



PRACTICE DIRECTION NO. 5

DOCUMENTARY EVIDENCE

31 August 2020

INTRODUCTION

1. This Practice Direction (**PD-5**) relates to the handling of documentary evidence produced to the Board of Inquiry into the COVID-19 Hotel Quarantine Program (**Inquiry**).
2. This Practice Direction is issued under s 63(1) of the *Inquiries Act 2014* (Vic) (**Act**). It should be read in conjunction with the Act, the terms of reference contained in the Order establishing the Inquiry, and the other Practice Directions available on the Inquiry's website (<https://www.quarantineinquiry.vic.gov.au/lawyers>).
3. This Practice Direction may be varied, changed or amended from time to time. The Inquiry may, at any time, depart from this Practice Direction if it considers it appropriate to do so.

ONLINE HEARING BOOK

4. The Inquiry's online Hearing Book (**Hearing Book**) is accessible to parties with Leave to Appear. Access is expressly subject to an undertaking given by the accessing party that information contained on the Hearing Book will not be published or otherwise disclosed unless and until it has been tendered at a public hearing of the Inquiry or otherwise made publicly available by the Inquiry.
5. The Inquiry's staff, including Solicitors Assisting and Counsel Assisting the Inquiry, will determine which materials provided to the Inquiry will be uploaded to the Hearing Book.
6. As a general guide, the Hearing Book will contain:
 - (a) statements of witnesses;
 - (b) any exhibits or attachments to the statements of witnesses;
 - (c) other documents identified as being relevant to the evidence of witnesses; and

(d) transcripts of public hearings.

7. The Hearing Book folders are structured as follows:

[Hearing dates to which evidence relates]

01. Leave to Appear folder

[Name of witness to whom evidence relates]

- a. Statement
- b. Exhibits
- c. Documents Relevant to Witness

Other relevant documents

02. Produced for Tendering folder

[Name of witness to whom evidence relates]

- a. Statement
- b. Exhibits
- c. Documents Relevant to Witness

Other relevant documents.

03. Tendered Exhibits folder

04. Finalised Transcripts folder

HEARING BOOK PROCESS

8. Documents subject to a 'reasonable excuse' claim pursuant to s 65 of the Act will not be uploaded to the Hearing Book until such claims have been determined.

9. Documents will be uploaded by the Inquiry's staff to the Hearing Book as follows:

- (a) As soon as practicable upon receipt of statements and their exhibits/attachments that are proposed to be tendered, and upon identification of any other documents relevant to witnesses, but following the resolution of any claims of 'reasonable excuse' over the documents, or parts of documents;
- (b) Documents subject to an extant claim for an order pursuant to s 73 of the Act (**s 73 Order**) will be uploaded to the Leave to Appear folder along with documents that are not subject to claims;
- (c) Where redacted copies of documents subject to a claim for a s 73 Order are not provided at the time the documents are produced, unredacted copies of

those documents will be uploaded to the Leave to Appear folder;

- (d) Where redacted copies of documents subject to a claim for a s 73 Order are provided to the Inquiry, those documents will be uploaded in redacted and unredacted form while such claims are resolved;
- (e) Where a party seeks any redaction to documents contained on the Inquiry's Hearing Book prior to them being tendered, that party is required to provide highlighted and redacted copies of the documents to Solicitors Assisting as soon as possible but at least three days prior to the hearing at which the documents are proposed to be tendered;
- (f) The Inquiry's staff will endeavour to transfer documents from the Leave to Appear folder to the 'Produced for Tendering' folder at least two days prior to the hearing to which those documents relate;
- (g) Once witness statements are tendered, they will be published on the Inquiry's website, generally the same day they are tendered;
- (h) Once documents other than witness statements are tendered, they will be placed in the Tendered Exhibits folder. Should any further redactions to the documents be sought, the seeking party must provide the Inquiry with highlighted and redacted copies of the documents as soon as possible, but no more than two calendar days after their being uploaded to the 'Tendered Exhibits' folder;
- (i) Documents contained in the 'Tendered Exhibits' folder will be published on the Inquiry's website in due course;
- (j) Documents contained in the 'Produced for Tendering' folder may be publicly displayed during the Inquiry's hearings.

REDACTING DOCUMENTS

- 10. The Inquiry's staff are generally not in a position to make redactions on behalf of parties.
- 11. If a party seeks that a redaction be made, it is that party's responsibility to provide copies of:
 - (a) the document(s) with highlighting over those parts sought to be redacted; and
 - (b) the document(s) with the relevant parts redacted as sought, and
 - (c) an explanation in writing which justifies the redaction.

12. Failure to provide any one of (a) – (c) above will result in the application for redaction being considered void and the document may be tendered, referred to in public hearings and published on the Inquiry’s website in accordance with the remaining paragraphs of this Practice Direction.

DOCUMENTS AVAILABLE TO WITNESSES

13. When giving evidence before the Inquiry, witnesses are required to have immediate access (whether in electronic or hard-copy format) to all documents contained in the ‘Produced for Tendering’ folder assigned to their name.

IDENTITIES OF NON-EXECUTIVE PERSONNEL

14. The Inquiry has determined that information tending to identify any non-executive personnel of a government or private agency is not generally relevant to its Terms of Reference.
15. Accordingly, unless otherwise directed by the Inquiry, parties producing documents in response to a Notice to Produce (including statements) may produce documents to the Inquiry in two forms:
 - (a) an unredacted copy of the document which contains personal identifying information of non-executive personnel of government and/or private agencies; and
 - (b) a form of the document where the personal identifying information is redacted from documents, and in which the redacted information may be replaced with text reflecting that person’s job title or role.
16. In the instance that a party seeks to avail itself/themselves of the process afforded by paragraph 15 above, then:
 - (a) only the redacted version of the statement will be placed in the ‘Produced for Tendering’ folder, tendered at any public hearing and placed on the Inquiry’s website for public access; and
 - (b) any person to whom such personal identifying information relates will be given a pseudonym by the Inquiry, and if referred to or called to give evidence at a public hearing, will give evidence under that pseudonym.

Issue date: 31 August 2020

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

THE HONOURABLE JENNIFER COATE AO
Board of Inquiry into the COVID-19 Hotel Quarantine Program