

CHAPTER 14

How we went about our work

1. Boards of Inquiry set up pursuant to s. 53 of the *Inquiries Act 2014* (Vic) (Inquiries Act) are relatively new statutory investigatory bodies. To date, they have not been widely used. This particular Board of Inquiry was set up and operated in an unchartered environment for Inquiries in general, including operating in circumstances where the consequences of the subject-matter of the Inquiry were still unfolding, resulting in the Inquiry having to change its physical location and adapt its methodology as it was running.
2. For these reasons and others, it seemed important to outline how the Inquiry went about its work from establishment through to this Final Report, and to provide copies of Practice Directions and letters and various notices (see Appendices D and F).

14.1 Establishment of the Inquiry

3. The Inquiry was established by an Order of the Governor in Council on 2 July 2020, which set out the Terms of Reference (available at page 136).
4. Pursuant to the Order in Council, the Inquiry was directed to examine, report on and make any recommendations in relation to its terms of reference, including:
 - A. decisions and actions of Victorian government agencies, hotel operators and private service providers
 - B. communication between Victorian government agencies, hotel operators and private service providers
 - C. contractual arrangements
 - D. information, guidance, training and equipment provided to relevant personnel
 - E. policies, protocols and procedures
 - F. any other matters necessary to satisfactorily resolve the above matters.

14.2 Engagement of staff to support the Inquiry's work

5. Following the appointment of the Chief Executive Officer, administrative and legal teams were set up to support the work of the Inquiry.
6. Mr Tony Neal QC was engaged as Senior Counsel Assisting the Inquiry. Soon after Mr Ben Ihle SC, Ms Rachel Ellyard, Mr Steven Brnovic and Ms Jessica Moir were also engaged as Counsel Assisting the Inquiry.
7. Additional staff were seconded to the Inquiry to provide expertise and assistance across its key categories of work. This included administrative, legal, communications and media staff, and staff to support the policy, research, writing and public engagement functions of the Inquiry.

8. Inquiry staff were engaged to assist the Board pursuant to s. 56 of the Inquiries Act.
9. Section 56(2) of the Inquiries Act empowers the Board to (among other things):
 - A. enter into any agreements or arrangements for the use of services of any staff of a Department, statutory authority or other public body
 - B. engage people with suitable qualifications and experience as consultants
 - C. if authorised to do so by the establishing Order for the Board of Inquiry, engage one or more Australian legal practitioners to assist the Board of Inquiry as counsel
 - D. enter into agreements or arrangements for the provision of any other services to the Board of Inquiry.
10. Section 56(4) of the Inquiries Act also provides that:

The employment or engagement of members of staff of a Board of Inquiry may be on any terms and conditions the chairperson considers appropriate and all members of staff are subject to the direction of the chairperson.
11. In addition, s. 57 of the Inquiries Act provides:

If the public sector values referred to in section 7(1)(a)(i) and (c)(iii) of the *Public Administration 2004* (Vic) would, but for this section, apply to a member of staff of a Board of Inquiry, those public sector values do not apply to the member of staff in respect of their employment or engagement with the Board of Inquiry.
12. Sections 7(1)(a)(i) and (c)(iii) of the *Public Administration Act 2004* (Vic) deal with providing advice to the government and implementing government policies and programs.
13. A total of 34 people were employed to support the Chair of the Inquiry to undertake its work.

Table 14.1: Staff engaged by the Inquiry

Category of work	Number of staff engaged by the Inquiry
Chief Executive Officer	1
Senior Counsel Assisting	1
Counsel Assisting	4
Legal Associate to the Board	1
Office/Project Coordinator	1
Intake and Assessment	3
Community, Digital and Media	2
Policy, Research and Report Writing	4
Office of Solicitors Assisting the Inquiry	17

14.3 Shift to remote working

14. Initially, I and a small number of administrative and legal staff supporting the Inquiry were physically located in the Inquiry's office in Melbourne's CBD. Inquiry staff were provided with training and induction to ensure a COVID-safe work environment.
15. On Wednesday 8 July 2020 at 11.59pm, one week after the Inquiry was established, Stage 3 coronavirus restrictions were reinstated in metropolitan Melbourne and Mitchell Shire.¹ Consistent with these restrictions, Inquiry staff shifted to, largely, working from home. The Inquiry's office remained open to Inquiry staff who needed to use it, with COVID-19 safety protocols in place, until Stage 4 restrictions came into effect in Melbourne on 2 August 2020.² Further detail on the implications of Stage 4 restrictions on the Inquiry's work is provided below.

14.4 Community engagement and Intake and Assessment

16. Efforts in the early weeks of the Inquiry focused on putting in place processes to allow media, members of the public and lawyers to contact the Inquiry to provide information relevant to its Terms of Reference or seek advice or direction.
17. On 15 July 2020, the Inquiry's website went live with information about its establishment, purpose and contact details for media enquiries.³ From 15 July to 3 December 2020, the Inquiry's website received approximately 139,000 unique visitors, with the website receiving an approximate total of 755,000 page views by those unique viewers.
18. A dedicated email address, 1800 number and post office box were also established by 15 July 2020 to facilitate contact from members of the public.⁴
19. Between 15 July and 3 December 2020, the Inquiry received a total of 186 phone calls and 847 letters and emails from a wide range of sources. Those sources included returned travellers, security staff, cleaners and nurses involved in the Hotel Quarantine Program, as well as members of the public who witnessed activity at quarantine hotels or ran businesses near quarantine hotels.
20. Information provided to the Inquiry via these various forms of communication assisted in informing aspects of the Inquiry's investigations. A number of witnesses who gave evidence to the Inquiry were also identified via these channels.

14.5 Practice Directions

21. The Inquiry issued five Practice Directions on 15 July, 6 August and 31 August 2020 to set out the practice and procedure of its hearings. A copy of each Practice Direction is located at Appendix D. A summary of each Practice Direction is outlined below.

15 JULY 2020

- Practice Direction 1: set out the way in which the Inquiry would deal with claims of 'reasonable excuse' in response to a Notice to Attend (a notice compelling a person who received it to attend the Inquiry to give evidence) or a Notice to Produce (a notice compelling the production of specified documents or things), and how the Inquiry would receive materials in response to a Notice to Produce or an informal request for information.
- Practice Direction 2: provided general guidance about applications for leave to appear at the evidentiary public hearings of the Inquiry.
- Practice Direction 3: set out the way in which the evidentiary public hearings of the Inquiry would be conducted.

6 AUGUST 2020

- Practice Direction 4: related to the conduct of the evidentiary public hearings that would be held as part of the work of the Inquiry in a virtual environment.

31 AUGUST 2020

- Practice Direction 5: related to the handling of documentary evidence produced to the Inquiry.

14.6 Notices to Produce

22. On 10 and 11 July 2020, the Inquiry commenced sending letters to a range of government departments, security firms and hotels that were identified by the Inquiry as potentially being relevant to the Hotel Quarantine Program. These letters requested an initial response from parties to help the Inquiry understand which parties and matters were directly linked to the work of the Inquiry. The letters also notified parties that they would receive a Notice to Produce and provided information on the Inquiry's hearings, including timelines and likely requests for witness statements.
23. From 14 July 2020, Notices to Produce were sent to government departments, security firms and hotels seeking documents relevant to the Hotel Quarantine Program and the Inquiry's Terms of Reference. Given the tight timeframes to which the Inquiry was working, parties were asked to provide, by 24 July 2020, documents that were publicly available or not subject to a claim excusing their production, with remaining documents to be provided by 31 July 2020. While a substantial number of documents were received by 31 July 2020, there were significant delays in many critical documents being provided to the Inquiry. Further detail on these delays is provided at paragraphs 34 to 43.
24. It was through receipt of these documents, as well as information received via community engagement, that the Inquiry was able to identify possible witnesses who could provide the Inquiry with critical insight and evidence.
25. The Inquiry issued a total of 170 Notices to Produce, comprising 62 notices to produce documents and 108 notices to produce witness statements or affidavits.
26. In excess of 70,000 documents were received by the Inquiry, comprising more than 350,000 pages.⁵ The Inquiry's legal team was expanded to undertake the significant amount of work required to review these documents ahead of, and during, the Inquiry hearings.

14.7 Inquiry hearings

27. All Inquiry hearings were live streamed with a closed caption service on the Inquiry website. Hearing transcripts and exhibits were published on the Inquiry website.⁶ Visitors could also view previous hearings on the website as all were recorded and uploaded onto the website.⁷
28. The Inquiry had viewers from all over the world including Hong Kong, Canada, Malaysia and the Netherlands. Approximately 300,000 unique viewers tuned in to the hearings, via the live link on the Inquiry's website, over the course of all 27 hearing days. That link to the livestream was hosted by an external provider and the number of unique viewers is therefore treated separately to the number of unique visitors to the Inquiry's website, as identified at paragraph 17. The unique viewer count also does not include those who tuned into the hearing via links provided on other websites or on broadcast networks.
29. On 20 July 2020, Senior Counsel Assisting the Inquiry, Mr Tony Neal QC, delivered an opening statement from a hearing room that had been hired for the Inquiry at the Fair Work Commission (FWC), in a COVID-safe environment. On this day, it was announced that public evidentiary hearings would commence on 6 August 2020.⁸

30. On 2 August 2020, a State of Disaster was declared for Victoria and Stage 4 restrictions were introduced in Melbourne.⁹ This led to an unscheduled public sitting (extraordinary sitting) on 5 August 2020 to announce the Inquiry would reset its working arrangements. To continue as intended, the Inquiry had to set up the capacity to conduct the entire working and hearing process electronically and virtually with me, the entire staff and Counsel Assisting all working from home. To achieve this, the evidentiary hearings were adjourned to commence on 17 August 2020. As a result of this disruption and the massive amount of material being received by the Inquiry, an extension to the Inquiry's reporting deadline was sought and granted.¹⁰ Further detail on the extraordinary sitting is provided at paragraphs 38 and 39.
31. Public evidentiary hearings commenced on 17 August 2020 and concluded on 25 September 2020. Counsel Assisting delivered oral closing submissions on 28 September 2020. An additional extraordinary hearing was held on 20 October 2020 to tender additional documents (discussed further at paragraph 41). In total, 27 hearing days were held.
32. Ninety-six witnesses gave evidence via witness statements and/or affidavits, with 63 of these witnesses appearing at hearings to give evidence. Witnesses comprised medical experts, returned travellers, security staff, hotel staff, public servants, Ministers and the Premier. A full list of witnesses who provided evidence and witnesses who appeared is available at Appendix G.
33. Thirty parties were granted leave to appear before the Inquiry and 263 exhibits were tendered during the course of the hearings. A list of parties with leave to appear is available at Appendix E and a list of exhibits tendered at hearings is available at Appendix H.

14.8 Extensions to the Inquiry's reporting deadline

34. The Inquiry's Terms of Reference originally required delivery of the final report by 25 September 2020. It became clear, during the early stages of the Inquiry, that further time would be needed to complete the work.
35. On 3 August 2020, following the declaration of the State of Disaster and the introduction of Stage 4 restrictions, I wrote to the Premier seeking a six-week extension to the reporting date of the Inquiry due to:
 - A. logistical difficulties arising from the introduction of Stage 3 restrictions in metropolitan Melbourne, including delays in the Inquiry being provided with many critical documents in an inaccessible form
 - B. the volume of documents received from government departments and private entities (106,000 pages had been received as at 2 August 2020)
 - C. the impact of the declaration of a State of Disaster for Victoria and Stage 4 restrictions for metropolitan Melbourne on 2 August 2020.
36. These factors added to significant concerns Counsel Assisting already held about the feasibility of completing the Inquiry within the allocated timeframe.
37. On 5 August 2020, the Premier wrote to me approving an extension to the Inquiry's reporting date to 6 November 2020. On the same day, the Order of the Governor in Council was to extend the Inquiry's reporting date to no later than 6 November 2020.
38. As stated above, on the afternoon of 5 August 2020, the Inquiry held an extraordinary sitting where I addressed the impact of the State of Disaster and Stage 4 restrictions for metropolitan Melbourne on workplaces across Victoria, including the Inquiry's workplace.

39. At that sitting, I announced that the Inquiry would continue its work despite these obstacles but do so remotely. The Inquiry vacated the hearing room at the FWC and its offices in the CBD. As noted above, the first public evidentiary hearing was rescheduled to 17 August 2020 so the relevant technology could be installed in my home and the homes of Counsel Assisting, and so that associated testing and training could be delivered.
40. The public evidentiary hearings concluded on 25 September 2020, whereupon the final stage of the Inquiry's work — report writing — commenced.
41. However, following the receipt of additional material in early October, another extraordinary sitting of the Inquiry was held on 20 October 2020. I announced that the Inquiry was continuing to conduct investigations, following new documents coming to light, and that this may impact on the delivery of this report. The delays to the Final Report are discussed further at paragraphs 48 to 73.
42. I then wrote to the Premier, on 28 October 2020, to advise that the Inquiry would not be able to deliver a final report by 6 November 2020. I proposed that an interim report, instead, be delivered on that date, with the final report to follow on 21 December 2020.
43. On 29 October 2020, the Premier responded and advised he agreed that the final reporting date should be extended.

14.9 Interim Report

44. The Interim Report was delivered, as per the revised timeline, on 6 November 2020.¹¹
45. My view was that, as restrictions started to ease and Victoria began to consider re-opening to international arrivals, it was important that the Inquiry contribute to the ongoing work of developing and implementing a robust quarantine system for our State. It was in this context that the Interim Report was prepared, including recommendations for a future quarantine program in Victoria.
46. The recommendations I made in that Interim Report are set out in this Final Report at pages 38–46 of Volume I.

14.10 Final Report

47. The Inquiry's Final Report synthesises evidence provided through documents from government departments, hotels, security firms, medical staff and medical experts, mental health experts and returned travellers. Inquiry staff produced hearing summaries during the course of the Inquiry to assist with the considerable task of preparing this Final Report.

14.10.1 Delays to the Final Report

48. On 25 September 2020, Counsel Assisting the Board announced the close of evidence.¹² In the eight weeks that followed, new evidence was produced to the Board, generally relating to four issues:

Issue 1: decision to engage private security

Issue 2: Prof. Sutton and private security

Issue 3: role of the Department of Health and Human Services (DHHS) Public Health Team in Operation Soteria

Issue 4: document production.¹³

49. I sought documents relating to Issue 1 in response to issues raised by Parties with Leave to Appear in closing submissions.
50. Documents relating to Issues 2–3 were sought in response to matters separately reported to the Inquiry subsequent to the close of evidence. These matters, and the belated production of documents in response to Issues 2–3, gave rise to a further issue about the approach taken by DHHS and its lawyers, MinterEllison, to document production (Issue 4). I sought information on this issue from DHHS and MinterEllison in the form of correspondence and affidavit evidence. Counsel Assisting and DHHS subsequently made Further Written Submissions on the following matters relating to this issue:
- A. whether the material produced by DHHS subsequent to the close of evidence should have been produced earlier
 - B. whether Prof. Sutton ‘instructed’ MinterEllison not to produce one of the latterly produced documents when it was raised with him after the close of evidence
 - C. compliance by DHHS and MinterEllison with the Model Litigant Guidelines.
51. These, and other related matters, are discussed in this section. Issues 1 and 2 are addressed in Chapter 5 and Issue 3 is addressed in Chapter 8.

Should the material produced by DHHS subsequent to the close of evidence have been produced earlier?

52. A total of 494 documents were produced by DHHS after the close of evidence. At least 138 of these documents were new documents being produced for the first time.
53. In its Further Written Submissions, DHHS rejected ‘in the strongest possible terms’ those aspects of Counsel Assisting’s Further Written Submissions that suggested a failure on the part of DHHS and its legal team to produce relevant documents.¹⁴ DHHS submitted that:
- A. DHHS’s production obligations were limited by the Board, including by reference to the concept of ‘critical documents’ informed by s. 26 of the *Civil Procedure Act 2010* (CPA), the standard for which is not the same as ‘relevance’ and is significantly narrower than general discovery¹⁵
 - B. the concept of ‘critical documents’ involved the Department making a ‘good faith assessment’ as requested by the Inquiry¹⁶
 - C. certain practical circumstances should be acknowledged, including:
 - I. the volume of documents being dealt with, which included 500,000 documents on ‘the database’ and 4,542 documents being produced
 - II. the short timeframes for producing documents and the long hours required of DHHS’s legal team working remotely during stage 4 restrictions
 - III. the volume of witness statements and evidence concurrently required, which included 26 witness statements and 14 witnesses giving *viva voce* evidence
 - IV. DHHS’s ongoing pandemic response activity.¹⁷
54. Having regard to these matters, I accept that latitude must be afforded when considering the approach taken by DHHS and its lawyers to document production.

55. I am, nevertheless, satisfied that there is at least one instance where a document should have been produced earlier by DHHS, being Exhibit 230. Exhibit 230 is a chain of emails sent on 27 March 2020, which includes a request from the Commonwealth Department of Home Affairs to Prof. Sutton for information on the Victorian hotel quarantine arrangements then in place, a response from DHHS Agency Commander, Mr Braedan Hogan stating that private security would be contracted, and a reply from Prof. Sutton thanking Mr Hogan for providing that response.¹⁸
56. This email chain was the subject of specific enquiries as it appeared to conflict with evidence previously given by Prof. Sutton stating that he was unaware that private security had been engaged in the Hotel Quarantine Program until after the outbreaks at the Rydges Hotel had occurred in late May 2020. As discussed in Chapter 5, I accept the evidence subsequently given by Prof. Sutton on this matter. That is, while emails such as those contained in Exhibit 230 presented an opportunity for Prof. Sutton to become aware that private security had been engaged before late May 2020, I accept his sworn evidence that he did not ‘register’ such information at that time.
57. Exhibit 230 was also the subject of specific enquiries regarding why this email chain was not produced until 15 October 2020.
58. In its Further Written Submissions, DHHS submitted that this document was not produced earlier upon it being identified by DHHS and its lawyers, because:
- A. it is doubtful that the document was captured by the Notice to Produce issued to DHHS on 14 July 2020 (NTP-001) as it did not ‘evidence a decision or action (in particular to use private security)’, it did not constitute a ‘communication between Victorian Government agencies, hotel operators and Private Security Providers’ and no other category contained in NTP-001 has ‘any realistic application’¹⁹
 - B. it was not ‘critical’, in the sense conveyed by s. 26 of the CPA, because the document had no bearing on the issue of who determined to use private security, and merely recorded arrangements then in place, in respect of which a large amount of consistent evidence had already been led²⁰
 - C. Prof. Sutton had a ‘strong view’ that the document did not change his evidence — because, as explained in his 4 November 2020 affidavit, he did not register that Exhibit 230 referred to private security being used. Because Exhibit 230 did not mean that Prof. Sutton wished to alter anything in his statement or oral evidence, the DHHS’s legal team also concluded that there was no legal obligation for the document to be produced to the Board in order to make any correction to his earlier evidence.²¹
59. I do not accept these submissions as a complete response, for reasons including the following:
- A. the terms of NTP-001, which reflected the Board’s Terms of Reference, are wide and are to be interpreted broadly at law
 - B. Exhibit 230 clearly evidences the decisions and actions of Victorian government agencies involved in the Hotel Quarantine Program in respect of COVID-19 Quarantine Containment, and is therefore captured by NTP-001
 - C. even if Exhibit 230 was not a ‘critical document’ before Prof. Sutton gave evidence on 16 September 2020 (a matter about which I have reservations), it became a ‘critical document’ when Prof. Sutton gave evidence that was apparently inconsistent with the contents of this document on that date
 - D. even if DHHS and its lawyers did not turn their minds to that issue on that date, the evidence is that Exhibit 230 and other documents were sent by a DHHS employee to a DHHS manager who was assisting in connection with the Inquiry on 20 September 2020.²² The matter was raised again on 28 September 2020, when the same DHHS employee made enquiries with MinterEllison and/or DHHS, as to whether Exhibit 230 had been produced to the Inquiry²³

- E. At that point, it should have been clear that there was an apparent inconsistency between Exhibit 230 and the evidence previously given by Prof. Sutton. Exhibit 230 should have been promptly produced to the Inquiry both because it was (by that point at the latest) a ‘critical document’ and to avoid the Inquiry reaching findings based on incomplete and potentially misleading evidence. Instead, Exhibit 230 was not produced until 15 October 2020, the same day a specific request was made by the Inquiry for that particular document
- F. DHHS was requested to provide an explanation as to why this document was not produced prior to 15 October 2020.²⁴ I do not accept the reasons advanced by DHHS in respect of the delay between 28 September and 15 October 2020. While Prof. Sutton may have advised that he did not consider he needed to correct his evidence in light of Exhibit 230, it is for me to determine how Exhibit 230 should be reconciled with Prof. Sutton’s previous evidence. Further, while I accept that DHHS was busy with other matters at this time, promptly producing Exhibit 230 to the Inquiry with confirmation that an explanation would be forthcoming shortly thereafter, would have involved minimal time and effort and should have been done.

‘Instructions’ by Prof. Sutton on Exhibit 230

60. By letter dated 19 October 2020, MinterEllison wrote to the Inquiry (in response to my request for an explanation)²⁵ about the belated production of Exhibit 230 and other issues on behalf of DHHS, stating:

Prof. Sutton instructed us he had not read the detail of the email at the time and that the evidence that he gave to the Board was truthful at the time and remains so. In other words, Prof. Sutton stands by that evidence which was provided honestly. Prof. Sutton further instructed us that he did not consider he needed to clarify his evidence and therefore the email did not need to be provided to the Board for that reason.²⁶ (emphasis added)

61. When specifically asked whether he had instructed MinterEllison not to produce Exhibit 230, Prof. Sutton gave affidavit evidence stating:

It was not my role to give instructions on behalf of the Department about document production.

I did not instruct MinterEllison or solicitors to the Department that the emails (in exhibit 230) not be produced. As set out in my answer to question 21, my discussion with [MinterEllison] was about the bearing of exhibit 230 on my evidence; it was not about production more generally. My natural view was it was for MinterEllison and the Department to determine what is in scope of requests issued by the Board and what was appropriate.²⁷

62. In its Further Written Submissions, Counsel Assisting raised this issue and submitted that it should be the subject of further submissions from DHHS.²⁸

63. In its Further Written Submissions, DHHS submitted the following:

Counsel Assisting refer to the use of the word “instructed” in the 19 October 2020 letter, referring to a discussion with Prof. Sutton about the production of exhibit 230. That letter does not state that Prof. Sutton directed MinterEllison not to produce exhibit 230, but refers to Prof. Sutton providing factual information as to the bearing of exhibit 230 on his earlier evidence — namely, that he did not think exhibit 230 would have changed his statement or evidence and so he did not consider he needed to change, clarify or explain his evidence. That was apparent from the relevant part of the letter when it is read in context. It is in any event clear from the evidence that the Department was actively considering producing the document when the Board requested production.

The 19 October 2020 letter is not in tension with, but is consistent with, Prof. Sutton's 4 November 2020 affidavit, when it is understood that the word "instructed" did not convey that Prof. Sutton was directing that exhibit 230 not be produced.²⁹

64. I do not accept these submissions from DHHS. It was at least open, on a reasonable reading of the above extract from MinterEllison's letter dated 19 October 2020, to conclude that Prof. Sutton had *instructed* MinterEllison that Exhibit 230 'did not need to be provided to the Board'. As a very experienced law firm, MinterEllison would have been well-aware of what the term 'instructions' means as between lawyers and clients. It is well understood to mean 'what your client is telling you to do'. Had MinterEllison not intended to convey that meaning, more care should have been taken to avoid that impression when preparing and settling MinterEllison's correspondence dated 19 October 2020.

Model Litigant Guidelines

65. In its Further Written Submissions, Counsel Assisting submitted that the conduct of both DHHS and its lawyers in this Inquiry had fallen short of the standards set by the Model Litigant Guidelines.³⁰
66. Having regard to the Further Written Submissions subsequently made by DHHS, I accept that, in order to make such a serious finding, there would need to be a more detailed set of specific allegations as to why that finding should be reached and a more thorough exploration of those issues. In the absence of such, I do not make such a finding.

Initial Response

67. I do, however, note with respect to DHHS's response to this Inquiry, more generally, that, putting to one side the question of document production, and taking into account the pressures under which DHHS and its lawyers were labouring more generally, I would have been assisted by DHHS providing a more forthcoming and articulated account of the internal issues arising in that Department during the Hotel Quarantine Program.
68. By way of example, in its Initial Response to this Inquiry, DHHS identified certain challenges faced by it in the Program and provided some indicators as to where these issues and challenges lay. Accepting DHHS's advice to the Inquiry that it had not had the opportunity to conduct its own forensic review of what had happened at the time the Inquiry commenced, there was enough known at that time to have caused the government decision to move the Program away from DHHS as the governing agency. It would have been more helpful to have had the offer and assistance of DHHS with identifying the detail of the shortcomings on its part more clearly, at least to the extent that such 'shortcomings' either were, or should have been, known to DHHS at the time its Initial Response was being prepared.
69. DHHS is not to be singled out on this issue, however. Similarly, the Initial Responses of the Department of Jobs, Precincts and Regions and the Department of Premier and Cabinet could also have been more reflective and forthcoming about the issues, challenges and shortcomings identified in the course of their engagement with the Hotel Quarantine Program.

Impact on the Board's work

70. As I said, in my opening remarks on 20 July 2020, for me to perform my task, I expected no less than full, frank and timely cooperation from all relevant Government departments, entities and persons.³¹
71. The belated production of documents by DHHS and others after the close of evidence resulted in the need for further Notices to Produce to be issued, Further Written Submissions to be prepared and further hearings to be convened.
72. By correspondence to the Inquiry dated 11 November 2020, DHHS and MinterEllison conceded that the belated production of documents after the close of evidence contributed to a delay in the issue of my final report, and that this was clearly a regrettable outcome.³²
73. This concession is properly made. As stated in my request for Initial Responses, the purpose of this process was to assist the Inquiry by identifying those matters that may be uncontroversial, and that need not unnecessarily occupy the time of the Inquiry. It is unfortunate that this opportunity was not taken by DHHS, DJPR and DPC in their Initial Responses. Had they done so, and openly identified the shortcomings they had already identified by July 2020, a significant amount of time and energy could, no doubt, have been saved.

14.11 Funding

74. The Inquiry received funding of \$5.7 million to carry out its work.
75. As at the time of printing this Final Report, the Inquiry had spent \$4.815 million. Any unspent funds were returned to government at the conclusion of the Inquiry.

Endnotes

- 1 Premier of Victoria, 'Statement from the Premier' (Media Release, 7 July 2020), <<https://www.premier.vic.gov.au/statement-premier-74>>.
- 2 Premier of Victoria, 'Premier's statement on changes to Melbourne's restrictions' (Media Release, 2 August 2020) <<https://www.dhhs.vic.gov.au/updates/coronavirus-covid-19/premiers-statement-changes-melbournes-restrictions-2-august-2020>>.
- 3 See COVID-19 Hotel Quarantine Inquiry, 'Home' <<https://www.quarantineinquiry.vic.gov.au/about-hotel-quarantine-inquiry>>.
- 4 See COVID-19 Hotel Quarantine Inquiry, 'Contact us' <<https://www.quarantineinquiry.vic.gov.au/contact-us>>.
- 5 Note that these figures are an approximation and will include documents that were produced to the Inquiry multiple times by one or more Parties with Leave to Appear.
- 6 See COVID-19 Hotel Quarantine Inquiry, 'Transcripts' <<https://www.quarantineinquiry.vic.gov.au/hearings-transcripts>> ; 'Exhibits' <<https://www.quarantineinquiry.vic.gov.au/exhibits>>.
- 7 See COVID-19 Hotel Quarantine Inquiry, 'View hearings' <<https://www.quarantineinquiry.vic.gov.au/hearings>>.
- 8 Transcript of day 1 opening statements 20 July 2020, 8.
- 9 Premier of Victoria, 'Premier's statement on changes to Melbourne's restrictions' (Media Release, 2 August 2020), <<https://www.dhhs.vic.gov.au/updates/coronavirus-covid-19/premiers-statement-changes-melbournes-restrictions-2-august-2020>>.
- 10 Transcript of day 2 extraordinary sitting 5 August 2020, 13–16.
- 11 See COVID-19 Hotel Quarantine Inquiry, 'Reports' <<https://www.quarantineinquiry.vic.gov.au/reports>>.
- 12 Transcript of day 25 hearing 25 September 2020, 2186; Transcript of day 26 hearing 28 September 2020, 2190.
- 13 See Further Submission 01 Counsel Assisting the Board of Inquiry.
- 14 Further Submission 03 Department of Health and Human Services, 1 [3].
- 15 Ibid 3 [11]–[13].
- 16 Ibid 3 [14].
- 17 Ibid 4 [17].
- 18 Exhibit HQI0230_RP DHHS emails re VIC Hotel Quarantine Arrangements, DHS.0001.0123.0011–0013.
- 19 Further Submission 03 Department of Health and Human Services, 5 [22].
- 20 Ibid 5 [23].
- 21 Ibid 5–6 [24].
- 22 Letter from MinterEllison to Solicitors Assisting dated 21 October 2020; Exhibit HQI0263_P Affidavit of Ms Rebecca Bedford, 2 [6].
- 23 Exhibit HQI0232_P Letter from Solicitors for DHHS to Solicitors Assisting dated 19 October 2020, HQI.0001.0053.0002; Exhibit HQI0255_RP Affidavit of Mr Jason Helps, 2 [11].
- 24 Exhibit HQI0231_P Letter from Solicitors Assisting to Solicitors for DHHS dated 16 October 2020.
- 25 Ibid.
- 26 Exhibit HQI0232_P Letter from Solicitors for DHHS to Solicitors Assisting dated 19 October 2020, 2.
- 27 Exhibit HQI0249_RP First witness statement of Prof. Brett Sutton, 18 [110]–[111].
- 28 Further submission 01 Counsel Assisting the Board of Inquiry, 17 [59]–[63].
- 29 Further submission 03 Department of Health and Human Services, 6 [25]–[26].
- 30 Further submission 01 Counsel Assisting the Board of Inquiry, 16 [54].
- 31 Transcript of day 1 opening statements 20 July 2020, 10.
- 32 Exhibit HQI0261_P Letter from Solicitors for DHHS to Solicitors Assisting dated 11 November 2020, HQI.0001.0072.0001.