

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

AFFIDAVIT OF CHRISTOPHER BARCROFT ECCLES

I, Christopher Barcroft Eccles, former Secretary of the Department of Premier and Cabinet (DPC), affirm that:

1. I make this affidavit in response to Notice to Produce 159 issued by the Board of Inquiry (**Board**) addressed to me dated 13 October 2020. I address the questions set out in the letter attaching that notice below.

Discussion with Chief Commissioner of Police (CCP) Ashton on 27 March 2020

Q1. Telephone records provided by you to the Inquiry indicate that you rang CCP Ashton at 1.17pm on 27 March 2020 and that the ensuing call lasted for 2 minutes and 15 seconds. Your call appears to have followed his text message to you at 1.16pm.

1.1. Does this information refresh your memory regarding whether you spoke with CCP Ashton on 27 March 2020?

1.2. If so, what is your recollection of the conversation you had with him?

2. Upon obtaining my complete telephone records from Telstra on 11 October 2020, I became aware that I telephoned the then Chief Commissioner, Mr Graham Ashton, at 1.17pm on 27 March 2020.
3. I have no recollection of telephoning and speaking with the then Chief Commissioner at that time.
4. I have never denied that I may have contacted the then Chief Commissioner in response to his text message to me at 1.16pm that day. I gave evidence to the Board that:
 - (a) I did not recall receiving his text message and I did not have a copy of it on my mobile phone;
 - (b) I did not know what, if anything, I did in response to his text message;
 - (c) my normal practice, if I received a message from the then Chief Commissioner asking me a question, was to get back to him. (Although it was certainly not my routine practice, I also gave evidence that it was possible that I got someone else from DPC to get back to the then Chief Commissioner);
 - (d) if I had telephoned the then Chief Commissioner after receipt of his text message, I would not have (and would not have been able to) convey any decision about the use

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of private security, as no such decision had been made by me or anyone to whom I had spoken;

- (e) I did not call the then Chief Commissioner, or anyone else at Victoria Police, to provide a heads-up about the National Cabinet decision or about the use of police at hotels; and
 - (f) I was not sure how complete my own telephone records were but to the extent I was able to interrogate them they did not reveal that I telephoned the then Chief Commissioner.
5. As a result, I strenuously reject the claim (reported widely in the media) that I misled the Board by denying that I contacted the then Chief Commissioner in response to his text message. I never denied this. The evidence I gave to the Board concerning my normal practice (as I depose to above at paragraph 4(c)) made it likely that I did, in fact, call the then Chief Commissioner back. This is why I gave evidence to the Board that, if I did call him back, I would not have conveyed (and would not have been able to convey) any decision about the use of private security.
 6. At the time of my telephone call with the then Chief Commissioner at 1.17pm I had no knowledge of:
 - (a) any decision about the use of Victoria Police, the Australian Defence Force, the Australian Federal Police or private security in the proposed Hotel Quarantine Program; and
 - (b) the particular matters the subject of the then Chief Commissioner's text message to me at 1.16pm concerning the use of Victoria Police to do the guarding in the proposed Hotel Quarantine Program.
 7. It was not my role to make such operational decisions about the potential use of Victoria Police, the Australian Defence Force, the Australian Federal Police, private security or other enforcement procedures in the proposed Hotel Quarantine Program.
 8. I also did not have the expertise to make such decisions.
 9. As a result, when I telephoned the then Chief Commissioner at 1.17pm on 27 March 2020, I would not (and could not) have:
 - (a) told him of any decision to use Victoria Police, the Australian Defence Force, the Australian Federal Police or private security in the proposed Hotel Quarantine Program; or

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(b) expressed any opinion on operational matters concerning the potential use of Victoria Police, the Australian Defence Force, the Australian Federal Police, private security or other enforcement procedures in the proposed Hotel Quarantine Program.

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 security

to guard persons in quarantine? If so, please give details

10. I refer to the matters I have deposed to at paragraph [9] above.

Q 2. Approximately two minutes after the conclusion of his conversation with you, CCP Ashton sent a text message to his AFP counterpart which referred to the ADF being used for passenger transfer and that 'private security will be used'.

2.1. Were you the source of CCP Ashton's information regarding the use of the ADF and private security?

11. No. I refer to the matters I have deposed to at paragraph [9] above.

2.2. Whether or not you recall the conversation, do you accept that the Inquiry would be entitled to infer that CCP Ashton had learned of the proposed use of the ADF and private security from you?

12. No. I refer to the matters I depose to at paragraph [9] above. I had no knowledge of these matters. I also refer to the matters set out in the letter from the solicitors for DPC, Clayton Utz, to the Board dated 12 October 2020, which tell against such an inference.

Q3. Did you inform the Premier that you intended to contact CCP Ashton, or that you had done so? If so, what did you tell him and how did he respond?

13. No.

Discussions with the Premier at National Cabinet prior to the 12.20pm call

Q4. Your phone records indicate that you telephoned Mr Phemister at 12.20pm. Before leaving the National Cabinet meeting just prior to the 12.20pm call to Mr Phemister, what, if any instructions, advice or direction did you receive from the Premier or any member of his Private Office as to any aspect of the Hotel Quarantine Program, but in particular as to the use of private security?

14. I have already given evidence to the Board that:

- (a) I decided to telephone Mr Phemister;
- (b) it is likely that before I stepped out of the National Cabinet meeting to make the call to Mr Phemister, I briefly advised the Premier of what I was doing. I was seated next

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to the Premier while the National Cabinet meeting was underway so it would have been peculiar had I not done so; and

- (c) it is likely that as I stepped out of the National Cabinet meeting I also spoke to the Premier's Chief-of-Staff, who I recall was present in the anteroom to the telepresence room where the National Cabinet meeting was being relayed. In that conversation, it is likely that I communicated the substance of the National Cabinet decision and that I was about to speak to Mr Phemister.
15. Before leaving the National Cabinet meeting to telephone Mr Phemister, I did not receive any instructions, advice or direction from the Premier or any member of his Private Office as to the use of:
- (a) private security;
 - (b) the Australian Federal Police;
 - (c) the Australian Defence Force;
 - (d) Victoria Police.
16. From my recollection, before leaving the National Cabinet meeting to telephone Mr Phemister, I did not receive any other instructions, advice or direction from the Premier or any member of his Private Office as to other aspects of what became the Hotel Quarantine Program.

Discussions with Mr Phemister

Q5. Your phone records indicate that you telephoned Mr Phemister at 12.20pm, with the ensuing call lasting for 6 minutes and 1 second. This call appears to have lasted longer than you or Mr Phemister recalled it being.

5.1. Does this information refresh your memory regarding the nature and extent of things discussed? If so, please give details.

17. No. The duration of the telephone call confirms my recollection that the telephone call was short.

5.2. Was there any discussion regarding enforcement options, including security at hotels, during the conversation?

18. No.

Q6. Did you tell the Premier that you were intending to place the call to Mr Phemister? If so, what did you tell him and how did he respond?

19. I refer to the matters I depose to in paragraph [14] above.

Q7. Did you report back to the Premier after the call to Mr Phemister? If so, what did you tell him and how did he respond?

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20. I cannot recall reporting back to the Premier after the call to Mr Phemister. However, it is likely that when I returned to the National Cabinet meeting, I told him that I had spoken to Mr Phemister.

Q8. Telephone records produced to the Inquiry indicate that you telephoned Mr Phemister again at 1.47pm with the ensuing call lasting for 3 minutes and 35 seconds.

8.1. Do you recall that second conversation?

21. No.

8.2. What was discussed?

22. I cannot recall.

8.3 Was there any discussion in that later conversation about enforcement options for the proposed Hotel Quarantine Program, including the use of Victoria Police or private security?

23. No. Although I cannot recall the conversation, at the time of my telephone discussion with Mr Phemister at 1.47pm I still had no knowledge of any decision or discussion about the potential use of Victoria Police or private security in the proposed Hotel Quarantine Program.

Q9. What discussions did you have with the Premier between the conclusion of National Cabinet and the start of the Premier's press conference on 27 March 2020? Please give details of those discussions.

24. As far as I can recall, none. Although I cannot recall it, I expect I would have simply bid the Premier farewell at the conclusion of the meeting before we went our separate ways.

25. As I said in my evidence before the Board on 21 September 2020, I did not play any role in briefing or assisting the Premier with the remarks he made in his press conference. I have no recollection of, and have not seen any records showing, any contact between me and the Premier after the National Cabinet meeting and before that press conference.

Briefings regarding what occurred at National Cabinet

Q10. The Inquiry has been furnished with a document prepared by the DHHS National Cabinet Director (Health and Public Health) Ms Nicole Lynch at 2.48pm on 27 March 2020 which purports to contain a summary of National Cabinet outcomes and which relevantly includes the following:

"Enforcement by S & T governments keen for police not to babysit, but called in as needed (e.g. use private security)"

10.1. Does this reflect the view you held about the potential use of police and private security?

26. I assume that the question is asking whether this reflected my view as at that time (i.e. 2.48pm on 27 March 2020). Upon that assumption, no. At that time, I had no view about such matters and was not aware that anyone else held that view.

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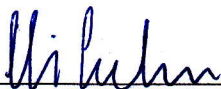
10.2. Is this a view you were aware of being held by the Premier and/or within the Premier's Private Office or DPC?

27. I refer to the matters I depose to in paragraph [26] above.

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.

Affirmed at *Moorace Ponds*
in the State of Victoria on 20 October
2020

Before me:



Deponent

on *20 October 2020*
Name: *TOBY HEMMING*
Capacity: *AUSTRALIAN LEGAL
PRACTITIONER*

A person authorised under section 19(1) of the **Oaths and Affirmations Act 2018** to take an affidavit