

MinterEllison

11 November 2020

BY EMAIL

Solicitors Assisting
Board of Inquiry into the COVID-19 Hotel Quarantine Program
lawyers@quarantineinquiry.vic.gov.au

Dear Solicitors Assisting

Board of Inquiry (Board) into the COVID-19 Hotel Quarantine Program

1. We refer to the Board's letter dated 16 October 2020 and notices to produce issued by the Board, which relate to two email chains that the department had not previously provided to the Board.
2. We refer to the information provided to the Board in response to these requests, including our letter of 19 October 2020 and various affidavits and documents. There is a small number of final matters that the Board has asked us to address and these will be provided shortly. We understand that will conclude the materials sought.
3. We note that the Board will now consider these materials. We expect that will include assessing whether the two email chains were critically relevant documents and if that is the Board's view, any impact that has on the Board's deliberations. Our client acknowledges that this matter and other matters have contributed to a delay in the issue of the final report by the Board and that this is clearly a regrettable outcome.
4. Nevertheless it is important to recognise that our client has acted in good faith and sought at all times to support the process of the Inquiry, subject only to the practical constraints of time. In particular, we note that:
 - (a) our client established a dedicated inquiry team independent of witnesses, who worked extremely diligently and rapidly to identify documents that may be relevant to the Inquiry;
 - (b) the dedicated departmental inquiry team and the external legal advisers, have worked collaboratively and honestly with the Solicitors Assisting;
 - (c) the legal team had a number of discussions in relation to notices to produce and the fact that there were hundreds of thousands of documents likely to be covered, and followed the pathway agreed with Solicitors Assisting to identify the most critical materials;
 - (d) the team carefully extracted and delivered extensive documentation to the Board in an effective and responsive way, including in response to the Board's most recent requests. It goes without saying that if a document was genuinely assessed as a 'critical' document, it was promptly provided to the Board and would never be deliberately withheld;
 - (e) over the course of the Inquiry, the database of relevant documents extracted by the department exceeded 500,000 documents and, of those, 4,000 were produced to the Board;
 - (f) the identification of critical documents from hundreds of thousands of relevant documents in a dynamic complex setting was genuinely challenging. Even the most recent searches alone required page by page reviews of over 20,000 documents to identify a small number of potentially relevant items;
 - (g) honest and reasonable minds may differ on which documents were critical to the Board at the time of their assessment and the existence of other evidence may be relevant. For example, for the first email chain, there were other documents already in evidence that

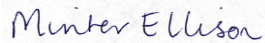


referenced security that were sent or copied to Professor Sutton in the early weeks and months of the quarantine program.

5. As may be expected, the department and its legal team strongly value integrity and professionalism, which they demonstrated throughout the response to the Inquiry and this process. After considering the materials, if the Board has any concerns about the way in which the department or its advisers went about responding to the disclosure requirements, we would welcome the opportunity to provide any further information or clarification sought.
6. Finally, we anticipate that the Board will consider and advise on any further steps required in this process. We anticipate this would include an appropriate process under section 76 of the *Inquiries Act 2014* should items of that nature be contemplated.

Please do not hesitate to contact any of the writers if we or our client can assist the Board with any further information.

Yours faithfully
MinterEllison



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