

CHAPTER 5

'The day was measured in minutes'

5.1 The first 72 hours of the Hotel Quarantine Program from 27–29 March 2020

1. As a consequence of there being no plan for the large-scale detention of international arrivals into a mandatory quarantine program when the National Cabinet decision was announced, those who would have to implement the program in Victoria had to do so without warning and without any available blueprint for what was required. The situation was further complicated by the fact that the decision would come into effect just 36 hours later, at 11.59pm on 28 March 2020.
2. At the Prime Minister's press conference on 27 March 2020, it was made clear that the arrangements were to be implemented by the state and territory governments, with the cost to be borne by them. It was announced that there would be support from the Australian Border Force (ABF) and the Australian Defence Force (ADF), but that was said to be a matter being worked on between those agencies and the Department of Prime Minister and Cabinet (DPC) with the state and territory jurisdictions 'to ensure they can get the measures in place'.¹
3. When asked about the scale and number of people who would require quarantine, the Prime Minister said there had been 7,120 arrivals at airports around the country the day before, and that '(t)he number of arrivals now are at a level which the states and territories believe means they are able to practically implement these types of arrangements'.²
4. In response to a question about the level of restrictions more generally, the Prime Minister said:

The decisions that I communicate from this podium are the decisions of all Premiers, Chief Ministers and myself. This is not some personal view of mine; these are the decisions of the National Cabinet based on the medical expert advice that we receive in terms of the restrictions that are necessary to deal with the management of the outbreak of the virus in Australia.³
5. As a member of the National Cabinet, the Premier of Victoria, the Hon. Daniel Andrews MP, was a party to the decision and committed Victoria to its implementation. He agreed, in evidence, that he did so, on the basis of very limited information or pre-planning for such a program.⁴ He was aware that there was no pre-existing plan for large-scale quarantine in Victoria.⁵ There had been no discussion in the Victorian Cabinet about the prospect of such a wide-scale quarantine program being put in place.⁶
6. The Premier, had only had a short period of notice of the possibility a quarantine program would be established. Prior to the National Cabinet meeting, he had received a briefing from DPC.⁷ It outlined the possibility of a recommendation that all travellers self-isolate in hotels, rather than at home, if the household had more than one person.⁸

7. The Premier had also been provided with a written advice from the Australian Health Protection Principal Committee (AHPPC),⁹ which included a recommendation that consideration be given by National Cabinet to requiring people to quarantine away from home in high-risk cases where those people would normally reside with others at home.¹⁰ This was the recommendation to which then Commonwealth Chief Medical Officer, Professor Brendan Murphy, referred in his press conference with the Prime Minister. The Premier stated, in evidence, that while he did not know what the AHPPC regarded as 'high-risk' cases, his own view was that high-risk cases would mean travellers returning from countries with little or no public health response.¹¹
8. There was clear evidence that returned travellers posed a serious risk of carrying the virus into this State. It was proper for the Premier to have regard for the need to take all actions necessary to minimise the risk of community transmission as identified in Chapter 4.
9. On the question of the power to enforce quarantine, the Premier said in his evidence that he made an assumption at that time that the powers to be used were those in the *Public Health and Wellbeing Act 2008 (Vic)* (PHW Act), which were already being used to issue directions to returned travellers to isolate at home. He did not consider who was going to monitor compliance with the directions. It was his evidence that this was not a matter to which he would ordinarily turn his mind.¹²
10. With nothing more known to him beyond the availability of hotel rooms and a sense of what the detention power would be, the Premier was of the view that it was feasible to set up the program in the time allowed.¹³

... it seemed to me that a dedicated team of people at that very much operational level ... would be able to do as they had done many times before, they could rise to a challenge like this and that they would be able to stand the system up within the timeframe.¹⁴

Assumption of risk

11. In committing Victoria to the implementation of the National Cabinet decision, the Premier had committed the Victorian Government to assuming responsibility for managing the COVID-19 risk posed by returned travellers and ensuring compliance with the mandatory detention orders. What had, until that time, been a system in which returned travellers were directed to self-isolate at home was now to be a system in which the government assumed responsibility for the quarantine of, and the prevention of transmission by, returned travellers.
12. The Department of Health and Human Services (DHHS) submitted that it was returning travellers potentially carrying the virus that created the risk and the Government had to make a decision about how best to manage that risk. DHHS submitted that the Chief Health Officer (CHO) and Deputy Chief Health Officer (DCHO) considered the competing risks of the continuing Self-Isolation Directions for returning travellers versus those involved in the hotel quarantine option and agreed on the latter.¹⁵ As noted in Chapter 4, no criticism is made of that decision. However, by directing the mandatory detention of returning travellers into the Hotel Quarantine Program, the government became responsible for the proper functioning of the Program. That is, in deciding to compel people into facilities it had selected for that purpose, the government took on the management of the risk inherent in doing so. The Premier agreed in evidence that the government was responsible for such risk.¹⁶ (This issue of risk is discussed further in chapters 6 and 7.)

13. This included an assumption of responsibility for identifying and planning for the following:
 - A. ensuring that quarantine would be enforced by requiring people to stay in a particular place¹⁷
 - B. managing the risk posed by infection in the quarantine setting¹⁸
 - C. ensuring that people were at least as safe in the hotels as they would have been at home¹⁹
 - D. ensuring that the community was at least as protected from infection risk as it would have been were returning travellers quarantining at home²⁰
 - E. the risk that the workers in the quarantine program might be exposed to infection.²¹
14. The Premier said that he thought he was aware of how large a task it would be to set up the Program when he agreed to it at National Cabinet and formed a view that it was an appropriate process for Victoria. However, while the Premier had a sense of how many travellers may return and that there was sufficient stock of hotel rooms, he could not say, in his evidence, whether he would have turned his mind to these risks that were, as a consequence, assumed by his government. The effect of his evidence was that he would have left the risk mitigations to those at an operational level.²²
15. I accept this evidence. The decision to embark on the Hotel Quarantine Program in Victoria was made by the Premier without any detailed consideration of the risks that such a program would entail. The risk from the spread of COVID-19 to the community from returned travellers was the only risk considered, and the assessment that that risk was too high to be managed with home-based self-isolation was the only analysis done before the decision was made. No consideration was given to the risks that such a program would, itself, create. The evidence was that those risks were considerable.

Complex logistical arrangements made within 36 hours

16. The Premier agreed, in evidence, that it was a very substantial logistical undertaking to stand up such a complicated program within that timeframe. He rightly described it as 'an unprecedented set of circumstances'.²³
17. No one who was subsequently involved in the initial decision-making or planning that took place during the first 36 hours questioned whether it could be done. Yet, throughout the course of the public hearings, various witnesses spoke about the challenges that arose from the fact that there was no 'off-the-shelf' plan or blueprint of any sort for mass quarantine, let alone in a hotel setting.²⁴
18. The Program was a complex logistical operation. It was known from the beginning that it would have to cater for thousands of returned travellers. To do so, it would require a workforce of thousands of people because the Program needed to run 24 hours per day, seven days per week for an indeterminate amount of time and accommodate an indeterminate number of people.
19. This unprecedented and complex logistical operation was being designed to serve a primary purpose — preventing the further spread of a deadly virus into the Victorian community. It was, therefore, an operation designed to protect public health.
20. There was no question that many people worked extraordinarily hard to give effect to the National Cabinet decision by the deadline given to them. Their planning and design for the Program was necessarily developed in haste and from 'scratch'. Significant decisions were made between the time of the National Cabinet resolution and the first arrivals into the Program on 29 March 2020. They were made under pressure and with limited information. They were often made on the basis of assumptions about how the Program would work as there was no model or plan. In many cases, those early decisions set the course for the Program and, ultimately, its failure to prevent the spread of the virus from returned travellers to the community.

21. Understanding the reasons for those decisions and the ones made subsequently has been the core work of the Inquiry. If lessons are to be learned for the future, those decisions need to be understood and evaluated, and that process must commence with trying to account for what occurred in those 36 hours from the Premier's commitment to the National Cabinet decision up to midnight on 28 March 2020. Ultimately, it can be observed that the extraordinary pressure placed on individuals and the unprecedented nature of what they were trying to achieve explains some, but not all, of what occurred.

5.2 The initial set-up of the Hotel Quarantine Program

A dual purpose

22. Following the press conference by the Prime Minister on 27 March 2020, the Premier held his own press conference at 3.00pm that same day to address the National Cabinet decision.²⁵
23. The remarks made by the Premier, and the corresponding media release, provide a contemporaneous account of the public position of the Victorian Government regarding the development of the Hotel Quarantine Program at that time, as well as its intended purpose. The media release was in the following terms:

Following agreement by the National Cabinet, all travellers returning from overseas to Victoria will be placed in enforced quarantine for a self-isolation period of 14 days to slow the spread of coronavirus.

While Victoria has seen some community transmission of this virus, most cases have been the result of travellers returning from overseas who then pass it onto their close contacts.

To ensure this no longer happens, National Cabinet has agreed that all states and territories will put in place enforced quarantine measures.

This will see returned travellers housed in hotels, motels, caravan parks, and student accommodation for their 14-day self-isolation period.

These measures will not only help slow the spread of coronavirus, they will also support hospitality workers who are facing significant challenges during this time.

The new measures will be operational from 11.59pm on Saturday 28 March, with the Victorian Government already securing 5000 hotel rooms.

We will try to accommodate returned travellers close to their homes, but in some instances that may not be possible. Each person will also receive self-isolation care packages of food and other essentials.

The costs of accommodation, public health and security will be covered by each individual jurisdiction, and there will be reciprocal arrangements in place to house the residents of other states and territories.

It has also been agreed that the Australian Defence Force will be engaged to support the implementation of these arrangements.

The Victorian Government is working closely with the Australian Hotels Association and other organisations so all returned travellers can be housed safely and securely.

As we take this extra step to slow the spread of coronavirus, our message to every other Victorian remains the same: Stay at home, protect our health system, save lives.

If you can stay home, you must stay home.

If you don't, people will die.²⁶

24. The Hotel Quarantine Program was regarded by the Victorian Government as a necessary and justified risk mitigation strategy in order to prevent spread in the transmission of COVID-19. The message of the Premier echoed the sentiments expressed by the Prime Minister — the purpose of the Program was to save lives.
25. However, the Hotel Quarantine Program also served a dual purpose. This was remarked upon by the Premier during his press conference when he stated that it was 'not just about an appropriate health response. It's also ... about working for Victoria and re-purposing people who have perhaps had their hours cut ...'²⁷ The dual purpose was again reiterated by the Premier at his press conference the following day, 28 March 2020.²⁸
26. Contemporaneous submissions later made to the Crisis Council of Cabinet (CCC) also refer to these dual objectives of the Program, being the protection of public health and the need to support the viability of the tourism and accommodation industry.²⁹ I note the CCC was established on 3 April 2020 and tasked with determining 'all significant matters of policy, administration, budget and legislation required to respond to the COVID-19 pandemic crisis'.³⁰ The CCC is discussed further in Chapter 8.
27. The Premier agreed in his evidence that there was a perceived economic benefit from the Program that was in addition to the stated public health objective. Hotels were largely empty and this was a chance to use them. However, his evidence was that this was a secondary consideration to the public health objective,³¹ which was the principal objective.³²
28. I accept that the Hotel Quarantine Program was created in response to the perceived risk posed by returning travellers and not, in the first instance, as an economic stimulus package. I note that the Victorian Government had been intending to support the accommodation industry even before 27 March 2020, through the \$80 million allocation to the Department of Jobs, Precincts and Regions (DJPR) for use in securing hotel rooms. The opportunity to support sectors that were profoundly affected by COVID-19-related restrictions was seen by government as a substantial benefit of a hotel-based model. As the Premier agreed in evidence, a home-based quarantine model would not have had those economic benefits.³³

5.3 DJPR becomes the lead department

29. Chris Eccles AO, the then Secretary of DPC, was present with the Premier at the National Cabinet meeting on 27 March 2020. Just before 12.20pm, having become aware of the impending decision regarding mandatory quarantine, Mr Eccles stepped out to make a telephone call to Simon Phemister, the Secretary of DJPR.³⁴
30. Mr Eccles told Mr Phemister about the National Cabinet decision. It was during this call that Mr Phemister first became aware of the plan to quarantine returning travellers. Mr Phemister had no prior warning that there was going to be a Hotel Quarantine Program or that his Department would be called upon to implement it.³⁵

31. According to Mr Eccles, the purpose of the call was to discuss with Mr Phemister the need for hotels, and for people with deep logistical experience, for the Program.³⁶ According to Mr Eccles, he called Mr Phemister before anyone else because his most urgent concern was to ensure that accommodation arrangements were put in place.³⁷
32. Mr Eccles gave evidence that he had no awareness, prior to 27 March 2020, of any plans for enforced quarantine measures but, like the Premier, he was aware that funding had been approved on 20 March 2020 for the COVID-19 Emergency Accommodation Assistance Program (CEA) Program, which included what became known as the Hotels for Heroes program.³⁸ The CEA Program was being designed, as part of the Victorian COVID-19 pandemic response, to provide support for the self-isolation of certain groups of individuals who could not self-isolate at home.³⁹ This was part of the \$80 million program referred to at paragraph 28. Mr Eccles had no immediate recollection that, at the time, he knew of the services that had been procured for the CEA Program, but he did know that DJPR had been sourcing hotel rooms as part of it.⁴⁰
33. Mr Eccles gave evidence that, at the time of this phone call, his focus was fixed on the imperative to source hotel rooms and he did not give any greater consideration to the architecture of the Program or how it would be implemented.⁴¹ The message from him to Mr Phemister at this time was to 'get on with it',⁴² but he also gave evidence that the purpose of the call to Mr Phemister was not to commission the whole Hotel Quarantine Program.⁴³
34. Mr Phemister described the call as short.⁴⁴ Telephone records reveal it lasted for six minutes and one second.⁴⁵ Mr Phemister viewed its purpose as giving him a head start to check the number of hotel rooms available and whether it was 'doable' to have hotel stock available 36 hours later.⁴⁶ Mr Phemister told Mr Eccles that he was confident that around 5,000 rooms would be available. Mr Phemister knew this from the work of DJPR sourcing hotel rooms for the CEA Program.⁴⁷
35. At odds with the evidence of Mr Eccles, by the end of that call Mr Phemister understood that he and his Department were in charge of the Program 'from end-to-end', meaning that DJPR was to lead the Hotel Quarantine Program.⁴⁸ Even if it was not intended by Mr Eccles, the effect of his phone call was that DJPR understood it was commissioned to plan and implement the Hotel Quarantine Program. The evidence demonstrates that Mr Phemister set to work in the immediate wake of that call, consistent with his understanding that he was responsible for the set-up of a significant governmental program.
36. After the discussion with Mr Eccles, Mr Phemister understood it was his role to immediately start planning for all contingencies. He planned to put together an end-to-end program of work to support the operation but said, in evidence, that he immediately acknowledged in his own mind that he would be deferring to experts on many matters.⁴⁹ As Secretary of DJPR, he was aware that, in many respects, his Department did not have the requisite expertise to plan and implement the Hotel Quarantine Program beyond some necessary logistical capability.⁵⁰
37. The conversation between Mr Eccles and Mr Phemister was the beginning of a quarantine program in which only hotels were ever seriously considered as locations for the detainment of returned travellers.
38. When the National Cabinet decision was announced, the Prime Minister stated that it was a matter for each state and territory to decide the nature of the 'designated facilities' that were to be used to house returned travellers.⁵¹ He did, however, use the specific example of a hotel at the press conference.⁵² The option to use hotels had also formed part of the AHPPC advice to National Cabinet regarding the potential quarantine of 'high-risk' people.⁵³ Beyond that evidence, I can make no findings about what, if any, discussions took place at National Cabinet about the use of hotels specifically.
39. Suffice to say, hotels were certainly the option to which the Premier immediately turned his mind when deciding if it was feasible to implement quarantine for returned travellers by the deadline. This was not surprising in light of the Premier's awareness that there was a CEA Program being funded to source hotel rooms from 20 March 2020.⁵⁴ He agreed in his evidence that he made that assumption.⁵⁵

40. The work done by DJPR was known to Mr Eccles and was one of the main reasons for his call to Mr Phemister.⁵⁶ By contacting Mr Phemister regarding the available hotel stock that had been sourced by DJPR and indicating to Mr Phemister that he should [or that DJPR should] get on with making the arrangements to engage hotels, the decision regarding the appropriate 'detention facilities' in Victoria was effectively made at the time of the phone call.
41. By the time of the Premier's press conference at around 3.00pm, only hotels were mentioned in association with the National Cabinet decision.⁵⁷ While the associated media release still mentioned the possibility of more varied accommodation being used⁵⁸ and the Premier gave evidence that, to his mind, the use of hotels was not finally settled until the time of his press conference the following day,⁵⁹ there was no evidence from the moment Mr Eccles spoke to Mr Phemister that any other option was considered for the 'designated facilities'.
42. It was logical, at the time, that the initial work that had been done by DJPR for the CEA Program would be used to implement the National Cabinet decision. However, the Hotel Quarantine Program was, in fact, a substantially different undertaking to the CEA Program. Most importantly, the enforced quarantine of travellers required the mandatory detention of returned travellers who would number in the thousands. This aspect of the Program, and the implications arising from it, was plainly not something that had formed part of the previous planning by DJPR. In fact, other than the bare sourcing of numbers of available hotel stock, DJPR had done little preparation that was of relevance to an enforced quarantine program. The capability and capacity of the hotels, in terms of the provision of security, cleaning and catering, had not been a factor at that time,⁶⁰ nor had the capacity of the hotels to accommodate large numbers of people in a manner that would prevent transmission of COVID-19 to the community.
43. From the time of that phone call between Mr Eccles and Mr Phemister, there was no indication in the evidence that the decision to use hotels as designated facilities was subsequently revisited by anyone during the initial planning stages or that any assessment was made to determine if the purpose of the Program could actually be met using a hotel setting, and on such a large scale.
44. The suitability of hotels and their contracting and set-up arrangements is dealt with at length in Chapter 7.

The early context of decisions made by DJPR and DHHS

45. At 12.35pm, immediately after the phone call with Mr Eccles, Mr Phemister held a meeting with team members from DJPR to draft the 'end-to-end' plan of the operation.⁶¹ Mr Phemister envisaged the operation as encompassing a chain of custody of the passengers through the quarantine program from the time they returned to Australia to the time they left quarantine.⁶²
46. Claire Febey, Executive Director, Priority Projects Unit, DJPR, was allocated to lead the end-to-end response and this was Ms Febey's understanding of her role from the outset.⁶³ Mr Phemister selected Ms Febey because he considered her to be a highly trusted leader with experience managing large operations through previous roles in the not-for-profit sector.⁶⁴ He described Ms Febey as an 'excellent systems thinker' and someone who could put together different phases of large-scale operations and solve large-scale problems.⁶⁵
47. Ms Febey and her team started work immediately. The record of messages they exchanged throughout the day on 27 March 2020 demonstrates the range of tasks they identified and the connections they were making with other relevant departments in the first few hours of planning.⁶⁶
48. Mr Phemister allocated the task of procuring hotels to Unni Menon, Executive Director, Aviation Strategy and Services, DJPR.⁶⁷ Mr Menon had already been working on the CEA Program, sourcing available hotel stock in consultation with the hotel accommodation sector.⁶⁸ Mr Menon set about adapting that work to the new DJPR hotel quarantine operation. The Crown Promenade and Crown Metropal were the initial hotels used on 29 March 2020 when the first returned travellers arrived.⁶⁹

49. Later that night, and in circumstances that will be reviewed later in this Report in Chapter 6, the function of sourcing private security firms was tasked to Alex Kamenev, Deputy Secretary, DJPR, who delegated it to Mr Menon and other DJPR executives, who then further delegated the task to Katrina Currie, Executive Director, Employment Outcomes, DJPR.⁷⁰ Ms Currie was on secondment to Working for Victoria, a program that was established to support people who had been impacted by COVID-19 and who had lost their employment.⁷¹ Ms Currie made contact by Saturday morning with two security companies and one of them, Unified Security Group (Australia) Pty Ltd (Unified), provided guards on the Sunday morning at the Crown hotels.⁷²
50. Mr Phemister said, in evidence, that from the moment he understood his department to be leading the operation, 'the day was measured in minutes, not hours'.⁷³ Staffing appointments were made quickly and the various staff members gave evidence regarding the detail of their actions and decision-making, which will largely be dealt with in subsequent chapters (particularly chapters 6 and 7).
51. By midnight on 27 March 2020, Mr Phemister and his DJPR team had produced a *Journey Map and Action Plan* for the entirety of the Hotel Quarantine Program.⁷⁴ The plan designated who was responsible for anticipated actions within the Program.⁷⁵ There were many gaps, but the document richly demonstrates the complexity of the Program and the breadth of expertise required at different phases. It was more detailed than the first iteration of what became the Operation Soteria plan, produced the same day by the State Control Centre (SCC).⁷⁶
52. At some stage during the afternoon, Mr Phemister informed the Minister for Jobs, Innovation and Trade, the Hon. Martin Pakula MP, about the decision and the role assumed by DJPR to lead the Program.⁷⁷
53. Prior to 27 March 2020, Minister Pakula was not aware of any plan to quarantine international arrivals.⁷⁸ He said, in evidence, that he first became aware of the Hotel Quarantine Program during a phone call with Mr Phemister on the afternoon of 27 March 2020.⁷⁹ He did not believe he received any notification about the Program from the Premier or the Premier's office on that day.⁸⁰
54. According to Minister Pakula, Mr Phemister told him that DJPR would be 'in charge' of the Program.⁸¹ From the Minister's perspective, he thought the allocation was the logical consequence of DJPR already working to acquire hotel rooms.⁸² He did not believe that it was unusual that he was receiving this information from his Secretary rather than from the Premier's office.⁸³
55. The Minister for Police and Emergency Services, the Hon. Lisa Neville MP, had learned of the proposed program from the Premier's Chief of Staff in a telephone call at 1.39pm on 27 March 2020.⁸⁴ She was told that DJPR would be responsible for standing up the Program.⁸⁵
56. Soon after learning of the Program and of what he understood to be his role in it, Mr Phemister spoke to Kym Peake, the then Secretary of DHHS.⁸⁶
57. Mr Phemister said that he knew that DHHS would be relied upon across all phases of the operation for advice, if not direct control, because he regarded the quarantine operation as primarily a health operation. He stated it was for that reason he made early contact with Ms Peake. He said that, at the beginning of his involvement, he had not contemplated exactly what all the phases would look like.⁸⁷
58. When Mr Phemister spoke to Ms Peake, she was already aware of the National Cabinet decision. Ms Peake was first told about the decision by Kate Houghton, a Deputy Secretary at DPC, after the National Cabinet meeting.⁸⁸ Ms Peake had no prior knowledge that there was going to be a Hotel Quarantine Program implemented in Victoria.⁸⁹
59. Ms Peake's evidence was that she believed that Mr Phemister understood that DJPR had been commissioned to be the lead agency for the stand-up of hotel quarantine.⁹⁰ She said that she believed that Mr Phemister initially envisaged that the Program would be run by DJPR.⁹¹ Ms Peake, as the head of DHHS, did not question that DJPR, a department with no medical or public health expertise, was leading a program of large-scale mandatory quarantine with the primary purpose of preventing transmission of COVID-19. At this stage, there is no evidence that Ms Peake raised any concern or view that her own department, DHHS, ought to be in charge.

60. According to the evidence of Mr Phemister, in all early planning by DJPR, DHHS was regarded as responsible for health and wellbeing, and for crafting the legal framework within which the mandatory quarantine of returned travellers would occur.⁹² As a result, legal advice was being sought from within DHHS and from external counsel to facilitate the detention arrangements.⁹³ DHHS still played no role in the logistical planning and contracting efforts being undertaken by DJPR at that point, but it did commence making its own arrangements with private medical contractors, including General Practitioners (GPs) and nursing agency staff.⁹⁴

Victorian Secretaries Board meeting — 27 March 2020

61. The Inquiry was told that formal debriefs by all department secretaries about National Cabinet decisions have occurred on occasion at meetings of the Victorian Secretaries Board (VSB).⁹⁵ The VSB is a forum of all department secretaries, the Police Commissioner and the Victorian Public Sector Commissioner. It is a meeting convened about the 'stewardship' of the public service.⁹⁶ Decisions of the VSB are limited to that stewardship function and not matters that are either operational or policy orientated.⁹⁷
62. A VSB meeting occurred at 4.00pm on 27 March 2020.⁹⁸ There was discussion during the meeting about the Hotel Quarantine Program, with all the departmental secretaries present, relevantly including Mr Eccles, Mr Phemister, Ms Peake, Secretary of the Department of Justice and Community Safety (DJCS) Rebecca Falkingham, and then Chief Commissioner of Police (CCP) Graham Ashton.
63. Mr Eccles gave evidence that the VSB made no decision at this meeting about where accountability or responsibility should sit as between departments for the Hotel Quarantine Program.⁹⁹ Mr Eccles also said that it was here that it was first conceptualised that the SCC would play the dominant role in the Program using the legislated Victorian emergency management framework.¹⁰⁰ It was also, he said, when he first turned his own mind to what the Program would be.
64. Notes from the VSB meeting on 27 March 2020 were tendered into evidence.¹⁰¹ Indeed, as this meeting was occurring, a planning meeting was already taking place inside the SCC, convened by Emergency Management Commissioner (Commissioner) Andrew Crisp and attended by representatives of multiple departments.¹⁰²

State Control Centre

65. The SCC is the Victorian operations centre for emergencies. It does not belong to a particular agency; it is a facility. The SCC may be used at the discretion of the control agency for 'Class 2 emergencies' to bring various agencies together.¹⁰³ The classification of, and response to, emergencies are matters that are dealt with in detail in Chapter 8.
66. The COVID-19 pandemic was a 'health emergency' and therefore a Class 2 emergency under the legislated Victorian emergency management framework.¹⁰⁴ Under that same framework, DHHS was the control agency for the health emergency.¹⁰⁵
67. The SCC had been stood up in early March 2020 at the request of DHHS in relation to the pandemic.¹⁰⁶ It was through that framework that the Victorian Government's response to the COVID-19 pandemic more generally had been occurring. The emergency management framework, and the understanding of it by the various decision-makers involved in the Program, is also considered in detail in Chapter 8.

68. Ms Peake gave evidence that it was at the VSB meeting that it was agreed the SCC would be the architecture through which the detailed planning for the Hotel Quarantine Program would occur.¹⁰⁷ As noted, in fact, a planning meeting at the SCC was taking place even as the VSB discussed the Program. However, it does not seem that anyone at the VSB meeting thought that DHHS should be running the Program as part of its responsibility as the control agency for the COVID-19 health emergency.
69. Throughout the afternoon and evening of 27 March 2020, Mr Phemister remained of the understanding that DJPR was running the Program announced by the Premier.¹⁰⁸ He came to the VSB with that belief in place and that remained his understanding at the end of the meeting.¹⁰⁹ The content and tenor of the notes of the VSB meeting suggest that this would have been apparent to others who were at the meeting. Mr Eccles, although he had no memory of the meeting, agreed the notes suggested Mr Phemister understood or was speaking about being in charge of developing the Program at the time.¹¹⁰ There was no suggestion that anyone challenged Mr Phemister's understanding or that Ms Peake or anyone else suggested that DHHS should take the lead under the emergency management framework or otherwise.
70. Ms Peake understood that, under the emergency management arrangements, DHHS was the control agency for any health emergency.¹¹¹ The VSB meeting confirmed that DHHS had the lead responsibility for developing legal directions in order to enforce mandatory quarantine of returned travellers.¹¹² At that point in time, Mr Phemister did not know what the source of power was going to be to detain people.¹¹³ In his evidence, he stated that this caused some difficulties setting up the Program due to having to plan for a number of contingencies regarding an enforcement model.¹¹⁴ I note that the Premier had assumed that the PHW Act would be used, but the details of how the powers in that Act would be used were not finalised until late the following day.¹¹⁵
71. Ms Peake said that the reason for the decision to use the SCC for the overarching structure of the Program was because it was a really critical intervention to deal with the threat of COVID-19; it had the characteristic of requiring a multiagency response and it needed to be stood up incredibly quickly because of the threat.¹¹⁶ This was uncontroversial. The SCC was a resource that was available to the control agency that was responding to an emergency and, indeed, DHHS was already using the facility for its more general response to the pandemic.
72. When Mr Eccles first spoke to Mr Phemister and asked him to 'get on with' planning for mandatory quarantine using hotels, he had not turned his mind to the emergency management architecture or the nature of the Class 2 emergency.¹¹⁷ Nor did he turn his mind to calling Ms Peake from DHHS. In his evidence, he stated that this was because his:
- ... immediate interest was in activating an extensive external facing logistics process as opposed to activating a process internal to Government — which was the activation of the EM [emergency management] arrangements under which DHHS was the control agency.¹¹⁸
73. The meeting at the SCC was attended by representatives from DJPR, including Ms Febey. DHHS was also represented among the various department and agency representatives. A recording of the meeting was tendered in evidence.¹¹⁹
74. It was at this SCC meeting, on 27 March 2020, that Jason Helps, State Controller — Health (also referred to as a Class 2 Controller), first became aware that DJPR had been tasked by its Secretary to put together the 'end-to-end' Hotel Quarantine Program and considered itself the lead agency.¹²⁰ From his perspective, this had occurred despite discussion throughout the afternoon and leading up to the SCC meeting that was moving towards locating the Program under the auspices of the emergency management framework. Meanwhile, by 4.30pm, DJPR staff had already been working for several hours to establish the necessary logistical components for the Program and understood themselves to be in charge. They had no sense that the Program was anything other than their responsibility.

5.4 The emergency management framework: Operation Soteria

75. According to Commissioner Crisp, the Hotel Quarantine Program was conducted within the emergency management framework, partly for role clarity:

It was important to put a control structure around this particular operation and, again, based on our experience of our running operations about having a control agency and then support agency, being really clear as to their role, it is really important and useful in terms of achieving a good outcome.¹²¹

76. Commissioner Crisp went on to say '[i]t is always very important to know who is in control, who is running a particular operation, and the distinction is which other agencies are providing support to the control agency'.¹²²
77. The role played by the Emergency Management Commissioner did not involve direct operational control. In this emergency, Commissioner Crisp did not have a 'hands on' role. Rather, as will be discussed in Chapter 8, the Emergency Management Commissioner is responsible for ensuring the State's response to an emergency is coordinated and that effective control arrangements are in place. The actual operational response is led through the State Controller for any particular emergency.¹²³
78. Commissioner Crisp gave evidence that it was upon being advised of the decision to quarantine returning travellers at the meeting at 2.00pm on 27 March 2020 with Minister Neville and other relevant stakeholders that he commenced planning for what became Operation Soteria.¹²⁴ In doing so, Commissioner Crisp spoke with Mr Helps and the State Consequence Manager to put together an operational plan.¹²⁵ This was then discussed at the first SCC inter-agency meeting on the afternoon of 27 March 2020 at 4.30pm.¹²⁶
79. Mr Helps stated that he first learned of the Program on the afternoon of 27 March 2020.¹²⁷ His evidence was that he spoke with Commissioner Crisp and they arranged the SCC meeting on 27 March 2020 to bring together all the agencies to plan the Program. At that stage, Mr Helps believed that the coordination of the Program would fall under the purview of the DHHS State Controller — Health in accordance with the State emergency management arrangements.¹²⁸
80. As part of those arrangements, due to the complexity and span of control that the State Controller — Health had in the overall COVID-19 response, it was ultimately agreed that a dedicated Deputy State Controller — Health would be appointed to coordinate Operation Soteria.¹²⁹ Chris Eagle and Scott Falconer were appointed to share that role by 29 March 2020.¹³⁰ Both had extensive experience in emergency management in their substantive roles with the Department of Environment, Land, Water and Planning (DELWP), the department from which they were seconded.¹³¹
81. Following the SCC meeting on 27 March 2020, the first draft Operational Plan (V 0.1) was released for review to DHHS, DJPR, DPC, the Department of Transport, the ADF and Victoria Police.¹³² This first plan did not have DHHS as the control agency. This suggests that, whatever was in the minds of some DHHS officials, there was no formal decision yet that the Program would be under DHHS control. It was still unclear to Commissioner Crisp whether the operation would be run under the emergency management framework. However, it was his view that it should come into line with the emergency management structures already in place in order to provide clear control and command structures.¹³³ Commissioner Crisp stated this was a view shared with him by telephone on 27 March 2020 by the Secretary of the DJCS.¹³⁴ At this point, Mr Phemister and DJPR staff still regarded themselves as leading the operation.

82. At around 9.00am on 28 March 2020, Mr Phemister received a telephone call from Mr Eccles informing him that Commissioner Crisp had responsibility for coordinating the Program and that DHHS was the control agency.¹³⁵ From that point, Mr Phemister regarded his Department's new role as that of a support agency within the emergency management framework.¹³⁶
83. At some stage on the same day, Commissioner Crisp had a telephone meeting with the secretaries of DHHS, DJPR, DPC and DJCS, at which Commissioner Crisp repeated his view that the Program should sit within the State emergency management arrangements with DHHS as the control agency. Commissioner Crisp understood the secretaries present agreed with that view.¹³⁷
84. There were two further SCC meetings that day: at around 10.00am and 6.15pm respectively.¹³⁸ At the second meeting, following a request by Mr Helps to clarify control arrangements, Commissioner Crisp confirmed DHHS would be fulfilling that role, stating:¹³⁹

So everyone, well, most people will be well aware that we have a State Controller ... Health, Department of Health and Human Services is the control agency. So, we want to fit this as a discrete operation into the overall state operation. So as of tomorrow morning, we will have a Deputy State Controller — Health; not a person from DHHS. So, Chris Eagle from DELWP is on the line at the moment. So, Chris will be the first of those to take on that Deputy State Controller role who will sit over this particular operation.

And Jason touched on it before in terms of who's in charge. It is the Department of Health and Human Services for this operation because, as I said, it fits in with the State's structure and under the State Controller Health. However, as we've discussed, and it is evident by the number of people in the room and on the phones, there are various departments and agencies and organisations that will be playing a support role, as we used (sic) to under our emergency management arrangements, to the Department of Health and Human Services and supporting the Deputy State Controller.

So, does anyone have any questions around that? I just wanted to be absolutely clear in relation to who is in charge of this operation.¹⁴⁰

85. In accordance with these arrangements, on 29 March 2020, Mr Helps telephoned Ms Febey emphasising that DHHS was the control agency and needed to be in charge as it was accountable for the Program.¹⁴¹ Ms Febey and Mr Helps agreed that DJPR would transition various roles and functions over to DHHS.¹⁴²
86. Later in the day, Mr Helps sent an email to Ms Febey with the subject line *DJPR-DHHS role clarity*.¹⁴³ As was clear from that email, there was, understandably, still work to do in clarifying where responsibilities now lay under the control structure. This was confirmed by Mr Helps who gave evidence that, although Commissioner Crisp had made it clear that DHHS had taken responsibility as the control agency, Mr Helps 'would not say that practically it was resolved' so he needed to 'clarify some aspects of that and how we would work through it'.¹⁴⁴ The email relevantly provided:

As you are aware the Department of Health and Human Services (DHHS) is the Control Agency for the COVID-19 Pandemic, and at this time I am the State Controller — Health appointed by the Control Agency under the Emergency Management Act. Prof Brett Sutton is the Chief Health Officer leading the Public Health response under the Public Health and Wellbeing Act. As the Control Agency, DHHS has overall responsibility for all activities undertaken in response to this emergency. The response to the direction for all passengers returning to Victoria after 11.59 p.m. 28/03/20 requiring to be quarantined in approved accommodation is being led by Dep State Controller Chris Eagle as 'Operation Soteria'.

... I don't underestimate the complexity of this task in the current environment. It will be vital that DHHS make the operational decisions in regards to which hotels we utilise and when, along with other decisions which require a risk assessment by the Chief Health Officer or delegated Authorised Officer.¹⁴⁵

87. Ms Febey understood this email to confirm what had been discussed in the SCC meeting on the evening of 28 March 2020 — that DHHS was in control and that DJPR would be playing a support agency role.¹⁴⁶
88. The first returned travellers arrived on the morning of 29 March 2020. By this time, the Program was being run as Operation Soteria out of the SCC and apparently overseen by DHHS in its capacity as the control agency. Operational responsibility at the SCC was managed at this stage by the Emergency Management Commissioner, State Controller — Health, Deputy State Controller — Health, the DHHS Agency Commander and a team of DHHS emergency management staff.¹⁴⁷

5.5 Change of lead agency

89. From the time of his 9.00am call with Mr Eccles on 28 March 2020 (see paragraph 82 above), Mr Phemister regarded his Department's new role as that of a support agency within the emergency management framework.¹⁴⁸
90. While, as discussed in Chapter 8, this substantially changed the governance arrangements then in place, it appears to have made little practical difference to the work DJPR already had in train at that early stage. DJPR remained responsible for contracting and organising many of the key logistical aspects of the Program — selecting the hotels, organising private security, cleaning and catering services where necessary and coordinating the transfer of returned travellers from the airport to hotels.
91. To assist in the logistical role that DJPR took on, Mr Phemister called on the CEO of Global Victoria, Gönül Serbest. Global Victoria was an agency that sat within DJPR. Ordinarily, its function was to organise logistics for events such as trade fairs.¹⁴⁹ Mr Phemister requested its involvement for its logistical expertise with 'advancing' of large events.¹⁵⁰ It was intended that its main role would be to assist with the initial 'dry runs' of the Program that occurred on 28 March 2020. Its role quickly expanded when it became obvious that the Program would require substantially more resources.¹⁵¹ Having regard to its ordinary business model, it was unsurprising that none of the staff of Global Victoria had any public health expertise or any experience that could sensibly be said to equate with managing a large-scale disaster with public health implications.¹⁵²
92. From the perspective of Mr Phemister and Ms Peake, the logistical tasks undertaken by DJPR did not change with the shift to a model where DHHS was the control agency. What did change, and where dispute remains, was the division of responsibility for the operation and oversight of the entire Program. According to Mr Phemister, this was, by 28 March 2020, a DHHS-led activity in which DJPR participated as a support agency.¹⁵³ Ms Peake, on the other hand, was of the view that DHHS had 'overall responsibility for ensuring any operation through the State Control Centre was appropriately scoped, involved the right people and had appropriate operational governance within it'¹⁵⁴ but that the DHHS role within that operation was limited by what she understood to be a model of 'joint accountability' for the Program with DJPR.¹⁵⁵ From this early point, that lack of role clarity became symptomatic of some aspects of the Hotel Quarantine Program and caused some of the gaps, fault lines and problems that emerged.
93. The issue of who was in charge of the overall Program, whether there was shared or joint accountability and what that meant for the day-to-day operation of the Hotel Quarantine Program and the contracts that were put in place with private security companies, hotels and cleaning contractors is dealt with in detail in chapters 6, 7 and 8.

5.6 Legal enforcement powers to direct people into quarantine

94. There was no controversy over the source of the legal powers to direct returning travellers into the Hotel Quarantine Program. It was the powers exercised under the PHW Act that were used to legally enforce the detention of returned travellers in quarantine at the hotels, including whether or not there would be any exemption from quarantine. As the fundamental legal basis of the Program, they were crucial to the Program's existence, enforceability and legality.
95. Over the course of the weekend, DHHS received legal advice from in-house lawyers¹⁵⁶ and external counsel¹⁵⁷ regarding the nature of the powers necessary to detain returned travellers. The Detention Notices that compelled returned travellers into the Hotel Quarantine Program were drafted and approved that weekend, relying on the powers in the PHW Act to detain individuals in hotels for the purpose of a 14-day quarantine period.¹⁵⁸

Enforcement of quarantine

96. Implicit in the decision to require all returned travellers to quarantine in designated facilities was the need for an enforcement mechanism — a means to keep travellers in their places of quarantine in accordance with the directions issued by the Deputy Chief Health Officer under the PHW Act.
97. As of 27 March 2020, the range of enforcement options that were potentially available included one or more of the following:
- A. Victoria Police
 - B. ADF
 - C. private security.

5.7 The use of private security companies

98. That three private security companies, MSS Security Pty Ltd (MSS), Wilson Security Pty Ltd (Wilson) and Unified were engaged to provide the services of security guards as part of the enforcement regime in the Hotel Quarantine Program was an uncontroversial fact.¹⁵⁹
99. The contracts with these three companies, initially verbal and, later, confirmed in writing, were authorised by the Secretary of DJPR and entered into by the Secretary of DJPR as the contracting agency. Invoices rendered under those contracts were authorised for payment by DJPR.¹⁶⁰
100. Private security guards engaged through the three lead contractors were present at all of the quarantine hotels until their removal in early July 2020 and replacement by staff engaged by DJCS.¹⁶¹ I deal with the changes to the DJCS model in more detail in Chapter 11.
101. These were settled, uncontroversial facts. The process by which the firms were identified and contracted, the terms of those contracts and the ultimate suitability of private security guards for the roles they were asked to perform are all considered in Chapter 6.

Who decided to use private security as the 'first tier' of enforcement?

102. What proved to be controversial was how the decision was reached to use private security companies as the first tier of enforcement, rather than some other enforcement model using police or the ADF or a combination of any of the three options.
103. The first public mention made of private security guards being used in the Program was made by the Premier during his press conference at around 3.00pm on 27 March 2020:

Police, private security, all of our health team will be able to monitor compliance ... I'm very grateful to the Prime Minister for his agreeing to let this be a true partnership between Victoria Police, our health officials, as well as the Australian Defence Force, I think that will work very well. (The ADF) won't be exercising any statutory power. They will be working to assist those who beyond any doubt have the powers necessary to get this job done.¹⁶²

104. This suggests that use of private security in the Program — in some form — was in contemplation by that time.
105. By 6.00pm on the same day, Mr Phemister and others understood that DJPR's role as the lead agency included the obligation to engage private security and, over the weekend, that was done by Ms Currie who, having sent emails late on 27 March 2020, verbally engaged Unified to be present on 28 and 29 March 2020 to prepare for, and then receive, the initial cohort of returned travellers.¹⁶³
106. Subsequent formal contracts with Unified and with Wilson and MSS resulted in the use of thousands of guards and the expenditure of some \$60 million on private security.
107. But no one was able to say who it was who committed Victoria to the enforcement model that placed such heavy reliance on private security; a commitment that was understood by all concerned to have been made by the evening of 27 March 2020.
108. Despite examination and cross-examination, evidence, submissions and counter-submissions, no person, agency, Minister or department has been willing or able to identify that the engagement of private security commenced as a result of some action, instruction, agreement or understanding on their own part.
109. No one denied that a decision was made but, equally, no one admitted being the one to have made the decision or knowing who did. The Inquiry has been offered accounts of what was said to be a, shared governance, and 'shared accountability' model for the Hotel Quarantine Program. I accept that, in this context, the decision was most likely contributed to by a number of people. But none of those people have accepted accountability or responsibility for, or acknowledged their role in, the decision-making process. Shared accountability in this context has amounted to no accountability in that no person has accepted they were involved in the decision making and this represents a failure in the very first stages of the governance model for this Program.
110. The Premier, when asked whether we should know who made the decision, was firm in his reply:¹⁶⁴

Ms Ellyard: Because we really should know, shouldn't we? We should be able to say who made the decision to not only spend that much money but to give such an important function in this infection control program?

Premier: Yes, it's one of a number of very important questions, yes.

Ms Ellyard: Mr Eccles in his evidence, when I asked him a similar question, suggested that this might be ... I'm sure I'm not doing justice to his answer, but I understood him to say this might be an example of what he called collective governance or collective decision-making.

Do you have a view about whether that's what happened here in relation to private security?

Premier: Well, I would only be offering an opinion, if that would be useful to the Board.

Ms Ellyard: Yes, if you think that what happened here was collective decision-making, we would be pleased –

Premier: I think it's ... Ms Ellyard, I want good and the best decision-making, and I think it's very difficult to make judgements about that unless you can point to who made it. I don't know that this ... I don't ... my understanding of collective decision-making does not remove accountability, it does not remove ... for instance, as the Chair of the Cabinet, the Cabinet makes a collective decision, but I have made that decision because I am the Chair of that Cabinet. If a group of people meet and a decision is made, then a similar formality ought [to] be borne to those process ... come to those processes as well. That's, at least, my practical experience from the many, many meetings and different forums that I'm the chair of. I don't think collective decision-making makes it harder to determine what body and which people made a judgement, made a decision. That's why those forums have a record of decisions and minutes and a degree ... they are an authorising environment.

Ms Ellyard: So, to pick up on your point, Premier, Cabinet is an obvious example of group decision-making but everyone who is there understands that that's what they are doing, they are participating in a group decision-making process. Is that fair?

Premier: That is correct, yes. That's correct.

Ms Ellyard: They are all able to say afterwards, 'Yes, I was part of that, I was part of that decision-making'.

Premier: Yes and, furthermore, at a subsequent meeting, if the decisions were not recorded accurately, if you had a different view, if your participation was not recorded accurately, then you have opportunities to correct the record. There's a formality to that, even though it's collective.

Ms Ellyard: So here, assuming that Mr Eccles's analysis is correct, and this was an instance of collective decision-making, one would expect those who were part of the collective to know that they were and to be able to identify themselves as part of that collective decision-making. Is that fair?

Premier: I would certainly hope so.

Ms Ellyard: Given that would be your hope, it's alarming here, isn't it, that, to the extent it was a collective decision, no one seems to have understood that they were part of it?

Premier: Yes, it is very disappointing.

111. Many said they participated in discussions or meetings that were information gathering or sharing exercises and not decision-making forums. In some cases, however, it was clear that discussions and meetings presented opportunities for influence, particularly where one or more party to a conversation or meeting held a position of power and influence.
112. To come to a view about this question I have examined all of the relevant evidence and submissions to the Inquiry. After the close of the evidence, in the context of consideration of the submissions in reply, I sought more information, followed by further statements and submissions in light of that additional information.
113. Set out below is the detailed evidentiary trail upon which I have come to a conclusion by inferential reasoning as to how the 'decision' was made to use private security.

As of 27 March 2020, the use of private security was not considered problematic

114. In reviewing the discussions about private security on 27 March 2020, I bear in mind what those involved or potentially involved in any decision or approval of the use of private security would have understood the role private security was going to play. The significance of the decision to use private security turns very much on what, precisely, that workforce would be doing.
115. That private security guards would have some role in the Hotel Quarantine Program was not itself an unreasonable operational decision as of 27 March 2020. Private security had been used in hotel quarantine in other jurisdictions.¹⁶⁵ As the private security representatives said in their evidence and submissions, private security is a flexible and easily scalable resource that can be responsive to fluctuating demands. Indeed, a document entitled *Process Summary for Mandatory Quarantine*, apparently prepared by the ABF and circulated to Victoria Police on the evening of 27 March 2020, refers to the use of private security to enforce social distancing at hotels, suggesting that it was in the contemplation of Commonwealth agencies that private security would have some role in each State's mandatory quarantine program.¹⁶⁶ Accepting the limitations upon the Inquiry's access to evidence that was National Cabinet in Confidence, I infer that there was broad discussion of enforcement options that might be used by states and territories as part of the deliberations leading to the National Cabinet resolution.
116. From the evidence of those who made initial contact with security companies and from the evidence of those security companies, I am satisfied that the initial conception of the role private security contractors were to perform was the role of static guards or sentinels, in which they would have very limited contact with returned travellers.
117. The current Chief Commissioner of Police (CCP), Shane Patton, stated he had no grounds to form any reservations or concerns about the use of private security in the Hotel Quarantine Program.¹⁶⁷ He stated that, in the past, Victoria Police had worked successfully with private security in the context of major events and sporting events.¹⁶⁸ CCP Patton did not consider that the involvement of private security in the Program would be inappropriate, subject to adequate skills, training, advice and supervision being in place.¹⁶⁹ However, he did recognise the Program was outside the normal work of private security as it had the added overlay with respect to infection control.¹⁷⁰
118. Similarly, former CCP Ashton's view was that the role of private security, as proposed, was appropriate. The guarding duties — that is, being present to ensure guests remained in their rooms — were suited to private security, with police as a backup if any person attempted to leave quarantine. Mr Ashton did not envisage that the guards would be used for other purposes and, in that context, he viewed the arrangement as appropriate. He noted that this type of arrangement was consistent with how Victoria Police had worked with private security at events.¹⁷¹ At the time of his evidence, Mr Ashton's view had not changed in relation to the use of private security, provided they were well-trained.¹⁷² He had since learned that security was being used to escort travellers, which was not what he envisaged when the plan was first put forward.¹⁷³
119. Commissioner Crisp believed at the time that security would be a suitable workforce for use in the Program based on previous experience working with them. When well-trained and well-supervised, Commissioner Crisp believed private security would be effective in this type of role.¹⁷⁴
120. Minister Neville said she did not turn her mind to the appropriateness of using private security when she was told about the proposal on 27 March 2020. Her evidence was that the use of private security alongside Victoria Police was not inconsistent with her experience of how arrangements for major events operated; for her, it did not 'jump out' as a major concern¹⁷⁵ as private security contractors are used widely in Victoria for security purposes, including at Parliament House, hospitals and police headquarters.¹⁷⁶

121. I accept that it has become common practice for private security to work alongside police and Protective Services Officers in a range of situations, including in many government buildings such as courts and detention settings. There were important differences between those situations and the Hotel Quarantine Program with all of its complexities, including:
- A. those being detained were potentially carrying a highly infectious virus, meaning they posed a risk to each other and those working in the Program
 - B. those being detained included a percentage with additional health or welfare needs that made them vulnerable and requiring additional assistance
 - C. the nature of this environment required a workforce that was able to absorb changing written and verbal information and instructions in a complex health environment
 - D. the need for specific and ongoing training not being well-suited to a highly casualised workforce.
122. In making these comments, I note that CCP Patton, Mr Ashton, Commissioner Crisp and Minister Neville are not public health experts. I also note the evidence given by Professor Brett Sutton, Chief Health Officer, who *is* a public health expert, about what his position would likely have been if consulted on the decision to engage private security in the Hotel Quarantine Program. Putting to one side the question of what he knew about the decision at the time, which is dealt with below at Paragraph 130, when asked whether he would have raised the same concerns he raised in June 2020 after the outbreaks occurred, Prof. Sutton said:
- I don't think so. I think the wisdom we have in hindsight is a key element here. I'm not sure anyone at the point in time of decision-making around hotel quarantine commencement might have been able to foreshadow some of the complexities of that workforce. I certainly wouldn't have had sufficient familiarity with it to have made some of the conclusions that I can make now by virtue of having seen some of those complexities play out. I would have obviously brought a public health view, but I certainly couldn't say that I would have had the same level of concerns or understood what those concerns to be back at that point in time, in late March.¹⁷⁷
123. Having regard to this, I accept that it would not be reasonable to expect that CCP Patton, Mr Ashton, Commissioner Crisp or Minister Neville would have turned their minds to the specific public health issues that were ultimately generated by the use of private security guards in the Program.
124. I note the evidence of Professor Lindsay Grayson, Director of the Infectious Diseases Department at Austin Health, that security guards are used at Austin Health's COVID and SCOVID wards. His evidence was that security guards working in the hospital undergo specific additional training in terms of PPE, the same as nursing staff or doctors would do.¹⁷⁸
125. In this regard, I note that CCP Patton, Mr Ashton and Commissioner Crisp — each of whom gave evidence that private security was appropriate for the Hotel Quarantine Program — qualified their answers about suitability with the proviso that they would be appropriately trained, with Mr Ashton adding the further qualification that their role would be limited to static guarding.¹⁷⁹ Given her experience, it was reasonable to infer that Minister Neville would have expected the same limitation in role.
126. As will be discussed in Chapter 6, the evidence established that the initial role of private security on hotel sites grew.¹⁸⁰ That is, the role of private security expanded beyond the pure static guarding role that may have been anticipated on 27 March 2020 when it was expected guests would not leave their hotel rooms. Security guards taking guests for smoking and fresh air breaks, and transporting luggage to guests' rooms, meant that they moved through potentially contaminated areas or had the potential to interact with COVID-positive guests.
127. Finally, I note that the 'small-scale security force' originally contemplated by DJPR on 27 and 28 March 2020¹⁸¹ became hundreds of guards by the time of the first arrivals on 29 and 30 March 2020.¹⁸²

128. I am satisfied these matters must also be taken into account when assessing the role played by others, including Mr Eccles and those present at the SCC meetings on 27 and 28 March 2020, in the decision to engage private security. Neither Mr Eccles nor those present at the SCC meeting professed to be public health experts. It was not reasonable to expect that they should have turned their minds to the full extent of the supervision and training issues, the role changes and the increase in private security numbers that occurred over time.
129. These issues arose and evolved without any proper revisiting of whether the private security workforce remained the appropriate cohort for the first-tier security role.
130. This was compounded by the lack of clarity over who was 'in control' or 'in charge' or had 'oversight' of the detention program as a whole. The compartmentalisation of roles and failure of leadership (discussed in Chapter 8) added to the failure to address the dangers associated with the matters listed in paragraphs 121–128. This was perhaps best exemplified by evidence showing that, in the days following the engagement of private security, Ms Febey continued to advocate for a 24/7 police presence at hotels.¹⁸³ By that time, DJPR had ceased being lead agency and the matter was appropriately raised with DHHS for actioning. Despite Ms Febey's efforts, clearly, nothing came of it.
131. It was further compounded by the limited engagement of public health experts in the Program. One of the issues that arose in this regard was the level of knowledge held by Prof. Sutton about the use of private security in the Program.¹⁸⁴ There was a chain of emails dated 27 March which emerged after the close of public hearings which, on its face, was contrary to the evidence Prof. Sutton had given as to his knowledge about the engagement of private security until after the outbreak at Rydges.¹⁸⁵ Prof Sutton was required to provide further evidence on oath answering questions about his state of knowledge in light of that series of emails. Prof Sutton responded with an affidavit on 4 November 2020. I accept the explanation provided by Prof. Sutton in his affidavit,¹⁸⁶ and the submissions made by Counsel Assisting in respect of that evidence.¹⁸⁷ That is, while the evidence revealed there were opportunities by way of email traffic for Prof. Sutton to become aware that private security had been engaged in the Hotel Quarantine Program prior to the outbreaks occurring in late May 2020, I am satisfied that Prof. Sutton did not 'register' this detail or have a practical awareness of security arrangements on-site consistent with his lack of operational awareness more generally within the Hotel Quarantine Program. I am also satisfied that Prof. Sutton and the Public Health Team at DHHS had no role in the decision to engage private security, that Prof. Sutton had no role in their management and oversight, and that the Public Health Team had little or no role in this regard.
132. I approach this issue conscious of the immense public interest in the process that sat behind the decision to engage private security contractors. That public interest was no doubt heightened in circumstances where key witnesses were unable to recall key events and those who might be expected to know who decided to engage private security denied having this information. It was no doubt heightened by the nature of the outbreaks and numbers of security guards across the two 'outbreak' hotels who contracted the virus. It was further heightened by the provision of relevant information after the close of evidence that would have assisted the Inquiry during hearings.
133. The Inquiry has heard that the day was measured in minutes, and this was how I forensically approached this question. In doing so, on the evidence to the Inquiry and the investigations conducted, I have concluded:
- A. the decision was not one made by an 'individual' but, rather, there were those with influence who contributed to an understanding being reached that private security would be used and this understanding then became the decision that was adopted and acted upon at the SCC meeting chaired by the Emergency Management Commissioner
 - B. that understanding was reached by the conclusion of the SCC meeting on 27 March 2020
 - C. there were several main factors that appeared to have led to the understanding that became a 'decision' that was acted upon by DJPR in the wake of the SCC meeting
 - D. the timeline was not completely linear and there were overlapping and independent influences on the 'decision'

- E. the use of private security was in contemplation from the earliest time after National Cabinet concluded and likely during the course of discussions in National Cabinet given the widespread use of private security in other jurisdictions (National Cabinet discussions were not available to the Inquiry due to Cabinet in Confidence restrictions)
- F. the use of private security was not considered controversial at the time.

Before 1.00pm

134. At 12.17pm, Alex Kamenev, a Deputy Secretary who had been working exclusively on COVID-19 responses within DJPR,¹⁸⁸ sent an email to several DJPR officers including Ms Currie, with Mr Menon copied in. In her evidence, Ms Currie identified this email as the first time she learned of the Hotel Quarantine Program.¹⁸⁹ The email was titled *Cleaning workforce for isolation rooms in hotels* and was in the following terms:

Unni is going to write to us shortly with potential requirements for a cleaning and security workforce to manage people who might be quarantined in hotel rooms.

We might need to act quickly depending on govt policy choices in this space so would be good to think through options. It would be in metro and regions

I need a point person who can work with Unni¹⁹⁰

135. At 'around midday', in Mr Menon's recollection, he received a telephone call from Mr Phemister informing him that a hotel quarantine program was likely to be implemented and asking him to ascertain which hotels would be available to provide accommodation as part of the program (including their capacity to provide meals, security and cleaning services).¹⁹¹
136. At 12.20pm, Mr Eccles spoke to Mr Phemister.¹⁹² Mr Phemister said the conversation was about contracting hotel rooms and 'a few other obvious phases of the operation, particularly transport from the airport to the hotels'.¹⁹³ Neither recalled the question of private security being discussed.¹⁹⁴
137. At 12.35pm, Mr Phemister met with Ms Febey and others¹⁹⁵ to begin planning.¹⁹⁶ Ms Febey's notes include:

I will be responsible for the whole process

Everything

Sanitation, food services, health care, security

They need to be safe, but we need them to stay where they are

Simon will call Graeme Ashton, need a regime that makes sure they adhere to their quarantine

...

Police and security¹⁹⁷

138. The notes taken by Charles Rankin, Director, Office of the Secretary of DJPR, in respect of the same meeting include:

Claire will be responsible for DJPR process. hotels to provide sanitation, health, security, catering. Medical support, concierge support. They need to provide a full suite of service. They cannot go out and wander. SP to call Graham Ashton. Need to ensure they abide by quarantine.¹⁹⁸

139. In its Further Written Submissions, Victoria Police submitted that this evidence supported a finding that a decision was made to engage private security in the Hotel Quarantine Program before the SCC meeting commenced at 4.30pm or that there was a settled consensus in favour of private security (unaided by Victoria Police's view) prior to that meeting. In so doing, Victoria Police also referred to text messages exchanged by DJPR staff between 4.12pm and 4.30pm on 27 March 2020.¹⁹⁹
140. I do not accept this submission for the following reasons.
141. First, the 12.17pm email from Mr Kamenov was preceded by an email sent at 12.06pm from Michael Lemieszek, Assistant Director, International Engagement, DPC, to DJPR staff, including Mr Menon. The 12.06pm email stated:

We are seeking your assistance to respond to an urgent request from the Premier on the number of hotel rooms and other commercial accommodation available in Victoria. This is part of the broader work on COVID19 preparedness. Unni Menon, who is working on another element of this issue, is aware of the request and suggested we speak directly with you.

Could you please provide any data you have on the number of:

- Hotel/motel rooms
- AirBNB listings
- Other accommodation such as caravan parks, cabins, holiday camps (with buildings, not tents (sic) sites), guest houses, B&Bs.
- Unused student accommodation.
- Anything else you can think of.

If possible, we'd like the data by region. We are primarily seeking the total number, but welcome any data on current availability if it was on hand.

We need to get this to the Premier's Office by the end of the day. Please send through the best data you have available by the end of the day, earlier if you can.

I'll give you a call shortly to discuss.²⁰⁰

142. Although not expressly stated, it was evident from the content and timing of the 12.06pm email that:
- A. work was being done to ascertain what accommodation would be available for the quarantining of returned travellers (for example, a matter that was being considered by National Cabinet at that time)
 - B. work that had already done by DJPR in relation to the separate CEA Program was being leveraged as part of that work.
143. There was no mention of security in the 12.06pm email. However, as part of the separate CEA plan then in place,²⁰¹ there was a plan for hotels to provide 'general additional services' including 'general security'. It appeared far more likely that it was these matters, rather than some decision that had been made at this early stage of the day within DJPR to engage private security for the Hotel Quarantine Program, that gave rise to the 12.17pm email from Mr Kamenov.²⁰²

144. Second, Mr Menon's evidence was that he first learned of the Hotel Quarantine Program from Mr Phemister.²⁰³ I accept this evidence and Mr Phemister's evidence that he first heard about the Hotel Quarantine Program from Mr Eccles at 12.20pm.²⁰⁴ I therefore infer that Mr Menon did not speak with Mr Phemister about the Program until after receiving the 12.06pm and 12.17pm emails.
145. Third, even putting aside these matters, the language used in the emails at 12.06pm and 12.17pm did not support a finding that a decision was made to engage private security in the Program before the SCC meeting commenced at 4.30pm or that there was a settled consensus in favour of private security (unaided by Victoria Police's view) prior to that SCC meeting, including for the following reasons:
- A. In the 12.17pm email, Mr Kamenev refers to 'potential requirements for a ... security workforce'.²⁰⁵ The reference to 'potential' represents clear and contemporaneous evidence that a decision was yet to be made.
 - B. In her notes, Ms Febey refers to 'security' but says that 'Simon will call Graeme [sic] Ashton, need a regime that makes sure they adhere to their quarantine'.²⁰⁶ This reference to Simon (whom I take to be Simon Phemister) contacting, Graeme Ashton, (clearly a reference to the then CCP Graham Ashton) strongly indicates that a decision was not only yet to be made about the security regime, but that it would not be made until Mr Ashton's views had been sought. This finds further support in the evidence of Ms Febey, who stated that the decision to engage private security was communicated to her at the SCC meeting and that she understood this to be a directive to engage private security.²⁰⁷
 - C. Mr Rankin's notes also stated 'SP to contact Graham Ashton'.²⁰⁸ This provides support for the accuracy of the notes and recollection of Ms Febey that DJPR was waiting for the opportunity to consult with Mr Ashton before a decision was made about the security option. Both sets of notes represent contemporaneous evidence that a decision was yet to be made and would not be made until Mr Ashton had been contacted by Mr Phemister.
 - D. Mr Menon's statement²⁰⁹ and Mr Rankin's notes²¹⁰ referred to hotels providing security. These references were consistent with the arrangement contemplated as part of the CEA Program at that time, not the arrangement that was ultimately reached in the Hotel Quarantine Program, where private security companies were directly engaged by the State of Victoria (State). These references therefore provided further support for the conclusion, drawn above, that these early communications between DJPR staff were made in the context of initial plans leveraging off work already done in the CEA Program, rather than a decision that had already been made to engage private security in the Program at that time.
 - E. The text messages exchanged by DJPR staff between 4.12pm and 4.30pm were sent following several important developments, discussed in more detail below, including the 1.17pm telephone call between Mr Ashton and Mr Eccles, the 2.00pm meeting between Minister Neville, Mr Ashton and Commissioner Crisp, the debriefing by DPC that appeared to have occurred before 2.48pm, the Premier's press conference at around 3.00pm and the commencement of the VSB meeting at 4.00pm. I accept Ms Febey's evidence that these text messages reflected a 'working assumption' held by DJPR at that time, rather than a decision that had been made.²¹¹
 - F. The submission made by Victoria Police was also at odds with evidence establishing that DJPR did not begin contacting private security companies to ascertain their availability for work in the Program until well after the SCC meeting.²¹²
146. Having regard to this evidence, I find that, while the *potential* engagement of private security in the Program may have been in the minds of DJPR staff prior to the SCC meeting, no decision had been made and no decision was being actioned by DJPR staff in the hours prior to that SCC meeting.

1.00–2.30pm

147. Sometime before 1.16pm, Mr Ashton received what he described as a 'heads up' from his Australian Federal Police (AFP) colleagues that the Hotel Quarantine Program would be announced later that day.²¹³ In his affidavit, dated 19 October 2020, Mr Ashton identified a call made to him at 1.03pm from AFP Commissioner, Mr Reece Kershaw, as the most likely source of this 'heads up' and his understanding about the potential use of police as the enforcement mechanism in the Program.²¹⁴

148. 13 minutes later, at 1.16pm, Mr Ashton sent the following text message to Mr Eccles:

Chris I am getting word from Canberra for a plan whereby arrivals from overseas are to be subjected to enforced isolation from tomorrow. The suggestion is Victorian arrivals are conveyed to a hotel somewhere where they are guarded by police for 14 days. Are you aware of anything in this regard?? Graham.²¹⁵

149. During his evidence before the Inquiry, Mr Eccles was shown this text message.²¹⁶ Mr Eccles stated that, at the time of the text message, he was not aware of any plan for police to be guards in the Program, as stated by Mr Ashton in the text to be his understanding of the plan from Canberra.²¹⁷

Ms Ellyard: ... So you may feel I've asked you these questions already but are you aware of any involvement by the DPC as at about 1.30pm in setting up what were going to be the details of the enforcement arrangements in Victoria?

Mr Eccles: I'm not aware.

Ms Ellyard: Is it possible that it could have been happening without you being aware?

Mr Eccles: It's possible. But I would have thought extremely unlikely.

Ms Ellyard: Likely that if it had been happening at the time without you being aware, you would since have become aware, I take it, if arrangements of that ... if work of that kind had been being done?

Mr Eccles: Both that and the simple fact that if National Cabinet was finishing at 1 o'clock and there was no ... the relevant matter being considered by National Cabinet originated within National Cabinet itself and not in material going into National Cabinet, then to have developed a plan between the end of National Cabinet and this time seems ... I'm unaware of how a plan could be developed within that timeframe.²¹⁸

150. Mr Ashton did not receive any text message from Mr Eccles in response and could not recall if he spoke to Mr Eccles, or anyone else, on the phone at that time.²¹⁹ Mr Eccles said, in evidence, that he did not recall speaking with Mr Ashton, though it would be his usual practice to do so.²²⁰ Mr Eccles's phone records, which were obtained by the Inquiry after evidence had closed, reveal that there was a call made by Mr Eccles to Mr Ashton at 1.17pm that lasted two minutes and 15 seconds.²²¹ Both Mr Ashton and Mr Eccles gave evidence that they could not recall the contents of any conversation.²²²

151. However, five minutes after that phone call, at 1.22pm, Mr Ashton sent a text message back to Commissioner Kershaw stating, 'Mate my advise [sic] is that ADF will do Passenger transfer and private security will be used'.²²³

152. At 1.32pm, Mr Ashton sent another message to Commissioner Kershaw, which stated: 'I think that's the deal set up by our DPC. I understand NSW will be a different arrangement. I spoke to Mick F',²²⁴ Michael Fuller, who is the Commissioner of the NSW Police Force.

153. Mr Eccles was asked about Mr Ashton's texts to Commissioner Kershaw. Mr Eccles stated that he was not aware, as at about 1.30pm, of any involvement by DPC with regard to setting up the details of the enforcement arrangements in Victoria. As noted above, he thought it was extremely unlikely it was happening without him being aware.²²⁵
154. In his affidavit, made after his phone records were produced, Mr Eccles rejected any inference that Mr Ashton had learned of the proposed use of the ADF and private security from him, stating that he 'had no knowledge of these matters'.²²⁶ He stated that it was not his role to have made operational decisions about the use of private security, nor would he have had the expertise to do so. He stated:

[I]f I did call him [CCP Ashton] back [at 1.17pm], I would not have conveyed (and would not have been able to convey) any decision about the use of private security.²²⁷

155. Mr Eccles stated that he did not recall the content of the conversation with Mr Ashton,²²⁸ and strenuously rejected any claim that he had misled the Inquiry, as his evidence under oath spoke to the fact that his normal practice made it likely that he would have called the then Chief Commissioner back.²²⁹ Mr Ashton had no recollection of the contents of the conversation with Mr Eccles either.
156. The Premier was also taken to the message sent by Mr Ashton, which referred to the arrangement for private security as 'the deal set up by ... DPC'. The Premier's evidence was that he was not personally aware of any such proposal made by his department.²³⁰
157. Based on the content of the text message sent to Mr Eccles from Mr Ashton, the call made by Mr Eccles one minute later to Mr Ashton lasting for two minutes and 15 seconds and then the text message to Commissioner Kershaw sent approximately 12 minutes after that call ended saying 'I think that is the deal set up by our DPC', I draw the inference that a discussion took place between Mr Ashton and Mr Eccles that caused Mr Ashton to 'think' there was a 'deal' set up by DPC whereby private security would be used for the Program.
158. This inference was further supported by the evidence given by Mr Ashton during cross-examination by Mr Attiwill QC for DPC:

Mr Attiwill: And prior to that meeting [at 2.00pm], you were not aware of any request for Victoria Police to play any role in that quarantine program, were you?

Mr Ashton: Ah ... not that I have a recollection of, no.

Mr Attiwill: Relating to private security, you had a belief that private security were to be used?

Mr Ashton: An understanding, yes.²³¹

159. In closing submissions, DPC submitted that neither Mr Eccles nor DPC were involved in the decision to use private security in the Program.²³²
160. While neither Mr Ashton nor Mr Eccles had any recollection of what was said in the 1.17pm telephone call, it would be fanciful to think that Mr Ashton sent the 1:22pm and 1.32pm text messages to Commissioner Kershaw based on no more than some inner speculation of his own when at 1.16pm he had been asking Mr Eccles for information about a proposal that police be used as security for the Program.

161. At 1.34pm, Mr Ashton received a text message from Commissioner Crisp, who forwarded a text received regarding the ADF:

I just received this from [redacted] from ADF. I assume you would have it but just letting you know.

Thanks Andrew, federal announcement very shortly regarding ADF support to state police for COVID19.²³³

162. Mr Ashton's telephone records reveal that he then rang Commissioner Crisp and that they spoke for nearly three minutes. Mr Ashton could not recall the details of that conversation.²³⁴
163. At 1.39pm, Minister Neville received a call from the Premier's Chief of Staff and spoke to her for just over five minutes.²³⁵ In her evidence at the Inquiry's public hearings, Minister Neville could not recall who the call was from, but said she was told that there would be a Hotel Quarantine Program and that DJPR would be running it.²³⁶ In her later affidavit evidence, Minister Neville said there was no discussion regarding enforcement options, including security at hotels, during that call.²³⁷
164. At 2.00pm, about 26 minutes after the text from Commissioner Crisp to Mr Ashton, both men attended an online meeting with Minister Neville²³⁸ and other DJCS representatives. Such meetings had been taking place regularly since the pandemic started.²³⁹ The evidence was that there was a discussion about the use of private security in that meeting but a divergence on the evidence about who said what to whom.
165. A few minutes after 2.00pm, and while in the meeting, Commissioner Crisp sent the following text message to Ms Houghton of DPC, who had texted Commissioner Crisp to update him on National Cabinet discussions about the use of the ADF:

Think my Minister has some idea of ADF role and that's what we're discussing with Graham Ashton at the moment.²⁴⁰

166. The text message from Commissioner Crisp was contemporaneous evidence that the issue was being discussed in that meeting. Whatever was discussed, there did not appear to have been a settled position reached on the use of ADF or private security, as Mr Ashton contemplated in the VSB meeting later that afternoon that the ADF might be used at some point to assist with static presence over time.²⁴¹
167. Minister Neville said that it was clear Commissioner Crisp and Mr Ashton already knew more than she did about the Program when they met. Her 'best recollection' was that Commissioner Crisp raised the issue of private security being used to guard those in mandatory quarantine and Mr Ashton discussed ADF involvement, however, she could not be sure.²⁴² Minister Neville said that the decision to use private security was provided at the meeting as a piece of 'factual information' and she did not know who made the decision.²⁴³
168. When asked whether she had had a view about the use of the ADF, Minister Neville said that her concern at the time would have been about the absence of any enforcement powers on the part of the ADF and whether Victoria Police would have been better suited for a role at the airport — a role she noted was ultimately filled by the AFP.²⁴⁴
169. Mr Ashton said that Commissioner Crisp was the one who said that private security would be used to guard hotels, that the Program would be coordinated by DJPR and that police would be used to help transfer travellers and provide back up to security.²⁴⁵ His notes of the meeting refer to private security and hotels, but do not say by whom these matters were raised.²⁴⁶
170. Commissioner Crisp said that he first heard about the Program during that meeting with Minister Neville, prior to the Prime Minister's announcement.²⁴⁷ He understood that, as Emergency Management Commissioner, his role in the Program would be overseeing coordination and ensuring effective control arrangements were in place.²⁴⁸

171. Commissioner Crisp said that he had no independent recollection of the meeting, apart from what was in his notes, which included the words 'ADF' and 'private security'.²⁴⁹ He said that he had no recollection of making the comments ascribed to him by Mr Ashton and no recollection of having pre-existing knowledge at the time of the meeting that DJPR would be running the Program.²⁵⁰
172. Having regard to the contemporaneous notes made by Commissioner Crisp and Mr Ashton, it was clear that the ADF and private security were mentioned at the meeting. Each of Commissioner Crisp,²⁵¹ Mr Ashton²⁵² and Minister Neville²⁵³ gave evidence that they were not aware who made the 'decision' to use private security in the hotels.
173. It was possible that Commissioner Crisp heard about the Program from Mr Ashton during their conversation prior to the online meeting, rather than at the meeting itself. Mr Ashton already knew about the National Cabinet decision and had been party to a discussion about potential private security involvement.
174. I am satisfied that, at the 2.00pm meeting between Minister Neville, Mr Ashton and Commissioner Crisp, the issue of the use of private security and ADF was discussed. There was no evidence that a settled position or decision was made at that meeting. Equally, neither was there evidence of objection, concern or disagreement among this group. Had Minister Neville, Commissioner Crisp or Mr Ashton disagreed with the proposal to use private security in any capacity, they would have said so, and it was reasonable to expect that their opposition would have carried substantial weight given their leadership positions and expertise in policing, security and emergency management. However, in saying this, I reiterate the matters discussed in paragraphs 121–129 above. While these senior justice-portfolio office holders are experts in policing and emergency management, they do not profess to be experts in public health or public health emergencies. Further, I do not consider that, on 27 March 2020, they should have reasonably foreseen the extent of the training and supervision issues that would arise, the changing role of security over time, the substantial increase in numbers of security engaged in the Program, the fragmentation of departmental responsibility and oversight or the limited involvement public health experts would have in the management of the Program. Without that foresight and, on the assumption that the role of security would be static or sentinel guarding, there was no reason for them to oppose the idea.
175. In addition to these matters, Minister Neville submitted that it was 'simply not her role' to disagree with the engagement of private security under the emergency management structures then in place, including because it would have been contrary to that framework and the legislation underpinning it.²⁵⁴ While there was some force to this argument, and while I accept that any view expressed by Minister Neville would not have had legal force, it would naturally have been open to Minister Neville to express any view she may have had, as evidenced by Commissioner Crisp's text message referred to at paragraph 165 above, where Commissioner Crisp said he thought Minister Neville had 'some idea' about the role of the ADF and that this was being discussed at the time. In saying this, I again reiterate the matters discussed in paragraphs 121–129 above.
176. It is important to note that there was no evidence that any formal request was made to Victoria Police to provide personnel for the Hotel Quarantine Program. As Minister Neville explained, she, as Minister, cannot direct the CCP as to how to deploy his personnel.²⁵⁵ She did note that she would ordinarily be consulted if a request was to be made to deploy Victoria Police to perform a role and she was not so consulted.²⁵⁶ There is no evidence that a formal request was so made to Victoria Police.

Other information disseminated by DPC

177. Around the same time as the 2.00pm meeting of DJCS officials, there appears to have been a debrief from DPC staff who had attended the National Cabinet meeting.
178. As a result of that debrief, an email sent by Nicole Lynch, Director, National Cabinet (Health and Public Health), DHHS, at 2.48pm stated 'keen for police not to babysit, but called in as needed (e.g. use private security)'.²⁵⁷

179. A subsequent email from Ms Lynch, on 31 March 2020, says the 2.48pm email reflected National Cabinet outcomes (based on verbal debrief from DPC) and further clarifications 'from Kym [Peake] via Chris Eccles'.
180. The Premier and Mr Eccles each gave affidavit evidence about the extract from Ms Lynch's 2.48pm email.
181. The Premier said that:
- A. it did not reflect the view he then held about the potential use of police and private security
 - B. he did not understand this to be one of the outcomes of the National Cabinet meeting
 - C. he was not aware of this view being held within his private office or within DPC.²⁵⁸
182. Mr Eccles also said that the extract did not reflect the view he held about the potential use of police and private security. He said that he had no view about such matters and that he was not aware that anyone else held the view expressed in the extract at that time.²⁵⁹
183. As discussed in paragraph 157 above, I have drawn the inference that the telephone call between Mr Eccles and Mr Ashton at 1.17pm caused Mr Ashton to have the impression that private security would be used and that there was a 'deal' set up by DPC whereby private security would be used for the Program. By extension, I draw the inference that Mr Eccles had some concept or idea of the potential for the use of private security at the time of that conversation and, therefore, at the time of Ms Lynch's 2.47pm email, but am unable to conclude on the evidence that that rose to the level of a 'view' held by either him or others in DPC at that time. I also note the possibility for the reference to 'keen for police not to babysit' to reflect Mr Eccles having discussed the issue of police versus private security with Mr Ashton and one or other of them having expressed that view, but the evidence did not provide the capacity to make a positive finding on the point.

1.00–4.00pm

184. There was evidence of those working in the Premier's office trying to gather information about what the enforcement model would be. This includes texts and telephone calls between the Premier's office and DPC.²⁶⁰ The timing and content of these communications indicated that they were made for the purposes of the Premier's press conference.
185. At around 3.00pm, the Premier gave the press conference, during the course of which he said:

Police, private security, all of our health team will be able to monitor compliance in a much easier way, in a static location, one hotel or a series of hotels, as the case may be. That'll mean, and this is the really important message, that will mean that more of those police that we have, those 500 police that are doing that work in terms of Coronavirus enforcement, they'll be able to get to even more homes where people are supposed to be quarantining. Those who've arrived prior to midnight tomorrow night. So, if you're doing the wrong thing, you will be caught (emphasis added).²⁶¹

186. The Premier was asked during his evidence whether this announcement suggested that he had an assumption or understanding of what the enforcement model would be. He responded that, despite having given the matter 'quite some thought', he was not certain why he mentioned the above three groups of people during his press conference. He could not recall what was in his mind at the time about the enforcement model.²⁶² The Premier further stated that a matter such as security, which was a 'deeply operational matter', would not be determined by his office or his department, and that was what emergency management structures and agencies were for.²⁶³

187. In his further evidence by affidavit, the Premier stated that the press conference was given on short notice and in urgent circumstances. He stated that he always receives an oral briefing from a small number of advisers immediately before a press conference, and that he is usually provided with a written press release and sometimes a policy document to which he can have regard when answering questions. He produced two such documents — a press release and a document titled *Policy Q&A's* — and said that, while he had no present recollection of the briefing he received before the press conference, he had been informed that, before the press conference, he was very likely handed a copy of the press release but not the *Policy Q&A's*. Both documents refer to 'security', but neither contained the phrase 'private security' used by the Premier in his press conference. It may be that this additional detail was conveyed in the oral briefing he received before the press conference. The Premier's evidence was that, in preparing for an oral briefing of this kind, his staff would, as relevant, contact officers of DPC or one or more other line departments, to obtain operational and policy details concerning the subject of his announcement.²⁶⁴
188. The Premier said he did not know who made the decision to use private security as the first tier of enforcement.²⁶⁵ He was not able to say when he became aware that private security would be used as frontline security, and did not remember having a specific view on the appropriateness of the decision to use private security at the time.²⁶⁶
189. Mr Eccles said that he was not aware that private security would be used when the Premier stated it during the press conference.²⁶⁷ He was not aware of any information provided by him or DPC to the Premier to that effect.²⁶⁸ Mr Eccles was unable to say who briefed the Premier regarding police, private security and the health team working together, or the use of private security freeing up police to do more community checks.²⁶⁹ In his further evidence by affidavit, Mr Eccles maintained that he 'did not play any role in briefing or assisting the Premier with the remarks he made in his press conference'.²⁷⁰
190. Mr Phemister also gave evidence that he did not brief the Premier or his office at any time on 27 March 2020.²⁷¹ Phone records produced to the Inquiry reveal that members of the Premier's office did have contact with staff from DPC, who, in turn, were in contact with DJPR officers.²⁷²
191. Ms Febey was watching the Premier's press conference. At 3.26pm, she sent a message to members of her team that quoted the Premier's reference to police and security monitoring compliance.²⁷³
192. At 3.30pm, Mr Phemister sent a text message to Mr Ashton:

Graeme, [sic] we're running the inbound passenger isolation system with Transport (just announced by Premier). Can I get a point person from your crew to liaise with pls. If anyone else sees a role for their crew pls let me know. Claire Febey DJPR is running this with support of Paul's team.²⁷⁴

193. At 3.34pm, Mr Ashton responded to Mr Phemister:

Mate ask Claire to call dep commissioner Rick Nugent in the first instance. I will send you his number.²⁷⁵

194. Mr Phemister said that the reason for his making contact with Mr Ashton (which had been contemplated at about 12.30pm in his initial meeting with his staff)²⁷⁶ was that, having segmented the end-to-end operation, the three most important partners for the delivery of the operation would be Health (primarily), Transport and Victoria Police. Victoria Police was one of the three because he knew, given the nature of the operation, there would be a security element and they held this expertise.²⁷⁷

195. At 4.12pm, in the context of continued messaging about different aspects of the Program she and her team were developing, Ms Febey sent the following message to her team:

We need a security stream in our plan²⁷⁸

196. A few minutes later, at 4.18pm, she messaged her team:

We will likely need:

Private security on buses (TBC)

Additional security at hotels (please raise with Unni that we require this as part of full service)

Police on call to enforce where there is non compliance

Authorized officers (health system) to direct security

We will get more information on the scc call²⁷⁹

4.00–4.30pm: VSB meeting

197. As noted above, at the VSB meeting Mr Phemister remained of the view that DJPR would be running the Program.²⁸⁰ Mr Ashton did not recall any discussion regarding the use of security at this meeting.²⁸¹ Mr Phemister did not recall having an understanding of Victoria Police's views about the enforcement arrangements as a result of the meeting either.²⁸²

198. However, the notes of the meeting suggest, and Mr Ashton and Mr Eccles agreed, that the question of the potential role for security and police and matters of that kind were, in fact, discussed.²⁸³

199. In the notes taken from the meeting, under a heading 'questions', Mr Ashton was recorded as posing the question:

People coming in from OS ... police wont [sic] guard but will be doing the checks?²⁸⁴

200. Later in the notes was the following exchange:

GA [Graham Ashton] 'Challenge will be static presence over a long period of time - will end up with some private contractor or else the ADF ideally'. CE [Christopher Eccles] 'I assume a private contractor'.²⁸⁵

201. It might be thought that Mr Ashton had no need to pose this question if he knew from either Mr Eccles or Commissioner Crisp that a decision had been made to use private security. When asked about this in evidence, Mr Ashton said he asked this question to clarify that the arrangements he already understood to be in place were, in fact, now agreed. He had made notes for himself about the matters he intended to raise, including this question.²⁸⁶

202. Mr Eccles had no recollection of the remarks and would not speculate about what he understood at the time of the meeting.²⁸⁷ When taken to the notes of the meeting, Mr Eccles did not agree it was an inevitable conclusion that he assumed, at the time, there was a role for private security in the enforcement arrangements for the Hotel Quarantine Program.²⁸⁸ He said that, prior to this meeting, he had not turned his mind to how people would be kept in their rooms, and was not aware of anyone from DPC formulating plans or views about enforcement.²⁸⁹ While I accept Mr Eccles was doing his best to recollect his state of knowledge and thought processes on this very busy day, as I set out above, I have drawn an inference that the issue of private security was discussed in the conversation he had with Mr Ashton at 1.17pm earlier that day.

4.30pm: SCC meeting

203. By the conclusion of the SCC meeting, following the numerous exchanges and discussions throughout the afternoon set out above and at the meeting set out below, there was a decision of that meeting that private security would play the first-tier role. That meeting was recorded and the recording was produced to the Inquiry.²⁹⁰
204. During the first phase of the meeting, while Commissioner Crisp was absent, the following exchange occurred:

- ADF Officer: Thanks. Just a question on, given that the security element probably overarches all of this, anybody got anything to say whether they can — on maintenance of security or the process?
- Ms Febey: Is anyone from Victoria Police on the call?
- AC Michael Grainger: Yeah, so you've got Mick Grainger monitoring, and [redacted] from our planning area. But, you know, just thinking through security, it is multi-layered, yeah, so we've got receipt of people at the airport, and someone who is working out a process flow will work their way through this, but then you've got the potential for people not to want to get on a bus, for example. My preference would be that if we were going to house these people anywhere, CBD makes sense, to keep it simple. I support, I think it was Claire's, comments on that. But then in terms of security, there would be private security, and then the police would have a role perhaps around that as well, but we'd have to work through what that looks like.
- Ms Febey: I'd be really keen to take this up with you. And I'm so sorry, I missed your name. Did you say, was it Rick?
- AC Grainger: No, Michael. Mick Grainger.
- Ms Febey: Michael Grainger. Sorry about that, Michael. I'd be really keen to work this through with you because, as you say, there are different steps in security and some of it should be, for example, increasing the provision of private security at hotels. Some of it will be around security either at the point of arrival or during transport. And then we'd like to understand from you where you see VicPol's role being predominantly, which I would have thought was around where things are not going as they should, and you need to be called in to assist with enforcement. So, could you and I take that up separately, and perhaps with you I could understand who else I need to bring to the table in that conversation?
- AC Grainger: Yep, so we'll have a planning and an operation cell in our State Police Operations Centre. I'll take the call from you —
- Ms Febey: Yep.
- AC Grainger: — and then we'll connect in with that group who are working afternoon and night.
- Ms Febey: Great, thank you.
- ADF Officer: And I'll talk with you on that, on the next steps, Mick, as well.

205. Later, Commissioner Crisp returned to the meeting after speaking with Mr Ashton. He gave evidence that, as he returned, he sent a text message to Assistant Commissioner (AC) Grainger at 5.20pm whom he knew to be on the SCC meeting call:

I stepped out to speak to Graham and I let him know you're in this meeting as he's only just come out of VSB. He made it clear in VSB that private security is the first security option at hotels/motels and not police.²⁹¹

206. On returning to the meeting Commissioner Crisp said:

Commissioner Crisp: Sorry, [redacted] can we get ... again, apology, I missed, I had to step out again ... but in terms of security at accommodation, have we covered that? Is it private security, Victoria Police? I understand that the preference of Victoria Police or the Chief Commissioner is that private security be the first line of security and police to respond as required. Is that your understanding, Mick?

AC Grainger: Yes. It's Mick Grainger here. Absolutely that's our preference.

207. At the end of the meeting, in response to a question from a DPC representative about the potential use of the ADF, Commissioner Crisp said:

Commissioner Crisp here. Again, that's why we went through this particular process, to identify where there was a lack of capability or capacity to undertake any of the phases of this operation. I suggest that at this stage we can manage this. The ADF will be doing just exactly what they're doing at the moment, helping us to plan for this particular operation. So, at this stage, we don't see a need for boots on the ground, so to speak.

5.30pm onwards

208. From the time the SCC meeting concluded, the die was cast. Private security would be the first tier. Police would play a support role.

Evidence on the question

209. As I have noted, no one who gave evidence to the Inquiry thought they were the person who decided to engage private security in the Program or knew, with precision, who the 'decision-maker' was or even the point at which the decision was made. Indeed, there was heated resistance from almost every witness related to the issue that they were the decision-maker or involved in the decision.
210. Mr Phemister stated that DJPR did not execute any planning for the engagement of private security until such time as they felt they were either directed by an expert agency or commissioned to do so by a source of authority.²⁹² This only occurred, from the perspective of DJPR, at the 4.30pm SCC meeting.²⁹³
211. Mr Phemister understood from Ms Febey that it was during the SCC meeting on 27 March 2020 that DJPR was asked to commission private security to support the operation.²⁹⁴ Not unreasonably, he regarded the Emergency Management Commissioner, ADF and Victoria Police as experts at the meeting with relevant authority to make judgements and decisions about enforcement.²⁹⁵ The process to engage private security was only commenced by DJPR after Mr Phemister received a debrief of that meeting.²⁹⁶ He made the observation that DJPR defers to the SCC for all engagement with 'uniforms' as standard practice and process.²⁹⁷

212. Mr Phemister explained, by way of example of the role played by Victoria Police and the deference given to its views, that Victoria Police was involved in the initial walk through on 28 March 2020 in order to identify how many guards were required, because it was the expert in security operation.²⁹⁸
213. Mr Phemister agreed in evidence that, from the time of the SCC meeting on 27 March 2020, it was the view of DJPR that there would be private security in hotels, and that police would assist with enforcement when things were not going well.²⁹⁹ He did not agree that that was a model put forward by DJPR.³⁰⁰
214. Given the position of DJPR as the lead agency at 27 March 2020, it was understandable, and I accept Ms Peake's evidence, that she was not consulted about the suitability of using private security firms.³⁰¹
215. Former Minister for Health, the Hon. Jenny Mikakos MP, stated that she did not know who made the decision to engage private security and that, to the best of her recollection, she only became aware of private security being used after the Rydges Hotel (Rydges) outbreak:

I would have had no reason to turn my mind to issues around security guards until we had that first case and the first outbreak at the Rydges Hotel.

... it was in fact DJPR that was the Department that had all the contracts with security contractors.³⁰²

216. Following public revelations that former Minister Mikakos had been present with Minister Pakula at a press conference on 29 March 2020, where the use of private security in the Program was discussed, former Minister Mikakos provided a second statement to the Inquiry.
217. Former Minister Mikakos stated that, since giving evidence to the Inquiry, media reports had suggested that there may have been opportunities for her to become aware of the use of security guards in the Program prior to the Rydges outbreak.³⁰³ In particular, she referred to Minister Pakula's media conference on 29 March 2020 and a briefing note that she may have also received, which was sent to caucus by the Premier's office on or about 8 April 2020. Former Minister Mikakos maintained that she had no independent recollection of these matters. She further stated that she had no recollection of becoming aware of (and had no reason to turn her mind to) the use of security guards in the Program on these or any other occasions prior to the Rydges outbreak in late May 2020.³⁰⁴
218. I accept from former Minister Mikakos that, when giving evidence, she gave answers consistent with her best recollection of events. Former Minister Mikakos accepted that the legal powers to detain people in quarantine came from the PHW Act, which was within her portfolio. Despite that, she maintained that she had not turned her mind to how those legal powers were being enforced at the hotels for the first few months of the Program.³⁰⁵ Former Minister Mikakos added that the decision to use private security, knowing what she now knows, was not a decision she would have supported.³⁰⁶ Issues about the way in which DHHS and former Minister Mikakos saw their role operationally in the oversight of the Hotel Quarantine Program are dealt with in detail in Chapter 8.
219. Minister Pakula's evidence was that he had no recollection of how he became aware that private security was being used in the Program.³⁰⁷
220. The effect of this evidence was that each of the relevant secretaries, agency heads, Ministers, the former CCP and the Premier not only disavowed being the source of any decision to engage private security, but each could not or did not say how the decision came into being.

221. During the 4.30pm SCC meeting he chaired on 27 March 2020, Commissioner Crisp said that he understood it was the preference of Victoria Police or the CCP that private security be the first line and that police respond as required. I am satisfied that he said this having been informed by his telephone discussion with Mr Ashton at 5.15pm,³⁰⁸ when he stepped out of the 4.30pm SCC meeting, as reflected in his text to AC Grainger at 5.20pm³⁰⁹ and AC Grainger's subsequent statement in the SCC meeting, that private security was 'absolutely' Victoria Police's 'preference'.³¹⁰
222. Commissioner Crisp said, in evidence, that he understood the decision to use security had already been made prior to the SCC meeting³¹¹ (although he did not know by whom) and that, when he raised the issue at the SCC meeting, he was trying to confirm the arrangements were in place and confirm the position of Victoria Police, which was expressed by AC Grainger.³¹² Of course, this must be seen in light of Commissioner Crisp having been the conveyer of the information from Mr Ashton to AC Grainger himself. The sequence of the phone conversation and text message followed by the invitation to AC Grainger to confirm Victoria Police's view in the meeting suggests that, in Commissioner Crisp's mind, the issue was not yet clearly settled and that he sought Mr Ashton's view and then ensured that that view was articulated to the meeting.
223. On the evening of 27 March 2020, the witness 'Police Superintendent', who had been in the SCC meeting, sent an email to various parties, which said 'CCP recommendation that private security is to be the first line of security'.³¹³ In her statement to the Board, the Police Superintendent said she was unable to recall why she described the use of private security as the 'recommendation' of the CCP, that she had not communicated directly with Mr Ashton in relation to Program and that the content of the email was based on her understanding of what had been discussed at the SCC meeting that afternoon.³¹⁴
224. In his evidence, Mr Ashton denied making any 'recommendation' that private security be used and said he was unsure why this language was used by his colleagues.³¹⁵ Moreover, his evidence was he did not make any 'recommendation' regarding the enforcement model to be used in the Program. Mr Ashton's evidence was that he was not consulted about the use of private security by anyone and he made no comment or recommendation regarding its use.³¹⁶ I do not accept that he was not 'consulted' or made no comment during the multiple discussions to which he was party, including with Minister Neville and at the VSB meeting. In the context of Mr Ashton's imperfect memory of various exchanges during the afternoon of 27 March 2020, the far more reliable evidence was contained in the content of the text messages, notes (such as they were), recordings and emails taken and exchanged that day. The reference in the Police Superintendent's email to the CCP's 'recommendation', while conveying a stronger position than 'preference', was evidence of a position being taken that was consistent with the text message of Commissioner Crisp to AC Grainger and then the electronic recording of what was said between Commissioner Crisp and AC Grainger in the wake of AC Grainger receiving the text message from Commissioner Crisp.
225. As discussed above, in paragraphs 134–146, Victoria Police submitted that the decision to engage private security was made prior to the 4.30pm SCC meeting, and indeed before the 2.00pm meeting between Minister Neville, Commissioner Crisp and Mr Ashton. Alternatively, if no decision was made, Victoria Police submitted that an assumption or default consensus was reached prior to the SCC meeting without the input of any view expressed by Victoria Police.³¹⁷ This finding was said to be supported by the evidence before the Inquiry, including that there was no proposal or request made to Victoria Police, prior to or at the 4.30pm SCC meeting, for Victoria Police to guard returned travellers in the Program.³¹⁸ Having regard to the notes of, and evidence given about, the VSB meeting on 27 March 2020, Victoria Police submitted that the preferable finding was that Mr Ashton communicated his understanding arising from the VSB meeting that a decision had been made to engage private security as 'tier 1' enforcement, not that he told Commissioner Crisp of a preference that he had made clear in the VSB meeting.³¹⁹

226. Notwithstanding these submissions, on all of the evidence, I find that Mr Ashton expressed a 'preference' in the VSB meeting and in conversation with Commissioner Crisp that Victoria Police not be the first tier of enforcement in the Program, consistent with Commissioner Crisp's text to AC Grainger at 5.20pm.³²⁰ In circumstances where Victoria Police was present at the SCC meeting as the law enforcement agency for Victoria and where, under the *Victoria Police Act 2013* (Vic), only the CCP can make operational decisions about how police are deployed, I find that this 'preference' carried considerable weight at the SCC meeting. The weight attributed to this preference must be qualified by reference to the fact, as already stated, that there was no evidence of a formal request being made to Mr Ashton or the Minister for Police and Emergency Services for Victoria Police members to be deployed as the frontline of security in the Program. Victoria Police was not formally asked and, therefore, did not formally refuse, but its view was clearly articulated, and the likely outcome of any potential request clearly foreshadowed.
227. The Premier was asked to comment on the evidence from Minister Neville and Mr Ashton that they had not been consulted in relation to the decision to use private security or the enforcement model in general. The Premier said it would be very unusual or even unprecedented for a decision of this type to have been made without consulting the Minister and/or the CCP. He said that, ordinarily, he would expect the views of the CCP to be sought in relation to a decision about enforcement, and that he would expect the CCP's view to carry some weight.³²¹ His expectation accords with the conclusions I have reached based on the evidence set out above.
228. The effect on others at the SCC meeting when hearing of Victoria Police's view was significant. As soon as AC Grainger expressed the view and Commissioner Crisp asked who then would organise private security, Ms Febey said she understood it was for DJPR to take it up. The meeting moved on to other topics, with the decision now made, though those at the meeting do not appear to have been aware that such a significant decision had been taken.

5.8 The use of the ADF

229. The question of the availability of ADF personnel was also examined at length during the Inquiry. Whereas the examination of the private security workforce concerned the decision made to use that workforce, the issue regarding ADF personnel was whether they were, and should have been requested, to fill frontline enforcement roles in the Program.

Was the ADF available to fill frontline enforcement roles in the Program?

230. It was uncontroversial that ADF personnel were generally available to assist in respect of Victoria's COVID-19 response.
231. As of 27 March 2020, Victoria Police was already using ADF resources. ADF personnel were embedded in the SCC prior to the Hotel Quarantine Program, where they had been assisting the State response to the 2019–2020 summer bushfires.³²² The evidence also established that ADF personnel were present and involved in the initial planning meetings at the SCC for Operation Soteria on 27 and 28 March 2020.³²³
232. The question, in this context, was whether ADF personnel would have been available to perform the frontline enforcement role in hotels as part of the Program, if requested, from 27 March 2020 onwards.

233. On all the evidence, it was not possible to say that ADF personnel would have been available to fill that role from 27 March 2020 onwards.
234. While much has been said about media statements made by Commonwealth and Victorian leaders around this time,³²⁴ the best available evidence comes from the terms of the National Cabinet decision reached on 27 March 2020. On that best available evidence, noting the Inquiry's limited ability to obtain evidence that was National Cabinet in Confidence, the terms of that decision included that:
- A. the requirement to quarantine in a designated facility such as a hotel will be implemented under state and territory legislation and will be enforced by state and territory governments, with the **support of** the ABF and the ADF **where necessary and according to need across Australia**
 - B. ADF will begin assisting state and territory governments to undertake quarantine compliance checks of those who are required to be in mandatory isolation after returning from overseas, with enforcement remaining the responsibility of states and territories.³²⁵
235. These terms were open to multiple interpretations, including because:
- A. It was not certain whether the phrase 'with the support of' extended to front of house enforcement roles in hotels, as well as back of house support roles, such as the logistical support the ADF ultimately provided.
 - B. It was not certain how the phrase 'where necessary and according to need across Australia' would have been applied. In this regard, I note that the Australian Government Disaster Response Plan (COMDISPLAN), which applied to requests for ADF assistance, and which was no doubt in contemplation by Commissioner Crisp and others at the time,³²⁶ provides that before a request for ADF assistance was made under the COMDISPLAN 'a jurisdiction must have exhausted all government, community and commercial options to provide that effect'.³²⁷
 - C. It was not certain whether the agreement that the ADF would 'begin assisting state and territory governments to undertake compliance checks ...' extended beyond the 'door-knock' campaign known as Operation Sentinel, which focused on monitoring compliance with Directions in place before the Program commenced requiring returned travellers to self-quarantine at home. In this regard, there was no evidence of an express offer of assistance being made by the Commonwealth prior to 7 April 2020.³²⁸
 - D. While ADF personnel were provided to fill frontline enforcement roles in NSW, this was done while NSW was responding to the Ruby Princess outbreak, meaning that such assistance was logically more likely to be deemed 'necessary and according to need' in that state.
 - E. While a request for ADF personnel to fill frontline enforcement roles in Victorian hotels was granted by the ADF in June 2020,³²⁹ this was amidst a very significant outbreak in this state that, again, meant that such assistance was logically more likely to be deemed 'necessary and according to need'.
 - F. The Commonwealth Government declined the Inquiry's request to provide sworn evidence on these matters³³⁰ and, to that extent, in the absence of powers enabling the Inquiry to compel the Commonwealth to provide such sworn evidence, the unsworn evidence of the Commonwealth remains untested.
236. Having considered this, on all the evidence, it was possible to say with sufficient certainty, and I find, that:
- A. had a request for ADF personnel to be present in the quarantine hotels been made on or around 27 March 2020, it would have been considered by the Commonwealth

- B. ADF personnel were most likely available to assist in frontline enforcement roles at the quarantine hotels in Victoria from 8 April 2020, at the latest, although I am not able to say whether that would have removed the need for private security guards, given the number of guards involved. It seems most likely, having regard to the models adopted in NSW and Queensland, that if the ADF was available it would have only been available in numbers to supplement, rather than replace, the existing security workforce. This was further supported by recent media reports indicating that, while the ADF has made personnel available to assist in Victoria's revised hotel quarantine program, the ADF has not been willing to provide personnel for the purposes of patrolling the floors of 'hot hotels'.³³¹
237. I have arrived at this conclusion on the basis that:
- A. ADF personnel appear to have been provided to fill frontline enforcement roles in hotels in Queensland from 31 March 2020 following a request made on 27 March 2020.³³²
 - B. In evidence, Commissioner Crisp stated that, had a request for ADF personnel to fill frontline roles in hotels in Victoria been made, he would have expected it to be given proper consideration by the ADF.³³³
 - C. In the diary notes of CCP Patton, taken in respect of a conference call he attended with Mr Ashton and Deputy Commissioner (DC) Rick Nugent on the evening of 27 March 2020, reference was made to the ADF being 'available re static guarding of those sites'.³³⁴ From the surrounding context of those notes, I infer that by 'sites', CCP Patton meant 'hotels'.
 - D. By email on 8 April 2020, the Secretary of the Commonwealth Department of Prime Minister and Cabinet, Phil Gaetjens, sent an email to Mr Eccles in response to an enquiry by Mr Eccles about the availability of financial assistance from the Commonwealth, stating:

On the question of assistance with security, I am advised the only deal with NSW was in-kind provision of ADF personnel. I am sure the Commonwealth would be willing to assist Victoria if you wanted to reconsider your operating model.³³⁵
 - E. In evidence, Mr Eccles accepted it would be reasonable to infer from this email that, had Victoria wanted ADF personnel in hotels, the Commonwealth would have considered it. From the terms of the email, and Mr Gaetjens's senior position within the Commonwealth public service, I infer that the Commonwealth would have not only considered such a request, but would have considered it favourably.
238. When Mr Eccles was asked whether he had passed on Mr Gaetjens's email to those responsible for operational responsibility, he could not recall whether he did or did not.³³⁶
239. In his evidence, the Premier stated that he was not aware of the proposition that ADF personnel might have been available if Victoria elected to adopt a model that that required them in hotels and that he, in fact, had 'quite the opposite view'.³³⁷
240. There was nothing in Mr Eccles's response to Mr Gaetjens,³³⁸ or anywhere else on the evidence, indicating that Mr Eccles communicated the terms of Mr Gaetjens's email to the Premier or anyone else with operational responsibility for the Hotel Quarantine Program. The Premier's evidence was that he would, ordinarily, have expected that the availability of a resource, such as the ADF, would be drawn to his attention and the attention of those who were making policy and operational decisions for the structure of the Hotel Quarantine Program.³³⁹ The Premier said the proposition would have been 'very significant' to him and that he 'certainly would have wanted to know, because it would have presented us with options we otherwise didn't have ...' in terms of the Premier's interpretation of what had been decided at National Cabinet.³⁴⁰
241. It was surprising and inexplicable that Mr Eccles did not communicate Mr Gaetjens's proposal when there was a possibility that the significant costs of private security might have been reduced through the introduction of an alternative workforce.

Why was a request for ADF personnel to fill frontline enforcement roles in the Program not made?

242. The evidence on this question follows a similar trajectory to the evidence on the question, discussed above, of who decided to engage private security in the frontline enforcement role in the Program.
243. The answers to these questions were clearly interlinked. The evidence demonstrated that there was no request for ADF personnel to fill frontline enforcement roles in the Program as of 27 March 2020 because it was not seen as necessary. The reason it was not seen as necessary was that the decision had been made to engage private security as the first tier of enforcement with Victoria Police to be called in as needed, so there was no 'need' that could then be identified for ADF to supplement that enforcement model.
244. The timeline of evidence that led to these related decisions being reached was largely the same and leads me to a similar conclusion. While there were, throughout the day of 27 March 2020, key events and players who influenced what became a decision not to request ADF assistance in frontline enforcement roles, that decision did not crystallise and was not made until the SCC meeting held at 4.30pm that day.
245. Rather than repeat matters already discussed in full, the evidence that has led me to this conclusion may be summarised as follows.
246. On the evidence, the first mention of the role that would be played by the ADF was the National Cabinet decision.
247. The next mention of the ADF's role appears in the text messages sent from Mr Ashton to Commissioner Kershaw at 1.22pm and 1.32pm, where Mr Ashton stated that the ADF would be doing 'passenger transfer'.³⁴¹ For the reasons discussed above, I infer from these text messages, and the communications between Mr Ashton and Mr Eccles immediately prior,³⁴² that Mr Ashton and Mr Eccles discussed the potential role that would be played by the ADF in the Program during their 1.17pm telephone call. It was not possible to say which of the two men raised this matter or that the conversation could be characterised as a 'decision' at that stage of the day. It was also not possible to say with certainty that the reference to the ADF doing 'passenger transfer' meant, by implication, that they would not be engaged to fill frontline enforcement roles, although I accept from the subsequent reference that 'private security will be used', and from Mr Eccles's comments at the 4.00pm VSB meeting, that this conclusion is open.
248. At 1.34pm, Commissioner Crisp sent a text message to Mr Ashton forwarding a message from the ADF stating that there would be a 'federal announcement very shortly regarding ADF support to state police for COVID19'.³⁴³
249. Commissioner Crisp's notes of the subsequent meeting at 2.00pm with Minister Neville, Mr Ashton and others included the words 'ADF' and 'private security'.³⁴⁴ I am satisfied on the evidence that both matters were raised. During the meeting, Commissioner Crisp sent a text message to Ms Houghton of DPC advising 'I think my Minister has some idea of ADF role and that's what we're discussing with Graham Ashton at the moment'.³⁴⁵ In her evidence, Minister Neville agreed that there was a discussion in which she participated about suitable roles for the ADF, but only in relation to the role they may play in escorting people at airports, and whether that role was appropriate noting the limits on the enforcement powers that could be exercised by ADF personnel.³⁴⁶ It was not possible to say on the evidence that there was discussion of the ADF's role beyond that transport role. Further, whatever was discussed, there did not appear to have been a settled position reached at the meeting, since Mr Ashton appears to have contemplated at the VSB meeting later that afternoon that the ADF might be used at some point to assist by way of a static presence over time.³⁴⁷

250. At around 3.00pm, the Premier gave a press conference and spoke about ADF involvement in the Program, but gave no specific description of the role that it would play. In evidence, the Premier said he understood that ADF assistance was available where it was necessary, meaning where it was needed in the relevant state. He agreed that, when he spoke about the ADF being available according to need, that meant that it was a finite resource such that it would be apportioned according to who needed it most if there were multiple demands,³⁴⁸ stating further:

... leaving the National Cabinet meeting I had absolutely no expectation whatsoever that in the establishment and the running of hotel quarantine there would be significant, extensive ADF support. That was ... that was not the case for every state. A case, I think, had been well made in relation to New South Wales. But I had no expectation at all that we would receive that type of support.³⁴⁹

251. At 4.00pm, the VSB met and discussed the Program. During that discussion, Mr Ashton was quoted as saying 'challenge will be static presence over a long period of time — will end up with some private contractor or else the ADF ideally'. Mr Eccles was then quoted as saying 'I assume a private contractor'.³⁵⁰ While these comments from Mr Eccles cannot be characterised as a decision, they do reflect the ultimate outcome — private security was selected over Victoria Police and the ADF.
252. As the meeting at the SCC reached its conclusion, a DPC representative asked a direct question about the role the ADF would play in the Hotel Quarantine Program. Commissioner Crisp responded:

Again, that's why we went through this particular process, to identify where there was a lack of capability or capacity to undertake any of the phases of this operation. I suggest at this stage we can manage this. The ADF will be doing just exactly what they're doing at the moment, helping us to plan for this particular operation. So, at this stage we don't see a need for boots on the ground, so to speak.³⁵¹

253. The reference to a lack of capability or capacity was a reference to the criteria for requesting ADF assistance. It was for Commissioner Crisp to make the assessment that there was any relevant lack of capability or capacity that required ADF resources. He agreed in evidence that he was aware, on 27 March 2020, that he could request ADF assistance, if necessary, and that his assessment was that there was not a lack of capacity.
254. No one present at the SCC meeting spoke against that assessment. This view was reached by Commissioner Crisp after consideration of the requirements of each of the phases of the operation and in discussion with DHHS, the State Controller — Health and Victoria Police.³⁵² Mr Helps gave evidence consistent with Mr Crisp on this topic.³⁵³
255. This was Commissioner Crisp's assessment. Minister Neville said, in evidence, that she was not consulted by Commissioner Crisp prior to his statement at the SCC meeting that Victoria had sufficient capacity to meet all the requirements of the Program and, consequently, did not require 'boots on the ground' from the ADF.³⁵⁴
256. Mr Ashton initially provided a statement that he had no recollection of any discussion about the possible use of ADF as part of the Program.³⁵⁵ He stated that he was aware of the suggestion that it would be used to help transfer passengers. Such assistance never eventuated because, on the afternoon of 27 March 2020, DJPR indicated that Skybus would be doing that job.³⁵⁶
257. The evidence of Mr Ashton was at odds with CCP Patton's diary note, detailed at paragraph 237.C above, which referred to the ADF assisting with 'back of house' checks and the ADF being available 're static guarding of those sites'.³⁵⁷ CCP Patton did not have an independent memory of the conversation to which this note relates, and cannot add to what was in the diary note.³⁵⁸ It clearly came to nothing.

258. CCP Patton, in his evidence to the Inquiry, stated that the ADF did not have any enforcement powers and ADF personnel were not trained in dealing with civilians.³⁵⁹ He was clear that, while the ADF was assisting Victoria Police's enforcement response to the pandemic, it was not involved in enforcement *per se*. This corresponded with public statements made by the Prime Minister and the Premier that, to the extent the ADF was involved, or was to be involved, it would be in a role that assisted compliance and did not involve the exercise of any legal powers. Of course, private security guards have no enforcement powers either.
259. Victoria Police had a senior representative at the SCC meeting on 27 March 2020 and no concern was raised about the view provided by Commissioner Crisp regarding the ADF. This was unsurprising in light of the preference expressed at that meeting by Victoria Police that private security be used, and confirmation in the SCC meeting that DJPR was attending to those arrangements.³⁶⁰ Frontline security was being addressed³⁶¹ and the assessment was that there was no gap.
260. Commissioner Crisp reiterated his position at another SCC meeting the following day, on 28 March 2020, stating that 'at this particular point in time, we certainly don't see the need for ADF boots on the ground in support of this operation'.³⁶² Once again, no one present, including Victoria Police, spoke against that assessment.
261. If there was any doubt about the decision announced on 27 March 2020 by Commissioner Crisp that the ADF would not have a frontline enforcement role in the Program, there could not have been any by the time of his remarks at the SCC meeting on 28 March 2020. Those remarks were accompanied by comments made by an ADF representative who, when asked if they wished to raise anything, responded 'no ... just noting that the news tonight mentioned that ADF would be patrolling the corridors of hotels, ah, not in Victoria'.³⁶³ It was a clear indication to all those at the meeting that ADF personnel would not be used inside the hotels in Victoria, albeit they were being used in other jurisdictions.
262. Mr Eccles could not recall the point in time that he became aware of the role that the ADF was to play. He was not aware why a DPC representative at the SCC meeting on 27 March 2020 sought clarification about what role was to be played by the ADF. He accepted that it was possible that DPC had a role to play in furnishing information to the Premier on that point, as it was a role played by DPC when requested, but he had no reason to conclude one way or the other. Mr Eccles was also shown an email sent shortly before 4.00pm from the Premier's office to someone at DPC regarding information the Premier required.³⁶⁴ It asked *What role will the ADF play?* Mr Eccles agreed that DPC representatives at the SCC were likely asking about ADF at the SCC meeting because there had been a request from the Premier's office for information.³⁶⁵ Mr Eccles, otherwise, had no recollection of being aware, on 27 March 2020, of any particular view or decision within government generally about the appropriateness or otherwise of using the ADF.³⁶⁶
263. As I have considered earlier in this Chapter, the use of private security as the first tier of enforcement was never the subject of analysis. At no time on 27 March 2020 did it appear there was any consideration of the respective merits of private security versus police versus ADF personnel in that first-tier role. Instead, an early mention of private security rather than police grew into a settled position, adopted by acquiescence at the SCC meeting. This means that there was no actual consideration of whether ADF personnel would have been a better option. That question never seems to have arisen in anyone's mind. The assessment that the ADF was not needed on the ground at the hotels was an assessment made without any proper consideration of the anterior question of what would be the best enforcement option.

264. Minds may differ about the benefits the ADF could have provided to the Program at that time. It is, in fact, a resource that could have been requested of the Commonwealth, at least in theory, and assuming a case could be made for its use.³⁶⁷ I am satisfied that, as of 27 March 2020, the decision not to request the assistance of the ADF for a role in the quarantine hotels was made by Commissioner Crisp, on the basis of his assessment that the various agencies represented at the SCC meeting were appropriately resourced and did not require that form of ADF assistance. I am satisfied that no person or agency raised a concern about this assessment. It was an assessment that was open in the sense that, once it was agreed private security would be used at the hotels, there was no longer a 'need' for ADF.

5.9 Conclusions on initial decision-making

265. As a consequence of there being no pre-planning for the large-scale detention of international arrivals into a mandatory quarantine program, when the Premier committed Victoria to hotel quarantine, those who would have to implement the program in Victoria were required to do so with very little warning and without any available blueprint for what was required. The situation was further complicated by the fact that the decision would come into effect just 36 hours later, at 11.59pm on 28 March 2020.
266. To put the scale in context using information provided by the Prime Minister on 27 March 2020, 7,120 people had arrived at airports around the country on 26 March 2020, the day before the announcement of hotel quarantine.
267. The Premier was aware there was no pre-existing plan for large scale quarantine in Victoria and there had been no discussion in the State Cabinet about the National Cabinet decision. He considered it feasible to achieve, however, based on his knowledge of the availability of hotel rooms and the dedicated team of 'operational people' able to rise to this challenge.
268. The initial responsibility for setting up the Program was given to DJPR.
269. Other than the sourcing of numbers of available hotel stock, DJPR had no preparation for, or relevant expertise to operate, an enforced quarantine program. The capability and capacity of the hotels in terms of the provision of security, cleaning and catering had not been a factor at the time of allocating the lead to DJPR, nor had the capacity of the hotels to accommodate large numbers of people in a manner that would prevent transmission of COVID-19 to the community.
270. It was not appropriate to conceive of the Hotel Quarantine Program as an extension of, or substantially similar to, existing accommodation programs, such as the CEA Program. The logic of tasking DJPR to source hotels for quarantine purposes on the basis that it had previous awareness of hotels for the CEA Program, did not extend to DJPR sourcing hotels for quarantine purposes; the nature and purposes of the two programs were significantly different and involved different levels of risk.
271. DJPR understood from the outset that it would need the assistance of DHHS for crafting the legal framework for the Program and arrangements for the health and wellbeing of the people in quarantine.
272. Within a few hours of that call to the Secretary of DJPR, the Emergency Management Commissioner and the State Controller — Health at DHHS were setting up a meeting at the SCC on the understanding that this Program would be operated using the emergency management framework and would be named Operation Soteria.

273. By the afternoon of 28 March 2020, from a meeting at the SCC, the Emergency Management Commissioner, in conjunction with the DHHS State Controller — Health, made clear that DHHS was in charge of the operation as the control agency and that DJPR was a support agency, as were a number of other agencies attending the meeting.
274. DJPR continued to provide the contracting and organising of many logistical aspects of the program including hotels, security, cleaning contractors and general logistics, including transport and aspects of catering.
275. This appears to have been the genesis of the ongoing dispute as between DHHS and DJPR as to who was in charge of the overall operation of the Program. DJPR was clear that it was DHHS. DHHS was adamant that it was only responsible for parts of the Program and that DJPR was jointly responsible and accountable for the delivery of the Hotel Quarantine Program. This was the source of considerable and significant problems with the way in which the Program was operated.
276. I am satisfied that the decision to embark on a Hotel Quarantine Program in Victoria involved the State Government assuming the responsibility for managing the risk of COVID-19 transmission. But even though that risk was assumed by the Government, and as critical 'decisions' were made with respect to enforcement measures, there was no detailed consideration of the risks that would be involved in such a program. This was a failure in the establishment of the Program.
277. In committing Victoria to the mandatory quarantine of returned travellers, the Premier had committed the Victorian Government to responsibility for managing the COVID-19 risk posed by returned travellers and ensuring compliance with the mandatory detention orders. In so doing, the Government assumed responsibility for the safe quarantine of, and the prevention of transmission by, returned travellers and the maintenance of a safe system of work for those it brought onto quarantine sites.
278. This included an assumption of responsibility for identifying and planning for the following:
- A. ensuring that quarantine would be enforced, directing that people isolate in a particular place and monitoring compliance
 - B. managing the infection risk posed by the quarantine setting
 - C. ensuring that people were at least as safe in hotel quarantine as they would have been quarantining at home
 - D. ensuring that the community was at least as protected from infection risk as it would have been were returning travellers quarantining at home
 - E. managing the increased exposure risk for workers in the quarantine program.
279. It is beyond doubt that many people worked incredibly hard, in extraordinary timeframes, to deal with an unprecedented set of circumstances. But that is not a total justification for the deficiencies in some of the actions taken and decisions made in that first 36 hours, and it does not excuse the deficiencies I have found in the Program.

5.10 Conclusions on the enforcement model

280. I am satisfied that, while the evidence did not identify a single person who decided to engage private security in the Program, there were clearly people who influenced that outcome, which was the position adopted at the SCC meeting at 4.30pm on the afternoon of 27 March 2020.
281. I am satisfied that the first of those was Mr Eccles. The second was Mr Ashton.
282. Mr Eccles's oral and written evidence was that he did not make a decision or express any opinion.³⁶⁸ I accept that Mr Eccles did not make the 'decision' within the strict meaning of that word as it relates to formalised government processes that would require documents to be produced and signed off. I also accept that Mr Eccles did not have the power to make any such decision on his own.
283. With the benefit of Mr Eccles's telephone records, I am satisfied that Mr Ashton first heard of the possibility of private security being used during the two minute and 15 second call they had at 1.17pm on 27 March 2020.³⁶⁹ I cannot reach any firm conclusion about what was discussed but am satisfied that it was during that call that Mr Ashton gained the impression that private security could be used instead of police. Given that Mr Eccles had been present during National Cabinet discussions,³⁷⁰ and given that all jurisdictions made some use of private security, I conclude that he was the one to mention private security as (at least) an option.
284. However, the mention of private security as an option did not equate to Mr Eccles having determined the precise role it would play. There was no evidence that the conversation between Mr Eccles and Mr Ashton was conveyed to anyone who was present in the SCC during the discussions about enforcement options. Further, there was no evidence that Mr Ashton, himself, referred to his conversation with Mr Eccles to anyone other than, by inference, Commissioner Kershaw in his text message outlining that DPC had made a 'deal' or established the private security role.
285. By the time Mr Ashton referred to 'a deal set up by our DPC, he had also spoken to his NSW counterpart, Commissioner Fuller.³⁷¹ Mr Ashton and Commissioner Crisp then spoke to each other before they met with Minister Neville at 2.00pm. I am not able to make any finding about what they discussed or about who first raised the question of private security in the 2.00pm meeting, but the evidence before me supports the view that Mr Ashton was the person who entered those discussions with some existing knowledge that private security would have a role to play, although he was not yet clear what that would be. He then raised the question at the VSB meeting and spoke to Commissioner Crisp while the SCC meeting was in progress.³⁷² Commissioner Crisp's text to AC Grainger about Mr Ashton's views appears to have prompted AC Grainger's comments about Victoria Police's preference,³⁷³ which Ms Febey and others understood as having determinative force.³⁷⁴
286. It would be highly unusual if a final decision on an enforcement model was taken without consulting the CCP or taking into account their view. I am satisfied that Mr Ashton did have a view that the mention of private security by Mr Eccles was consistent with Mr Ashton's view, and that he promoted that view in subsequent meetings directly and by means of his conversation with Commissioner Crisp. As I have noted, it was after the view of Victoria Police was articulated in the meeting that DJPR's representatives understood that private security needed to be engaged.³⁷⁵
287. It was telling that it was not until after the SCC meeting that private security was engaged. Mr Phemister made the point in his evidence that, on 27 March 2020, it was DJPR that was responsible for the Program.³⁷⁶ DJPR had no knowledge of any decision before the SCC meeting.³⁷⁷ Had a decision already been made, one would expect DJPR to have begun the process of contacting security contractors much earlier in the day, noting the extreme urgency with which everything was being organised. In this regard, I am satisfied that Mr Eccles did not mention private security to Mr Phemister in their telephone conversations throughout the day.

288. The comments by AC Grainger in the SCC meeting clearly carried significant weight for Ms Febey from DJPR, who reasonably understood it to be a 'direction' that private security would be used.³⁷⁸ Indeed, upon AC Grainger expressing that view, the discussion on security options ended because it was perceived that an agreement had been reached. DJPR then commenced its efforts that resulted in the informal engagement of Unified, Wilson and MSS to provide private security at the hotels.
289. I acknowledge the haste with which these decisions were being made. I note, too, the separate controversy that emerges with respect to the appropriateness of engaging private security for the various roles it ultimately performed, a matter I consider in Chapter 6. However, the fact remains that not one document was produced to the Inquiry that demonstrated a contemporaneous rationale for the decision to use private security as the first tier of enforcement, or an approval of that rationale in the upper levels of government. Such a finding is likely to shock the public. Unlike the formal application through the ERC process for the funding for the CEA Program, no such process has been uncovered for the use of private security in the Hotel Quarantine Program. It was a decision made in haste, without regard to its financial implications, and with no person made responsible for reviewing the decision as those financial implications became apparent.
290. The people of Victoria should understand, with clarity, how it was that millions of dollars of public money was ultimately spent, and we should be able to be satisfied that the action to proceed in this way was a considered one that addressed the benefits, risks and options available in arriving at such a decision. There was no evidence that any such considered process occurred on 27 March 2020 or in the days and weeks that followed.
291. The decision to engage private security was not a decision made at the Ministerial level. The Premier and former Minister Mikakos said they played no part in the decision. Similarly, Minister Neville and Minister Pakula stated they were not involved in the decision. Minister Neville was aware of the proposal but not responsible for it and Minister Pakula appears not to have been told until after private security had been engaged. Enforcement of quarantine was a crucial element of the Program that the Premier had committed Victoria to adopting, but neither he nor his Ministers had any active role in, or oversight of, the decision about how that enforcement would be achieved.
292. On its face, this was at odds with any normal application of the principles of the Westminster system of responsible government in that individual Ministers of the Crown are ultimately responsible to the Parliament (and thereby the people) for the actions of their departments. That a decision of such significance for a government program, which ultimately involved the expenditure of tens of millions of dollars and the employment of thousands of people, had neither an owner nor a transparent rationale for why that course was adopted, plainly did not accord with those principles. I have addressed this issue further in Chapter 8.
293. I issued Notices to Produce for documents relevant to the Inquiry's Terms of Reference to all government departments involved in the Program. The Inquiry received more than 70,000 documents in response, including Cabinet documents. No document was produced to the Inquiry that definitively revealed who made the decision to engage private security or how the initial decision-making process occurred. Likewise, no document produced to the Inquiry revealed that there was any consideration given to the ongoing expenditure associated with private security, the appropriateness of that expenditure or whether an alternative enforcement model should have been adopted, until late June 2020 following two significant outbreaks of infections among security guards.
294. This itself bespeaks of a failure of governance. This decision was a substantial part of an important public health initiative and it cost the Victorian community many millions of dollars. But it remained, as multiple submissions to the Inquiry noted, an orphan, with no person or department claiming responsibility.

295. In his evidence, the Premier agreed that the question of how this occurred should be capable of being answered.³⁷⁹ As the head of the Victorian Public Service at the time, Mr Eccles acknowledged it was a fair point that, if no one knew who made the decision, there was an obvious risk that no one would understand that they have the responsibility for revisiting the decision if time and experience showed that it was not the correct one.³⁸⁰ This was what occurred here. The decision was made without proper analysis or even a clear articulation that it was being made at all.
296. No one involved took issue with the use of private security at the time the arrangements were being made. This was despite an ongoing government-commissioned review that raised serious issues about the reliability and professionalism of some sectors of that industry.³⁸¹

Endnotes

- 1 Exhibit HQI0142_RP Voluntary Submission from the Commonwealth of Australia, HQI.0001.0002.0059.
- 2 Ibid.
- 3 Ibid HQI.0001.0002.0065.
- 4 Transcript of day 25 hearing 25 September 2020, 2121.
- 5 Ibid.
- 6 Exhibit HQI0218_P Witness statement of the Hon. Daniel Andrews MP, 3 [11]; Transcript of day 25 hearing 25 September 2020, 2121.
- 7 Exhibit HQI0219_RP Annexures to witness statement of the Hon. Daniel Andrews MP, DPC.0001.0001.0230-0234.
- 8 Ibid DPC.0001.0001.0231; Transcript of day 25 hearing 25 September 2020, 2123–2124.
- 9 Exhibit HQI0219_RP Annexures to witness statement of the Hon. Daniel Andrews MP, DPC.0023.0001.0002; Exhibit HQI0218_P Witness statement of the Hon. Daniel Andrews MP, 3 [12]; Transcript of day 25 hearing 25 September 2020, 2124.
- 10 Exhibit HQI0218_P Witness statement of the Hon. Daniel Andrews MP, 3 [13].
- 11 Transcript of day 25 hearing 25 September 2020, 2124.
- 12 Ibid 2126.
- 13 Ibid 2127.
- 14 Ibid.
- 15 Submission 03 Department of Health and Human Services, 17 [91].
- 16 Transcript of day 25 hearing 25 September 2020, 2134.
- 17 Ibid 2133-2134.
- 18 Ibid 2134.
- 19 Ibid.
- 20 Ibid.
- 21 Ibid.
- 22 Ibid 2135.
- 23 Ibid 2127.
- 24 Transcript of day 22 hearing 22 September 2020, 1895; Transcript of day 18 hearing 16 September 2020, 1473.
- 25 Exhibit HQI0210_P Transcript of Press Conference of the Hon. Daniel Andrews MP on 27 March 2020.
- 26 Premier of Victoria, 'Enforced Quarantine for Returned Travellers to Combat Coronavirus' (Media Release, 27 March 2020) <<https://www.premier.vic.gov.au/enforced-quarantine-returned-travellers-combat-coronavirus>>.
- 27 Exhibit HQI0210_P Transcript of Press Conference of the Hon. Daniel Andrews MP on 27 March 2020, VPOL.0006.0002.0013-0020.
- 28 Premier of Victoria, 'Victorian Premier Daniel Andrews Update on Cases' (Press Conference, 28 March 2020) <<https://www.theage.com.au/national/victoria/victoria-records-biggest-jump-in-virus-cases-as-on-the-spot-fines-introduced-20200328-p54erz.html>>.
- 29 Exhibit HQI0178_RP Annexures to first witness statement of Mr Christopher Eccles, DPC.0012.0001.0734; DPC.0001.0001.6565.
- 30 Exhibit HQI0193_P Letter from the Hon. Daniel Andrews MP to Ms Kym Peake, DHS.0001.0031.0004.
- 31 Transcript of day 25 hearing 25 September 2020, 2137.
- 32 Ibid.
- 33 Ibid.
- 34 Exhibit HQI0237_P Affidavit of Mr Christopher Eccles, 3-4 [14]-[16].
- 35 Transcript of day 22 hearing 22 September 2020, 1816; Exhibit HQI0184_RP Witness statement of Mr Simon Phemister, 6 [25]; Exhibit HQI0243_P Affidavit of Simon Phemister, 3 [11].
- 36 Exhibit HQI0177_RP First witness statement of Mr Christopher Eccles, 19-20 [77]-[78]; Transcript of day 21 hearing 21 September 2020, 1757.
- 37 Transcript of day 21 hearing 21 September 2020, 1757; Exhibit HQI0177_RP First witness statement of Mr Christopher Eccles, 20 [79].
- 38 Transcript of day 21 hearing 21 September 2020, 1755; Exhibit HQI0177_RP First witness statement of Mr Christopher Eccles, 20 [79].
- 39 Exhibit HQI0211_P Witness statement of the Hon. Jenny Mikakos, 3 [16].
- 40 Transcript of day 21 hearing 21 September 2020, 1755-1756; Exhibit HQI077_RP First witness statement of Mr Christopher Eccles, 20 [79].
- 41 Transcript of day 21 hearing 21 September 2020, 1758.
- 42 Ibid.

- 43 Ibid.
- 44 Transcript of day 22 hearing 22 September 2020, 1816.
- 45 Exhibit HQI0238_RP Further DPC documents, HQI.0001.0060.0001.
- 46 Transcript of day 22 hearing 22 September 2020, 1816.
- 47 Ibid 1813-1814.
- 48 Ibid 1816.
- 49 Ibid.
- 50 Exhibit HQI0184_RP Witness statement of Mr Simon Phemister, 7 [27], 8 [42].
- 51 Prime Minister, 'Update on Coronavirus Measures' (Media Release, 27 March 2020) <<https://www.pm.gov.au/media/update-coronavirus-measures-270320>>.
- 52 Exhibit HQI0158_P Transcript of Prime Minister's press conference 27 March 2020, HQI.0001.0002.0003,
- 53 Exhibit HQI00218_P Witness statement of the Hon. Daniel Andrews MP, 3 [13].
- 54 Ibid 1-2 [4].
- 55 Transcript of day 25 hearing 25 September 2020, 2125.
- 56 Exhibit HQI0177_RP First witness statement of Mr Christopher Eccles, 20 [79]; Transcript of day 21 hearing 21 September 2020, 1757.
- 57 Exhibit HQI0210_P Transcript of Premier's press conference on 27 March 2020, 1.
- 58 Premier of Victoria, 'Enforced Quarantine for Returned Travellers to Combat Coronavirus' (Press Release, 27 March 2020) <<https://www.premier.vic.gov.au/enforced-quarantine-returned-travellers-combat-coronavirus>>.
- 59 Transcript of day 25 hearing 25 September 2020, 2125.
- 60 Transcript of day 10 hearing 31 August 2020, 634.
- 61 Exhibit HQI0185(1)_RP Annexures to witness statement of Mr Simon Phemister, DJP.202.002.0001; Transcript of day 22 hearing 22 September 2020, 1818.
- 62 Transcript of day 22 hearing 22 September 2020, 1818.
- 63 Transcript of day 22 hearing 22 September 2020, 1823-1824; Exhibit HQI0032_P Witness statement of Ms Claire Febey, 3 [11].
- 64 Transcript of day 22 hearing 22 September 2020, 1824.
- 65 Ibid.
- 66 Exhibit HQI1033_RP Annexures to witness statement of Ms Claire Febey, DJP.500.001.0001-DJP.500.001.0020.
- 67 Exhibit HQI0184_RP Witness statement of Mr Simon Phemister, 10 [48].
- 68 Exhibit HQI0184_RP Witness statement of Mr Simon Phemister, 7 [28]; Exhibit HQI0049_RP Witness statement of Mr Unni Menon, 6 [19].
- 69 Exhibit HQI0184_RP Witness statement of Mr Simon Phemister, 15 [77]; Exhibit HQI0185_RP Annexures to witness statement of Mr Simon Phemister, DJP.105.007.4370-DJP.105.007.4372.
- 70 Transcript of day 22 hearing 22 September 2020, 1829; Exhibit HQI0036_RP Witness statement of Ms Katrina Currie, 4 [14].
- 71 Exhibit HQI0036_RP Witness statement of Ms Katrina Currie, 4 [12].
- 72 Ibid 10 [34]-[35]; Exhibit HQI0037_RP Annexures to witness statement of Ms Katrina Currie, DJP.108.005.5135; Exhibit HQI0069_RP Witness statement of Mr David Millward adopted by Nigel Coppick, 7 [47], 8 [51]-[53].
- 73 Transcript of day 22 hearing 22 September 2020, 1825
- 74 Exhibit HQI0185_RP Annexures to witness statement of Mr Simon Phemister, DJP.101.002.6347, DJP.101.002.6348.
- 75 Exhibit HQI0184_RP Witness statement of Mr Simon Phemister, 8-9 [43]; Transcript of day 22 hearing 22 September 2020, 1827.
- 76 Exhibit HQI0185_RP Annexures to witness statement of Mr Simon Phemister, DJP.113.008.5598; Exhibit HQI0184_RP Witness statement of Mr Simon Phemister, 17 [85(b)].
- 77 Exhibit HQI0195_RP Witness statement of the Hon. Martin Pakula MP, 1 [1], 2 [6].
- 78 Ibid [2].
- 79 Transcript of day 23 hearing 23 September 2020, 1924.
- 80 Ibid 1925.
- 81 Exhibit HQI0195_RP Witness statement of the Hon. Martin Pakula MP, 2 [6]; Transcript of day 23 hearing 23 September 2020, 1925.
- 82 Transcript of day 23 hearing 23 September 2020, 1925.
- 83 Ibid 1926.
- 84 Exhibit HQI0246_P Affidavit of the Hon. Lisa Neville MP, 1 [5]. Exhibit HQI0242_RP Premier's Private Office Documents, HQI.0001.0063.0001.
- 85 Exhibit HQI0246_P Affidavit of the Hon. Lisa Neville MP, 1 [20].
- 86 Exhibit HQI0184_RP Witness statement of Mr Simon Phemister, 7 [28].
- 87 Transcript of day 22 hearing 22 September 2020, 1817.
- 88 Ibid 1902.

- 89 Exhibit HQI0186_RP First witness statement of Ms Kym Peake, 22 [105].
- 90 Transcript of day 22 hearing 22 September 2020, 1898.
- 91 Ibid 1907.
- 92 Exhibit HQI0184_RP Witness statement of Mr Simon Phemister, 9 [43(f)]; Exhibit HQI0185(1)_RP Annexures to witness statement of Mr Simon Phemister, DJP:101.002.6353; Transcript of day 22 hearing 22 September 2020, 1827-1828; Exhibit HQI0186_RP First witness statement of Ms Kym Peake, 15 [65].
- 93 Exhibit HQI0266_RP Bundle of notices and advices tendered by DHHS, DHS.0001.0004.1872, DHS.0001.0011.0658, DHS.0001.0103.0007.
- 94 Exhibit HQI0085_RP Witness statement of Ms Janette Curtain, 18 [118]; Exhibit HQI0095_RP Witness statement of Dr Nathan Pinski, 2 [10]; Exhibit HQI0090_RP Witness statement of Mr Eric Smith, 2 [6.1].
- 95 Transcript of day 21 hearing 21 September 2020, 1761.
- 96 Ibid, 1761; Exhibit HQI0177_RP Witness statement of Mr Christopher Eccles, 14 [54].
- 97 Transcript of day 21 hearing 21 September 2020, 1761.
- 98 Exhibit HQI0178_RP Annexures to first witness statement of Mr Christopher Eccles, DPC.0016.0001.0095, DPC.0013.0001.0001.
- 99 Transcript of day 21 hearing 21 September 2020, 1762.
- 100 Ibid 1763.
- 101 Exhibit HQI0178_RP Annexures to first witness statement of Mr Christopher Eccles, DPC.0016.0001.0095, DPC.0013.0001.0001.
- 102 Exhibit HQI0033_RP Transcript of audio recording of SCC Operation Soteria meeting 27 March 2020.
- 103 Transcript of day 23 hearing 23 September 2020, 1946.
- 104 Exhibit HQI0145_RP Annexures to first witness statement of Commissioner Andrew Crisp, DOJ.600.001.0719.
- 105 Ibid.
- 106 Transcript of day 23 hearing 23 September 2020, 1946.
- 107 Transcript of day 22 hearing 22 September 2020, 1908.
- 108 Ibid 1862-1863.
- 109 Ibid 1822.
- 110 Transcript of day 21 hearing 21 September 2020, 1764.
- 111 Transcript of day 22 hearing 22 September 2020, 1891.
- 112 Transcript of day 22 hearing 22 September 2020, 1902; Exhibit HQI0186_RP Witness statement of Ms Kym Peake, 15 [65].
- 113 Transcript of day 22 hearing 22 September 2020, 1817.
- 114 Ibid.
- 115 Transcript of day 25 hearing 25 September 2020, 2126.
- 116 Transcript of day 22 hearing 22 September 2020, 1898.
- 117 Transcript of day 21 hearing 21 September 2020, 1757.
- 118 Ibid 1759.
- 119 Exhibit HQI0033(2)_RP Transcript and minutes of audio recording of SCC Operation Soteria meeting 27 March 2020.
- 120 Exhibit HQI0164_RP Witness statement of Mr Jason Helps, 12 [47].
- 121 Transcript of day 17 hearing 15 September 2020, 1373.
- 122 Ibid 1357.
- 123 Exhibit HQI0147_P Third witness statement of Commissioner Andrew Crisp, 3-4 [15]-[16].
- 124 Exhibit HQI0144_P First witness statement of Commissioner Andrew Crisp, 16 [32]-[33]; Exhibit HQI0147 Third witness statement of Commissioner Andrew Crisp, 1 [5]; Exhibit HQI0196_P Witness statement of the Hon. Lisa Neville MP, 5 [35].
- 125 Exhibit HQI0144_P First witness statement of Commissioner Andrew Crisp, 16 [34].
- 126 Ibid 16 [35].
- 127 Exhibit HQI00164_RP Witness statement of Mr Jason Helps, 11 [42].
- 128 Ibid 11 [43]-[44].
- 129 Ibid 11 [45].
- 130 Exhibit HQI0149_RP Witness statement of Mr Christopher Eagle, 3 [11]; Transcript of day 17 hearing 15 September 2020, 1433.
- 131 Transcript of day 17 hearing 15 September 2020, 1433.
- 132 Exhibit HQI0144_P First witness statement of Commissioner Andrew Crisp, 16 [34]-[35].
- 133 Transcript of day 17 hearing 15 September 2020, 1372-1373.
- 134 Exhibit HQI0114_P First witness statement of Commissioner Andrew Crisp, 20 [45].
- 135 Exhibit HQI0184_RP Witness statement of Mr Simon Phemister, 17 [84].
- 136 Ibid.
- 137 Exhibit HQI0114_P First witness statement of Commissioner Andrew Crisp, 20 [45]-[50].

- 138 Exhibit HQI0033(3)_RP Audio recording of SCC Operation Soteria meeting 10.00am 28 March 2020;
Exhibit HQI0033(4)_RP Audio recording of SCC Operation Soteria meeting 6.00pm 28 March 2020.
- 139 Exhibit HQI0143(3)_RP Transcript of audio recording of Operation Soteria meeting 6.00pm 28 March 2020, 20.
- 140 Ibid.
- 141 Exhibit HQI0032_P Witness statement of Ms Claire Febey, 15 [63].
- 142 Ibid.
- 143 Exhibit HQI0164_RP Witness statement of Mr Jason Helps, 12 [50].
- 144 Transcript of day 19 hearing 17 September 2020, 1614.
- 145 Exhibit HQI0033(1)_RP Annexures to witness statement of Ms Claire Febey, DJP.101.004.4571; Transcript of day 19 hearing 17 September 2020, 1614.
- 146 Exhibit HQI0032_P Witness statement of Ms Claire Febey, 16-17 [65]; Transcript of day 8 hearing 27 August 2020, 411-412.
- 147 Exhibit HQI0164_RP Witness statement of Mr Jason Helps, 12-13 [51]-[52].
- 148 Exhibit HQI0184_RP Witness statement of Mr Simon Phemister, 17 [84].
- 149 Transcript of day 8 hearing 27 August 2020, 484.
- 150 Transcript of day 22 hearing 22 September 2020, 1834-1835.
- 151 Ibid 1835.
- 152 Exhibit HQI0038_RP Witness statement of Ms Gonul Serbest 5 [16].
- 153 Transcript of day 22 hearing 22 September 2020, 1857.
- 154 Ibid 1905.
- 155 Exhibit HQI0186_RP First witness statement of Ms Kym Peake, 62 [332].
- 156 Exhibit HQI0226_RP Bundle of notices and advices tendered by DHHS, DHS.0001.0004.1702, DHS.0001.0004.1872 and DHS.0001.0011.0658.
- 157 Ibid DHS.0001.0103.0008 and DHS.001.0104. 0094.
- 158 Ibid DHS.0001.0004.1692 and DHS.0001.0004.1702.
- 159 Exhibit HQI0185_RP Annexures to witness statement of Mr Simon Phemister, DJP.105.003.1020, DJP.105.003.1296, DJP.105.003.0817.
- 160 Ibid.
- 161 Exhibit HQI0211_P Witness statement of the Hon. Jenny Mikakos MP, 15 [76]; Exhibit HQI0186_RP First witness statement of Ms Kym Peake, 39 [198].
- 162 Exhibit HQI0210_P Transcript of press conference by the Hon. Daniel Andrews MP 27 March 2020, 2 [15]-3 [14].
- 163 Exhibit HQI0032_RP Witness statement of Ms Claire Febey, 2 [8]; Exhibit HQI0184_RP Witness statement of Mr Simon Phemister, 6-7 [29]; Exhibit HQI0036_RP Witness statement of Ms Katrina Currie, 4 [13], 7 [23]; Transcript of day 8 hearing 27 August 2020, 446-447.
- 164 Transcript of day 25 hearing 25 September 2020, 2156-2157.
- 165 Transcript of day 12 hearing 3 September 2020, 845.
- 166 Exhibit HQI0079_RP Annexures to witness statement of Commander Timothy Tully, VPOL.0002.0005.0124.
- 167 Exhibit HQI0169_RP Witness statement of Chief Commissioner Shane Patton APM, 11 [6.2].
- 168 Ibid [6.4].
- 169 Ibid.
- 170 Ibid; Transcript of day 19 hearing 17 September 2020, 1649.
- 171 Exhibit HQI0173_RP First witness statement of former Chief Commissioner Graham Ashton AM APM, 6 [3.3-3.6].
- 172 Ibid 9 [6.1].
- 173 Ibid 9 [6.2].
- 174 Transcript of day 17 hearing 15 September 2020, 1380.
- 175 Transcript of day 23 hearing 23 September 2020, 1954; Exhibit HQI0196_R Witness statement of the Hon. Lisa Neville MP, 8 [65].
- 176 Exhibit HQI0196_R Witness statement of the Hon. Lisa Neville MP, 8 [65].
- 177 Transcript of day 18 hearing 15 September 2020, 1504-1505.
- 178 Transcript of day 3 hearing 17 August 2020, 52-53.
- 179 Exhibit HQI0169_RP Witness statement of Chief Commissioner Shane Patton APM, 11 [6.4]; Exhibit HQI0173_RP First witness statement of former Chief Commissioner Graham Ashton AM APM, 6 [3.4].
- 180 Exhibit HQI0067_RP Witness statement of Mr Sam Krikelis, 5 [36].
- 181 Transcript of day 22 hearing 22 September 2020, 1820.
- 182 Transcript of day 12 hearing 3 September 2020, 850; Exhibit HQI0069_RP Witness statement of Mr David Millward adopted by Mr Nigel Coppick, 6 [40].
- 183 Exhibit HQI0033_RP Annexures to witness statement of Ms Claire Febey, DJP.102.007.6152; Exhibit HQI0150_RP Annexures to witness statement of Christopher Eagle, DELW.0001.0020.1969.

- 184 See, e.g. Exhibit HQI0255_RP Affidavit of Mr Jason Helps; Exhibit HQI0256_RP Documents referred to in affidavit of Mr Jason Helps; HQI0257_RP Affidavit of Mr Braedon Hogan; and Exhibit HQI0258_RP Documents referred to in affidavit of Mr Braedon Hogan.
- 185 Exhibit HQI0230_RP DHHS emails re VIC Hotel Quarantine arrangements.
- 186 See, e.g. Exhibit HQI0249_RP First Affidavit of Prof. Brett Sutton.
- 187 Further Submission 01 – Counsel Assisting the Board of Inquiry, 5 [16]-[21].
- 188 Transcript of day 22 hearing 22 September 2020, 1829.
- 189 Transcript of day 8 hearing 27 August 2020, 440.
- 190 Exhibit HQI0037_RP Annexures to witness statements of Ms Katrina Currie, DJP.104.008.6765.
- 191 Exhibit HQI0049_RP Witness Statement of Mr Unni Menon, 3 [12].
- 192 Exhibit HQI0237_P Affidavit of Mr Christopher Eccles, 3 [Q4]; Exhibit HQI0243_P Affidavit of Mr Simon Phemister, 2 [11].
- 193 Transcript of day 22 hearing 22 September 2020, 1816.
- 194 Exhibit HQI0237_P Affidavit of Mr Christopher Eccles, 3 [18 Exhibit HQI0243_P Affidavit of Mr Simon Phemister, 4 [14]; Transcript of day 21 hearing 21 September 2020, 1757; Transcript of day 22 hearing 22 September 2020, 1816.
- 195 Rob Holland and Cameron Nolan, see Exhibit HQI0184_RP Witness statement of Mr Simon Phemister, 7 [31].
- 196 Exhibit HQI0032_RP Witness statement of Ms Claire Febey, 2 [8]; Exhibit HQI0184_RP Witness statement of Mr Simon Phemister, 7 [31]; Exhibit HQI0033_RP Annexures to witness statement of Ms Claire Febey, DJP.202.002.0001.
- 197 Exhibit HQI0033_RP Annexures to witness statement of Ms Claire Febey, DJP.202.002.0001.
- 198 Ibid.
- 199 Further Submission 02 – Chief Commissioner of Police, 1 [2], 2-4 [9]-[22].
- 200 DJP.102.007.8920.
- 201 DOJ.502.004.8832.
- 202 The 12.06pm email and EAP plan were not tendered in evidence, and were not available to Victoria Police for the purpose of submissions. Notwithstanding this, I consider that the above finding is open on the face of these documents, and that it is independently supported by the matters discussed at paragraphs 150.1-150.6.
- 203 Exhibit HQI0049_RP Witness Statement of Mr Unni Menon, 3 [12].
- 204 Exhibit HQI0184_RP Witness Statement of Simon Phemister, 6 [25]; Exhibit HQI0243_P Affidavit of Mr Simon Phemister, 3[11].
- 205 Exhibit HQI0037_RP Annexures to witness statement of Ms Katrina Currie, DJP.104.008.6765.
- 206 Exhibit HQI0033_RP Annexures to witness statement of Ms Claire Febey, DJP.202.002.0001.
- 207 Transcript of day 8 hearing 27 August 2020, 402.
- 208 Exhibit HQI0033_RP Annexures to witness statement of Ms Claire Febey, DJP.201.002.0001.
- 209 Exhibit HQI0049_RP Witness Statement of Mr Unni Menon, 3 [12].
- 210 Exhibit HQI0033_RP Annexures to witness statement of Ms Claire Febey, DJP.201.002.0001.
- 211 Transcript of day 8 hearing 27 August 2020, 397.
- 212 See Chapter 6.
- 213 Exhibit HQI0173_RP First witness statement of former Chief Commissioner Graham Ashton AM APM, 2 [2.2].
- 214 Exhibit HQI0244_P Affidavit of former Chief Commissioner Graham Ashton AM APM, 3 [13].
- 215 Exhibit HQI0173_RP First witness statement of former Chief Commissioner Graham Ashton AM APM, 9 [5.5].
- 216 Transcript of day 21 hearing 21 September 2020, 1767.
- 217 Ibid.
- 218 Ibid 1768.
- 219 Exhibit HQI0173_RP First witness statement of former Chief Commissioner Graham Ashton AM APM, 9 [5.6].
- 220 Transcript of day 21 hearing 21 September 2020, 1795-1796.
- 221 Exhibit HQI0238_RP Further DPC documents, HQI.0001.0060.0001.
- 222 Exhibit HQI0237_P Affidavit of Mr Christopher Eccles, 1 [3]; Exhibit HQI0244_P Affidavit of former Chief Commissioner Graham Ashton AM APM, 2 [5].
- 223 Exhibit HQI0173_RP First witness statement of former Chief Commissioner Graham Ashton AM APM, 8 [5.2]; Exhibit HQI0174_RP Annexures to first witness statement of former Chief Commissioner Graham Ashton AM APM, VPOL.0005.0001.0244.
- 224 Exhibit HQI0173_RP First witness statement of former Chief Commissioner Graham Ashton AM APM, 8 [5.3]; Exhibit HQI0174_RP Annexures to first witness statement of former Chief Commissioner Graham Ashton AM APM, VPOL.0005.0001.0244.
- 225 Transcript of day 21 hearing 21 September 2020, 1768.
- 226 Exhibit HQI0237_P Affidavit of Mr Christopher Eccles, 3 [12].
- 227 Ibid 2 [5]-3 [9].
- 228 Exhibit HQI0237_P Affidavit of Mr Christopher Eccles, 1 [3].

- 229 Ibid 2 [5].
- 230 Transcript of day 25 hearing 25 September 2020, 2130-2131.
- 231 Transcript of day 19 hearing 17 September 2020, 1684.
- 232 Submission 05 the Department of Premier and Cabinet, [9].
- 233 Exhibit HQI0173_RP First witness statement of former Chief Commissioner Graham Ashton AM APM, 9 [5.7].
- 234 Transcript of day 19 hearing 17 September 2020, 1665.
- 235 Exhibit HQI0242_RP Premier's Private Office Documents, HQI.0001.0063.0001.
- 236 Transcript of day 23 hearing 23 September 2020, 1948
- 237 Exhibit HQI0246_P Affidavit of the Hon. Lisa Neville MP, [7].
- 238 Exhibit HQI0196_P Witness statement of the Hon. Lisa Neville MP, 5 [35]-[36]; Transcript of day 17 hearing 15 September 2020, 1367.
- 239 Exhibit HQI0196_P Witness statement of the Hon. Lisa Neville MP, 5 [35].
- 240 Exhibit HQI0181_RP Texts between Commissioner Andrew Crisp and Ms Kate Houghton, DPC.9999.0001.0002.
- 241 Exhibit HQI0178_RP Annexures to first witness statement of Mr Christopher Eccles, DPC.0013.0001.0003-0004.
- 242 Transcript of day 23 hearing 23 September 2020, 1951-1952.
- 243 Ibid 1953.
- 244 Transcript of day 23 hearing 23 September 2020, 1956.
- 245 Exhibit HQI0173_RP First witness statement of former Chief Commissioner Graham Ashton AM APM, 3 [2.4].
- 246 Exhibit HQI0174 Attachments to First Witness Statement of Graham Ashton APM, VPOL.0005.0001.0064 .
- 247 Exhibit HQI0147_P Third witness statement of Commissioner Andrew Crisp, 1 [4]-[5].
- 248 Exhibit HQI0144_P First witness statement of Commissioner Andrew Crisp, 16 [32]-[33].
- 249 Transcript of day 17 hearing 15 September 2020, 1368.
- 250 Ibid 1368-1369.
- 251 Ibid 1383.
- 252 Exhibit HQI0173_RP First witness statement of former Chief Commissioner Graham Ashton AM APM, 7 [4.1].
- 253 Exhibit HQI0196_P Witness statement of the Hon. Lisa Neville MP, 5 [39]-[40].
- 254 Submission 04 the Hon. Lisa Neville MP, 2 [7] and 3 [9].
- 255 Transcript of day 23 hearing 23 September 2020, 1947.
- 256 Exhibit HQI0196_RP Witness statement of the Hon. Lisa Neville MP, 6 [46].
- 257 Submission 10 the Hon. Jenny Mikakos MP, 10 [39], referring to DHS.5000.0075.3961.
- 258 HQI0240 Affidavit of the Hon. Daniel Andrews MP, 3 [11]-[12].
- 259 Exhibit HQI0237_P Affidavit of Mr Christopher Eccles, 5 [26]- [27].
- 260 E.g. Exhibit HQI0238_RP Further DPC documents, HQI.0001.0061.0001, DPC.0028.0001.0001.
- 261 Exhibit HQI0210_P Transcript of press conference by the Hon. Daniel Andrews MP on 27 March 2020, 2 [15].
- 262 Transcript of day 25 hearing 25 September 2020, 2128.
- 263 Ibid 2129.
- 264 Exhibit HQI0239_RP Affidavit of the Hon. Daniel Andrews MP, 4-6 [16]-[27].
- 265 Transcript of day 25 hearing 25 September 2020, 2156.
- 266 Transcript of day 25 hearing 25 September 2020, 2145; Exhibit HQI0239_RP Affidavit of the Hon. Daniel Andrews MP, 2 [6].
- 267 Transcript of day 21 hearing 21 September 2020, 1768.
- 268 Ibid 1768-1769.
- 269 Ibid 1790.
- 270 Exhibit HQI0237_P Affidavit of Mr Christopher Eccles, 5 [25].
- 271 Transcript of day 22 hearing 22 September 2020, 1819.
- 272 Exhibit HQI0238_RP Further DPC documents, HQI.0001.0061.0001.
- 273 Exhibit HQI0033(1)_RP Annexures to witness statement of Ms Claire Febey, DJP.500.001.0002.
- 274 Exhibit HQI0173_RP First witness statement of former Chief Commissioner Graham Ashton AM APM, 4 [2.8].
- 275 Ibid 5 [2.9].
- 276 Transcript of day 22 hearing 22 September 2020, 1818; Exhibit HQI0184_RP Witness statement of Mr Simon Phemister, 7 [31]; Exhibit HQI0185(1)_RP Annexures to witness statement of Mr Simon Phemister, DJP.202.002.0001.
- 277 Transcript of day 22 hearing 22 September 2020, 1818-1819; Exhibit HQI0184_RP Witness statement of Mr Simon Phemister, 7 [27].
- 278 Exhibit HQI0033_RP Annexures to witness statement of Ms Claire Febey, DJP.500.001.0005.
- 279 Ibid.
- 280 Exhibit HQI0173_RP First witness statement of former Chief Commissioner Graham Ashton AM APM, 5 [2.11].
- 281 Ibid 6 [2.17].
- 282 Transcript of day 22 hearing 22 September 2020, 1822.
- 283 Transcript of day 21 hearing 21 September 2020, 1765.

- 284 Exhibit HQI0178_RP Annexures to first witness statement of Mr Christopher Eccles, DPC.0013.0001.0003.
285 Ibid DPC.0013.0001.0004.
286 Exhibit HQI0174_RP Annexures to first witness statement of former Chief Commissioner Graham Ashton AM APM, VPOL.0005.0001.0065.
287 Transcript of day 21 hearing 21 September 2020, 1766.
288 Ibid.
289 Ibid.
290 Exhibit HQI0033(2)_RP Audio recording of SCC Operation Soteria meeting 27 March 2020.
291 Exhibit HQI0148_RP Annexures to third witness statement of Commissioner Andrew Crisp, DOJ.515.001.0014.
292 Transcript of day 22 hearing 22 September 2020, 1819.
293 Ibid 1825.
294 Ibid 1824.
295 Ibid 1825-1826.
296 Ibid.
297 Ibid 1827.
298 Ibid 1835.
299 Ibid 1866.
300 Ibid.
301 Exhibit HQI0186_RP First witness statement of Ms Kym Peake, 5 [121].
302 Transcript of day 24 hearing 24 September 2020, 2066.
303 Exhibit HQI0222_P Second witness statement of the Hon. Jenny Mikakos, former MP [8]-[11].
304 Ibid.
305 Transcript of day 24 hearing 24 September 2020, 2068.
306 Ibid 2069.
307 Transcript of day 23 hearing 23 September 2020, 1930.
308 Exhibit HQI0147_P Third witness statement of Commissioner Andrew Crisp, 2 [6]-[9].
309 Exhibit HQI0148_RP Annexures to third witness statement of Commissioner Andrew Crisp, DOJ.515.001.0014.
310 Exhibit HQI0173_RP First witness statement of former Chief Commissioner Graham Ashton AM APM, 7-8 [4.6].
311 Exhibit HQI0144_RP First witness statement of Commissioner Andrew Crisp, 19 [47].
312 Transcript of day 17 hearing 15 September 2020, 1378-1380.
313 Exhibit HQI0173_RP First witness statement of former Chief Commissioner Graham Ashton AM APM, 7 [4.5].
314 Exhibit HQI0172 Witness statement of a 'Victoria Police Superintendent', 3 [12]-[16].
315 Exhibit HQI0173_RP First witness statement of former Chief Commissioner Graham Ashton AM APM, 7 [4.5] and [4.8]
316 Ibid 7 [4.1], 8 [4.8].
317 Submission 01 Chief Commissioner of Victoria Police, 1 [6]-[10], 4 [18].
318 Ibid 2 [8].
319 Ibid 17 [64].
320 Exhibit HQI0148_RP Annexures to third witness statement of Commissioner Andrew Crisp, DOJ.515.001.0014.
321 Transcript of day 25 hearing 25 September 2020, 2132.
322 E.g. Flight Lieutenant Marina Lysenko, 'ADF praised for rapid response to bushfire assistance', Defence News (Article, 20 February 2020) <<https://news.defence.gov.au/capability/adf-praised-rapid-response-bushfire-assistance>>.
323 Transcript of day 17 hearing 15 September 2020, 1385.
324 E.g. Exhibit HQI0210_P Transcript of Press Conference of the Hon. Daniel Andrews MP on 27 March 2020.
325 Transcript of day 25 hearing 25 September 2020, 2124, referring to Exhibit HQI0178_RP Annexures to first witness statement of Mr Christopher Eccles, DPC.0001.0001.6123.
326 Transcript of day 17 hearing 15 September 2020, 1385.
327 Exhibit HQI0142_RP Voluntary Submission of the Commonwealth of Australia, 22.
328 Ibid 57.
329 Exhibit HQI0144_RP First witness statement of Commissioner Andrew Crisp, 29 [69]; Exhibit HQI0142 Voluntary Submission of the Commonwealth of Australia, 12 [56].
330 Exhibit HQI0141_P Letter from the Commonwealth of Australia to the Board of Inquiry.
331 'Victoria forced to cut ADF hotel quarantine request ahead of Monday start', The Age (Article, 4 December 2020) <<https://www.theage.com.au/politics/victoria/victoria-forced-to-cut-adf-hotel-quarantine-request-ahead-of-monday-start-20201204-p56kr8.html>>.
332 Exhibit HQI0142_RP Voluntary Submission of the Commonwealth of Australia, 8 [35].
333 Transcript of day 17 hearing 15 September 2020, 1387.
334 Exhibit HQI0169_RP Witness statement of Chief Commissioner Shane Patton APM, 5 [3.3].
335 Exhibit HQI0142_RP Voluntary Submission of the Commonwealth of Australia, 57.
336 Transcript of day 21 hearing 21 September 2020, 1774-1775.

- 337 Transcript of day 25 hearing 25 September 2020, 2151-2152.
- 338 Exhibit HQI0180_RP Annexures to Further Witness Statement of Christopher Eccles, DPC.0014.0001.0004.
- 339 Transcript of day 25 hearing 25 September 2020, 2151.
- 340 Ibid 2152.
- 341 Exhibit HQI0173_RP First witness statement of former Chief Commissioner Graham Ashton AM APM, 8 [5.2]; Exhibit HQI0174_RP Annexures to first witness statement of former Chief Commissioner Graham Ashton AM APM, VPOL.0005.0001.0244.
- 342 Exhibit HQI0238_RP Further DPC documents, HQI.0001.0060.0001.
- 343 Exhibit HQI0173_RP First witness statement of former Chief Commissioner Graham Ashton AM APM, 9 [5.7].
- 344 Exhibit HQI0148 Annexures to third witness statement of Commissioner Andrew Crisp, DOJ.514.001.0001.
- 345 Exhibit HQI0181_RP Texts between Commissioner Andrew Crisp and Ms Kate Houghton, DPC.9999.0001.0002.
- 346 Transcript of day 24 hearing 24 September 2020, 1954.
- 347 Exhibit HQI0178_RP Annexures to first witness statement of Mr Christopher Eccles, DPC.0013.0001.0004.
- 348 Exhibit HQI0128 Witness statement of the Hon. Daniel Andrews MP, [47]; Transcript of day 25 hearing 25 September 2020, 2148-2149.
- 349 Transcript of day 25 hearing 25 September 2020, 2151.
- 350 Exhibit HQI0178_RP Annexures to first witness statement of Mr Christopher Eccles, DPC.0013.0001.0004.
- 351 Exhibit HQI0033(2)_RP Transcript of audio recording of SCC Operation Soteria meeting 27 March 2020, 25.
- 352 Exhibit HQI0144_P First witness statement of Commissioner Andrew Crisp, 29 [74]-[75]; Transcript of day 17 hearing 15 September 2020, 1386-1387.
- 353 Exhibit HQI0164_RP Witness Statement of Mr Jason Helps, 26 [112].
- 354 Transcript of day 23 hearing 23 September 2020, 1956.
- 355 Exhibit HQI0173_RP First witness statement of former Chief Commissioner Graham Ashton AM APM, 11 [12.6].
- 356 Ibid 10 [71].
- 357 Exhibit HQI0169_RP Witness statement of Chief Commissioner Shane Patton APM, 5 [3.3].
- 358 Ibid [3.4]; Transcript of day 19 hearing 17 September 2020, 1647.
- 359 Transcript of day 19 hearing 17 September 2020, 1650.
- 360 Ibid 1676-1678; Transcript of day 8 hearing 27 August 2020, 399-400.
- 361 Exhibit HQI0032_P Witness statement of Ms Claire Febey, 10-11 [41].
- 362 Exhibit HQI0143(3)_RP Transcript of audio recording of Operation Soteria meeting 6.00pm 28 March 2020, 22; Transcript of day 17 hearing 15 September 2020, 1387-1388.
- 363 Exhibit HQI0164_RP Witness statement of Mr Jason Helps, 26 [110].
- 364 Transcript of day 21 hearing 21 September 2020, 1776,
- 365 Ibid.
- 366 Ibid 1771.
- 367 Transcript of day 17 hearing 15 September 2020, 1386-1387.
- 368 Transcript of day 21 hearing 21 September 2020, 1769; Exhibit HQI0179_RP Second witness statement of Mr Christopher Eccles, 5 [22].
- 369 Exhibit HQI0238_RP Further DPC documents, HQI.0001.0060.0001.
- 370 Transcript of day 21 hearing 21 September 2020, 1755.
- 371 Exhibit HQI0173_RP First witness statement of former Chief Commissioner Graham Ashton AM APM, 8 [5.3].
- 372 Exhibit HQI0214_RP Texts between Assistant Commissioner Grainger and Commissioner Andrew Crisp 27 and 28 March 2020 VPOL.0005.0007.0006, Exhibit HQI0147_P Third witness statement of Commissioner Andrew Crisp, 2 [7]-[8].
- 373 Exhibit HQI0214_RP Texts between Assistant Commissioner Grainger and Commissioner Andrew Crisp 27 and 28 March 2020 VPOL.0005.0007.0006.
- 374 Transcript of day 8 hearing 27 August 2020, 432.
- 375 Exhibit HQI0148(2)_RP Transcripts and minutes of audio recording of SCC Operation Soteria meeting 27 March 2020, 12.
- 376 Exhibit HQI0184_RP Witness statement of Mr Simon Phemister, 9 [45].
- 377 Ibid 8 [37].
- 378 Transcript of day 8 hearing 27 August 2020, 432.
- 379 Transcript of day 25 hearing 25 September 2020, 2156.
- 380 Transcript of day 21 hearing 21 September 2020, 1770.
- 381 In October 2018, the Premier announced that the Victorian Government would conduct a review into the private security industry. Submissions closed on 27 July 2020. The Final Report is due in December 2020. See Department of Justice and Community Safety, Review of Victoria's Private Security Industry, <<https://engage.vic.gov.au/private-security-review-2020>>.