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Ms Julie Nielsen
Executive Director, Health and Safety
WorkSafe Victoria
1 Malop Street Geelong 3220

By email only.

29 June 2021

Dear Ms Nielsen,

I refer to my letter of 29 September 2020 pursuant to s.131 of the Occupational Health and Safety Act 2004 (Vic) (the OH&S Act). I also refer to your letter of 29 June 2021 in which you state that WorkSafe's investigation, now some 12 months in duration, remains ongoing and at this time WorkSafe has not brought a prosecution.

Notwithstanding that at least 1 year and 3 months has now elapsed since the offences I listed were committed and that WorkSafe has been investigating the matters for a full year with a team of dedicated and experienced investigators, WorkSafe remains unable to make a decision as to whether to bring such prosecutions.

Therefore, pursuant to s.131(3) of the Act, I again formally request that all the matters detailed in the letter referred to above, be referred immediately to the DPP for her consideration and advice to WorkSafe, such advice setting out whether or not the DPP considers that prosecutions should be brought and which WorkSafe must subsequently consider to decide whether or not prosecutions will be brought (see ss.131(4) and (5)).

Once WorkSafe receives that advice from the DPP, it must be immediately provided to me (see s.131(5)).

I look forward to receiving that advice noting that the statutory limitation period for prosecutions for indictable offences to be brought by WorkSafe under the OHS Act will expire no later than mid 2022.

Further, I do not consider that WorkSafe's 3 monthly emails to me, which said nothing more than that its investigations were continuing, have been in compliance with its statutory duties. Nor do I believe that WorkSafe has complied with its obligations of transparency and consultation.

To that end, I once again request that you provide answers to my questions (listed below) in relation to the current status of the WorkSafe investigation. I trust that WorkSafe will not ignore my request as it has in the past.

As my previous request for a proper investigation status update noted, none of the answers to my questions could in any way prejudice the ongoing investigations but would clearly be in the spirit and compliance with WorkSafe's functions and purpose.

1. How many WorkSafe Inspectors and staff are assigned to the Hotel Quarantine Program investigation team
2. How, many requests for formal records of interview have been made to date?
3. How many persons have refused to attend a formal interview?
4. How many statements have been taken to date?
5. How many persons have refused to make a statement?
6. How many statutory directions requiring information and documents from entities and individuals have been made to date pursuant to ss.9 and/or 100 of the Occupational Health and Safety Act?

I look forward to receiving your investigation update.

Yours sincerely

Ken Phillips
Executive Director