

THE BOARD OF INQUIRY INTO THE COVID-19 HOTEL QUARANTINE PROGRAM

**AFFIDAVIT OF REBECCA LOUISE BEDFORD**

Date of document: 4 November 2020

Filed on behalf of the Department of Health and Human Services

Prepared by:

**MINTER ELLISON**

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Reference RLB 1305953

Email: rebecca.bedford@minterellison.com

I, **REBECCA LOUISE BEDFORD** of 525 Collins Street Melbourne in the State of Victoria, Solicitor, make oath and say:

1. I am a partner of MinterEllison, the solicitors for the Department of Health and Human Services (**DHHS**). Together with my partners, Richard Murphy and Melinda Smith, I have care and conduct of this matter on behalf of DHHS. Except where I otherwise indicate, I make this affidavit from my own knowledge. Where I base my knowledge on information and belief, I have identified the source of that information and belief, and I attest to the truthfulness of the belief held.

**Question 1. What searches and enquiries have been conducted by:**

- (a) **the Department of Health and Human Services; and**
- (b) **MinterEllison,**

**in response to NTP-163 and NTP-165? Please provide details.**



(signature of authorised affidavit taker)..... (signature of person swearing or affirming the affidavit)

2. I believe that the searches and enquiries were as described in the affidavit of Richard Douglas Murphy sworn on 2 November 2020 (**Murphy Affidavit**).

**Question 2. Do you believe that all reasonable searches and enquiries have now been conducted to identify documents captured by NTP-163 and/or NTP-165 including searches of your office's document holdings and your client's document holdings?**

3. Based on the Murphy Affidavit, yes.

**Question 3. Having conducted those searches, are there any documents falling within the scope of NTP-163 and/or NTP-165 in your client's possession, custody and/or control that are yet to be produced?**

4. Not to my knowledge, save for those referred to in paragraph 14 of the Murphy Affidavit.

**Question 4. In your letter dated 21 October 2020, you state that on 20 September 2020 three emails including the Braedon Hogan email chain were sent from a DHHS employee who had been a witness in the Inquiry (relevant witness) to a DHHS manager who was assisting in connection with the Inquiry.**

**(a) Who is the relevant witness?**

5. Mr Jason Helps.

**(b) Other than conveying those emails you have identified, did the relevant witness convey any other information related to the emails? If so, what was it?**

6. I believe not. I believe from perusal of the email dated 20 September 2020 (a communication in respect of which legal professional privilege has been claimed) which forwarded or attached the three emails, that it conveyed no additional information related to the three emails. The 20 September 2020 email contained the personal opinions of Mr

 \_\_\_\_\_ (signature of authorised affidavit taker) .....  \_\_\_\_\_ (signature of person swearing or affirming the affidavit)

Helps relating to the evidence of key witnesses in the Inquiry, comments by counsel assisting, the need for DHHS to seek further legal advice for the purpose of the Inquiry and related matters.

**Question 5. In your letter dated 19 October 2020, you state that, following the above enquiry, DHS.0001.0123.0011 was drawn to Professor Sutton's attention, and that Professor Sutton instructed you that he had not read the detail of the email at the time and that the evidence he gave to the Board was truthful at the time and remains so. You state that DHHS was actively considering whether anything further needed to be done in connection with the emails in light of legal advice and wider considerations, and that DHHS was still doing so, and seeking advice from you, when you received the request from the Board on 15 October 2020.**

**(a) What are the 'wider considerations' to which you refer?**

7. I am informed by the Associate Secretary of DHHS and believe that the 'wider considerations' DHHS was contemplating comprised:
- (a) DHHS's respect for the integrity of the Board's processes and overarching desire to be transparent, including whether it was desirable for DHHS to provide the email to the Board, whatever the strict legal position might be;
  - (b) the extent to which the email could be relevant to the evidence of witnesses other than Professor Sutton and to the submissions of DHHS;
  - (c) the extent to which matters referred to in the email may have been the subject of other evidence already received by the Board;




(signature of authorised affidavit taker)..... (signature of person swearing or affirming the affidavit)

- (d) the timing of the matter being raised, being after the close of evidence, with the potential for production to affect, or be perceived as affecting, the orderly processes of the Board;
- (e) the need to distinguish between matters relevant to any decision to produce the email and matters that reflected differences of opinion between relevant staff regarding issues before the Board; and
- (f) managing the wellbeing of DHHS staff which, while not a factor in decision making regarding production, was an ongoing DHHS responsibility during this period given that DHHS was on notice of several relevant welfare concerns.

**(b) Was consideration given to issues raised in the email chain, other than the issue of when Professor Sutton became aware that private security had been engaged, when deciding whether this document should be disclosed to the Board following the above enquiry?**

8. Yes. Following receipt of the four emails sent on 28 September 2020, but relevantly in respect of DHS.0001.0123.0011:

- (a) I read the whole email chain;
- (b) I checked whether it was included in MinterEllison's database and whether that part of the email chain that was in our database had been previously identified as a 'critical document' to be produced to the Board in accordance with the Board's letter dated 19 July 2020, a copy of which is now produced and shown to me and marked 'RLB-1'; and
- (c) after consideration of the whole email chain, including whether it and the other 3 emails were 'critical documents' against the background of the evidence already before the Board and consultation with the sender of the email, the focus of the





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DHHS's legal representatives was thereafter on the issues associated with Professor Sutton's evidence and the engagement of private security.

9. Insofar as this question relates to consideration by DHHS, I refer to paragraph 7 above.

**(c) Why did the 'active consideration' to which you refer take 17 days?**

10. I am informed by the Associate Secretary of DHHS and believe that:

- (a) initial inquiries were made to ascertain whether the email had been produced to the Board, and consideration was given to whether it was a 'critical' document;
- (b) inquiries were also made of relevant DHHS staff in relation to the email;
- (c) DHHS received initial legal advice about the email chain on 2 October 2020;
- (d) DHHS sought further legal advice, which was provided on 3 October 2020, 8 October 2020 and 14 October 2020;
- (e) DHHS sought further clarification of the advice on 15 October 2020, prior to receipt of the Board's request on that same day, which advice had not yet been given upon receipt of the Board's request;
- (f) relevant members of the legal team and DHHS staff were also occupied with considering and instructing on:
  - (i) the drafting and finalisation of DHHS's closing submissions to the Inquiry, which were produced in the evening on 5 October 2020;
  - (ii) the issues the subject of the letter to the Board dated 12 October 2020 involving SaferCare Victoria and Alfred Health;
  - (iii) the response to a number of further requests by the Board, including those dated:




(signature of authorised affidavit taker)..... (signature of person swearing or affirming the affidavit)

- (A) 1 October 2020 - for clarification of statistical discrepancies between reporting of COVID-19 case numbers as between DHHS and the Age; and
- (B) 2 October 2020 - for further information in relation to media reports about workers at the Brady Hotel and/or Grand Chancellor Hotel being infected with COVID-19;
- (iv) various matters arising in connection with management of the pandemic, including:
  - (A) the following newly declared outbreaks between 3 October 2020 and 15 October 2020: Box Hill Rooming House, Oddfellows Café Kilmore, Northern Metro Region Community Outbreak, South Eastern Corridor Community Outbreak and Central Tyre Service Shepparton; and
  - (B) the following ongoing, but not newly declared, key outbreaks during this period: Chadstone Shopping Centre, Frankston Community Outbreak (previously named Booker House Hastings Road), Electra Park Medical Centre Ashwood, and Springvale Rooming House; and
- (g) DHHS's primary instructor in relation to the Inquiry went on parental leave on 28 September 2020.

11. 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.

(signature of authorised affidavit taker).....

(signature of person swearing or affirming the affidavit)

Sworn at Melbourne  
in the State of Victoria  
on 4 November 2020



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(signature of person swearing or affirming the affidavit contents, to be signed in front of the authorised affidavit taker)

Before me



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(signature of authorised affidavit taker)

on 4 November 2020

Gregory John Carfoot of 525 Collins Street, Melbourne, VIC, 3000 AN Australian Legal Practitioner within the meaning of the Legal Profession Uniform Law (Vic)

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

This document was electronically signed by audio-visual link in accordance with the COVID-19 Omnibus (Emergency Measures) (Electronic Signing and Witnessing) Regulations 2020.

This document was witnessed by audio-visual link in accordance with the COVID-19 Omnibus (Emergency Measures) (Electronic Signing and Witnessing) Regulations 2020.

## THE BOARD OF INQUIRY INTO THE COVID-19 HOTEL QUARANTINE PROGRAM

## CERTIFICATE IDENTIFYING EXHIBIT

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Date of document: 4 November 2020

Filed on behalf of the Department of Health and Human Services

Prepared by:

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This is the exhibit marked 'RLB-1' now produced and shown to REBECCA LOUISE BEDFORD at the time of swearing her affidavit on 4 November 2020.

Before me

(signature of authorised affidavit taker)

(signature of deponent)

on 4 November 2020

Gregory John Carfoot of 525 Collins Street, Melbourne, VIC, 3000 AN Australian Legal Practitioner within the meaning of the Legal Profession Uniform Law (Vic)

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**RLB-1**  
**Letter from the Board to**  
**MinterEllison dated 19**  
**July 2020**





**COVID-19  
Hotel Quarantine Inquiry**

19 July 2020

Ms Rebecca Bedford  
MinterEllison  
Rialto Towers  
525 Collins Street  
Melbourne VIC 3000

**By email: [Rebecca.Bedford@minterellison.com](mailto:Rebecca.Bedford@minterellison.com)**

Dear Ms Bedford,

**Board of Inquiry into the COVID-19 Hotel Quarantine Program – Notices to Produce (NTPs-001 and 026) issued to the Secretary of DHHS**

We refer to previous discussions in respect of the Notice to Produce (**NTP-001**) issued to Ms Kym Peake, Secretary to the Department of Health and Human Services on 14 July 2020.

We confirm that a further Notice to Produce (**NTP-026**) was issued to Ms Peake on 17 July 2020 to address concerns raised about the alignment between the documents specified in the Schedule to NTP-001 and the letter enclosing that Notice.

We understand from you that the number of documents captured by the terms of NTP-001 and now NTP-026 (**Notices**) is extensive and that, notwithstanding reasonable endeavours by those acting on behalf of DHHS in the Hotel Quarantine Inquiry, you consider it unlikely that your client will be able to comply with the terms of the Notices within the relevant time frame.

We also appreciate, and are grateful for your indication, that you think it unlikely that all documents caught by the terms of the Notices will ultimately be helpful to the Inquiry in light of its Terms of Reference.

Accordingly, we write to propose the following process be adopted in answer to the Notices:

1. By the date required for production of the First Tranche of documents (24 July 2020), the Secretary to the DHHS will produce documents which, with the assistance of lawyers assisting her and the DHHS, she considers to be most relevant and of greatest assistance to the Inquiry's Terms of Reference (**Critical Documents**).
2. In the first instance the Critical Documents need not exceed 100 in number for each of the six categories identified in the Schedules to the Notices.
3. The Notices will not be discharged until the evidence gathering phase of the Inquiry is concluded. Accordingly, the Notices will remain extant, and further documents beyond the initial 'Critical Documents' should continue to be provided to the Inquiry pursuant to the Notices until such time that the Notices are finally discharged.
4. In light of the above, it is our intention (and ought be your understanding) that the obligation to provide additional documents that meet the description of 'Critical Documents' will subsist until such time as the Notices are discharged. The obligation on DHHS will therefore be akin to a

party's discovery obligations in civil litigation, as informed by s 26 of the *Civil Procedure Act* 2010 (Vic).

5. It is the Inquiry's further expectation that any further documents required to be produced pursuant to the preceding paragraph, will be provided to the Inquiry as soon as possible following DHHS or its lawyers becoming aware of their existence.
6. Finally, in the event that Solicitors or Counsel assisting the Inquiry form the view that there is, or is likely, to be further documents meeting a description of any of the six categories in the Notices in existence but which have not been produced by the Secretary pursuant to the Notices or this process, they may ask for such documents to be produced. This request may be made in writing, either via email or letter. The Secretary, the DHHS and their lawyers will make reasonable endeavours to produce the document as soon as possible following the request being received.

If you and your client are amenable to this process then we would be grateful if you could indicate such by way of brief written reply to [lawyers@quarantineinquiry.vic.gov.au](mailto:lawyers@quarantineinquiry.vic.gov.au).

Yours sincerely,

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