

**TRANSCRIPT OF PROCEEDINGS**

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**INQUIRY INTO THE COVID-19 HOTEL QUARANTINE PROGRAM**

**BOARD: THE HONOURABLE JENNIFER COATE AO**

**DAY 25**

**2.15 PM, FRIDAY, 25 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**

**MR S. O'MEARA QC appears with MS K. FOLEY and MR O. CIOLEK for the Hon. Daniel Andrews MP, Premier of Victoria**

**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 afternoon, Ms Ellyard.

MS ELLYARD: Good afternoon, Madam Chair. There is a new appearance to be announced this afternoon and I call on Mr O'Meara for that purpose.

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MR O'MEARA QC: If the Board pleases, I appear with Ms Foley and Mr Ciolek on behalf of Daniel Andrews MP, the Premier for Victoria, and seek leave to appear for that purpose.

10 CHAIR: Yes, I'll grant you that leave, Mr O'Meara, thank you.

MS ELLYARD: Madam Chair, before we call the Premier to give his evidence, there are a couple of housekeeping matters that I have been given notice of. Firstly, there is a need to file over a statement that was tendered yesterday as Exhibit 205. It has been identified that that exhibit, the statement had a typographical error in it. May I tender an amended version in which that correction is made by hand. The document ID is DHS.9999.0025.0001. It was marked yesterday as Exhibit 205, a statement by a non-executive member of DHHS, known as Senior Project Officer, and this is an amended version that corrects that one error. The correction is apparent because it is in handwriting.

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20

CHAIR: All right, I will simply mark that document as the substitute document for Exhibit 205, Ms Ellyard.

MS ELLYARD: Thank you, Madam Chair. Thirdly, may I tender a number of documents which were obtained by the Board in the early stages of its Inquiry, being a number of Initial Responses that were provided by a number of agencies and bodies. They are contained in the hearing book under the heading "Initial Responses" and I tender that bundle.

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30

CHAIR: Exhibit 215.

**EXHIBIT #215 - INITIAL RESPONSES**

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MS ELLYARD: May I separately tender an index of those Initial Responses which is contained in the same folder, HQI.0001.0040.0001.

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CHAIR: Exhibit 216.

**EXHIBIT #216 - INDEX OF INITIAL RESPONSES CONTAINED IN EXHIBIT 215**

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MS ELLYARD: Finally, the Board will recall that evidence was given by

Emergency Management Commissioner Andrew Crisp about various requests that were made to the Commonwealth for assistance. May I tender a document that is called a "Request for Assistance Register" in which a record is kept of those requests, document ID DOJ.501.001.6207.

5

CHAIR: That is marked Exhibit 217.

**EXHIBIT #217 - REQUEST FOR ASSISTANCE REGISTER**

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MS ELLYARD: If the Board pleases. Those are the housekeeping matters, Madam Chair, so I will invite the Premier to take himself off mute and invite your Associate to administer the oath.

15

CHAIR: Thank you. Good afternoon, Premier. I'm assuming you can both hear and see me.

PREMIER ANDREWS: Yes, I can, Madam Chair.

20

CHAIR: I understand that you wish to take the oath today for the purposes of giving your evidence, Premier.

PREMIER ANDREWS: Yes, Madam Chair.

25

CHAIR: I will have my Associate administer the oath to you now. Thank you, Madam Associate.

30

**THE HON. DANIEL MICHAEL ANDREWS MP, SWORN**

CHAIR: Thank you, Premier, if you could put the Bible down now and I'll hand you to Ms Ellyard. Thanks, Ms Ellyard.

35

MS ELLYARD: Thank you, Madam Chair.

**EXAMINATION BY MS ELLYARD**

40

MS ELLYARD: Could you tell the Board, please, your full name?

45

A. Daniel Michael Andrews.

Q. And you are the Premier of Victoria?

A. I am, Ms Ellyard.

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

A. Yes.

10 Q. It is dated 16 September 2020?

A. It is.

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

15 A. They are.

Q. I tender that statement, Madam Chair.

20 CHAIR: Exhibit 218.

**EXHIBIT #218 - STATEMENT OF THE HON. DANIEL MICHAEL ANDREWS MP**

25 MS ELLYARD: Premier, you refer in your statement to a number of documents and we understand that some of them are not able to be produced by reason of their status as National Cabinet documents but you also refer to a number of documents being  
30 documents of the Victorian Cabinet, to which you have had regard and which you wish to have incorporated in the evidence that you are giving to the Board today; is that correct?

A. Yes.

35 MS ELLYARD: Madam Chair, I tender the attachments to the statement of Premier Andrews as contained in the hearing book.

CHAIR: Exhibit 219. Thank you.

40 **EXHIBIT #219 - ANNEXURES TO STATEMENT OF THE HON. DANIEL MICHAEL ANDREWS MP**

45 MS ELLYARD: Thank you.

Premier, I wanted to ask you first some questions about the state of affairs that

existed prior to 27 March when the decision was taken by National Cabinet to establish a program for mandatory quarantine for returned travellers. May I call up, please, Mr Operator, document HQI.0001.0033.0058.

5 Premier, are you able to see that? Is it large enough for you?

A. Yes, it is.

10 Q. This is a direction given by the Deputy Chief Health Officer in exercise of powers that were available because of the State of Emergency that had been declared on 16 March.

A. Yes.

15 Q. And in particular, this is a direction that was issued requiring that returned travellers on and from 18 March 2020, as we see in paragraph 4, isolate at home for a period of 14 days after their return to Australia?

A. Yes.

20

Q. And we see, if we go to --- perhaps I'll ask Mr Operator if paragraph 4 could be enlarged, for ease of everyone's reference --- we see the direction that was made required a person to travel to a premises suitable for them to remain and reside there except in exceptional circumstances and to leave only in the limited circumstances that are set out there.

25

A. Yes.

Q. Is that so?

30

A. Yes.

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

35 Can I then also call for a second document, HQI.0001.0033.0054.

This, as I understand it, Premier, is another direction made by the Deputy Chief Health Officer which applied to those persons who had been diagnosed with novel coronavirus to isolate at home for a period of 14 days.

40

A. Yes, I believe it is.

Q. And that, as we see from paragraph 3, took effect from 25 March 2020.

45 A. Yes.

Q. And, as I understand it, whilst there might have been variations from time to time,

it has remained the position that those who are in the community and who have been diagnosed with COVID-19 have been subject to a direction in this form, requiring them to isolate at home?

5 A. Yes, that is correct.

Q. Unless they required medical care, in which case they have been taken to hospital?

10 A. Yes, Ms Ellyard.

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

15 Premier, at paragraphs 23, 24 and 27 of your statement --- and by all means look at it if you would like to --- you refer to one thing that you were aware of in the period leading up to 27 March, which in your mind has some relevance to the steps that should be taken and that were taken by National Cabinet on 27 March, and that is your awareness of reports, at least reports on 23 March, by the then Chief  
20 Commissioner of Police that there were instances of noncompliance with the first direction that we looked at, the direction that required returned travellers to stay at home

A. Yes.

25 Q. Were those reports of which you were aware reports made by Mr Ashton to the media or were they reports that had been made directly to you or perhaps both?

A. Both, I think, Ms Ellyard. I was aware of those media reports and beyond that I understood that there were other details, other reports as to noncompliance.

30 Q. I want to play, Madam Chair, a short extract from what I think might be one of the media reports, Premier, to which you are referring, being remarks being made by Mr Ashton at a press conference on 23 March at which you were also present. May I ask, Madam Chair, that we have the recording at HQI.0001.0033.0019, if we can  
35 start at the 13-minute mark and go through to 14.05.

[Video recording commenced]

40 *MR ASHTON: .... doing this particular work. For us, we've already been seeing examples through the spot checking we've been doing where the community haven't been following requirements regarding self-quarantine. There have been instances where in the spot checks people haven't been at home when they should have been at home and people that have freely said, "We were at home for some of the time, other times we were out shopping, we were out doing things." So clearly the message hasn't been getting through to the degree that we really need to see, to make sure that we can deal with this health emergency in the proper way. Hence we've had a need, obviously,*  
45

5 *through the good work of everyone involved in terms of making the right decision to keep people safe, to up the ante and have got some new measures. And we're in a position now to be able to do enforcement for that. I should stress, that will be part of, as well as having dedicated officers tasked, it will be a part of our general patrol work to be making sure that people are complying with these arrangements as well. So in addition to sort of 500, there will be in fact many more, when we look at all the patrol work that will be done, including this in their everyday work as well.*

10 [Video recording concluded]

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

15 Premier, is that the --- were those the remarks that you had in mind when you refer in your statement to remarks made by the Premier on 23 March?

CHAIR: By the Chief Commissioner.

20 MS ELLYARD: I'm sorry, by the Chief Commissioner on 23 March?

A. Yes.

25 Q. That can come from the screen. May I tender that document and as an aide-memoire, a transcript of the conference that has been prepared. I tender the document I have already referred to and also the transcript, which is HQI.0001.0033.0024, if they could be tendered together.

CHAIR: Exhibit 220.

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**EXHIBIT #220 - VIDEO EXTRACT AND TRANSCRIPT OF PRESS CONFERENCE ON 23 MARCH 2020**

35 MS ELLYARD: Premier, I want to take you to some further public remarks that as we understand it were made by the then Chief Commissioner two days later on the 25th. May I call, please, Mr Operator, for HQI.0001.0003.0023. Could we start at the 1.24 mark and play until the 2.29 mark.

40 [Video recording played]

45 *MR ASHTON: .... to date so far we've had --- we've done 88 visits today, as of today, and we'll be doing a lot more today with the extra numbers out from today. But of those 88, we've had 70 people home and doing what they were supposed to be doing as far as isolating themselves. Seven people were not home. We're doing follow-ups as to where those people are. We had a couple of people who were --- who provided the wrong details to Border Force as to*



5 *where they were supposed to be going to when they returned from overseas, so we're obviously following those up as well. And we're doing a couple --- a couple of people we're still chasing up in relation to where they are in fact self-isolating because they're not --- they're not isolating at their home premises. So we're doing some follow-ups on that as well. So that work is continuing. So we can see, certainly since earlier in the week, we're getting certainly a lot more people now doing the right thing and staying at home and self-isolating, as they're supposed to do, having returned from overseas.*

10 [Video recording concluded]

MS ELLYARD: That can be paused there, Mr Operator. If I could ask in the same document if we move through to 4.51 and play through until 5.04.

15 [Video recording played]

20 *MR ASHTON: .... We haven't fined anyone yet because people that we have found that haven't been complying, they haven't quite understood it, haven't got it, are deeply apologetic and they're doing the right thing now. So we've applied the common sense principle to that.*

[Video recording concluded]

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

Premier, do you recall being aware of those remarks made by the then Chief Commissioner, Mr Ashton?

30 A. I can't specifically recall whether I watched that press conference but they seem to me accurate, in terms of the statements that he made.

35 Q. What I want to suggest emerges from that is, firstly, at least in the sense of the evidence or the comments made by the Chief Commissioner, an observable improvement in compliance rates between the two sets of public remarks that he made; is that fair?

A. I think that's fair, yes.

40 Q. And suggesting that one of the key factors that was improving compliance was perhaps a level of greater understanding on the part of those who were meant to be quarantining about what their obligations were?

A. Yes.

45 MS ELLYARD: Madam Chair, I seek to tender that second recording, again together with the transcript. The transcript document reference number is HQI.0001.0033.0066. May I tender the recording and transcript together.

CHAIR: Exhibit 221.

5 **EXHIBIT #221 - VIDEO EXTRACT AND TRANSCRIPT OF PRESS  
CONFERENCE ON 25 MARCH 2020**

10 MS ELLYARD: Would I be right in understanding, Premier, that in addition to  
those specific remarks that Mr Ashton had made, you were also aware in the period  
leading up to 27 March of a number of other issues that were arising as a result of the  
COVID-19 pandemic. Firstly, no doubt, you were very aware of issues associated  
with the Ruby Princess and ways in which the infection had reached the Australian  
community through that cruise ship?

15

A. Yes.

Q. I take it you were also aware at the time in late March of the very serious issues  
that other countries around the world were having in relation to widespread and  
poorly checked coronavirus infection?

20

A. Yes, Ms Ellyard.

Q. And would I also be right in understanding that at about this time, in the days  
leading up to 27 March, you were also aware of the economic impacts that the  
COVID restrictions already in place were having in Victoria and in fact I think you  
had announced on about 20 March a package of support for businesses that were  
affected by the restrictions that had become necessary?

25

30 A. Yes.

Q. May I direct your attention to paragraph 36 of your statement. In answer to a  
question that the Board asked of you, you have indicated that as far as you are aware  
there wasn't as at 27 March an existing plan for large-scale quarantining of the kind  
that ultimately occurred in Victoria?

35

A. Yes, that's correct.

Q. And as I understand it from paragraph 11 of your statement, and I'm sorry to jump  
around, there wasn't any discussion in the Victorian Cabinet ahead of the National  
Cabinet decision about the prospect of such a wide scale quarantine program being  
put in place?

40

A. Yes, that's right.

45

Q. And as I understand the evidence that the Board has received, other than some  
evidence of perhaps a high-level discussion to which Minister Mikakos was party on

26 March, the evidence that the Board received is that no one --- other senior Ministers and senior public servants in the Victorian Government weren't aware prior to 27 March that there was going to be or that there might be a Hotel Quarantine Program. Are you aware that that's the evidence, Premier, that there doesn't seem to  
5 have been advance notice or knowledge on the part of the Ministry or the Public Service that hotel quarantine might be coming down the line?

A. Yes, I'm aware of that evidence.

10 Q. And does that accord with your understanding, that there wasn't in fact any discussion or investigation of the possibility of a quarantine program of this scale prior to 27 March?

A. Yes.

15

Q. It does appear from your statement and from the documents that the Board has received that some work had been done in the days leading up to 27 March on the securing of hotel rooms?

20 A. That's right, yes.

Q. And may I call, please, for a document, Mr Operator, DPC.0012.0001.1422. And having gone to that document, Mr Operator, could we go through to page 1425. This is a document that you have produced, Premier, and as we understand it, it is the  
25 relevant extract from a decision by the Expenditure Review Committee to allocate funds for the securing of hotel rooms. I'll ask that it be made a little larger, please, Mr Operator, given the size of the text.

30 Perhaps if we focus on the left-hand side of the page where the text is. So we see here, Premier, an \$80 million accommodation package to support key workers and provide emergency accommodation to people in need?

A. Yes, we do.

35 Q. As I understand what's written there, it was proposed that the Government would use the money that had been allocated to reserve up to 30 per cent of current hotel rooms for a period of three months and negotiate appropriate arrangements?

A. Yes.

40

Q. It has come to be known as the Hotels for Heroes program or formed part of a broader suite of COVID emergency accommodation?

A. Yes, it has been referred to in those terms.

45

Q. We see in the green box there towards the right-hand side, there is a heading "Fiscal impact" and a reference to it being a benefit to businesses.

A. Yes.

5 Q. Would I be right in understanding that that was because it was recognised that funding allocation of this kind was going to serve a dual purpose, securing appropriate accommodation and supporting a sector that was particularly affected by coronavirus restrictions?

A. Yes.

10

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

15 Prior to 27 March, Premier, had you been given any specific advice about the powers that were available to the Victorian Government to detain people for the purposes of quarantine?

A. I'm not certain that I had received any specific advice, Ms Ellyard, on that question, other than a general understanding of the provisions of the *Public Health and Wellbeing Act*.

20

Q. Thank you. Had you sought or received any specific advice on what would be involved in setting up a quarantine program beyond the rooms? So what I might call the broader logistics of such a proposal?

25

A. No.

30 Q. Thank you. May I turn then to the question of how the decision for hotel quarantine or designated locations quarantine came to be made and perhaps direct your attention to paragraphs 12 and following in your statement, Premier. You refer in those paragraphs to receiving a brief on the morning of 27 March from the Department of Premier and Cabinet. Perhaps I'll ask if the relevant portion could be brought up, Mr Operator, DPC.0001.0001.0230. But then we will go to 0231, Mr Operator, in the document.

35 As I understand it, Mr Andrews, what you have produced here is the relevant extract from the briefing that you received, ahead of the National Cabinet meeting that was to occur later that day?

A. Yes.

40

Q. I'll just ask that it be centred, Mr Operator, so that we can be sure we have got all of the information necessary. It appears that you were briefed about the possibility of a recommendation that some travellers self-isolate in hotels rather than going home?

45

A. Yes, that's right.

Q. Indeed the final dot point says it may recommend all travellers self-isolate if the household has more than one person?

A. That is correct, yes.

5

Q. Thank you very much, Mr Operator, that can come from the screen. As I understand paragraph 13 of your statement, Premier, there was also provided to you a written advice from the AHPPC which made a recommendation that consideration be given to requiring people to quarantine away from home in high-risk cases?

10

A. Yes, that was the --- that was the substance of it, yes, Ms Ellyard.

Q. Did you understand what was meant by the term "high risk" as it was used by the AHPPC?

15

A. I think there was some explanation as to that but, of course, these --- these would inform a meeting that would occur later that day. I can't be certain that I had a precise understanding of what that term meant before the meeting.

Q. Did you have your own views as at this time of what "high risk" meant if we are thinking about returned travellers coming from places where there might have been coronavirus infections?

20

A. Yes.

25

Q. What was your own view of how what we might describe people as high risk?

A. Anybody returning from a country with little or no public health response, community transmission, posed in my judgment a very serious risk, perhaps even an unacceptable risk, for community transmission here and I think the circumstance that we confronted at that time, with the vast majority of cases coming from overseas, that would have informed that view.

30

Q. So that was your personal view that you held as at 27 March?

35

A. Yes.

Q. Thank you. We have been provided with a copy of the relevant extract of the minutes of the National Cabinet meeting at which the decision was made. You refer to this at paragraph 14 of your statement. May I call up, please, Mr Operator, DPC.0001.0001.6117. If we could go to page 6123, Mr Operator, in the document.

40

Premier, this is the relevant extract from the minutes of the National Cabinet meeting on 27 March 2020?

45

A. It is.

Q. It speaks for itself. But relevantly, it provided that all travellers would be required to undertake mandatory self-isolation at designated facilities?

A. Yes, it did.

5

Q. And that State powers would be used for the purposes of enforcing that mandatory self-isolation?

A. That is correct.

10

Q. Having regard to your awareness of the work --- thank you very much, Mr Operator, that can come from the screen.

15 Having regard to your pre-existing awareness of some work being done for the procurement of hotel rooms, did you have an assumption or an expectation after this decision was taken that the designated facilities in Victoria would be hotels?

A. I thought that most likely, Ms Ellyard, for a number of reasons. I'm happy to elaborate if you think that would be of assistance.

20

Q. Yes. To the extent that you had the assumption that in Victoria you would be using hotels, why was that?

25 A. Firstly, I had been informed and had a general sense that there were thousands of hotel rooms that would be required, as was referred to in the Cabinet document you brought up earlier, from the 20th, I believe was the date of that meeting, and beyond that it seemed logical that hotels would perhaps be the facility used, given travelling parties are made up of different numbers of people, so you would need different sized rooms, you'd need separate bathrooms for the purposes of infection control.  
30 Those sorts of factors I think were on my mind at that time. We hadn't settled the matter but hotels did seem logical.

Q. And when was the matter settled for Victorian purposes?

35 A. Well, I think I made announcements on the 28th. I believe that's when I made announcements about the final nature of things or at least provided further details, and by that stage I would --- I would recall that I think the issue of hotels had been settled by then.

40 Q. I take it, you may feel you have already said this Premier, but one reason why hotels were a sensible option is that there were plenty of them available at this time, having regard to the limitations that had been placed on travel and tourism?

A. Yes. Yes, indeed.

45

Q. At the time that you were party to or present for the decision of National Cabinet, did you have an understanding yourself of the enforcement power that would be used

in Victoria to require people to remain in quarantine?

5 A. I can't specifically recall whether I, Ms Ellyard, could point to a particular provision in the Act. But I suppose my --- looking back on it, my assumption would have been those powers that were being used to essentially quarantine people in their homes.

10 Q. Okay. So you assumed that it would be an extension of those powers under the *Public Health and Wellbeing Act*?

A. Yes, I think that's --- that would have been the assumption I made, yes.

15 Q. And then perhaps I'll ask you the similar question about who was going to enforce or monitor compliance. At the time you made or were party to the decision or aware that the decision had been made, did you have a view yourself about how those powers that were going to be exercised were going to be monitored and, where necessary, enforced?

20 A. No, I did not. That would not be a matter that I would turn my mind to.

25 Q. You made some public remarks at about 3 o'clock on this day, following a press conference that was given by the Prime Minister, and a transcript of your remarks has been tendered. I'll ask that that be brought up, please, Madam Chair. The document reference number is VPOL.0006.0002.0013.

While that is being brought up, Premier, have you had the opportunity in the recent past to view a recording of what it was that you said on 27 March?

30 A. Yes, I have, Ms Ellyard.

35 Q. Thank you. So can I draw your attention, and perhaps we'll bring up the bottom part of the page, please, Mr Operator --- you refer at about lines 35 and following to the fact that from "tomorrow night, you won't be quarantining at home on some honesty basis, you will be quarantined with appropriate support at a hotel".

A. Yes.

40 Q. I take it that reflects the assumption that we have been speaking about, that for the reasons you gave it was your view even at that early stage that it would most likely be at a hotel?

A. Yes.

45 Q. If we could go over to the top of the next page, please, Mr Operator, and you refer to the fact that you will be making fuller briefings in the future. But if I can draw your attention to the third line down, toward the right-hand side, where you are recorded as having said, "We've been working on this for quite some time" and you

go on to speak about the resource that's available and the fact that it would not just be an appropriate health response, it would also be about repurposing and helping people back into work. When you said, "We've been working on this for quite some time", did you have in mind the work that had started as a result of the ERC submission and the \$80 million?

A. Yes.

Q. Did you have in mind anything else that had been done for the purposes of the quarantine program?

A. Not that I specifically recall, no.

Q. The evidence the Board has received, as we have touched on, is that in circumstances where the possibility of large self-quarantine had not been canvassed before the 27th, there wasn't really much that had been done beyond the room allocations to prepare for the challenges of such a program. Would you accept that?

A. Yes, I would accept that.

Q. And so really what was confronting Victoria at that time was a very substantial logistical undertaking to stand up a complicated program within about 36 hours?

A. Yes, I think it could be fairly described as an unprecedented set of circumstances.

Q. So perhaps I'll ask you this, Premier: in those circumstances where, beyond the availability of rooms and a sense of what the detention power would be, nothing yet had been planned --- it's not a criticism, but nothing yet had been planned --- I take it you were satisfied that it was feasible for it to be done?

A. Yes, I was.

Q. And why were you satisfied that it could feasibly be done within the allocated time?

A. Having secured or having confidence that the rooms could be secured, it seemed to me that a dedicated team of people at that very much operational level, Ms Ellyard, would be able to do as they had done many times before, they could rise to a challenge like this and that they would be able to stand the system up within the timeframe.

Q. Thank you. A little bit further down on the same page, around about line 15, if you look at the numbering on the far left-hand side, Premier, you are recorded as saying:

*Police, private security, all of our health team will be able to monitor compliance in a much easier way ....*



That is a reference to the fact that people will be in hotels. You have said already that at the time you participated in the decision or were aware of the decision, you hadn't turned your mind specifically or you don't believe you had turned your mind specifically to who was going to be doing the enforcing. Do these remarks made by you at around 3 o'clock suggest by that time you did have an assumption or understanding of what the enforcement model would be?

A. I have given this quite some thought, Ms Ellyard. I'm not certain why I mentioned police, private security and our health team, those three groups of people and not a fourth or a fifth group. I think I go on shortly thereafter to talk about the fact that it had not been settled. But on the specifics, I can't --- I can't clarify for you or outline for you why I chose those three groups. I'm afraid I have tried to search my recall of this and I can't provide you the detail of why they are mentioned and others aren't.

Q. Do I take it from that answer, Premier, you can't recall what was precisely in your mind about the enforcement model, if I might use that expression, at the time you made these remarks?

A. Yes, I cannot recall that.

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

I want to draw your attention, Premier, and indeed you may already be aware of some of evidence, to documents in evidence that the Board has obtained about other people's understanding of what the enforcement model might be or that might suggest a level of understanding. Firstly, could I call up document DPC.0028.0001.0001.

I understand, Premier, that this document has been provided to us as a text exchange passing between a member of your Private Office, who is the person writing the texts in grey, and Mr Ada, who is a Deputy Secretary of the Department of Premier and Cabinet. I will just give you a moment to read that and then once you have read to the bottom, I'll ask for the next page, where the text exchange continues.

A. Yes, I've read that, Ms Ellyard.

Q. Thank you. Mr Operator, could we have the next page, please, so that we can see the rest.

A. Yes, I've read that, Ms Ellyard.

Q. Thank you, Premier. We will go back to the first page, please, if we may, Mr Operator. This, as I understand it, we can see the time stamping --- it is 1.19, which as we understand from other evidence would have been quite shortly after the conclusion of the National Cabinet meeting. Does that match your recollection?

A. Yes, it does.

5 Q. There is a reference here, "We will need something on food and security for people in hotels", and the discussion goes on. It appears that it's partly about whether the program would start that day or the next day. Does this email, "We will need something on food and security for people in hotels" suggest any decisions being made by you or in your private office about what the model was going to be?

10 A. I think it --- my answer is no. I think it identifies that there's a need and that those matters have not yet been finalised, not at that time anyway, Ms Ellyard.

15 Q. Would it have been within your Private Office that decisions of this kind would have been made about the model that was going to be adopted for the program?

A. No, they are very much of a --- indeed they are a deeply operational matter that would not be determined by my Office or indeed by my Department, I would say. That would be out of character. We have emergency management structures and agencies for exactly those purposes.

20 Q. So it does appear, though, that relevant matters or what this member of your staff perceived as relevant matters were being raised with Mr Ada?

25 A. I think for the purposes of what I would be announcing, that's what I read this to mean, not so much to be determining them.

30 Q. Thank you. There is a reference in the blue writing to "Simon". Do you think it is likely that the Simon might be a reference to Mr Phemister, the Secretary of the Department of Jobs, Precincts and Regions?

A. Yes, I think that is likely, more than likely.

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

35 I next want to draw your attention, Premier, to some text messages [screen froze].

CHAIR: Looks like we might have lost the connection to Ms Ellyard. My apologies, Premier. Would you just bear with us for a moment.

40 A. No problem at all.

CHAIR: I'm sure what will happen is Ms Ellyard will disconnect and then reconnect again.

45 My apologies again, Premier, I'm just trying to establish whether or not it's likely to be a minute or two.

A. No problem, Madam Chair.

MS ELLYARD: My apologies, Madam Chair. My apologies, Premier. It happened to me with Mr Eccles and now you. I draw no inferences but I deeply apologise.

5

A. No problem at all, Ms Ellyard.

Q. Thank you. I was taking you to some documentation produced by Mr Ashton. Could I ask that the document be brought up, please. It's VPOL.0005.0001.0140.

10

Mr Ashton has given evidence that this was a text message that he sent to Mr Eccles, the Secretary to the Department of Premier and Cabinet. The time stamping is 1.16. It suggests by its content that Mr Ashton had received some information about a proposal that would involve people being guarded by police. Are you aware at about this time, 1.16, of any such proposal?

15

A. I'm sorry, Ms Ellyard, I'm just --- I'm trying to --- oh, yes, I see "guarded by police for 14 days".

20

Q. Yes.

A. Yes, that is what it seems he's saying. And no, I wasn't aware of a proposal at that time.

25

Q. Thank you. That could come from the screen, Mr Operator and could we have in its place VPOL.0004.0005.0244. This is a text message exchange between Mr Ashton and Commissioner Kershaw of the Australian Federal Police. I will just wait for it to come up. VPOL.0004.0001.0244.

30

Perhaps I'll put the content to you, Premier, while we are waiting. The text message suggests that within a very short period of time after the sending of the message we have just looked at, Mr Ashton had come into possession of information that it would be private security that would be guarding at the hotels and it appears to have been formed or drawn an inference that that was an arrangement that had been made by the Department of Premier and Cabinet. If I can draw your attention to the second green box there, which is a text sent at 1.22. Perhaps I'll ask that it be enlarged a bit, please, Mr Operator.

35

A. Yes, I can see that, Ms Ellyard.

40

Q. Yes. And then a little bit further down, Mr Operator, if we go to the further message in green, more towards the bottom of the page, there's a reference there at 1.32 to Mr Ashton apparently at that time having an understanding that it was a deal set up by the Department of Premier and Cabinet.

45

The same question again: are you aware of any such proposal having been agreed upon at about 1.30, that private security would be used for the purposes of enforcing

mandatory self-isolation?

A. No, Ms Ellyard.

5 Q. Are you aware of any circumstances that might have been a basis for Mr Ashton to have received that information or received that impression that a decision had been made?

10 A. No, I'm not aware of anything personally that would have --- that would have given rise to Graham Ashton drawing those conclusions.

Q. Thank you.

A. No.

15

Q. That could come from the screen, Mr Operator. The Board has received evidence, Premier, from Minister Neville and Mr Ashton that they each had an understanding by about 2 o'clock, when they were in a meeting with Mr Crisp, the Emergency Management Commissioner, that there had been a decision taken already and that the decision was that private security would be used. Are you aware of that evidence that they have given?

20

A. Broadly, yes.

25 Q. And their evidence was not only that they were aware that a decision had been taken but that they themselves had not been consulted about the project, they were rather presented with it as the decision that had been made. It will be a matter for the Board to consider whether or not to accept that evidence. But assuming that to be the case, does it strike you as unusual that a decision about enforcement would have been made without consulting the Chief Commissioner of Police or the Police Minister?

30

A. That would certainly not accord with custom and practice that I've observed throughout my time in public life and throughout my time as a Minister of the Crown and throughout my time as the Premier of this State.

35

Q. And indeed it would --- by reason of it being inappropriate, would you regard it as unlikely?

40 A. I wouldn't necessarily --- well, I'm not sure that I advance the notion that it was not appropriate. It would be out of character, it would not be the normal practice that I have certainly observed over a long period of time Ms Ellyard, if I understand your question, would it be out of character?

45 Q. I think my question is --- perhaps I put words in your mouth, Premier. Firstly, I should ask you: do you think it is appropriate that a decision of that kind would be taken without consultation with the Chief Commissioner of Police?

5 A. It certainly would be very unusual, unprecedented I think in some ways. I'm not sure that I'm in a position to make a value judgment about it but by virtue of it not being regular practice, that --- that would not be my --- certainly from my point of view that would not be the preferred way --- the way to set up a program like this.

10 Q. So may I take it that having regard to your experience, you would expect that ordinarily the views of the Chief Commissioner of Police would be sourced before any decision was reached about the form of enforcement to be used in a program such as this?

A. That's certainly my experience.

15 Q. And would you also say that a view once expressed would likely carry some weight in any decision-making about what the enforcement model would be?

A. Yes.

20 Q. Thank you. May I turn to a different set of questions, about the reasons why the decision was taken and its implication, that being the decision to have a quarantine program?

A. Yes.

25 Q. Would I be right in understanding that the objective of the program that was agreed to by National Cabinet was to prevent the transmission of infection from returned travellers to others in the community?

A. Yes.

30 Q. And thinking particularly about Victoria, the purpose of implementing the program in Victoria was to prevent such transmission within Victoria?

A. Yes.

35 Q. And it was your assessment, as I understand your statement, that at this time on 27 March you foresaw a significant risk to the Victorian community if returning travellers who were COVID-positive transmitted the infection to contacts and beyond into the community?

40

A. Yes, I did.

45 Q. And it appears that that objective of preventing such transmission was proposed by National Cabinet to be dealt with by means of mandatory self-isolation in designated facilities?

A. Yes.

Q. Did you yourself on this day give consideration to the possibility of other less extreme measure, such as, for example, beefing up the monitoring of people who were isolating at home?

5

A. I'm sure I would have turned my mind to those matters, Ms Ellyard. But I think in some respects the notion of having a very large group of people in a more concentrated environment would make compliance and enforcement, from at least in a policy sense, an easier task. The other things were of course to note we couldn't be certain how many people, actual Victorians, who were in Victoria who would --- who had not travelled, I mean, who might become positive. So it seemed --- it seemed an appropriate response to a very significant risk at a time when we were trying to buy time to prepare our health system and a time when we were expecting that things would unfold much like they had in some other parts of the world.

15

Q. I understand. Thinking about the particular legislative context in Victoria, where the Charter of Human Rights and Responsibilities provides for certain mechanisms and considerations, did you think about that particular Victorian context and the extent to which it might affect the way in which the National Cabinet could be implemented in Victoria?

20

A. No, I didn't turn my mind to the Charter, but many of the issues that were contemplated in Charter would have been --- would have been important to me, I think.

25

Q. So would it be fair to say, and perhaps picking up the language of the press conference that we have looked at, that it was your assessment that it would be too risky to rely on people self-isolating on a "honesty basis"?

30

A. Yes.

Q. It would be less risky to have a model of quarantine in designated facilities?

35

A. Yes.

Q. And so I take from that that your assessment was that, rather than leaving responsibility for isolation and avoidance of transmission on individual travellers, the Government would assume responsibility for ensuring isolation by requiring people to stay in particular places?

40

A. Yes.

Q. So the Government --

45

A. That's not precisely what we --- what we decided but I think that's a fair characterisation of what we did.

Q. It's the effect of it?

A. Yes.

5 Q. "We are not going to place responsibility on individuals; we are going to assume that responsibility, we will give them somewhere to be and we will keep them there"?

A. Yes.

10

Q. And so would you agree with me then that having assumed responsibility for the risk that might otherwise be posed by infection, Government also assumed responsibility for managing that risk in the quarantine setting?

15 A. Yes, I would absolutely agree with that.

Q. Would you agree that the Government assumed responsibility for making sure that people were at least as safe in the hotels as they would have been at home?

20 A. Yes.

Q. And would you agree that the Government assumed responsibility for ensuring that the community was at least as protected from infection risk as they would have been if people were isolating at home?

25

A. Yes, I think that's fair, yes.

Q. And would you agree that --- you have mentioned the benefits that flow in compliance terms perhaps from people being in a large facility altogether, but putting a whole lot of people who may or may not have the disease in close proximity to each other creates its own risk too, doesn't it?

30

A. Yes, it does.

35 Q. So the risk that they might expose each other to infection, for example?

A. Yes.

Q. Or the risk that the workers who might need to come in to resource and manage a quarantine program might be exposed to infection?

40

A. Yes.

Q. What became clear was that this was a system that did require quite a large number of supports and a large number of people so as to make the program work?

45

A. Yes.

Q. It was a --- as the Board understands it from all the evidence we have received --- a very complicated system?

5 A. Certainly a very --- a very large system, Ms Ellyard. As to arrangements and their complexity, I probably can't speak to that but it was certainly a very big task. And whilst some of those risks can be mitigated, they are very, very significant issues.

10 Q. Do you think on the 27th when forming your own view that this was an appropriate process for Victoria, you had a sense of how large it was?

15 A. I think I did. We had some information about how many people had come back and some --- at least --- it's difficult to be definitive about exactly how many will come back but we had some sense of that and we thought we had the sufficient stock of rooms. Beyond that, I suppose, I --- I may have well, in fact I'm certain I would have left some of the risk mitigations we have just discussed to those at an operational level, I would think. I don't know that I would have turned my mind to those matters.

20 Q. When I'm using the word "large", I don't just mean number of rooms but also large in the sense of all the various logistical pieces that would need to be put together at an operational level?

25 A. Yes, I think that's a fair way to describe it.

30 Q. Would you agree that, having regard to the fact that the Government had decided to take on this approach and quarantine people, the Government from 27 March had the responsibility to identify and plan for all of those risks that we have been talking about?

35 A. Yes.

40 Q. Would you also agree with me that a hotel-based quarantine model is costly, it's costly in human and in dollar terms?

45 A. Yes, it is.

50 Q. Costly in the sense that it is a very significant imposition on those who are required to go into the program?

55 A. Yes, it is.

60 Q. And with potentially significant limitations on their capacity to go about their ordinary lives, and the potential for any previous vulnerabilities to be exacerbated, so it is costly in the sense of the demands that it places on people?

65 A. Yes, it is.



Q. But it is also expensive in dollar terms, when one considers the cost of hotel rooms and the costs of all the other ancillary services that are required to make the program work?

5

A. Yes, it is a considerable expense.

Q. Would we be right in understanding from the press conference that you gave on 27 March that at least to some extent the cost, particularly the cost of hotel rooms, was one of the reasons why this was a good option because it was going to be making use of the hotel rooms and potentially providing some work for people who had been displaced by COVID restrictions?

10

A. Ms Ellyard, I think you spoke in terms of perhaps multiple benefits earlier on, so I think there was potentially and likely a multiple benefit. The other point I would make is, as I look back on that time, even at \$80 million, which is a substantial amount of money, the --- the cost associated both in lives, liberties and finances of widespread community transmission and this wildly infectious virus running as it had in so many other parts of the world, I dare say they were considerable factors for me and for us at the time as well.

15

20

Q. Of course. You have explained the reason why you were doing it --- because you saw the substantial risks posed by the infection. But it would also appear, not just from the remarks you made on the 27th but from the way submissions were made to the Crisis Council of Cabinet, that the possibility of serving two purposes, both the protective purpose and the supportive purpose for business, both of those were considerations in the mind of those who made submissions to the Cabinet and no doubt in the minds of those who considered those submissions?

25

30

A. Yes.

Q. So, for example, if one goes to a submission that was made to the Crisis Council of Cabinet on 8 April. Mr Operator, that is document DPC.0012.0001.0733.

35

Once we are there, if we go to the second page, please. Firstly, just to orient you, Premier, I'm sure you receive a lot of these but we can understand this as a document which as a member of the Crisis Council of Cabinet, you would have received?

A. Yes.

40

Q. This is a document that we know from other materials, in particular the red summary document prepared for you, relates to a Crisis Council of Cabinet meeting on 8 April 2020, so you know where we are in the process. We see on the second page, and perhaps if we could bring up the heading "Objectives", Mr Operator, we see there two objectives. The first one is the protection of public health?

45

A. Yes.

Q. And the second is the supporting of the continued viability of the tourism and accommodation industry.

5 A. Yes.

Q. Thank you, that can come from the screen. Then if we go a couple of months later to a document that was put to the Crisis Council on 4 June, document DPC.0012.0001.0356. Again, if we go to page 2, please. If we bring up the  
10 "Objectives" section first, we see there again, there's a third objective now but the first two objectives relate to public health, and crucial support to the tourism accommodation sector, and retaining local jobs?

15 A. Yes, that's correct, Ms Ellyard.

Q. So the Hotel Quarantine Program and indeed the broader coronavirus emergency accommodation program, of which hotel quarantine was a substantial part, had been dual benefits --- had the dual benefits, as you saw it?

20 A. Yes.

Q. And --- thank you very much, that can come from the screen. Perhaps it's trite to say but a home-based isolation model wouldn't have had those dual benefits, would it?  
25

A. No.

Q. And would you agree with me that the economic benefits of the hotel-based model, it's not the only reason you did it but the economic benefits were an important  
30 feature of the program in terms of the overall benefit that you saw Victoria would receive?

35 A. I would always see them, Ms Ellyard, as secondary to the public health objective. That I think is --- the answer to your question is yes, it's important, but it is absolutely secondary in my mind and in my judgment, the public health imperative was the principal objective, and the second benefit was a --- was subordinate to that.

Q. You wouldn't accept the proposition that they were of equal weight, the protection and the economic support?  
40

A. No, Ms Ellyard, far from equal.

Q. Thank you, Premier. I'm going to turn to a new topic now, which is about the extent to which you became familiar with or had an awareness of the structure, the  
45 operational structure, of the program. You have given evidence that largely that would have been matters for other people. But I take it from paragraphs 1 and 2 of your statement that you are aware that the program was established as an operation

called Operation Soteria?

A. Yes, I am.

5 Q. Do you think you knew the name at the time or is that something you have become aware of since, as matters relating to the Board of Inquiry have unfolded?

10 A. I couldn't be certain, Ms Ellyard. These are computer-generated names. There are many different operations going on. I do my best to stay abreast of them but I couldn't tell you whether I knew at the time that it was specifically referred to by that name.

15 Q. Are you able to recall what level of briefing you received about the way the structure had been established and who was doing what?

A. I certainly, ahead of my announcements, in the immediate aftermath of National Cabinet --- that 28th I think is the appropriate date where we spoke in more detailed terms. I would have been briefed on decisions that had been made by that time. Beyond that, I can't point to a specific document or specific meeting. But logic tells me that must have occurred because I made announcements to that end on the 28th.

20 Q. Do you think the documentations or briefings you would have received would have gone into detail about, for example, which agency or agencies were taking responsibility for the establishment and maintenance of the program?

25 A. I would expect --- if we are speaking about agencies rather than --- rather than Departments, Ms Ellyard?

30 Q. Thank you for the correction. I should say Department, which Department?

A. It's not a correction, I just wanted to be clear on what I was being asked.

Q. Departments.

35 A. I might have had some sense of the departmental arrangements, but I think agency arrangements, I would not necessarily be briefed specifically on that. It might come forward perhaps as something that the State Control Centre had done, maybe, trying to, if you like --- if you like, grouping together different agencies.

40 Q. For example, you say later at a certain point in your statement, who you understood to be the agencies that had the control agency responsibility under emergency management arrangements. Do you recall when or how you became aware that there was a control agency with responsibility for this particular operation, namely the Hotel Quarantine Program?

45 A. I --- beyond my statement I can't speak necessarily to, as I said, a specific document. And I suppose it relates to the --- to the timeframe. Very early on, I can't

5 speak to that, but then these matters became formalised as they were the subject of Cabinet submissions, the one you have just taken me to, I think from the 8th.

5 Q. I'm going to take you to a document and ask you if you recall seeing it or any earlier iterations of it. May I call, please, Madam Chair, for document DOJ.501.001.9224.

10 Premier, this is a version of the Operation Soteria plan. It has a date of 26 April 2020. Just showing you the front page there, Premier. Are you able to say whether this is a document that you have seen before?

A. I don't believe I've seen that document before, Ms Ellyard.

15 Q. As we go through the pages, one sees that it is a document that sets out with some detail the way in which roles and responsibilities have been apportioned between Departments for the purposes of the Hotel Quarantine Program. Would you ordinarily expect to receive documentation of this kind in your capacity as the Premier?

20 A. No, I wouldn't. And my --- my point of reference, I suppose, Ms Ellyard, would be that I don't believe that I would have received documentation of this kind, even for a bushfire, I don't believe, looking --- thinking back across the summer, I don't believe I would have seen a document of this nature.

25 Q. Thank you. Can we go through to page --- within that document, page 9229, please, Mr Operator.

30 I'm drawing your attention to the section in the document dealing with governance, Premier. I'm conscious that you have said that you don't believe you have seen this and it isn't a category of documents that you would ordinarily expect to receive. But we see there --- perhaps we will make it a little bit larger, Mr Operator for the benefit of everybody's eye. If we can focus on the governance section, 2.1, there's a reference there to the operation being led by the Deputy State Controller working to the State Controller - Health, to give effect to the decisions and directions of the  
35 Public Health Commander, and the Enforcement and Compliance Commander. There's also reference to support agencies.

40 Thinking about your experience in other kinds of emergencies, including bushfires, Premier, are you aware in general terms of the concept of control agency and support agency for emergency management purposes?

A. Yes, Ms Ellyard.

45 Q. They are terms that have significance for you? You understand that there is a relevant distinction between them?

A. Yes.

5 Q. Thank you. If we go to the next page and the heading 2.2 "Organisational structure", we see there a document setting out the organisational structure as at the time of this document, 26 April. We see on the right-hand side a chain of command or reporting or a chain, perhaps I'll call it neutrally, with the Emergency Management Commissioner at the top, the State Controller - Health and then the Deputy State Controller for Operation Soteria?

10 A. Yes, I can see that.

Q. And then across to the left-hand side there's the COVID Accommodation Commander DHHS and there's a link with dotted lines to Enforcement and Compliance, and then on to Public Health Commander and then up towards the Chief Health Officer?

15 A. Yes.

20 Q. So assuming this represents the structure that was in place, there isn't a direct line, for example, between the Chief Health Officer and the State Controller. There is a mechanism linking them but this doesn't appear on its face to contemplate a direct line between those two positions?

A. No, it doesn't.

25 Q. And are you aware, Premier, of the State Health Emergency Response Plan for Victoria?

A. I am, certainly in broad terms.

30 Q. Are you aware that one of the features of that plan is what I'm going to call a presumption or an assumption, although about no means a hard and fast rule, that in the case of a health emergency it would be the Chief Health Officer who is the State Controller - Health?

35 A. I am aware of that presumption, as you put it, yes.

40 Q. And you are also aware that that wasn't the --- the approach that was taken for the purposes of the public health emergency in Victoria this year, someone else was appointed as the State Controller - Health?

A. Yes.

45 Q. And are you aware of the opinion of the Chief Health Officer which he has given to the Board in the course of his evidence that in his view it would have been appropriate or I think his words might have been not inappropriate for him to have been the State Controller - Health?

A. Ms Ellyard, I'm aware of that evidence, I'm aware of that view now. I was not --- I was not aware of that at the time when I think these matters were live, as it were.

5 Q. And, of course, one obvious effect of the Chief Health Officer being the State Controller - Health is that he would have had a direct role being reported to and with the capacity to deal directly with the person holding the position of Deputy State Controller for Operation Soteria?

10 A. You could certainly argue that, yes.

Q. Thank you. Could we go down to the bottom of that page, please and the heading 2.3. At the very bottom, there's four dot points there which spell out what the DHHS Commander COVID-19 Accommodation is responsible for, and you might recall, Premier, from the diagram at the top that that's the link in the chain across then  
15 towards where public health sits?

A. Yes.

20 Q. And there are those four dot points there. Is that consistent with your understanding that DHHS in Operation Soteria, whether particularly through this role or more generally, had those responsibilities in the dot points?

A. Yes, certainly at that point in time I would --- I would think so, yes.

25 Q. And I'm aware, and we'll come in --- I'm aware that later on arrangements changed?

A. Yes.

30 Q. Thinking about late April 2020, these matters rested with DHHS?

A. I can't be certain, Ms Ellyard. I'm just trying to be as accurate as I possibly can be. I can't be certain that's an exhaustive list of the things that the entire Department did but --  
35

Q. No, and I don't suggest that it is but it's an inclusive list of their responsibilities?

A. Yes.

40 Q. Including, relevantly, the third dot point: ensuring a safe detention environment at all times?

A. Yes.

45 Q. As we understand the evidence, Premier, one of the changes that was made to Government and ministerial arrangements to reflect the demands of the COVID-19 pandemic was not just the reorganisation of Cabinet to form the Crisis Council of

Cabinet but a corresponding change in the way in which the Secretaries of Departments were given responsibilities and reported on those responsibilities as they related to COVID-19.

5 A. Yes.

Q. And we understand that was called the mission --- I've gone blank, the MCC?

10 A. Yes.

Q. And you were, by reason of that arrangement, being reported to directly by a number of mission leads within Departments as well as them having a reporting line to their own Minister; is that right?

15 A. Yes.

Q. And in that capacity, the special arrangements that were in place for COVID-19, would you have expected or did you receive a higher degree of operational detail about matters relating to COVID-19 response than you would ordinarily get as  
20 Premier?

A. No. Those arrangements didn't alter the fundamental division between those matters that the executive would normally deal with and those deeply operational matters that are appropriately dealt with by others.  
25

Q. Although you had a more direct line to some Secretaries and they had a more direct line to you, that wouldn't have altered the extent to which you were given operational information about how, particularly for our purposes, the quarantine program was being run?  
30

A. No.

Q. So would you have received such information, for example, as decisions having been made about which hotels to use?  
35

A. I don't believe so, no.

Q. Would you have received information about decisions that had been made to allocate a particular hotel as a place which would be called a hot hotel, at which everyone who tested positive would be located?  
40

A. I don't believe so. I certainly have no recall of a specific document or a briefing to that matter. I was aware of those arrangements but that may well be that I have become aware of it rather than it being put to me, almost to say "yes" or "no" to that sort of arrangement. Secretaries are --- are all employed by me, they are appointed by me, and they are already accountable. This was about trying to streamline some of that. But it didn't change the types of things that Secretaries would ordinarily be  
45

accountable to me for.

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

5 I want to turn to ask you some questions about contracting arrangements at a fairly high level, Premier. The evidence that the Board has received is that the State Government, through the Department of Jobs, Precincts and Regions, entered into a number of contracts for the purposes of the Hotel Quarantine Program. May I assume that at least at a high level you are familiar with that fact?

10

A. Yes.

Q. And indeed in particular contracts were entered into, firstly, with hotels for accommodation?

15

A. I believe so, yes.

Q. And then also with security providers for the purpose of private security services?

20

A. Yes.

Q. And also with cleaning companies for the purposes of cleaning?

25

A. Yes.

Q. And would you agree with me that those are three key components of the Hotel Quarantine Program, where people will be required to stay, who is going to make sure they stay there and who is going to make sure that it's a clean and infection free environment for them?

30

A. Yes.

Q. And would you agree with me that all three of those components were necessary because this was a hotel quarantine model? They wouldn't have been components that were necessary in the same way if we were using a home isolation model?

35

A. Yes.

Q. And are you aware, perhaps even at a very general level, that the contracts with hotels and the contracts with security companies placed responsibility on the contractors for matters relating to correct and sufficient use of personal protective equipment and training for staff on infection prevention and control?

40

A. I'm certainly aware of that now, Ms Ellyard. I couldn't speak to whether I was at the time, but yes, the answer to your question is yes.

45

Q. The evidence that the Board has received is from just looking on the face of the



contracts, those responsibilities relating to PPE and staff understanding infection control and so forth, they were outsourced by Government to those private contractors, if you just look at the bare face of the contract?

5 A. I think that's a fair statement, yes.

Q. Assuming that to be the case, there would be a very substantial risk associated with that, wouldn't there, by which I mean a risk to the success of the program that such matters had been outsourced?

10

A. Yes.

Q. Because again it's probably trite to say but if this was set up as an infection prevention program, it depended on having proper and sufficient infection prevention and control measures?

15

A. Yes.

Q. Now, you may be aware that there's been differing views presented to the Board about whether or not it was just the bare contractual arrangements or whether or not there was other responsibilities assumed by Departments of the State and the extent to which they fulfilled those additional obligations, if they existed, and those will be matters for the Board to decide. But would you agree with me that these issues of infection control were too important to be left entirely to private contractors?

20

25

A. I think --- yes, I think I can agree with that statement. Given what's at stake, given the seriousness and the infectivity of this virus, Ms Ellyard, I think that's a fair statement, yes.

30 Q. Contractual remedies after the fact would hardly be enough if, by reason of a contractual failure, the infection got out and spread in the community?

A. Yes, those proceedings are of not much use against this virus.

35 Q. Perhaps thinking about what we talked about before, this is an instance, isn't it, of the Government having assumed the risk by bringing people into the program and the Government needing to retain appropriate responsibility for the management and mitigation of that risk?

40 A. Yes.

Q. So you would agree with me that if it was the case that the State, through relevant Departments, didn't take an active role in ensuring that there was proper infection control and prevention measures in place, that would be a matter of great concern?

45

A. Absolutely.

Q. Thank you. May I turn then to a few more questions about your knowledge of how the enforcement mechanisms worked. I am directing your attention to paragraphs 41 and following of your statement, Premier, if that assists you.

5 Are you able to recall when you became aware that the frontline of enforcement for the program being put in place was going to be private security guards rather than some other mechanism?

10 A. Ms Ellyard, I can't point to a specific meeting or document but I'll take you back to my answer earlier. I announced these arrangements, at least in broad terms, on the 28th, so I must have been informed of those final decisions prior to then.

15 Q. Do you recall whether or not you had an opinion at the time you became aware of it about the appropriateness or otherwise of that frontline enforcement role being given to private security?

A. No, I don't believe --- well, I can't speak to whether I did, that is some time ago and I have no recall of having a specific view one way or the other.

20 Q. Can I ask that a document be called up, HQI.0001.0027.0001.

25 While that is being brought up, Premier, would I be right in understanding that you have been made personally aware in the past of concerns in sections of the community and sections of the private security industry about that industry and how it operates?

A. Yes.

30 Q. And indeed you had previously committed to the conducting of a review of the regulatory and licensing arrangements for the private security industry?

A. Yes.

35 Q. And that's a commitment that was made in 2018, but I have had brought up on the screen an issues paper that was prepared by the Department of Justice and Community Safety this year, I think it's dated June or early July, which is the issues paper inviting comment and responses to the inquiry that has been established. Are you aware of this document?

40 A. I am, yes.

Q. And I take it from that that you are also aware that the inquiry which you had previously foreshadowed is presently open and receiving submissions?

45 A. Yes, I am.

Q. Thank you. I just want to take you to a couple of points in this document. Could

we move forward, please, Mr Operator, to page 23 of the document, so that's 0023.

5 The document sets out, does it not, for the purposes of inviting discussion and response, Premier, a number of issues that have been raised as potential issues requiring investigation or action. It doesn't include conclusions about them, it raises concerns for discussion and future analysis; is that fair?

A. Yes, that's fair.

10 Q. And one of them is about the quality of training and assessment practices for those who are going to be licensed as private security guards, and we see a reference to some discussions on the page that's up there.

A. Yes.

15 Q. Then if we go over two pages, please, Mr Operator, to page 0025, and a separate issue that has been raised that is referred to at the bottom half of page is concerns about literacy and numeracy skills on the part of those who had been licensed as private security guards?

20

A. Yes, I ---

Q. In particular the question of language skills, by which I understand it to mean language skills in the English language?

25

A. Yes, I can see that there's a series of questions posed to that end, yes.

Q. If we go over to page 0030, please, Mr Operator. There's a heading there "Industrial relations issues" and over the succeeding pages a number of separate issues that had been plainly brought to the attention of those preparing this paper about the basis on which security guards are engaged and the existence of sham contracting or otherwise unfair arrangements for those working as security guards?

30

A. Yes.

35

Q. I take it that at a high level you were aware of those concerns and they sat behind your decision that a review of this kind should occur?

A. Yes.

40

Q. Could we look at 0033, particular issues still under the "Industrial relations" heading related to the underpayment of wages and superannuation. I take it you were aware that that was one of the issues that was or is of concern to some sections of the industry and the community?

45

A. Yes.

Q. And over the page, please, Mr Operator, to 0034, concerns about cash-in-hand payments as a feature of the industry, that was a concern I take it that you were aware of in general terms, Premier?

5 A. In general terms, yes.

Q. And similarly concerns about the widespread use of casual labour hire, under the heading of "Job security" towards the bottom of the page.

10 A. Yes.

Q. You were aware of that in general terms?

15 A. Yes.

Q. Indeed, there had been a separate labour hire inquiry, had there not, which had included in its final report issues about the issue of insecure work and the practice of subcontracting in a range of industries, not just security?

20 A. Yes.

Q. Thank you, that can come from the screen. Premier, the evidence the Board has received is that the Hotel Quarantine Program required and used literally thousands of private security guards. Are you aware of that?

25 A. I have become aware of that evidence, yes.

Q. The evidence is that a very substantial majority of them were engaged by subcontracting arrangement under head contractors. Are you aware of that?

30 A. Yes.

35 Q. Are you aware of the evidence that the security guards were called upon to perform a number of tasks, including, for example, carrying luggage of guests who were arriving or leaving and who may or may not have been COVID-positive, escorting guest for fresh air walks in circumstances where they may or may not have been COVID-positive, and moving through areas of the hotels that were common areas that could also be used by people who may or may not have been diagnosed or be at risk of having coronavirus. Are you aware of that evidence about the general  
40 nature of the duties that security guards performed?

A. Yes, I am.

45 Q. There is a substantial risk to the success of this program as an infection control program, I suggest to you, that is associated with such heavy reliance on a private security workforce, having regard to some of the issues that arise about that workforce and how they are hired and remunerated; do you agree with that?

A. Yes, I think that's a fair conclusion to draw.

5 Q. And again, that's a risk that particularly arose because of this being a hotel-based rather than home-based quarantine mechanism?

A. Yes.

10 Q. And so would you agree that it was a risk for the Government to manage as part of --- I'm quoting from paragraph 43 of your statement, Premier --- it was a risk for Government to manage as part of its response to a public health emergency caused by a highly infectious virus?

A. Yes.

15 Q. Thank you. On the topic of how work was done in the program, may I ask you some questions, please, about the extent to which you were aware of the availability of the ADF to assist Victoria in its coronavirus responses. I can direct your attention to paragraphs 46 and following in your statement, where you answer some questions  
20 about this. Firstly, perhaps generally and by reference to the experience that you had had in other emergencies, including bushfires, I take it that you are aware in a general sense, Premier, of the variety of roles that can be played by the ADF where they are made available to support emergency management responses and planning in Victoria?

25

A. Yes.

30 Q. Indeed, as I understand the evidence from Mr Crisp, partly by reason of the bushfire summer, ADF officers have been present in the State Control Centre and assisting particularly in relation to strategy and planning since the bushfire period?

A. Yes, I think I first requested them to assist us between Christmas and new year. I think they have been here for quite some time, some of them.

35 Q. At paragraph 47 you make the point that your awareness about the potential availability of the ADF to assist particularly with the quarantine proposal was that that availability would be where it was necessary and according to need?

A. Yes.

40

Q. Is that right?

A. Yes.

45 Q. So that's got two components, firstly if it was needed in the relevant State?

A. Yes.

Q. And then, secondly, it's a finite resource so if there are multiple demands it was going to be apportioned according to who needed it the most; was that your understanding?

5

A. Yes.

Q. I tendered before you started your evidence today, Premier, a document that is a register of the requests for assistance that were made by the Emergency Management Commissioner to the Commonwealth for ADF assistance in relation to what I'll call generally COVID-19 responses. Is that a document that you have seen?

10

A. No, I don't believe I have.

Q. Mr Crisp gave evidence that there were multiple requests made by him for varying forms of assistance from the ADF to assist Victoria in its COVID-19 response. Are you aware in general terms that requests were made by him?

15

A. Yes.

20

Q. And that requests were granted by the Commonwealth, and various forms of ADF support was provided to assist Victoria in its COVID-19 responses?

A. Yes.

25

Q. You say at paragraphs 49 and 50 of your statement that you are not yourself aware of offers being made by the ADF. The Board has heard evidence that on 27 March in the initial planning meeting that occurred at the State Control Centre there was some discussion about the extent to which the ADF would play a role, and the Emergency Management Commissioner, Mr Crisp, says, and gave evidence that this was his view, that he didn't see that on-the-ground ADF assistance was required at that time. Are you aware of that?

30

A. Only insofar as I'm aware of the evidence he's given. What was required was not something that I would have been determining, which I think is the sequence of events that you're describing.

35

Q. So I take it that, yes, you're aware now that he's given that evidence. You weren't aware at the time that he had that view?

40

A. No, I don't believe I was.

Q. But do you accept that his evidence is that he did have the view that in the context of being aware of the possibility of seeking support if it was needed and necessary, he formed the view that it wasn't necessary at that time?

45

A. Yes.

Q. Thank you. I want to now ask you about your knowledge of some contact occurring between Mr Eccles of your Department and Mr Gaetjens, his counterpart at the Department of Prime Minister and Cabinet. May I call up, please, Mr Operator,  
5 document DPC.0014.0001.0004.

I will perhaps give you some context, Mr Andrews, but firstly I'll ask you, have you seen these emails before?

10 A. I have seen them only in preparing for my evidence today.

Q. Thank you. So Mr Eccles' evidence is that the context of the email at the bottom, the email to him from Mr Gaetjens, was a telephone conversation that he recalls that he had in which he made an enquiry about the potential availability of  
15 Commonwealth funds to assist with the costs of private security. So his evidence is that that's the context of a conversation that ranged perhaps over other areas but included that request, and in response to that request he received the email that we see there in which Mr Gaetjens is recorded as saying that New South Wales were receiving ADF personnel and that he had a view that the Commonwealth would  
20 assist Victoria in a similar way, if you wanted to reconsider your operating model. So I take it, Premier, that you weren't aware of this email ---

A. No.

25 Q. --- until you were shown it in preparation for your appearance today?

A. Yes.

Q. Were you aware of its contents in the sense of a discussion having occurred  
30 between Mr Eccles and Mr Gaetjens about the potential way in which the Commonwealth would contribute to the cost of security in the Hotel Quarantine Program?

A. No.

35 Q. In particular, were you aware that there was --- I should pause there --- Mr Eccles accepted from me that an inference open to be drawn is that the reference to "reconsider your operating model" is a reference to an operating model that doesn't include ADF. So perhaps to assist you in answering my next question, Mr Eccles  
40 accepted that that's the inference, that the discussion is about a change to a model from one that doesn't include ADF to one that does. Assuming that's what the conversation was about, I take it from your answers that you weren't aware that that discussion had occurred?

45 A. No, I was not aware of that.

Q. Were you aware about the proposition that ADF personnel might have been

available if Victoria elected to adopt a model that required them in hotels?

A. No, I had quite the opposite view.

5 Q. You had the view that they weren't available?

A. I --- again, if it's useful to give you some context, I'm happy to do that.

10 Q. Firstly, you had a view that they weren't available?

A. Yes.

Q. That was your view?

15 A. Not --- not as a --

Q. And the reason for your view?

20 A. Well, and again, I stress this is not as a point of criticism, but leaving the National  
Cabinet meeting I had absolutely no expectation whatsoever that in the establishment  
and the running of hotel quarantine there would be significant, extensive ADF  
support. That was --- that was not the case for every State. A case I think had been  
well made in relation to New South Wales. But I had no expectation at all that we  
would receive that type of support. And these matters, some week or so later, were  
25 not drawn to my attention, in fact it's the first time I'm seeing this email was in prep  
for this.

30 Q. So Mr Eccles' evidence was that he couldn't recall whether or not he had ---  
firstly, I should note that it appears from the face of this document that Mr Eccles  
just responded with "Thanks", to Mr Gaetjens. Mr Eccles' evidence was that he  
couldn't recall whether he did or didn't do anything with this information and that he  
hadn't been able to find any document by way of an email exchange or anything that  
would demonstrate that he did do something with it. So that's the evidence  
Mr Eccles has given.

35 Q. Would you have ordinarily expected that the availability of a resource of this kind  
from the ADF would have been drawn to your attention?

A. Yes.

40 Q. Would you ordinarily expect that it would have been drawn to the attention of  
those who were making policy and operational decisions for the structure of the  
Hotel Quarantine Program?

45 A. Yes, I would think so.

Q. Do you feel able to express any view on what you personally might have made of



this information had you been aware of it at the time?

5 A. It's difficult, Ms Ellyard, for me to speculate on what I might have done with it. But what I think I can comment on is that that --- given that it's so at odds with what I took away from the National Cabinet meeting, I think it would have been very significant to me and I --- I can't predict what outcome it might have had but I certainly would have wanted to know, because it would have presented us with options that we otherwise didn't have, in a good faith interpretation, very clear interpretation, of what had been decided at National Cabinet.

10

Q. And amongst other things, and again I think Mr Eccles agreed with this proposition, what appears to have been contemplated by Mr Gaetjens as being available was personnel for whom the Commonwealth would bear financial responsibility?

15

A. Yes, it would be --

Q. They would pay them?

20

A. Yes, it would be an in-kind arrangement, yes.

Q. And thus if they were used potentially reducing the extent to which Victoria was incurring the cost of private security?

25

A. Well, all I'd say is I --- I can't presuppose what role they would have played but it would be open, I think, to conclude that they might have played some of those functions. I'm not sure and I can't determine from this email whether they would have been additional to the operating model or whether they might have taken the place of people who were in the operating model. But it is additional support, we could certainly agree on that, I think.

30

Q. That can come from the screen, Mr Operator. I'll call up a different document, which is DPC.0014.0001.0006. Whilst that's coming up, Premier, may I ask you whether you have any recollection of having a conversation with the Prime Minister, Mr Morrison, on 23 June 2020?

35

A. Yes, I do.

Q. And there's a reference in the top email --- in the email that we see here from Mr Eccles, to you having had such a discussion on the previous night, which is 23 June. It appears from the balance of this email, and Mr Eccles' evidence was, that he sent this email by way of follow-up to a discussion that you and Mr Morrison had about the possibility of supports being made available. Is that consistent with your recollection about what the discussion between you and the Prime Minister was?

45

A. Yes, it is.

Q. I'll perhaps give you a moment to read the email and I'll ask that it be made a bit larger for that purpose, to see whether it matches your recollection, perhaps at a high level only, of the matters that you and the Prime Minister had discussed.

5 A. I am familiar with this on a --- this matter. The --- the matters that I discussed with the Prime Minister, to the best of my memory, did not --- we did not discuss hotel quarantine, I don't believe. We certainly discussed other matters which are outlined --- I can't be certain if that's an absolutely exhaustive list, but they are the  
10 matters that we talked about. And I think that --- well, if you want my view on where the other items came from, I can provide that. But I'm trying to be as clear as I can. I spoke about I think all of these issues, with the exception of --- the topic of hotel quarantine was not something --- I don't believe I spoke to the Prime Minister about that.

15 Q. Okay. Thank you. So you're referring to the heading that's towards the bottom of that page, which says "Security support services for hotel operations" and there is a reference there to some support. If we go over to the next page, please, there is a figure given, just a bit further up, there's a figure given of between 50 and 100 personnel?

20 A. Yes.

Q. As I understand it, Premier, you don't have a recollection of raising with the Prime Minister the specific issue of support for the Hotel Quarantine Program?

25 A. To the best of my recollection, I don't believe I did. I'm not making a judgment about the request. It's not accurate for me to say that everything in the letter was the subject of the discussion. I don't think that matter was something that we talked about.

30 Q. Thank you. That can come from the screen.

The evidence before the Board is that that request which was foreshadowed by Mr Eccles was subsequently made in a formal way by the Emergency Management  
35 Commissioner, according to the ordinary processes, and he made a request for a number of forms of assistance and one of them was for 850 ADF personnel to work in the hotels. Firstly, are you aware that that's the evidence that he has given, that he made formal requests and that one of them was for 850 people?

40 A. Yes, I am.

Q. And his evidence was that that figure was reached because of an assessment by DHHS and a request by DHHS to him that they seek ADF support to replace the private security guards who as at that date, 24 June, were still working in the Hotel  
45 Quarantine Program? Are you aware of that?

A. Yes.

Q. I understand from your statement that you did become aware of that particular request having been made and its purpose. Are you able to recall when and how you became aware of it?

5

A. I became aware of it the following day, which I think was --- my office drew my attention to this matter after there had been media reports.

Q. I think I'm drawing your attention to about paragraphs 54 and 55 of your statement, Mr Andrews, if that assists your recollection.

10

A. I'm sorry, which paragraphs, Ms Ellyard?

Q. Paragraphs 54 and 55.

15

A. Yes. Yes, I became aware the day after. This is the 850 we're referring to, Ms Ellyard, yes?

Q. Yes, that's right?

20

A. Yes, I became aware of it the day after the request was made.

Q. And you had a view about it, as I understand it?

25

A. Yes, I did.

Q. And what was that view?

A. The program was in the process of being reset. There were, as my statement outlines, there had been --- there had been outbreaks. There was a need for us to re-examine the model, and the Government was actively considering which workforce would be appropriate. The ultimate decision was to have supervision by Corrections Victoria, and it just seemed that there had been a disconnect between a process that was being run by the executive with input from Departments, and the request that Commissioner Crisp had put in.

30  
35

Q. Although the evidence is that he put in that request at the request of the Department of Health and Human Services. Do you accept that?

40

A. I couldn't comment on whether that's accurate or otherwise. I have no knowledge of that.

Q. Okay. And the evidence before the Board is that around about the same time that the request was rescinded, it was granted, so the evidence is that had the request not been rescinded, the services of the 850 ADF members would have been made available to Victoria. Are you aware of that?

45

A. I'm aware that that is the case, that on or about --- well, toward the end of June, they might well have been available.

5 Q. But the decision was taken that they wouldn't be used because, as you have said, of a decision to reset with a different workforce?

A. Yes.

10 Q. Again, the 850 would have been provided as in-kind support without any financial commitment by Victoria. That's so, isn't it?

15 A. I understand so, although it's hard to make a judgment about that, Ms Ellyard. As I understand it, this would be a short-term measure or interim measure. I'm not quite sure of the exact wording of the request, but that was my understanding.

Q. Your understanding was, and I think the documents support, that to the extent the ADF personnel were provided for this function, it would have been as an interim matter pending the transfer to a new workforce?

20 A. Yes, and --- yes, it is, and I think --- and you're correct I think to assume that it would be an in-kind arrangement, yes.

25 Q. It would still have been useful, though, whilst these substantial changes are being made to reset with a different, longer-term workforce, to avail ourselves of the support that was being offered from the ADF. Do you accept that?

30 A. Not necessarily, Ms Ellyard. I think that relates to how quickly the reset can be put in place. Many of these ADF members would in fact be reservists or people that were not stationed in Victoria. There would be some time involved. Again, not criticism but there would be some time involved. I think this was superseded by events, Ms Ellyard.

35 Q. And those events being the reset to the use of Corrections staff that the Board has heard about?

A. Yes.

Q. Thank you.

40 Can I turn to a different topic, Premier, although at the same time it is also returning to a topic we have already discussed, which is a decision about private security. You may be aware that the Board has heard from multiple witnesses about the fact that private security became and were the first line of enforcement. And that there's  
45 considerable disagreement amongst those various witnesses about when and by whom that decision was made. Are you familiar in general terms with the nature of the evidence that the Board has received?

A. Yes, Ms Ellyard, I am.

Q. And the evidence is to the effect that no one is claiming ownership of the decision, even though no one seems to have spoken against it at the time and no one  
5 who might have been the decision maker seems to suggest that if it had been them, it would have been a bad decision. There's just no one who says it was them. Are you aware of that?

A. I am.

10

Q. Do you know who it was?

A. No, I don't. That's the nature of the decision I made. That's why I set up this Board of Inquiry or recommended to the Governor to set up this Board of Inquiry, to  
15 get exactly that answer and quite a few others, Ms Ellyard.

Q. Because we really should know, shouldn't we? We should be able to say who made the decision to not only spend that much money but to give such an important function in this infection control program?

20

A. Yes, it's one of a number of very important questions, yes.

Q. Mr Eccles in his evidence, when I asked him a similar question, suggested that this might be --- I'm sure I'm not doing justice to his answer but I understood him to  
25 say this might be an example of what he called collective governance or collective decision making. Do you have a view about whether that's what happened here in relation to private security?

A. Well, I would only be offering an opinion, if that would be useful to the Board.  
30

Q. Yes, if you think that what happened here was collective decision-making, we would be pleased --

A. I think it's --- Ms Ellyard, I want good and the best decision-making, and I think  
35 it's very difficult to make judgments about that unless you can point to who made it. I don't know that this --- I don't --- my understanding of collective decision-making does not remove accountability, it does not remove --- for instance, as the Chair of the Cabinet, the Cabinet makes a collective decision but I have made that decision because I am the Chair of that Cabinet. If a group of people meet and a decision is  
40 made, then a similar formality ought be borne to those process --- come to those processes as well. That's at least my practical experience from the many, many meetings and different forums that I'm the chair of. I don't think collective decision-making makes it harder to determine what body and which people made a judgment, made a decision. That's why those forums have a record of decisions and  
45 minutes and a degree --- they are an authorising environment.

Q. So to pick up on your point, Premier, Cabinet is an obvious example of group

decision-making but everyone who is there understand that that's what they are doing, they are participating in a group decision-making process. Is that fair?

5 A. That is correct, yes. That's correct.

Q. They are all able to say afterwards, "Yes, I was part of that, I was part of that decision-making."

10 A. Yes, and furthermore, at a subsequent meeting, if the decision were not recorded accurately, if you had a different view, if your participation was not recorded accurately, then you have opportunities to correct the record. There's a formality to that, even though it's collective.

15 Q. So here, assuming that Mr Eccles' analysis is correct and this was an instance of collective decision-making, one would expect those who were part of the collective to know that they were and to be able to identify themselves as part of that collective decision-making. Is that fair?

20 A. I would certainly hope so.

Q. Given that would be your hope, it's alarming here, isn't it, that to the extent it was a collective decision, no one seems to have understood that they were part of it?

25 A. Yes, it is very disappointing.

30 Q. Would you agree with me that, perhaps to flag another potential explanation that's been offered by a witness, that to the extent that, for example, it turns out that it wasn't really a decision consciously made by anyone but rather a kind of creeping assumption that formed amongst a group, that would be equally concerning, wouldn't it?

A. Perhaps even greater.

35 Q. Because it would mean that no one had actually turned their mind at all potentially to whether or not the use of private security was a good idea and whether or not the decision that had been made had been made by someone with proper authority?

40 A. Ms Ellyard, as I said, that would be even more concerning to me because that's not a decision at all; that's just a series of assumptions.

45 Q. Again, to pick up a point you have just made, whichever it is, creeping assumptions or a collective decision without a collective, we are left with a situation where no one owns the decision for the purposes of following up if it was the right one and if it wasn't the right one, making necessary change. Is that fair?

A. Yes. Yes, and this is --- these are some of the issues --- although I stress not in as

much detail as the Board has looked at, but these are some of the issues I confronted which saw me on the 30th advise the Governor to appoint the Board. I couldn't get answers to these questions either.

5 Q. May I take it from that last answer, Premier, that you looked for them?

A. To a certain extent. I would not --- I would not compare my efforts with the examination of hundreds of thousands of pages and many witnesses. But the answers --- can I put it to you this way, Ms Ellyard. The answers were not obvious,  
10 they were not obvious.

Q. Thank you. Another theme that has emerged where there seems to have been a lack of common understanding or a dispute is the Board has heard evidence of differing views, both on the frontline at hotels and all the way up to the ministerial level, differing views about who was ultimately in charge of and responsible for this  
15 program. Are you aware that that's the evidence that the Board has received?

A. I am aware of that.

20 Q. So purely by way of example, there's been evidence given by a number of people that it was the Department of Health and Human Services and therefore the Minister for Health who had accountability for the program. But the Minister for Health herself and the Secretary to that Department have given evidence that they understood it was a shared accountability model. Are you aware of that?

25 A. I am. I could refer you to my statement where I detailed my understanding.

Q. Indeed, you thought it was DHHS and Minister Mikakos from 8 April onwards until the change away to the Department of Justice. That's your view?

30 A. Yes, although I must add there was a --- that's the primary agency, Department and therefore Minister. But there was, I think it's freely acknowledged and certainly was acknowledged in my mind, that there was some procurement of hotels and other similar procurement activity that was led by the Department of Jobs, Precincts and  
35 Regions and therefore for those components, Minister Pakula would be accountable for those.

Q. The documentation we have looked at, including the Operation Soteria plan that I took you to briefly, although we didn't go to that page, would suggest that at least  
40 on paper those activities were in the service of an operation that was being run by DHHS. Is that fair?

A. That is correct. Look, I'm sorry, I was only trying to be complete. I agree with your first assertion, and my witness statement speaks directly to that, about who had  
45 primary responsibility and carriage for these matters.

Q. Did you see Ms Peake, who was not just the Secretary to the Department of

Health and Human Services but also appointed by you to take on a mission lead role in the special COVID-19 arrangements, was she reporting to you on the Hotel Quarantine Inquiry, it being part of her portfolio and part of the specific COVID-19 response?

5

A. I'm sorry, Ms Ellyard, if you could just ask me --- whether she was reporting to me about the Inquiry?

Q. I'm sorry, about the program?

10

A. About the program.

Q. Yes.

15 A. Not the Secretary specifically. I think that we provided --- I can certainly confirm that the Minister would bring to CCC regular updates, so that would have been, I would --- that is where I would have been getting regular results, not I think with a direct communication between Secretary Peake and myself.

20 Q. Wasn't that one of the functions of the MCC, that --- the possibility of a direct line of reporting and accountability between you and relevant Secretaries?

25 A. Yes, it is, but it doesn't necessarily mean that every --- every matter would come forward via that chain or that link, rather. Some would be Secretary to the Secretary of my Department. And other matters would again be a bit superseded by the fact that they were coming to the Crisis Council of Cabinet, which is where updates, regular updates, came forward under the health portfolio and the Minister for Health's signature.

30 Q. Does it concern you, Premier, that the Secretary of the Department and the Minister who you've given evidence you saw as having accountability, seem to have not seen themselves as having accountability in the same way?

A. Yes.

35

Q. There shouldn't be any degree of confusion about this, should there, either at the ministerial or Secretary level or all the way down to the front desk at the hotel?

A. There should be none.

40

Q. When one considers, firstly, this was meant to be Victoria's contribution to a national response to prevent infections reaching Australia from overseas, there shouldn't be any confusion?

45 A. Yes, there should be none.

Q. And there should be no confusion, given the very substantial demands being



placed on those who were in the program, there should be no confusion at any level about who is responsible for their welfare and for ensuring their safety while they are effectively in the Government's care?

5 A. No, it should be very clear.

Q. Again, thinking about the fact that this quarantine program was set up to be a first line of defence against the arrival of infections from overseas, there's no place at all for confusion, whether in a hotel or in upper management, about where  
10 accountability and responsibility lie?

A. No, there is no room for that.

Q. Bearing in mind, as we discussed earlier, that this whole program involved an  
15 assumption of risk and responsibility for managing risks by the Government that would otherwise have remained with individuals who were quarantining at home?

A. Yes.

Q. Would you agree with me, Premier, that the way in which this Inquiry has been  
20 conducted and the fact of multiple separate Government Departments being separately represented and in some cases cross-examining each other's witnesses, that speaks to the presence of confusion at multiple levels?

A. Ms Ellyard, this is the first appearance I've made at an Inquiry like this. I'm not a  
25 lawyer, I don't know that I could --- I could speak to whether that is a good, bad or indifferent thing. My understanding was that those arrangements are business-as-usual arrangements and are a feature, they have been for a long time. That was at least my understanding. I'm-- I can't really provide --- I don't have a base  
30 knowledge of what your profession and these sorts of inquiries look like normally, so I couldn't draw that conclusion.

Q. If I were to put to you, Premier, that it's not usually the case that separate  
35 Departments are separately represented and cross-examine each other when there are inquiries of this kind, you wouldn't feel able to proffer an opinion on that, for the reasons you have outlined?

A. Ms Ellyard, that's certainly different to my understanding. But if you put that to  
40 me, I will assume that's accurate and then I might be able to answer your question if you put it to me again.

Q. Sure. Well, presume for the sake of the question, Mr Andrews, that it's not  
usually the case that multiple Government Departments who have had a role in a  
45 matter under investigation are separately represented in the way that multiple Departments have been separately represented in this proceeding. Assume from me that it's somewhat unusual. I'm inviting you to respond to my proposition that the fact that that is being seen by those Departments to be necessary --- it's not a

criticism of them for taking that option, but the fact that it seems to have been seen by them to be necessary itself speaks, does it not, to there being different views and confusion within or amongst agencies about aspects of this program?

5 A. I think it could be read to mean that, yes. That wouldn't be an unreasonable conclusion to draw. Whether it's accurate or not, I can't speak to that, but ....

Q. And the fact that in particular representatives of some Departments have --- and I'm not suggesting that it was improper, but the fact that representatives of some  
10 Departments have found it necessary to cross-examine witnesses representing other Departments and put to them matters that are plainly in controversy between two or more Departments, that's evidence itself, isn't it, that although there shouldn't have been confusion, there was in this program?

15 A. Perhaps, Ms Ellyard, if I can answer you this way. Leaving the cross-examination and legal practice out of it, the fact that there's not agreement between agencies and Departments is not desirable in any way.

Q. Premier, you have been quoted recently, I think, and I'm going to be paraphrasing you, so please correct me if I have paraphrased you poorly, you have been quoted as  
20 saying recently that mistakes were made in the program and that those mistakes are unacceptable to you. Those weren't your exact words, but do you recall making remarks to that effect perhaps in the last week or so?

25 A. Yes.

Q. What mistakes were you referring to?

A. I'm referring to that the fact that this was a program designed to stop this wildly  
30 infectious virus seeding from returned travellers into the Victorian community. That has clearly happened and that is clearly a failure and that is clearly the product of at least one error and perhaps multiple errors. I'm not in a position to be able to detail individual errors or mistakes or deficiencies, that is rightly the province of this Board, but I'm referring I think in more aggregate terms. It was supposed to contain  
35 the virus, it didn't, therefore something has gone wrong and I'm basically waiting for this Inquiry to provide me with some insight into that.

Q. So that you don't yourself have a view on what went wrong?

40 A. No, I think it would --- I don't have a view. What's more, I don't know that it's appropriate, if I can say, Ms Ellyard, for me to establish an Inquiry and then seek to run an Inquiry myself. I'm very respectful of this process and I --- you have looked through 200,000 pages of different documents, you have heard from many, many  
45 witnesses. I'm not in a position to do that sort of work, so I've --- that's why we set this process up.

Q. Are you aware of a view within your Government about what the mistakes were,

what the more precise mistakes were?

5 A. Not specifically. There may be many different views in the broader Victorian community. I wouldn't doubt that, given the seriousness and the significance of these issues. But I want the answers that we all need and I think the Board has a critical role to play in that.

10 Q. Can I ask you to look at this document, please, Premier. It is a document prepared for a meeting of the Crisis Council of Cabinet that was on 27 June. The date is not on the document I'm going to show you but we know it is that date from the red that accompanies it. The document is DPC.0012.0001.0463.

15 Once we get there, could we go through to page 0464. Again, Premier, I know you receive a lot of these but we can infer that you would have received this document, it being a submission to the Crisis Council of Cabinet?

A. Yes, and the red that accompanied it, as you just referred to.

20 Q. Perhaps as a matter of fairness, could we go to the first page so that I can show the Premier the heading. The submission title is "Alternative supervision model for COVID-19 hotel quarantine". Thinking about timing, this is 27 June. We talked a little earlier about arrangements that you understood were in train at the time of the ADF request on 24 and 25 June. I take it these were the arrangements you had in mind when you talk about the potential for a reset?

25 A. Yes.

Q. If we could now go to the second page, please, there's a heading "Key Issues".

30 A. Yes.

Q. And there are a number of issues identified. But then further down the page, at paragraph 6 there's a heading in bold:

35 *In response, DHHS is putting in place comprehensive infection prevention and control strategies across all workforces ....*

A. Yes.

40 Q. There are a number of matters there set out that are going to be the subject of action that will represent a difference to, one infers, the way the program had been run to that point?

45 A. Yes.

Q. It appears that they related to matters of education and training, we see that at the bottom of the page?

A. Yes.

5 Q. And then over to the next page, there's reference to briefings about infection prevention, under (b).

A. Yes.

10 Q. And behavioural changes and rostering matters, and then other matters relating to screening and surveillance testing at sites?

A. Yes.

15 Q. And the provision of expert services, and there is a reference there to Alfred Health, and the Board has heard evidence that Alfred Health were brought on at a point in time in provide clinical expertise to the program.

A. Yes.

20 Q. So these were all matters that as I understand it were brought to the Crisis Council of Cabinet as part of what became an iterative process of resetting or transitioning the Hotel Quarantine Program to a different model?

25 A. That is correct.

Q. And one can assume that all of those matters that were reposed in the submission found favour with the Crisis Council and were put into effect?

30 A. Yes.

Q. Thank you. That can come from the screen.

35 Could we now go to a different document. I'm drawing you now to a document of a similar kind and the date is 9 July. Again we know that from the red, but I will take you to the substantive submission. DPC.0012.0001.0532.

Again, looking at the first page, there's a heading "Mandatory quarantine accommodation program".

40 A. Yes.

45 Q. Do you see that? And we see, if we zero in, please, Mr Operator, on the recommendations, that the Crisis Council was being asked to approve the transfer of accountability from the Minister for Health to the Attorney-General?

A. Yes.

Q. And if we go over to the third page, please, Mr Operator, there's a number of matters referred to under a heading of "Key Issues"?

A. Yes.

5

Q. You will have seen this at the time, Premier, and if we look at that document, and please take the time that you want to read it, there's a number of matters set out there that are going to be part of the approach that's followed along with the transfer of accountability to the Attorney-General?

10

A. Yes, that's correct.

Q. Thank you, that can come --- again, we take it that those changes were implemented, they were considered by the Crisis Council to be appropriate matters to put in place?

15

A. Yes.

Q. Thank you. That can come from the screen, Mr Operator. Then the last document I want you to look at, please, Premier, is a similar document, this one from 27 July. Again we know the date from the red but may I take you to the submission, which is DPC.0012.0001.0834.

20

DPC.0012.0001.0834. It is the Cabinet-in-Confidence document as at 27 July.

25

The heading of submission is "Transfer and integration of COVID-19 hotel quarantine and emergency management accommodation program", Premier.

A. Yes.

30

Q. The recommendations reflect the effect of the document that we looked at previously, that the Attorney-General had assumed responsibility for the detention of people who were arriving from overseas in quarantine?

35

A. Correct, yes.

Q. And that the Department of Justice and Community Safety had assumed progressively responsibility for that program and was by reason of the matters in this submission going to have that implemented longer term, as what I'm going to call the new model. Is that fair?

40

A. Yes, that's fair and correct.

Q. Thank you very much. And reasons are given for why it is that that's appropriate and details given in this document of the arrangements that are going to be in place going forward. That can come from the screen.

45

Premier, I want to put to you that the net effect of those three stages we have looked at, 27 June, 9 July and 27 July, is pretty clear evidence that in fact the Government did identify relevant aspects of the program that had created the opportunity for problems and in particular for the outbreaks that occurred. Do you accept that?

5

A. I think --- yes, I don't think that's unreasonable. I think that there's --- some risks are well known and well understood, and you do your level best to try and manage those. But it's not a conclusive list of issues and that's why I have made it clear, Ms Ellyard, that when it comes to returned travellers, I want to see the Board's report before I settle on or our Government settles on a final model.

10

Q. Firstly, I want to submit to you that what clearly emerges from those documents and the decisions that the Government has taken since late June is the recognition that there needs to be a much greater focus on clinical matters and greater involvement of medical clinical expertise. Do you agree with that?

15

A. Yes.

Q. Secondly, the documentation indicates the need for an appropriate workforce, a workforce with the skill sets and supports that make them the right ones for the jobs that need to be done in hotel quarantine. Do you accept that?

20

A. Yes.

Q. And thirdly, those documents reflect a recognition within Government that there's a need for a clear line of control and the actual active exercise of that control by whoever has been nominated as the one in charge?

25

A. Yes.

30

Q. So isn't that the answer? Isn't that what went wrong: the absence of those three things?

A. Well, the absence of those things and potentially other factors may well have contributed to this. If it's useful to the Board for me to provide commentary, I'm happy to do that but I think all of those matters, at least all of those matters and potentially others that are not necessarily apparent to me and the Government may well have contributed to the fact that a program designed to contain the virus did not contain the virus. But again, I would just --- I would just stress, Ms Ellyard, I'm --- I want to be helpful but I also want to see the report that this --- that this Board of Inquiry will hand down, because I think you have a much deeper understanding of these matters than what we do.

35

40

Q. It's perhaps a foolish question, Premier, but you have indicated in your evidence the reasons why you have set up the Inquiry. I take it you would agree that it's a matter of great concern that such an Inquiry has been necessary?

45

A. That's not a foolish question at all, Ms Ellyard. It is a --- the need to have an Inquiry, the need to --- well, the reality that what has gone on here, that there's no complete picture without an Inquiry, is not only disappointing; it is unacceptable.

5 Q. Thank you, Premier. Madam Chair, those are the questions that I have for the Premier. I note the time. But I also am aware of only one application for leave to cross-examine, which I'm told if it is granted wouldn't take very long. So I --- I'm in the Board's hands about when we take a break, in the Premier's hands as well, if a break is needed. We have been going a while. But if we are going on, I will call on  
10 Mr Moses to make his application and identify those parts of it which are persisted with, given the evidence that has already been given.

CHAIR: Firstly, give me an indication, Mr Moses, of what is your application and how long it is likely to take?

15 MR MOSES SC: Certainly. It's only now in relation to two issues because of the matters covered by my learned friend. The first relates to information which was provided to the Premier as to what caused the outbreaks at the Rydges on 26 May and the Stamford in 17 June 2020, in the period leading up to 1 July 2020 when he  
20 made some public statements about that issue. That's the first issue. Because that's important, to find out who was telling him information about security firms. The second issue is what steps, if any, did the Premier take himself to ascertain the truth or accuracy of the information that was being provided to him, that led him to make public statements concerning security firms and guards on 1 July 2020.

25 They are the issues. Counsel Assisting has covered all the other issues.

CHAIR: All right. Would I be right in assessing, Mr Moses, that we are talking about a matter of minutes?

30 MR MOSES SC: We are talking about 15 to 20 minutes maximum, Madam Chair. It could be less.

CHAIR: Mr O'Meara, do you want to be heard on that application?

35 MR O'MEARA QC: Yes, if I might be, Madam Chair. The first point sounds more like it's directed to the Premier's appearance as a witness and how you might assess his evidence, rather than something that is likely to assist you, Madam Chair, in determining matters. We understand the practice note does not permit this kind of  
40 cross-examination that might be in the trade called 'cross-examination as to credit'. And that sounds like that's the subject of the first matter.

The second matter, enquiring into the enquiries that the Premier made before establishing a Board, sounds like it's unlikely to assist you, Madam Chair, in making  
45 findings in the matter. It's not possible really to see what the relevance of those matters are or might be.

MR MOSES SC: Madam Chair, if I could just respond briefly. My learned friend may not be aware of this but on 30 June the Premier announced the establishment of an Inquiry. But on 1 July, in an interview with Leigh Sales on the ABC 7.30 program, he stated, "We have some very clear suspicions about what's gone on here."  
5 I'm entitled to ask him, because he made a number of statements concerning that issue, as to where he got that information from, and what steps he took to test the accuracy of that information and whether in fact what he should have been doing is testing the people who gave him the information as to what the hell had gone on in respect of infection control measures at these hotels. So my friend may not be aware of it, but there is a statement the Premier made on 1 July in which the representation was made and we're entitled to ask him about that issue.  
10

CHAIR: You haven't grappled with the objection that has been made, though, Mr Moses, by Mr O'Meara.  
15

MR MOSES SC: I have, and it is not a matter of credit. It is not a matter of credit, Madam Chair. He has misunderstood the issue. The issue goes directly to a statement made by the Premier on 1 July in which he made a representation, "We have some very clear suspicions about what's gone on here. There are a number of staff who, despite knowing about infection control protocols, have decided to make a number of errors." Now, we're entitled to find out where he got that information from because part of your remit is to ascertain whether there has been any duck-shoving that's gone on here by the Government by blaming others for their failures. Now, who gave him that information and what steps were taken to test it?  
20 That is a very serious issue when you have had public reports made based on statements that private security guards were in effect to blame for what's gone on here.  
25

Now, we're entitled to know, where did he get that information from? If he can't recall, that's fine. But it's on the public record. It's not a secret. He said it, and he said it after he announced the establishment of this Inquiry. So it's a very simple question. If he doesn't know, he doesn't know, but this is a very serious issue when a lot of the answers that have been given to this Inquiry is people don't know. Well, that's fine, but somebody knew something because the Premier of the State said something, and that is a very important issue when it comes to ensuring that accurate information is provided --  
30  
35

CHAIR: All right. I'm assuming, rather than --- just to short-circuit this process, Mr Moses, that what you are indicating is that, rather than it going to the --- to an issue of credit with respect to this witness, that it goes to an issue of reputational damage with respect to your client?  
40

MR MOSES SC: Correct, and also --- and importantly also, where this information came from. Because it's quite a serious issue for such a representation to be made by the Premier of a State that they have got suspicions about what's gone on here, because we have had no evidence led before you in this Inquiry by anybody representing the Crown in any of their examinations on what is said to be that  
45



suspicion. People have been asked --

CHAIR: Yes. All right, all right. I'm going to allow you to ask that question, Mr Moses, and we will come to the second part of it, depending on what the answer is to the first part.

MR MOSES SC: Thank you. Madam Chair, first of all, Counsel Assisting correctly asked whether Mr Andrews wanted to have a break before the commencement. I don't know whether that's been asked of Mr Andrews.

CHAIR: Mr Andrews --- Premier, I'm sorry, I'm not sure whether or not you appreciate what's happening. Mr Moses is the only party of the considerable range of parties that are at this virtual bar table who are seeking the opportunity to ask some further questions of you. He is indicating to me that he thinks he will be about 15 or 20 minutes. It's 4.35 now. We normally try and finish the afternoon sittings by at least about 4.15, so we are running over time. We could take a 15-minute break now and give you a break, or we could continue. My enquiry of you is whether or not you are content to continue now or prefer a short break.

A. Madam Chair, I'm content to continue, given the lateness of the hour.

CHAIR: Thank you.

MR MOSES SC: Thank you, Madam Chair.

### **CROSS-EXAMINATION BY MR MOSES SC**

MR MOSES SC: If the witness could be shown the document which is USG.0001.0016.0001, which is the interview with Leigh Sales on the ABC's 7.30 program on 1 July 2020. It is page 1 of the document. You will see, Mr Andrews, it is the second time you appear on that page. You will see, first of all, you said in response to a question from the presenter:

*Well, I think the first point to make is that there has been some infection control breaches in Victoria that have not occurred in New South Wales.*

Do you see that?

A. Yes, I do, Mr Moses.

Q. Yes, thank you. And if the operator could then take us to page 2, which is the second time you appear on that page, what you see there in what is attributed to you, it's recorded that you said this in the third paragraph:

*We have some very clear suspicions about what's gone on here. There are a*

5 *number of staff who despite knowing about infection control protocols have  
decided to make a number of errors. I'll give you one example, we think one of  
these outbreaks may be attributable to people sharing a cigarette lighter,  
something as innocent as that. This thing is so wildly infectious, it only takes  
one and then if that person who is infected then goes and is part of a large  
family, that large family meets with other large families. All of a sudden,  
you've got an outbreak and you get to the position we're in now.*

10 Do you see that?

A. Yes, I do.

15 Q. Mr Andrews, in relation to your statement to Ms Sales that "We have some very  
clear suspicions about what's gone on here. There are a number of staff who despite  
knowing about infection control protocols have decided to make a number of errors",  
can you recall, sitting here today, who provided you with that information?

20 A. I can't provide you with a specific briefing or document. I could speak to my  
usual practice when drawing such conclusions in relation to the virus, Mr Moses, if  
that would help.

25 Q. No. What I would like to learn --- your counsel may want to ask you those  
questions but what I would like to know is, sitting here today, do you have a  
recollection as to where that information may have come from?

30 A. My only recollection is that that will not, I think, have come from one single  
source, Mr Moses. It will have come from multiple sources as a result of contact  
tracing, chains of transmission and other information that is provided to me on a  
routine basis, much of which we don't identify to an individual, for obvious privacy  
reasons. I can't provide you with a name, no, I can't.

35 Q. Okay. And could I ask you this question in relation to the statement that is  
attributed to you, which makes reference to infection control protocols. Do you  
know, sitting here today, what infection control protocols were in place at the Rydges  
Hotel when COVID-19-positive guests were being held?

A. I'm sorry, Mr Moses, what --- what is your exact question?

40 Q. Well, the question relates to the statement --- you said on 1 July, "There are a  
number of staff who, despite knowing about infection control protocols, have  
decided to make a number of errors." Sitting here today, Mr Andrews, can you recall  
what infection control protocols you were referring to when you made that statement  
to Ms Sales?

45 A. I'm not an infection control expert, Mr Moses. But when a virus gets out of a  
contained environment, I don't think it an unreasonable conclusion to think that there  
has been an infection control breach.

Q. Mr Andrews, you told us that you are not an infection control expert?

5 A. No, I'm not, but I am able to make reasonable assumptions, I would have thought.  
But the answer is no, Mr Moses, I cannot detail for you in precise terms the infection control protocols that were or weren't in a particular hotel on a particular day.

10 Q. Do you accept the proposition that when you make statements to the public about what potentially occurred in relation to the outbreak in May/June of this year, you would be careful not to cast aspersions as to who was to blame without having a proper basis for it; correct?

A. I would accept that, yes.

15 Q. And the reason why that is important is so that false information is not spread within the community as to how the outbreak occurred; correct?

20 A. It's my expectation that I am accurate and fair in all of my public comments, Mr Moses.

Q. Yes. And it's important also to ensure that persons are not blamed for causing the outbreak in breach of infection control procedures unless that conduct has actually occurred; correct?

25 A. I think that's fair, yes.

Q. And as Counsel Assisting has taken you to, you in November 2018, of course, set up --- October 2018, set up the review into private security in Victoria; correct?

30 A. Yes.

Q. And the reason you did that was in order to ensure that workers were paid properly and fairly because you were concerned that they are amongst the most lowly paid workers; correct?

35 A. Correct.

40 Q. And you wanted to ensure, of course, that those workers, who are amongst the most marginalised because they have to take casual work, were treated fairly; correct?

A. Yes.

45 Q. And can we assume that in respect of your views as set out in this transcript that I have taken you to, these were views that you formed based on information that you were told, rather than anything you know first-hand; correct?

A. That's correct.

Q. Is that --

5 A. Yes, that's correct, Mr Moses.

Q. Yes, thank you. And when you found out --- when did you find out about the outbreaks at the Rydges Hotel in May?

10 A. I would have been informed on or about the time the outbreak became clear, via testing, tracing and the normal work that I am briefed on routinely and that I report to the public daily.

15 Q. Thank you. And can you tell us this: after you made the statement to Ms Sales on 1 July 2020, did you have any conversations with Ms Peake, who Counsel Assisting has told us was reporting to you, as to how this outbreak occurred?

A. Not that I specifically recall, no detailed conversation directly with her, no.

20 Q. Thank you. And do you know whether anybody briefed you after 1 July about what in fact infection control protocols had been put in place by the Department of Health and Human Services at the Rydges?

25 A. Specifically at the Rydges, Mr Moses?

Q. Correct.

A. No, I couldn't --- I couldn't attest to that. I couldn't recall that level of detail, no.

30 Q. Thank you. I have no further questions of Mr Andrews. Thank you, sir.

CHAIR: Thanks, Mr Moses.

35 MS ELLYARD: Thank you, Mr Premier.

CHAIR: I was just going to ask Mr O'Meara if there were any matters that he wished to put to his client.

40 MR O'MEARA QC: Thank you. We are grateful for the opportunity, Madam Chair. There's only one question that I have for the Premier, and that concerns the fact that he has been asked a great many questions this afternoon concerning the operation of the Hotel Quarantine Program, and arising from those questions and the evidence that he has given, it might be that he may have some perhaps reflections concerning the operation of the program and if that would assist you, Madam Chair, I would  
45 seek to ask him whether he would give you the benefit personally of his personal reflection.

CHAIR: Yes, I will allow you to do that, Mr O'Meara.

PREMIER ANDREWS: Madam Chair, if I can briefly make a couple of very  
important points. Mistakes have been made in this program and answers were  
5 required. Those mistakes are unacceptable to me. I want to thank you, Madam  
Chair, and the Board of Inquiry and all of your staff for the work that you are doing  
and will do. I want to make it very clear to each and every member of the Victorian  
community that I am sorry for what has occurred here, and I want to issue an  
unreserved apology to all Victorians. I want to say to you, Madam Chair, that I await  
10 your final report, the work, the conclusion of your work, so that we can understand  
better what has occurred and so that I, as the leader of the Government, can take the  
appropriate action to ensure that these sorts of errors never occur again.

CHAIR: Nothing further, Mr O'Meara?  
15

MR O'MEARA QC: No, Madam Chair.

CHAIR: Nothing further, Ms Ellyard, for the Premier?

20 MS ELLYARD: No, thank you, Madam Chair. I ask that the Premier be excused  
with the Inquiry's thanks. That is the end of his evidence.

CHAIR: Thank you, Premier. There are still some matters that we have to deal with  
to close this aspect of the Inquiry but I don't need to continue to have you on the  
25 screen to do that. There are some matters that I know are coming from Ms Ellyard.  
So I will thank you for your attendance at the Board and otherwise excuse you,  
which means you are now able to turn off your camera and your microphone.

A. Thank you, Madam Chair.  
30

#### **THE WITNESS WITHDREW**

35 MS ELLYARD: Madam Chair, as you have foreshadowed, I'm aware that perhaps  
this being the last day of evidential hearings, there are a number of applications by  
parties seeking to add to the evidentiary record by tendering documents. I might call  
on them in the order that I think will take the least time, with the shortest application  
40 first. May I call on those representing Minister Mikakos. I understand they have an  
application to tender a document.

MS SCHOFF QC: Thank you, Counsel Assisting. Madam Chair, since Minister  
Mikakos gave her evidence yesterday, there have been a number of reports in the  
media suggesting that the evidence she gave to this Board about when she first  
45 became aware of the use of private security in the Hotel Quarantine Program may  
have misled the Board. That is a suggestion that she categorically denies. Now,  
regrettably, the matters in those media reports were not put to the Minister yesterday

when she gave her evidence, so she wasn't able to respond to them. And when I say that, I don't mean a criticism of anybody because she was cross-examined by learned and experienced counsel who no doubt would have put relevant matters to her. But in the circumstances, she seeks leave, if the Board thinks it appropriate, to tender a short supplementary statement that deals with those matters. We have circulated it to all those with leave to appear and we don't know whether there's any objection to that but it's been provided to Counsel Assisting as well.

CHAIR: Do you want to be heard on this application, Ms Ellyard?

MS ELLYARD: I don't, Madam Chair. Subject of course to any natural justice issues that any other party may wish to raise, given that the evidence is going to be arriving after the opportunity to question the Minister have passed. But absent anyone else's having an objection, I don't object to the tender.

CHAIR: I haven't seen the statement, Ms Schoff, so I don't know what its content is. I will be guided by Counsel Assisting. If no objection is being raised to it, I will accept it into the evidence ---

MS SCHOFF QC: If the Board pleases.

CHAIR: --- and mark it in as Exhibit 222.

**EXHIBIT #222 - SUPPLEMENTARY STATEMENT OF THE HON. JENNY MIKAKOS MP**

MS SCHOFF QC: As the Board pleases.

MS ELLYARD: Madam Chair, I am also aware of an application that has been foreshadowed by counsel for the Department of Health and Human Services for the tender of a number of documents. There are a couple of tranches of them and I might defer to Ms Harris to make that application and identify the materials she wishes to tender and why.

MS HARRIS QC: Thank you, Ms Ellyard. The documents, Madam Chair, that we wish to tender now relate primarily to documents that were referred to in witness statements but were not tendered. Madam Chair, you might recall that there were --- there was a time in the proceeding when application was made to tender the exhibits or the documents referred to in DHHS statements, and subsequent to that time a number of documents were then uploaded to the online hearing book, and with the assistance of my instructing solicitors we have looked at the documents that have been uploaded and I understand that not all documents referred to in the statements have been tendered. We did identify some documents that are relevant to the matters that have been discussed before the Board, and of course having been referred to in statements were responsive of the questions that were asked of the witnesses when

they gave their statements.

CHAIR: Sorry, Ms Harris, just so that I can understand, is what you are saying is there are documents that were on the hearing book, have been properly produced by  
5 your client responsive to notices, and you now wish to tender them? Or is that not correct?

MS HARRIS QC: Almost, Madam Chair. They weren't produced by our client.

10 CHAIR: They were produced?

MS HARRIS QC: They were not. They were referred to in the witness statements of some other witnesses. The witness are Ms Curtain of Your Nursing Agency; Dr Garrow of Onsite Doctor; Mr Eric Smith of the Australian Nursing Agency; and  
15 then the bundle of documents referred to in the statement of an operations coordinator, and site manager, who has not been named. That last statement was tendered by Ms Robertson. That was my oversight, Madam Chair, I hadn't understood that the documents were not also tendered with that statement. But the other witnesses that I have read out, and including, sorry, Madam Chair, Mr D'Cruz  
20 of Crown Hotels, some of the documents in Ms Curtain, Dr Garrow and Mr Smith's statements have been tendered but not all, and we would seek leave to tender some other documents that we say are relevant to the matters before the Board. And with Mr D'Cruz ---

25 CHAIR: Just to understand this, are these documents that were on the hearing book?

MS HARRIS QC: They were, yes, Madam Chair.

CHAIR: As opposed to the first lot of documents, that weren't?  
30

MS HARRIS QC: When Madam Chair refers to the first lot of documents ---

CHAIR: Well, the first bundle you have identified. I thought you indicated that there were some documents that actually weren't on the hearing book?  
35

MS HARRIS QC: Yes.

CHAIR: So that they weren't produced in response to any notice?

40 MS HARRIS QC: Madam Chair, there is a separate category of documents that I have not yet described that are documents that are responsive to one of the notices to produce, but the importance and relevance of those documents has become apparent in the course of the hearing, and they have actually been referred to in some statements of my witnesses --- excuse me, of the Department of Health and Human  
45 Services' witnesses. I can come to that but that is a separate category.

CHAIR: All right.

MS HARRIS QC: The first category, if it is any assistance to read out the documents, they are two documents exhibited to the statement of Ms Curtain.

5 CHAIR: Yes.

MS HARRIS QC: It is JMC-5, which was a spreadsheet that identified the nurses that were deployed by that agency in the program, it's YNA.0001.0001.0079. The second is Exhibit JMC-11 to Ms Curtain's statement, examples of posters used on the hotel sites, which is YNA.0001.0001.0120. For Dr Garrow's statement, there is annexure 2, which is information about the Onsite Doctor Pty Ltd Victorian Quarantine Hotels Medical Services, and that document is WIT.0001.0031.0017. The second document from Dr Garrow's statement is annexure 4, which is WIT.0001.0031.0041.

15

CHAIR: What is that document?

MS HARRIS QC: That is a public health policy for mandatory quarantine that Dr Garrow refers to in his statement.

20

CHAIR: A public health policy that is part --- that is a policy of your client?

MS HARRIS QC: Yes. Yes, that was provided.

25 CHAIR: That hasn't previously been tendered anywhere?

MS HARRIS QC: I don't understand that it has been, Madam Chair. I may be wrong, but out of an abundance of caution, given that Dr Garrow refers to it in his statement, we do refer to that. We can clarify if that's necessary subsequently.

30

Then the third is Eric Smith of the Australian Nursing Agency. Again, there are three documents that are referred to in the statement. Annexure C, "Operation Soteria --- PPE and Advice for Hotel Security Staff and AOs". That document may possibly be in evidence, but the relevance is that it is referred to by Mr Smith. That number is WIT.001.0013.0044.

35

The next is the SwingShift Nurses provision of nursing staff to quarantine hotels, which identifies when --- the number of nurses to be provided. That is document WIT.001.0013.0046.

40

The last document is WIT.001.0013.0066 and it is an update provided to SwingShift Nurses in the course of the Hotel Quarantine Program.

Certain other exhibits of those witnesses are already in evidence, Madam Chair, but those are the only ones that we tender now from those witnesses.

45

The remaining category --



CHAIR: I will mark those documents into one bundle of Exhibit 223.

5 **EXHIBIT #223 - FIRST CATEGORY OF ADDITIONAL DOCUMENTS  
TENDERED BY MS HARRIS QC**

10 MS HARRIS QC: Thank you, Madam Chair. The second category is the one  
I referred to of the DJPR operations coordinator who was a site manager. That is all  
of the documents referred to in that statement as a bundle, as has been the practice  
with other witnesses. I won't read out the documents because they are all referred to  
in the statement and have been on the online hearing book for some time.

15 CHAIR: Are you referring to a statement made by a DJPR employee?

MS HARRIS QC: By a person who has not been named but who has been referred  
to by the title "Operations Coordinator".

20 CHAIR: Yes, the bundle of documents attached to the statement?

MS HARRIS QC: Yes.

25 CHAIR: Do you want to --- yes.

MS HARRIS QC: I'm sorry, Ms Robertson may wish to --

30 MS ROBERTSON: I'm sorry to interrupt, Madam Chair. If my learned friend could  
just identify the statement number. I'm having a bit of trouble.

MS HARRIS QC: I'm sorry, it's Exhibit 84.

MS ROBERTSON: Thank you.

35 CHAIR: I will mark that bundle of documents Exhibit 224.

40 **EXHIBIT #224 - ANNEXURES TO STATEMENT OF OPERATIONS  
COORDINATOR (EXHIBIT #084)**

45 MS HARRIS QC: Then the remaining documents relate to the statement of  
Mr D'Cruz of Crown Melbourne Hotels. There are some relevant documents referred  
to in that statement in response to the questions posed to him by the Board, Madam  
Chair. If I can read them out with the title. One is referred to in paragraph 56 of the  
statement and it is an email from DHHS to Crown on 10 April 2020, document  
number CML.0001.0001.0258. The next is a fresh air implementation plan, referred

to in paragraph 56 of the statement, which is document CML.0001.0001.0214. The next document is referred to in paragraph 57 of the statement, which is a document provided to Crown, "Cleaning and Disinfection Tips for Non-Healthcare Settings", CML.0001.0007.0058.

5

The following documents are Crown documents. The first is a COVID-19 WHS plan developed by Crown, "COVID-19 Rapid Response Plan" and the BOH plan 2.3.1, Hotel Reservations, which are document numbers CML.0001.0003.0003 and CML.0001.0004.0040. For the avoidance of doubt, that is referred to in paragraph 94 of the statement. A document about PPE usage, at paragraph 113 of the statement, CML.0001.0003.0017. And finally a range of policies referred to in paragraph 119 of Mr D'Cruz's statement, developed by Crown. All of these documents are with the preface CML.0001, so if I can just read the subsequent numbers --- in fact, they are all prefaced with 0001.0003, and the documents are 0012, 0020, 0017, 0022, 0025, 0013, 0018, 0006, 0021, 0019 and 0016.

10  
15

Those are the final documents from Mr D'Cruz.

CHAIR: Exhibit 225.

20

#### **EXHIBIT #225 – ANNEXURES TO STATEMENT OF SHAUN D'CRUZ**

MS HARRIS QC: Thank you, Madam Chair. Finally, Madam Chair is the other category of documents that have been disclosed to the Board in response to notices to produce in large part early in the Board's hearings. Pursuant to arrangements agreed early on, given the thousands of documents that were potentially within the category, there was an understanding that we should be producing any documents that appeared critical as the issues before the Board became clear. Some of these --- these documents are legal advices which have been in --- in one case indirectly referred to in the statement of Dr van Diemen, relating to the documents to which she had reference in making the original direction and detention determination on 28 March. She referred to that in paragraph 28(a) of her statement.

25  
30  
35

CHAIR: Wasn't the bundle of attached documents, weren't they tendered at the time, Ms Harris?

MS HARRIS QC: There were, Madam Chair, but unfortunately --- there is a reference to a 28 March 2020 memorandum and as we now understand the situation, we did not refer to those documents in the footnotes by separate document numbers, so they are not in evidence. The documents are, if I can explain them, a cover memo, an authorisation by the Chief Health Officer, draft directions, a revocation of previous directions, which has been referred to in evidence, the revocation of the airport arrivals directions, and the Charter advice relating to the Charter of Human Rights and Responsibilities.

40  
45

CHAIR: Was the Charter advice footnoted in Dr van Diemen's statement?

MS HARRIS QC: It was referred to but regrettably not footnoted by number, Madam Chair.

5

CHAIR: I'm not sure that I follow that.

MS HARRIS QC: I'm sorry. The existence of a Charter assessment was referred to but that document number was not referred to so it will not be in the bundle of exhibit that is before the Board.

10

CHAIR: So it wasn't produced either?

MS HARRIS QC: It has been produced, yes.

15

CHAIR: So it has been on the hearing book?

MS HARRIS QC: I may need instructions from my instructors as to whether that is the case or not, whether it has been in the online hearing book. I can't say for sure, Madam Chair.

20

CHAIR: Do you know the answer to that, Ms Ellyard, as to whether or not this --- the document that was --- as I understand it, it is some legal advice that is referred to by Dr van Diemen, but doesn't appear to have been --- I'm sorry, I should say, Ms Harris, in answer to the question "Has it been produced responsive to a notice?", Ms Harris says --

25

MS HARRIS QC: It has, pursuant to NTP 001, I'm instructed.

CHAIR: It has been produced?

30

MS HARRIS QC: It has been produced, but I don't --- Madam Chair, it may not be necessarily that it's been in the online hearing book, but I'm not sure about that question.

35

MS ELLYARD: Madam Chair, my understanding is that it's certainly not in the hearing book. Whether it's otherwise available to the Board in what I'm going to call the internal workspace of the Board is a matter I'm having checked. But I gather there's a computer glitch going on that's delaying that. But if my learned friend has a document number, that would suggest that it was numbered and produced at the time. But I don't understand it to have been put until now, or proposed to be put, into the hearing space to which other parties have had access.

40

CHAIR: Okay. Have you got a document identification number, Ms Harris?

45

MS HARRIS QC: There is more than one, Madam Chair. The first is DHS.0001.0004.1072.

CHAIR: That would suggest it has been produced.

5 MS HARRIS QC: It certainly was produced in response to the first Notice to  
Produce. But actually, now that I'm reading my instructions, it may be --- I referred  
to five documents, and I think the Charter advice may not have originally been  
produced at the same time because of its --- because of its status. And I understand  
there were some discussions about documents the subject of legal professional  
10 privilege. So I would probably have to take further instructions about exactly when  
that was produced for the first time.

CHAIR: It sounds like what you are saying is it was produced with a claim made  
over it?

15 MS HARRIS QC: It was originally, and I understand claims --- the situation is that  
all --- that claims have been waived.

CHAIR: When did that happen, Ms Harris?

20 MS HARRIS QC: I would have to take instructions on exactly when the claims were  
waived. I can ask for my instructors to communicate that to me now. There was also  
an arrangement in place, given the very large volume of documents that we were  
requested through Solicitors and Counsel Assisting to take a prioritisation approach  
to the documents, and it has become clear that certain matters have become of quite  
25 material importance to the Board and we produce these now because it does seem  
that the Board --- the issues before the Board do make these matters material.

CHAIR: Yes. Well, as I understand it, it would have been material to have the  
documents available at the time that Dr van Diemen gave evidence, of course,  
30 because if I understand correctly, they go to the substance of some of the matters that  
she was cross-examined about. Is that right, Ms Ellyard?

MS ELLYARD: Yes, Madam Chair, I am looking at correspondence that Ms Harris'  
instructors have provided to the Board. That is a letter with today's date and that  
35 letter seems to suggest that the documents have to some extent been produced but the  
advices had not previously been produced, perhaps because of the reasons that have  
been identified by Ms Harris. It is certainly difficult, but it sounds like these are  
documents of substance that could have been but were not capable of being  
cross-examined on when witnesses gave their evidence. But, not having had the  
40 opportunity to look at them closely myself, I'm afraid I'm not able to assist the Board  
on whether they are likely to be helpful. I apprehend that Ms Harris, through her  
client, wishes to submit on them and it is in that context I gather that they are sought  
to be tendered.

45 MS HARRIS QC: Madam Chair, it's not --- if there is any issue of procedural  
fairness, we do not need to make submissions about them. But we do note that some  
of these issues were not directly made critical, if you like, given the language that we

had an agreement about with the Solicitors Assisting and Counsel Assisting, by reference to the questions that were put to the witnesses in their notices to give evidence. But for the avoidance of any doubt, we have formed the view that they may well be regarded by the Board as having that status now.

5

CHAIR: All right, I'll let you tender the documents, Ms Harris. But obviously if they are documents that might have been of assistance whilst various witnesses were giving evidence, I will deal with them accordingly.

10 MS HARRIS QC: Certainly, Madam Chair.

CHAIR: Thank you.

15 MS HARRIS QC: I do need to say, Madam Chair, that there is --- I was going through the documents --- there is a second group of documents and it relates to documents that were referred to in paragraphs 23 to 26 of Ms de Witts' statement.

CHAIR: Are these also legal advices as well?

20 MS HARRIS QC: They are. Ms de Witts refers to an advice that she herself gave. Madam Chair might recall that she held a position as general counsel and that was exhibited, but she referred to advice obtained from counsel as to what is required for a review under section 200(6) and, again, those counsel advices can be produced to the Board and tendered if appropriate.

25

CHAIR: Yes. How many separate --- just to be clear, how many separate documents are we talking about in terms of privilege being waived?

30 MS HARRIS QC: The privilege has been waived in some other documents, as I understand it, earlier than this point. But there are seven documents that I'm referring to now, not all of which are legal advices, some of which are just documents referred to in the same context, first, of the memorandum provided, that is referred to in Dr van Diemen's statement. One of those is a legal advice; others are simply related documents.

35

CHAIR: All right. And these are documents that you have provided now to the Solicitors Assisting the Board?

40 MS HARRIS QC: Yes, Madam Chair.

40

CHAIR: All right. And there are seven documents in the bundle?

MS HARRIS QC: That's the case, Madam Chair; five which relate to the 28 March 2020 memorandum of Dr van Diemen, and I can read those numbers now.

45

CHAIR: Yes, yes.

MS HARRIS QC: DHS.0001.0004.1702 --- and all of these have DHS prefixes and 0001 prefixes --- the next is DHS.0001.0004.1844, DHS.0001.0004.1692, DHS.0001.0004.1694 and the last in that group is DHS.0001.0011.0658. The two counsel advices referred to in Ms de Witts' statement are DHS.0001.0103.0007 and  
5 DHS.0001.0104.0094.

CHAIR: Exhibit 226.

10 **EXHIBIT #226 – DOCUMENTS DHS.0001.0004.1702, DHS.0001.0004.1844, DHS.0001.0004.1692, DHS.0001.0004.1694, DHS.0001.0011.0658, DHS.0001.0103.0007 and DHS.0001.0104.0094**

15 MS HARRIS QC: Thank you, Madam Chair. Those are the documents that we wish to tender.

CHAIR: Thank you.

20 MS ELLYARD: Madam Chair, finally, we are on notice of an application on behalf of counsel for the Department of Jobs, Precincts and Regions to tender a number of documents. I think there have been a number of pieces of correspondence to the Solicitors Assisting and I will call on Ms Condon to identify what she wants to tender and why.

25 MS CONDON QC: Thank you, Ms Ellyard, Madam Chair. The documents that we seek to tender are in four discrete categories. Perhaps if I can start with the first. The first relate to documents that were from the Principal Policy Officer, they were attached to the Principal Policy Officer's statement that --- Madam Chair, you might  
30 recall there were some paragraphs of that statement that were struck out due to objections from Unified, MSS and Wilson.

CHAIR: Yes.

35 MS CONDON QC: We seek to tender those documents as they are relevant to the selection of Unified and Wilson as security providers and they also relate to decisions made in early April to reduce Wilson's deployment on certain hotels and to increase Unified's presence at certain hotels. In my respectful submission, they were matters that Ms Ellyard explored in some detail with Mr Phemister when he gave  
40 evidence on Tuesday about why it was that Unified ended up having a portion of the work and Wilson at a certain point had their remit reduced. So we think --

CHAIR: So, describe those documents --- just describe in general terms what the documents are, Ms Condon.

45 MS CONDON QC: Well, they --- in terms of that particular issue, they relate to certain complaints that were made to --- at Pan Pacific and the guards there, which

were Wilson's --- under Wilson's contract, and the circumstances that led to Wilson then having work reduced under the contract.

CHAIR: All right.

5

MS ELLYARD: Madam Chair, you might recall that certain exhibits and paragraphs, as Ms Condon says, were not tendered at the time for reasons that --- and it was agreed, as I understood, that those matters would not be tendered, pending the attendance of Mr Phemister, who could be questioned about those issues. That having occurred, as I understand it, it would be appropriate for the Board to now receive those documents.

10

CHAIR: All right, thank you.

15

MS CONDON QC: Thank you, Madam Chair. I think there are about eight or nine documents. Does Madam Chair require me to specifically read out the numbers?

CHAIR: No. If you have delivered them clearly identified to the Solicitors Assisting the Board, Ms Condon ---

20

MS CONDON QC: My instructor certainly has, Madam Chair.

CHAIR: All right. So they are documents that can be described as documents that are attached to and are referred to in the statement of ---

25

MS CONDON QC: Of the Principal Policy Officer.

CHAIR: --- the Principal Policy Officer. And obviously, Madam Chair, I'm in your hands, but it may make sense that they simply become part of Exhibit 60, which was --- which relates to the other documents that were tendered before the Board for the Principal Policy Officer's statement. They could simply become part of that material.

30

MS ELLYARD: In my submission, Madam Chair, that is appropriate. All the documents were on the hearing book as attachments to that statement, some of them weren't tendered but they can be conveniently added to it.

35

CHAIR: To what was referred to at that time as Exhibit 60, folder B, bundle, so they would just be added to that folder?

40

MS CONDON QC: Yes, Madam Chair. I thank my learned friend for that.

Is Madam Chair happy for me to go to the second category of documents to be tendered?

45

CHAIR: Yes.

MS CONDON QC: The second category relates to material in relation to cleaning.

5 The Board has already heard substantial evidence relating to, obviously, obligations  
of the DJPR under the hotel contracts insofar as the cleaning obligations are  
concerned. And in particular this is material that relates to the cleaning at Rydges.  
I know I tendered some material pertaining to that on Tuesday, Madam Chair, but  
there is further material that has been identified as relevant to that question to the  
cleaning at Rydges post the outbreak.

10 CHAIR: Ms Condon, can I ask you the same question I have asked Ms Harris: are  
these documents that were produced responsive to a notice?

MS CONDON QC: My instructions are --- I'll be corrected --- as I understand it,  
yes, that they are in --- I think Ms Ellyard referred to, the expression I think she used  
was the internal working space, that they are material that has been there but only in  
the last 24 hours, I'm just instructed now, as to that. So they are --- they have been  
15 produced but some of them have only been produced in the last 24 hours.

CHAIR: And what's the explanation for that, Ms Condon?

20 MS CONDON QC: I'm told that we have been continuing to produce documents as  
we find them.

CHAIR: I know you have. But I'm asking what the explanation is.

25 MS CONDON QC: For the delay?

CHAIR: Yes.

30 MS CONDON QC: Yes. Madam Chair, I would have to get further instructions  
about that. But as I'm instructed right now, I'm told that there has just been a  
continual process of producing the documents as they are found, in response to the  
notice. And I appreciate the delay is unsatisfactory but we are certainly doing our  
best to discharge our obligations pursuant to the notice. As I have already indicated,  
we did seek to file certain material on Tuesday that pertained to Rachaele May's  
second statement and the cleaning at Rydges and this is further material that is  
35 relevant to that question.

CHAIR: So how many documents go to this issue?

40 MS CONDON QC: On my count, there's about 20 documents that are in this  
particular bundle.

CHAIR: And what's the nature of them?

45 MS CONDON QC: They are under that heading of the cleaning at Rydges, Madam  
Chair, post the outbreak, that they all relate to that specific topic.

CHAIR: Have you seen these documents, Ms Ellyard?



MS ELLYARD: I have been furnished with them, I think by email, Madam Chair. In the circumstances, I couldn't say that I have looked at them all. But I'm aware of them and I'm aware in general that they are matters of further correspondence and so  
5 forth in relation to, as Ms Condon says, cleaning matters. That's an issue which has been the focus of evidence, I accept, and it is really a matter for the Board whether, in the circumstances of late production, it feels it would be appropriate to receive them.

10 CHAIR: Well, I mean, of course it is late production and we haven't had the opportunity --- I certainly haven't had the opportunity, and neither has the Counsel Assisting team, to examine them or put any matters to witnesses, so to that extent I'm not sure how helpful they are going to be. But I will accept them in. It is obviously a matter of considerable focus for the Board's work, the issues that arose at Rydges.  
15 But, as I've indicated to Ms Harris, Ms Condon, I'll indicate to you, I'll give appropriate weight to material that's produced at this late hour.

MS CONDON QC: Yes. Madam Chair, we completely understand that position of the Board. We have of course provided the material to all the relevant parties as  
20 well. So we are trying to obviously comply with our obligation of procedural fairness. Again, Madam Chair, I assume you don't require me to read out the individual numbers of 20 documents? They have been produced in a particular category to the Board's instructors, so they will be able to clearly identify to which category they relate. But it may be of assistance to make them part of the material  
25 which forms Exhibit 83, and that is the documents that were attached to Rachaele May's second statement, which pertained to the Department's obligations for cleaning pursuant to the contracts.

CHAIR: So they are further documents to become part of the folder of documents  
30 contained in Exhibit 83?

MS CONDON QC: Yes, Madam Chair.

CHAIR: Yes.  
35

MS CONDON QC: Thank you, Madam Chair. The third category relates to the topic of the designation of Rydges as a COVID-positive hotel. Now, again, there was questioning of Mr Phemister about this issue on Tuesday and the steps taken by the DJPR in that early stages, I think in early April, as to the designation of Rydges  
40 as a COVID-positive hotel initially to members of the community. So we seek to have --- there are six additional documents that we seek to have tendered. Again, assuming the Board is amenable to this, they could become part of Exhibit 185, which is the documents that were tendered in a bundle attached to Mr Phemister's statement.

45 CHAIR: Yes.

MS CONDON QC: Thank you, Madam Chair. Finally, the final category arises from a matter that, Madam Chair, you yourself asked one of the hotel managers some questions, at transcript page 458 to 459. Madam Chair, you inquired as to one of the hotel managers about evacuation procedures, and more information has been provided. There are three documents that relate to that question from the DJPR and how evacuation plans had been settled between the agencies. Would it assist the Board to have those three --

CHAIR: Yes.

MS CONDON QC: I'll read them out. That's DJP.102.007.2054, DJP.102.008.9174 and DJP.102.008.9175. They obviously don't attach to any particular statement but we just thought it might assist the Board to have that material in light of your questioning.

CHAIR: Thank you. I will mark those exhibits separately as Exhibit 227.

**EXHIBIT #227 - DOCUMENTS DJP.102.007.2054, DJP.102.008.9174 AND DJP.102.008.9175**

MS CONDON QC: Thank you, Madam Chair, those are the matters, unless there is anything further.

MS ELLYARD: Madam Chair, I have a document to tender now too. The Board sought further information from Ms Peake arising out of a particular answer that she gave in her evidence relating to the number of exemptions that had been claimed.

CHAIR: Yes.

MS ELLYARD: A letter was sent and answers have now been received in a document that I understand is presently being circulated to the interested parties. It has not yet been stamped with a number but it is a letter dated 25 September 2020 from MinterEllison containing answers to the questions posed to Ms Peake by the Board. May I tender that document, being letter from MinterEllison dated 25 September 2020, responsive to questions posed to Ms Kym Peake.

CHAIR: Thank you, I will mark that at Exhibit 228.

**EXHIBIT #228 - LETTER FROM MINTERELLISON DATED 25 SEPTEMBER 2020, RESPONSIVE TO QUESTIONS POSED TO MS KYM PEAKE**

MS ELLYARD: Thank you, Madam Chair.

CHAIR: Thank you for that. Thank you to the instructors for Ms Harris' clients for providing that information.

5 MS ELLYARD: Madam Chair, I pause in case there are any other applications of which I'm not aware, because today represents the close of the evidence and we will be proceeding on Monday morning to final submissions. I see Mr O'Meara.

CHAIR: Mr O'Meara.

10

MR O'MEARA QC: Madam Chair, we have appeared this afternoon to assist the Board in respect to the evidence of the Premier. We would not want to be thought to be disrespectful in any way but we would not seek to involve ourselves in the submissions being delivered on Monday, unless it was thought by the Board that that was necessary. But, if it is appropriate, might we be permitted to leave at this point?

15

CHAIR: Yes. Thank you, Mr O'Meara, thank you for your assistance today, and you are otherwise excused.

20 MR O'MEARA QC: Thank you.

MS ELLYARD: Thank you, Madam Chair. There being no further evidentiary matters, may I invite the Board to adjourn until 10 o'clock on Monday, when Counsel Assisting will make final submissions.

25

CHAIR: Final submissions and, indeed, in the wake of those final submissions, directions with respect to submissions in reply will also be finalised. But I remind the parties that they will be written submissions in reply.

30 MS ELLYARD: That is so, Madam Chair. Counsel Assisting will submit orally on Monday, but will speak to a document that can be of some assistance, we trust, for the parties as they then prepare their responsive written submissions. We will deal further with matters of procedural detail on Monday.

35 CHAIR: Yes, thank you. I will adjourn now until 10.00 on Monday for those submissions to be made. Thank you.

MS ELLYARD: If the Board pleases.

40

**HEARING ADJOURNED AT 5.28 PM UNTIL 10.00 AM ON MONDAY,  
28 SEPTEMBER 2020**

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