



IN THE SUPREME COURT OF VICTORIA
AT MELBOURNE
COMMON LAW DIVISION
GROUP PROCEEDINGS LIST

Case: S ECI 2020 03402

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No. S ECI 2020 03402

BETWEEN

5 BOROUGHS NY PTY LTD (ACN 632 508 304)

Plaintiff

AND

STATE OF VICTORIA & ORS

Defendants

AMENDED STATEMENT OF CLAIM

**Filed pursuant to the Order of The Honourable Justice John Dixon dated ~~21 March 21~~
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A. THE PARTIES.....	2
The plaintiff and Group Members	2
The defendants	2
B. THE COVID-19 PANDEMIC AND VICTORIA’S INITIAL RESPONSE.....	2
Coronavirus disease 2019	2
First case of COVID-19 in Victoria detected	2
WHO declares COVID-19 a pandemic.....	2
First case of community transmission in Victoria recorded	2
Upward trend in new cases in Victoria across March.....	2
National Cabinet established.....	2
State of emergency declared in Victoria.....	2
“Stage 1” restrictions commence in Victoria.....	2
“Stage 2” restrictions commence in Victoria.....	2
“Stage 3” restrictions commence in Victoria.....	2
C. QUARANTINE DETENTION IN VICTORIA	2
National Cabinet agreement.....	2
Implementation of the National Cabinet agreement in Victoria.....	2
Infection prevention and control measures at quarantine hotels.....	2
Training.....	2
PPE usage.....	2
Hand hygiene	2
Physical distancing.....	2
Supervision and auditing.....	2
D. DUTY OF CARE.....	2
The role of DHHS in implementing quarantine detention.....	2
DHHS’s constant on-site presence at quarantine hotels	2
DHHS’s procurement of services at quarantine hotels	2
DHHS’s supply of PPE to certain workers at quarantine hotels.....	2
The role of DJPR in implementing quarantine detention	2
The defendants’ knowledge	2
The vulnerability of the plaintiff and Group Members.....	2
Duty of care owed to the plaintiff and Group Members	2
What the duty of care required of the defendants	2
E. BREACHES OF DUTY	2
Ryldges commences operation as a quarantine hotel.....	2
Stamford Plaza commences operation as a quarantine hotel	2
Breaches of duty: Minister for Health and Secretary of DHHS	2

Breaches of duty: Minister for Jobs and Secretary of DJPR	2
F. CAUSATION AND LOSS	2
First wave subsidies and restrictions are eased	2
Tasks performed at Rydges by private security guards and hotel staff prior to the outbreak at that hotel.....	2
IPC standards at Rydges prior to the outbreak at that hotel.....	2
Lack of training.....	2
Lack of or incorrect PPE usage.....	2
Lack of hand hygiene.....	2
Lack of supervision and auditing	2
Erroneous or non-existent IPC advice	2
Outbreak at Rydges.....	2
Family of four carrying SARS-CoV-2 is detained at Rydges.....	2
Epidemiological links to Rydges	2
Genomic links to Rydges	2
Transmission from returned travellers at Rydges to workers at that hotel	2
Tasks performed at Stamford Plaza by private security guards engaged by MSS Security prior to the outbreaks at that hotel	2
IPC standards at Stamford Plaza prior to the outbreaks at that hotel.....	2
Lack of training.....	2
Lack of or incorrect PPE usage.....	2
Lack of hand hygiene.....	2
Lack of physical distancing	2
Lack of supervision and auditing	2
Erroneous advice as to IPC measures	2
Outbreaks at Stamford Plaza.....	2
Single returned traveller detained at Stamford Plaza starts showing symptoms of COVID-19.....	2
Couple detained at Stamford Plaza start showing symptoms of COVID-19.....	2
Epidemiological links to Stamford Plaza.....	2
Genomic links to Stamford Plaza	2
Transmission from returned travellers at Stamford Plaza to workers at that hotel.....	2
The start of the second wave in Victoria	2
Melbourne goes back into lockdown	2
“Stage 4” lockdown in Melbourne and “stage 3” lockdown for the rest of Victoria.....	2
The defendants’ negligence and transmission from returned travellers to workers at Rydges and Stamford Plaza	2

Transmission from workers at Rydges and Stamford Plaza to other members of the Victorian community	2
On-transmission within the Victorian community	2
The second wave and the COVID-19 restrictions	2
The COVID-19 restrictions and the plaintiff and Group Members' loss	2
Causation pursuant to s 51 of the <i>Wrongs Act</i> 1958 (Vic).....	2
H. VICARIOUS LIABILITY OF THE STATE OF VICTORIA	2
I. COMMON QUESTIONS	2
Questions of law or fact common to the claims of the Group Members	2

A. THE PARTIES

The plaintiff and Group Members

1. The plaintiff brings this proceeding as a group proceeding pursuant to Part IVA of the *Supreme Court Act* 1986 (Vic) on its own behalf and on behalf of all other persons:
 - (a) who as at 1 July 2020 carried on a business (a **retail business**) the ordinary operations of which involved:
 - (i) the supply of goods or services at premises physically located within Victoria; and
 - (ii) the attendance by members of the general public at those premises for the acquisition of the goods or services supplied at those premises;
 - (b) who were prohibited from supplying, or were restricted in their ability to supply, goods or services to members of the general public at such premises, or who operated such premises the attendance at which by members of the general public was prohibited or restricted, by one or more of:
 - (i) the “stage 3” restrictions put in place in certain postcodes of Melbourne from 2 July 2020, and in Melbourne and the Mitchell Shire local government area from 9 July 2020;
 - (ii) the “stage 4” restrictions put in place in Melbourne from 2 August 2020, including the workplace closures put in place from 6 August 2020; and
 - (iii) the regional “stage 3” restrictions put in place in Victoria outside of Melbourne from 6 August 2020;
 - (c) who have suffered economic loss by reason of one or more of the matters in subparagraph (b); and
 - (d) who are not any of the persons mentioned in s 33E(2) of the *Supreme Court Act* 1986 (Vic)
(Group Members), where:
 - (e) “**stage 3**” restrictions means the restrictions imposed by one or more of the following directions given pursuant to s 200 of the *Public Health and Wellbeing Act* 2008 (Vic) (the **PHW Act**):

- (i) the *Stay at Home Directions (Restricted Postcodes)* given on 1 July 2020;
 - (ii) the *Restricted Activity Directions (Restricted Postcodes)* given on 1 July 2020;
 - (iii) cl 5(2)(d) of the *Stay Safe Directions (No 3)* given on 1 July 2020;
 - (iv) the *Stay at Home Directions (Restricted Areas)* given on 8 July 2020;
 - (v) the *Restricted Activity Directions (Restricted Areas)* given on 8 July 2020;
 - (vi) cl 5(2)(d) of the *Stay Safe Directions (No 4)* given on 8 July 2020;
 - (vii) the *Stay at Home Directions (Restricted Areas) (No 2)* given on 10 July 2020;
 - (viii) cl 5(2)(d) of the *Stay Safe Directions (No 5)* given on 10 July 2020;
 - (ix) the *Stay at Home Directions (Restricted Areas) (No 3)* given on 19 July 2020;
 - (x) the *Restricted Activity Directions (Restricted Areas) (No 2)* given on 19 July 2020;
 - (xi) cl 5(2)(d) of the *Stay Safe Directions (No 6)* given on 19 July 2020;
 - (xii) the *Stay at Home Directions (Restricted Areas) (No 4)* given on 22 July 2020;
 - (xiii) the *Restricted Activity Directions (Restricted Areas) (No 3)* given on 22 July 2020;
 - (xiv) cl 5(2)(d) of the *Stay Safe Directions (No 7)* given on 22 July 2020;
 - (xv) the *Stay at Home Directions (Restricted Areas) (No 5)* given on 30 July 2020; and
 - (xvi) cl 5(2)(d) of the *Stay Safe Directions (No 8)* given on 30 July 2020;
- (f) **“stage 4” restrictions** means the restrictions imposed by one or more of the following directions given pursuant to s 200 of the PHW Act:

- (i) the *Stay at Home Directions (Restricted Areas) (No 6)* given on 2 August 2020;
- (ii) the *Stay at Home Directions (Restricted Areas) (No 7)* given on 2 August 2020;
- (iii) the *Restricted Activity Directions (Restricted Areas) (No 4)* given on 2 August 2020;
- (iv) the *Restricted Activity Directions (Restricted Areas) (No 5)* given on 2 August 2020;
- (v) cl 5(2)(e) of the *Stay Safe Directions (No 9)* given on 2 August 2020;
- (vi) the *Stay at Home Directions (Restricted Areas) (No 8)* given on 5 August 2020;
- (vii) the *Restricted Activity Directions (Restricted Areas) (No 6)* given on 5 August 2020;
- (viii) the *Stay at Home Directions (Restricted Areas) (No 9)* given on 6 August 2020;
- (ix) the *Stay at Home Directions (Restricted Areas) (No 10)* given on 8 August 2020;
- (x) the *Stay at Home Directions (Restricted Areas) (No 11)* given on 13 August 2020;
- (xi) the *Restricted Activity Directions (Restricted Areas) (No 7)* given on 13 August 2020;
- (xii) the *Stay at Home Directions (Restricted Areas) (No 12)* given on 16 August 2020;
- (xiii) the *Restricted Activity Directions (Restricted Areas) (No 8)* given on 16 August 2020;
- (xiv) the *Stay at Home Directions (Restricted Areas) (No 13)* given on 20 August 2020;

- (xv) the *Stay at Home Directions (Restricted Areas) (No 14)* given on 27 August 2020;
 - (xvi) the *Restricted Activity Directions (Restricted Areas) (No 9)* given on 13 September 2020;
 - (xvii) the *Stay at Home Directions (Restricted Areas) (No 15)* given on 13 September 2020;
 - (xviii) the *Restricted Activity Directions (Restricted Areas) (No 10)* given on 27 September 2020;
 - (xix) the *Stay at Home Directions (Restricted Areas) (No 16)* given on 27 September 2020;
 - (xx) the *Restricted Activity Directions (Restricted Areas) (No 11)* given on 4 October 2020;
 - (xxi) the *Stay at Home Directions (Restricted Areas) (No 17)* given on 4 October 2020;
 - (xxii) the *Restricted Activity Directions (Restricted Areas) (No 12)* given on 11 October 2020;
 - (xxiii) the *Stay at Home Directions (Restricted Areas) (No 18)* given on 11 October 2020;
 - (xxiv) the *Restricted Activity Directions (Restricted Areas) (No 13)* given on 18 October 2020;
 - (xxv) the *Stay at Home Directions (Restricted Areas) (No 19)* given on 18 October 2020; and
 - (xxvi) the *Restricted Activity Directions (Restricted Areas) (No 14)* given on 26 October 2020;
- (g) **workplace closures** means the forced closure of certain workplaces pursuant to the directions referred to in subparagraphs (f)(vii), (f)(xi), (f)(xiii), (f)(xvi), (f)(xviii), (f)(xx), (f)(xxii), (f)(xxiv), and (f)(xxvi) above; and
- (h) **regional “stage 3” restrictions** means the restrictions imposed by one or more of the following directions given pursuant to s 200 of the PHW Act:

- (i) the *Stay at Home Directions (Non-Melbourne)* given on 5 August 2020;
- (ii) the *Restricted Activity Directions (Non-Melbourne)* given on 5 August 2020;
- (iii) the *Stay at Home Directions (Non-Melbourne) (No 2)* given on 13 August 2020;
- (iv) the *Restricted Activity Directions (Non-Melbourne) (No 2)* given on 13 August 2020;
- (v) the *Stay at Home Directions (Non-Melbourne) (No 3)* given on 16 August 2020;
- (vi) the *Restricted Activity Directions (Non-Melbourne) (No 3)* given on 16 August 2020;
- (vii) the *Stay at Home Directions (Non-Melbourne) (No 4)* given on 27 August 2020;
- (viii) the *Restricted Activity Directions (Non-Melbourne) (No 4)* given on 13 September 2020;
- (ix) the *Stay at Home Directions (Non-Melbourne) (No 5)* given on 13 September 2020;
- (x) the *Restricted Activity Directions (Non-Melbourne) (No 5)* given on 16 September 2020;
- (xi) the *Stay Safe Directions (Non-Melbourne)* given on 16 September 2020;
- (xii) the *Restricted Activity Directions (Non-Melbourne) (No 6)* given on 27 September 2020;
- (xiii) the *Stay Safe Directions (Non-Melbourne) (No 2)* given on 27 September 2020;
- (xiv) the *Stay Safe Directions (Non-Melbourne) (No 3)* given on 4 October 2020;
- (xv) the *Restricted Activity Directions (Non-Melbourne) (No 7)* given on 11 October 2020;

- (xvi) the *Stay Safe Directions (Non-Melbourne) (No 4)* given on 11 October 2020;
- (xvii) the *Restricted Activity Directions (Non-Melbourne) (No 8)* given on 18 October 2020;
- (xviii) the *Stay Safe Directions (Non-Melbourne) (No 5)* given on 18 October 2020; and
- (xix) the *Restricted Activity Directions (Non-Melbourne) (No 9)* given on 25 October 2020.

2. The plaintiff carries on, and has at all material times carried on, a bar and restaurant business known as “5 Districts NY” at premises located at Unit 5, 2 Thomsons Road, Keilor Park in the State of Victoria.

The defendants

3. By s 23(1)(b) of the *Crown Proceedings Act 1958 (Vic)*, the first defendant (the **State of Victoria**) is liable for the torts of its servants or agents as nearly as possible in the same manner as a subject is liable for the torts of his or her servants or agents.
4. The second defendant (the **Minister for Health**):
 - (a) was from December 2018 to 26 September 2020, as Minister for Health, the Minister responsible for the Department of Health and Human Services (**DHHS**); and
 - (b) was from 3 April 2020 to 26 September 2020, as Minister for the Coordination of Health and Human Services: COVID-19, the Minister responsible for leading all activities of DHHS in response to the COVID-19 pandemic.
5. The third defendant (the **Minister for Jobs**):
 - (a) was from December 2018 to 22 June 2020, as Minister for Jobs, Innovation and Trade, the Minister responsible for the Department of Jobs, Precincts and Regions (**DJPR**); and
 - (b) was from 3 April 2020 to 26 September 2020, as Minister for the Coordination of Jobs, Precincts and Regions: COVID-19, the Minister responsible for leading all activities of DJPR in response to the COVID-19 pandemic.

6. The fourth defendant (the **Secretary of DHHS**) was from 16 November 2015 to on or about 12 November 2020 the “Department Head”, within the meaning of the *Public Administration Act 2004* (Vic), of DHHS.
7. The fifth defendant (the **Secretary of DJPR**) has since 1 January 2019 been the “Department Head”, within the meaning of the *Public Administration Act 2004* (Vic), of DJPR.

B. THE COVID-19 PANDEMIC AND VICTORIA’S INITIAL RESPONSE

Coronavirus disease 2019

8. Coronavirus disease 2019 (**COVID-19**) is and was at all material times:
 - (a) a highly infectious disease; and
 - (b) caused by severe acute respiratory syndrome coronavirus 2 (**SARS-CoV-2**).
9. SARS-CoV-2 is and was at all material times:
 - (a) capable of being transmitted through respiratory droplets;
 - (b) capable, in particular circumstances leading to the generation of airborne particles (**aerosols**), such as in the course of certain medical procedures, of being transmitted through aerosols;
 - (c) capable of being transmitted through fomites, being contaminated objects or surfaces;
 - (d) by reason of the foregoing, capable of being transmitted:
 - (i) directly by contact with infected people; and
 - (ii) indirectly by contact with contaminated objects or surfaces.

First case of COVID-19 in Victoria detected

10. On 25 January 2020, the first case of COVID-19 in Victoria (and in Australia) was detected.

WHO declares COVID-19 a pandemic

11. On 30 January 2020, the World Health Organisation (**WHO**) declared COVID-19 to be a public health emergency of international concern.

12. On 11 March 2020, the WHO declared COVID-19 to be a pandemic.

First case of community transmission in Victoria recorded

13. By 12 March 2020:

- (a) Victoria's first case of community transmission of COVID-19 had been recorded; and
- (b) there was a total of 26 active cases of COVID-19 in Victoria.

Upward trend in new cases in Victoria across March

14. From 12 March 2020 to 27 March 2020, Victoria experienced an upwards trend in daily new COVID-19 cases.

Particulars

Daily new cases moved from 10 such cases on 12 March 2020 to 106 such cases on 27 March 2020.

15. By 27 March 2020, the total number of active cases of COVID-19 in Victoria had substantially increased since early March.

Particulars

By 27 March 2020, there was a total of 466 active cases of COVID-19 in Victoria. As pleaded in paragraph 13(b) above, on 12 March 2020, there were only 26 active cases of COVID-19 in Victoria.

National Cabinet established

16. On 13 March 2020, a body or forum called "National Cabinet" was established to address Australia's response to COVID-19.

Particulars

Media release issued by the Prime Minister dated 13 March 2020.

State of emergency declared in Victoria

17. On 16 March 2020, the Minister for Health declared a state of emergency throughout Victoria pursuant to s 198(1) of the PHW Act arising out of the serious risk to public health in Victoria from SARS-CoV-2.

18. The declaration of the state of emergency was thereafter repeatedly extended such that it remained in force until (and after) 26 October 2020.

Particulars

The plaintiff refers to the list of all extensions of the declaration of the state of emergency since 16 March 2020 found in the Extension of Declaration of a State of Emergency dated 29 January 2021.

“Stage 1” restrictions commence in Victoria

19. On 23 March 2020, “stage 1” restrictions were put in place in Victoria, requiring the closure of certain businesses, including pubs, bars, clubs, gyms, indoor sporting centres, cinemas, nightclubs, entertainment venues, restaurants, and cafes.

Particulars

Non-essential Business Closure Direction given on 23 March 2020 under s 200 of the PHW Act.

“Stage 2” restrictions commence in Victoria

20. On 25 March 2020, “stage 2” restrictions were put in place in Victoria, which restrictions, *inter alia*:
- (a) maintained the business closures that occurred under “stage 1” restrictions and expanded the businesses required to close to include, *inter alia*, beauty and personal care facilities, auction houses, market stalls not supplying food or drink, accommodation facilities, swimming pools, and zoos; and
 - (b) prohibited owners of premises in Victoria from allowing a gathering of 100 or more persons to occur in a single undivided indoor space.

Particulars

Non-Essential Activity Directions given on 25 March 2020 under ss 190 and 200 of the PHW Act

Prohibited Gathering Directions given on 25 March 2020 under s 200 of the PHW Act.

21. On 26 March 2020, the list of businesses required to close under “stage 2” restrictions was amended.

Particulars

Non-Essential Activity Directions (No 2) given on 26 March 2020 under ss 190 and 200 of the PHW Act.

“Stage 3” restrictions commence in Victoria

22. On 30 March 2020, “stage 3” restrictions were put in place in Victoria, which restrictions, *inter alia*:
- (a) prohibited persons from leaving their homes except for certain reasons; and
 - (b) maintained the business closures that had been put in place under “stage 2” restrictions and expanded the categories of businesses required to close.

Particulars

Stay at Home Directions given on 30 March 2020 under s 200 of the PHW Act.

Restricted Activity Directions given on 30 March 2020 under ss 190 and 200 of the PHW Act.

23. The effect of those “stage 3” restrictions on the plaintiff and Group Members included:
- (a) prohibiting or restricting attendance by members of the general public at the premises at which the plaintiff and Group Members supplied goods or services, by reason of the prohibitions or restrictions they placed on persons in Victoria leaving their places of residence save for certain limited reasons;

Particulars

Stay at Home Directions given on 30 March 2020, cl 5.

- (b) in the case of those (including the plaintiff) who were operating pubs, bars, clubs, and other “licensed premises”, prohibiting them from operating those premises subject to certain limited exceptions;

Particulars

Restricted Activity Directions given on 30 March 2020, cl 5.

- (c) in the case of those operating gyms, fitness centres, yoga studios, play centres, and other “recreational facilities”, prohibiting them from operating those facilities subject to certain limited exceptions;

Particulars

Restricted Activity Directions given on 30 March 2020, cl 6.

- (d) in the case of those operating theatres, cinemas, and other “entertainment facilities”, prohibiting them from operating those facilities subject to one limited exception;

Particulars

Restricted Activity Directions given on 30 March 2020, cl 7.

- (e) in the case of those operating beauty and personal care facilities and other “restricted retail facilities”, prohibiting them from operating those facilities subject to one limited exception; and

Particulars

Restricted Activity Directions given on 30 March 2020, cl 9.

- (f) in the case of those (including the plaintiff) operating cafes, restaurants, and other “food and drink facilities”, prohibiting them from operating those facilities subject to certain limited exceptions.

Particulars

Restricted Activity Directions given on 30 March 2020, cl 10.

C. QUARANTINE DETENTION IN VICTORIA

National Cabinet agreement

- 24. On 27 March 2020, the Prime Minister announced that the National Cabinet had agreed, *inter alia*, that by no later than 11.59 pm on 28 March 2020:
 - (a) returned travellers to Australia would be required to undertake isolation for 14 days at “designated facilities”, such as hotels, to be determined by the relevant State or Territory government; and

- (b) this would be implemented using State and Territory legislation and would be enforced by State and Territory governments, with the support of the Australian Defence Force and the Australian Border Force where necessary.

Particulars

Media release issued by the Prime Minister and dated 27 March 2020.

Implementation of the National Cabinet agreement in Victoria

25. In accordance with that agreement of National Cabinet, in the exercise of powers conferred by ss 199 and 200 of the PHW Act, persons arriving in Victoria from overseas on or after midnight on 28 March 2020 (**returned travellers**) were detained in a specified hotel (a **quarantine hotel**) for a period of 14 days on the basis that the detention was reasonably necessary for the purpose of eliminating or reducing a serious risk to public health, namely, the COVID-19 pandemic (**quarantine detention**).
26. The first returned travellers detained in quarantine detention in Victoria were detained on 29 March 2020.

Infection prevention and control measures at quarantine hotels

27. At all material times, in order to prevent or minimise the likelihood and/or risk of transmission of SARS-CoV-2 from returned travellers at quarantine hotels to private security guards, hotel staff or other persons working at those hotels (**workers**), it was necessary to implement infection prevention and control (**IPC**) measures of the following kinds:

Training

- (a) the training of all workers, prior to commencing work, in:
- (i) the personal protective equipment (**PPE**) required to be worn depending on the activity being undertaken by the worker (as described in subparagraphs (c) to (e) below);
 - (ii) how to don (put on) and doff (take off) PPE correctly (as described in subparagraphs (f) and (g) below);
 - (iii) when and how to dispose of and replace PPE (as described in subparagraph (h) below);

- (iv) hand hygiene (as described in subparagraph (i) below); and
 - (v) physical (or “social”) distancing (as described in subparagraph (j) below);
- (b) the demonstration, by all workers, prior to commencing work, that they understood the training pleaded in subparagraph (a) above;

Particulars

Demonstrating that a worker understood how to don and doff PPE correctly involved the worker physically doing so while being observed by a person who knew how to do so. Demonstrating that a worker understood the other elements of the training pleaded in subparagraph (a) above could be achieved by way of the worker passing a written or oral test.

PPE usage

- (c) the wearing at all times, by all workers, of a single-use surgical mask, save when eating or drinking on a break during a shift;
- (d) for any worker undertaking activities that required, or were reasonably likely to require, coming within 1.5 metres of a returned traveller, the wearing, when undertaking those activities, of the following additional PPE:
 - (i) single-use eye protection (a face shield, goggles or protective glasses);
 - (ii) single-use non-porous gloves; and
 - (iii) a single-use long-sleeved gown;

Particulars

Activities that required, or were reasonably likely to require, coming within 1.5 metres of a returned traveller included escorting returned travellers to their rooms, escorting returned travellers on “fresh air” breaks, and entering rooms occupied by returned travellers.

- (e) for any worker coming into contact with an object or surface touched by a returned traveller that had not been cleaned and/or disinfected, the wearing, when coming into contact with such an object or surface, of the same PPE identified in subparagraph (d);

Particulars

Objects or surfaces touched by returned travellers included items placed by returned travellers outside the doors of rooms for collection (such as bags of rubbish and used linen) and the luggage of returned travellers.

- (f) the donning of PPE as follows:
 - (i) performing hand hygiene (as described in subparagraph (i) below) immediately prior to putting on items of PPE;
 - (ii) when activities of the kind referred to in subparagraphs (d) and (e) above were to be performed, putting on a gown;
 - (iii) putting on a surgical mask so that it fits snugly to the face, covering the nose and mouth;
 - (iv) when activities of the kind referred to in subparagraphs (d) and (e) above were to be performed, putting on eye protection; and
 - (v) when activities of the kind referred to in subparagraphs (d) and (e) above were to be performed, putting on gloves;
- (g) the doffing of PPE so as to minimise the risk of transmission of any SARS-CoV-2 on the surface of the PPE, such doffing always to include:
 - (i) the removal of the mask by the ear loops or straps (and not by touching the potentially contaminated body of the mask);
 - (ii) the removal of other items of PPE according to the technique appropriate to the particular item in question; and
 - (iii) performing hand hygiene (as described in subparagraph (i) below) immediately after doffing and disposal;

Particulars

There was more than one technique for the doffing of PPE so as to minimise the risk of transmission of SARS-CoV-2, and the procedure might vary depending on the type of PPE used. One method was to: remove any gloves using the “beaking” method; perform hand hygiene; remove any gown by avoiding contact with the potentially contaminated surfaces of the gown; perform hand hygiene; remove any eye protection by the rear

band, straps, or side arms (depending on the type of eye protection); remove any mask by the ear loops or straps; and perform hand hygiene. Further particulars may be provided following expert evidence.

- (h) the disposal of PPE by placing the PPE into bins designated for the receipt of infectious or potentially infectious waste (the PPE having been doffed in accordance with subparagraph (g) above) and the replacement (as required) of the PPE (the PPE being donned in accordance with subparagraph (f) above):
 - (i) after contact with a returned traveller, or with an object or surface touched by a returned traveller that had not been cleaned and/or disinfected;
 - (ii) immediately prior to commencing a break during a shift or resuming work from a break during a shift; and
 - (iii) immediately prior to departing the hotel at the end of a shift;

Hand hygiene

- (i) the washing of hands with soap and water for at least 20 seconds, or the application of disinfecting rub to hands:
 - (i) as part of the donning and doffing of PPE (in accordance with subparagraphs (f) and (g) above); and
 - (ii) to the extent of any contact with a returned traveller, or with an object or surface touched by a returned traveller that had not been cleaned and/or disinfected, where gloves had not been worn, as soon as possible after such contact;

Physical distancing

- (j) the maintaining of at least 1.5 metres between persons at the hotels whenever possible;

Supervision and auditing

- (k) the presence, on-site at the hotels, at least during daylight hours, of a person with IPC expertise with responsibility for supervising the implementation of IPC measures at the hotels;

Particulars

Supervising the implementation of IPC measures included observing whether persons working at the hotels were complying with the PPE usage, hand hygiene, and physical distancing requirements pleaded in subparagraphs (c) to (j) above.

- (l) audits of the extent of compliance by workers with:
 - (i) the IPC training requirements pleaded in subparagraphs (a) and (b) above; and
 - (ii) the PPE usage, hand hygiene, and physical distancing requirements pleaded in subparagraphs (c) to (j) above;

so as to identify any deficiencies in the implementation of IPC measures requiring rectification; and

Particulars

The frequency with which it was necessary to conduct audits depended on the turnover of the workforce at the hotel and whether the hotel was a “hot hotel” (that is, a quarantine hotel at which persons who were confirmed to have COVID-19 were detained). A hotel at which the workforce remained stable required less frequent audits than a hotel at which the workforce had a high degree of turnover. A hot hotel required more frequent audits than a hotel that was not a hot hotel. Further particulars may be provided following discovery and expert evidence.

- (m) the rectification of any deficiencies in the implementation of IPC measures identified through the supervision and/or audits referred to in subparagraphs (k) and (l) above.

Particulars

Possible rectification measures included additional training, the replacement of any staff who, despite training, were not correctly observing the IPC measures pleaded in subparagraphs (c) to (j) above, and the revision of guidance, protocols and procedures.

28. At all material times:
- (a) a failure to implement one or more of the IPC measures pleaded in paragraph 27 above would increase the likelihood and/or risk of transmission of SARS-CoV-2 from returned travellers at quarantine hotels to workers; and
 - (b) the more substantial the failure, the higher the likelihood and/or risk of such transmission.

D. DUTY OF CARE

The role of DHHS in implementing quarantine detention

DHHS's constant on-site presence at quarantine hotels

29. During the period 30 March 2020 to 18 June 2020 (the **relevant period**):
- (a) for the purpose of implementing the quarantine detention of returned travellers, representatives of DHHS were stationed at each quarantine hotel at all times; and
 - (b) representatives of DHHS thereby had the opportunity to observe, and to become aware of, the extent of implementation of IPC measures at each quarantine hotel.

Particulars

DHHS representatives stationed at each quarantine hotel included team leaders and authorised officers. Further particulars may be provided following discovery.

DHHS's procurement of services at quarantine hotels

30. During the relevant period, for the purpose of implementing the quarantine detention of returned travellers, DHHS procured the services at quarantine hotels of:
- (a) nurses;
 - (b) mental health nurses; and
 - (c) doctors.

Particulars

Contractors engaged by DHHS to provide nurses, mental health nurses, and doctors at quarantine hotels included Your Nursing Agency

(Victoria) Pty Ltd (nurses), Australasian Nursing Agency Pty Ltd trading as SwingShift Nurses (mental health nurses), and Onsite Doctor Pty Ltd (doctors). Further particulars may be provided following discovery.

DHHS's supply of PPE to certain workers at quarantine hotels

31. During the relevant period, for the purpose of implementing the quarantine detention of returned travellers, DHHS supplied PPE to certain workers at quarantine hotels, including its own representatives and private contractors engaged by it to provide services at quarantine hotels.

The role of DJPR in implementing quarantine detention

32. During the relevant period, for the purpose of implementing the quarantine detention of returned travellers, DJPR:
- (a) procured the services of hotel operators (that is, companies that owned or operated hotels); and
 - (b) procured the services of private security companies.

Particulars

1. The hotel operators engaged by DJPR were the operators of: Crown Promenade, Crown Metropol, Novotel on Collins, Novotel South Wharf, Travelodge Docklands, Travelodge Southbank, Crowne Plaza, Marriot Exhibition Street, Holiday Inn Flinders Lane, Holiday Inn Airport, Pan Pacific, Comfort Inn Portland, Grand Chancellor, Mercure Welcome, Pullman, ParkRoyal, Sheraton Four Points, Rydges on Swanston located in Carlton (**Rydges**), and Stamford Plaza Melbourne located in the Melbourne central business district (**Stamford Plaza**).
2. The private security companies engaged by DJPR were Wilson Security Pty Ltd, MSS Security Pty Ltd (**MSS Security**), and Unified Security Group (Australia) Pty Ltd (**Unified Security**).

The defendants' knowledge

33. By at least 30 March 2020, each of the Minister for Health, the Minister for Jobs, the Secretary of DHHS, and the Secretary of DJPR knew or ought to have known the matters pleaded in paragraphs 8, 14, 15, 16, 17, 19, 20, 21, 22, 23, 24, 25, and 26 above.

Particulars

The matters identified in those paragraphs were all matters of public knowledge and/or matters of interest or concern to the Victorian Government, and, in particular, to the Ministers and Secretaries of the departments responsible for implementing quarantine detention. In many cases, they were the subject of announcements by the Victorian Government.

34. By at least 30 March 2020, each of the Minister for Health and the Secretary of DHHS knew or ought to have known the matters pleaded in paragraph 29 above.

Particulars

The Minister for Health and the Secretary of DHHS's knowledge that DHHS had a constant on-site presence at quarantine hotels is to be inferred from their roles. As pleaded in paragraph 4 above, the Minister for Health was the Minister responsible for DHHS, and had specific responsibility, by way of a separate ministry, for leading all activities of DHHS in response to the COVID-19 pandemic; and, as pleaded in paragraph 6 above, the Secretary of DHHS was the Department Head of DHHS.

35. By at least 30 March 2020, the Minister for Jobs knew or ought to have known the matters pleaded in paragraph 32 above.

Particulars

As pleaded in paragraph 5 above, the Minister for Jobs was the Minister responsible for DJPR, and also had specific responsibility, by way of a separate ministry, for leading all activities of DJPR in response to the COVID-19 pandemic. The procurement of the services of hotel operators and private security companies at quarantine hotels were basic and important functions of DJPR in the implementation of quarantine detention. The Minister for Jobs' knowledge is to be inferred on those bases.

36. By at least 30 March 2020, the Secretary of DJPR knew the matters pleaded in paragraph 32 above.

Particulars

The Secretary of DJPR was personally involved in procuring the services pleaded in paragraph 32, including by personally executing contracts with private security companies and authorising the execution of contracts with hotel operators. Further particulars may be provided following discovery.

37. By at least 30 March 2020, it was reasonably foreseeable, and each of the Minister for Health, the Minister for Jobs, the Secretary of DHHS, and the Secretary of DJPR knew or ought to have known that:
- (a) if no IPC measures were implemented at quarantine hotels, or if such IPC measures as were implemented at quarantine hotels were not measures of a kind apt to prevent or minimise the likelihood and/or risk of transmission of SARS-CoV-2 from returned travellers at quarantine hotels to workers at the hotels, it was likely, or there was a substantial risk, that:
 - (i) COVID-19 would spread from returned travellers at quarantine hotels to workers at those hotels and, in turn, from those workers to the broader Victorian community; and
 - (ii) if that occurred, “stage 3” or greater COVID-19 restrictions would continue to be imposed in Victoria or, to the extent that such restrictions had been eased, would be re-imposed;

Particulars.

1. The defendants’ knowledge that, if no IPC measures were implemented at quarantine hotels, or if such IPC measures as were implemented at quarantine hotels were not measures of a kind apt to prevent or minimise the likelihood and/or risk of transmission of SARS-CoV-2 from returned travellers at quarantine hotels to workers at the hotels, it was likely, or there was a substantial risk, that COVID-19 would spread from returned travellers at quarantine hotels to workers at those hotels and, in turn, from those workers to the broader Victorian community is to be inferred from the defendants’ knowledge that COVID-19 was a highly infectious disease, pleaded in paragraph 8 above.
 2. The defendants’ knowledge that it was likely, or there was a substantial risk, that “stage 3” or greater COVID-19 restrictions would continue to be imposed or re-imposed as a result of community spread is to be inferred from the defendants’ knowledge of what occurred on and prior to 30 March 2020. As pleaded in paragraphs 19 to 23 above, what occurred in that period was an upwards trend in daily COVID-19 cases matched by a progressive upscaling of restrictions from “stage 1” to “stage 2” to “stage 3” restrictions.
- (b) the continued imposition, or the re-imposition, of “stage 3” or greater COVID-19 restrictions in Victoria would likely:

- (i) involve the closure or restricted operation of retail businesses in Victoria;
- (ii) involve restrictions on the reasons for which members of the general public in Victoria would be permitted to leave their homes, and/or the duration of time for which members of the general public in Victoria would be permitted to leave their homes, impeding the ability of the general public in Victoria to attend the premises of retail businesses; and
- (iii) thereby prevent the plaintiff and Group Members from supplying, or restrict the ability of the plaintiff and Group Members to supply, goods or services to members of the general public at premises in Victoria and/or prevent or restrict attendance by members of the general public at such premises to acquire goods or services; and

Particulars

The defendants' knowledge is to be inferred from the nature and effect of the "stage 3" restrictions that were imposed on 30 March 2020 (pleaded in paragraphs 22 and 23 above). The nature of those restrictions, and their effect on the operation of retail businesses and the movement of the public, were matters of public knowledge, matters of interest or concern to the Victorian Government, and the subject of announcements by the Victorian Government. They were of a similar kind to well-publicised restrictions that had been ~~been~~ imposed in overseas jurisdictions, including Italy.

- (c) the plaintiff and Group Members were likely to suffer economic loss if such restrictions continued to be imposed, or were re-imposed.

Particulars

The plaintiff and Group Members are persons who carried on businesses the ordinary operations of which involved the attendance by members of the general public at premises physically located in Victoria for the acquisition of goods or services supplied at those premises (see paragraph 1 above). Economic loss on the part of those who carried on such businesses is the natural and ordinary consequence of: (a) requiring the closure or restricting the operation of such businesses; and/or (b) preventing or restricting members of the public from attending upon such businesses. The defendants' knowledge is to be inferred on that basis.

The vulnerability of the plaintiff and Group Members

38. At all material times, the plaintiff and Group Members:
- (a) were unable to protect themselves from the consequences of COVID-19 restrictions that prevented them from supplying, or restricted their ability to supply, goods or services to members of the general public at premises in Victoria, or prevented or restricted the attendance by members of the general public at those premises; and
 - (b) were therefore vulnerable to any want of care leading to the continued imposition or re-imposition of those prohibitions or restrictions.

Duty of care owed to the plaintiff and Group Members

39. By at least 30 March 2020, each of the Minister for Health, the Minister for Jobs, the Secretary of DHHS, and the Secretary of DJPR owed the plaintiff and Group Members a duty to take reasonable care in relation to the implementation of IPC measures at quarantine hotels to avoid foreseeable economic loss on the part of the plaintiff and Group Members, by reason of:
- (a) in the case of all of those defendants, the matters pleaded in paragraphs 33, 37, and 38 above;
 - (b) additionally:
 - (i) in the case of the Minister for Health and the Secretary of DHHS, the matters pleaded in paragraph 34 above;
 - (ii) in the case of the Minister for Jobs, the matters pleaded in paragraph 35 above; and
 - (iii) in the case of the Secretary of DJPR, the matters pleaded in paragraph 36 above.

What the duty of care required of the defendants

40. ~~In the premises~~ By reason of the same matters pleaded in paragraph 39(a) and (b) above, the duty of care required each of the Minister for Health, the Minister for Jobs, the Secretary of DHHS, and the Secretary of DJPR to:
- (a) ask DHHS or DJPR (as the case may be):
 - (i) whether it had obtained advice, from a person with expertise in IPC, on:
 - (A) the risk of transmission of SARS-CoV-2 from returned travellers to workers at quarantine hotels; and
 - (B) what, if any, IPC measures needed to be implemented to minimise that risk
(IPC advice); and
 - (ii) whether it had, as necessary, implemented any such advice; and
 - (b) to the extent that IPC advice had not been obtained and/or had not, as necessary, been implemented, procure that DHHS or DJPR (as the case may be) take those steps.

Particulars

As pleaded at paragraph 134(c) below, had any of the Minister for Health, the Minister for Jobs, the Secretary of DHHS, and the Secretary of DJPR procured that his or her department obtain and, as necessary, implement IPC advice, IPC measures of the kind pleaded in paragraph 27 would have been implemented by DHHS or DJPR at Rydges and Stamford Plaza. Steps DHHS or DJPR could have taken to implement those measures included: (a) arranging for the provision of training referred to in paragraph 27(a) and (b) above; (b) advising private security companies and hotel operators of the PPE usage, hand hygiene, and social distancing requirements referred to in paragraph 27(c) to (j) above; (c) arranging for the supply, as required, of the PPE referred to in paragraph 27(c) to (e) above; and (d) arranging for the provision of the supervision and/or auditing referred to in paragraph 27(k) to (m) above.

E. BREACHES OF DUTY

Rydges commences operation as a quarantine hotel

41. On or about 30 March 2020, DJPR engaged the operator of Rydges, Charlor Pty Ltd, in relation to the provision of Rydges as a quarantine hotel.
42. On 12 April 2020, Rydges began operating as a quarantine hotel.
43. DJPR engaged Unified Security to provide private security guards at Rydges in the period 12 April 2020 to at least 30 June 2020.
44. From around late April 2020, Rydges transitioned to operating as a particular type of quarantine hotel known as a “hot hotel”, being a quarantine hotel at which persons who were confirmed to have COVID-19 were detained.

Stamford Plaza commences operation as a quarantine hotel

45. On or about 11 April 2020, DJPR engaged the operator of Stamford Plaza, SPM (1994) Pty Ltd, in relation to the provision of Stamford Plaza as a quarantine hotel.
46. On 30 April 2020, Stamford Plaza began operating as a quarantine hotel.
47. DJPR engaged MSS Security to provide private security guards at Stamford Plaza in the period 30 April 2020 to at least 2 July 2020.

Breaches of duty: Minister for Health and Secretary of DHHS

48. In the relevant period, each of the Minister for Health and the Secretary of DHHS breached the duty of care by:
 - (a) failing to ask DHHS whether it had obtained and/or whether it had, as necessary, implemented IPC advice; and
 - (b) failing to procure that DHHS obtain and/or implement IPC advice in respect of Rydges and Stamford Plaza.

Particulars

As pleaded at paragraph 134(c) below, had either of the Minister for Health and the Secretary of DHHS procured that DHHS obtain and implement IPC advice in respect of Rydges and Stamford Plaza, DHHS would have implemented the IPC measures pleaded in paragraph 27 at those hotels. As to the ways in which DHHS could

have implemented those measures, the plaintiff refers to the particulars to paragraph 40 above.

Breaches of duty: Minister for Jobs and Secretary of DJPR

49. In the relevant period, each of the Minister for Jobs and the Secretary of DJPR breached the duty of care by:
- (a) failing to ask DJPR whether it had obtained and/or whether it had, as necessary, implemented IPC advice; and
 - (b) failing to procure that DJPR obtain and/or implement IPC advice in respect of Rydges and Stamford Plaza.

Particulars

As pleaded at paragraph 134(c) below, had either of the Minister for Jobs and the Secretary of DJPR procured that DJPR obtain and implement IPC advice in respect of Rydges and Stamford Plaza, DJPR would have implemented the IPC measures pleaded in paragraph 27 at those hotels. As to the ways in which DJPR could have implemented those measures, the plaintiff refers to the particulars to paragraph 40 above.

F. CAUSATION AND LOSS

First wave subsides and restrictions are eased

50. Between 12 April 2020 and 22 June 2020, new daily confirmed COVID-19 cases in Victoria never exceeded 25 cases.
51. On 11 May 2020, the Premier of Victoria announced that certain of the “stage 3” restrictions in Victoria would be lifted and that the situation would be reviewed through the month of May.

Particulars

Statement from the Premier on 11 May 2020.

52. On 17 May 2020, the Victorian Government announced that, from 1 June 2020, restaurants and cafes would be able to resume dine-in service.

Particulars

Announcement entitled “Victoria’s plan to reopen restaurants and cafes” dated 17 May 2020.

53. On 24 May 2020, the Victorian Government announced that a gradual easing of restrictions was planned for social events and ceremonies, fitness, sport and recreation, personal services, cafes and restaurants, travel and leisure, and culture and entertainment from 1 June 2020.

Particulars

Announcement entitled “Victoria’s Restriction Levels” published on 24 May 2020.

54. From 1 June 2020:
- (a) restrictions on the permissible purposes for which Victorians could leave their homes were no longer imposed; and
 - (b) certain dine-in services for food and drink facilities, and the limited operation of other entertainment and other retail facilities, were permitted.

Particulars

Stay Safe Directions given on 31 May 2020 under s 200 of the PHW Act.

Restricted Activity Directions (No 9) given on 31 May 2020 under s 200 of the PHW Act.

55. From 22 June 2020, restrictions in respect of the operation of retail businesses, including restaurants, cafes, licensed premises, and entertainment and retail facilities, were further eased.

Particulars

Restricted Activity Directions (No 10) given on 21 June 2020 under s 200 of the PHW Act.

Tasks performed at Rydges by private security guards and hotel staff prior to the outbreak at that hotel

56. Prior to 25 May 2020, the tasks that private security guards engaged by Unified Security performed at Rydges included:
- (a) escorting returned travellers on “fresh air” breaks outside their rooms;
 - (b) attending disturbances created by returned travellers in their rooms;

- (c) handling the luggage of returned travellers upon their arrival at the hotel; and
 - (d) cleaning certain surfaces at the hotel, including door handles.
57. Prior to 25 May 2020, the tasks that staff engaged by the operator of Rydges performed at Rydges included:
- (a) cleaning certain surfaces at the hotel, including a lift used by returned travellers; and
 - (b) removing bags of rubbish and other items left by returned travellers outside their rooms.

IPC standards at Rydges prior to the outbreak at that hotel

Lack of training

58. Prior to 25 May 2020:
- (a) private security guards engaged by Unified Security to work at Rydges did not receive or undertake the training described in paragraph 27(a) and (b) above; and
 - (b) staff engaged by the operator of Rydges to work at Rydges did not receive or undertake the training described in paragraph 27(a) and (b) above.
59. ~~In the premises~~ By reason of the matters pleaded in paragraph 58 above, prior to 25 May 2020, those workers did not, or did not all, understand:
- (a) the PPE they needed to wear to protect themselves from contracting SARS-CoV-2 when undertaking a given activity, such as when escorting returned travellers on a “fresh air” break or removing items left by returned travellers outside the doors of their rooms for collection;
 - (b) how to don and doff PPE correctly;
 - (c) when and how to dispose of and replace PPE; and
 - (d) hand hygiene.

Particulars

Further particulars may be provided following discovery.

Lack of or incorrect PPE usage

60. Prior to 25 ~~March~~May 2020, PPE was not used in the manner described in paragraph 27(c) to (h) above:
- (a) by private security guards engaged by Unified Security to work at Rydges; and
 - (b) by staff engaged by the operator of Rydges to work at Rydges.
61. Instead, prior to 25 May 2020:
- (a) private security guards engaged by Unified Security to work at Rydges:
 - (i) often did not wear masks during shifts;
 - (ii) to the extent that they wore gloves at all, wore porous gloves;
 - (iii) never wore gowns or eye protection, even when escorting returned travellers on “fresh air” breaks;
 - (iv) were supplied with, at most, one mask and one set of gloves for the entirety of their shifts;
 - (v) were instructed to reuse, and did reuse, after a break during a shift, the same PPE they had used (and removed) prior to that break; and
 - (b) staff engaged by the operator of Rydges to work at Rydges did not wear eye protection or gowns when:
 - (i) cleaning the lift used by returned travellers; and
 - (ii) removing bags of rubbish and other items left by returned travellers outside their rooms.

Lack of hand hygiene

62. Prior to 25 May 2020, private security guards engaged by Unified Security to work at Rydges and staff engaged by the operator of Rydges to work at that hotel regularly did not observe hand hygiene in accordance with paragraph 27(i) above.

Lack of supervision and auditing

63. Prior to 25 May 2020:
- (a) no person with IPC expertise with responsibility for supervising the implementation of IPC measures, as described in paragraph 27(k) above, was ever stationed at Rydges;
 - (b) no audit of IPC measures, as described in paragraph 27(l) above, was ever carried out at Rydges; and
 - (c) in the premises by reason of the matters pleaded in subparagraphs (a) and (b) above, no rectification of the IPC deficiencies pleaded in paragraphs 58 to 62 above, of the kind described in paragraph 27(m) above, ever occurred at Rydges.

Erroneous or non-existent IPC advice

64. Prior to 25 May 2020, the only advice that DHHS (or any other department of the Victorian Government) provided to Unified Security as to the IPC measures to be observed by private security guards at quarantine hotels was a document entitled “PPE Advice for Hotel-Based Security Staff & AOs in Contact with Quarantined Clients” **(May PPE document)**.
65. The May PPE document:
- (a) was not provided by DHHS to Unified Security until 12 May 2020, one month into the operation of Rydges as a quarantine hotel; and
 - (b) was erroneous in material respects.

Particulars

1. The May PPE document erroneously stated that private security guards did not have to wear any PPE at all while working in a range of scenarios at quarantine hotels (cf. paragraph 27(c) to (e) above).
2. The May PPE document erroneously recommended against the wearing of gloves (cf. paragraph 27(d) and (e) above).
3. The May PPE document made no mention of eye protection and gowns (cf. paragraph 27(d) and (e) above).
4. The May PPE document made no mention of the disposal and replacement of PPE (cf. paragraph 27(h) above).

5. Further particulars may be provided following expert evidence.
66. Prior to 25 May 2020, neither DHHS nor any other department of the Victorian Government provided to the operator of Rydges any advice as to the IPC measures to be observed by staff engaged by that hotel operator at quarantine hotels.

Outbreak at Rydges

Family of four carrying SARS-CoV-2 is detained at Rydges

67. On 15 May 2020, a family of four returned travellers, two of whom had been diagnosed with COVID-19, was transferred from the Crown Promenade quarantine hotel to Rydges.
68. On 17 May 2020, a third member of the family was diagnosed with COVID-19.
69. On 18 May 2020, the fourth and final member of the family was diagnosed with COVID-19.

Epidemiological links to Rydges

70. On 25 May 2020, two private security guards and one hotel worker who worked at Rydges while the family of four was detained there started showing symptoms of COVID-19, each of whom was subsequently diagnosed with COVID-19.
71. On 27 May 2020, a third private security guard who worked at Rydges while the family of four was detained there started showing symptoms of COVID-19, and was subsequently diagnosed with COVID-19.
72. On or about 27 May 2020, a fourth private security guard who worked at Rydges while the family of four was detained there was tested for COVID-19, and that test subsequently returned a positive result.
73. On or about 28 May 2020, a fifth private security guard who worked at Rydges while the family of four was detained there was tested for COVID-19, and that test subsequently returned a positive result.
74. On 29 May 2020, a mental health nurse who worked at Rydges while the family of four was detained there started showing symptoms of COVID-19, and was subsequently diagnosed with COVID-19.

75. On 4 June 2020, a sixth private security guard who worked at Rydges while the family of four was detained there started showing symptoms of COVID-19, and was subsequently diagnosed with COVID-19.
76. By 18 June 2020, 17 COVID-19 cases in Victoria had been epidemiologically linked to the family of four at Rydges, comprising:
- (a) the eight persons identified in paragraphs 70 to 75 above who worked at Rydges while the family of four was detained there; and
 - (b) nine household or social contacts of those eight persons.

Genomic links to Rydges

77. As at 31 July 2020, DHHS had procured genomic sequence reports for 14 of the 17 cases epidemiologically linked to the family of four at Rydges referred to in paragraph 76 above.
78. All 14 of the cases referred to in paragraph 77 above cluster genomically with:
- (a) the family of four returned travellers; and
 - (b) each other.

Transmission from returned travellers at Rydges to workers at that hotel

79. ~~In the premises,~~ Prior to 25 May 2020, SARS-CoV-2 was transmitted from a member or members of the family of four returned travellers detained at Rydges to one or more of the six private security guards and one hotel worker identified in paragraphs 70, 71, 72, 73 and 75 above.

Particulars

1. That SARS-CoV-2 was transmitted from the family of four to one or more of the seven workers identified above is to be inferred from:
 - A. the combination of epidemiological and genomic data pleaded in paragraphs 70 to 78 above;
 - B. the tasks performed by those workers at Rydges pleaded in paragraphs 56 and 57 above.

Further particulars may be provided following discovery and expert evidence.

2. That transmission occurred prior to 25 May 2020 is to be inferred from the fact that 25 May 2020 is the earliest date on which, to the plaintiff's knowledge, workers at Rydges started showing symptoms of COVID-19.

Tasks performed at Stamford Plaza by private security guards engaged by MSS Security prior to the outbreaks at that hotel

80. Prior to 18 June 2020, the tasks that private security guards engaged by MSS Security performed at Stamford Plaza included:
 - (a) escorting returned travellers on “fresh air” breaks outside their rooms;
 - (b) attending disturbances created by returned travellers in their rooms; and
 - (c) handling the luggage of returned travellers upon their arrival at the hotel.

IPC standards at Stamford Plaza prior to the outbreaks at that hotel

Lack of training

81. Prior to 18 June 2020, private security guards engaged by MSS Security to work at Stamford Plaza did not receive or undertake the training described in paragraph 27(a) and (b) above.
82. ~~In the premises~~ By reason of the matters pleaded in paragraph 81 above, prior to 18 June 2020, private security guards engaged by MSS Security to work at Stamford Plaza did not, or did not all, understand:
 - (a) the PPE they needed to wear to protect themselves from contracting SARS-CoV-2 when undertaking a given activity, such as when escorting returned travellers on a “fresh air” break;
 - (b) how to don and doff PPE correctly;
 - (c) when and how to dispose of and replace PPE;
 - (d) hand hygiene; and
 - (e) social distancing.

Lack of or incorrect PPE usage

83. Prior to 18 June 2020, private security guards engaged by MSS Security to work at Stamford Plaza did not use PPE in the manner described in paragraph 27(c) to (h) above.

84. Instead, prior to 18 June 2020, private security guards engaged by MSS Security to work at Stamford Plaza:
- (a) often did not wear masks during shifts;
 - (b) never wore gowns or eye protection, even when escorting returned travellers on “fresh air” breaks; and
 - (c) operated their mobile phones wearing gloves that had come into contact with objects or surfaces that had been touched by returned travellers and not yet cleaned and/or disinfected.

Lack of hand hygiene

85. Prior to 18 June 2020, private security guards engaged by MSS Security to work at Stamford Plaza regularly did not observe hand hygiene in accordance with paragraph 27(i) above.

Lack of physical distancing

86. Prior to 18 June 2020, private security guards engaged by MSS Security to work at Stamford Plaza regularly did not practise physical distancing in accordance with paragraph 27(j) above.

Lack of supervision and auditing

87. Prior to 18 June 2020:
- (a) no person with IPC expertise with responsibility for supervising the implementation of IPC measures, as described in paragraph 27(k) above, was ever stationed at Stamford Plaza;
 - (b) no audit of IPC measures, as described in paragraph 27(l) above, was ever carried out at Stamford Plaza; and
 - (c) in the premises by reason of the matters pleaded in subparagraphs (a) and (b) above, no rectification of the IPC deficiencies pleaded in paragraphs 81 to 86 above, of the kind described in paragraph 27(m) above, ever occurred at Stamford Plaza.

Erroneous advice as to IPC measures

88. Prior to 18 June 2020, the only advice that DHHS (or any other Victorian Government department) provided to MSS Security as to the IPC measures to be observed by private security guards at quarantine hotels was the following:
- (a) the May PPE document (provided on 29 May 2020); and
 - (b) a second version of the May PPE document also entitled “PPE Advice for Hotel-Based Security Staff & AOs in Contact with Quarantined Clients” (**June PPE document**).
89. The June PPE document:
- (a) was provided to MSS Security on 11 June 2020;
 - (b) was materially the same document as the May PPE document; and
 - (c) was thus likewise erroneous in material respects.

Particulars

The plaintiff refers to the particulars to paragraph 65(b) above.

Outbreaks at Stamford Plaza

Single returned traveller detained at Stamford Plaza starts showing symptoms of COVID-19

90. On 1 June 2020, a returned traveller who had commenced detention at Stamford Plaza on that day started showing symptoms of COVID-19, and was subsequently diagnosed with COVID-19.

Couple detained at Stamford Plaza start showing symptoms of COVID-19

91. On 11 June 2020, one of two returned travellers (a couple) who had commenced detention at Stamford Plaza on that day started showing symptoms of COVID-19, and was subsequently diagnosed with COVID-19.
92. On 12 June 2020, the second of the returned traveller couple started showing symptoms of COVID-19, and was subsequently diagnosed with COVID-19.

Epidemiological links to Stamford Plaza

93. On 10 June 2020, a private security guard who worked at Stamford Plaza started showing symptoms of COVID-19, and was subsequently diagnosed with COVID-19.
94. On 15 June 2020, another private security guard who worked at Stamford Plaza started showing symptoms of COVID-19, and was subsequently diagnosed with COVID-19.
95. By 13 July 2020, a total of 46 COVID-19 cases in Victoria had been epidemiologically linked to the Stamford Plaza COVID-19 cases referred to in paragraphs 90 to 92 comprising:
 - (a) 26 private security guards who worked at Stamford Plaza (including the two private security guards referred to in paragraphs 93 and 94 above);
 - (b) one nurse who worked at Stamford Plaza; and
 - (c) 19 social or household contacts of the 27 workers at Stamford Plaza referred to in subparagraphs (a) and (b) above.

Genomic links to Stamford Plaza

96. As at 31 July 2020, DHHS had procured genomic sequence reports for 35 of the 46 cases epidemiologically linked to the Stamford Plaza COVID-19 cases referred to in paragraph 95 above.
97. The genomic sequencing reports referred to in paragraph 96 disclosed two distinct transmission networks, namely:
 - (a) one transmission network arising from the single returned traveller referred to in paragraph 90 above; and
 - (b) one transmission network arising from the returned traveller couple referred to in paragraph 91 above.
98. All 35 of the cases referred to in paragraph 96 above cluster genomically with one or the other of the two transmission networks referred to in paragraph 97 above.

Transmission from returned travellers at Stamford Plaza to workers at that hotel

99. ~~In the premises~~ In respect of Stamford Plaza:

- (a) prior to 10 June 2020, SARS-CoV-2 was transmitted from the single returned traveller detained at Stamford Plaza identified in paragraph 90 above to one or more of the 26 private security guards identified in paragraph 95(a) above; and
- (b) on or shortly after 11 June 2020, SARS-CoV-2 was transmitted from one or both of the returned traveller couple detained at Stamford Plaza identified in paragraph 91 above to one or more of the 26 private security guards identified in paragraph 95(a) above.

Particulars

1. That SARS-CoV-2 was transmitted from the single returned traveller to one or more of the 26 private security guards is to be inferred from:
 - A. the combination of epidemiological and genomic data pleaded in paragraphs 93 to 98 above; and
 - B. the tasks performed by private security guards at Stamford Plaza prior to the outbreak, pleaded in paragraph 80 above.Further particulars may be provided following discovery and expert evidence.
2. That transmission from the single returned traveller occurred prior to 10 June 2020 is to be inferred from the fact that 10 June 2020 is the earliest date on which, to the plaintiff's knowledge, one of the 26 private security guard guards began to show symptoms of COVID-19 (that date being prior to the date on which the returned traveller couple commenced detention at Stamford Plaza). Further particulars may be provided following discovery and expert evidence.
3. That SARS-CoV-2 was transmitted from the returned traveller couple to one or more of the 26 private security guards is to be inferred from:
 - A. the combination of epidemiological and genomic data pleaded in paragraphs 93 to 98 above; and

B. the tasks performed by private security guards at Stamford Plaza prior to the outbreak, pleaded in paragraph 80 above.

Further particulars may be provided following discovery and expert evidence.

4. That transmission from the returned traveller couple occurred on or shortly after 11 June 2020 is to be inferred from the fact that 11 June 2020 is the earliest date on which one member of that couple started showing symptoms of COVID-19 and from the fact that the returned traveller couple did not commence their detention at Stamford Plaza prior to that date.

The start of the second wave in Victoria

100. Between 22 June 2020 and 30 June 2020, there was an upward trend in new daily confirmed cases of COVID-19 in Victoria.

Particulars

New daily confirmed cases of COVID-19 were:

- 17 on 22 June 2020
- 18 on 23 June 2020
- 33 on 24 June 2020
- 28 on 25 June 2020
- 40 on 26 June 2020
- 47 on 27 June 2020
- 69 on 28 June 2020
- 61 on 29 June 2020
- 76 on 30 June 2020.

101. On 30 June 2020, the Premier of Victoria:
 - (a) stated that genomic sequencing had revealed a number of coronavirus cases could be linked to staff members in hotel quarantine and that “[c]learly there has been a failure in the operation of this program”;
 - (b) announced that “stage 3” restrictions would be re-imposed in respect of certain postcodes in Melbourne;
 - (c) stated that he had ordered the establishment of an inquiry, led by a former judge, into the operation of the hotel quarantine program; and

- (d) stated that he had asked the Prime Minister to divert flights to other cities for the next two weeks while the hotel quarantine program was “reset ... under the supervision of Corrections Victoria”.

Particulars

Statement from the Premier made on 30 June 2020.

102. From 11.59 pm on 1 July 2020, “stage 3” restrictions were re-imposed in respect of certain postcodes in Melbourne.

Particulars

Stay at Home Directions (Restricted Postcodes) given on 1 July 2020 under s 200 of the PHW Act.

Restricted Activity Directions (Restricted Postcodes) given on 1 July 2020 under s 200 of the PHW Act.

103. Pursuant to the said “stage 3” restrictions:
- (a) certain businesses located in the relevant postcodes were not permitted to operate, or were restricted in their operations; and
 - (b) a person who ordinarily resided in the relevant postcodes was only permitted to leave the premises where the person ordinarily resided for certain specified reasons.

Particulars

Restricted Activity Directions (Restricted Postcodes), cll 5–7, 9–13.

Stay at Home Directions (Restricted Postcodes), cll 5–10.

104. By reason of the said “stage 3” restrictions:
- (a) the plaintiff was not permitted to operate, other than by the supply of takeaway food and drink;
 - (b) Group Members whose premises were located in the relevant postcodes were prohibited from supplying, or were restricted in their ability to supply, goods or services to members of the general public at those premises; and

- (c) residents of the relevant postcodes were prohibited from leaving their premises for the purpose of acquiring goods and services from Group Members, to the extent that doing so did not fall within the specified permissible reasons to leave their premises; and
- (d) the plaintiff and Group Members thereby suffered economic loss.

Particulars

1. From 2 July 2020 to 27 October 2020 (inclusive), the plaintiff closed its dine-in operations entirely and there was a dramatic decrease in the number of customers using its takeaway service. Further particulars will be provided prior to trial.
2. The losses suffered by Group Members include lost profits and wasted expenditure. Further particulars will be provided following the determination of the common questions.

Melbourne goes back into lockdown

105. Between 1 July 2020 and 7 July 2020, new daily confirmed cases of COVID-19 in Victoria continued to rise in an upward trend.

Particulars

New daily confirmed cases of COVID-19 were:

- 73 on 1 July 2020
 - 62 on 2 July 2020
 - 100 on 3 July 2020
 - 68 on 4 July 2020
 - 98 on 5 July 2020
 - 168 on 6 July 2020
 - 122 on 7 July 2020.
106. On 7 July 2020, the Premier of Victoria announced that “stage 3” restrictions would be reinstated across the metropolitan Melbourne area (including the Mornington Peninsula) (**metropolitan Melbourne**) and Mitchell Shire from 9 July 2020.

Particulars

Statement from the Premier made on 7 July 2020.

107. From 9 July 2020, “stage 3” restrictions were imposed on metropolitan Melbourne and Mitchell Shire.

Particulars

Stay at Home Directions (Restricted Areas) given on 8 July 2020 under s 200 of the PHW Act.

Restricted Activity Directions (Restricted Areas) given on 8 July 2020 under s 200 of the PHW Act.

108. Pursuant to the said “stage 3” restrictions:

- (a) certain businesses located in metropolitan Melbourne and Mitchell Shire were not permitted to operate, or were restricted in their operations; and
- (b) a person who ordinarily resided in metropolitan Melbourne and Mitchell Shire was only permitted to leave the premises where the person ordinarily resided for certain specified reasons.

Particulars

Restricted Activity Directions (Restricted Areas), cll 5–7, 9-13.

Stay at Home Directions (Restricted Areas), cll 5–10.

109. By reason of the said “stage 3” restrictions:

- (a) the plaintiff continued not to be permitted to operate, other than by the supply of takeaway food and drink;
- (b) Group Members whose premises were located in metropolitan Melbourne were prohibited from supplying, or were restricted in their ability to supply, goods or services to members of the general public at those premises;
- (c) residents of metropolitan Melbourne were prohibited from leaving their premises for the purpose of acquiring goods and services from Group Members, to the extent that doing so did not fall within the specified permissible reasons to leave their premises; and
- (d) the plaintiff and Group Members thereby suffered economic loss.

Particulars

The plaintiff refers to the particulars to paragraph 104 above.

“Stage 4” lockdown in Melbourne and “stage 3” lockdown for the rest of Victoria

110. From 8 July 2020 to 1 August 2020, new daily confirmed COVID-19 cases in Victoria continued to trend progressively upwards.

Particulars

New daily confirmed cases of COVID-19 were:

- 149 on 8 July 2020
- 143 on 9 July 2020
- 290 on 10 July 2020
- 256 on 11 July 2020
- 167 on 12 July 2020
- 248 on 13 July 2020
- 218 on 14 July 2020
- 295 on 15 July 2020
- 379 on 16 July 2020
- 211 on 17 July 2020
- 337 on 18 July 2020
- 262 on 19 July 2020
- 341 on 20 July 2020
- 436 on 21 July 2020
- 374 on 22 July 2020
- 287 on 23 July 2020
- 333 on 24 July 2020
- 408 on 25 July 2020
- 492 on 26 July 2020
- 358 on 27 July 2020
- 274 on 28 July 2020
- 626 on 29 July 2020
- 549 on 30 July 2020
- 368 on 31 July 2020
- 598 on 1 August 2020.

111. On 2 August 2020, the Premier of Victoria declared a state of disaster in relation to the whole of Victoria under s 23 of the *Emergency Management Act 1986* (Vic).

Particulars

Premier’s Declaration of a State of Disaster dated 2 August 2020.

112. From 2 August 2020, “stage 4” restrictions were imposed on metropolitan Melbourne.

Particulars

Stay at Home Directions (Restricted Areas) (No 6) given on 2 August 2020 under s 200 of the PHW Act.

Stay at Home Directions (Restricted Areas) (No 7) given on 2 August 2020 under s 200 of the PHW Act.

Restricted Activity Directions (Restricted Areas) (No 4) given on 2 August 2020 under s 200 of the PHW Act.

Restricted Activity Directions (Restricted Areas) (No 5) given on 2 August 2020 under s 200 of the PHW Act.

Stay Safe Directions (No 9) given on 2 August 2020 under s 200 of the PHW Act.

113. Pursuant to the said “stage 4” restrictions:

- (a) certain businesses located in metropolitan Melbourne were not permitted to operate, or were restricted in their operations;
- (b) a person who resided in metropolitan Melbourne was only permitted to leave the premises where the person ordinarily resided:
 - (i) for certain specified reasons;
 - (ii) to travel no further than 5 km from their premises;
 - (iii) once a day; and
 - (iv) subject to a curfew between the hours of 8.00 pm and 5.00 am (the **curfew**); and
- (c) a person who resided outside metropolitan Melbourne was only permitted to enter metropolitan Melbourne in the circumstances set out in subparagraph (b) above.

Particulars

Restricted Activity Directions (Restricted Areas) (No 4) and *Restricted Activity Directions (Restricted Areas) (No 5)*, cll 5–7, 9–13.

Stay at Home Directions (Restricted Areas) (No 6) and *Stay at Home Directions (Restricted Areas) (No 7)*, cll 5–10.

Stay Safe Directions (No 9), cl 5(2)(e).

114. By reason of the said “stage 4” restrictions:
- (a) the plaintiff continued not to be permitted to operate, other than by the supply of takeaway food and drink, and could not operate after 8.00 pm;
 - (b) Group Members whose premises were located in metropolitan Melbourne were prohibited from supplying, or were restricted in their ability to supply, goods or services to members of the general public at those premises;
 - (c) residents of metropolitan Melbourne were prohibited from leaving their premises for the purpose of acquiring goods and services from Group Members, to the extent that doing so did not fall within the specified permissible reasons to leave their premises or could not be done in accordance with the “stage 4” restrictions;
 - (d) residents of Victoria outside metropolitan Melbourne were prohibited from leaving their premises for the purpose of acquiring goods and services from Group Members whose premises were located in metropolitan Melbourne, to the extent that doing so did not fall within the specified permissible reasons to leave their premises or could not be done in accordance with the “stage 4” restrictions; and
 - (e) the plaintiff and Group Members thereby suffered economic loss.

Particulars

The plaintiff refers to the particulars to paragraph 104 above.

115. From 2 August 2020 to 5 August 2020, new daily confirmed COVID-19 cases in Victoria continued to be in triple-digit figures.

Particulars

New daily confirmed cases of COVID-19 were:

- 352 on 2 August 2020
- 403 on 3 August 2020
- 687 on 4 August 2020
- 444 on 5 August 2020.

116. From 6 August 2020:

- (a) workplace closures were imposed on businesses operating in metropolitan Melbourne as part of the “stage 4” restrictions, resulting in the forced closure or restricted operation of a range of businesses; and
- (b) “stage 3” restrictions were re-imposed on all of Victoria outside these areas.

Particulars

Stay at Home Directions (Restricted Areas) (No 8) given on 5 August 2020 under s 200 of the PHW Act.

Restricted Activity Directions (Restricted Areas) (No 6) given on 5 August 2020 under s 200 of the PHW Act.

Stay at Home Directions (Non-Melbourne) given on 5 August 2020 under s 200 of the PHW Act.

Restricted Activity Directions (Non-Melbourne) given on 5 August 2020 under s 200 of the PHW Act.

117. Pursuant to the said workplace closures, “stage 4”, and “stage 3” restrictions:

- (a) certain businesses located in metropolitan Melbourne (**Closed Work Premises**) were not permitted to allow persons to attend their premises except for certain purposes;
- (b) certain businesses located outside metropolitan Melbourne were not permitted to operate, or were restricted in their operations;
- (c) a person who ordinarily resided in metropolitan Melbourne was only permitted to leave the premises where the person ordinarily resided:
 - (i) for certain specified reasons;
 - (ii) to travel no further than 5 km from their premises;
 - (iii) once a day; and
 - (iv) subject to the curfew;

- (d) a person who ordinarily resided outside metropolitan Melbourne was only permitted to leave the premises where the person ordinarily resided for certain specified reasons; and
- (e) a person who resided outside metropolitan Melbourne was only permitted to enter metropolitan Melbourne in the circumstances set out in subparagraph (c) above.

Particulars

Restricted Activity Directions (Restricted Areas) (No 6), cl 7.

Stage 4 Restrictions – Permitted Work Premises located at www.dhha.vic.gov.au/business-industry-stage-4-restrictions-covid-19 as amended from time to time.

Restricted Activity Directions (Non-Melbourne), cl 5–7, 9-13.

Stay at Home Directions (Restricted Areas) (No 8), cl 5–10.

Stay at Home Directions (Non-Melbourne), cl 5–10.

118. By reason of the said workplace closures, “stage 4”, and “stage 3” restrictions:
- (a) the plaintiff continued not to be permitted to operate, other than by the supply of takeaway food and drink, and continued not to be permitted to operate after 8.00 pm;
 - (b) Group Members whose premises were located in metropolitan Melbourne and were Closed Work Premises were prohibited from supplying, or were restricted in their ability to supply, goods or services to members of the general public at those premises;
 - (c) Group Members whose premises were located outside metropolitan Melbourne were prohibited from supplying, or were restricted in their ability to supply, goods or services to members of the general public at those premises;
 - (d) residents of metropolitan Melbourne were prohibited from leaving their premises for the purpose of acquiring goods and services from Group Members, to the extent that doing so did not fall within the specified permissible reasons

to leave their premises or could not be done in accordance with the “stage 4” restrictions;

- (e) residents of Victoria outside metropolitan Melbourne were:
- (i) prohibited from leaving their premises for the purpose of acquiring goods and services from Group Members whose premises were located outside metropolitan Melbourne, to the extent that doing so did not fall within the specified permissible reasons to leave their premises; and
 - (ii) prohibited from leaving their premises for the purpose of acquiring goods and services from Group Members whose premises were located in metropolitan Melbourne, to the extent that doing so did not fall within the specified permissible reasons to leave their premises or could not be done in accordance with the “stage 4” restrictions; and
- (f) the plaintiff and Group Members thereby suffered economic loss.

Particulars

The plaintiff refers to the particulars to paragraph 104 above.

119. From 6 August 2020 to 16 August 2020, new daily confirmed COVID-19 cases in Victoria continued to be in triple-digit figures.

Particulars

New daily confirmed cases of COVID-19 were:

- 421 on 6 August 2020
- 455 on 7 August 2020
- 374 on 8 August 2020
- 310 on 9 August 2020
- 321 on 10 August 2020
- 400 on 11 August 2020
- 256 on 12 August 2020
- 360 on 13 August 2020
- 301 on 14 August 2020
- 267 on 15 August 2020
- 266 on 16 August 2020.

120. On 16 August 2020, “stage 4” restrictions for metropolitan Melbourne (including the workplace closures) and “stage 3” restrictions for the rest of Victoria were extended until 13 September 2020.

Particulars

Stay at Home Directions (Restricted Areas) (No 12) given on 16 August 2020 under s 200 of the PHW Act.

Restricted Activity Directions (Restricted Areas) (No 8) given on 16 August 2020 under s 200 of the PHW Act.

Stay at Home Directions (Non-Melbourne) (No 3) given on 16 August 2020 under s 200 of the PHW Act.

Restricted Activity Directions (Non-Melbourne) (No 3) given on 16 August 2020 under s 200 of the PHW Act.

121. New daily confirmed COVID-19 cases in Victoria:
- (a) continued to be in triple-digit figures until about 27 August 2020;
 - (b) thereafter, continued to be at least 20 cases per day until about 18 September 2020; and
 - (c) thereafter, gradually fell to steady single-digit figures by about 13 October 2020.
122. On 20 August 2020, those “stage 4” restrictions imposed by the *Stay at Home Directions (Restricted Areas) (No 12)* given on 16 August 2020 under s 200 of the PHW Act were revoked and immediately reimposed subject to a clarification regarding exercise.

Particulars

Stay at Home Directions (Restricted Areas) (No 13) given on 20 August 2020 under s 200 of the PHW Act.

123. On 27 August 2020:
- (a) those “stage 3” restrictions imposed by the *Stay at Home Directions (Restricted Areas) (No 13)* given on 20 August 2020 under s 200 of the PHW Act were

revoked and immediately reimposed subject to a clarification regarding access to funerals; and

- (b) those “stage 3” restrictions imposed by the *Stay at Home Directions (Non-Melbourne) (No 3)* given on 16 August 2020 under s 200 of the PHW Act were revoked and immediately reimposed subject to a clarification regarding access to funerals.

Particulars

Stay at Home Directions (Restricted Areas) (No 14) given on 27 August 2020 under s 200 of the PHW Act.

Stay at Home Directions (Non-Melbourne) (No 4) given on 27 August 2020 under s 200 of the PHW Act.

- 124. On 13 September 2020, “stage 4” restrictions for metropolitan Melbourne (including the workplace closures) and “stage 3” restrictions for the rest of Victoria were extended until 11 October 2020, subject to a change in the curfew timing from 8 pm to 5 am to 9 pm to 5 am.

Particulars

Stay at Home Directions (Restricted Areas) (No 15) given on 13 September 2020 under s 200 of the PHW Act.

Restricted Activity Directions (Restricted Areas) (No 9) given on 13 September 2020 under s 200 of the PHW Act.

Stay at Home Directions (Non-Melbourne) (No 5) given on 13 September 2020 under s 200 of the PHW Act.

Restricted Activity Directions (Non-Melbourne) (No 4) given on 13 September 2020 under s 200 of the PHW Act.

- 125. On 16 September 2020:
 - (a) those “stage 3” restrictions imposed by the *Stay at Home Directions (Non-Melbourne) (No 5)* given on 13 September 2020 under s 200 of the PHW Act were revoked and replaced by the *Stay Safe Directions (Non-Melbourne)* given on 16 September 2020, ending restrictions on leaving home for persons outside

metropolitan Melbourne subject to prohibitions on travelling to metropolitan Melbourne; and

Particulars

Stay Safe Directions (Non-Melbourne) given on 16 September 2020 under s 200 of the PHW Act.

- (b) those “stage 3” restrictions imposed by the *Restricted Activity Directions (Non-Melbourne) (No 4)* given on 13 September 2020 under s 200 of the PHW Act were revoked and immediately reimposed subject to the loosening of certain restrictions.

Particulars

Restricted Activity Directions (Non-Melbourne) (No 5) given on 16 September 2020 under s 200 of the PHW Act.

126. On 27 September 2020:

- (a) those “stage 4” restrictions imposed by the *Stay at Home Directions (Restricted Areas) (No 15)* given on 13 September 2020 under s 200 of the PHW Act were revoked and immediately reimposed subject to certain changes, including the removal of the curfew;

Particulars

Stay at Home Directions (Restricted Areas) (No 16) given on 27 September 2020 under s 200 of the PHW Act.

- (b) those “stage 4” restrictions imposed by the *Restricted Activity Directions (Restricted Areas) (No 9)* (including the workplace closures) given on 13 September 2020 under s 200 of the PHW Act were revoked and immediately reimposed subject to certain changes;

Particulars

Restricted Activity Directions (Restricted Areas) (No 10) given on 27 September 2020 under s 200 of the PHW Act.

- (c) those restrictions imposed by the *Stay Safe Directions (Non-Melbourne)* given on 16 September 2020 were revoked and immediately reimposed subject to certain changes; and

Particulars

Stay Safe Directions (Non-Melbourne) (No 2) given on 27 September 2020 under s 200 of the PHW Act.

- (d) those restrictions imposed by the “stage 3” *Restricted Activity Directions (Non-Melbourne) (No 5)* given on 16 September 2020 under s 200 of the PHW Act were revoked and immediately reimposed subject to certain changes.

Particulars

Restricted Activity Directions (Non-Melbourne) (No 6) given on 27 September 2020 under s 200 of the PHW Act.

127. On 4 October 2020:

- (a) the *Stay at Home Directions (Restricted Areas) (No 16)* given on 27 September 2020 under s 200 of the PHW Act;
- (b) the *Restricted Activity Directions (Restricted Areas) (No 10)* given on 27 September 2020 under s 200 of the PHW Act; and
- (c) the *Stay Safe Directions (Non-Melbourne) (No 2)* given on 27 September 2020 under s 200 of the PHW Act;

was each revoked and immediately reimposed subject to certain changes.

Particulars

Restricted Activity Directions (Restricted Areas) (No 11) given on 4 October 2020 under s 200 of the PHW Act.

Stay at Home Directions (Restricted Areas) (No 17) given on 4 October 2020 under s 200 of the PHW Act.

Stay Safe Directions (Non-Melbourne) (No 3) given on 4 October 2020 under s 200 of the PHW Act.

128. On 11 October 2020, “stage 4” restrictions for Melbourne (including the workplace closures) and “stage 3” and other restrictions were extended until 8 November 2020.

Particulars

Stay at Home Directions (Restricted Areas) (No 18) given on 11 October 2020 under s 200 of the PHW Act.

Restricted Activity Directions (Restricted Areas) (No 12) given on 11 October 2020 under s 200 of the PHW Act.

Stay Safe Directions (Non-Melbourne) (No 4) given on 11 October 2020 given under s 200 of the PHW Act.

Restricted Activity Directions (Non-Melbourne) (No 7) given on 11 October 2020 given under s 200 of the PHW Act.

129. On 18 October 2020, the directions set out in the particulars to paragraph 128 above were revoked and immediately reimposed subject to certain changes.

Particulars

Stay at Home Directions (Restricted Areas) (No 19) given on 18 October 2020 under s 200 of the PHW Act.

Restricted Activity Directions (Restricted Areas) (No 13) given on 18 October 2020 under s 200 of the PHW Act.

Stay Safe Directions (Non-Melbourne) (No 5) given on 18 October 2020 under s 200 of the PHW Act.

Restricted Activity Directions (Non-Melbourne) (No 8) given on 18 October 2020 under s 200 of the PHW Act.

130. On 25 October 2020, the *Restricted Activity Directions (Non-Melbourne) (No 8)* given on 18 October 2020 under s 200 of the PHW Act were revoked and immediately reimposed subject to certain changes.

Particulars

Restricted Activity Directions (Non-Melbourne) (No 9) given on 25 October 2020 under s 200 of the PHW Act.

131. On 26 October 2020, the *Restricted Activity Directions (Restricted Areas) (No 13)* given on 18 October 2020 under s 200 of the PHW Act were revoked and immediately reimposed subject to certain changes to allow for “essential pre-opening activities”.

Particulars

Restricted Activity Directions (Restricted Areas) (No 14) given on 26 October 2020 under s 200 of the PHW Act.

132. On 27 October 2020:

- (a) the *Stay at Home Directions (Restricted Areas) (No 19)* given on 18 October 2020 under s 200 of the PHW Act; and
- (b) the *Restricted Activity Directions (Restricted Areas) (No 14)* given on 26 October 2020 under s 200 of the PHW Act;

were revoked, ending 112 days of the second-wave lockdown in metropolitan Melbourne.

Particulars

Stay Safe Directions (Melbourne) given on 27 October 2020 under s 200 of the PHW Act.

Restricted Activity Directions (Melbourne) given on 27 October 2020 under s 200 of the PHW Act.

133. By reason of the restrictions referred to in paragraphs 120, 122, 123, 124, 125, 126, 127, 128, 129, 130, and 131 above, the effects on or in relation to the plaintiff and Group Members pleaded in paragraph 118 above, including the economic loss suffered by the plaintiff and Group Members, continued until 27 October 2020, subject to:
- (a) the effect described in paragraph 118(e)(i) above ceasing on 16 September 2020;
 - (b) the curfew timing changing, on 11.59 pm on 13 September 2020, from 8 pm to 5 am to 9 pm to 5 am, as pleaded in paragraph 124 above; and
 - (c) the removal of the curfew on 27 September 2020, as pleaded in paragraph 126 above.

The defendants' negligence and transmission from returned travellers to workers at Rydges and Stamford Plaza

134. In respect of each of the Minister for Health, the Minister for Jobs, the Secretary of DHHS, and the Secretary of DJPR, had the relevant defendant taken the steps pleaded in paragraph 40 above (and thus done what the duty of care required of him or her), that defendant would have, prior to 25 May 2020 (in respect of Rydges) and prior to 18 June 2020 (in respect of Stamford Plaza):

- (a) appreciated that IPC standards at Rydges and Stamford Plaza were as pleaded in paragraphs 58 to 66 and 81 to 89 above;
- (b) appreciated that IPC measures of the kind pleaded in paragraph 27 ought to have been, but had not been, implemented at Rydges and Stamford Plaza; and
- (c) procured the immediate implementation by DHHS or DJPR (as the case may be) of IPC measures of the kind pleaded in paragraph 27 at Rydges and Stamford Plaza.

135. In respect of each of the Minister for Health, the Minister for Jobs, the Secretary of DHHS, and the Secretary of DJPR, had the relevant defendant procured the implementation by DHHS or DJPR (as the case may be) of IPC measures of the kind pleaded in paragraph 27 above:

- (a) at Rydges, prior to the transmission of SARS-CoV-2 from returned travellers to workers at that hotel pleaded in paragraph 79;
- (b) at Stamford Plaza, prior to the transmission of SARS-CoV-2 from returned travellers to workers at that hotel pleaded in paragraph 99;

that transmission at those hotels would not have occurred.

Particulars

The lack of IPC measures of the kind pleaded in paragraph 27 above at each of Rydges and Stamford Plaza substantially increased the risk of transmission of SARS-CoV-2 from returned travellers to workers at those hotels and led to the actual transmission pleaded in paragraphs ~~79 89~~ and 99 above.

136. ~~In the premises~~ By reason of the matters pleaded in paragraph 134 to 135, in respect of each of the Minister for Health, the Minister for Jobs, the Secretary of DHHS, and the Secretary of DJPR, but for the relevant defendant's breaches of the duty of care, the transmission of SARS-CoV-2 from returned travellers to workers at Rydges pleaded in paragraph 79, and the transmission of SARS-CoV-2 from returned travellers to workers at Stamford Plaza pleaded in paragraph 99, would not have occurred.

Transmission from workers at Rydges and Stamford Plaza to other members of the Victorian community

137. The workers at Rydges and Stamford Plaza who contracted SARS-CoV-2 from returned travellers transmitted SARS-CoV-2 to other members of the Victorian community.

Particulars

The plaintiff refers to paragraphs 76(b) and 95(c) above and to paragraph 141 below. Further particulars may be provided following discovery and expert evidence.

138. ~~In the premises, but~~ But for the transmission of SARS-CoV-2 from returned travellers to workers at Rydges pleaded in paragraph 79, and the transmission of SARS-CoV-2 from returned travellers to workers at Stamford Plaza pleaded in paragraph 99, the subsequent transmission by those workers to other members of the Victorian community as pleaded in paragraph 137 would not have occurred.
139. ~~In the premises~~ By reason of the matters pleaded in paragraphs 136 and 138, in respect of each of the Minister for Health, the Minister for Jobs, the Secretary of DHHS, and the Secretary of DJPR, but for the breach of the duty of care by the relevant defendant, the transmission of SARS-CoV-2 from workers at Rydges and workers at Stamford Plaza to other members of the Victorian community pleaded in paragraph 137 above would not have occurred.

On-transmission within the Victorian community

140. Members of the Victorian community who contracted SARS-CoV-2 from the workers at Rydges and Stamford Plaza (who contracted it from returned travellers) transmitted SARS-CoV-2 to other members of the community.

Particulars

The plaintiff refers to paragraph 141 below.

141. As at 18 August 2020:
- (a) DHHS had procured genomic sequencing of 4,981 COVID-19 cases since 26 May 2020; and
 - (b) of those:

- (i) 3,594 clustered genomically with cases from Rydges;
- (ii) 110 clustered genomically with cases from Stamford Plaza.

Particulars

The foregoing are the best particulars the plaintiff has on the material presently available to it. Further particulars may be provided following discovery and expert evidence.

142. As at 18 August 2020, the only instances of community transmission unrelated to the outbreaks at Rydges and Stamford Plaza were:

- (a) two cases who:
 - (i) developed symptoms on 28 June 2020 and 29 June 2020;
 - (ii) clustered genomically with each other;
 - (iii) did not cluster genomically with any other cases; and
 - (iv) did not transmit SARS-CoV-2 to anyone else; and
- (b) another two cases who:
 - (i) developed COVID-19 symptoms on 2 July and between 19 June and 9 July;
 - (ii) clustered genomically with each other;
 - (iii) did not cluster genomically with any other cases; and
 - (iv) did not transmit SARS-CoV-2 to anyone else.

143. ~~In the premises~~ But for the transmission of SARS-CoV-2 by workers at Rydges and Stamford Plaza to other members of the Victorian community, the transmission by those members of the Victorian community to other members of the Victorian community as pleaded in paragraph 140 (the second wave) would not have occurred.

Particulars

The matters pleaded in paragraph 143 above may be inferred from the matters pleaded in paragraphs 141 and 142 above. The community spread constituting the second wave is pleaded in paragraphs 100, 105, 110, 115, 119, and 121 above.

144. ~~In the premises~~ By reason of the matters pleaded in 136, 139 and 143, in respect of each of the Minister for Health, the Minister for Jobs, the Secretary of DHHS, and the Secretary of DJPR, but for the relevant defendant's breach of the duty of care, the second wave would not have occurred.

The second wave and the COVID-19 restrictions

145. But for the second wave, each of the following COVID-19 restrictions would not have been imposed:

- (a) the "stage 3" restrictions imposed in certain postcodes from 1 July 2020 pleaded in paragraph 102 above;
- (b) the "stage 3" restrictions imposed in metropolitan Melbourne and Mitchell Shire from 9 July 2020 pleaded in paragraphs 107, 123 above;
- (c) the "stage 4" restrictions imposed in metropolitan Melbourne from 2 August 2020 pleaded in paragraphs 112, 120, 122, 124, 126, 127, 128, 129, and 131 above;
- (d) the workplace closures imposed on businesses in metropolitan Melbourne from 6 August 2020 pleaded in paragraphs 116, 120, 124, 126, 127, 128, 129, and 131 above; and
- (e) the "stage 3" and other restrictions imposed in Victoria outside metropolitan Melbourne from 6 August 2020 pleaded in paragraphs 116, 120, 123, 124, 125, 126, 127, 128, 129, 130 above.

Particulars

The link between the second wave and the imposition of the restrictions can be inferred from the case numbers that preceded those restrictions (pleaded in paragraphs 100, 105, 110, 115, 119, and 121 above), from the case numbers that preceded announced easing of restrictions (pleaded in paragraph 50 above), and from public pronouncements of the Victorian Government. Further particulars may be provided following discovery.

146. ~~In the premises~~ By reason of the matters pleaded in paragraphs 136, 139, 144 and 145, in respect of each of the Minister for Health, the Minister for Jobs, the Secretary of DHHS, and the Secretary of DJPR, but for the breach of the duty of care by the relevant

defendant, the COVID-19 restrictions pleaded in paragraph 145 above would not have been imposed.

The COVID-19 restrictions and the plaintiff and Group Members' loss

147. But for the restrictions pleaded in paragraph 145 above, the plaintiff and Group Members would not have suffered the loss pleaded in paragraphs 104(d), 109(d), 114(e), 118(f), and 133 above.

Particulars

The plaintiff refers to paragraphs 104, 109, 114, 118, and 133 above.

148. ~~In the premises~~ By reason of the matters pleaded in paragraphs 136, 139, 144, 146 and 147, in respect of each of the Minister for Health, the Minister for Jobs, the Secretary of DHHS, and the Secretary of DJPR, but for the breaches of the duty of care by the relevant defendant, the plaintiff and Group Members would not have suffered the loss pleaded in paragraphs 104(d), 109(d), 114(e), 118(f), and 133 above.

Causation pursuant to s 51 of the *Wrongs Act 1958* (Vic)

149. ~~In the premises~~ By reason of the matters pleaded in paragraphs 136, 139, 144, 146, 147 and 148, in respect of each of the Minister for Health, the Minister for Jobs, the Secretary of DHHS, and the Secretary of DJPR, but for the relevant defendant's breach of the duty of care:
- (a) the transmission of SARS-CoV-2 from returned travellers to workers at Rydges pleaded in paragraph 79, and the transmission of SARS-CoV-2 from returned travellers to workers at Stamford Plaza pleaded in paragraph 99, would not have occurred;
 - (b) the transmission by those workers at Rydges and Stamford Plaza to other members of the Victorian community pleaded in paragraph 137 above would therefore not have occurred;
 - (c) the on-transmission constituting the second wave would therefore not have occurred;
 - (d) the restrictions pleaded in paragraph 145 above would not have been imposed;
- and

- (e) the plaintiff and Group Members would not have suffered the loss pleaded in paragraphs 104(d), 109(d), 114(e), 118(f), and 133 above.
150. ~~In the premises~~ By reason of the matters pleaded in paragraph 149 above, in respect of each of the Minister for Health, the Minister for Jobs, the Secretary of DHHS, and the Secretary of DJPR, the breach of duty by the relevant defendant was a necessary condition of the occurrence of the loss suffered by the plaintiff and Group Members within the meaning of s 51(1)(a) of the *Wrongs Act* 1958 (Vic).
151. Alternatively, if, ~~contrary to paragraph 150 above~~, in respect of each of the Minister for Health, the Minister for Jobs, the Secretary of DHHS, and the Secretary of DJPR, the breach of duty by the relevant defendant ~~was not~~ cannot be established as a necessary condition of the occurrence of the economic loss suffered by the plaintiff and Group Members within the meaning of s 51(1)(a) of the *Wrongs Act* 1958 (Vic):
- (a) because:
- (i) it is not possible on the current state of scientific knowledge as established on the evidence at trial to determine the precise mode or occasion of transmission by or on which SARS-CoV-2 was transmitted from returned travellers to workers; and
- (ii) it is for that reason not possible to prove the cause of the loss suffered by the plaintiff and Group Members; or

Particulars

For the avoidance of doubt, the plaintiff does not accept that it is necessary for it to prove the precise mode or occasion of transmission by or on which SARS-CoV-2 was transmitted from returned travellers to workers in order to satisfy s 51(1)(a) of the *Wrongs Act* 1958 (Vic).

- (b) because:
- (i) the relevant defendant establishes that there was another factor, separate from his or her breach of duty, that contributed to the loss suffered by the plaintiff and Group Members; and
- (ii) it is not possible to determine the relative contribution of those two separate factors to that loss;

then, in accordance with the principles identified in *Fairchild v Glenhaven Funeral Services Ltd* [2003] 1 AC 32 (in the case of the scenario referred to in subparagraph (a)) and in accordance with the principles identified in *Bonnington Castings Ltd v Wardlaw* [1956] AC 613 (in the case of the scenario referred to in subparagraph (b)), the breach of duty by the relevant defendant should be taken to establish factual causation pursuant to s 51(2) of the *Wrongs Act* 1958 (Vic) on the basis that it materially increased the risk that the plaintiff and Group Members would suffer the loss pleaded in paragraphs 104(d), 109(d), 114(e), 118(f) and 133 above.

~~(a) — materially increased the risk that the plaintiff and Group members would suffer the loss pleaded in paragraphs 104(d), 109(d), 114(e), 118(f), and 133 above; and~~

~~(b) — should be taken to establish factual causation pursuant to s 51(2) of the *Wrongs Act* 1958 (Vic).~~

Particulars

It will be appropriate for the Court to find that factual causation should be taken to have been established pursuant to s 51(2) of the *Wrongs Act* 1958 (Vic) because the conduct of each natural person defendant materially increased the risk of loss as follows:

1. In the premises of paragraphs 27, 28, 43, 47, 56, 57, 58 to 66, 80, 81 to 89 and 134 of the statement of the claim, in respect of each of the Minister for Health, the Minister for Jobs, the Secretary of DHHS and the Secretary of DJPR (hereafter, the **relevant defendants**), the failure to take the steps pleaded in paragraph 40 of the statement of claim (and thus to do what the duty of care required of him or her), as pleaded in paragraphs 48 and 49 of the statement of claim, materially increased the risk of:

(a) the transmission of SARS-CoV-2 from returned travellers to workers at Rydges pleaded in paragraph 79 of the statement of claim, and the transmission of SARS-CoV-2 from returned travellers to workers at Stamford Plaza pleaded in paragraph 99 of the statement of claim;

(b) further or alternatively, any transmission of SARS-CoV-2 from returned travellers to workers at Rydges and Stamford Plaza.

2. In the premises of:

- (a) paragraph 1(a) of these particulars, the negligence of each of the relevant defendants materially increased the risk of the transmission of SARS-CoV-2 by workers at Rydges and Stamford Plaza to other members of the Victorian community pleaded in paragraph 137 of the statement of claim;
 - (b) further or alternatively, paragraph 1(b) of these particulars, the negligence of each of the relevant defendants materially increased the risk of any transmission of SARS-CoV-2 by workers at Rydges and Stamford Plaza to other members of the Victorian community.
- 3. In the premises of:
 - (a) paragraph 2(a) of these particulars, the negligence of each of the relevant defendants materially increased the risk of the second wave;
 - (b) further or alternatively, paragraph 2(b) of these particulars, the negligence of each of the relevant defendants materially increased the risk of on-transmission of SARS-CoV-2 amongst the Victorian community.
- 4. In the premises of:
 - (a) Paragraph 3(a) of these particulars, the negligence of each of the relevant defendants materially increased the risk that the restrictions pleaded in paragraph 145 of the statement of claim would be imposed;
 - (b) further or alternatively, paragraph 3(b) of these particulars, the negligence of each of the relevant defendants materially increased the risk of “stage 3” or greater restrictions being imposed in Victoria.
- 5. In the premises of:
 - (a) paragraph 4(a) of these particulars, the negligence of each of the relevant defendants materially increased the risk that the plaintiff and Group Members would suffer the loss pleaded in paragraphs 104(d), 109(d), 114(e), 118(f) and 133 of the statement of claim;
 - (b) further or alternatively, paragraph 4(b) of these particulars, the negligence of each of the relevant defendants materially increased the risk that the plaintiff and Group Members would suffer the loss pleaded in paragraphs 104(d), 109(d), 114(e), 118(f) and 133 of the statement of claim or any equivalent loss.

6. For the avoidance of doubt, the plaintiff does not accept that it bears an onus to prove the matters referred to in paragraphs 1(b), 2(b), 3(b), 4(b) or 5(b) of these particulars.
152. In respect of each of the Minister for Health, the Minister for Jobs, the Secretary of DHHS, and the Secretary of DJPR, it is appropriate within the meaning of s 51(1)(b) of the *Wrongs Act* for the scope of the relevant defendant's liability to extend to the loss pleaded in paragraphs 104(d), 109(d), 114(e), 118(f), and 133 above.
153. ~~In the premises~~ By reason of the matters pleaded in paragraphs 150 and 152, or in the alternative the matters pleaded in paragraphs 151 and 152, in respect of each of the Minister for Health, the Minister for Jobs, the Secretary of DHHS, and the Secretary of DJPR, pursuant to s 51 of the *Wrongs Act* 1958 (Vic), the relevant defendant's negligence caused the loss pleaded in paragraphs 104(d), 109(d), 114(e), 118(f), and 133 above.
154. In respect of each of the Minister for Health, the Minister for Jobs, the Secretary of DHHS, and the Secretary of DJPR, had the relevant defendant not breached the duty of care, and had therefore procured the implementation at Rydges and Stamford Plaza of IPC measures of the kind pleaded in paragraph 27 above:
- (a) SARS-CoV-2 would not have been transmitted from a returned traveller detained at a quarantine hotel to a worker at a quarantine hotel;
 - (b) in turn:
 - (i) a worker at a quarantine hotel would not have transmitted SARS-CoV-2 to another member of the Victorian community;
 - (ii) there would not have been on-transmission amongst the Victorian community;
 - (iii) "stage 3" or greater restrictions would not have been imposed; and
 - (iv) the plaintiff and Group Members would not have suffered the loss pleaded in paragraphs 104(d), 109(d), 114(e), 118(f), and 133 above.

Particulars

1. The facts, matters and circumstances relied upon by the plaintiff in support of paragraph 154(a) are those articulated in paragraphs 134 to 136 of the statement of claim.

2. Further or in the alternative, in support of paragraph 154(a), if it is necessary to prove it in order to establish liability in negligence (which the plaintiff says it is not), the plaintiff:
 - (a) repeats paragraph 134 of the statement of claim;
 - (b) says that, in respect of each of the Minister for Health, the Minister for Jobs, the Secretary of DHHS, and the Secretary of DJPR, had the relevant defendant taken the steps pleaded in paragraph 135(a) and (b) of the statement of claim, then, on the balance of probabilities, no transmission of SARS-CoV-2 from a returned traveller to one or more workers at each of Rydges and Stamford Plaza would have occurred; and
 - (c) says that, in the premises of subparagraphs 2(a) and (b) of these particulars, in respect of each of the Minister for Health, the Minister for Jobs, the Secretary of DHHS, and the Secretary of DJPR, but for the relevant defendant's breaches of the duty of care, no transmission of SARS-CoV-2 from returned travellers to workers at Rydges and Stamford Plaza would have occurred.
3. The facts, matters and circumstances relied upon by the plaintiff in support of paragraph 154(b)(i) are:
 - (a) those articulated in paragraphs 137 to 139 of the statement of claim;
 - (b) further or in the alternative, that, in the premises of paragraph 2 of these particulars, but for the breach of the duty of care by each of the Minister for Health, the Minister for Jobs, the Secretary of DHHS, and the Secretary of DJPR, no transmission of SARS-CoV-2 from workers at Rydges and workers at Stamford Plaza to other members of the Victorian community pleaded would have occurred.
4. The facts, matters and circumstances relied upon by the plaintiff in support of paragraph 154(b)(ii) are:
 - (a) those articulated in paragraphs 140 to 144 of the statement of claim;
 - (b) further or in the alternative, that, in the premises of paragraphs 2 and 3(b) of these particulars, but for the breach of the duty of care by each of the Minister for Health, the Minister for Jobs, the Secretary of DHHS, and the Secretary of DJPR, there would have been no on-transmission of SARS-CoV-2 amongst the Victorian community.

5. The facts, matters and circumstances relied upon by the plaintiff in support of paragraph 154(b)(iii) are:
 - (a) those articulated in paragraphs 145 to 146 of the statement of claim;
 - (b) further or in the alternative, that, in the premises of paragraphs 2, 3(b) and 4(b) of these particulars, but for the breach of the duty of care by each of the Minister for Health, the Minister for Jobs, the Secretary of DHHS, and the Secretary of DJPR, “stage 3” or greater restrictions would not have been imposed in Victoria.

 6. The facts, matters and circumstances relied upon by the plaintiff in support of paragraph 154(b)(iv) are:
 - (a) those articulated in paragraphs 147 to 148 of the statement of claim;
 - (b) further or in the alternative, that, in the premises of paragraphs 2, 3(b), 4(b) and 5(b) of these particulars, but for the breach of the duty of care by each of the Minister for Health, the Minister for Jobs, the Secretary of DHHS, and the Secretary of DJPR, the plaintiff and Group Members would not have suffered the loss pleaded in paragraphs 104(d), 109(d), 114(e), 118(f) and 133 of the statement of claim or any equivalent loss.

 7. For the avoidance of doubt, the plaintiff does not accept that it bears an onus to prove the matters referred to in paragraphs 2, 3(b), 4(b), 5(b) or 6(b) above.
155. In the premises By reason of the matters pleaded in paragraphs 39 to 40, 48 to 49 and 153 above, alternatively those paragraphs and paragraph 154 above, the plaintiff and Group Members are entitled to damages for the loss caused by the negligence of each of the Minister for Health, the Minister for Jobs, the Secretary of DHHS, and the Secretary of DJPR.

Particulars

If it be necessary for the plaintiff to prove as much, which for the avoidance of doubt the plaintiff does not accept, ¶ the loss that the plaintiff and Group Members suffered by reason of the negligence of each of the Minister for Health, the Minister for Jobs, the Secretary of DHHS, and the Secretary of DJPR is not loss they would have suffered even if the aforementioned defendants had not been negligent. As pleaded in paragraph 154 above, had those defendants not been negligent

and therefore done what the duty of care required of them, SARS-CoV-2 would not have escaped quarantine hotels.

H. VICARIOUS LIABILITY OF THE STATE OF VICTORIA

156. Each of the Minister for Health, the Minister for Jobs, the Secretary of DHHS, and the Secretary of DJPR was at all material times a “servant or agent” of the State of Victoria within the meaning of s 23(1)(b) of the *Crown Proceedings Act* 1958 (Vic).
157. Each of the torts of those defendants pleaded in this statement of claim was committed in the course or scope of the relevant defendant’s employment or agency.
158. ~~In the premises~~ By reason of the matters pleaded in paragraphs 156 to 157, pursuant to s 23(1)(b) of the *Crown Proceedings Act* 1958 (Vic), the State of Victoria is liable for those torts.

I. COMMON QUESTIONS

Questions of law or fact common to the claims of the Group Members

159. The questions of law or fact common to the claims of the Group Members are as follows:
- (a) whether the facts in relation to quarantine detention, the outbreaks at Rydges and Stamford Plaza, and the second-wave lockdown are as pleaded in paragraphs 2 to 38, 41 to 149, 154, and 157 above;
 - (b) whether one or more of the Minister of Health, the Minister for Jobs, the Secretary of DHHS, and the Secretary of DJPR owed a duty to take reasonable care to avoid foreseeable economic loss to the Group Members;
 - (c) whether one or more of the Minister for Health, the Minister for Jobs, the Secretary of DHHS, and the Secretary of DJPR breached any such duty of care;
 - (d) whether any such breach caused loss to the Group Members within the meaning of s 51 of the *Wrongs Act* 1958 (Vic);
 - (e) whether the State of Victoria is vicariously liable for any negligence of the Minister for Health, the Minister for Jobs, the Secretary of DHHS, and the Secretary of DJPR; and

- (f) whether Group Members are entitled to damages for any loss caused by any negligence of the Minister for Health, the Minister for Jobs, the Secretary of DHHS, and the Secretary of DJPR.

AND THE PLAINTIFF CLAIMS ON ITS OWN BEHALF AND ON BEHALF OF GROUP MEMBERS:

1. Damages.
2. Interest.
3. Costs.
4. Such other or further order as the Court thinks fit.

Date: ~~25 March~~ 8 September 2022

W. A. HARRIS
A. M. HOCHROTH
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