

## Submission to the COVID-19 Response Inquiry Panel by Diane Lee

I am writing to you as a person affected by the Commonwealth and State governments' response to COVID-19. Almost three years later, I'm still trying to get my head around what was done to me — and hundreds of thousands of Australians like me — by the Australian, State and Territory governments because of their attempts to “manage and control” a respiratory virus that was only an issue to certain vulnerable, minority groups of the population, as in any normal flu season.

I will firstly provide you with context around my situation, and then remind you of the events as they unfolded. I will ask questions after each section — questions that have not had answered despite numerous FOI requests. I will then detail the impact of these decisions on me personally.

### 1. Context

At the beginning of the pandemic, I was based in Vietnam and had been for three years. In November 2019, I started making arrangements to come back to Australia, but this was complicated because I had to repatriate my Australian cat. I took her to Vietnam in 2017, intending to be there for some time, but I had personal issues that hastened my return to Australia. In January 2020, the Vietnamese government was alert to a novel coronavirus from China and, having plans in place, responded in an appropriate manner — children were kept home from school after Tet (in late January). Apart from that, life went on as normal and I continued with my arrangements to repatriate my cat, made more difficult because Australian Quarantine removed Malaysia as an approved country in February 2020, and I had to find another route to bring her into Australia.<sup>1</sup> My story is available as a podcast episode.<sup>2</sup>

### 2. The Australian Government Responds

Fast forward to March 2020. Governments everywhere, reacting to the WHO's advice, stopped international flights entering and exiting their countries. The Australian government was no different and ordered travel bans<sup>3</sup> and self-isolation orders targeting those arriving from Iran, China, Korea and Italy, and on 13 March convened National Cabinet to co-ordinate the response.<sup>4</sup>

On 18 March a human biosecurity emergency was declared and the Biosecurity Act enacted.<sup>5</sup> A ‘Do Not Travel’ warning was issued and those who were on holiday overseas were urged to come home, and were required to self-isolate for 14 days from arrival.<sup>6</sup> Those who were living overseas were advised by DFAT to shelter in place.<sup>7</sup> Expats were told to stay put; holidaymakers were urged to come home. This last point is important and has been lost or forgotten in the ensuing media scrum and court of public opinion that still plays out today.

- Why was the National Pandemic Plan (updated in August 2019) abandoned by the government when an actual pandemic was declared, unlike Sweden, which stayed the course and actually fared better and certainly no worse?
- Why, as the pandemic went on, did the Commonwealth and State governments effectively abandon those Australians and Permanent Residents (PRs) who were overseas?
- Why did Consulates offer next to no assistance to those Australians who were homeless and jobless because of the Australian and State governments' decision to abandon its overseas citizens?
- Who in government decided to use the term ‘returning travellers’ to describe citizens and PRs trying to get home?

### 3. Forced Quarantine

Quarantine measures were put in place from early February, initially applying to those returning to Australia from Wuhan, who were held on Christmas Island for two weeks.<sup>8</sup> At this time, Australians returning from other countries were required to self-isolate at home or similar for 14 days.<sup>9</sup> That lasted for a few weeks, until the State and Commonwealth government realised that the public were terrified by ‘returning travellers’ bringing in this allegedly deadly virus and needed to be seen to be doing something to ‘stop the spread’ and ‘flatten the curve’, and hotels were flagged as an option. The hotel industry was being decimated, and the government decided something needed to be done to prop them up.<sup>10</sup>

On March 27, from a National Cabinet decision, hotels were designated as quarantine facilities.<sup>11</sup> The government was already using hotels as Places of Alternative Detention, and there were already contracts in place with hotels that were

'preferred suppliers', so it made sense – from the governments' perspective – to turn to hotels into quarantine facilities.<sup>12</sup> Two birds with one stone, although other hotels weren't happy about not getting a slice of the quarantine pie.<sup>13</sup>

- Where is the science that said healthy people should be quarantined?
- Where is the science that says hotels are suitable facilities for quarantine, if quarantine is an appropriate course of action (I refer to my question above)?
- Why was the *Biosecurity Act 2015* (Cth), enacted by the Governor General on March 17 and extended twice, and which has a very clear, humane process — been ignored by all levels of government during this pandemic?
- Why were hotels used to detain Australians and PRs when the *Biosecurity Act 2015* (Cth) stipulates that an appropriate medical facility must be used?
- Was hotel quarantine even lawful?<sup>14</sup>
- Why were biosecurity control orders not issued to individuals who were required to quarantine as required by the *Biosecurity Act 2019* (Cth)?
- Why did governments lie to the Australian public about the true nature of hotel quarantine ie it was effectively a job creation scheme that effectively did not halt the transmission of COVID, but made the government look like it was responding?
- Who decided that the hotel quarantine should be cost-shifted to returning Australians and PRs, when the entire "initiative" is unlawful, not to mention a breach of human rights?<sup>15</sup>

#### 4. Caps on International Flights

From March until July 2020, hotel quarantine was provided free as a 'public health measure'.<sup>16</sup> And then it all changed. From 12 July, caps on international flights were put in place, which meant that Australians were effectively barred by the government from coming home.<sup>17</sup> Victoria refused to take any 'returning travellers'. The other states took barely any; NSW bore the brunt.

Remember the 'shelter in place' advice issued by DFAT in March? In July, with a just a few days' notice, we were told we'd 'had enough time to come home', so if we weren't back already, it was on us. It was 'only fair'.<sup>18</sup> Never mind that we had jobs to wind up, apartments to pack up, kids to pull out of school, companies to wind up, pets to bring back – and other countries that had stopped all international flights entering and leaving their countries. If by some miracle, we could get a flight out, the Australian government's caps meant that flights were almost guaranteed to be cancelled. Airlines promised that a business class ticket would give us a better chance, and we shelled out tens of thousands of dollars, only to have these flights cancelled too. Remember, that while people at home were handed JobKeeper, we had given up our jobs and had no financial support. The government showed how ignorant they were to the plight of Australians stuck overseas – a worsened situation that they caused. They abandoned us, and they did it because they could – and the mainstream media, most sides of politics and the Australian public allowed it.

- Where is the science that said the government should lock its own citizens out of the country during a global emergency?
- Why is the law that says that it is lawful for the government to lock its own citizens out of the country during a global emergency?
- Why was no financial support given to people overseas (as Canada did) who were spending thousands of dollars (they didn't have) to try and get a flight home, when they had no jobs or accommodation, when the government was spending billions on JobKeeper to support Australians at home?
- Why were *genuine* repatriation flights not put on by the government?
- Why did the Australian government not realise that it was almost impossible to exit the countries we were in anyway, without the government engineering even more barriers to getting home?

#### 5. Charging for Hotel Quarantine

Unbeknownst to us, National Cabinet had been in discussions from April 2020 to shift the cost for hotel quarantine to individuals that were quarantined because of states' edicts that people be detained on entry to the country.<sup>19</sup> It would now cost \$3000 to quarantine in a hotel. This later extended to people trying to get back into their own state after

panicking premiers snapped borders shut. NSW was especially keen to recoup because, as the state now carrying the hotel quarantine load for the other states, their budget had blowing out considerably.

There is no need for me to highlight what a failure hotel quarantine was. Successive reports, peak bodies and governments have heavily criticised it. It was supposed to be a stop-gap strategy while 'proper' quarantine facilities were sorted out, but that was clearly too difficult because the State governments bickered with the Commonwealth over whose responsibility quarantine was once JobKeeper dried up. Hotel quarantine was disbanded by April 2022.<sup>20</sup>

- If hotel quarantine was to be used, why were people not triaged according to risk?
- Why was hotel quarantine initially offered as a free public health measure by the State governments, and then not, while vaccines and RATs were a free public health measure?
- Why were people who had COVID or were 'close contacts' permitted to 'self-isolate at home' while those who were returning home from overseas or interstate and were healthy were detained for 14 days?
- Why were the human rights of those detained in hotels completely ignored?
- Where was the science that said celebrities, politicians, diplomats sporting teams etc were not required to quarantine in a hotel, but could 'self-isolate'?

## 6. Unlawful Hotel Quarantine Fee

Meanwhile, State governments had started sending invoices – the minimum was \$3000 – to those who were forced into hotel quarantine by public health orders that masqueraded as a police operation. What is important to note is that these fees are unlawful and were rolled out anyway, another inconvenient truth that has been overlooked by the legacy media, politicians and bureaucrats – and the general Australian public. Premier, Daniel Andrews told us so:<sup>21</sup>

*Quite some time ago, I looked at the notion of charging people for their hotel quarantine. The legal advice to us is that we can't do that. To make somebody pay for their own detention would be a truly unique arrangement. That's not something we use in any of our custodial facilities, and not something that would withstand challenge.*

Further, a number of FOIs have turned up the fact that legal advice was sought — at both a Commonwealth and State (Victorian) level between 10 May and 21 June 2020. The fees are unlawful because no one in this country pays for their own detention, which Premier Andrews confirmed. Not refugees in offshore processing centres or in subsequent hotel detention. Not criminals detained at His Majesty's pleasure. Only hapless expats stuck outside the country who couldn't get home because their government stopped them.

- Where is the science that says charging citizens for hotel quarantine halts COVID?
- Why did National Cabinet approve the States charging for hotel quarantine, when it was clearly unlawful?
- Why did States, knowing it was unlawful to charge for hotel quarantine, do so anyway?
- Why did National Cabinet ignore the WHO, who clearly stated that wealthy countries should not charge their citizens for hotel quarantine?<sup>22</sup>
- Why were those people who were deemed "close contacts" not charged for their quarantine in hotels? Why were these people paid by the State government to quarantine in a hotel?
- Why did the NSW government change their legislation to 'reduce fee challenges' if the original National Cabinet agreement was legal?<sup>23</sup>

## 7. Summary

The way the Australian and State governments responded to the COVID pandemic was nothing less than in unconscionable in terms of how it treated its citizens and PRs who had the misfortune of being outside the country when the pandemic was declared.

I urge you to listen to the stories of people who were overseas at the time and faced insurmountable obstacles trying to get home. Not only did it cost them a fortune because of the Australian Government's international flight caps, but they were also forced to pay for their own incarceration in a hotel. It was not our fault that we couldn't get back home, especially when international flight caps were brought in by the Australian Government, which made the situation for us even worse. You can listen here:

<https://www.dianelee.com.au/never-forget-what-they-did-podcast>

From a personal perspective, I have [REDACTED] from the way that I was treated. Not only did the government make it almost impossible for me, and tens of thousands like me to get home, I was locked up in a hotel for 14 days with no human contact, no fresh air and substandard food — a public health measure that I am forced to pay for. I haven't and I won't forgive nor forget.

I used to love travelling, now I do not want to go venture far from home, let alone overseas. If the government can close borders once, it can do it again. I have no trust in the government, politicians, bureaucrats or so-called experts. I have no faith in this inquiry being able to do anything to fix what the government et al did to us. We need restorative justice, and this inquiry will not be able to deliver on this. The only thing that will is a Royal Commission, which I call for.

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<sup>1</sup> Department of Agriculture, Fisheries and Forestry, *Industry Advice Notice*, 12 March 2020 <<https://www.agriculture.gov.au/biosecurity-trade/import/industry-advice/2020/38-2020>>

<sup>2</sup> Never Forget What They Did, *Diane's Story* <[https://www.dianelee.com.au/never-forget-what-they-did-podcast/#Listen\\_to\\_Episode\\_1\\_%E2%80%93\\_Dianes\\_Story\\_No\\_Cat\\_Left\\_Behind](https://www.dianelee.com.au/never-forget-what-they-did-podcast/#Listen_to_Episode_1_%E2%80%93_Dianes_Story_No_Cat_Left_Behind)>

<sup>3</sup> Parliament Media Release 4 March 2020

<<https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22media%2Fpressrel%2F7223733%22>>

<sup>4</sup> Parliament Media Release 16 March 2020

<<https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22media%2Fpressrel%2F7245039%22>>

<sup>5</sup> Parliament Press Release 18 March 2020

<<https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22media%2Fpressrel%2F7245205%22>>

<sup>6</sup> *Ibid.*

<sup>7</sup> Via Wayback Machine <<https://web.archive.org/web/20200401224651/https://www.smarttraveller.gov.au/news-and-updates/covid-19-advice-australians-living-working-or-studying-overseas>>

<sup>8</sup> ABC News 3 February 2020 <https://www.abc.net.au/news/2020-02-03/coronavirus-wuhan-evacuation-flight-reaches-wa-christmas-island/11923324>

<sup>9</sup> Parliament Media Release 1 February 2020

<<https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22media%2Fpressrel%2F7165715%22>>

<sup>10</sup> ABC News 1 February 2021 <<https://www.abc.net.au/news/2021-02-01/quarantine-contracts-hotel-industry-slow-recovery-covid19/13098452>>; Hotel Quarantine Inquiry Day 25, Mr Daniel Andrews pp 25-26

<<https://www.quarantineinquiry.vic.gov.au/sites/default/files/2020-09/20200925%20Hotel%20Quarantine%20Program%20-%20Day%2025%20-%20FINAL.pdf>>; Brendan Murphy per Katharine Murphy, 'The End of Certainty: Scott Morrison and Pandemic Politics' *Quarterly Essay*, Schultz Media, September 2020, Issue 79.

<sup>11</sup> Parliament Media Release 27 March 2020

<<https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22media%2Fpressrel%2F7268024%22>>

<sup>12</sup> Costar, 20 April 2021 <<https://www.costar.com/article/401079403/buoyed-by-quarantine-demand-australias-hotel-industry-strives-for-normalcy>>

<sup>13</sup> The Guardian, 20 August 2020 <<https://www.theguardian.com/australia-news/2020/aug/20/desperate-australian-hotels-want-overseas-passenger-caps-raised-to-fill-quarantine-rooms>>

<sup>14</sup> ABC, 24 November 2023 <<https://www.abc.net.au/news/2023-11-24/investigation-into-legality-of-covid-mandatory-quarantine/103146634>>

<sup>15</sup> See n 21

<sup>16</sup> Sydney Morning Herald, 4 June 2022 <<https://www.smh.com.au/national/nsw/why-australians-are-not-paying-58-6m-in-nsw-hotel-quarantine-bills-20220531-p5apyv.html>>

<sup>17</sup> Parliament Press Conference 10 July 2020 <<https://pmtranscripts.pmc.gov.au/release/transcript-42930>>

<sup>18</sup> SBS, 12 July 2020 <<https://www.sbs.com.au/news/article/a-3-000-bill-for-nsw-hotel-quarantine-is-fair-gladys-berejiklian-says/gig4pn494>>

<sup>19</sup> National Cabinet FOI via Senator Rex Patrick, see Attach 2

<<https://www.dropbox.com/sh/a8oy41mm85khxv4/AABoCachwIVIGRP5ZuB7Bxwya?dl=0&fbclid=IwAR34uD1DE8QKoFn6QKLVmiJXldX3XcYe0DtwFIKDTaMKUDDmssxV8IIGLPo>>

<sup>20</sup> Department of Health Media Release, 25 March 2022

<<https://www.health.gov.au/ministers/the-hon-greg-hunt-mp/media/australias-biosecurity-emergency-pandemic-measures-to-end>>

<sup>21</sup> Daniel Andrews' media conference, SBS News on 28 June 2020 at 40:15 <<https://www.youtube.com/watch?v=m2xNaKF-Ssl>>

<sup>22</sup> SMH, 15 May 2021 <<https://www.smh.com.au/world/europe/who-says-rich-countries-shouldn-t-charge-citizens-for-hotel-quarantine-20210515-p57s6m.html>>

<sup>23</sup> Government of NSW, Quarantine Fee Workplan <<https://www.dropbox.com/s/e112ujb97sfr6i7/NSW-Working-Plan-Quarantine-Fees.pdf?dl=0>>