

IN THE MATTER OF *the Inquiries Act 2014***AND IN THE MATTER OF** a Board of Inquiry into the COVID-19 Hotel Quarantine Program**AFFIDAVIT OF GRAHAM LEONARD ASHTON AM APM**

Date of document: 19 October 2020
Prepared by:
Norton Rose Fulbright Australia
Level 38, Olderfleet
477 Collins Street
Melbourne VIC, 3000

Solicitor's Code: 370
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Tel: (03) 8686 6000
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Ref: 4032447
Attention: Peter Cash
Email: peter.cash@nortonrosefulbright.com

I, Graham Leonard Ashton AM APM of [address withheld], retired person, make oath and say as follows:

1. I retired as the Chief Commissioner of Victoria Police on 26 June 2020, having been appointed to that position on 1 July 2015.
2. I make this affidavit at the request of the Board of Inquiry and in response to the "supplementary list of questions" in the document attached to the Board of Inquiry's letter addressed to me and dated 13 October 2020 (**Questions**). Now produced and shown to me marked "**GLA-1**" is a copy of that letter and the Questions.
3. Save where otherwise indicated, I make this affidavit from my own knowledge. Where I depose from information and belief, I believe such matters to be true. Where I have referred to conversations, unless otherwise stated, I refer to the substance of those conversations or the effect of the words that were said, to the best of my recollection.
4. In this affidavit, I refer to the first of two statements I have previously made to the Board of Inquiry, dated 7 September 2020 (**First Statement**). I refer also to the records of incoming calls received on my mobile telephone on 27 March 2020 which were provided to Norton Rose Fulbright by the Board of Inquiry on 17 October 2020 (**Incoming Call Records**).



Discussion with Mr Eccles on 27 March 2020

5. The Incoming Call Records confirm that Mr Chris Eccles called me at 1317 on 27 March 2020 and that we spoke for 136 seconds. However, notwithstanding that confirmation, I have no independent recollection of that conversation.
6. I believe that at least part of this conversation involved Mr Eccles informing me regarding the potential use of the ADF to guard returned travellers during the transfer from their flights and the use of private security to guard them at the hotels, but my belief as to what he told me in this regard is based only on the inference which I draw from the contents of the text message which I sent to AFP Commr Reece Kershaw at 1322 on 27 March 2020.
7. Other than as stated above, I am unable to provide any further information in answer to Questions 1.1 – 1.3.

Discussion with Commissioner Mick Fuller

8. I do not have any independent recollection of my telephone conversation with Commr Mick Fuller commencing at 1324 on 27 March 2020. However, I believe that at least part of this conversation related to the respective roles of Victoria Police and NSW Police in the hotel quarantine program. This belief is based upon the inference that I draw from the contents of the text message which I sent to Commr Kershaw at 1332 on 27 March 2020 and also the fact that Commr Fuller and I regularly contacted one another in order to compare notes and to gain an understanding as to how particular policing issues were being addressed in the other's State, given that these are the two biggest jurisdictions in Australia.
9. Other than as stated above, I am unable to provide any further information in answer to Questions 2.1 – 2.4.

Discussion with Commissioner Andrew Crisp at 1335 on 27 March 2020

10. As I said when I gave evidence to the Board of Inquiry on 17 September 2020 (T1665; lines 20-24), I do not have a specific recollection of my telephone conversation with Commr Andrew Crisp commencing at 1335 on 27 March 2020, but I believe that I was conveying to him what I had heard from Commr Kershaw regarding the hotel quarantine program and that this was the purpose for my call.



11. This belief is based on the fact that we were in regular communication at that time in relation to matters concerning the State's response to the COVID-19 pandemic, during which communications we exchanged any information of which we were then aware.
12. Other than as stated above, I am unable to provide any further information in answer to Questions 2.1 – 2.4.

Question 1.4 - My view as to the respective merits of police, ADF, AFP and private security being used in a mandatory quarantine program

13. The Incoming Call Records confirm that Commr Kershaw telephoned me at 1303 on 27 March 2020 and that we spoke for 252 seconds. Whilst I do not have any independent recollection of this conversation, as a matter of inference, I now believe that this was the first of the phone calls giving me a 'heads up' about the hotel quarantine program to which I referred in paragraph 2.2 of my First Statement. On the basis of the contents of the text messages that I subsequently sent to Commr Kershaw at 1312 and to Mr Eccles at 1316, I believe that it is likely that Commr Kershaw told me in that conversation that there was at least some suggestion that state police would be asked to guard people at the hotels.
14. My recollection now is that it was my understanding at that early stage that the hotel quarantine program would be administered by the Commonwealth government and it was for that reason that I asked Commr Kershaw in my text at 1312 why guarding people at the hotels would not be an AFP responsibility.
15. It is apparent from my text to Commr Kershaw at 1322 that, by then, I had already been informed that, in fact, private security and not police would be used to guard people at the hotels. The decision to use private security had been made without reference to, or consultation with, me (or Victoria Police) and I was not ever asked to provide any advice or to express any view on the matter. I confirm the evidence that I gave to the Board of Inquiry on 17 September 2020 (T1672; lines 11-13) in this regard.
16. As I said in paragraphs 3.1 – 3.6 and 6.1 – 6.2 of my First Statement, I was comfortable with the decision to use private security and, at the time, I did not have concerns or reservations about it. However, as I have also said, this was on the basis of my assumptions and expectation that:




- (a) the guards would be positioned at entry/exit points and elsewhere throughout the hotel;
 - (b) their role would be to act only as sentries, stopping people coming in and out of the hotel and deterring guests from breaching quarantine and absconding from the hotel; and
 - (c) the private security guards would be appropriately resourced, trained and tasked for this role.
17. As set out in paragraph 4.4 of my First Statement, I do not recall expressing any view regarding the use of private security guards (or any alternative to the use of private security guards) at the meeting I attended at 1400 on 27 March 2020 with the Minister, Ms Corri McKenzie (DJCS), Commr Crisp and his assistant.
18. I also do not recall expressing any such view at the Victorian Secretaries Board meeting at 1600 on 27 March 2020.
19. After making my First Statement, I became aware that, as confirmed by the Incoming Call Records, I received a phone call (in response to my call to him) from Commr Crisp at 17:15 on 27 March 2020 and we spoke for 115 seconds. As I said in my evidence to the Board of Inquiry on 17 September 2020 (T1671; line 21), I do not recall that conversation, however I believe that, as I also said in my evidence to the Board of Inquiry, I conveyed to him in that conversation that I supported the decision that had been made to use private security to guard the hotels (T1672; lines 11-14; T1673; lines 15-18 and T1676; lines 18-21).
20. As set out in paragraph 5.10 in my First Statement, during the afternoon on 27 March 2020, I told DC Nugent that I was comfortable with the arrangements for the incoming passenger arrivals, including the use of private security guards at the hotels.
21. Other than as stated above, I am unable to provide any further information in answer to Question 1.4.
22. This affidavit is sworn by audio visual link due to social distancing measures implemented to minimise the spread of COVID-19.



23. The contents of this affidavit are true and correct and I make it knowing that a person making a false affidavit may be prosecuted for the offence of perjury.

SWORN at Melbourne
in the State of Victoria
on 19 October 2020

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Signature of deponent

Before me:


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Peter Edmund Cash
Level 38, Olderfleet
477 Collins Street, Melbourne, Victoria

An Australian Legal Practitioner

This affidavit was signed and initialled by both the deponent and the authorised affidavit taker by electronic means.

Taking the oath and the signing of this affidavit (including the certificate identifying its exhibit) by the deponent, were witnessed by the authorised affidavit taker by means of audio visual link.

The affidavit and jurat are an electronic copy, not an original.

IN THE MATTER OF *the Inquiries Act 2014*

AND IN THE MATTER OF a Board of Inquiry into the COVID-19 Hotel Quarantine Program

CERTIFICATE IDENTIFYING EXHIBIT – “GLA-1”

Date of document: 19 October 2020	Solicitor's Code: 370
Prepared by:	DX: 445
Norton Rose Fulbright Australia	Tel: (03) 8686 6000
Level 38, Olderfleet	Fax: (03) 8686 6505
477 Collins Street	Ref: 4032447
Melbourne VIC, 3000	Attention: Peter Cash
	Email: peter.cash@nortonrosefulbright.com

This is the exhibit marked “GLA-1” now produced and shown to Graham Leonard Ashton at the time of swearing his affidavit on 19 October 2020.



.....
Peter Edmund Cash
Level 38, Olderfleet
477 Collins Street, Melbourne, Victoria

An Australian Legal Practitioner

This certificate was signed by the authorised affidavit taker by electronic means.

"GLA-1"
Letter from Board of Inquiry and Questions

GLA-1

**COVID-19
Hotel Quarantine Inquiry**

13 October 2020

Mr Graham Ashton AM APM
Victoria Police
637 Flinders Street
Docklands VIC 3008

By email: (to Victoria Police legal representative) peter.cash@nortonrosefulbright.com

Dear Mr Ashton,

Board of Inquiry into the COVID-19 Hotel Quarantine Program

The Board of Inquiry (**Inquiry**) is inquiring into certain matters relating to the Hotel Quarantine Program and has identified you as a person with relevant evidence to give regarding one or more of those matters.

This letter is a request for an affidavit from you to assist the Inquiry with its work.

Attached to this letter are:

- A list of questions to be answered in your affidavit; and
- A Notice to Produce the affidavit **by 10:00pm on 20 October 2020 (NTP-161)**.

Powers of the Inquiry

Under the *Inquiries Act 2014* (Vic) (**Inquiries Act**) the Inquiry has the power to compel a person to attend to give evidence before a sitting of the Inquiry and to produce any document or thing. Persons who give evidence to the Inquiry enjoy certain protections under the Inquiries Act. In certain circumstances, a person may offer a reasonable excuse why they ought not be compelled to give evidence. More information can be found on the Inquiry's website and in the Inquiries Act.

You can get help with writing your affidavit

We understand that you have legal representation through Victoria Police from whom you may seek assistance in preparing your affidavit. Should this change at any point, please contact us, and we can discuss your options for receiving assistance.

Approach to affidavit

The Inquiry requests that you take the following approach when preparing your affidavit:

1. Answer the Inquiry's questions in the order in which they are listed in the attached document;
2. List each question as a heading and answer the relevant question under that heading;

[E lawyers@quarantineinquiry.vic.gov.au](mailto:lawyers@quarantineinquiry.vic.gov.au)

quarantineinquiry.vic.gov.au

OFFICIAL

3. Draft the affidavit in your own words and in plain English without the use of acronyms or jargon;
4. Only include additional evidence which you consider necessary, *having regard to the terms of reference of this Inquiry*, to give context or completeness to the questions you have been asked after you have answered the Inquiry's questions;
5. Where it is necessary to refer in your affidavit to a document which you or your organisation have already produced to the Inquiry under a Notice to Produce, refer to the document both by its title or description and by the number assigned to it when it was produced to the Inquiry;
6. Where it is necessary to refer in your affidavit to a document which you have not yet produced to the Inquiry, assign it a number in accordance with Practice Direction 1, refer to the document both by its title or description and by the number it has been assigned, and produce the document or documents to the Inquiry at the same time that you produce your affidavit; and
7. Once completed:
 - assign your affidavit its own number in accordance with Practice Direction 1; and
 - sign your affidavit under oath or affirmation.

Timeline for production

The Notice requests that you produce the affidavit and any other relevant documents to the Inquiry by **10:00pm on 20 October 2020**. However, we would gratefully receive any material produced prior to that date, if it is practicable for you to do so.

If you have any questions, please contact Solicitors Assisting at lawyers@quarantineinquiry.vic.gov.au or (03) 7017 3459.

Yours sincerely,



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



**COVID-19
Hotel Quarantine Inquiry**

IN THE MATTER OF the *Inquiries Act 2014*

AND IN THE MATTER OF a Board of Inquiry into the COVID-19 Hotel Quarantine Program

SUPPLEMENTARY LIST OF QUESTIONS FOR GRAHAM ASHTON

[Please answer these questions in your affidavit under the headings included in this document]

Discussions with Mr Eccles on 27 March 2020

1. Telephone records provided by Mr Eccles to the Inquiry indicate that he rang your mobile phone number at 1.17pm on 27 March 2020 and that the ensuing call lasted for 2 minutes and 15 seconds. His call appears to have followed your text message to him at 1.16pm.
 - 1.1. Does this information refresh your memory regarding whether you spoke with Mr Eccles on 27 March 2020?
 - 1.2. If so, what is your recollection of the conversation you had with him?
 - 1.3. Are you able to say whether any part of that conversation related to the potential use of one or more of -
 - (a) police members;
 - (b) ADF;
 - (c) AFP; and/or
 - (d) Private securityto guard persons in quarantine? If so, please give details.
 - 1.4. Did you have a view during the various discussions you had on 27 March 2020 regarding the respective merits of police, ADF, AFP and private security being used in a mandatory quarantine program? If so, what was that view and to whom did you express that view?

Discussions with Commissioner Mick Fuller

2. Your phone records as detailed in your second statement indicate that, between two text messages sent by you to Commissioner Reece Kershaw at 1.22pm and 1.32pm, you telephoned Commissioner Mick Fuller with the ensuing call lasting for 6 minutes and 17 seconds.
 - 2.1. What was the purpose of your call to Commissioner Fuller?
 - 2.2. What was discussed?
 - 2.3. Was there any discussion about the proposal for people to be guarded in hotels?
 - 2.4. Was there any discussion of the proposed use of police and/or ADF and/or private security? If so, what was that discussion?

Discussions with Commissioner Andrew Crisp on 27 March 2020

3. Your phone records as detailed in your second statement indicate that you made a telephone call to Commissioner Crisp at 1.35pm and the ensuing call lasted for 2 minutes and 46 seconds. Your call appears to have followed a text message from Commissioner Crisp to you which referred to ADF support to state police.
 - 3.1. What did you discuss during that conversation? Were you asked by Commissioner Crisp about your views as to the use of ADF?
 - 3.2. If so, what view did you express?



**COVID-19
Hotel Quarantine Inquiry**

NOTICE TO PRODUCE

DOCUMENTS TO A BOARD OF INQUIRY

Regulation 15

TO: Mr Graham Ashton AM APM

AT: Victoria Police
637 Flinders Street
Docklands VIC 3008

A Board of Inquiry is being held into the COVID-19 Hotel Quarantine Program, established by an Order in Council made under s 53(1) of the *Inquiries Act 2014* (Vic) (**Act**).

What you must do

You must produce the documents specified in the Schedule attached to this Notice (the **Schedule**). This Notice is identified as 'NTP-161'.

You should include with the documents a numbered index which includes:

- the document title and date;
- whether the document is subject to a claim for reasonable excuse; and
- any relevant commentary necessary to provide context to the document.

Where you must produce documents

The documents specified in the Schedule must be produced electronically on or before **10:00pm on 20 October 2020** in accordance with Practice Direction 1: Production of Materials and Document Management Protocol.

Objecting to this notice

You may object to this notice if you have (or will have) a reasonable excuse for failing to comply with the notice. For example, it is a reasonable excuse to fail to comply with the notice if you are prohibited from disclosing the document(s) by a court order. See section 65 of the *Inquiries Act 2014* (the **Act**) for further examples of what constitutes a reasonable excuse.

You may also object to the notice by claiming that the document(s) specified in the notice are not relevant to the subject matter of the inquiry.

If you wish to object to this notice, you must do so in writing:

To: lawyers@quarantineinquiry.vic.gov.au

By: 10:00pm on 16 October 2020.

Your written objection must outline your reasons for objecting and include a relevant contact person with whom to liaise. If the Board of Inquiry is satisfied that your claim is made out, the Board of Inquiry may vary or revoke this notice.

Failure to comply with this notice without a reasonable excuse may constitute a criminal offence. The maximum penalty for this offence is 240 penalty units or imprisonment for two years. See section 86 of the Act.

Failure to comply with this notice without a reasonable excuse may also result in the Board of Inquiry making an application to the Supreme Court of Victoria. The Court may then order you to comply with the notice within a specified period. See section 70 of the Act.

A handwritten signature in black ink, appearing to be 'Jennifer Coate', with a long horizontal flourish extending to the right.

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

Date: 13 October 2020

SCHEDULE TO NOTICE TO PRODUCE**DOCUMENTS TO A BOARD OF INQUIRY (NTP-161)**

The documents described below are required to be produced to the Board of Inquiry into the COVID-19 Hotel Quarantine Program (**Inquiry**) pursuant to s 64 of the *Inquiries Act 2014* (Vic):

1. The affidavit, along with any supporting documents annexed thereto and an index of the supporting documents, prepared or gathered in response to the list of questions in the Inquiry's letter addressed to Mr Graham Ashton AM APM dated 13 October 2020.