

IN THE MATTER OF
THE BOARD OF INQUIRY
INTO THE HOTEL QUARANTINE PROGRAM

STATEMENT OF KATE LESLIE GAVENS
Chief Conservation Regulator

I, **KATE LESLIE GAVENS**, Chief Conservation Regulator, Department of Environment, Land, Water and Planning, say as follows in response to the Notice to Produce a Witness Statement issued by the Board and dated 26 August 2020:

Roles and Responsibilities

Q1. Please describe your relevant professional experience and qualifications.

1. I have been employed by the Department of Environment, Land, Water and Environment (**DELWP**) since January 2014. Prior to 1 January 2015, DELWP was named the Department of Environment and Primary Industries (**DEPI**).
2. I have held the roles of:
 - a. Director, Sustainability Policy (January 2014 – September 2015)
 - b. Acting Director, Climate Change Policy (September 2015 – April 2016)
 - c. Director, Environment Protection and Resource Recovery (April 2016 – January 2019)
 - d. Interim Chief Conservation Regulator (January 2019 – May 2019)
 - e. Chief Conservation Regulator (May 2019 – Present).
3. Prior to commencing at DELWP/DEPI, I worked at the Environment Protection Authority (**EPA**). At EPA I held the roles of:
 - a. Environment Protection Officer (May 2004 – October 2005)
 - b. Greenhouse Policy Officer (October 2005 – October 2007)
 - c. Project Leader – Future Environment and Climate Change (October 2008 – October 2010)

- d. Project Leader – Climate Change (October 2010 – March 2011)
- e. Team Leader – Climate Change (March 2011 – May 2011)
- f. Acting Manager – Monitoring and Assessment (February 2013 – June 2013)
- g. Acting Director – Strategy and Support (September 2013 – October 2013)
- h. Manager – Policy and Regulation (May 2011 – January 2014).

4. I hold the following qualifications:

- a. Bachelor of Science (Honours), Australian Conservation Wildlife and Environmental Science (University of Melbourne).
- b. Masters of Commercial Law, Energy, Environment and Natural Resources Law (University of Melbourne).

Q2. Please describe your usual title, role and responsibilities:

(a) within DELWP

- 5. My usual role at DELWP is Chief Conservation Regulator. I have held this role since January 2019 (on an interim basis until May 2019).
- 6. I lead the Office of the Conservation Regulator. I am responsible for overseeing regulation in relation to timber harvesting, biodiversity, wildlife, fire prevention and the regulation of public land. I am accountable for decision-making supporting the delivery of the DELWP's key regulatory outcomes of:
 - a. protected natural and heritage values; and
 - b. equitable and safe access to public land and use of natural resources.
- 7. I have the delegated power to appoint Authorised Officers (**AOs**) under section 83(1) of the *Conservation, Forests and Lands Act 1987* (Vic). AOs are appointed for DELWP to exercise certain powers and functions in administering a range of legislation for which DELWP is responsible. The Conservation Regulator is responsible for the training, quality control and deployment of the majority of AOs appointed for DELWP in relation to that legislation.

(b) in relation to your role in, or in relation to, Operation Soteria.

8. I did not have a formal role in Operation Soteria, but became the key contact for the Department of Health and Human Services (**DHHS**) on behalf of DELWP in relation to AOs deployed from DELWP, and initially in relation to AOs deployed from Parks Victoria (**PV**) and the EPA, to the Hotel Quarantine Program (**Program**).

Q3. When did you commence any role in, or in relation to, Operation Soteria? How did that come about, and to whom did you report in that role?

9. My involvement with Operation Soteria commenced on or around 31 March 2020.
10. I was first contacted by the DELWP Acting Deputy Secretary Forest Fire and Regions, Christine Ferguson, on 31 March 2020, who told me that DHHS had requested DELWP AOs be seconded to DHHS to support confinement activities of recently returned travellers in the Program.
11. I did not formally or informally report to any person within DHHS, as I did not have a formal role in Operation Soteria. I reported internally to Christine Ferguson and briefed her in relation to Operation Soteria matters.

Authorised Officers

Q4. What did you understand to be involved in the recruitment, induction, orientation, training or deployment of Authorised Officers in relation to Operation Soteria? What was your involvement, if any, in these things? Please refer to documents where appropriate.

12. I understand that DELWP received a request from DHHS to provide AOs to support the confinement activities of recently returned travellers on 31 March 2020, based on my conversation with Christine Ferguson referred to in paragraph 10. On 1 April 2020, I spoke with Meena Naidu, Lead Executive COVID-19 Compliance, DHHS, over the telephone to further understand the request, and confirm the likely assistance of DELWP through the provision of AOs.
13. AOs from DELWP, PV and the EPA were identified from an expression of interest process. Various emails inviting expressions of interest were sent to DELWP AOs from about 5 April 2020. On 15 April 2020, I conducted an information session, which about 80 staff from DELWP, PV and EPA attended, to encourage expressions of interest.

14. Ten AOs from DELWP, and to the best of my knowledge, seven from PV and three from the EPA were ultimately deployed to Operation Soteria.
15. The AOs from DELWP were seconded to DHHS under secondment agreements prepared by DHHS.¹ Under those arrangements, the AOs reported to DHHS. DELWP continued to pay the salaries of AOs in accordance with their enterprise agreement entitlements. Those AOs who extended their secondments signed further secondment agreements.² I had various telephone calls and email correspondence with DHHS clarifying the nature of the secondment agreements.
16. Various requests for information were made to DHHS, including as to safety. Until that information could be provided, DELWP provided some written materials prepared by DELWP to its AOs, such as initial engagement and logistical information.³ A FAQ document prepared by DELWP titled 'Authorised Officer Support – DHHS – COVID19' dated 15 April 2020 was also provided to its AOs.⁴ DELWP offered to provide assistance to DHHS through the development of a safe work procedure titled 'Covid-19 DHHS Support',⁵ which incorporated feedback received from the DHHS,⁶ whilst we awaited any further safety documentation from DHHS.⁷
17. I am aware that DHHS also provided written materials to AOs, but I was not involved in reviewing their content or dissemination.
18. DHHS provided a one hour induction session for AOs via telephone. I attended a session on 12 April 2020 with DELWP AOs, as an observer. DHHS also agreed to provide DELWP AOs a hand over on their first shifts.⁸

Q5. Please provide your understanding as to the roles and duties of Authorised Officers in relation to Operation Soteria. If that understanding changed over time, please explain what that understanding was at each relevant time and identify the bases for that/those understanding(s). Please refer to documents where appropriate.

¹ See, for example, DELW.0001.0032.0001.

² See, for example, DELW.0001.0002.3485.

³ See, for example, DELW.0001.0032.0076.

⁴ DELW.0001.0001.0864 updated on 20 April 2020: DELW.0001.0001.6185.

⁵ DELW.0001.0001.5761.

⁶ DELW.0001.0001.1192 and DELW.0001.0001.1200.

⁷ DELW.0001.0016.0890.

⁸ DELW.0001.0001.2948.

19. When the DHHS first requested assistance from DELWP, there was no role description for AOs to be deployed to Operation Soteria.
20. DHHS was responsible for identifying the role and duties of AOs. I was involved in various communications with DHHS regarding concerns about and clarification of the nature of the proposed role initially. I had no day-to-day involvement in DELWP AOs' activities once deployment arrangements were in place.
21. When DELWP AOs were deployed to the Program, around 20 April 2020, I understood AOs were responsible for tracking detainees – including checking them in, recording their room numbers and authorising movements of detainees. They were also responsible for ensuring compliance, and escalating any breaches of detainment to the Victoria Police.

Q6. With whom, within the Department of Health and Human Services, did you primarily communicate in relation to Your Department's officers who were involved in Operation Soteria? What was the nature of those communications? Please refer to documents where appropriate.

22. My key contact was Kerry Sayburn, Project Director, Human Capital Management and Briefing Correspondence Improvement Project, DHHS. I communicated with Kerry Sayburn about the secondment process and onboarding of DELWP AOs, and issues or concerns raised by DELWP AOs involved in the Program. This included email and phone discussions.
23. I also had contact with [REDACTED] (Manager, Standards and Regulation Unit) and Michael Robinson (Director, Learning Capability & Culture), about the same types of matters.

Q7. Other than as Authorised Officers, did any other employee from your Department fulfil any (and, if so, what) duties as part of Operation Soteria? Please identify which persons fulfilled what roles and when.

24. Based on information I received from DELWP for the purposes of preparing this statement, I understand that:

- a. Chris Hardman, Chief Fire Officer, DELWP, was appointed to the role of State Controller, Health, from 6 July 2020 to 28 July 2020, and then as a Deputy State Coordinator, Health, up to 17 August 2020;
- b. Scott Falconer, Deputy Chief Fire Officer, DELWP, and Chris Eagle, Deputy Chief Fire Officer, DELWP, worked in the roles of Deputy State Controllers, Health. Chris Eagle worked on 29 March-1 April 2020, 6-9 April 2020, 14-17 April 2020, 21-24 April 2020 and 27 April 2020-1 May 2020. Scott Falconer worked on 2-5 April 2020, 10-13 April 2020 and 18-20 April 2020;
- c. [REDACTED], Safety and Wellbeing Advisor, DELWP, was seconded to the Department of Jobs, Precincts and Regions (**DJPR**) to the role of Safety and Wellbeing Support, Operation Soteria, from 15 April 2020 to 24 April 2020.

25. I had no involvement with them in their roles and do not know of the tasks that they performed.

Complaints and Reservations

Q8. Did you, or to your knowledge did any other member of your Department (whether deployed or seconded as an Authorised Officer in Operation Soteria or otherwise), express any, and if so what, reservations about any aspect of Operation Soteria? To whom were those reservations expressed? Please refer to documents where appropriate.

26. After DELWP AOs were deployed to Operation Soteria, I received feedback from AOs which I passed on, where appropriate, to the DHHS as the lead agency. To the best of my recollection, and on a reasonable review of the documents, this included the following instances.

27. On 21 April 2020, I received an email from [REDACTED], Regulatory Strategy Officer, DELWP, identifying issues that DELWP AOs had raised with her, with an enclosed 'live' link to an 'issues' log with details and suggested improvements.⁹ On 22 April 2020, I telephoned Kerry Sayburn, Director Human Capital Management and Briefing and Correspondence Improvement Project DHHS, and discussed the issues that had been

⁹ DELW.0001.0001.2980.

raised by AOs. That same day, I emailed Kerry Sayburn, attaching a de-identified 'issues' log as at 22 April 2020.¹⁰

28. On 22 April 2020, ██████████ told me over the telephone that a person in quarantine had made a racist comment to one of the DELWP AOs. I spoke with both the AO and their usual DELWP line manager, and ensured the appropriate workplace supports were in place, including reminding the AO that they could access the DELWP Employee Assistance Program. The AO told me that they had notified a Senior DHHS AO at the time of the incident, and advised me that they did not want to escalate it further.
29. On 28 April 2020, ██████████ emailed Kerry Sayburn, copying me and Rebecca Quinn, Director, People & Culture, PV, raising several logistical matters relating to AOs as well as a further 'issues' log with details and suggested improvements.¹¹
30. On 27 May 2020, I became aware through an article on The Age (online) that there was a confirmed case of COVID-19 at the Rydges Hotel. I had not been notified by the DHHS. I contacted Kerry Sayburn to seek further information, and all DELWP AOs who I understood could have worked at that location, to ensure they were aware of the positive case. That same day, I received an email from a DELWP AO, who forwarded me an email from DHHS regarding their removal from the roster and testing.¹² On 28 May 2020, I emailed Kerry Sayburn and, amongst other things, drew attention to the need for AO emails to be 'bcc'd' to ensure confidentiality when communicating with AOs about testing, and requested that DELWP and PV be informed when their staff received communications about COVID-19 exposure, so that we could provide wellbeing support to them.¹³
31. On 19 June 2020, I received an email from ██████████ who had spoken with some PV AOs. The email included a proposed email for Kerry Sayburn, setting out the issues they had identified.¹⁴ On 24 June 2020, I spoke with Kerry Sayburn in relation to the issues identified by PV AOs, and told her I would send her an email. I then emailed Kerry Sayburn that same day, setting out those issues.¹⁵ The purpose of my email to Kerry Sayburn on 24 June 2020 was to prompt a conversation with DHHS about whether the issues were reasonable and what could be resolved in relation to them. On 29 June

¹⁰ DELW.0001.0001.2988 and DELW.0001.0001.2990.

¹¹ DELW.0001.0001.3306.

¹² DELW.0001.0001.2976.

¹³ DELW.0001.0001.2976.

¹⁴ DELW.0001.0001.0947.

¹⁵ DELW.0001.0001.0652.

2020, Ashley Bunce, who was acting in my role whilst I was on leave, emailed Kerry Sayburn, requesting a response to the issues raised in my email of 24 June 2020. He also noted an incident involving one of our staff over the weekend.¹⁶ I followed up on my email dated 24 June 2020 again as set out in paragraph 42 below, in the context of my decision to withdraw DELWP AOs from the roster for Operation Soteria.

Q9. What response, if any, was given to the reservations expressed in answer to the previous question. Please identify each such response, including the person and/or Department from where each came. Please refer to documents where appropriate.

32. On 23 April 2020, Kerry Sayburn replied to my email dated 22 April 2020, thanking me for the feedback and copying in relevant DHHS personnel.¹⁷
33. On 29 April 2020, Kerry Sayburn responded to [REDACTED] email of 28 April 2020, addressing the withdrawal of one AO from the roster.¹⁸
34. On 28 May 2020, Kerry Sayburn replied to my email that she would ring me once she had finished a meeting.¹⁹ Kerry Sayburn later telephoned me. She acknowledged my concerns, and said that she would feed them back to the relevant people in DHHS.
35. On 25 June 2020, Kerry Sayburn responded to my email dated 24 June 2020, advising that she would raise the issues with the Chief OH&S Officer and with RHPEM, and ask them to follow up directly with [REDACTED] or me.²⁰ On 29 June 2020, Kerry Sayburn responded to the follow up email of Ashley Bunce that day, advising that she had forwarded my email dated 24 June 2020 to DHHS's Chief POH&S Officer and to RHPEM for a response, and would follow it up again.²¹ A further response to my follow up of my email dated 24 June 2020 is set out in paragraph 42 below, in the context of my decision to withdraw DELWP AOs from the roster for Operation Soteria.
36. After the withdrawal of DELWP AOs from the roster, I received an email from Murray Smith, Commander, COVID 19 Enforcement and Compliance Regulation, Health Protection and Emergency Management Division, DHHS on 21 July 2020, providing a response to each of the issues raised in my email of 24 June 2020.²² I forwarded the

¹⁶ DELW.0001.0034.0010.

¹⁷ DELW.0001.0001.2988.

¹⁸ DELW.0001.0001.3306.

¹⁹ DELW.0001.0001.2976.

²⁰ DELW.0001.0025.0001.

²¹ DELW.0001.0001.0652.

²² DELW.0001.0034.0002.

email responses to Andrew Collins, Acting Director, Workplace Services, DELWP, on 22 July 2020, who emailed Murray Smith requesting further information on 23 July 2020.²³

37. On 23 July 2020, I received an email from Jesse Maddison, Director, Employee Relations, DHHS, noting that Operation Soteria was being transferred to the Department of Justice and Community Safety, and advising that it was not possible or appropriate to respond to the specific matters raised in view of the COVID-19 Quarantine Hotel Inquiry.²⁴
38. On 27 July 2020, I met with Marg Burge, Director People and Culture, DHHS, via video. We discussed the email from Murray Smith on 21 July 2020. I told her that DELWP had intended my email dated 24 June 2020 to be constructive, and I was happy to work through the issues if DHHS needed our staff.
39. On 13 August 2020, Murray Smith replied to the email of Andrew Collins on 23 July 2020 that if there is a need for future deployment requests from his area of accountability he would be more than pleased to discuss the work, systems and risks at that point.²⁵

Q10. On 14 July 2020 you advised a number of members of your Department that you had made the decision to put on hold any further deployments into Operation Soteria. What information and beliefs prompted this decision? From where did that information and belief originate and what was the substance of it?

40. On 8 July 2020, I decided that DELWP should withdraw the remaining DELWP AOs from the roster of Operation Soteria primarily due to the fact that I had emailed Kerry Sayburn on 24 June 2020 setting out issues identified by PV AOs, and had not received a response. Andrew Collins, Acting Director, Workplace Services, DELWP, had recommended that we advise DHHS that we are pulling out of Operation Soteria because we had not received a response to my 24 June 2020 email. I accepted this recommendation, because there were untested issues that could affect our remaining staff.
41. The details of the reasons for my decision are set out in my email to Christine Ferguson, Acting Deputy Secretary Forest Fire and Regions, DELWP, on 8 July 2020. I telephoned

²³ DELW.0001.0034.0002.

²⁴ DELW.0001.0025.0001.

²⁵ DELW.0001.0034.0002.

Christine Ferguson that day, and told her that I had decided that we should withdraw the remaining DELWP AOs from the roster of Operation Soteria unless DHHS provided a response to the concerns raised in my email 24 of June 2020 that week. Christine Ferguson told me she supported my decision. After our conversation, I sent Christine Ferguson an email confirming that I intended to redirect our current Operation Soteria resources into the DELWP general COVID-19 support pool to undertake other COVID-19 operational roles, and the reasons for the decision.²⁶

42. On 9 July 2020, I spoke to [REDACTED], Manager, Strategic Projects, DHHS, because Kerry Sayburn was on leave. I told her that DELWP needed a response to my email on 24 June 2020, or DELWP staff would need to be removed from the roster. I sent an email the following day, in which I wrote *“you were going to follow up today our issues raised in relation to occupational health and safety concerns. As discussed, if we are unable to resolve these today, we do need to remove DELWP staff from Operation Soteria deployments until further notice. Can you please confirm that these staff have been removed from roster if, we are unable to progress issues today?”*²⁷

43. On 10 July 2020, at 4.34pm, [REDACTED] emailed ‘COVID19 Authorised Officer Rostering (DHHS)’, requesting the immediate removal of an AO from the roster and stating that until further notice, no further DELWP staff members were available for rostering in Operation Soteria.²⁸ At 4.48pm, [REDACTED] replied to my email that day, apologising for not having responded earlier and stating that it had been escalated through her Command.²⁹

44. On 14 July 2020, I emailed DELWP employees involved in Operation Soteria informing them of the decision to put on hold any further deployments into Operation Soteria at that time, on the basis of safety.³⁰

Q11. In relation to the previous question, were any other members of your Department involved in that decision? If so, who? And how were they involved?

45. See Q10.

²⁶ DELW.0001.0016.1051.

²⁷ DELW.0001.0001.2986.

²⁸ DELW.0001.0034.0008.

²⁹ DELW.0001.0001.2986.

³⁰ DELW.0001.0001.2837.

Further information

Q12. If you wish to include any additional information in your witness statement, please set it out below.

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Signature:

Printed name: **KATE LESLIE GAVENS**

Date: **2 September 2020**