



Our ref. 20205747

10 September 2020

Mr Will Yates
Office of Solicitors Assisting
Board of Inquiry into the COVID-19
Hotel Quarantine Program

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Dear Mr Yates

COMMONWEALTH VOLUNTARY SUBMISSION TO THE BOARD OF INQUIRY

1. Thank you for your letter of 8 September 2020. As requested, we have set out below a statement of the Commonwealth's position as to why the Commonwealth has provided its assistance to the Board in the form of a voluntary submission.
2. As you know, on 13 August 2020 the Honourable Justice Jennifer Coate AO wrote to the Prime Minister, the Honourable Scott Morrison MP, and to the Minister for Defence, the Honourable Linda Reynolds CSC, concerning the inquiry presently being undertaken by the Board of Inquiry into COVID19 hotel quarantine arrangements in Victoria (the **Inquiry**).
3. Justice Coate's correspondence requested information about engagements between the Commonwealth Government and the Victorian Government relating to support from the Australian Defence Force (**ADF**) for Victoria's hotel quarantine program. Her Honour also wrote:

I am conscious that the powers vested in me by reason of my appointment and arising from the Inquiries Act 2014 (Vic) have limitations, including in respect of Commonwealth officials and ministers, such as yourself. Nevertheless, I write to you to request that you assist by willingly providing information pertinent to the Board's Inquiry.
4. On 14 August 2020, we wrote to Justice Coate on behalf of the Prime Minister and the Minister for Defence (the **Commonwealth**) stating that 'we appreciate the matters of public importance being examined by your Inquiry and intend to respond to your requests for information in a consolidated way as a matter of urgency.'
5. On 26 August 2020, we wrote to Justice Coate enclosing a 15-page voluntary submission prepared on behalf of the Commonwealth addressing the questions raised by her Honour's correspondence on 13 August 2020. The voluntary submission enclosed 23 relevant supporting documents.

6. Our letter of 26 August 2020 made clear that the Commonwealth was voluntarily assisting the Board's inquiries. By way of further explanation, the Commonwealth's long-standing position is that neither the Commonwealth, nor its officers, are generally bound by the compulsory powers of state and territory Royal Commissions or equivalent bodies. Reasons for the Commonwealth's position include the Commonwealth's understanding of the terms and effect of the relevant state legislation and constitutional grounds related to the protection of the rights, powers and immunities of the Commonwealth Executive. Consistently with the Commonwealth's position, Commonwealth officials usually do not appear as witnesses before state and territory Royal Commissions or equivalent bodies
7. Where the Commonwealth wishes to assist a State inquiry, as is the case here, the Commonwealth generally does so by way of a voluntary submission that provides the information requested by the inquiry. Recent examples include the Commonwealth's voluntary submission of 26 August 2020 to this Inquiry and the Commonwealth's voluntary submissions to the NSW Special Commission of Inquiry into the Ruby Princess. Provision of information in the form of a Commonwealth submission enables the Commonwealth to provide a concise, comprehensive and detailed account of the information of interest to the inquiry.
8. In relation to this Inquiry, the Commonwealth's voluntary submission was prepared on the basis that the Commonwealth understood the importance of the Inquiry's work and, having regard to the questions raised by Justice Coate, that the Commonwealth had information responsive to those inquiries. The Commonwealth's submission provides the Commonwealth's factual account of relevant interactions between senior Commonwealth officials and agencies and Victorian officials and agencies, including by the inclusion of copies of relevant point in time Commonwealth records.
9. The Commonwealth remains prepared to assist the Inquiry in its investigations. Please do not hesitate to contact us should you wish to discuss.

Yours sincerely



Matthew Blunn
National Leader, AGS Dispute Resolution

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