some people who gave evidence, that didn't occur and that there wasn't what those witnesses regarded as sufficient or appropriate safety briefings about the use of PPE or guidance available about infection control measures. Are you aware, perhaps even in general terms, Minister, of that evidence?

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A. I'm --- I'm familiar with the evidence but not in detail.

25 Q. Assuming that that's so, that to some extent there was an absence of the guidance and education or training that your and your Department's expectation was was going to be provided, what's your understanding of who had the power to do something about that and to remedy what appears to have been perceived as a gap in the available information and support about infection control and PPE?

30 A. Look, I don't have --- I don't have specific knowledge of that, but my understanding of the control hierarchy would suggest to me that ultimately the Department of Health and Human Services would be principally able to remedy any such --- any such lapses.

35 Q. But it appears that, leaving aside for the moment the expectations that might have been held by the Department of Jobs, Precincts and Regions about the work that the Department of Health and Human Services might do --- the pure contractual position was that the onus for those matters relating to the training of staff about infection prevention, safety inductions and the use of PPE was going to rest with security companies. Do you accept that that's the contractual arrangement as disclosed in the
40 contracts which have been provided to the Board?

A. I do.

45 Q. That being so --- I want to put to you, whether you agree with this --- that posed a significant potential risk, did it not, to the success of any Government-controlled infection prevention program, the responsibility for those matters being contracted out?

A. Look, I'm not sure I do agree with that because I think that presupposes no other -
-- no other infection control --- no other infection control management by anybody
else.

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Q. Okay. So I think you're saying, Minister --- and you wouldn't be prepared to
presuppose that. So to the extent it was suggested that there was no role for
Government because the contract placed the onus on the private providers, you
wouldn't agree with that suggestion? You would always see a role for Government,
10 through the appropriate agency, providing education and advice as well?

A. Yes, I agree with that.

Q. The evidence before the Board suggests that the risks that I have invited you to
15 comment on were exacerbated, thinking particularly about the security contracts, by
what can now be seen to have been some vulnerabilities in the security workforce.
When I say vulnerabilities, I'm speaking about such matters as the casual and
insecure nature of the work, which meant that there were people moving between
locations, people potentially depending on multiple jobs and effectively working in a
20 gig economy, and the evidence from the security companies themselves was that
that's the nature of the industry, and it's highly casualised, for reasons of the nature of
the work and the surges and falls in demand for security services.

Firstly, are you aware that there's been that evidence, firstly, about the nature of the
25 security workforce and, secondly, some opinions expressed that that posed
vulnerability for the quarantine program?

A. Yes, I am.

Q. Perhaps thinking about other cohorts of workers, a distinction can be usefully
30 drawn, can't it, between those who work in a gig economy in whatever industry and
those who have the benefit of full-time employment, including, for example, people
who work directly for Government, where there might be more stable arrangements
and potentially enterprise bargaining agreements that confirm those entitlements and
35 supports?

A. Look, I can't speak to the existence or otherwise of enterprise bargaining
agreements with those security companies. I would agree that logically risks are
40 lower if you are talking about a workforce that works predominantly in one place
rather than in more than one place.

Q. Similarly, risks are lower where that workforce, whether through means of
enterprise bargaining or through just the terms and conditions on which they are
engaged, have the benefit of appropriate consideration having been given to the
45 safety of their workplace and protections for such risks as that workplace might
contain?

A. Unquestionably, that's correct.

5 Q. In some cases, workplaces or workforces might also have the benefit of unions or other industry groups that advocate for them and are available to take up and challenge issues if they arise in a workplace?

A. I definitely agree with that, particularly as a former official of a union myself.

10 Q. In that context, there's a couple of documents that I want to draw to your attention, before I ask you to comment on something, Minister. I'm going to ask that a document be brought up on the screen. I understand it will be a document that you have seen in your capacity as a member of the Crisis Council of Cabinet. May I ask, please, Mr Operator, that the following document be brought up:
DPC.0001.0001.6536.

15 Just to orient you in the document, Minister, this is a submission --- it's not made by your portfolio, but I take it you would have received it given your membership of the Crisis Council. There is not a date on it but other documentation available to the Board suggests this was prepared for a meeting of the Crisis Council on 8 July this
20 year, and it is a document about changing arrangements for the Hotel Quarantine Program.

A. I would have seen that document as a member of the Crisis Council, yes.

25 Q. I want to draw your attention to the final page of the document and just get your comment about a matter. Mr Operator, if we could move forward, please, to page 6552 in the document, the last page. To give context, this is at the end of a document that sets out a proposal and arguments for and arguments against, and as I understand
30 it it's a common feature of these memoranda, Minister, that they contain a section at the end that offers members of the council some advice or relevant information about the extent to which the decision that's proposed might have support or be criticised by relevant people?

A. Yes, that's common.

35 Q. In that context, this is a document about the proposed use of Corrections staff and staff from former airline companies and others. Can I draw your attention, Mr Operator, if you can draw in paragraphs 3 and 4 so it is large enough for
40 everyone to see.

A. That's much better.

45 Q. Please take a moment to read it, Minister. But I'm particularly drawing your attention to paragraph 4 and to the final couple of lines of paragraph 3. So I'll pause while you read that.

A. Yes, I've read that.

Q. So the context of this proposal is a proposal about arrangements that will be in place at hotels where there are known to be COVID-positive people. Do you accept that?

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A. Well, I accept that it's --- I don't recall that specifically but I know that it would at least contemplate the possibility of COVID-positive people, yes.

Q. Indeed. In that context, there's a reference in the final paragraph to active --- and I'm paraphrasing --- active ongoing consultation with the relevant union who could be expected to be concerned about workplace health and safety risks, given the potential for staff to come into contact with COVID-positive people?

A. Yes, I see that.

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Q. Thank you. If that can come from the screen, please, Mr Operator. I'm going to take you to another document on a similar point, Minister Pakula. Mr Operator, could we have document DPC.0012.0001.0835. Again, Minister, this document doesn't have a date but other documentation indicates that it is for a meeting on 27 July, so a few weeks later. Again, this document is not prepared by your portfolio but I take it that it was a document you would have seen in your capacity as a member of the Crisis Council of Cabinet?

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A. That's correct.

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Q. And this is a document that relates to the transfer of control arrangements in the Hotel Quarantine Program and flow-on changes to workforces and so forth. Can I ask you, Mr Operator, that we go forward to page 0854 in the document, which is just a couple of pages from the end.

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I'm drawing your attention, Minister, to the final paragraph numbered 4, so if I could ask that that be enlarged, please, Mr Operator. The context of the reference here is that earlier on in the paper, there is a reference to the role of police in hotels where there are known to be COVID-positive patients, as well as the use of staff from Corrections and from airlines.

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A. Yes, I have read that.

Q. So again, there is a reference there to consultation with relevant unions in the context of understandable or foreseeable concerns about workplace health and safety risks?

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A. Yes.

Q. Thank you. That can come from the screen, Mr Operator. So it would appear from these documents, Minister, that insofar as the Crisis Council was being invited to consider models for hotel quarantine that were going to make use of Government

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employees, an aspect of what was under consideration was appropriate workplace health and safety arrangements, including negotiation with unions who represent the interests of those cohorts of workers?

5 A. Yes, that's correct.

Q. And that is a normal feature of many proposals within Government, I take it, that involve the hiring of people or the deploying of staff to particular activities?

10 A. Some but not all.

Q. And as I understand from earlier evidence that's been given to the Board, there was in the earlier part of this year, and perhaps it's still going, a particular program being run out of your Department called Working for Victoria which had as its
15 purpose the reallocation, if that's the right word, of people who might have been displaced by COVID-19 into other areas of work where there was a need for new people; is that right?

20 A. Yes, that's correct.

Q. I understand from evidence given by members of your Department that that program included, as part of its work, a proper role or contact with Trades Hall, where proposals were being developed about the redeployment of workers to
25 particular areas?

A. There was certainly engagement with Trades Hall about some elements of the Working for Victoria program, that's correct.

Q. And the evidence is that on entering into contracts with security providers for the
30 Hotel Quarantine Program, contact was made with Trades Hall in the nature of advising or perhaps checking in with them about the identities of the companies that were proposed to be contracted with. Are you aware of that?

35 A. I'm aware of that, yes.

Q. And as I understand it, that's not uncommon, that in the case of Government entering into contracts with private enterprise, the views of Trades Hall would be sought? They might be not be determinative, of course, but they would be sought?

40 A. On occasions, that's correct.

Q. And for what purpose would they be sought where it's deemed necessary or appropriate to do so?

45 A. I think principally it would be to try and ascertain whether an employer is --- and I put this in quotation marks --- a "good employer", whether for example they pay appropriate wages, whether there are any particular red flags in regards to an

employer. That's the kind of engagement that would sometimes occur, I believe, with the Hall.

5 Q. So that might include, for example, checking in whether there's in the minds of Trades Hall an appropriate enterprise bargaining agreement in place for the workers in a particular business or industry or any otherwise concerns about the safety or appropriateness of the way in which a company engages and treats its workers?

10 A. It might include that.

Q. So there's evidence before the Board that of the three companies that were ultimately contracted with for the provision of security services, two of them were --- I'm going to use the word "preferred" in Trades Hall's view, and the third one, Unified Security, wasn't known to Trades Hall or wasn't preferred in the same way.
15 Are you aware of that?

A. I'm aware of that now. I was not aware of that at the time.

20 Q. Thank you. May I call up a document, DJP.125.002.8162. I'm not sure if you have seen this before, Minister Pakula. It may have been drawn to your attention in the recent past. But this is an email chain and there's a couple of different emails, and for the purposes of letting you see what it is, may I ask that the bottom of the page be enlarged first, Mr Operator. The evidence is that Mr Kamenev is a Deputy Secretary in the Department of Jobs, Precincts and Regions, Minister. Can I invite
25 you to just read this email and then I'll ask you some questions about it.

A. Yes.

30 Q. So the context of this email, as I understand other evidence that has been given to the Board, Minister, is that it was identified that after the initial weekend of setup of the Hotel Quarantine Program that the company that had been engaged as the first security provider, firstly, wasn't on the panel for preferred providers under the State security contract, but also wasn't a preferred company from the perspective of Trades Hall. And it's in that context, as I understand the evidence, that this email was
35 written, because there was going to need to be some discussion with Trades Hall about the continued use of Unified.

40 So in that context, the evidence is that this email --- we haven't heard directly from the person who wrote it but at least one of the witnesses who received it understood that it was proposed that contact be made with Trades Hall, firstly, to explain that there was going to be a continued engagement with Unified in the hotel where they were; but, secondly, that they wouldn't use Unified beyond that initial hotel, they would go with preferred suppliers. Are you aware of any of what I have just said to
45 you, perhaps being briefed about the evidence that's been given to the Board?

A. Not to that level of specificity, Ms Ellyard, but I am somewhat familiar with some of the evidence.

Q. Drawing your attention to the final paragraph of the email, there's reference there to some advice, I suspect, being offered by the author of the email about what might be said to the officer from Trades Hall with whom contact is going to be made.

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A. Yes, I can see that.

Q. And a reference there to criticising one supplier and praising the other. Can I ask now that the top half of the email be shown, so that the Minister can see that. This, as I understand the evidence, Minister, is an email sent the next day, following on from contact having been made with the relevant official at Trades Hall?

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A. Yes. I have read that.

Q. Thank you very much. That can come from the screen, Mr Operator.

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The evidence before the Board, Minister Pakula --- firstly, the evidence before the Board is to the extent that there was an assertion made in that email as at 30 March that one of the named companies, Wilson, had been very difficult to work with, there has not been any witness who has been able to identify any evidence for that or any basis for that opinion having been expressed. Firstly, I want to make you aware that that's the state of the evidence. Secondly, the state of the evidence before the Board is that, notwithstanding what was contemplated as Unified not getting any more work, in fact they ended up getting a very substantial percentage of the work in terms of the number of hotels and the number of people who were engaged.

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So to that extent, the email suggests that, firstly, those contacting Trades Hall to offer persuasion or assurance about the use of Unified did so without a factual basis; and, secondly, having made a representation to Trades Hall about what they would do, they did something different and gave a substantial amount of work to a company that were not on the security panel and were not preferred with Trades. Assuming that evidence is accepted by the Board, may I invite you for your comment on it?

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A. Look, it is difficult for me to comment on it, Ms Ellyard. I can't --- I can't speak as to why the representations that appear to have been made to the Hall were not --- were not followed through, for want of a better description. It may well --- I'm reluctant to speculate. It may well have been that that was what was in the author's mind at the time, and other circumstances may have intervened subsequently. But I really don't know.

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Q. We asked in your statement and you answered questions about the general desirability of complying with standard procurement arrangements and using preferred suppliers for contracts, and I'll just give you the reference to paragraph 19 of your statement, where you indicate becoming aware that your Department realised after initial contact that Unified wasn't on the panel. As I understand it, you have been provided with information by Mr Phemister that although Unified weren't on the panel, it was nevertheless permissible for them to have been engaged because of

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the critical nature of the --- the critical timing of the demand for security services. Is that the information you have received from Mr Phemister?

A. That is correct.

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Q. And have you received any information from him about why it was that Unified was not only retained at all but, secondly, received such a substantial amount of security work in circumstances where it wasn't on the panel and where it wasn't a preferred supplier from the perspective of Trades Hall either?

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A. I have not received specific information about the question of volume or retention. My --- my understanding from having spoken to the Secretary was that in that --- in that very hectic period around the times that engagements were entered into, that the primary focus was in regards to which agencies or which companies could effectively stand up a workforce in a short period of time, and that was the rationale.

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Q. Certainly the evidence before the Board is that that was the rationale over that initial weekend, where there was a very short timeframe, the Board understands, for the provision of security services. Have you regarded that yourself as a satisfactory explanation for why, in the days and weeks that followed, there was then a considered decision to contract with Unified longer term and allocate substantial additional work to them?

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A. I think it was --- I think it is explicable in terms of the initial decision but I'm not -- I'm not aware of the context in which the decision was made to carry on, if you like, and I find it difficult to make --- to make a judgment about that decision in the absence of that specific knowledge.

25

Q. Thank you, Minister. The final point I wanted to raise was you have given evidence about your expectation that, notwithstanding the pure contractual terms of security and hotel contracts that outsourced or placed responsibility for certain matters on the contractors, it is your expectation and you understand it was the expectation of your Department that the State of Victoria, through the Department of Health and Human Services, would supplement the work being done by the contractors with their own advice and expertise on infection prevention and related matters. Have I understood your evidence correctly?

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A. Yes.

Q. One of the issues that has arisen in the evidence before the Board is the perception in the minds of some that the fact that contractual responsibility for administering of contract lay with one Department and the expertise and opportunity to observe and act on deficiencies in relation to infection control lay with another Department, was less than ideal and may have caused or contributed to such deficiencies as occurred in the timely provision of information. Do you have an opinion on this question, Minister, about whether or not it was appropriate for your Department to hold and administer contracts for work that was being done where another agency, namely

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DHHS, had, firstly, expertise in the relevant areas; and, secondly, the primary responsibility as the control agency for the day-to-day running of the program?

5 A. I agree that it would be preferable for the agency which has overall responsibility to have the contractual management responsibility. I think that would have been better.

10 Q. Thank you, Minister. Thank you, Madam Chair, those are the questions that I have for Minister Pakula. I haven't had notice of any applications to cross-examine the Minister. And so in those circumstances I would invite you to excuse him with the Board's thanks.

CHAIR: Yes, thanks, Minister.

15 Just arising from that last answer that you agree --- I'll just give you back your words --- "I agree it would be preferable for the agency which has overall responsibility to have the contractual management responsibility." Did you raise that with anyone prior to the changeover that happened towards the end of June?

20 A. No, I did not.

CHAIR: And did anyone in your Department or indeed in any other Department raise that with you?

25 A. No, Madam Chair. It's --- it's something that has been the subject of a conversation between me and the Secretary of my Department in recent times, where he's expressed the view to me that, you know, in an ideal world that in future it would be better for the agency which is in overall control to hold the contracts, and I agree with that perspective, but it's not something that was raised with me in earlier
30 times.

CHAIR: Minister, I'm sure that you would have been briefed to the extent that the evidence before the Inquiry has been somewhat varied with respect to where the lines of accountability lay and that the Board has heard a range of accounts with respect to
35 where ultimate accountability lay, and indeed there is evidence before the Board with respect to a position being put, as I'm sure you understand, from the Department of Health and Human Services that there has in their view been throughout the course of the Hotel Quarantine Program what's been described as shared accountabilities across your Department and the Department of Minister Mikakos.

40 I'm interested to hear your position with respect to that evidence before the Board.

45 A. My view on that, Madam Chair, is that to me it was quite clear that from 28 March there was --- under the emergency management structure, the Department of Health and Human Services were the control agency; our Department had a role in assisting the Department of Health and Human Services, and they had some discrete responsibilities for those logistical-type matters that I have referred to. I wouldn't

seek to characterise it in any way other than that, other than, as I say, there was, to my understanding, one Department which was in charge, if you like, and had overall responsibility, and my Department, whose role was to assist the control agency, which was in this case DHHS.

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CHAIR: Thank you. If there is anything arising out of that for anyone? No. Thank you. Thank you, Minister. Thank you for your attendance at the Board. You are otherwise excused, so that means you can now turn off your camera and your microphone. Thank you.

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THE WITNESS WITHDREW

15 MS ELLYARD: Madam Chair, we had asked the next witness, Minister Neville, to make herself available at midday, so may I invite you to stand down until midday, at which time I will call her to give her evidence.

CHAIR: Yes, thank you. I will stand down now until 12.00. Thank you.

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MS ELLYARD: If the Board pleases.

ADJOURNED

[10.58 AM]

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RESUMED

[12.00 PM]

30 CHAIR: Yes, Ms Ellyard.

MS ELLYARD: Thank you, Madam Chair. The next witness is the Hon. Lisa Neville MP. I can't see her but I understand that she is online. Perhaps those assisting Minister Neville could make sure she's got her camera turned on.

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The Minister appears, Madam Chair, and I'll invite your Associate to take her through the formalities.

CHAIR: Minister, I wonder if either you or someone assisting you could take you off mute. Your microphone appears to be on mute at the moment.

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MINISTER NEVILLE: My apologies, Madam Chair.

CHAIR: Minister, I understand that you wish to take the oath for the purposes of giving your evidence so I'll have my Associate take you through the oath. Thanks, Madam Associate.

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THE HON. LISA MARY NEVILLE MP, SWORN

5 **EXAMINATION BY MS ELLYARD**

CHAIR: Thank you, Minister, you can put the Bible down. I'll hand you to
10 Ms Ellyard now. Thank you, Ms Ellyard.

MS ELLYARD: Thank you, Madam Chair. Minister, could I ask you to tell the
Board your full name, please.

15 A. Lisa Mary Neville.

Q. And you are a member of the Victorian Government holding office as the
Minister for Police and Emergency Services and the Minister for Water; is that
correct?

20 A. That is correct.

Q. You have made a statement in response to a request made of you by the Board?

A. I did.

25 Q. Do you have a copy of that statement with you?

A. I do have a copy of the statement.

30 Q. It doesn't bear a date but it's been given the reference number, for the Board's
purposes, LMN.0001.0001.0001. Minister Neville, are the contents of that statement
true and correct?

A. They are true and correct.

35 MS ELLYARD: I tender that statement, Madam Chair.

CHAIR: Exhibit 196.

40 **EXHIBIT #196 - STATEMENT OF THE HON. LISA MARY NEVILLE MP**

MS ELLYARD: Minister Neville, may I begin by turning your attention to
45 paragraphs 3 and following of your statement. Relevantly for the purposes of this
Board's work, you are the Minister for Police and Emergency Services. May I ask
you, firstly, by reference to paragraph 6, to summarise what your role as Minister for

Emergency Services involves.

5 A. My role --- I have a number of pieces of legislation that I'm responsible for and a number of agencies that I'm responsible for, so, for example, the Country Fire Authority, the Fire Rescue Victoria, the SES, ESTA, which is the Triple 0 system in Victoria, Lifesaving Victoria, as well as *Emergency Management Act*, and Emergency Management Victoria is the Department that supports me in all of those relevant activities. As part --- and I'm sure, Ms Ellyard, you are particularly keen to understand my role as emergency services under the *Emergency Management Act*. It is to make sure that there are arrangements in place that facilitate the ability to respond, to prevent and to recover from emergencies.

15 I would say that being the Emergency Services Minister does not necessarily mean that I have primary responsibility for all emergencies and in fact it is primarily those that fit under the class 1 emergencies that I have heightened responsibilities, mainly because they are my portfolio agencies as well, and of course similarly class 3, because I'm Police Minister. So my role is the Act is very clear about my role in terms of emergency services and its powers. I have no operational responsibility for emergencies. I have very high-level responsibilities around things like the Strategic Action Plan, the Relief and Recovery Plan, critical infrastructure, which I'm required to oversight.

25 Q. Thank you. And indeed at paragraph 14 of your statement you note that under the Emergency Management Framework there are some kinds of emergencies where you will have a particular role because the control agency is an agency for whom you have ministerial responsibility.

A. That's correct.

30 Q. And you say that in such cases you would have a requirement to work closely with the control agency. May I invite you, perhaps by reference to a fire --- what does it mean to have to work closely with the control agency?

35 A. So, you know, unfortunately I have a recent experience of this with the fires that were sort of really from November last year. So as those fires were progressing, I would have regular texts, that would be from the Emergency Management Commissioner, I would visit the State Control Centre on very regular occasions, particularly in the height of the fires, I would probably be there three or four times a day getting briefings direct from the State Controller but also other key responsible agencies. So, for example, particularly fire and management intelligence, helping me understand what was happening with that fire. So I would be in regular contact with the State Controller and the Emergency Management Commissioner for information more than anything to understand what was going on, to ensure that they had the resources that they needed to undertake the work that they did. And in that case ultimately the advice to me and then my advice to the Premier was for a State of Disaster, given the scale and nature. But it was a very regular contact, daily. As I said, I would often be in the State Control Centre four or five times a day.

Q. Thank you. Picking up your references now to a State of Disaster, to refer in paragraphs 12 and 13 of your statement to firstly the declaration of a State of Disaster in relation to COVID-19 in August but also to earlier advice that you had provided to the Premier in March that it might be open to him to exercise the powers that exist under the emergency management legislation to declare a State of Disaster. You have made the point in that your statement that a State of Disaster gives powers to you in your capacity as emergency --- as the Minister for Emergency Services. What are those powers?

A. So they are very extensive powers, Ms Ellyard, and so, you know, from really being responsible for resource allocations, Government Departments, what they were doing, ability to suspend legislation and regulations, ability to compel evacuation of people, which is why we used it in the bushfires, for the evacuations. So they are very extensive powers. I would qualify that by saying I do need to exercise them justifiably and proportionately to the issue and the risk. So I would not act without advice from agencies or without advice from the Solicitor-General about was I acting proportionately. We use them very narrowly in relation to bushfires, just the evacuation, but they also sent a very strong message to the community about the seriousness of those fires at that point.

Q. In the period of time since the State of Disaster was declared in August in relation to COVID-19, have you had occasion to make use of the powers that fall to you once there is a State of Disaster?

A. I have. I've used them in three incidences. I have used them to suspend a particular part --- parts of the *Public Health and Wellbeing Act*. And these were parts that were, on advice, preventing some of the ability to implement Stage 4 restrictions. So, for example, the curfew was one example of that, and that was on advice. I then used them to ensure that the provision --- one of the parts of one of the provisions that I had suspended was put back in place or remained as a requirement, that is, the need to still offer procedural fairness in actions that authorised officers and others would take. And thirdly, I provided some additional powers to Victoria Police. Under the current *Public Health and Wellbeing Act* they are not authorised officers so they are limited in some of their powers, for example, names and addresses of people which was a critical part of Stage 4 restrictions, were you outside your 5ks, were you travelling from Melbourne to regional Victoria? So I provided some additional powers to Victoria Police to be able to enforce Stage 4 restrictions.

Q. Thank you, Minister. As I understand it, those were actions that were open for you to take because of the declaration of a State of Disaster; they weren't powers that were available to you while we were under the State of Emergency that had been declared by the Minister for Health on 16 March?

A. That's correct. I just add to that, Ms Ellyard, I suppose once you have a State of Disaster, as I talked about before, about not having primary responsibility for all emergencies, but once you initiate a State of Emergency, I suppose it heightens my

level of responsibility about that particular emergency in which you are utilising those powers.

5 Q. May I direct your attention to paragraph 22 of your statement, Minister Neville, in which you make reference to the State Control Centre. As the Board understands it, the State Control Centre is a physical location and a resource, not just a physical location, but also people --- that is available to assist whoever might have the responsibility for responding to a particular emergency. Is that a fair summary?

10 A. Yes. Look, I would call it our --- the State of Victoria's operations centre for emergencies. So it doesn't belong to one agency. It is managed by the Commissioner, Andrew Crisp, in collaboration with the agencies who might be utilising it for a particular emergency. It is a building, it's a room, it's a room --- a floor in a building and it is required to be used for class 1 emergencies. And it would
15 not be used in a class 3, other than as a support, because that would be run from the Police Operations Centre, and it is not required for a class 2 emergency. That would be at the judgment of the control agency about the value of bringing agencies together. And that's really what it is. We have very small number of staff there. We have just recently funded a greater base for the State Control Centre, but really the
20 staffing comes from the agencies, particularly the control and support agencies that are running the operation.

Q. Thank you. I think you have anticipated my next question, which is when in paragraph 22 you refer to the State Response Controller, that Class 2 State Controller
25 and Respondent Agency Commander, you are referring to people who will literally come and go from the Control Centre, depending on whether it is their agency that is responding to a particular emergency?

A. That's right. And interestingly we had another emergency during this time, class
30 2 emergency, which related to water quality. As I understand, that was really run out of --- not run out of the State Control Centre. It's not something that would normally need to come into the State Control Centre. So class 1 always at the State Control Centre; 2, it depends on the nature and whether people think there is value in the State Control Centre for assisting.

35 Q. Here the evidence is that on 27 March, being the day of the National Cabinet decision, a meeting was convened by Commissioner Crisp at the State Control Centre, which was attended by representatives of a number of agencies who were seen as having a potential role. Is that an example of the State Control Centre being
40 used as a place where relevant agencies can be brought together for the purposes of preparing a response?

A. Yes. So, firstly, the State Control Centre stood up in early March at the request of
45 the control agency, DHHS. They felt that having an ability to come together and the resources that could be brought together at the State Control Centre would add value to their pandemic and not just be run out of the DHHS building. So that was stood up then. So that meant that this was an opportunity to have your normal meetings,

the State Control Team meetings all happened there, often many of them virtually, given the COVID situation, and yes, that would be a normal situation, those key agency meetings developing operational plans would occur at somewhere like the State Control Centre, it would be very appropriate.

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Q. Thank you. I have asked you some questions about emergency management. Of course, your other relevant ministry for the Board's purposes is Police. You deal with that at paragraph 16 of your statement. Perhaps if you could summarise, please, your responsibilities and accountabilities as Minister for Police?

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A. Yes. So overall I see myself as responsible for the good administration and good governance and good policy of Victoria Police. On a day-to-day basis that probably means things like making sure they have got the equipment, the capacity, the capability, the resources, the legislative power that they need in order to carry out their functions. I have a number of --- *Victoria Police Act* is the overriding piece of legislation and there are a number of others that I'm also responsible for, or parts of, like terrorism, firearms, for example. But the legislation is very clear that the Chief Commissioner is responsible to me, or Government via me. I appoint things like the Deputy Commissioners. It's on my recommendations. But it is also very clear about what I can't do. I can issue a directive to the Chief Commissioner. I'm trying to recall, I'm not sure anyone has ever done that because it's quite a formal process. It requires the Government Gazette notification. But those directives are limited. So I cannot, for example, direct the Chief Commissioner on a prosecution, an investigation, how to deploy or allocate staff. It's quite a long list that I can't do. But it also aligns what he is required to provide me as well in terms of information and reports.

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Q. Perhaps I'll ask the operator to bring up section 10 of the *Victoria Police Act*, which is the section I think that you have been making reference to, Minister Neville. If we just focus --- the section goes on over the page but I think the relevant section for the purposes of this topic is here, Minister Neville. You have indicated that you may give written directions but I think you have been referring to subsection (2), which specifies a range of things that the direction can't be about?

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A. That is correct, yes. But --

Q. For example, that includes enforcement of the law in relation to any particular person or group of persons or organisational structure of the organisation.

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A. That's correct.

Q. And if we go through, please, Mr Operator, to section 16 of the Act, and this picks up the point that you have made in paragraph 18 of your statement, Minister Neville, that sets out the role of the Chief Commissioner.

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A. That's correct.

Q. And if we look at subsection (2) and then in a moment, these, Mr Operator, over to the next page, where the subsection continues, we see there in subparagraph (c) the reference to the Chief Commissioner being responsible to you for the operations of Victoria Police.

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A. That's correct.

Q. And then perhaps finally, to round off this topic, if we might go to section 11, please, Mr Operator. You don't have operational control, and there's a formal process for directions, but you are able to request information or reports from time to time from the Chief Commissioner. Is that so, Minister?

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A. Yes, that's correct.

Q. And I take it that such requests might be made in a variety of ways, whether more formal or less formal?

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A. Yes. You know, I have a --- you know, a structure where I would meet at least weekly with the Chief Commissioner and relevant other police staff, depending on the nature of the issues. They would also provide written briefs to me. I would have regular conversations with the Chief Commissioner, depending on the nature of the information or report that's being asked for.

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Q. Thank you. Thank you, Mr Operator, that can come from the screen. May I turn to ask you some questions by reference to paragraph 19 of your statement and following. Could you tell the Board, please, how and by what means you first became aware that a decision had been taken that there would be mandatory quarantining of returned travellers in Victoria?

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A. As you indicate, Ms Ellyard, in my statement I indicate that it's on 27 March and it was via a phone call from the Premier's Office, where just after National Cabinet had been concluded, so I think that was around 1.00-ish, so somewhere there or just after, and that that phone call indicated to me --- my memory is two things: firstly, hotel quarantine and DJPR being the responsible Department to stand up that program. There was also a discussion at National Cabinet about firearm permits to acquire, so that also stood out in my mind as something that was of interest to me.

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Q. Perhaps it's an obvious question, but it sounds like you were contacted quite soon after National Cabinet and made aware of the program being established. Did you have any sense of why it was that you were being contacted relatively quickly to be given that information?

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A. Only that this was at that point a regular occurrence. I was a senior Minister. At that point we did not have CCC in operation. It was a regular occurrence because of the number of National Cabinet meetings that there was an attempt to reach out to Ministers by the Premier's Office to inform people of decisions that had been made generally, before the Prime Minister or the Premier stood up to give a press

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conference about it. So it was really just a matter of course, that's what I had been used to, so it was not unusual that it was done and I imagine that as a senior Minister that I was in the group of the earliest calls.

5 Q. It sounds from what you have said that part of what you were told in the call related particularly to a responsibility that fell within your areas of ministerial accountability relating to firearms; is that right?

10 A. That's right. So there was a --- literally I got a very high-level information, which I then later explored with the Chief Commissioner and he went off and had conversations with other commissioners. But it was about limiting permits to acquire.

15 Q. In the course of the conversation you were also told about the hotel quarantine decision and the role of DJPR?

A. That's correct.

20 Q. And do you recall being given any information in that initial call from the Premier's Office about why DJPR were the ones who were going to be standing up the program?

25 A. No. Look, it would have, as it was in the case of all these calls, been a very quick call, given the numbers of people that needed to be informed before a press conference by the Prime Minister. So it was a very brief, brief call.

30 Q. It appears from other parts of your statement, including paragraphs 30 to 32, that although you were told that DJPR was standing it up, you understood that the Hotel Quarantine Program was going to form part of the overall emergency management response to a health emergency; is that right?

35 A. Well, I'm very clear about --- maybe because I know the Act quite well, but I'm very clear about how these arrangements work. It was a class 2 pandemic. In this case it was a health emergency, therefore the control agency was DHHS. It was very clear to me that they had --- they appointed the State Controller, therefore that State Controller had lead and management of the overall pandemic. It's also by then --- I think I talk about DJPR being able to stand up, and that is not uncommon, that you have a response or a support agency that takes on a particular function or a particular role within that structure.

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45 Q. Some of the evidence that the Board has heard, including evidence from Mr Phemister, the Secretary of the Department of Jobs, Precincts and Regions, was that on that Thursday, 27 March, he and those working are him understood that they had been given responsibility for the quarantine program and then over the succeeding days they became aware of a decision to transfer it into the Emergency Management Framework, so that it would be managed by DHHS.

Firstly, I should say, are you aware in general terms that that evidence has been given, that there was a perception that started with one agency and then responsibility was transferred or taken over by DHHS?

5 A. Yes, I am aware of that evidence that has been given.

Q. So it appears from the perspective of some people at least it wasn't clear from the outset that this was going to be a program where primary responsibility lay with the Department of Health and Human Services. Can you recall whether you were
10 expressly told that it was going to be with them or was it more that you made an assumption because, as you said, of your familiarity with the emergency management arrangements?

A. Look, I assumed, particularly given that Andrew Crisp, Commissioner Crisp was,
15 you know, coordinating some meetings at the State Control Centre, that this would sit in the normal Emergency Management Framework, which is a control agency, a support agency that still had roles and responsibilities and a command structure themselves, and that it would sit within a broader --- the broader class 2 emergency control agency accountabilities. I saw no --- that's how I saw the system, that it
20 would operate, it should operate, and I --- I suppose the evidence has been surprising that it wasn't seen as that from the first --- the start.

Q. Thank you. Have you had experience, thinking about the role that you played as
25 Minister in certain class 1 emergencies, where one of your responding agencies is the control agency, of there being what I'll call a multi-agency response, that is not just a control agency but also support agencies?

A. Absolutely. Like if you think about bushfires, which is --- you know, we have
30 floods as well, but my most experience has been in bushfires, where you will have --- you will have the control agency but a number of significant support agencies, particularly energy will be one, where, you know, you've got --- you need to manage the issue of energy supplies going off and we had that during the last bushfires and the one before. Those agencies are responsible for monitoring, keeping on top of
35 that, reporting back in, making sure the State Controller is across it and also making sure people are doing the jobs they should be doing. Each of those agencies, in that case energy is DELWP, so they are held accountable for being the support agency around energy and making sure that they are doing the tasks that they are supposed to do but also making sure it's --- everyone is across it via the State Controller.

40 Q. You just used the phrase, they are accountable, I think you said, as the support agency. Who is it who holds them to account in their role as a support agency?

A. Ultimately the State Controller does. There is no question that the State
45 Controller has the lead and management of the overall emergency, so they are holding people to account. There are obviously systems in place to help make sure that occurs, including the State Control Team meetings. Often during bushfires you would have at least two a day, if not three a day. So that there is a process to feed

that in. But that does not abrogate the responsibility of the support agency to do the job that they have been asked to do.

5 Q. May I turn now to your own involvement in discussions on 27 March. I'm going to do that by reference to paragraphs 35 and following of your statement. You detail in that paragraph that you were at a regular daily meeting which involved a number of attendees, including, relevantly, Chief Commissioner Ashton and Commissioner Crisp. And at that meeting some matters relating to the proposed Hotel Quarantine Program were discussed. Could I ask you to tell the Board, firstly, what your
10 recollection is of that meeting?

A. Yes. So as you indicate, this was a regular meeting, so at this point during COVID, you know, I continued to have my weekly meetings with the Commissioner Crisp and the Chief Commissioner, but we established this almost daily regular
15 meetings about the COVID issues, particularly in relation to policing, case numbers, high-level case numbers, et cetera, and what the operations were running out of the State Control Centre. This was one of those and it was really --- it was still pretty early in the pandemic, this was one of those meetings, it had been scheduled, it wasn't scheduled because of any of the Hotel Quarantine Program, and they were
20 very much information-sharing meetings, not decision-making meetings. So at that particular meeting I commenced --- unusually, I would normally get Commissioner Crisp to start off by giving us the numbers and what was happening in relation to the pandemic response, thinking that I had knowledge that others didn't have, which was that there was a Hotel Quarantine Program to commence and that DJPR had been
25 asked to stand that program up. As it became clear to me, they were a bit ahead of me in terms of the level of knowledge that they actually had and it was at that meeting that I became aware of what I believed had been the case, that private security had been engaged and that there were also discussions around the use of the ADF.

30 Q. You mentioned that you had the sense that both of them, both Mr Crisp and Mr Ashton, had more information than you did about the details of the program. Are you able to be any more precise about who it was had what additional pieces of information?

35 A. Look, my best recollection is that I --- as I recall it, and I think I say in my statement I have some memory but not full memory, is I believe private security was raised by Commissioner Crisp. I'm pretty confident the ADF issues were raised by Mr Ashton and that's probably partly helped by having seen some of his evidence
40 that he has tendered to the Board, like around the text messages he was having with his interstate counterparts and with Commissioner Crisp as well.

Q. So your best recollection is that the topic of private security was first raised by
45 Commissioner Crisp?

A. That's my best recollection, yes.

Q. And the first reference of any potential offer of the ADF was Mr Ashton?

A. Yes, I'm not even sure it went to that, but there was a discussion about the ADF as a result of Mr Ashton's understanding of the ADF's potential involvement.

5

Q. As I understand it from your statement, there aren't minutes kept of these meetings or there weren't that the time?

A. No, there weren't. And look, as I indicated, these were not decision-making meetings, they were information-sharing meetings. And in fact a lot of that meeting, it was the start of the school holidays and we were focused on that weekend and how we were going to manage potential crowds, as the new restrictions had come into place.

10
15 Q. May I ask for a document to be brought up, please, Mr Operator, VPOL.0005.0001.0057. But then going through in the document to page 0064. Minister Neville, I don't know if you've seen these before. These have been produced to the Board by Mr Ashton, who gave evidence that the left-hand side of the document and the first line on the right-hand side of the document are notes made
20 by him during the course of the meeting that we have been discussing. So I'll just give you a moment to read that.

A. Yes, thanks, Ms Ellyard.

25 Q. And we see there a reference to "hotel security guards, police back up." Mr Ashton has given evidence in his statement that his recollection is that the proposal that the hotels were going to be guarded by private security guards was information he received in the meeting or was raised in the meeting by
30 Commissioner Crisp. Is that your recollection too?

A. That is right. And that's --- I recall --- I'm aware of his evidence and --- look, that is the best recollection that I have.

35 Q. Are you also aware of Commissioner Crisp's evidence, which is to the effect that he doesn't think that it would have been him who raised it first?

A. Look, I am aware of that and I'm --- I suppose in my mind, at the end of the day, that I think there had been engagements by both of them with different people and they had --- look, maybe it was Mr Ashton. So I'm not being any more helpful, but
40 my best recollection is that it was Commissioner Crisp. And as I said, this was providing information, and I took that as a decision had been made at some point that private security was the frontline.

45 Q. Thank you. That can come from the screen, Mr Operator.

In the course of that meeting or later, Minister, did you gain any impression of by whom the decision had been made about the use of private security?

5 A. No. Look, it was really just provided as a factual piece of information. We did not --- the meeting --- that component of the meeting was relatively short and, as I said, we moved on to discuss a number of other matters, particularly in relation to that weekend and police monitoring of beaches and piers and communities. It was --
- in a sense at that point it was clear to me that both DJPR was standing this up and it was clear to me, and I think to both commissioners, that a decision had already been taken about the frontline of enforcement at the hotels. So it --- then we moved on to the other matters that we needed to discuss.

10 Q. Having regard to the responsibilities of the Chief Commissioner that are in the legislation that we have been looking at, would you have expected that a decision about who the frontline of security would be for an operation of this kind would have been a decision made either by or in consultation with the Chief Commissioner?

15 A. My expectation would be that it should have been made in consultation with the Chief Commissioner.

20 Q. And as I understand his evidence, his evidence is to the effect that it wasn't and it was presented to him as a decision that had already been made. Is that your understanding of his recollection?

A. That is my understanding, yes.

25 Q. Does that surprise you, the proposition that a decision about enforcement of an operation of this kind would have been made without reference to the Chief Commissioner of Police, having regard to his responsibilities for law enforcement and public safety in Victoria?

30 A. Well, it is my expectation that he should have been consulted about it.

35 Q. And what about you? To the extent that there had been any consideration being given, for example, to police being the frontline of security or any active discussion about where that line should be drawn, what would have been your expectation about whether you were informed or consulted about the merits of the competing proposals?

40 A. Well, certainly if there had been --- and I go to this in my witness statement --- if there had been any serious consideration of Victoria Police playing a significant role in Hotel Quarantine Program, in my view I would have been consulted, and that's certainly the --- the experience that I've had in relation to the utilisation of Victoria Police resources over the whole COVID period, but even in other circumstances. So my expectation is that I would have been consulted. I also am of the view, given my relationship and how we operated with the Chief Commissioner, that if there had
45 been serious consideration and consultation with him, he would have also had a conversation with me.

Q. Do you yourself have any view, when you were presented with the information, as I understand in this meeting, that private security were going to have a function of enforcement in the Hotel Quarantine Program, did you have any view yourself about the appropriateness or otherwise of that decision?

5

A. I don't --- I don't believe I turned my mind to it in a great deal. But as I indicate in my witness statement, it was not inconsistent with my experience of how large events, major events, security events, operate. So I think I point to the Australian Open or I have been to the MCG during the grand final with police to see how they operate with private security. So it is not inconsistent with my sense of how arrangements can work. So I think that --- so it didn't jump out at me as being a major issue.

10

Q. Paragraph 41 of your statement indicates that you also recall some discussion during this meeting about a potential role for Australian Defence Force members. What's your recollection of what that discussion was?

15

A. My recollection is that the focus was particularly on the potential role of escorting people at airports when they arrived from overseas. I think, you know, it was both about what role they would play, was it --- were they the appropriate ones or should VicPol be doing that role? That is the nature of the conversation. And I think, as I referred to before, I think there's a text exchange that Mr Ashton has had in relation to that, which is why I assumed he commenced that conversation.

20

Q. I think you are aware now, though I think you weren't at the time, that Mr Ashton had come into the possession of some information about a potential role for ADF in relation to transport?

25

A. That's right. I wasn't aware at that time and I don't recall him mentioning that he had been in contact with others. But I am assuming from now knowing that information that he was the one who raised that matters, given both those texts and the discussions he'd had.

30

Q. Do you recall at this meeting having a view yourself about what a proper or appropriate role would be for the ADF?

35

A. Look, I suppose again, I'm very aware about how the arrangements with the ADF work, because we utilise them extensively in the bushfires and we need to show that they add value, that we can't do these jobs without --- within our own resources and that they fill a gap that we have. I think at that time my only conversation was really about, if it was at airports, what would be the arrangements around enforcing it? I think there was concern about whether people getting off planes were going to be concerned about, you know, being taken into detention and did we need enforcement powers there. So I think that was --- you know, I think the ADF have a great role to play in a whole range of things but I think we focused particularly on was it appropriate if we needed enforcement powers.

40

45

Q. I want to ask the operator to bring up a document, DPC.0027.0001.0002. These are text messages between two people, Minister Neville, neither of whom are you, but I want to draw it to your attention and ask you a question about it.

5 I'll just read the number again in case I read it out incorrectly. DPC.0027.0001.0002. We are having a delay, I apologise, Minister Neville. Perhaps while we are waiting for it to come up, I will tell you about the document and get you to comment on it. The Board has been provided with an extract of text messages passing between
10 Commissioner Crisp and the Deputy Security of the Department of Premier and Cabinet, who appears to have been contacting him on 27 March, while he was in the meeting with you that we have been discussing. There's a text message --- here it comes now. AC at the top of this document is a reference to Mr Crisp. And the person who is the author of the writing in blue is a Deputy Secretary of the
15 Cabinet. I'll just give you a moment to read that

A. Yes, thanks, Ms Ellyard.

20 Q. So we can see from the time stamping that, firstly, at 2.04 Mr Crisp refers to being in a videoconference with you?

A. That's right.

25 Q. And then there's a reference, from the Deputy Secretary, to wanting to provide an update to the use of the ADF. And Mr Crisp has said:

Thanks --- I think my Minister has some idea of ADF role and that's what we're discussing with Graham Ashton at the moment.

30 So perhaps by reference to this, and whether or not it refreshes your memory, can you recall or do you have any sense of what Mr Crisp might have understood as your idea of the ADF role?

35 A. Look, you know, as you indicated earlier, I wasn't a party to the texts or what Mr Crisp was referring to, but look, you know, again in my witness statement I go to the fact that we were having conversations around the ADF. My view, given the fact that both the then Chief Commissioner and Andrew Crisp, Commissioner Crisp, had texted each other I think earlier and that's what I have become aware of through
40 preparation for this today about the ADF, I think it's in relation to Matt Burr, who was a constant at the State Control Centre, that it would be my view that in fact it was not me providing the idea of ADF role, because I'm very clear that there had been no conversation around the ADF role until that meeting.

45 Q. Okay. Thank you. Thank you, Mr Operator, that can come from the screen.

So perhaps, trying to bring together the perception that Commissioner Crisp appears to have had that is referred to in that text, Minister Neville, and your paragraph 41,

would the Board be right in understanding that there was a discussion in which you participated about what suitable roles would be for the ADF, having regard to the absence of enforcement powers and all the issues that you have raised perhaps of perception if people got off the plane and were confronted with people in army uniforms?

A. Yes, absolutely, I was participating in discussion, information-sharing. I think you are correct in that.

Q. And do you recall having a --- can we infer from the evidence that you have given that you had a view that it would be desirable to avoid the spectacle of people arriving off a plane and being taken into custody by people in military uniforms?

A. I'm not sure that I would infer that. I think it's more about you would want to be in a good position to ensure that there was some enforcement powers if you had that issue, and you know --- and this is not a criticism of the ADF, if the reality is they don't have those powers and I think for me it was a discussion about, you know, maybe VicPol is better placed. As it turned out, the AFP actually ended up I think playing that role, which I think was probably the obvious choice.

Q. Can you recall whether in the meeting that is referred to --- the part of the meeting that is referred to at paragraph 41 of your statement, there was any discussion about the extent to which Victoria needed the services of the ADF because it didn't have sufficient resources available itself for any aspect of the Hotel Quarantine Program?

A. No, we didn't discuss that at all at that meeting.

Q. So there's a recording of a State Control Centre meeting that occurred a couple of hours later, with which you may have some familiarity, where Commissioner Crisp is heard to say in response to a question that he assesses that there isn't the need for ADF boots on the ground, I think is the words he uses, because he thinks he's satisfied that Victoria has the capacity to deal with all of the aspects of the operation. Did you and he, as you recall it, have a discussion about that issue on that day, whether or not there was a need to call for ADF support because of an absence of necessary resources within Victoria?

A. No, the only conversation I had with Commissioner Crisp was at that meeting on the 27th. We didn't engage at all again over that weekend about the issue of hotel quarantine. So no, we did not.

Q. Thank you. May I turn then to the question of a potential role for the ADF or requests for ADF assistance which took place in June. You deal with that at paragraphs 70 and following in your statement. You detail that in fact the ADF performed a number of functions and provided a number of different forms of support in the form of logistics and planning to the Hotel Quarantine Program. But I wanted to ask you, in particular, some questions about a request that you deal with at paragraph 74 and following of your statement. You were asked when you first

became aware that there had been a request for the services of 850 ADF members. Could you tell the Board how and when you became aware of that request having been made or proposed to be made?

5 A. Yes, I became aware of that request when I checked the newspaper front pages of the 'Herald Sun', I was checking all the papers but that's where I became aware of it, which is just after midnight on 25 June, that the request had been made.

10 Q. And at paragraph 78 you say that you didn't at the time have any particular view about the use of ADF in the Hotel Quarantine Program?

15 A. No, look, I didn't have a particular view about it. I think it was probably more just, you know, I would have liked to have known about the request. But yes, I didn't have a particular view.

15 Q. Perhaps it's an obvious question but why would you have liked to have known about the request before it was made?

20 A. Well, again, it's not my decision, it's absolutely Commissioner Crisp's decision, to put in these requests and he was doing so on behalf of the control agency. But it was --- and again a significant request, and normally through the bushfires period I was aware of the requests being made. I was also largely aware through this when he was putting in requests for logistics support and other support. I think he made up to about 30 requests to the ADF. So I just assume as a matter of courtesy that the
25 Commissioner would have alerted me to it prior to or just after having lodged the request.

30 Q. I want to take you to some text messages and emails which might suggest that there was an apprehension within the upper levels of the Public Service that you might have a certain view about the use of the ADF. Firstly, just for context, so that you can see where the discussion starts, may I call for DOJ.515.001.0033.

35 This is the start of a text chain between Ms Falkingham, the Secretary of the Department of Justice and Community Safety, and Commissioner Crisp. I am drawing this to your attention just to show you the time and date stamp at the top of the exchange, Minister Neville, it's an exchange that begins at 7.22 in the morning on 25 June. As I understand it, that's a few hours after you yourself first became aware of the request having been made; is that right?

40 A. That's correct.

Q. I'll just pause to let you read that exchange.

45 A. Thanks, Ms Ellyard.

Q. Thank you, Mr Operator, if that could come from the screen and then we'll call for the document that reflects the continuation of that exchange, which is

DOJ.515.001.0034. This is the continuation of the exchange between Ms Falkingham and Commissioner Crisp. I'll just give you a moment to read that, Minister Neville.

5 A. Yes, thank you, Ms Ellyard.

Q. You will see there, there's a text there referring to a suggestion made to Kym, which we understand to be a reference to Ms Peake, the Secretary of the Department of Health and Human Services, that there needed to be greater involvement of
10 Emergency Management Victoria in analysis about ADF requests to, in the words of Ms Falkingham, make Minister Neville more comfortable with it. These aren't your texts, they are not to you or from you, but it appears to suggest a perception that you might have a degree of discomfort or concern about the requests that had been made, and so I wanted to ask for your comments about that.

15 A. Yes. Look, if you see the whole text exchange --- and as you say, this is not --- I'm not party to these so these are ones I've become aware of through this preparation, but if you look at the whole exchange, at that point, as I understand it, the options included using police and PSOs and it would be my view that
20 Ms Falkingham would be keen to make sure I was aware of that because that would be a conversation, firstly, I would want to have myself with the Chief Commissioner but also given everything that had happened and when police had not been engaged in conversations on enforcement matters, Ms Falkingham was very aware that I had a strong view that on any enforcement matters Victoria Police should be there from the
25 start, in developing up those models. So it is my view that that is much more in relation to the PSO and police options that were being considered. But of course I --- that's my --- my guess of what Ms Falkingham is suggesting there.

Q. Thank you, Minister Neville. If that can come from the screen, please,
30 Mr Operator. I'm going to take you to an email exchange that perhaps assists further on this topic. May I take you to DOJ.508.003.1637. These are a series of email exchanges. And once we get the document, we will go down to the bottom of that first page.

35 At the very bottom of that page, Minister Neville, you will see that the first email in the chain is from Ms Skilbeck to Ms Peake and it is headed "Proposal for alternative security arrangements at quarantine hotels", just to give context. If we go through to the next page, Mr Operator, so we can see what that proposal was that is then the subject of further discussion. I will give you a moment to read that, please.

40 A. Yes, thanks, Ms Ellyard.

Q. Having noticed that that's what's under discussion, may I ask the operator to go back to the first page of the document, please. Perhaps if we go to the middle, there's
45 an email from Ms Peake to Ms Falkingham and we note the time, it's at 7.07 in the morning, noting that the text messages we were looking at are from a little later that same hour. There's a reference to --- I'll let you read it.

A. Yes, Ms Ellyard, I have had a chance to read that.

5 Q. Thank you. Then you will see an email immediately above that's sent by Ms Falkingham to Ms Peake, noting the time stamp at around about the same time as the texting that we have just been looking at between her and Mr Crisp and there's a reference there, "Can I get someone to work with Melissa on this? I worry it will have a strong reaction from [you]."

10 Again, these emails don't involve you but there is a perception clearly on the part of Ms Falkingham that the proposal that we have just looked at would receive a strong reaction from you, and I wanted to ask you what you thought might have sat behind that apparent perception.

15 DR HANSCOMBE QC: I object to that question. The question in terms put that the proposal would receive a strong reaction. The question is the referent of the pronoun "it". In due course, I will seek leave to put my instructions to the Minister as to the proper referent of that "it". I would ask if Counsel Assisting might refrain from the assumption implicit in that question.

20 MS ELLYARD: I'll reframe the question, Madam Chair.

CHAIR: Yes.

25 MS ELLYARD: I'll read out the sentence of the email that I'm referring to:

Can I suggest that I get [reference to a name] in the first instance to work with Melissa on this? I worry it will have a strong reaction from Neville.

30 Perhaps I'll merely invite you to respond to that, Minister Neville, without adding any interpretation

A. Yes, thank you, Ms Ellyard. Again, I think it backs in what I said in relation to those text messages. My view would have strongly been about the need to engage
35 with VicPol and PSOs and myself as Police Minister about the use of police and what was involved in that. But not so much the use but actually engaging with them about the model and how they best saw that model operating. And I did have a very strong view that Victoria Police should be at the table, from the start of any conversations around enforcement, and that was probably particularly from the
40 experience we have had earlier.

Q. When you say the experience you had had earlier, what earlier experience are you referring to?

45 A. Just in relation to the start of the program.

Q. And what you saw as the absence of appropriate consultation about the form that

the enforcement of the program would take?

A. Yes.

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

May I then now call up a document which you refer to in terms in your statement, Ms Neville, you say that you had an exchange of texts with Commissioner Crisp later on in the morning, after reading in a newspaper of the request overnight. May I call
10 up document DOJ.515.001.0018.

You are a party to this text exchange, although the exchange is from Mr Crisp's phone.

15 I will just take a moment for you to read it.

A. Yes, I have had a chance to read that, thank you.

20 Q. Thank you. So it appears that the question that you framed to Commissioner Crisp was about the use of the ADF or army in hotels?

A. That's right.

25 Q. Something of which you were not previously aware?

A. Yes, I think the text indicates that I was a bit surprised and I was trying to seek clarity about what --- what I had read in the paper.

30 Q. Okay. And you received some information about what it was, including that it was an interim option, while other avenues were explored?

A. Yes, that's correct.

35 Q. And then it appears that you sought some clarification about the scope of the army use, potential use?

40 A. That's right. If you remember, at that point police were doing quarantine checks on people who had returned from overseas, those who were able --- who were quarantining at home, so that's why I would have asked a separate question about that.

Q. Thank you, Mr Operator, that can come from the screen. Then we will get the end of the text exchange, which the next document, DOJ.515.001.0019.

45 I'll just give you a moment again, Minister Neville.

A. Yes, thanks, Ms Ellyard.

Q. So that is a substantive comment from you:

5 *Not sure what they do at hotels given no one leaves!! And they have no powers.*

That appears to be an expression by you of a concern that it might not be a useful thing to have the ADF at hotels?

10 A. Look, I think also you just need to see it in context, I was still slightly cranky about the fact that I had discovered this via --- the whole thing via the 'Herald Sun' article just after midnight. So I think I, partly knowing how --- when I use two exclamation marks indicates that. I was still relatively annoyed about it. As you can see, I then, you know, move on and say, "Okay, take the Chief Commissioner through it." But look, it does --- there's no question, and again it's not a criticism. 15 We need to be able to show the Commonwealth that our ADF are used to fill gaps that we can't do it within our own resources and in my view in enforcement areas there is an issue because the ADF cannot enforce. So we need to make sure, half of the ADF are reservists so they come from other jobs and that's why those 20 requirements are there, we need to make sure we are using them appropriately. But I think that probably more reflects that I was pretty cranky at that point.

Q. Thank you. That can come from the screen, please, Mr Operator. Minister Neville, the last topic I want to ask you about is dealt with at paragraphs 26 and 25 following in your statement and that's about the level of involvement Victoria Police commenced to have and still has, as the Board understands it, in relation to ongoing isolation or quarantining in hotels of cohorts of people who are COVID-positive. Can I ask you to tell the Board how it was that you came to be aware that that request was made of Victoria Police to assist in that way and what your view was about it? 30

A. Yes, so this was raised as we were --- as the Department of Justice, who had at that point taken over or were in the process of taking over the Hotel Quarantine Program, they identified that there was an issue about how they were going to detain, manage the hotels that had people who were COVID-positive. Some of those were 35 people who were also from the public housing towers that we had locked down during that period. So then the Secretary raised that with me and then in our regular meetings, at that point, the Secretary of Justice became a regular participant in those regular daily meetings with the Chief Commissioner and Commissioner Crisp and we discussed it very early on. They then also had more detailed conversations. 40

So it was a --- I was part of the iteration as it developed and was aware of Victoria Police's view of support for doing it, how they would best do it and how they expressed that to the Department and how they were going to make that work. So I supported them playing this role and continue to support them playing this role. 45

Q. And what's your understanding of why it was that Victoria Police agreed, it being within their power to make their own decisions in response to requests that might be

made about the use of their resources, why did they agree to provide a 24/7 policing presence at these hotels?

5 A. Firstly, it's important to --- ultimately the decisions on their resources ultimately is the Chief Commissioner's decision, so that ultimately sits there. But, you know, all along my experience has been, and I mention this in the witness statement, that where Victoria Police have been asked to be involved in any of the enforcement of the COVID actions, and they have been doing them right across the Board, they have never said no. They may occasionally say, "Well, we think it's better to do this way."
10 And in this case they said, "We get that there's a problem, we get that" --- at this point I had --- at this point we knew there was a risk in relation to COVID-positive people in those hotels, we knew that they had some powers to detain, which were then further strengthened by the State of Disaster. So they at no stage said no. They felt it was appropriate for them to assist and they were part of the planning for it right
15 from the start.

Q. The documentation that Chief Commissioner Patton has produced to the Inquiry suggest that the police role at the hot hotels, to use the colloquial term, is occurring in the context of some substantial documentation about safety and processes for the use of PPE and to avoid infection. Is that your understanding?
20

A. That's right, that's correct.

Q. Are you aware of whether there were any concerns expressed, either by Victoria Police, or perhaps by those who represent their interests through the association, about the risks that police might face if they were performing duties in a COVID-positive environment?
25

A. No, not in relation to that. So right at the start, I mean, the Police Association were keen to make sure there was appropriate PPE available to all their members and that was resolved very quickly. In relation to the public housing towers, which I suppose is a similar model, they were --- it was the first time of something of that nature. They were actively engaged with the Victoria Police on making sure their members were safe. You know, as I understand, a couple of members did get
30 COVID during that response. And then, you know, in this one, no, there has not been any --- because the systems had been put in place and I think tested during the public housing, this has not been any issues. Certainly the Police Association, which they would normally do, did not raise any issues with me in relation to that.
35

Q. Thank you, Minister Neville. Thank you, Madam Chair, those are the questions that I wish to ask. I understand that Dr Hanscombe has a matter that she would wish to put and I'll call on her to make her application to you for that purpose.
40

DR HANSCOMBE QC: Thank you, Ms Ellyard. I'm pleased to say to the Board that, following the rephrasing of the relevant question, I no longer seek to cross-examine Minister Neville, if the Board please.
45

CHAIR: Thank you, Dr Hanscombe.

MS ELLYARD: I'm grateful to my learned friend for that indication.

5 In those circumstances, Madam Chair, unless you have any questions, I will ask that the Minister be excused with our thanks.

CHAIR: Just one matter, Minister, before I excuse you, and it just goes to the question more generally about the models of hotel quarantine and their use of ADF.
10 Would I be correct in assuming that in the wake of that decision that was conveyed to you on 27 March, that you understood that the Hotel Quarantine Programs were going to be State-based programs?

A. Yes, Madam Chair.
15

CHAIR: Meaning each State was going to develop their own model, based on the unique and sometimes different powers that existed across each of the States?

A. That's right. So, you know, each State under their emergency arrangements have different agencies who are responsible. In New South Wales, for example, the police ultimately are responsible and they have specific responsibilities around quarantine. So that's a model that was changed here after bushfires --- the Bushfires Royal Commission.
20

CHAIR: That's right, the New South Wales Police are, as I understand it, authorised officers. But it's a more general question that I would like you to comment upon, as to whether or not understanding that each of the models were being developed in, if I can use the expression, an idiosyncratic way, depending on the State's range of powers and structures to hold the program, did you either in those early days or at any stage --- let's create a point in time to the end of June --- have any discussions with your counterparts in other States about the structure and model of their program generally and then in particular with respect to the use of ADF in Hotel Quarantine Programs?
25
30

A. Madam Chair, I didn't. And I suppose I --- I would say I wasn't the Minister responsible, so it wasn't something that I --- I often reach out to my colleagues interstate about matters that are in my area of responsibility. In this case, that was not and I did not.
35

CHAIR: Because it can obviously often prove helpful to understand, even with the various legislative differences and structures, the use to which or the way in which various resources are being used, including in this instance the way in which the ADF were being used in New South Wales.
40

A. Yes. And, you know --- yes, that is correct. And, you know, I suppose I would assume that that's a sort of control agency responsibility to see what's the best model to determine. I certainly had my own experience of the value of the ADF in a
45

number of areas. During the bushfires we had probably the biggest deployment we have ever had of ADF supporting us during that and I met many of them out on the ground doing a range of jobs, so I had a sense of what their capabilities were, which were extensive. But because the Hotel Quarantine Program was not under my ministerial responsibility, it wasn't something that I --- other than the policing side of it, what they were doing, it wasn't something that I turned my mind to.

CHAIR: Thank you. Is there anything arising out of that for anyone? No. Nothing further from you, Ms Ellyard?

MS ELLYARD: No. Thank you Madam Chair. I ask that the Minister be excused with our thanks.

CHAIR: Thank you, Minister Neville. Thank you for your attendance at the Board, and you're now otherwise excused. That means you can turn your camera and microphone off. Thank you.

A. Thank you, Madam Chair.

THE WITNESS WITHDREW

MS ELLYARD: Madam Chair, at 2.15 we will be resuming the evidence of Ms Peake. We are grateful to her for making herself available again to continue her evidence. Mr Ihle will be leading her. May I invite you to stand down until 2.15 and excuse me until a later time.

CHAIR: Thank you, Ms Ellyard. We will take the lunch adjournment now until 2.15 and resume with Ms Peake then. Thank you.

ADJOURNED [1.10 PM]

RESUMED [2.15 PM]

CHAIR: Good afternoon, Mr Ihle.

MR IHLE: Good afternoon, Madam Chair.

CHAIR: Ready to proceed, Mr Ihle?

MR IHLE: We are as far as I'm aware. I think Ms Peake is with us. If she is, I'll ask her to turn her camera and microphone on.

CHAIR: Yes, good afternoon, Ms Peake.

MS PEAKE: Hello, Madam Chair.

5 CHAIR: Ms Peake, I remind you that you are still bound by the affirmation you took yesterday.

MS PEAKE: Yes.

10 CHAIR: Otherwise I'll hand you over to Mr Ihle.

KYM LEE-ANNE PEAKE, ON FORMER AFFIRMATION

15

EXAMINATION BY MR IHLE (RESUMED)

MR IHLE: Thank you, Madam Chair.

20

Good afternoon, Ms Peake. Thank you for coming back to answer some questions. I want to start with your responsibilities as Secretary of the Department. You have outlined in your statement that you are responsible to the relevant portfolio Ministers for the general conduct and the effective, efficient and economical management of the function of the Department?

25

A. That's correct.

Q. In a practical sense, do you agree that that includes the responsibility to keep the relevant Ministers informed of significant issues within their portfolios?

30

A. It does.

Q. And that's something you are conscious of as you perform your duty as the Secretary of the Department of Health and Human Services?

35

A. That's correct.

Q. Do you agree that the Department's role in the Hotel Quarantine Program was a significant issue within the health portfolio?

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A. It was, yes.

Q. And it was also a significant issue within the portfolio of the coordination of the COVID-19 response, Health and Human Services?

45

A. That's correct.

Q. Thank you. Did you consider that the Department's role within the Hotel Quarantine Program was primarily a matter relating to the health portfolio?

5 A. I think that there were parts of the role that were relevant to the health portfolio but the --- it obviously also was part of my mission responsibilities as well, so I would see that I had responsibilities both through to the Premier and through to the Minister for Health.

10 Q. When we talk about those significant issues in respect of your obligation to keep them informed, they were obligations that sat with you in respect to Minister Mikakos and her portfolio as the Minister for Health and also directly to the Premier pursuant to your letter of appointment in respect of being the Mission Lead Secretary?

15 A. That's correct. And actually, Mr Ihle, there were also responsibilities that we took in the program that had relevance to the Minister for Mental Health and also for the Minister for Child Protection as well. And actually the Minister for Family Violence too. So really three of my Ministers --- four of my Ministers.

20 Q. I think you said yesterday that you allocated the responsibilities for the Human Services side of your normal workload to an Associate Secretary?

25 A. That's correct. Although where there were matters that were responsible for the COVID response, I also got involved where they obviously intersected with the operations that we were leading.

30 Q. As the Mission Lead Secretary in the MCC structure, did you have a reporting obligation to Minister Mikakos in her capacity as the Minister for Coordination of Health and Human Services, COVID-19?

35 A. Yes, so there were submissions that went --- many submissions that went forward to the Crisis Council of Cabinet that were presented by the Minister for Health on a broad range of issues relevant to the mission, so we talked --- we do talk daily about those matters, the broad matters that went through to CCC.

40 Q. When the health emergency initially unfolded and it became clear that your Department would be the control agency in respect of the response to that health emergency, one of your functions was, was it not, to appoint a State Controller?

A. That's correct, yes.

45 Q. You detail in your statement at paragraph 52 that on 1 February you appointed Ms Spiteri as the Class 2 State Controller and you did so on the advice of the Deputy Secretary of Regulation, Health Protection and Emergency Management; that's Ms Skilbeck?

A. That's correct.

Q. I will ask if a document can be brought up, please, Madam Chair. It's
DHS.0001.0001.0839_R.

5

Ms Peake, if we look at that, we see that there's your signature on the first page

A. That's correct, yes.

10 Q. You have dated it 4 February 2020?

A. Yes.

15 Q. And this is the document that you refer to when you refer to the advice from
Ms Skilbeck in relation to the appointment of a Class 2 State Controller?

A. That's correct.

20 Q. And we see in that document the substance of the advice and by its execution on
the front you have endorsed the recommendation that Ms Spiteri be appointed State
Controller?

A. That's correct.

25 Q. I just ask that we move to the second page there, and highlight paragraph 9 with
the three dot points. Before we move to this, you appreciated at the time of the
health emergency emerging and the processes under the SHERP that the presumption
under the SHERP is that the Chief Health Officer will be the State Controller for
health emergencies, didn't you?

30

A. I was aware of that, yes.

Q. And the substance of this advice was actually to advise you to appoint someone
other than the Chief Health Officer?

35

A. Given the scale and potential consequences of COVID-19, that's correct.

Q. Yes. And you will see that in her advice to you, Ms Skilbeck says:

40 *There are circumstances in which I would make a new recommendation that
the Chief Health Officer be appointed the Class 2 State Controller*

Specifically I want you to turn to the second dot point there:

45 *Should the Chief Health Officer seek to use his powers under a State of
Emergency to require quarantine of classes of people due to pandemic
conditions potentially requiring direction of police resources*

As at early February, whether it was the 1st or the 2nd or when you signed it on the 4th, Ms Skilbeck was conveying to you her views about circumstances that might change from that point in time where she might seek to make the appointment or recommend the appointment pursuant to those terms that are presumed in the SHERP?

A. That's correct, with the meaning of quarantine in that provision being different to a mass quarantine.

Q. Well, you say that. There's nothing on the reading of that that says "different to a mass quarantine", though, is there, Ms Peake?

A. Really what we were envisaging at that point is that people might have to self-isolate or quarantine if they were suspected or a close contact of a positive person.

Q. This advice was proffered to you prior to a State of Emergency being declared.

A. That's correct.

Q. This advice was proffered to you prior to the Chief Health Officer's emergency powers under the *Public Health and Wellbeing Act* being enlivened?

A. That's correct.

Q. This advice was proffered to you prior to any discussion around a quarantining program?

A. For returned travellers of a mass scale, correct.

Q. And all of --- and we know that even in relation to the isolation of fewer people, whether that be isolation due to testing positive or isolation because of being a close contact, they are not directions that had been made by the Chief Health Officer as at 1 February?

A. Yes, that's correct.

Q. Yes. You acted on the advice of Ms Skilbeck and appointed Ms Spiteri as the State Controller?

A. That's correct.

Q. I tender that document, Madam Chair.

CHAIR: Exhibit 197.

EXHIBIT #197 - DOCUMENT DHS.0001.0001.0839_R

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MR IHLE: As the Board pleases.

You have dealt with, at least had some respects, at paragraph 55 of your statement, Ms Peake, some of the powers that vest in the Chief Health Officer. You say in
10 paragraph 55, talking about 16 March:

*In anticipation of the possibility [that is, of the State of Emergency] my
Department received advice on the basis of declaring a State of Emergency
under the Public Health and Wellbeing Act, and additional powers where a
15 State of Emergency is declared.*

At paragraph 55.1 to 55.9 you list a number of those powers.

20 A. That's correct, yes.

Q. Is that right?

A. Yes.

25 Q. Those powers that you have listed there are not all powers that require a State of
Emergency to be declared first, are they?

A. Sorry, I haven't gone to it. Would you mind directing me to it?

30 Q. Paragraph 55, page 13.

A. No, they are not.

35 Q. Some of those powers are powers that vest within the Chief Health Officer,
irrespective of when a State of Emergency has being declared or not?

A. That's correct, yes.

40 Q. Including the power that you've listed there at paragraph 55.6, to "impose
restrictions on individuals such as to remain at a place or residence, to not visit a
place, or to not come in contact with a class of persons"?

A. That's right, yes.

45 Q. That is a power that subsists in the Chief Health Officer pursuant to section 190 of
the *Public Health and Wellbeing Act*?

A. Yes.

Q. And it's a power that you can exercise at any time if he feels it's necessary to do so to investigate, eliminate or reduce a risk to public health?

5

A. That's correct, for an individual, yes.

Q. It's more than that, though, isn't it?

10

A. There are certainly --

Q. If we look, say, for example, at section 189 of the *Public Health and Wellbeing Act*, what is specifically provided is the ability --- sorry, section 191(b), which a public health risk power to direct a person or group of persons to enter, not to enter, to remain at or to leave any particular premises for the period of time reasonably necessary. That's a power vested in the Chief Health Officer, irrespective of there being a State of Emergency?

15

A. The advice that we received, we sought and received at the time that we were developing the directions for the Hotel Quarantine Program for returned travellers was that the --- the construction of that paragraph should be read as narrowly, so it might be that it's a family or a household, rather than it would be a class of people.

20

Q. It says quite clearly there in the Act, section 191(b), to direct a person or group of persons.

25

A. Certainly --

Q. Do you --

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MS HARRIS QC: Madam Chair, it is starting to call now for legal interpretation. Ms Peake said she took legal advice and received it. Any further questioning about the legal meaning of that section is probably not a matter for Ms Peake, especially given it is a power to be exercised by the Chief Health Officer rather than by Ms Peake as Secretary.

35

MR IHLE: The reason I asked the question, Madam Chair, is because Ms Peake has identified this specifically in paragraph 55 as a power that, according to the terms of paragraph 55, are additional powers available where a State of Emergency is declared. In my submission that's plainly not the case and Ms Peake has agreed to that.

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CHAIR: Yes.

MR IHLE: And I want to ask her questions around why that was not more fully considered, and if it's "Because our advice told us not to," that's it.

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MS HARRIS QC: Madam Chair, could we perhaps just go to the introductory words of this paragraph where the list of powers is referred to.

CHAIR: In Ms Peake's statement?

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MS HARRIS QC: Yes, because I understand that is what Mr Ihle is fixing on. Ms Peake says at paragraph 54:

10 *My colleagues in the department and I were conscious of the potential for a State of Emergency or a State of Disaster to be declared*

Then at 55:

15 *In anticipation of this possibility, my department received advice on the basis for declaring a State of Emergency under the PHWA, and additional powers available where a State of Emergency is declared. This included scenario planning to test the adequacy of powers for the CHO to [do various things].*

20 There are matters listed, including the imposition of restrictions on individuals, such as to remain at a place or residence. For completeness, the footnotes refer to a number of legal powers. I suggest that statement doesn't suggest that there was only one legal power or that it was necessary to declare a State of Emergency for the section 190 power to be exercised.

25 CHAIR: Yes, I understand.

MR IHLE: I'll perhaps focus the question.

30 Ms Peake, is it your understanding on the basis of advice that you received that the reference to "group of persons" in section 190(b) should be read differently to "group of persons" in section 200(1)(a)?

35 A. That was the advice that I received and that was taken into account in the formulating of the directions on the weekend of 27 and 28 March.

Q. Thank you. On the question of the appointment of the State Controller at the start of February, was it brought to your attention that Professor Sutton was not in favour of the decision of appointing someone other than him in respect of the COVID-19 pandemic as the State Controller?

40

A. It was, and Professor Sutton and I had a conversation about that. So I took his advice to ---

45 Q. When did you have that conversation with Professor Sutton? He was asked that question and he said that there was no communication by him to you directly on that. When do you say that occurred?

A. I recall having a conversation with Professor Sutton around that time, I'm not sure if it was that day, but around that time, to understand his perspective and reach my view.

5 Q. Are you aware of the evidence that's been led in this Inquiry, specifically in respect of the position of State Controller and how that had some input to the Hotel Quarantine Program, that medical officers who fall within your Department have expressed some view that the program did not have a sufficient health or clinical focus as a result of that appointment?

10

A. I am aware of the discussion that was had at the time and that was conveyed in Dr Romanes' witness statement in particular, I think, but that also that there was a healthy and engaged relationship between the Public Health Command that was created to provide that input into all of the operations, including Operation Soteria, and that actually Dr Romanes' work that was done very early in that first week of Operation Soteria really then was embedded through both the health and wellbeing plan and through the annexures to the operations plan. So I was and remain satisfied that there --- the command structure that was created enabled there to be the complementary skills of public health and health and wellbeing input, also through the health coordinator, as well as the facilitation of the multi-agency operation through the State Controller capabilities.

15

Q. I understand that's your view. I want to take you to the view of the people that fall under your command or ones specifically with clinical health experience and are medical professionals. The Chief Health Officer in his statement, a statement that was sworn in the last few weeks, said that in relation to Operation Soteria, that is the Hotel Quarantine Program, that his understanding as at the time of making his statement is that that operation aimed to provide logistical and operational support to meet the aims of hotel quarantine.

25

A. Look, I completely respect the views of all of my staff. And I know that there are --- there were complementary capabilities that were absolutely essential to make sure that for people who are coming back from overseas into incredibly difficult circumstances of having to go into quarantine, that it was very important that we ensure that they not only had really effective health and wellbeing support but also that there was transport for them to the hotels, that there was an appropriate approach to concierge and to planning for their discharge and that there was appropriate approach to the provision of food and other supports to them. And I would --- if I had my time over, would still take a view that it was, like every other jurisdiction, appropriate to have a blend of emergency management, public health and health system involvement in this program.

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Q. Are you aware that Professor Sutton, just in the last few weeks, and including in a statement that he adopted as both truthful and accurate in the last just over week, he said he had reservations about the lack of involvement of Public Health Command in Operation Soteria. Are you aware that he has expressed that view as a contemporary view?

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A. I am and I think there's also been a lot of evidence that has been led by the Deputy CHO and in witness statements that would give comfort that the public health advice was provided, that there were --- there was guidance on cleaning, on PPE, on
5 infection prevention and control, and that that was then operationalised through guidelines and policies and the Operation Plans. And I think it's healthy for a Department to have the complementary skills, I think that it's healthy for there to be a constant checking of do we have all of the inputs that we need to have? And as I say, going forward, whatever the arrangements are, it will continue to be really critical
10 that there is public health input into a Hotel Quarantine Program.

Q. So you're aware of Dr Romanes' contemporary reflections that if the Chief Health Officer had been the State Controller, it's possible that the public health emergency and the public health expertise may have been more embedded in the governance of
15 the program? You're aware of that comment of Dr Romanes?

A. I am aware of the --

Q. And are you aware of the comment of the Deputy Chief Health Officer that you referred to earlier, where at paragraph 147 of her statement she said:
20

We all could have treated the Hotel Quarantine Program more as a health program than a logistics and compliance exercise.

25 Are you aware of those views that have been expressed before this Inquiry?

A. I am. And as I say, I'm deeply respectful of the perspectives of everyone who has been involved in this program. I do feel that it is important to reflect that the practical realities of the bandwidth of public health at a time when they were also
30 preparing advice for the whole community and all industries, for the school system, for the prisons system, where they were providing advice on directions that were going to restrict the movement of households and industry, and were setting up --- not setting up but were dramatically expanding the capabilities of the fundamental contact tracing and isolation function that they performed, that I stand by the
35 perspective I had then and the perspective that I have now, and I think this was echoed by Professor Sutton, that it was not practicable for him to execute his statutory obligations of Chief Health Officer at the time and take on that facilitation of multi-agency operations across Government, and that the Public Health Command was established to ensure there was that public health input into this operation and
40 into other operations that were in train at the same time.

Q. So you would be aware then of Professor Sutton's evidence to this Inquiry about the lack of operational oversight that he felt he had and that those with clinical
45 experience had in respect of this operation?

A. I am aware also of the testimony from the Deputy CHO of the involvement that the public health team more generally had into the program.

Q. We will come back to the question that I asked you, Ms Peake. Are you aware ---

A. I am aware.

5

Q. Thank you. And that that's a view that he maintained, even as recently as when he came to give evidence to this Inquiry.

A. Yes, and I think that again, I had a lot of conversations with colleagues from other jurisdictions at the inception of Operation Soteria. Over that weekend we were in close contact about the negotiation of a private hospital agreement and the restrictions to households and industries, but we did talk about this really important initiative as well and that every jurisdiction was combining emergency management with health in some form. Predominantly more emergency management, I would actually say that we had more public health engagement in the program and I'm very happy to give some specific examples of that. The fresh air breaks is one that is --- that is really distinguishable from other jurisdictions. But it was --- it was recognised, I think, that the enormous set-off obligations, the enormous responsibilities that sat with public health functions in every jurisdiction and the multi-agency requirements that hotel quarantine would require did depend on there being a facilitation and coordination role across Government that was complementary to the public health input.

Q. You would be aware too of the email that Dr Romanes sent on 9 April where he expressed on his behalf and on behalf of the Chief Health Officer and the Deputy Chief Health Officer, expressing serious concerns about the governance of the program?

A. And --- I am aware of that, to answer your question --- (overspeaking) --

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Q. You will also be aware that the Deputy Chief Health Officer, when asked about that email, agreed at pages 1529 to 1530 that that was a reasonable thing to do as at 9 April and even with reflection and the benefit of hindsight, she stands by that as being a reasonable email to have been sent at the time.

35

A. And it was a really important thing and it would be my expectation for any senior member of our Department to raise risks, to raise issues, and the response to that was to ensure that the Public Health Command was very engaged and to ensure that there was an approach to clarifying roles and responsibilities. And I think my memory, from reading the Deputy CHO's transcript and witness statement, was that Ms van Diemen identified that there was in the following week a clarification that public health advice would be provided into the Emergency Operations Centre when it stood up in the middle of February, and the Emergency Operations Centre would then take responsibility for using --- translating that advice into policies and guidelines, and I think there's been a lot of evidence that has been provided to the Board about the --- all of the ways that was done, with guidance on PPE, with guidance on cleaning, with guidance on --- right from the very first day of the

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program, on the establishment of red and green zones for how the hotels would be established, but also then a series of health and wellbeing policies that went to everything from how fresh air breaks would be managed through to the assessment processes and welfare checks that would be conducted, through to the escalation protocols that would be in place for both clinical purposes and any incidents that occurred, all the way through to the case planning that would happen to make sure that if people didn't have somewhere to reside after they left hotel quarantine, that those arrangements would be made for them. And of course the really critical work of assessing whether there were people in hotel quarantine where it wasn't an appropriate setting for them, and the 440 exemptions that were determined, all of those policies and guidelines derived from the work that Dr Finn Romanes prepared in the first week of April.

15 Q. Coming back to the Chief Health Officer, who is the highest ranking medical practitioner in your department, you would also be aware, given your familiarity with the evidence that you demonstrated today, of his maintained view before this Inquiry that the creation of that liaison position between public command and Operation Soteria was not an optimal way of getting line of sight into the operation of the program?

20 A. And I would continue to welcome Professor Sutton's views on ways going forward because this will continue to be a critical question: how do we embed public health advice? What I see and was briefed on throughout the program is a deep engagement by public health in all of the ways that I've just described, and that they were translated and communicated through to people on the ground.

25 Q. Just coming back to my question, Ms Peake, the answer to which you started "and", and you are aware of that view expressed by Professor Sutton before this Inquiry?

30 A. I am aware that that was the view that Professor Sutton put forward.

Q. As the most senior health practitioner in this State?

35 A. As the public health practitioner --- we also have other senior health practitioners in the Department, but the most senior public health practitioner, that's correct.

40 Q. Those concerns that were expressed in the email on 9 April, were they brought to your attention on 9 April?

45 A. I certainly --- I'm not sure if it was 9 April but I certainly had discussions on or around 9 April and certainly over the subsequent weekend about the --- where we were at in terms of the stand-up of health and wellbeing services. I think you recall that I mentioned yesterday that that was something that I raised the prior weekend as being a significant priority for me. And in the third week of the program, as a result I requested that --- that the head of Safer Care Victoria, Professor Wallace, as the State Coordinator, take a stronger role in ensuring that clinical protocols, pathways

and governance was put --- was clearly in place and that there was good documentation of escalation procedures, and I stayed in constant contact with both he and the State Controller, as well as the Public Health Command, to ensure that everyone was satisfied that that was occurring.

5

Q. Ms Peake, I'm going to ask a favour of you, if I may, and that is if you can focus your attention on the question that I've asked. The question that I've asked is whether the concerns expressed in the email were brought to your attention on 9 April.

10 A. And so, Mr Ihle, if it wasn't the 9th, it was very shortly thereafter --- (overspeaking) --

Q. Was the email actually sent to you? Did you see the wording of the email itself?

15 A. The email wasn't sent to me but the issues raised within it were communicated to me.

Q. In similarly strong terms?

20 A. Yes.

Q. That would have been of some concern to you, would it not?

25 A. Yes. And that is why I had the discussions I've just outlined about making sure that there was documentation and governance that addressed the issues that Mr --- that Dr Romanes had raised.

Q. They were significant issues for Dr Romanes and the Chief Health Officer and Deputy Chief Health Officer to have raised, were they not?

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A. That's correct, and I was reassured that the health and wellbeing plan that was finalised within days of that email and the advice that I received from both the Public Health Command and from Professor Wallace and from the State Controller about the agreements that had been reached about the roles and responsibilities and the flow of information from public health into the Emergency Operations Centre as it stood up addressed the issues that Dr Romanes had raised.

35

Q. And insofar as they were significant issues, they were significant issues within the health portfolio?

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A. We, they really went to how parts of my Department were working together.

Q. But they were issues that concerned the health and wellbeing of those people that were being detained?

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A. If they hadn't been resolved, they would have. But I was, as I said, within days I was satisfied that they had been worked through, through the governance that had

been, that I had established and that they had been dealt with.

Q. Were they also significant issues within the portfolio of the coordination of Health and Human Services for COVID-19?

5

A. They were significant issues to be resolved, they sat as a management task for me and my senior leadership to resolve and I was satisfied that they were resolved.

Q. So do I take it from that, Ms Peake, that you did not brief the Health Minister about the issues that had been raised by your senior members of the Public Health Command in that email?

10

A. Certainly I had discussions with the Minister about the health and wellbeing services we were putting in place and the escalation and clinical protocols. I didn't have a discussion about the --- the way in which we were ensuring that parts of the Department work together because I was satisfied they were resolved.

15

Q. I will go specifically to the question. Did you tell the Health Minister that those three most senior members of the Public Health Command were raising those issues in those terms?

20

A. No. No, Mr Ihle, as I've just outlined, I was satisfied that the issues that had been raised had been addressed and I was reassured by Public Health Command, who was part of that, so the Deputy Chief Health Officer as well as other members, senior members of my staff, that the issues had been resolved and didn't need to be escalated.

25

Q. I assume your answer to the next question as to whether you briefed the Premier about those concerns being raised is the same, you did not brief the Premier?

30

A. That's correct. Management decisions would typically sit with the management of the Department. Unless they were of a --- they reached a point where there was a risk to the public that arose, and I was satisfied in this case that the steps that were taken ensured that that wasn't the case.

35

Q. Yes. You say at paragraph 156 that your early involvement in the Hotel Quarantine Program was significantly focused on whether the approach to health and wellbeing of people in quarantine was appropriate. Do you remember saying that in your statement?

40

A. Yes.

Q. That email would have flagged for you, first of all, that there were some serious concerns being raised by Public Health Command concerning the health and wellbeing of people in quarantine. Do you agree with that?

45

A. They did and, as I've outlined, that was why I really got involved in making sure

that, firstly, Professor Wallace as the State Health Coordinator was engaged as well and that this was a health and wellbeing plan that was bringing together work that was happening so that it was very clearly documented, and that there was in particular clinical escalation and incident management escalation processes that were well understood and in place.

Q. Within a day or two of that email being sent, indeed, there was a tragic event that occurred at the Pan Pacific Hotel in relation to one of the detainees.

A. That's correct. That is --- and --- and I wouldn't like that to go past without expressing to the family of that individual my acknowledgment of how awful it is to have a loved one, you know, take their own life and in the circumstances of them being in a Government service, it's --- it was something that is --- has certainly been -- led me to request for there to be a review of the incident by Safer Care Victoria and something that was, I know, devastating for everybody involved.

Q. Yes. Thank you for that appropriate acknowledgment.

Can I ask you, on this question of welfare and wellbeing of those that are being detained against their will, did you tune in and follow the evidence of Dr Gordon last Friday afternoon?

A. No. I apologise, it's been very busy managing everything.

Q. You well know who Dr Gordon is, though, don't you?

A. I do. I do, yes.

Q. It is well appreciated that he is eminent in his field?

A. Absolutely.

Q. Dr Gordon, amongst other things, gave evidence to this Inquiry on Friday about the ability, with some margin of error, to predict the likely emotional responses of people in hotel quarantine. Do you understand that to be some of the evidence he's given?

A. I'm not aware of the evidence he gave, Mr Ihle, but I accept that --- (overspeaking) --

Q. You have received no briefing in respect of the evidence Dr Gordon gave?

MS HARRIS QC: Madam Chair, Ms Peake has said that she --- and the evidence is already that she has a very busy role. To keep repeating questions --- she's already said that she had no time to listen.

CHAIR: That was actually a different question then, Ms Harris, as to whether or not

Ms Peake had received a briefing about it.

5 MS HARRIS QC: Thank you, Madam Chair. There needs to be some reality about the extent to which Ms Peake has got other obligations. I'll pass on the question and make no further objection. But Ms Peake, the evidence is that she has got a range of very onerous obligations at the moment, so if there are very specific matters, it's probably best to repeat them.

10 MR IHLE: I'm going to ask Ms Peake a different question, which is laying the foundation for that question.

Ms Peake, first of all, the Department engages Dr Gordon in a number of capacities, does it not?

15 A. That's correct, certainly in terms of bushfire communities, so disasters, we have used him to communicate to the public and local community engagement on a number of occasions.

20 Q. Was there any thought given by you to the engagement of Dr Gordon at the establishment of this Hotel Quarantine Program, for the expertise that he might have been able to lend your Department in respect of the concerns of health and wellbeing of the people that were coming into the quarantine program?

25 A. No, there --- I didn't. I didn't do that and I didn't turn my mind to that.

Q. Do you reflect with the benefit of hindsight that doing something like that at the start would have been of benefit?

30 A. Look, I --- I always think that --- that the input of experts into programs is of great benefit. Of course, at the start of the program we were very focused on establishing the CART team, but definitely I think Dr Gordon would have a lot to offer as we continue to think about this model going forward. I think that's an excellent suggestion.

35 Q. Coming back to the Chief Health Officer and perhaps the idea of embedding at a very early stage that public health expertise in the command of Operation Soteria, are you aware of the evidence that he gave about the desirability of that from his perspective, of having line of sight of operational elements in relation to the program, rather than merely a liaison?

40 A. I apologise. As I have said, I have not heard or had a summary of Dr Gordon's evidence. I'm not aware of that.

45 Q. Sorry, this is the Chief Health Officer now. I'm talking about Professor Sutton.

A. Sorry. Would you mind repeating the question?

Q. Coming back to the Chief Health Officer, and perhaps the idea of embedding at a very early stage that public health expertise in the command of Operation Soteria, are you aware of the evidence that he gave about the desirability from his perspective of having line of sight into operational elements in relation to the program?

5

A. No, but I'm aware that his staff were very heavily involved in the first week of the program. I'm not sure whether --- he can only take his evidence that he himself wasn't engaged but the Public Health Team was deeply engaged.

10 Q. He says that the powers that were authorised were powers vested in him under the *Public Health and Wellbeing Act*, and I quote from page 1485 of the transcript, that it is important for him to have line of sight of the application of those controls and to be appropriately aware, to have situational awareness of those operational activities. Do you recall his evidence before the Inquiry in that respect?

15

A. Again, Mr Ihle, I work 18-hour, 17-hour days on this emergency. I have seen bits of the Inquiry. I didn't see all of Professor Sutton's.

20 Q. Are you aware that he said that even today he doesn't have sufficient insight into the management of the quarantine program?

25 A. I'm not aware that Professor Sutton expressed that view. I know that he sits on the State Control Team with me every morning at 8.30, where there are updates on Operation Soteria and we certainly can take that away to ensure that if there's other advice that --- that we can engage him with, that we will do that. Professor Sutton has also signed off on the operating model that is in place at the moment. So I'm not sure of the context in which you had that conversation with him and I'm certainly happy to take away on notice and talk with him about that.

30 Q. It is desirable, isn't it, that if someone is exercising statutory powers that vest in them by reason of the office, that they have some idea about how those powers are being operationalised in a real sense?

35 A. Yes, and again I do think it is important to just pause for a moment to say that the statutory powers that Professor Sutton is implementing touch every sector, every industry, every household in Victoria. And so the State Control Team is a really important way for Professor Sutton to have that connection to the implementation activities. It would not be feasible for Professor Sutton to be intimately involved in the operationalising of every high-risk industry, every high-risk setting, every health service, and I'm not --- again, I don't know the context in which you had the conversation with him. I don't think that's what he would have been suggesting.

45 Q. Well, that will be a matter for the Board, with respect. Do you agree that appointing him as State Controller would have given him that operational oversight?

A. I --- I do not consider, with the breadth of the --- of responsibilities and the time I know, the hours I know he has worked every day, that it would have been feasible

for him to do that on top of sitting on the Australian Health Protection Principal Committee, which meets daily for at least two hours, on top of the work that we were doing in preparation for National Cabinet meetings back then, that were meeting every few days and were making decisions on the basis of the AHPPC advice about
5 really significant interventions into people's lives, the translation of the AHPPC advice into Victorian decision-making about those directions, the policy work that every direction takes at least 24 if not 36 hours worth of policy work, usually 24 hours because that's what we had, to translate it into legal directions. There is then an enormous implementation piece which involves everything from the
10 preparation of questions and answers that Professor Sutton and I sign off, through to the engagement with the community through press conferences, which Professor Sutton attends, through to community engagements where he has been Herculean in the reach that he has had. I don't want anything that I have said here today to in any way suggest that I have nothing but absolute respect and huge
15 appreciation for the load that Professor Sutton has carried in the last eight or nine months, and he and the whole public health team have been magnificent.

Q. Are you saying, Ms Peake, given the vast array of obligations and responsibilities he has as the Chief Health Officer, there is just no way he could perform the role of
20 State Controller?

A. That's correct, it's just not feasible.

Q. And any consideration of it was really something that was such a minor
25 possibility because of his other obligations?

A. That's correct, and if he had been asked to do that, the compromising of those other functions which would necessarily have occurred.

30 Q. He's expressed his views to this Inquiry about the desirability of his appointment as State Controller and that will be a matter for Madam Chair to consider in the fullness of time. Perhaps I can take you to a different document now, document DHS.0001.0011.1101. Ms Peake, we have heard evidence of the appointment of Ms Spiteri in very early February and very shortly thereafter the appointment of
35 Mr Helps as State Controller, given the significance of that role. Just taking you to this document, you will see it is signed and dated by you 7 February?

A. Yes.

40 Q. It has a stamped date at the top of it, 7 February, as well?

A. That's correct, yes.

45 Q. And this is another advice to you from Ms Skilbeck?

A. That's correct.

Q. In relation to the appointment of other State Controllers?

A. That's correct, yes.

5 Q. And if we hone in and expand on paragraph 4 there, please, we see that two people specifically are nominated and are being advised to you as appropriate appointees as State Controllers?

A. That's correct, yes.

10

Q. If we can move to the fourth page, please, this is the instrument of appointment that gives effect to that advice. Is that right?

A. That's correct, yes.

15

Q. And that's self-explanatory, where it says that you appoint the office of the Department named in column 1, and we will go to the table in a moment, to the corresponding position specified in column 2 of the attached schedule and you have executed that, dated 7 February.

20

A. Yes.

Q. If we can go to the next page, please, Ms Peake, you will see that the very first person appointed there as a State Controller is Dr Sutton, the Chief Health Officer.

25

A. And there --- there may be a time in the future where the demands on Professor Sutton are not what they have been in the last 10 months, and we don't tend to update these very often. It is a normal practice in emergency management to have contingency lists. But Professor Sutton has not fulfilled that function during this pandemic, for all the reasons that I have outlined and I couldn't see in the foreseeable future that that would be possible for him on top of his responsibilities, but I also expect that this pandemic will be with us for a long time and when it is under --- at a different stage there may be a weekend or there may be a period where it would be appropriate for Professor Sutton. That does not change any of the evidence that I have led here today.

35

Q. Ms Peake, Ms Skilbeck gave evidence of the advice that she gave to you on 1 February, and we have seen you endorsing that advice on 4 February. This is an advice three days later, which does not recommend to you that Professor Sutton be appointed, yet it appears you have appointed him. Can you explain that?

40

A. As I say, it's very normal practice that there's a longer list and I think there is another version of this document that is in --- maybe it's July --- that has all of those names plus an extra three. So it is very normal practice for there to be a longer list from which the --- the people who are going to primarily perform the functions are included. But if something happened and for some reason on a day or a weekend none of those people could fulfil the function, we still absolutely need to have a State

45

Controller while there is a health emergency in place. So that --- that is --- that is the normal practice and that is why that schedule is attached. You are absolutely correct that it wasn't recommended that Dr Brett Sutton or Dr Angie Bone be stood up into the role. It was recommended that Ms Spiteri and Mr Helps would fulfil the
5 controller function. The contingency list or the longer list enabled there to be a contingency arrangement if at some point it was required.

Q. Can I correct you on something you said there, Ms Peake. We will go back to the first page if you need to see it. You say that it was not recommended that Dr Sutton
10 or Dr Angie Bone be stood up into the role. The very first page of that document I took you to showed a recommendation that Dr Angela Bone and Mr Helps both be appointed?

A. Sorry, that they be added to this list. I think --- but not that --- and I might ---
15 I might be misremembering it. I don't recall Dr Bone being in this position at any time during this pandemic but should Ms Spiteri or Mr Helps not be able to fulfil the role, there was a longer list of people that could be drawn on. The reality is that Dr Bone has had significant responsibilities for the continuing health protection functions that had meant it wouldn't have been practicable for her to do this in an
20 enduring way either.

Q. Before we leave this topic, Ms Peake, I want to ask you some questions about this. You understand that when Ms Skilbeck came to give evidence before this
25 Inquiry, she made no reference to the appointment of Dr Brett Sutton as a State Controller.

A. And I think that it is important just to reiterate my comment that --

Q. Just before you go on, can you answer the question that I've asked, and then if you
30 want to add to that afterwards, I'm sure your counsel will clarify anything in re-examination.

MS HARRIS QC: Madam Chair, it might be a bit confusing. There's a lot of repetition of evidence and just propositions being put with no clear question, and
35 then Ms Peake is being criticised for not answering a question. If there is a clear question, that could be put very clearly, rather than just a proposition of what Ms Peake is aware of, and then Ms Peake can perhaps be permitted to make the observation that she wishes to make.

40 MR IHLE: I thought I did ask the question: do you understand that when Ms Skilbeck came to give evidence before this Inquiry, she made no reference to the appointment of Dr Brett Sutton as a State Controller?

A. I'm not aware that that was --- whether there was no evidence led on that matter.
45 I will take your word for it.

Q. Are you aware that Dr Sutton made no reference to the fact that he had been

appointed as a State Controller?

A. As I said earlier, I'm not --- I wasn't ---

5 MS HARRIS QC: Madam Chair, I have to object to this line of questioning. Ms Peake has talked about this being a contingency arrangement. There are positions that are --

10 CHAIR: Ms Harris, perhaps we can just deal with it this way: to assist me, Ms Peake, did Dr Sutton know that this appointment had been made?

A. That would be my understanding, Madam Chair, and I'm very happy to take away and confirm that for you, but that would be my understanding.

15 CHAIR: How would any of these appointed officers find out as to whether or not they had been appointed? What would the normal process be?

20 A. The normal practice would be that Ms Skilbeck, as the Deputy Secretary over emergency management, would have --- would inform them of this on the way through.

CHAIR: And would that, as a matter of process, be by way of writing, a formal letter or an email?

25 A. I --- I'm not sure, Madam Chair. It might well be a conversation. I'm not sure.

30 MS HARRIS QC: Madam Chair, if I might just --- it's not been a feature of the questions but column 2 does refer --- this does not refer to the COVID-19 specific emergency --- in the context of Ms Peake's answer about contingency, column 2 does need to be read. It is in respect of controllers in relation to planning for each anticipated class 2 emergency in any area of the State, and each class 2 emergency in any area of the State which is occurring or has occurred. It makes it slightly clearer that it is certainly a contingency type arrangement.

35 CHAIR: Yes.

40 MR IHLE: If there is any ambiguity, Ms Harris can ask questions about it when it comes her turn, Madam Chair. What I want to ask this witness is why she made no reference in her statement to the appointment of Dr Sutton on 7 February as a State Controller, but did make reference to the appointment of others on different dates.

A. It was really because Ms Spiteri and Mr Helps were the --- the individuals that I expected to fulfil the function.

45 Q. Yes. Thank you. I tender that document, Madam Chair.

CHAIR: Exhibit 198.

EXHIBIT #198 - DOCUMENT DHS.0001.0011.1101

5

MR IHLE: As the Board pleases.

Ms Peake, just a few brief questions about the concept of a COVID-positive or hot hotel. I ask that a document be brought up, it's document DHS.0001.0013.2566.

10 Ms Peake, this is a series of emails, part of which you were involved in on 9 April, and it concerned the imminent arrival of passengers from the Greg Mortimer cruise ship.

A. Yes.

15

Q. First of all, do you remember being part of this chain of emails?

A. I certainly do.

20 Q. Yes. And do you recall in respect of those emails expressing the following --- and we can perhaps zoom in on it --- it is about two-thirds of the way down the page and it starts with the line "Premier". This is an email sent by you, Ms Peake, on 9 April at 7.01 in the evening, to a number of people, including Dr van Diemen, Professor Sutton, Melissa Skilbeck, Terry Symonds and Andrea Spiteri and Jacinda
25 de Witts and Finn Romanes. It says here:

Premier has also requested that we use a hotel that is close to the airport, not in the CBD. If possible could we say tonight which hotel that would be? if not, we can confirm with everyone as soon as possible.

30

First of all, on what basis do you say the Premier has requested we use a hotel that is close to the airport, not in the CBD?

35 A. My recollection is that through Department of Premier and Cabinet that I had been in close contact about this because it was a very significant risk that was unfolding and we had had a discussion about what arrangements had been in place, and they had briefed the Premier, the Premier had asked for more information and expressed a view that, would it be preferable for, given the risk of a large group of people expected to be COVID-positive, for them to be accommodated close to the
40 airport, and that was communicated back to me and hence I followed it up.

Q. You talked about it being a very significant risk. Do you agree with the proposition that this issue, that is the inbound passengers, a high number of which were confirmed to be COVID-positive or suspected of being COVID-positive, had to
45 be accommodated in one of our quarantine hotels?

A. Yes. Given the time we had to plan for this, that was --- yes, that was the --- the

operational view we took.

Q. And that was a significant issue within the health portfolio?

5 A. Absolutely.

Q. And it was a significant issue in relation to the coordination of Health and Human Services for the COVID-19 response?

10 A. That is correct, yes.

Q. And in that regard it was conveyed to you that the Premier was making a specific request in relation to the location of that hotel to receive these passengers?

15 A. Certainly asking our advice on that, that is correct.

Q. Well, it's more than that, as to what you have expressed; he's really expressing a preference, is he not?

20 A. Yes.

Q. Was it conveyed to you as to why that preference was held by the Premier?

25 A. Yes, it was because there was a --- the risks associated with a big group of people and I think a --- a logical and --- and, you know, a completely logical proposal to put to us or suggestion to put to us, request to put to us, about would it be safer to not have them moving through any sort of distance into the CBD.

30 Q. And what you --- if we can highlight the very next line, Mr Operator. It says:

Actions in train.

Can you see that?

35 A. Yes, I can.

Q. And then the actions go over the page. There are 1, 2 and 3. If we can highlight number 4, at the top of the next page, "Actions in train", as stated by you to people from your Department, is:

40

Remainder of passengers to be transferred to a dedicated hotel close to the airport (not in the CBD).

Do you recall writing that?

45

A. I do, and also contacting Mr Phemister about this as well.

Q. And do you recall the response you got from Ms Skilbeck?

A. I do. Well, I don't recall the --- the exact words, so I don't know if you want to show me something but I recall the process that --- (overspeaking) ---

5

Q. Let's do that. If we go back to page 1, please, Mr Operator we see Ms Skilbeck's response to your email, which is sent at --- you might not be able to see it there --- it is at 19.44 hours, so just before quarter to 8. You will recall point 4 was --- that's "Actions in train", point 4, "Remainder of passengers to be transferred to a dedicated hotel close to the airport (not in the CBD)". You see what Ms Skilbeck says there:

10

We have one contracted hotel who is ready willing and able to accept COVID-positive guests --- Rydges Swanston Street. At this late stage of planning it would be risky to seek to convince another hotel to contract to take such guests.

15

What did you understand Ms Skilbeck to mean when she talked about it being risky?

A. Yes, so we did have a conversation and I had a subsequent conversation with Mr Phemister and I understood from both the email and those conversations that stand up the staffing for a new hotel on such short notice would have inherent risks to it and as a consequence --- as a result, Mr Phemister agreed to go back to the Premier's Office, he did that and it was advice that was well understood and accepted that that wasn't a prudent step to take.

25

Q. Ms Peake, you agreed that this was a significant issue within the health portfolio?

A. Yes.

Q. This was a significant issue within the portfolio of the coordination of Health and Human Services for the COVID-19 response?

30

A. Yes.

Q. You are the Secretary with the responsibilities to brief the relevant Ministers in respect of significant issues that sit in their portfolios?

35

MS HARRIS QC: Madam Chair, again --- I can take this up in re-examination but I would be regretful if it meant another day that Ms Peake had to carry over. There is evidence on the record from Ms Spiteri that this was not just a matter that had been determined by the Department of Health. From 1 April the DJPR had told DHHS which hotels it had contracted for the COVID-19 positive guests and followed that up with confirmation in an email on --

40

CHAIR: I don't think that is the issue that Mr Ihle is taking up at the moment with Ms Peake, Ms Harris. Am I right, Mr Ihle?

45

MR IHLE: You are, Madam Chair. What I want to ask, Ms Peake, is given those things that you have agreed to, did you brief the Minister, whether it be Ms Mikakos or the Premier --

5 A. I did.

Q. --- about the fact that the Premier's preference for a hotel away from the CBD was too risky?

10 A. I did. I briefed Minister Mikakos and, as I've indicated, I spoke to Mr Phemister and we agreed that, given they were the lead on the hotels, that he would circle back and he would follow up with the Premier's Office, which he did, and confirmed with me, and so both principals were briefed.

15 Q. And in respect of your obligations directly to the Premier under your appointment as the Mission Lead Secretary, you relied on Mr Phemister making that report to the Premier?

20 A. I --- I did, but I was in constant --- constant contact with the Premier's Department that weekend as well.

Q. Yes. Madam Chair, I tender that series of emails.

25 CHAIR: Exhibit 199.

EXHIBIT #199 - DHS.0001.0013.2566

30 MR IHLE: As the Board pleases.

35 Ms Peake, I am loath to go back there but I think we need to, about the Department's responsibilities as the control agency under the Hotel Quarantine Program. When we talk about the emergency management architecture in Victoria, it is really a tiered process, is it not, the most binding instrument being the *Emergency Management Act*?

40 A. There is one --- a caveat on that, that is a very important one, Mr Ihle, and I'm sorry to interrupt you, but the *Emergency Management Act* is very clear that it doesn't override any other Act, so it doesn't override the *Public Health and Wellbeing Act*.

45 Q. Thank you for that clarity. But if we are talking about emergency management architecture specifically, the *Public Health and Wellbeing Act* needs to be beside it and not overridden by it. But we have got the Act, then the Emergency Management Manual Victoria?

A. That's correct.

Q. The State Emergency Response Plan, which is a subplan of the EMMV?

5 A. Yes.

Q. And the SHERP, which is a subplan of the SERP?

A. That's correct.

10

Q. When we talk about policy document, the EMMV is the primary policy document?

A. That is correct, yes.

15

Q. And in the event of any inconsistency between subordinate instruments, be they the SERP or the SHERP, the EMMV carries the day on those inconsistencies?

A. Yes, and is flexible enough to be adapted to the emergency that it applies to.

20

Q. So you would agree that the EMMV, that is the Emergency Management Manual Victoria, provides the authoritative guide from a policy perspective on the role of control and support agencies?

25 A. It does, including, I think, evidence that's been led to the Board about the recognition that in complex emergencies there's shared accountability for participating agencies.

30 Q. Precisely what I want to go to, Ms Peake. I'll ask that the EMMV be brought up. It is part of Exhibit 131, document DHS.0001.0027.0108. It is quite an extensive document. I'll ask that we go to chapter 7, page 1, which for the help of the operator is page 217, Madam Chair.

35 Ms Peake, this is the chapter of the Emergency Management Manual Victoria, part 7, that deals with emergency management agency roles. You will see described there, as least just by the heading, "Control Agency".

A. Yes.

40 Q. This is the authoritative policy document on what a control agency does, is it not?

A. That is correct. That's correct, I think I quoted from it yesterday, actually.

45 Q. Perhaps if we could highlight the second paragraph, under "Control Agency", it starts:

There are complex emergencies where a shared accountability across a

number of agencies occurs.

Your evidence is that the COVID-19 emergency was such a complex emergency?

5 A. It surpasses anything that was envisaged, but yes, it is a complex emergency and
as I outlined yesterday, the role of the control agency is to then ensure that for those
shared accountabilities, that there are control arrangements established, that the
controller is responsible for ensuring that each operation is well defined, including
10 roles and responsibilities and appropriate governance for each, including determining
whether --- who will be the lead for an individual operation and for each function,
who will be responsible and accountable.

Q. You see the second sentence there, which is the one I want to take you to
specifically:

15

*In these cases there is a need for a single agency to be responsible for the
collaborative response of all the agencies.*

A. And I've just sought to outline what "responsible for the collaborative response"
20 means.

Q. Yes. So the single agency, insofar as it's referred to in that second sentence, that
is a reference specifically to the DHHS when we look at it through this --- through
25 the prism of this Inquiry?

25

A. That's right, so the control agency is responsible for ensuring for each
collaborative response that there is clarity of the scope of the response or the
operation, the roles and responsibilities within that, and that appropriate governance
is established. And in the case of Soteria, the controller ensured that there was an
30 operations plan, that it defined roles and responsibilities, including that there would
be a joint operation within the hotels, and that there was governance that was
established through the Emergency Operations Centre, consistent with the advice
I led yesterday.

35 Q. It is important for the control agency to do that to ensure two things, I suggest to
you: one, that there's not an unnecessary duplication of effort by different agencies?

A. That's correct.

40 Q. And also, so that things are not missed or forgotten or fall between the gaps?

A. That's right. And by the very nature of it being an emergency that needs to be
done quickly and by the very nature of it being collaborative, that it is multi-agency
and so that there will be shared accountability for the risks, threats and consequences
45 that are being managed through the response.

Q. You will see that final sentence there in relation to this description of the role of a
contro

1 agency:

For the purposes of consistency, the term control agency will be used to describe this lead agency role.

5

A. Yes, and again, I don't --- I'm not trying to get into an exercise of semantics, Mr Ihle, but as we worked through yesterday, the scale and complexity of this operation means that there have had to be capabilities and skills and legal powers and resources from every Department that have been brought to bear, some of which fit within the scope of this manual and an emergency multiagency response, some of which are just relevant to the normal functions of each Department administered under the *Public Administration Act* and *Financial Management Act*, and for parts of the response, the role of the control agency has been to determine who should be the appropriate lead. I used the two examples yesterday of mortuary services, where we don't have the capabilities or the responsibilities that would enable us to stand up an emergency mortuary service, it would be inefficient for us to seek to stand in the shoes of the relevant Department, similarly for road blocks that are established between metropolitan and regional Victoria, where Victoria Police is the lead agency for that operation. So I know that these words get conflated and I was really --- really was trying yesterday to be clear about the way in which the different concepts fit together and use practical examples. So if I come back again to a fire, we are the agency that is responsible for public health advice. So the impact of smoke on communities --- I've been in another one of those sorts of inquiries where I was leading the evidence about what happened in the Hazelwood mine fire inquiry. We were absolutely the agency responsible for that bit of the response.

Q. Ms Peake, just coming back to this section. This emergency was a complex emergency?

30 A. Yes.

Q. You have explained to us yesterday that insofar as the response is concerned, there was a shared accountability across a number of agencies?

35 A. Correct.

Q. But you would agree that ultimately the single agency that was responsible for the collaborative response was your agency, the Department of Health and Human Services?

40

A. As the control agency was responsible for determining for each of the operations that it was clear, the scope was clear, the roles and responsibilities was clear and the governance was clear, yes, that is my evidence.

45 Q. Thank you. That document can come down, Madam Chair.

In respect more specifically, Ms Peake, you identify at paragraph 63 of your

statement three main limbs of how those responsibilities were discharged.

5 A. So the --- again, I think we do need to come back to that there was responsibilities of the Department of Health and Human Services that fit within the --- the construct of the *Emergency Management Act* and of course there were responsibilities of the Department of Health and Human Services that also sat with our normal portfolio responsibilities as well, but I apologise. Please continue.

10 Q. Specifically you say at paragraph 63 that the Department had three areas of responsibility with respect to the Hotel Quarantine Program.

15 MS HARRIS QC: Madam Chair, again, the start of the quote, I think Ms Peake was trying to clarify this, the paragraph reads "In addition to responsibilities under the *Public Health and Wellbeing Act*". It will save any confusion if the entirety of what is being relied on is read out.

20 MR IHLE: That is a fair observation, with respect. The functions and roles of the Department of Health and Human Services under the *Public Health and Wellbeing Act* were not functions it was performing as the control agency, was it?

25 A. No, that's correct. They --- they certainly are relevant to every operation. They are the framework, if you like, within which the individual operations are established to respond to COVID-19 and that's really why I made the point earlier that nothing in the *Emergency Management Act* supersedes or overrides the *Public Health and Wellbeing Act*. In fact in a hierarchical sense, in my mind it would be appropriate to think about the *Public Health and Wellbeing Act* being the umbrella, within which responses that required multiagency response were stood up under the emergency management arrangements.

30 Q. So if we hived off that public health and wellbeing function, at least conceptually for the moment, and focusing on the function of the DHHS as the control agency, it discharged those functions, that is, as the control agency, you say by reference to those three limbs?

35 A. And apologies, Mr Ihle, would you mind repeating the paragraph?

Q. Paragraph 63 on page 15, Ms Peake.

40 A. Yes, thank you. Yes.

Q. And by way of headnote only, you say, "Operational command", at 63.1.

A. Yes.

45 Q. 63.2, "overseeing the delivery of health and wellbeing services", and 63.3 says "delivery of public health functions", and you include there the directions under the *Public Health and Wellbeing Act*.

5 A. And really what I'm --- sorry, what I was trying to get to, and maybe this is slightly clumsy in the way I've expressed it but within the context of Operation Soteria, the specific functions of authorised officers, in terms of issuing Detention Notices, authorising exemptions and permissions, as well as the exit from hotel quarantine, was really what I was trying to capture under 63.3.

10 Q. In your role as the Secretary of the Department, of the control agency, but more specifically in your role as the Secretary in respect of the health portfolio, you commissioned two reports from Safer Care Victoria.

A. I did, yes.

15 Q. And we have touched upon already the incident which triggered the commissioning of the first report.

A. Yes.

20 Q. And the second report, we've heard from Professor Wallace about the incident that was triggered there, but suffice to say it was in respect of the transfer of a detainee into hospital and there was some delays in relation to the medical care being given.

25 A. Yes.

Q. You received the first of these two reports on 10 June.

A. That's correct, yes.

30 Q. And we won't go through them chapter and verse but there were a number of findings made in that report?

A. That's correct, yes.

35 Q. And you accept those findings as appropriate findings?

40 A. I accept the findings and --- and I would also note that in the briefing that Professor Wallace gave to me at the time about the report, that he also indicated the work that, as health coordinator, he was aware had already happened in relation to a number of them. So that they were appropriate findings that related to an earlier point in the program.

45 Q. And a number of those findings concerned health and wellbeing services and the structures around them?

A. That's correct, at the start of the program, yes, or very early days of the program.

Q. Yes. And the second report, which was furnished to you on 15 June, also resulted in a number of findings?

A. That's correct.

5

Q. And a number of findings also concerned health and wellbeing services and the structures around them?

A. Again, early in the piece, that is correct, yes.

10

Q. Are you aware of the escalation points that were raised with Professor Wallace at the end of April?

A. I am, and that was --- that was really related to the role that I had asked him to perform as the health coordinator, to ensure that there was good documentation of those escalation points, which were then embedded into, as I was advised, were embedded into the Operational Plan, both for the end of April and continued to be refined and evolved into the end of May. I think that, Mr Ihle, there was --- there has been quite a lot of evidence led, particularly by Ms Bamert and Ms Williams, that one of the values of this Department is the absolute commitment to continuous improvement and that they worked assiduously to ensure that there was continuous improvement in services on the ground and the documentation of those.

15

20

Q. Those escalation points themselves raised a number of concerns about health and wellbeing and the structure around health and wellbeing services?

25

A. Early in the program, yes.

Q. And they also raised concerns about governance issues, didn't they?

30

A. Early in the program, yes, they did, early in the program, as we have been through in the earlier evidence.

Q. It was important that those findings be brought to your attention, wasn't it?

35

A. They were, and that is the --- I commissioned the report and I think, as Professor Wallace outlined, that is the practice, that those --- the reports that are commissioned by me are brought back to me, with then work done to ensure that the findings and recommendations are implemented.

40

Q. It was important that the escalation points be brought to your attention as well?

A. Yes. Yes.

45 Q. Because both the reports and the escalation points identified significant issues that sit within the health portfolio. Do you agree with that?

A. They did, but as I say, the --- Mr Ihle, they --- they were reports that were about an earlier point in the program and there had been a lot of work that was done in the -- in the interim that I had been briefed on along the way that addressed quite a number of the issues that were raised.

5

Q. Did you brief the Minister for Health about the issues that had been raised, first of all, in the escalation points?

A. Because they had been, in my mind they had been addressed and we then come to a point in the program where actually within days we were having a very different --- not days, within a couple of weeks we were having a very different set of conversations, I don't recall that there was a brief that was put up to the Minister. Usually in these things it would be a couple of weeks later, whilst so that there's a briefing on both the report and the response, and the --- it was overtaken by, shortly thereafter, decisions about the transfer to the Department of Justice, but I did ensure that their findings were handed over to the Department of Justice.

15

Q. Okay. I want to come back to specifically to the question of the escalation points. Did you brief Minister Mikakos in respect of those?

20

A. Not at that point, no.

Q. Did you brief Minister Mikakos in respect of the Safer Care report?

A. As I've just indicated, it would normally have happened a couple of weeks later but a couple of weeks later we were handing the program over to Justice and so we prepared advice to Justice. I don't believe at that time therefore that there was a brief that went up to Minister Mikakos.

25

Q. In relation to either of those documents, if I can call them generically that, first of all the escalation points from late April or the reports that you had by mid June, did you brief the Premier in respect of them?

30

A. My answer would be the same.

35

Q. The concerns --- some of the concerns that were touched upon in those two Safer Care reports were concerns regarding the governance of the program, that is the Hotel Quarantine Program. Do you accept that?

A. Again, Mr Ihle, I would just reiterate that they were concerns that existed about the governance at the beginning of the program, and I think our earlier conversation about how those were worked through and resolved to the satisfaction of the Deputy CHO, the State Health Coordinator and the State Controller meant that by the time I received this report I considered that those issues had been acquitted.

45

Q. We have dealt with the governance problems that were raised in the email of 9 April and you have referred there to the State Health Coordinator. Are you aware of

an email that he sent to Ms Skilbeck on 1 May, raising questions about who was overall responsible in relation to the Hotel Quarantine Program?

5 A. I am, and that formed part of those discussions that I've just referred to, where there was clarity around the Public Health Team providing public health advice and they were responsible for that, and the hotel --- the operations centre, the Emergency Operations Centre having responsibility for operationalising those policies and that guidance. I had a conversation with --- that's around the time I had the conversation with Professor Wallace that reassured me that his question had been satisfactorily
10 resolved.

Q. So you're familiar, it sounds like you are familiar with the email that he sent on 1 May?

15 A. Yes.

Q. Was that brought to your attention at about that time?

20 A. I apologise, I'm not sure that I was aware at the time of the actual email but I was aware in conversations. I met with Professor Wallace on a fortnightly basis and we had morning stand-ups throughout this pandemic and so I was aware that there was an issue being worked through and that it was resolved satisfactorily.

25 Q. Okay. So is that a way of saying the concern he expressed in the email of 1 May, that there is not a consensus on who was responsible for quarantined detainees and lack of consensus/clarity ---

30 MS HARRIS QC: Madam Chair, it would be fair perhaps to also refer to Professor Wallace's evidence about what he conveyed by that. That email was the subject of quite a bit of evidence from Professor Wallace. Just depending on exactly how Mr Ihle wants Ms Peake to comment on this, it would be fair to put that in that context.

35 MR IHLE: Perhaps I'll ask Ms Peake the contents of her conversations with Professor Wallace to which she has referred, which is what I was asking about, a way of saying the concern he expressed --

A. So ---

40 Q. Ms Peake, were you going to say something?

A. No, please, finish your question.

45 Q. Did he express to you the question or quandary that he had at around the start of May as to who was responsible for quarantined detainees?

A. What he expressed to me was that there was work happening through the group

that he chaired to ensure that there was clear documentation around the translation of the public health policies and the public health advice into operational guidance. And that he confirmed to me that he was satisfied that there was --- that through the conversations with both public health and emergency management, that that was the case and that that was then documented clearly and had been documented in the operations plan.

Q. Perhaps we will pull up the document. It might make it easier, Madam Chair. DHS.0001.0012.1031_R.

MS HARRIS QC: Again, Madam Chair, if it is going to be this email which was not to Ms Peake but to Ms Skilbeck, it would be fair to refer Ms Peake to the evidence that Professor Wallace gave about it, because that was obviously the subject of Professor Wallace's own understanding of what he was raising and what he appears to have engaged with Ms Skilbeck about.

MR IHLE: What I'm asking this witness is whether the conversations that she had with Professor Wallace, the author of this email, around that time are consistent with what is reflected in the document.

CHAIR: Yes.

MR IHLE: I might just repeat the document ID. DHS.0001.0012.1031_R. This is the email that I have been asking you questions about, Ms Peake. Perhaps you can see from where you are, it was sent by Professor Wallace to Melissa Skilbeck on 1 May. You see there that in the email he says:

The reviews are throwing up a number of issues, not wholly unexpectedly, including the fundamental question regarding overall responsibility.

Now, in the discussions that you had with Professor Wallace around the time of this email being sent, that is 1 May, was he expressing to you that the reviews had thrown up a number of issues, including the fundamental question of overall responsibility?

A. As I've indicated, Mr Ihle, the conversation that I had with Mr Wallace at the time was really specifically about making sure that there was clear --- both clarity of role and responsibility and clear processes for the transmission of the public health advice and guidance as understanding of the virus continued to evolve into operational guidance through the Emergency Operations Centre. That was the character of the conversations that I had at the time.

Q. You are saying that he was not expressing to you that the reviews had thrown up those concerns?

A. No, what he means --- I'm not sure of the conversation that you had with him so I do feel a little bit --- I don't have the context of those discussions but that is my recollection of the conversations that I had with Professor Wallace at the time, the

functions and the roles and the responsibilities of the Emergency Operations Centre and how the advice from public health flowed through to be translated into operational guidance.

5 Q. Did he express to you the concern that is there in the final sentence of that first paragraph that there didn't appear to be consensus on this, and that lack of consensus or clarity fundamentally undermines governance and decisions, was that a sentiment that he expressed to you?

10 A. No, it wasn't but we did have discussions about making sure that that flow I have just described was really clear, and I was reassured in subsequent discussions, as I have indicated with him and the other principals, that that had been clarified and agreed.

15 Q. Would you expect an email of this nature, sent by the CEO of Safer Care Victoria to one of your Deputy Secretaries, to have been brought to your immediate attention?

A. So given Professor Wallace was the State Coordinator who was chairing meetings between the different --- between the Public Health State Coordination and
20 emergency management, only if he felt that it hadn't been resolved. The fact that he indicated to me that they were working through that flow and that it had been resolved, that that is an appropriate approach for a senior member of the executive board to take.

25 Q. Do we take it from that answer, Ms Peake, that Ms Skilbeck did not bring this email to your attention?

A. Not the specific email. But again I have --- I definitely around that time recall having conversations about making sure that those roles and that flow was made
30 really clear and I was satisfied that --- that that was clarified or was clear, that it was agreed and that it was documented.

Q. Yes. Thank you, that document can come off the screen.

35 Ms Peake, are you aware of an email that was sent by Ms Bamert in respect of a draft version of the first Safer Care report and what's been referred to as fact-checking, an email that she sent on 21 May?

A. I wasn't aware at the time but I have seen it in materials that you have provided to
40 me.

Q. You will recall then that in that email Ms Bamert, who subsequently --- at least at the time of authoring that email was a Commander of Operation Soteria. She said:

45 *I'm not sure who you would say was in charge at that point.*

Referencing back to that 10/11 April period.

I'm not sure who you would say was in charge at that point, however email traffic was going to the SEMT.

5 Do you recall reading that email in preparation for your evidence?

A. I do, yes.

10 Q. Was that email brought to your attention on or about 21 May?

A. Not --- no, I don't --- no. No.

15 Q. Given what you have identified as the first limb, and I don't say the first limb in respect of priority, but certainly at paragraph 63.1, one of the limbs of responsibility of the DHHS as the control agency was to ensure an operational plan was established and to provide governance for the program. It was appropriate, wasn't it, that these concerns be brought to your attention when they were raised?

20 A. I --

MS HARRIS QC: Madam Chair, this question is --- it's hard to understand what the purpose of this question is. It's a reflection back on a much earlier period. Ms Peake has given evidence and so has Professor Wallace about the fact that these matters related to early April. There's reflections now in an email made by Ms Bamert in the course of the reports, on 21 May, reflecting backward, and that is made very clear in the transcript that this was a reflection back on that period in early April. It is a little bit hard to understand exactly where this is going, and it should be quite clear what period Mr Ihle is asking for a comment on, whether it is the question that an email on 21 April should have been brought to her attention when it reflected back on a period that was long gone, or if it's a different type of question.

MR IHLE: With respect to those comments, and they are comments, from senior counsel for the Department --

35 MS HARRIS QC: It was a request --- a request to make the question clear, please, Mr Ihle. At which period and at what point is the notification expected, something back at the time or at the time of the email of 21 May?

40 MR IHLE: Ms Peake cannot be told of an email that doesn't exist before it exists. So I'm asking specifically as at the date those emails have been sent through. It's appropriate that they be brought to your attention, aren't they?

45 A. Look, I would say that given they were talking to matters that were from the start of April, that had been resolved through the stand-up of the Emergency Operations Centre and the further elaboration of an Operational Plan by the end of April, I wouldn't anticipate that at the end of May someone would email me to say that there had been an identification of an issue from some weeks before that had been

resolved, that I was aware of the resolution of.

5 Q. As the Secretary of the Department with operational command over the Hotel Quarantine Program, it is important, even if they are somewhat dated, that these reflections come to your attention expediently, isn't it?

10 A. So they --- and at the start of April when these issues were live they were brought to my attention. As we went through a little bit earlier, the concerns that had been raised by Public Health Command and by Dr Romanes were brought to my attention. I was satisfied that the arrangements that were put in place attended to those. I would not expect that every further then reflection on those would be subsequently brought to my attention, given they had been resolved.

15 Q. Yes. Thank you. The outbreak management reports that were generated, and I understand they were iterative documents that were added to over time, first of all, we had the outbreak at the Rydges Hotel in late May and then the outbreak in the Stamford Hotel in mid June?

20 A. Yes.

Q. As those investigations were underway, that is the outbreak investigations, were you kept apprised of the findings of those investigations?

25 A. I was. So I --- I think there's a series of emails that have been tendered to the Board that show that each evening there was an outbreak report that was supplied to myself and to the Minister and that there were a number of emails that alerted me to the outbreak and developments along --- over the --- the next few days.

30 Q. So were you aware that, even if we just seize upon the Rydges outbreak, at a very early stage, the outbreak squad, that is the nurses that attended, identified that there were problems with cleaning at the Rydges Hotel?

A. I was aware of that, yes.

35 Q. There were problems with the infection prevention and control measures insofar as they were being complied with or not complied with at the hotel?

A. That's correct, yes.

40 Q. There were difficulties that arose and were observed in respect of the use of PPE?

A. That there was --- that there were concerns about the wearing of or the use of PPE by the security guards, is my recollection.

45 Q. Yes. And then when we look at the information that was coming out of the Stamford outbreak, concerns were being raised in respect of the nature of the workforce, specifically the security guards workforce?

5 A. That's right. I think, Mr Ihle, that in the first instance when there was an outbreak at Rydges, there was a concern --- there was a localised concern about a group of security guards and that really led to me on the Friday evening seeking advice from members of the Department about the option for us to look at Alfred Health taking more of a leadership role. And there was a lot of work that was done through the outbreak squad to make sure that the COVID hotel that was then used at the Novotel that weekend, that there was appropriate engagement with people who would be working there. When it came then to the Stamford, I was deeply concerned that there was a more systemic issue and that the insecure casualised nature of the workforce that was involved in providing security was not something that I had been aware of and was a risk to the program. And the --- that there were then a number of conversations with the Minister about the nature of that risk, and rapid work that was completed to look at alternative workforces that could provide a security service.

15 Q. Yes. I understood from your evidence yesterday that as the control agency, DHHS had overall responsibility for ensuring any operation that was established through the State Control Centre was (a) appropriately scoped, (b) involved the right people and (c) had appropriate operational governance within it. I put the (a), (b) and (c) in there but that is your evidence at transcript page 1913. Dealing with those specifically and perhaps before we do, we will go back to what you said about the private security guards. By mid June, that is shortly after the Stamford outbreak, it was crystallising in your mind that there were problems with that workforce, with the private security workforce?

25 A. That's correct, yes.

30 Q. That's a view that we have seen expressed by Professor Sutton to Professor Murphy in an email of 20 June. I take it that you say you had similar views at about that time?

A. I did, yes.

35 Q. One of the operations that was running through the State Control Centre initially and then the Emergency Operations Centre was the Hotel Quarantine Program?

A. Yes.

40 Q. And you have identified that as the control agency one of your overall responsibilities was to ensure that the right people were involved?

45 A. I also talked yesterday, Mr Ihle, about the inception of this program, and I don't want to take us back again to the 27th, but that the inception of this program was unusual in that there were foundations of the program that were put in place before it really was fully brought into the --- the emergency arrangements. So I would put that caveat on. But it was certainly the case that as those risks became apparent, that I absolutely did see it as our responsibility, as the control agency, to look at what the

best mitigations were, in the immediate term as well as working up advice on what alternative options could be, and that was certainly a view that was shared by the Minister for Health.

5 Q. On 28 March, where your agency became the lead agency, and perhaps if you're uncomfortable with that, I'll step back. Your agency was the control agency prior to the Hotel Quarantine Program being announced?

10 A. I think my evidence yesterday was that it was really over that first week that roles and responsibilities were bedded down and I've had a conversation with
Mr Phemister early in that week, that they would continue to have the lead role or the responsibility for security, food, hotels and the call contact centre, and that I was
15 incredibly grateful to DJPR for that offer, given that all that DHHS had on its plate. So that we therefore had a joint operation on the ground. So the --- whilst we brought the --- the operation under the State Control Centre and under Operation
Soteria and stood up the Emergency Operations Centre, those contracts were in place, the contract levers remained and the appropriation, the money, remained with
the Department of Jobs, Precincts and Regions, and certainly my understanding and the advice that I received was that their --- their command, their people on the
20 ground, rightly, expressed a strong view that they should be the conduit through which engagement with their contractors occurred.

Q. I want to come back and focus on what you have identified as one of your responsibilities in your sworn evidence yesterday, that as the control agency you
25 were --- you had overall responsibility for ensuring that the operation involved the right people. Specifically in relation to security guards, between late March and mid June, was there any review done by your Department as to whether the security guards were the right people?

30 A. Not --- no, because I'm not aware that there was --- I'm aware that there were individual incidents that were managed locally, but really until the middle of June there was not --- it had not crystallised that there was the systemic risk about the casualised nature of the workforce and the subcontracting arrangements that were in
35 place for us to form a view that this was an inappropriate workforce.

Q. Nor did you pause and just reflect on that question.

40 A. No, and again in my conversations with other jurisdictions throughout this period, I was aware that private security were a feature of nearly every jurisdiction's hotel quarantine model, so there wasn't an antenna, if you like, wobbling for me that we were doing something out of step or that per se this was an inappropriate workforce. I was aware that hospitals used private security as well. It really was at the point at
45 which I received both the material from the infection prevention nurses in the outbreak squad and then the --- post Rydges and then the reflections after the Stamford that I became deeply concerned that this wasn't an appropriate workforce to have in place.

5 Q. Can I ask that a document be brought up, DOJ.508.001.8527_R. Ms Peake, what I'm taking you to is an email that you sent to Professor Sutton and Dr van Diemen on 8 July. I understand this is as a decision is being made to move to a different model from that which had been adopted. Does that concur with your understanding of the timeline?

10 A. Yes. 8 July was when the decision was taken for DJCS to assume the management of --- on site of the operation, that's correct, of Hotel Quarantine Program.

15 Q. There are a number of topics dealt with in this email. Ceasing public housing quarantine is the first that you might see on that page. If we can turn over to the second page, please, and if we can highlight the bottom paragraph and the heading there, which is "Alternative supervision model for COVID-19 emergency accommodation", I just want to take you to the final sentence of that paragraph, Ms Peake. I appreciate this is dealing with emergency accommodation and we have been focusing on hotel quarantine, but you will see the reference there in that email that you have sent to Professor Sutton and Dr van Diemen where you convey:

20 *The Premier has requested that you*

I assume that means both of you. Is that what you intended by that?

25 A. Yes.

30 Q. Then:
.... review the proposed new model, particularly the approach in infection control, to provide confidence to Government that the reset approach will mitigate risks attendant in accommodating potentially positive returned travellers.

A. Yes.

35 Q. That's conveyed on 8 July. Ms Peake, did you request either Professor Sutton or Dr van Diemen to review the initial model, particularly the approach to infection control, to provide that same confidence?

40 MS HARRIS QC: Madam Chair, can I ask that Mr Ihle identify what he means by the initial model? We have heard of course all of the evidence about the arrangements already put in place by DJPR at the start and the engagement of security which was not a decision of the DHHS. It just would be very useful to be clear about exactly what Mr Ihle is asking Ms Peake to comment on.

45 MR IHLE: I can do that.

Q. When the Hotel Quarantine Program was initially stood up, did you make those requests of the Chief Health Officer or the Deputy Chief Health Officer?

5 A. My --- my request of the Public Health Team was to develop the IPC support for the program, so the model --- they were involved in the development of, and Dr Romanes' documentation, so it was the basis of the model, so it would be less about them reviewing the model and more about them helping to develop the model.

10 Q. When a decision was made to establish a COVID-positive hotel, specifically the Rydges, did you ask the Chief Health Officer or the Deputy Chief Health Officer to review the approach to infection control at that stage?

15 A. Again, the --- the input that I was at pains to want to be reassured about was that -- that they were inputting to the design rather than the review and, as I understood it at the time, that there was an infection prevention and control expert who was engaged to provide that advice about the Rydges Hotel model and that that was reviewed by, if you like --- it was that the IPC cell gave assurance that what she recommended, what the IPC consultancy recommended, was appropriate.

20 Q. Thank you. Turning to paragraph 321 of your statement, Ms Peake, and perhaps I think at this stage of your statement you're forward-looking, if I can call it that. You say:

25 *Comparative analysis with other jurisdictions may be useful, noting other Australian States and Territories have stronger emphasis on the use of legislative provisions enabling quarantine directions to be issued, operating under the auspices of police authorities.*

You are reflecting there on the different legislative landscapes that exist between Victoria and other States.

30 A. Yes, that's correct.

35 Q. Can I ask this question: at the point when your agency was the control agency, including in relation to the Hotel Quarantine Program, did you seek out information from your State counterparts about how and why they were doing things?

A. I do --

40 Q. Before you answer the question, I ask that the document come down, it's to you not relevant. I ask the question again. At the point --

A. No, that's okay.

Q. Okay?

45 A. I heard the question. Thank you. I did. There were a number of discussions that I had at a few points during the period that the Emergency Operations Centre was in operation, as I think I mentioned earlier, the very first weekend there was quite a lot

of information exchanged between jurisdictions about the legal directions and how they were constructed, as well as who was providing the --- who was actually the --- determining the conditions within which detention would occur. So I was very well aware that for most jurisdictions, by virtue often of their legislation that it was a
5 Police Commissioner that was issuing the directions or the guidance, if you like, about the conditions of detention, I was very aware that we were the only jurisdiction that had a Charter of Human Rights and that --- that we were very concerned to ensure that in accordance with the Charter of Human Rights that we had very clear processes around the --- the weighing up of health and wellbeing rights and the
10 safety and security of returning visitors.

In the first week of the program, I had a couple of conversations with colleagues interstate when there were complaints coming through about fresh air breaks. We were the only jurisdiction that was looking at fresh air breaks, so there wasn't much
15 that I could derive from other jurisdictions, and obviously that formed part of Dr Romanes' then policy work that he did, that got translated into operational guidance.

The next point where I had discussions with colleagues interstate was on that Friday
20 after the Rydges outbreak, where I spoke --- sorry, I apologise, there was an earlier point. There was a point in April when we were seeing the --- sort of late April/early May, we were seeing that it was a quite different cohort that were coming through the program, there were a lot more families, there were a lot more expats who didn't have a home in Victoria or necessarily even many connections in Victoria. And
25 I spoke to a couple of colleagues about what sort of accommodation they were operating, again, my recollection is that the feedback I got was that it was hotel rooms in the main, but that New South Wales did mention at that point to me that for their suspected or positive cases that they had serviced apartments that were administered by a health service. And we started work within the Department about
30 what might be some --- as contracts were coming up for renewal, through DJPR, were there other options around types of accommodation. And then after the Rydges outbreak, it was really that --- that conversation I had had with New South Wales in particular that prompted me to ask the Department to have more of a look at was there a model that we could adopt that had a health service really running the clinical
35 governance, IPC and security arrangements for it, for the COVID-positive cohort.

That wouldn't have been an option at the start of the program because back in March the --- the hospitals were --- our hospitals at that point were dealing with their own outbreaks, I think at the point the Alfred had about --- had an outbreak with about 31
40 of their staff affected. It was the largest hospital outbreak at the time. The Alfred was also involved at that point in planning with us on the stand-up of a contingent facility for an ICU at the Melbourne Convention Centre, but all hospitals were involved in detailed capital planning work to enable there to be capacity for up to 4,000 emergency beds and were standing up new governance in clusters.

45 Q. Ms Peake, I'm going to try and bring you back to the question, if I can, because you have now digressed.

5 A. I was just explaining that whilst that wouldn't have been possible in March, it was a prospect that we could pursue after the Rydges Hotel and it was on the basis of conversations I had had in the intervening period with my interjurisdictional colleagues that prompted me to ask the Department to look at that model, which we then subsequently moved into with the Alfred.

10 Q. Prior to, say, mid June, did you have any discussions with your interstate counterparts about the role that Australian Defence Force personnel were playing in those jurisdictions in respect of their Hotel Quarantine Program?

A. I don't recall having specific conversations about the ADF, no.

15 Q. Do you recall having any discussions with your interstate counterparts about cleaning arrangements that were being put into place at hotels?

A. No, but I was aware that the cleaning guidance that we provided on 8 April was based on the AHPPC advice.

20 Q. Yes. I just want to ask you specifically about cleaning. At paragraph 87 you say that contracted hotels were responsible for providing appropriate cleaning services. Now, we have heard evidence from IKON Services Australia Pty Ltd and also from the Rydges Hotel. Is it your understanding that there were professional cleaning services engaged directly by the Government, specifically by DJPR, in respect of
25 hotel rooms that had been occupied by confirmed COVID-positive people?

A. That's my understanding. There were two sets of contracts, one that was with the hotel for general cleaning. I don't --- I was never involved in the detail of those contracts, so I can't talk knowledgeably to them, and that there was specialist --- a
30 contract for a specialist cleaning provision as well. Again I wasn't involved in the contracting process.

35 Q. Ms Peake, going back to the questions about ADF, we have heard from Ms Skilbeck, who says that prior to 23 June she hadn't been privy to any discussions about the potential involvement of ADF being deployed on site for security. Does that date, 23 June, according with when you started turning your mind to the possibility of ADF being boots on the ground at the hotel?

40 A. Yes. So on the --- I think Mr Eccles led this evidence --- on 23 June, my recollection is that the Premier and the Prime Minister had a discussion and that Mr Eccles called me to ask was there a useful role that the ADF could play? And that the morning of the 24th, following a conversation with Ms Skilbeck, I responded to Mr Eccles and it wasn't only about hotel quarantine, my recollection is there were
45 three elements, one was logistics and planning, the second was transport and sort of entry and exit to hotels, and the third was about testing in the community, support for testing in the community. So yes, that was the first engagement I had on this topic.

Q. Specifically in relation to security support services for hotel operations, you made a request of Mr Eccles for the arrangement of between 50 and 100 ADF personnel in that email?

5 A. That's correct. As I say, it wasn't inside the hotels --- the conversation I had with Ms Skilbeck about what might be an appropriate and useful --- sorry, a useful deployment of reservists, that we knew wouldn't be able to be there long term but could help us in some way was looking at the entries and exits.

10 Q. You have talked about briefly the reason why, at least Alfred Health, were not engaged earlier on in the process. You understand that from mid June, when they stood up the Brady Hotel with the clinical or health hotel model, that they have had on site at each hotel 24/7 a person with primary responsibility for ensuring compliance with infection prevention and control? Do you understand that to be the
15 case?

A. Yes, I do. Yes.

20 Q. Do you think on reflection, Ms Peake, that there should have been such a person in the Hotel Quarantine Program from the start, that is, a person on site with primary responsibility for ensuring compliance with infection prevention and control measures?

25 A. I certainly think, as we learnt a lot more about the virus, that the --- and as we became more aware of the risks of environmental contamination and we saw more outbreaks in a hospital context, that it is certainly a valuable feature to have going forward. I don't think that I can sit here now and say, with the state of knowledge that we had at the start of the program, that it was a feature that --- that every hotel that was --- that would have been what our advice would have been at that time. I'm
30 not --- so I --- yeah, I don't feel well placed to look back but I certainly think it should be a feature, given everything we have subsequently learnt about how incredibly this virus just exposes and exploits every single structural weakness, I think it certainly should be a feature going forward.

35 Q. You said:

I don't think that I can sit here now and say, with the state of knowledge that we had at the start of the program, that it was a feature that [should have been at every hotel].

40

What about when the decision was made to nominate a COVID-positive hotel? Do you think on reflection that a designated infection prevention and control person on site should have happened then?

45 MS HARRIS QC: Could Mr Ihle be clear about whether he means when DJPR identified the hotel on 1 April or when Dr Romanes was subsequently asked to advise about that? I think the evidence is that that was about 7 April. Just these

points in time may have some significance or may not, but it would be useful to be clear.

5 MR IHLE: In answering the question, Ms Peake, if you think there's a material difference between 1 April and 7 April, please explain.

10 A. No. Look, I --- certainly in the stand-up of the Rydges Hotel, I was certainly reassured that the infection prevention advice that we received could be relied on and was appropriate and that the arrangements were in place that needed to be in place.
15 The primary advice then and really does continue to be, is that people shouldn't be coming in contact with someone who is suspected or is positive and that people who do have to come into contact with them should have appropriate PPE and that each employer, as is the case in any part of the economy, have obligations, OHS obligations, to ensure that that is the case, that they are abiding by the physical distancing guidance and the PPE guidance. So I don't --- again, I don't feel well placed to say at that point, would it have made a difference? But I certainly do think that, as prudent measures, seeing what we have seen, that it should be a feature of any model going forward.

20 Q. I'm not asking you to speculate as to whether it would have made a difference or not but given that you're the Secretary of the Department that was the control agency and had the responsibility of ensuring that the right people were in place, do you think on reflection that it would have been useful to do that?

25 A. I think, in the way that you have framed the question, at that point in time we took the advice of experts and I think, as we've had more expert advice, it would be --- you know, I can only repeat what I said. I don't know whether it was something that, as an extra precaution, would have made a difference. I did think that the advice that we received meant that that hotel was set up --- to answer your question, was set up
30 with the right people in place and the right policies and procedures in place.

35 Q. Ms Peake, yesterday when I was tendering your statements and the annexures to it, one of the documents that we tendered was the Initial Response that came from your office to the --- the initiation letter from this Inquiry. I omitted to identify the fact that there had been a letter from your lawyers, that is MinterEllison, on 21 September, that sought to amend that response in respect of two dates. I just want to take the opportunity to do that now.

40 A. Sure.

Q. Those dates are the references in the body of the Initial Response to National Cabinet announcing Hotel Quarantine Program, which in the Initial Response referred to 26 March but in fact we know it to be 27 March.

45 A. 27th, yes.

Q. I just wanted to correct that for the record. With those amendments, going back to

the question I asked you yesterday and noting those amendments to be made, that Initial Response is both truthful and accurate to the best of your account?

5 A. Yes, thank you.

Q. And that Initial Response was furnished, was it not, in relation to four specific questions that were asked of your Department by the Inquiry?

10 A. Yes. That's correct, yes.

Q. The first of those questions was:

15 *Has your organisation [therefore the Department of Health and Human Services] identified any shortcomings on its part or on the part of its contractors or subcontractors in respect of its role in the Hotel Quarantine Program?*

Do you recall that question being asked?

20 A. I do, yes.

Q. And do you recall that the second question was:

25 *If so, what were they, when were they first identified, how were they identified, and how, if at all, have they been addressed?*

A. Yes.

30 Q. Ms Peake, do you agree that there were shortcomings, at least initially, in respect of the governance of the Hotel Quarantine Program?

35 A. I certainly think that, as we've talked through, that in the first couple of weeks of the program there was important steps that were taken, so that on day 1, I agree that all the governance wasn't in place and that in the first couple of weeks of the program, important work was done to stand up the Emergency Operations Centre to ensure that there was clear --- that there was clear policies and procedures in place and that there were clear escalation paths for issues. I think absolutely that it took a couple of weeks before a --- I know, a program that was stood up very quickly to put all that in place.

40 Q. Do you agree that there were also, at least initially, shortcomings in relation to the oversight of health and wellbeing services that were given in respect of the Hotel Quarantine Program detainees?

45 A. I don't think that there were shortcomings in the oversight of the health and wellbeing services. I think definitely there was important work that was done to consolidate all of the services that were put in place on the first day, to supplement

those to ensure that there was a health and wellbeing plan that was well documented. And then as we've worked through, to ensure that there were good escalation procedures. But I think from the very first day of the program there was important services and there were important processes that were put in place to make sure that
5 daily checks were done and that issues were escalated. So I think that one, there was more done very quickly.

10 Q. Do you agree with that insofar as the Department was concerned, and perhaps only proven with the benefit of hindsight, that there were shortcomings in relation to infection prevention and control in the Hotel Quarantine Program?

15 A. I certainly --- I mean, I think there's absolutely no question that the workforces that were involved did not have the requisite knowledge and skills that were required under their contracts and I certainly would agree that the findings of the outbreak
20 squad were that there was additional cleaning requirements that needed to be put in place. And I would certainly agree that as we learnt more about the virus, that --- that the --- that there were and have been continuous improvements in IPC. But what I would absolutely want to say is that from a control perspective, that right from the beginning of the program, the policy --- the guidance was provided by public health,
25 it was translated into guidance, it was provided to the appropriate agency to on-share, and I think we have heard a lot of evidence from the hotels and security guards about the receipt of that and the work they did with it.

30 And I would also say from a governance perspective that right from the start of the program there were arrangements that were put in place that ensured that as new guidance was developed, that there was a daily briefing to make sure that that was shared through team leaders, so that it can be communicated through workforces. So from a control and a governance perspective, I would say that all the right things were done. But absolutely, from the experience of the program, that --- that there
35 were critical vulnerabilities and that the --- the new models that have been put in place, new security models and the --- the extra infection prevention and control that has been put in place is really important going forward.

40 Q. Ms Peake, should we take your answer to the last three questions --- and I've asked you specifically whether there were shortcomings in relation to the governance of the Hotel Quarantine Program, even if at least only initially, shortcomings in relation to the oversight of the health and wellbeing services that were given, even if only initially, and shortcomings in relation to infection prevention and control in the program. Should we take your answers to be that you don't believe there were
45 shortcomings?

A. I think --

45 MS HARRIS QC: Madam Chair, it's a very unfair question. Ms Peake has answered in a very careful and reasoned way and in a candid way and she has said the respects in which she says there may have been some shortcomings and the respect in which she says there may not have been. Some matters are very complex, with respect, and

will not simply be susceptible to a "yes" or "no" answer. It is very late in the day. We are hoping to finish with Ms Peake today.

CHAIR: We will finish with Ms Peake today, Ms Harris.

5

MS HARRIS QC: Thank you, Madam Chair. Trying to reduce some of these matters into simplistic answers, with great respect, is not always possible.

10 MR IHLE: What I'm trying to do, Madam Chair, is to have the witness engage with the question about whether, as she sits here today on 23 September, she believes there were shortcomings in respect of those three critical aspects over which her Department had significant responsibility. Now, we have had lot of discursive answers but not engagement with the question of shortcomings, and I'd seek an answer to that question.

15

A. Certainly. Thank you, Mr Ihle. My absolute answer to that would be that there was continuous improvement, as each risk and issue was identified there was continuous improvement through the program and I think that has been the subject of significant evidence. I think the framing of the question suggests that there's a perfect or --- or wrong or inadequate, and I think the reality --

20

CHAIR: Ms Peake, would it be fair to say that what you're indicating is, in answer to the question whether or not shortcomings were identified, the short answer is yes, but what you're endeavouring to indicate is as those shortcomings were being identified, your Department addressed them in the style as you say of continuous improvement? Is that a fair summary of what you are saying?

25

A. I think that's right, Madam Chair, but also that it wasn't just my Department, that I think the evidence led by the Department of Jobs, Precincts and Regions is that they did the same. And that --- that their officials were equally very committed to ensuring that there was, particularly in the health and wellbeing space, that there was an adaptation of arrangements as it went along and I don't feel qualified, because I wasn't responsible for contract management of the agencies, to fully give an answer to the last question about IPC because we had partial responsibility but we didn't have whole.

35

CHAIR: Can I just ask you about that. Just to endeavour to understand your view about this, is it your view that a difficulty was created by the Department of Jobs, Precincts and Regions holding the contracts for hotel security, for hotels for security guards, and for cleaning? Do you think a difficulty was created for your Department as the control agency by that Department holding those contracts?

40

A. I --- certainly I'm not sure I would equate it to being the control agency but I certainly think that by May we had formed a view that --- by the end of May, sorry, we had formed a view that it would be much more effective for there to be a consolidation of responsibilities on site with a single agency and that was why there was discussions with DJPR about transferring those contracts to DHHS, which was

45

planned to occur from 1 July. So the answer to your question is, yes, I do think that as the program evolved that it became apparent that it was --- it would be better for there to be a consolidation of site management responsibilities.

5 CHAIR: And are you saying that that was a gradual realisation rather than any point in time that you can identify?

A. Yes. So I think at the start of the program, given how much else we had on our plate, that there was a practical logic to --- DJPR had already entered into the
10 contracts. We were not only responsible for this, the health and wellbeing in this program and the control arrangements for this program, but were responsible for many other parts of the response to the pandemic, and so it absolutely made logical sense at the start for there to be accepting of the help that was offered through DJPR to continue to hold that responsibility, and as the program went on I think that it did
15 gradually become clear that it was more complex to have shared --- a joint operation on the ground and that it would be beneficial for those responsibilities to be consolidated in a single agency, and as we reached the view that the security services should be delivered differently and through the Department of Justice through its Corrections service, it therefore followed that it made logical sense that the
20 consolidation of management responsibility on the site should vest in the agency that was going to have the security service, so therefore transferred to the Department of Justice.

CHAIR: Yes. And does it follow that you accept that it was always open to your
25 Department to transfer the administration of those contracts across to DHHS?

A. Absolutely it was. The conversation that I had with Mr Phemister in that first week really reflected the other functions and responsibilities, the other --- the other
30 work that we were doing at the time, so whilst, yes, it was open to us, at that time my judgment was that it was of benefit to us to have the support and assistance of a joint operation for this really critical program.

CHAIR: So it was a benefit rather than a hindrance to your --

A. Definitely. At the start, absolutely. Sorry, I talked over the top of you,
35 I apologise. Definitely at the start, with everything else we were doing to really stand up the restrictions on households and industry, I was incredibly grateful, I know my staff were, for the support from DJPR to retain the responsibilities they had kicked off on the weekend of those contracts, and to provide resources --- there
40 was more resources on the ground to start, to provide the resources that they did.

CHAIR: Thanks, Mr Ihle.

MR IHLE: Just one final matter, Ms Peake. I've asked you about a number of
45 shortcomings and that's reflecting on them now on 23 September. As I understand your agreement with Madam Chair's questions, would it be fair to say that what you're indicating is in answer to the question whether or not shortcomings were

identified, the short answer is yes but what you are endeavouring to indicate is as those shortcomings were being identified, your Department addressed them in a style as you say of continuous improvement.

5 A. And that --

Q. You were asked the question --- sorry, go on?

10 A. And that I think, Mr Ihle, how you initially framed the question suggested that all of those three areas were solely the responsibility of the Department, so there's the other part of my answer, which I do want to just keep reiterating, is that in the context of a joint operation and shared responsibility, that continuous improvement was progressed by both Departments.

15 Q. Yes, and I want to come back to the question that you were specifically asked in writing in July: has your organisation identified any shortcomings on its part or on the part of its contractors or subcontractors in respect of its role in the Hotel Quarantine Program? Should we take the written response that you provided to that question in the same vein?

20 MS HARRIS QC: Madam Chair, it's a little unfair. That letter was written in the space of seven days, there was a rapid request asked for, and if there's trying to be a comparison between what was said in that letter and then what's happened after weeks of hearings and extensive questioning, it is a bit --- it perhaps is a slightly
25 unfair and perhaps not very useful question to be asking at this very late stage of the day.

MR IHLE: As at 10 July, Ms Peake, you had received both Safer Care Victoria reports?

30 A. Mr Ihle, you might need to just also refresh my memory of what was actually in that letter. I apologise, I don't have it in front of me.

35 Q. It's the question I'm asking you. Just come back to the question that I'm now --- in light of the interjection by Ms Harris. By 10 July, you had both of the Safer Care Victoria reports?

A. That's correct. I'm just reflecting on --- I don't know what I've got in --- what's in that letter that you are referring to.

40 CHAIR: I think what Ms Peake is indicating, Mr Ihle, is that she --- if I have understood you correctly, Ms Peake, that you don't recall exactly what was in the Initial Response. Is that what you are saying?

45 A. That's correct, yes.

MR IHLE: Notwithstanding, you have adopted that Initial Response as being both

truthful and accurate.

A. Absolutely, but in comparing any --- anything today now, it's just requesting that you refresh my memory.

5

Q. I'm refreshing your memory by going back to the Safer Care Victoria reports. You had both of those by 17 July.

A. That's correct.

10

Q. You had very advanced if not final versions of those outbreak management reports?

15

MS HARRIS QC: Madam Chair, Ms Peake referred to the Safer Care reports in her letter. If this is going to some sort of rhetorical conclusion, I do query the utility when it's late in the day, there's been --

20

CHAIR: Perhaps if we can just get to the question, Ms Harris, then I'll make a ruling on it.

25

MR IHLE: That was the question that I was asking to start with, Madam Chair, which is, should we take the contents of that Initial Response, dated 17 July, in light of all of the documents you had at your disposal then, to be similar to the answer that you have given to Madam Chair's question, that you were identifying that there had been shortcomings but in the nature and in the spirit of continual improvement, that's what you were referring to?

30

A. I'm really not trying to be difficult but yes, that would be a reasonable proposition, but I have --- I can't recall the exact words I used in what was a quite long 10-page letter, to give you a more definitive answer, it would be helpful if I could see what you are referring to.

35

Q. We can bring it up and if you want to go through the 10-page letter, we can. But much has been made of the hour of the day. You were asked the specific question, you provided that answer in writing and perhaps we'll leave it at that, Madam Chair.

A. Thank you very much.

40

MR IHLE: That concludes my questioning of this witness. Can I indicate that there are two applications of which I'm aware and the first is on behalf of Minister Mikakos, so I invite counsel for Minister Mikakos to make their application. That's Ms Schoff.

45

MS SCHOFF QC: I apologise, madam Chair, I couldn't find the turn-off. We have no questions for cross-examination.

CHAIR: Thank you, Ms Schoff.

MR IHLE: The only other party of which I'm aware is Unified Security and I'm not sure if it is Mr Moses or Ms Alderson.

5 CHAIR: It's Mr Moses, I can see Mr Moses.

MR MOSES SC: There are five areas that I will be very brief on. Should take no more than 10 or 15 minutes. The first issue is to deal with the question of the lead agency. There is evidence I want to take the witness directly to because we will be
10 putting a submission that the evidence given by this witness yesterday should not be accepted, so as a matter of fairness I want to take her directly to a provision in the Operation Soteria plan that she has not been taken to.

The second issue relates to the question of the use of security guards to assist in the
15 operation and evidence that she has given about that matter, to put a number of direct propositions to the witness which we will be putting in our submissions in this matter.

The third issue relates to the question of risk assessment and whether one was
20 undertaken by the Department of Health and Human Services in relation to this particular program.

The fourth issues relates to a 25 August 2020 document that has been published by the Department of Health and Human Services and to ask whether that was a
25 document that ought to have been considered when red hotels were established, including one where the client for whom I act was posted.

The fifth proposition, which is to be very brief, was to put a proposition to the witness about whether she accepts responsibility in the context of what is set out in
30 the Operation Soteria plan for the Department's responsibilities. That is what I want to do. I should be no more than 10 or 15 minutes.

CHAIR: Yes, I'll grant you that leave, Mr Moses.

35

CROSS-EXAMINATION BY MR MOSES SC

MR MOSES SC: Ms Peake, we have notified the operator about this. I just wanted
40 the transcript from yesterday to put up on the screen, page 1899 of the transcript of 22 September 2020.

Ms Peake, you were asked a question by Counsel Assisting at line 26:

45 *Do you agree that DHHS became the lead agency in relation to Operation Soteria?*

Do you see that?

A. I apologise, I can't read from the screen.

5 Q. We can highlight it for you.

CHAIR: Is that better, Ms Peake? Can you see that now?

A. I can, thank you.

10

MR MOSES SC: Counsel asked you specifically:

Do you agree that DHHS became the lead agency in relation to Operation Soteria?

15

Do you see that?

A. I do, yes.

20 Q. You went on to say:

I certainly agree that we provided a coordination function, but my view is that there was a joint operation on the ground with --- and I think that was well documented in the operational plan and has been clear through the evidence of many witnesses that the core aspects of hotel services --- so the hotels, security, cleaning, food --- and the helpline were the responsibility of the Department of Jobs, Precincts and Regions, and the aspects of public health and wellbeing services were the responsibility of the Department of Health and Human Services.

30

Do you see that?

A. Yes.

35 Q. You go on to say:

And I think that shared accountability for the program is reflected also by the fact that

40 And you continue. Do you see that?

A. Yes.

45 Q. What I suggest to you, Ms Peake, is that evidence was an attempt to deflect responsibility from the Department of which you are the head for, if I can put these words directly to you, having the responsibility for the oversight and coordination of Operation Soteria. Do you accept that?

A. As I indicated in that evidence, we had the responsibility for --

Q. Madam Chair, Madam Chair ---

5

A. --- for the oversight for that but ---

Q. Madam Chair, Madam Chair. Can I ask through you, I think my question
deserves a "yes" or "no" answer from the witness. I put to her a direct submission, a
10 direct question, as to whether the evidence she gave to this Inquiry yesterday was an
attempt to deflect attention from the fact that it was her Department that had
responsibility for the oversight and coordination of the operation. I am entitled ---

A. No.

15

CHAIR: All right, Mr Moses. Ms Peake, do you understand the proposition that is
being put to you?

A. I do, thank you. And my response is no, it wasn't an attempt in any way to deflect
20 from the responsibilities of my Department.

MR MOSES SC: Thank you. As Secretary of the Department, you were the senior
public servant in the Department of Health and Human Services; is that correct?

25 A. That's correct.

Q. You are responsible for the day-to-day actions of that Department?

A. I'm certainly responsible for ensuring the delegations that I put in place are --- are
30 exercised effectively and I have overall accountability for the activities of the
Department, that's correct.

Q. So you accept that you are responsible for the day-to-day actions of your
Department, as Secretary?

35

A. I am, yes. Thank you.

Q. And the Operation Soteria plan, have you read that document?

40 A. In each iteration, I have, yes.

Q. Could I ask that that document come on to the screen. We have notified the
redacted version to come up to the screen, which is DOJ.501.001.9224.

45 If the operator can go to clause 2.4, which is at page 8 of the document. Do you
accept what is set out at the top there, that DHHS as the control agency of the
COVID-19 pandemic class 2 public health emergency has responsibility for the

oversight and coordination of Operation Soteria?

A. I do, yes.

5 Q. And do you accept that in relation to that operation, that what is set out in the document at 1.1 is the purpose of the plan, which is at page 4, the purpose of the plan is to document the arrangements in place under Operation Soteria to achieve safe authorised mandatory detention of returned travellers required to quarantine for 14 days on arrival into Victoria? Do you see that?

10

A. I do.

Q. And do you accept --- I'll put this proposition to you directly --- that Soteria plan says nothing about shared responsibility. Do you accept that?

15

A. No, I do not.

Q. What I want to put to you is this language that you have been using of joint operations and shared responsibility --- I'll put it to you directly --- is bureaucratic speak for avoiding the responsibility of your Department as set out in that plan. Do you accept that?

20

A. No, I do not accept that at all.

25 Q. Thank you. Now I want to go to another topic, if I can, which is in relation to the role of security guards as part of the Hotel Quarantine Program. Can I ask that you go to paragraph 121 of your statement. You say that you were not consulted about the suitability of using private security firms; correct?

30 A. That's correct.

Q. When did you first become aware that private security firms were being used in the Hotel Quarantine Program?

35 A. I --- I think I became really aware when there was the outbreak at Rydges. I do not recall that there had been any discussion with me prior to that point about the security guards. Yes, I don't recall there being any earlier conversation with me about that.

40 Q. So when you became aware in relation to Rydges, which is in May, is that right, of this year?

A. Yes, that's correct.

45 Q. From a health and safety perspective did you ensure at that stage that a risk assessment had been carried out in relation to the work that was being undertaken by private security companies in the Hotel Quarantine Program?

A. So the --- my continuing view would be that the responsibility for the security arrangements --- for the security guard arrangements sat with the agency that entered into the contracts with companies for that service.

5

Q. You have accepted my proposition that your Department had oversight of the program; correct?

A. And I also indicated I didn't accept your proposition that that meant that we were accountable for each function within the operation and, as my evidence indicated yesterday, that I am of the view that the operational plan was clear that security services would be the responsibility of DJPR and that was consistent with my discussion with Mr Phemister and I don't think has been contested by any witness in this hearing.

15

Q. Are you finished? Is that your answer to my question?

A. It is, thank you.

Q. Thank you. In relation to --- I'll put this to you directly. In relation to this issue of when you became aware that security firms were being used as part of the Hotel Quarantine Program, is it your evidence that you did not check as to what risk assessment had been undertaken in relation to the use of security firms in the Hotel Quarantine Program because as far as you were concerned that was something that fell within the responsibility of the Department of Jobs, Precincts and Regions? Correct?

25

A. And that, looking at --

Q. That's --- (overspeaking)

30

A. Yes, that was certainly my expectation, that the contract manager would undertake that function.

Q. And you did not think to check yourself, as the Secretary of the Department, as to whether in fact that had been done. Do you accept that?

35

A. I expected the responsible Secretary would take responsibility for contract management, that's correct.

40

Q. Yes. I am just going to put then this proposition to you: what about infection control within those hotels? Who did you understand had responsibility for the oversight for infection control at those hotels, your department or another department?

45

A. I understood that each employer has critical occupational health and safety responsibilities and each employer would therefore have responsible for infection

prevention and control for their workforce and that --- that we had provided guidance to enable those employers to have the right information in front of them and I think there's been a lot of evidence that shows that that --- that guidance was provided and it was received by the different players in the program.

5

Q. You are aware, aren't you, from the evidence in this case, that when the Hotel Quarantine Program started the only access to information concerning COVID-19 that Unified had certainly, and the other security firms, was access to a Commonwealth COVID-19 online program; correct?

10

MS HARRIS QC: I object to the question, Madam Chair.

A. I don't actually think that's correct, Mr Moses. On 20 March there was advice that was released on cleaning and there was advice on our website that was around PPE. On the very first day of the program, a medical expert had provided guidance on red and green zones in the Department, and in the first week of the program all that was consolidated into the document that was prepared by Dr Romanes. That I think has been the subject of testimony from other participants in the program, that they had access to, so that I think in the --- at the start and through the early stages of the program there was considerable material. The very first day of the program, I'm aware that there were PPE signs about appropriate use of PPE that were put up in each hotel, so I'm --- I'm very much of the view that there was significant material that was provided to all participants in the program.

15

20

MR MOSES SC: Let me be very direct with you. The evidence you have just given, you have no direct knowledge yourself of what training was provided by your Department to the security companies that were undertaking work in the Hotel Quarantine Program. Do you accept that?

A. My understanding was and is that each --

30

Q. --- (overspeaking) --

A. --- participant in the program had obligations for training, but what our Department provided was both guidance as well as daily briefings. The training was a matter for each employer.

35

Q. You have assumed that daily briefings were provided by the Department of Health and Human Services?

40

A. I think I have read witness statement, Mr Moses, that I think if they haven't been tendered, will be tendered. I have read witness statements from our team leaders that those briefings occurred.

Q. I'm not going to get into a debate with you. That is something that can be the subject of submissions, and your counsel of course --- not your counsel but the Department's counsel, will have to be the one that deals with submissions about that.

45

But do you accept that sitting here today that in March and April, you did not receive any reports from any officer of your Department that there were daily briefings being provided to security staff at the hotels? Do you accept that?

5 MS HARRIS QC: This ---

A. I certainly was --- sorry.

10 MS HARRIS QC: Sorry, this line of questioning, there has been evidence from witnesses from DJPR, from --

MR MOSES SC: I object. I object to my friend making these submissions in front of the witness ---

15 CHAIR: Yes, yes.

MR MOSES SC: --- because Ms Harris, with all due respect, should not be, as she has been doing taking objections that --

20 CHAIR: All right, Mr Moses. Just redirect yourself to the question and I'll ask Ms Peake to answer it.

MR MOSES SC: Thank you.

25 Did you receive any briefings in March or April of this year from any officer of your Department that there were daily briefings being given to security staff at the Hotel Quarantine Program concerning infection control?

30 A. I did not receive briefings but I did receive a --- a job description for team leaders that --- (overspeaking) --- to do that.

Q. Thank you. So that's the only information you had; is that correct?

35 A. We had an organisational structure where that level of oversight into the program would occur through the --- the operations centre, not the Secretary of the Department.

Q. Now, can you explain --- do you know what a risk assessment is?

40 A. Yes, I do.

CHAIR: That's a pretty broad question, Mr Moses.

45 MR MOSES SC: Thank you, Madam Chair.

Do you accept that in respect of the Hotel Quarantine Program the Department of Health and Human Services should have undertaken a risk assessment prior to

implementing Operation Soteria? Do you accept that?

5 A. I would make two comments. I do not --- I don't accept the proposition, firstly, because in the first period of the program there has been a lot of evidence led that we weren't actually the Department who was putting in place the foundation pieces of the program for a number of elements, we were for health and wellbeing; and, secondly, that there --- given the urgency for the stand-up of this program, given we were seeing a tripling of cases --- sorry, we were seeing a doubling of cases every three days, that it was incredibly important that this program was put in place to contain the virus and that it was therefore essential that there was continuous risk assessment and continuous improvement, rather than there being a period of risk assessing a --- an outline of the program or a program description before the program stood up.

15 Q. But by giving that answer, are you trying to shift blame to the Department of Jobs?

20 A. What I'm indicating is that, given the necessity of the stand-up of the program, the only way that the program could be stood up is to ensure that there was a continuous process of risk assessment and continuous improvement and we had to stand up the program collectively quickly because we were seeing the --- and we haven't had much conversation about this with me --- but we were seeing cases doubling every three days, we were on the same trajectory of many of the countries we were receiving returned travellers from, and that was a trajectory toward hospitals being overwhelmed. So it was essential this program was stood up quickly and by necessity that meant that it had to be stood up with risk assessment and continuous improvement being an ongoing feature of the program.

30 Q. Are you aware of a risk assessment that was undertaken by your Department, as the lead agency with expertise in health, concerning Operation Soteria and the Hotel Quarantine Program in March?

35 A. What I am certainly aware of is there being the work done by Dr Romanes to identify what needed to be in place and that that was all built into the operational guidelines. So, as I've just indicated, it was a continuous process of working through risks, issues, the policy and the operational guidance that were needed to address those risks and issues.

40 Q. Could I ask this question --

A. And there wasn't an ability for there to be a risk assessment before the program was stood up because of the very nature of the emergency we were facing.

45 Q. So you accept then there was no risk assessment undertaken by your Department, with expertise in health, before the health quarantine program commenced. Do you accept that?

A. I do, and that there was continuous risk assessment thereafter.

Q. When was the first risk assessment undertaken?

5 A. So it was --- the assessment of the risks that needed to be controlled was built into
the --- all of the policies and practices that were developed, most fulsomely through
the work on 4 April by Dr Romanes to provide an end-to-end plan of health and
wellbeing, infection prevention and control and public health measures and that that
was translated in the operations plan and into the health and wellbeing plan.

10

Q. What I want to suggest to you is this --- and I'll be specific about Rydges, which
was a red hotel: do you accept that in respect of Rydges, which was a red hotel, there
was no risk assessment undertaken for it specifically as a hotel that was going to
receive COVID-19-positive individuals? Do you accept that?

15

A. I do accept that proposition.

MS HARRIS QC: Madam Chair, I --

20 MR MOSES SC: Okay. Thank you.

Have you seen the risk assessment that was undertaken for the hotel?

25 MS HARRIS QC: Madam Chair, could I object to the question. Is Mr Moses
referring to --- there has been evidence before the Board --

MR MOSES SC: I object. I object. I object to these types of objections being taken
by my friend in the presence of the witness. She knows that should not be done in
the presence of a witness and it should not be --

30

CHAIR: All right.

35 MS HARRIS QC: Madam Chair, I'll put it a different way. Is he asking about risk
assessment by Ms Peake's own Department or by some other Department or by some
other entity?

MR MOSES SC: By her Department. By her Department.

40 CHAIR: Do you understand the question, Ms Peake?

A. I do. And certainly in terms of the --- there was advice that was provided by
DJPR about Rydges being available to be used as a hotel for positive returned
travellers and then there was an assessment that was done by Infection Prevention
Australia to ensure that there were appropriate procedures in place.

45

MR MOSES SC: So is the evidence, though, that you're giving in answer to my
question, "Were you aware as to whether your Department undertook a risk

assessment of the Rydges being used as a red hotel?", the answer to that question is "No." Correct?

5 A. My evidence is that we commissioned Infection Prevention Australia to provide us with advice about how to stand up the services within the hotel, so --- and that was in my view a risk assessment about operationalising health and wellbeing services and entering and exit and the IPC measures that were important for that hotel and that was the advice that we relied on.

10 Q. Thank you. And when did you get that document?

A. The Department received that document through the later stages of April, is my recollection, but I would have to --

15 Q. Thank you.

A. Sorry. No, I would have to take that on notice, Mr Moses. I retract that answer. I would have to take that on notice.

20 Q. Was that risk assessment shared with the security firms who were undertaking work at these red hotels?

25 A. My understanding is that the policies and procedures that came out of that work were shared with the Department of Jobs, Precincts and Regions to share with their contracted providers.

Q. You don't know when that happened?

30 A. I'm very happy to take that on notice and provide further information to the Board, if that would assist.

35 Q. Thank you. Madam Chair, I am going to go to the final issue, which is the 25 August 2020 healthcare workers report. Are you familiar with that report, "Protecting our healthcare workers" report?

A. I am. Thank you.

Q. That is dated 25 August 2020; correct?

40 A. That's correct.

45 Q. And what that did was to set out the latest information on coronavirus and how it can spread within the healthcare community as well as the practices being implemented to stop the transmission. That's the effect of it; correct?

A. In the context of significant community transmission, that's right.

Q. And if that document can be placed on the screen, there are three points I want to take you to and then I want to ask you some questions, if I can.

If you go to page 2 of that document, if you see there on the second dot point:

5

The following analysis considers the 2,497 healthcare worker cases acquired from 1 January to 19 August.

Do you see that?

10

A. Yes.

Q. Of those --- you will see the next dot point --- in the first wave, 22 per cent were acquired at work?

15

A. Yes.

Q. And, further, in wave 2, in healthcare workers likely to have acquired COVID-19, that rose to at least 69 per cent in the second wave of the virus; correct?

20

A. Predominantly in aged care, yes, that's correct.

Q. Do you accept that the report set out actions which have been taken to protect healthcare workers, and I'll summarise these for you. First, the sharing of data; correct?

25

A. Apologies, Mr Moses, where are you now?

CHAIR: Are you still in the document, Mr Moses?

30

MR MOSES SC: I am. But what I might do is take the witness to page 9 of the document. Under "Hospital and other settings":

35

There are a number of emerging risk factors for acquisition and secondary transmission in hospital settings, including multiple coronavirus (COVID-19) positive patients in the same clinical space, in addition to older ventilation systems that are less effective at recirculating air, thereby reducing optimum air know.

40

This has clear implications for the cohorting --- putting coronavirus (COVID-19) patients together in the same ward --- and care of patients with the virus.

45

In addition, healthcare workers are contracting coronavirus (COVID-19) when putting on PPE, and when interacting with other health workers outside of patient care, (for example, in tea rooms when PPE is not worn) and movement between facilities.

Clustering of cases also suggests secondary transmission between healthcare workers is occurring in hospitals.

5 Do you see that?

A. Yes, absolutely, in the context of where healthcare workers are having very close contact with patients and there was very high levels of community transmission.

10 Q. And do you agree that, given the nature of the Hotel Quarantine Program, that the red hotels, in the case of Rydges and the Stamford, that they should have been operating in a manner, commencing in March, that was akin to an infectious disease ward in a hospital?

15 A. No, I do not.

Q. Have you had regard to Professor Grayson's evidence in this Inquiry, that he thought that control measures in those hotels should have been the same as in an infectious disease ward? Are you aware of that evidence?

20

A. I am aware of that evidence. It's, I think, a very, very different context.

Q. And you disagree with his views?

25 A. I think that the hotel is very different to a patient ward.

Q. Did you turn your mind to this, as the head of the Department, in respect of the red hotels at the time they were set up to take COVID-19 positive individuals?

30 A. Certainly the deliberations at the time were that it made sense that, rather than having individual floors dispersed in multiple hotels, to have a hotel where there was clear knowledge that, whilst everybody should be treated as a suspected COVID patient, that there was clear knowledge about the positivity of the clientele, was ---
35 was a sensible measure to take. And it was taken in the context of the returning travellers from Uruguay, where there was a very successful then approach to the management of those 70 returned travellers.

Q. When did you remember that evidence that you have just given?

40 A. I was very involved that weekend that the Uruguay passengers were arriving.

Q. When was that?

45 A. So that was the weekend of Easter. I think that was 10 April.

Q. Okay. So are you saying then, contrary to the evidence you gave earlier, that the Department of Health itself, through you, did consider risk assessment issues in

relation to the setting up of the Rydges as a red hotel?

5 A. I --- what I indicated earlier was that two things: firstly, that the selection of Rydges was presented to us from DJPR; and, secondly, that we took advice from the infection prevention control expert. One of the pieces of advice from the infection prevention control expert was that --- what I've just described, rather than having dispersed single floors, having a single hotel made sense and how and what needed to be put in place for it.

10 Q. Did your Department give advice about the health implications of setting up a red hotel, such as the Rydges, for only COVID-19 individuals before it started receiving those patients? "Yes" or "no"?

15 A. My recollection is that there was work done informed by the infection prevention control expert, yes, to --- about the arrangements that would be in place. There was tailored information that was provided around the operation of that hotel.

Q. Through you?

20 A. By --- by the Emergency Operations Centre, through to participating agencies to pass on to their contractors.

Q. I'm asking you the direct question: did you receive such a document before the red hotels were established, Rydges and Stamford; "yes" or "no"?

25 A. No, because the operational procedures were managed through the Emergency Operations Centre. That was the governance that was established for this program.

30 Q. And did you yourself see any of that information ---

A. I'm sorry, I should clarify, because it was the predecessor of that. At that stage it was through the State Control Centre. Apologies.

35 Q. So is the answer to my question --- I just want to be sure about this --- you yourself did not see documentary evidence, any documents that evidenced what made it appropriate to be putting COVID-19-positive individuals into hotels, correct, before they were set up?

40 A. My delegates did. I did not, my delegates did.

Q. I'm asking, did you?

A. I did not, my delegates did. I did not, my delegates did.

45 Q. You say your delegates did. I'm asking, did you?

CHAIR: You have put the question, you have had the answer, Mr Moses.

MR MOSES SC: Thank you. I won't engage in another question. I'll put some submissions at the end of this matter, Madam Chair.

5 CHAIR: Yes.

MR MOSES SC: Were you aware of any policies or procedures that your Department specifically prepared for workers involved in the Hotel Quarantine Program at red hotels --

10

A. It's my ---

Q. --- pre the outbreak in May 2020?

15 A. Yes, my Department prepared specific guidance informed by the material prepared by the IPC expert.

Q. Have you seen that material?

20 A. I have.

Q. You have seen material that was given to security contractors and hotels at the red hotels pre the May outbreak that was specific for red hotels. Is that your evidence --- (overspeaking)

25

A. I've ---

Q. (overspeaking)

30 A. I've seen material that, as I have been advised, was provided to the relevant agency to provide to contractors and I have been advised that there were daily briefings on the basis of that material.

35 Q. Yes. That's what you have been advised. But, see, what I want to suggest to you is the only document that came from your Department was a 5 May 2020 memorandum that dealt with PPE advice, which was received on 12 May 2020 by Unified. Would that surprise you?

40 A. No, that is not my understanding.

Q. Would that surprise you, Ma'am, if that were the evidence in this matter?

45 A. It would, because my understanding is that there was --- there was earlier advice around the zones that were to be established and accompanying PPE for those zones in the Rydges Hotel.

Q. My final question --- second last question, is this: pre the May outbreaks, did the

Department of Health and Human Services have any monitoring of the Hotel Quarantine Program being undertaken at the red hotels?

5 A. The contract management monitoring didn't occur through our Department. And the --- there was daily monitoring through the team leader. There wasn't an evaluation, if that is what you're asking me.

10 Q. Thank you. Now, my final question is this: you have given evidence to Counsel Assisting and to me that, as Secretary of the Department, you are the most senior public health servant in the Department of Health and Human Services; correct?

A. That's correct, yes.

15 Q. And of course you know that old quote, "True leaders take responsibility"; correct?

A. Yes.

20 Q. Correct?

A. Yes.

25 Q. Do you accept, sitting here today, that there were deficiencies in the Hotel Quarantine Program because your Department did not discharge the functions that it had been provided for in the Operation Soteria plan? Do you accept that?

A. No, I don't.

30 Q. Thank you.

A. I absolutely ---

MR MOSES SC: I have no further questions.

35 A. No, please let me just say two things. It is a matter of profound regret to me, as the Secretary of Department of Health and Human Services, that we experienced a second wave in Victoria and all of the consequences that came with that. But I know that my staff and the staff of DJPR spent thousands and thousands --- hundreds of hours seeking to prevent that outcome. I know that there was enormous care and
40 diligence --- it wasn't perfect but there was enormous care and diligence --- to continuously address risks as they arose. And I am of the view that the control structures that were in place were appropriate. There are absolute lessons and improvements to take but the way that you put that proposition to me, I could not
45 accept.

MR MOSES SC: Madam Chair, I don't intend to examine the witness on the control measures. The questions I put earlier in the evidence will speak for itself. I don't

think it will be said that I didn't put something squarely to her. What her evidence was just there should be rejected in terms of the control measures.

5 But can I just tender the document, which is the 25 August 2020 document, "Protecting our healthcare workers", which the witness was shown during her evidence today.

10 I have no further questions. I thank you for your patience, Madam Chair, and thank you, Ms Peake.

CHAIR: Thank you, Mr Moses. That is Exhibit 200.

15 **EXHIBIT #200 - DOCUMENT TITLED "PROTECTING OUR HEALTHCARE WORKERS" DATED 25 AUGUST 2020**

CHAIR: Ms Harris.

20 MS HARRIS QC: Madam Chair, I do regret to say at this hour that there are a number of matters that I need to address with Ms Peake: first, some matters arising from Mr Moses' cross-examination about advice relating to the hot hotel and daily meetings with team leaders; also there was a question put to Ms Peake about joint submissions to the Crisis Council of Cabinet. There are some questions --

25 CHAIR: Just --- I'm not sure what that means.

MS HARRIS QC: Mr Moses took Ms Peake to a section of her transcript from yesterday and suggested that her answer where she had referred to joint submissions between the Department of Health and Human Services and the Department of Jobs, Precincts and Regions was a deliberate attempt to avoid responsibility, or words to that effect. I think it's only fair that I be able to go to some of the evidence that's already in evidence about that matter, the factual proposition that Ms Peake referred to in her evidence.

35 CHAIR: Ms Peake, as I understood it, roundly rejected that proposition, Ms Harris.

MS HARRIS QC: I really would urge being able to put the relevant documents to Ms Peake, given the serious allegation that was made by Mr Moses. There have also been a lot of questions about joint accountability and a suggestion that that is simply an attempt ex post facto to avoid responsibility.

CHAIR: Yes.

45 MS HARRIS QC: And there are many documents that are relevant, only a couple of which I would like to take Ms Peake to. They have been evidence in Mr Eccles' statement but they haven't been referred to otherwise in the evidence thus far. But to

complete the picture, I think it is a very important matter that Ms Peake be permitted to address.

5 I think that, Madam Chair, with the exception of clarifying a couple of matters about the health and wellbeing measures in place, that those would be my questions.

CHAIR: Is there anyone else who has indicated to you, Mr Ihle, that they wish to have the opportunity to put any matters to Ms Peake?

10 MR IHLE: No.

CHAIR: Can you estimate how long you are likely to be, Ms Harris?

15 MS HARRIS QC: I hope to be done in about 15 minutes. Through my instructing solicitors, I have put the operator on notice of the documents that I wish to refer to Ms Peake.

CHAIR: Yes .

20 MS HARRIS QC: I will attempt to keep to that time but Ms Peake has been extensively cross-examined by Mr Ihle and now by Mr Moses over some extensive period, so ---

25 CHAIR: I was just going to ask Ms Peake about that, as to whether or not --- you are okay to keep on going, Ms Peake?

A. I am. Thank you, Madam Chair.

30 CHAIR: You would appreciate that --- I'm sure if I ask you the question as to whether or not you would wish to return at another time, I'm pretty confident that the answer would be you would rather finish today.

A. It is, thank you.

35 CHAIR: All right.

CROSS-EXAMINATION BY MS HARRIS QC

40

MS HARRIS QC: Ms Peake, you were asked some questions --- going backwards if you like from Mr Moses' cross-examination, you were asked some questions about advice or risk assessment with respect to the hot hotel in Rydges, and you referred to not receiving documents yourself but that there would have been documents
45 received, I think you first thought it was the EOC, the Emergency Operations Centre, but it was probably earlier than that.

The evidence that has been tendered from Dr Romanes, that he indicated support for the idea of a COVID-19-positive hotel and cohorting those individuals on 30 March, and then the evidence is that he sent an email --- I don't need it brought up but I will say the number because it is one of his exhibits, DHS.5000.0054.6660 --- on 30
5 March, to a person within DHHS but also an SEMC email address, State Emergency Management Centre. Is that what you were referring to when you said it might have been earlier?

10 A. That's right, because the EOC stood up on 15 April and I was confident this was much earlier than that, so it would have been through the State Emergency Centre instead.

15 Q. Dr Romanes, had who the position at that time of Deputy Public Health Commander planning in proposing an intention that there be --- that positive COVID-19 cases were moved to a dedicated hotel for persons found to be positive, the idea of cohorting positive cases and not requiring that they stay near others in quarantine is potentially necessary and we should all discuss it, is that the sort of source that you would have expected the Emergency Management Centre, the State Control Centre, to be looking for advice on that question?

20 A. That's right, and as I indicated, then, or my understanding is more detailed advice was provided by Infection Prevention Australia about the actual arrangements at that hotel. It's very different from a hospital where you have people in a ward, proximate to each other, to have people in a hotel in separate rooms with physical distancing
25 being always the primary measure to avoid exposure and therefore infection.

30 Q. Moving on to the matter that I was referring to, the questions you were asked about, the joint submission between portfolios, and you had given evidence yesterday about a joint submission with the Department of Jobs, Precincts and Regions to the CCC, can I just ask the operator to bring up document DPC.0012.0001.0733. There is a redacted form of that document. While it is coming up, Ms Peake, this was attached to Mr Eccles' statement and it wasn't dated but according to paragraph 51(a) of Mr Eccles' statement, this was a document of 8 April.

35 Looking at that document, where it says --- it is a submission proposal, and it says:

Portfolios: Coordination of Health and Human Services and coordination of Jobs, Precincts and Regions.

40 Can you tell the board if that is the one of the submissions you were talking about?

A. Yes, there were a number of submissions over April through to June, and in each -- in each case they were joint submissions between the two missions.

45 Q. And do you recall this submission dealing with hotel quarantine?

A. I do.

Q. That document is in evidence and we can refer to that later. If I can ask the operator to take that one down and put up DPC.0001.0001.6565 --- again there's a redacted version.

5

That's the new document. Again, this document itself is undated, but Mr Eccles' statement refers to it being, in paragraph 51(b) of his statement, refers to it being a submission proposal of 24 April. Again, we see in "Portfolios":

10 *Coordination of Health and Human Services and Coordination of Jobs, Precincts and Regions.*

Is this another of the joint submissions that you are talking about?

15 A. It was, yes.

Q. And again we can look at that in the evidence, but is it your recollection they had had some discussion about hotel quarantine including expanded health and social supports?

20

A. That's right, so over this period --

CHAIR: Sorry, Ms Peake.

25 Ms Harris, I don't think it is controversial at all, is it, that there were joint submissions being made by these two Departments? Is that the point that you wanted to make or is this going somewhere else?

30 MS HARRIS QC: Madam Chair, I'm sorry to have spoken over you. The point, Madam Chair, is that there was quite a serious allegation of Mr Moses, effectively of recent invention, there was a suggestion that joint submissions were simply an attempt now, while Ms Peake is giving evidence, to avoid responsibility. But in my respectful submission it is very important that it is understood that it was actually the status quo throughout this process. Ms Peake was very extensively questioned about the mission structure, and I think in fairness it is fair to Ms Peake to be able to refer to the matters that she referred to yesterday in evidence. I will be very brief. There's one other of these documents I wish to refer to.

35

CHAIR: All right, go on.

40

MR IHLE: Madam Chair, might I just be heard on that for a moment, it's now been asserted on two occasions that Mr Moses put this, what's been called a recent invention allegation, with reference to these joint submissions. That is certainly not my recollection of the part of the evidence to which Mr Moses took Ms Peake, and if one looks at the transcript at page 2036, the part of yesterday's transcript that Mr Moses took Ms Peake to and challenged her in respect of was about shared accountability, and there was no reference to joint submissions at all. If I'm correct

45

about that, then I query the utility of putting these documents up, which are, as Ms Harris already has identified, are in evidence and speak for themselves.

5 MS HARRIS QC: Mr Ihle, unfortunately --- (overspeaking) --

MR MOSES SC: Madam Chair, can I say something too. My learned friend should be very careful about the language that she uses. She acts for a Department who is meant to be a model litigant into assisting this Inquiry into the Executive and the use of emotive language, as my friend just demonstrated, with all due respect, does not reflect well on the Department or her, and she should be very careful about making
10 allegations that are unsubstantiated and baseless.

And she should withdraw what she said immediately.

15 MS HARRIS QC: Madam Chair, could I read from the transcript, please. One problem is that part --- (overspeaking) --

MR MOSES SC: I think my learned friend should withdraw --

20 CHAIR: Mr Moses, please just let me hear what Ms Harris has to say.

MS HARRIS QC: Mr Moses asked for a certain part of the transcript to be put up on the screen, and unfortunately, because it was on the screen, the transcript refers to part of it, and I can understand why Mr Ihle might have searched back and not seen the full quote. At page 2036 of the [draft] transcript, at line 30, it refers to Ms Peake
25 having said:

Question: You go on to say:

30 *And I think that shared accountability for the program is also reflected by the fact that*

And then the transcript says:

35 *Question: And you continue*

In fact, what was put up on the screen was:

40 *.... also by the fact that the appropriation for the program continued to sit with the Department of Jobs, Precincts and Regions and every submission that was taken through to CDCC was a joint submission between both portfolios.*

Now, if I have mischaracterised that, the following suggestion from Mr Moses, that:

45 *What I suggest to you, Ms Peake, is that evidence was an attempt to deflect responsibility from the Department of which you are the head for, if I can put these words directly to you, having the responsibility for the oversight and*

coordination of Operation Soteria.

If I have overstated that, I withdraw that. But I would still like to put the next question --

5

MR MOSES SC: I ask my learned friend to withdraw the use of the word "recent invention". That is inappropriate and it should be withdrawn right now.

10 CHAIR: Yes, it has been withdrawn, Mr Moses, if I have understood Ms Harris correctly. Is that right, Ms Harris?

MS HARRIS QC: I do withdraw it but I do say that there is a suggestion raised that it is very important to understand what the contemporary documents did refer to.

15 There is only one final document to that effect, if I can read out the number, DPC.0012.0001.0356. Again, this is a redacted version.

CHAIR: Is there a question, Ms Harris?

20 MS HARRIS QC: Again, Mr Eccles' statement identifies this in paragraph 51(c) as being a proposal of 4 June. The portfolios are the same, there is reference to Health and Human Services and Jobs, Precincts and Regions, and again on page 2 here it refers to current quarantine arrangements for returned travellers. Was that the extent of the submissions that you were referring to, Ms Peake?

25

A. Yes, they were. Thank you, Ms Harris.

Q. That document can be taken down.

30 There was also some evidence that you gave, Ms Peake, about the missions structure, you accepted that there were aspects of your mission that involved hotel quarantine, but also I think you referred to the fact that there was aspects of the mission implementation plan that included reference to Mr Phemister's Department in the context of the Hotel Quarantine Program. And you were shown a document that
35 turned out not to be the Mission Implementation Plan yesterday but was a report on mission implementation.

40 Can I ask the operator to bring up a document that was referred to in Mr Eccles' statement as an example of when there had been passing reference to hotel quarantine in Mission Coordination Meetings, the document is DPC.0001.0002.0003.

45 Can we move --- the documents attached to this agenda, if we can move --- first, note the date, Friday, 17 April, and then move through to page 0008. I ask, while that's being done, Ms Peake, who prepared the attached document here?

45

A. So it was a compilation of the reports that were provided by each Mission. So my office, with my sign-off, prepared the Health Emergency Mission and each other Missi

on prepared their own.

5 Q. Very quickly, if we could go two pages on, to page 0010, you will recall you were asked some questions about, in the other document you were shown yesterday, I think turned out to be your June report back about the heading there "Proposed structure", and there was a query as to why you would be saying "Proposed structure" then. Do you think that might be a hangover from this earlier document?

10 A. I do. I think it was a template that we've carried forward.

15 Q. While we are on this document, you were also asked some questions about other organisational charts, in particular the organisational chart included in the Emergency Management Victoria document, State Occupational Arrangements for COVID-19, DHHS --- I don't need the number but you were asked some questions about that, and questions comparing that structure with this structure.

20 I think you said there is a different purpose, but is there an interrelationship between any of the parts of this structure here, which was the part of the missions structure, and the structure that was put in place for the Emergency Management Operations?

25 A. Yes, I think I started to describe yesterday that the Emergency Management command structure sits underneath the third element there of State-wide response, and then for each individual operation there is a translation of the command structure into that operation.

30 Q. If we can scroll down two pages or three pages on, at 0013 there's a description of your Health Emergency activities, and there's a reference in the State-wide responses to implementing and managing emergency accommodation to support safe quarantining in isolation.

35 Can we further go on to another mission plan at 0017. This is "Mission 3: Economic Program Delivery, Supply, Logistics and Procurement Mission Plan." If we go to the next page of that --- whose mission plan would this have related to, Ms Peake?

40 A. This is Mr Phemister's mission plan.

45 Q. When you said there were functions for that Department and Mr Phemister as well, were you referring to that first column there, which refers to medical equipment and PPE, then accommodation, and secure --- suitable accommodation, stock for health and non-health, response effort requirements, and then quarantine of international arrivals, working with DHHS, house arrivals and hotels and provide services throughout their stay?

50 A. Yes, that's correct.

55 Q. On the right, there's a reference to interdependencies with other missions --- health and economic emergency missions. Is that interdependency and that --- the

joint --- what you were really referring to when you were talking about it being a joint response?

A. That's correct.

5

Q. You can take that document down now, thank you. There were some questions asked about information provided through to security firms about what policies were approved --- sorry, I withdraw that question.

10 There were some questions asked about information provided through to security firms from the Department. Now, I know you haven't been able to be monitoring all evidence, but are you aware that there was a physical distancing plan prepared by Dr Finn Romanes as early as 4 April?

15 A. 4 April --- (overspeaking) --

Q. Did that contain some content about the Hotel Quarantine Program?

20 A. It did. And my understanding is that there was detail in that program about health and wellbeing and infection prevention and control, which was then translated both into the health and wellbeing plan, and then subsequently --- and sorry, and into a whole range of operational guidance which --- some of which I referred to earlier, about cleaning and about --- and about PPE and about the safe entry and exit of
25 people, about exemptions policies, about a whole range of things, from smoking to fresh air and exercise. So there were --- there was a very comprehensive document that Dr Romanes put together, translated into operational policies and guidance and embedded into the second and third versions of the Operational Plan.

30 Q. The evidence to the Board has been from Mr Adams, who was a representative of MSS Security, that he received an email from the officer of DJPR, who is known as the Principal Policy Officer, on 9 April. He says --- that Principal Policy Officer says to the recipients of the email, including Mr Adams, "Subject: Health and welfare policy":

35 *A health and welfare policy, including provisions for quarantined travellers, has been endorsed by the Chief Health Officer. Included in the policy are the following health and exercise provisions"*

40 I don't need to refer to that because it then quotes certain provisions. Would it have been in your expectation that this is what the flow of information would be, that information might be provided to that Department and then provided onwards?

45 A. That's correct, and that was the very logic of there being both this operation through the State Control Centre and the interagency governance that was stood up the first weekend, which then translated across into the Emergency Operations Centre, that at a policy level, there was --- and a governance mechanism to enable policies and procedures to be shared with DJPR, and with other relevant

departments, and that that would then cascade through to their contracted agencies, and that then there were briefings on the ground within the hotels that equally would ensure that the senior people for each part of the program on the ground received information that they then could take back through their workforces as well.

5

Q. On that issue, Ms Peake, the evidence of a person from DJPR who has been known as the Operations Coordinator, his statement is Exhibit 84, and was a DJPR site manager on the ground, he says he was involved in briefings held each morning, attended by himself, another DJPR staff member, DHHS on-site staff, the authorised officers and the service supervisors, eg security guard supervisors, DNATA supervisors and the hotel supervision --- and that statement goes through the sort of things that were discussed there, what would you expect the security guard supervisors and hotel supervisors and others to do once they have had a briefing?

10

A. I would expect that they would have communication channels for that information to be shared to the workforces. Of course, in an environment where we are seeking to avoid physical interaction, it would not have been either practical or safe for there to be mass briefings, so that sort of arrangement where team leaders are briefed and then there's cascading information makes sense from a management perspective, but also from an infection prevention and control perspective as well.

15
20

Q. Very quickly, Mr Nagi and Mr Millward, who were representatives of Unified Security, both give evidence of their understanding of briefings to their staff, including Mr Nagi saying that shift supervisors conducted verbal briefings with security staff. Is that the sort of occasion that you are talking about?

25

A. Yes. And look, I can't speak to what the communications processes and channels would have been for each of those team leaders, but as a principle of good management I would expect that they would have been well understood by the staff involved for each part of the operation.

30

Q. And other security staff, including Security Guard 2, referred to accessing information posted on the walls of PPE-type information and hand hygiene and washing hands and things like that. Is it your understanding that that was a general practice, from what you know now, that that information was posted in the hotels?

35

A. Yes. I did see a part of Ms Bamert's evidence where she reflected on very early in the program herself going around to provide that written material to be posted in each hotel and that was certainly my understanding all the way through that that was a feature of the program.

40

Q. I think everyone will be relieved that I just had some very quick questions about health and welfare arrangements.

45

You were asked whether early on you had thought of engaging Dr Gordon or someone like him with respect to looking, for example, at the mental health impact. I think I have paraphrased that evidence, but are you aware whether there was any

consultation earlier on with the Chief Mental Health Nurse about the program?

5 A. Yes, and the, Mental Health Branch, so in the first week of the program there was
--- I think I referred to this --- a refinement of the questionnaires for the daily welfare
checks and the introduction of the --- so the daily welfare checks were put in place
on the first day but over the first week the --- the questionnaire that was used was
refined with expert input from the Mental Health Branch, but also from Family
Safety Victoria, which is our administrative agency responsible for family violence,
10 to ensure that there were questions that were appropriate to elicit information about
risks for individual returned travellers, and that was also built into the more in-depth
welfare checks that were done on day 3 and day 9 of the program, which were also
put in place over the first week of the program.

15 Q. If concerns were identified, were you personally aware of what services there
might be to address any concerns about physical or mental health?

A. Yes. So the --- there was, right from the start of the program, so from the very
first day, there were nursing staff on site as well as medical practitioners, the field
emergency officers who could also provide scripts for pharmaceutical needs.

20 On the second day of the program, our welfare check team was stood up. It
supported the complex assessment and response team, and its role was to take
assessments that had --- of psychosocial need and make sure that the right specialists
were engaged. So our child protection workforce was a part of that, Family Violence
25 Services, but really importantly also Mental Health Services, the North-West Area
Mental Health Service operated as a secondary triage service and by --- very early in
the program, there was also mental health nurses that were physically present at
every one of the hotels.

30 And then finally, as part of that process of looking at psychosocial needs, I am
aware, I think I mentioned that there were 440-odd exemptions that were provided to
people so that they could complete their quarantine program in an alternative setting,
and often that was on the basis of the input of the assessments of either the mental
health nurses or the CART team, that someone with complex needs that, this setting
35 wasn't appropriate for them, and I was certainly briefed throughout the program on
the incredibly rapid work that was done to take an assessment, build a plan with
wraparound support, secure accommodation, so that people who were in quarantine
could be placed somewhere else that was more appropriate.

40 And as the Secretary responsible for Human Services, I do need to say that it's an
extraordinary effort to have a multi-disciplinary team to come together and build a
plan and execute it within a few days, but also to make sure at the end of the period if
there were families or individuals who didn't have accommodation to go on to, that
there were arrangements made for them with, again, appropriate wraparound
45 supports.

Q. Just a quick clarification. I think you referred then to the complex --- you were

talking about the work of the complex assessment and referral team. There have been other references elsewhere to the CART team, is that the same thing?

A. It is, yes.

5

Q. Just one final question. Dr van Diemen, a Deputy Chief Health Officer, who also --- at certain points in time I believe was a Public Health Commander, was that a role that fed into the Emergency Management Framework, if you like, the organisational framework there that was operationalising the Hotel Quarantine Program on the ground?

10

A. Yes. So the Public Health Command was a really important mechanism for that public health advice to be fed through to the State Control Centre and then the Emergency Operations Centre. And there were then important documents I think I've spoken to over the last couple of days where there was a secondary check back with the Public Health Team that the policy as captured in procedures was appropriately reflected.

15

Q. And just lastly, she has talked in her statement about meeting with the State Control Centre, or people there, over the Easter weekend, which was around 11 April. What was your understanding of the purpose of her meetings?

20

A. So I think over that weekend it was --- it was, if I recall correctly, it was both in relation to the returned travellers who were coming in from Uruguay and all of the arrangements that were being put in place for them to make sure that if anyone had deteriorated on the flight, that there was referral arrangements immediately for them at the airport for them to be taken to hospital, through to the arrangements that were all being put in place at Rydges.

25

As well, that was the weekend, obviously, where there was the tragic death of one of the residents and she was involved in giving me advice about that and further work that was done, which I have referred to in my evidence around the clinical processes, protocols for escalation, that continued to be developed out of that weekend, and really, after that, the additional staff from the Alfred that were brought onboard to provide additional daily health check screening capacity, as well as the consolidation of all of the health and wellbeing services and processes into the Public Health plan the following week.

30

35

MS HARRIS QC: Thank you, Ms Peake.

40

Thank you, Madam Chair, those are my questions.

CHAIR: Thanks, Ms Harris. Nothing further, Mr Ihle?

45

MR IHLE: Certainly not, Madam Chair. May we thank Ms Peake and excuse her at this late hour.

CHAIR: Yes, thank you, Ms Peake, thank you also for returning this afternoon and bearing with the process. Thank you for your evidence. You are now excused, you can turn your camera and microphone off.

5 MR IHLE: Thank you, Ms Peake.

A. Thank you.

10 **THE WITNESS WITHDREW**

CHAIR: Mr Ihle, we have Minister Mikakos at 10.00?

15 MR IHLE: We do, and that's the only witness for tomorrow.

CHAIR: Yes, and I'm sure that those supporting the operation of the Inquiry will be pleased to hear that. My apologies again to the lengthy day that has been experienced by the staff who are supporting the Inquiry, and I certainly acknowledge that I'm very grateful to them for sticking with the process. Thank you. Otherwise,
20 10.00 tomorrow.

MR IHLE: As the Board pleases.

25

**HEARING ADJOURNED AT 5.57 PM UNTIL 10.00 AM ON THURSDAY,
24 SEPTEMBER 2020**

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