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Mr. Ken Phillips
Executive Director
Self Employed Australia
PO BOX 13103
LAW COURTS VIC 8010

18 December 2020

By email only: kennethnormanphillips@gmail.com

Dear Mr. Phillips

Request for the Authority to investigate and prosecute pursuant to s.131 of the *Occupational Health and Safety Act 2004* ('the Act')

I refer to your request dated 29 September 2020 for WorkSafe Victoria to bring a prosecution against various individuals and entities involved with the Hotel Quarantine Program with respect to alleged indictable offences against the Act.

Pursuant to section 131(2A)(b) of the Act, please be advised that:

- WorkSafe's investigation in relation to the matters outlined in your request is still ongoing; and
- unless our investigation is completed beforehand, a further report will be given to you within 3 months of the date of this letter, and after every subsequent three-month period until the investigation is complete.

Please note that the obligations imposed by the Act with respect to requests made under section 131 differ according to whether the offence(s) to which the request relates are summary offences or indictable offences. In particular, the requirement that investigations be completed within 3 months of the date of the request applies to summary offences only. I draw your attention to subsections 131(2) and 131(2A).

At this point, WorkSafe is not in a position to say whether or when prosecution action will be brought as a result of its investigation. The matter is complex, involving multiple duty holders across multiple workplaces, including hotel operators, security companies and government entities involved in the program. It bears noting that while there is a considerable body of information on the public record arising from the Coate Inquiry, information, documents and other material provided to a Board of Inquiry is not necessarily admissible in a criminal proceeding (see, for example, s.80 of the Inquiries Act 2014), and of course it is incumbent on WorkSafe to satisfy itself, in accordance with its *General Prosecution Guidelines*, that any prosecution is based on admissible evidence capable of discharging the criminal burden of proof. WorkSafe is nevertheless committed to completing its investigation in a timely a manner as is reasonably practicable.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Gordon Cooper".

Gordon Cooper
Director
Enforcement Group