



Special Commission of Inquiry into the Ruby Princess

# EXHIBIT 126

Further Supplementary Voluntary Statement of the Commonwealth of  
Australia dated 3 August 2020



*Australian Government Solicitor*

**Further supplementary voluntary submission to  
the Special Commission of Inquiry into the  
Ruby Princess**

**Commonwealth of Australia (represented by the  
Department of Health, the Department of Home  
Affairs and the Department of Agriculture,  
Water and the Environment)**

**3 August 2020**

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### **Further supplementary submission**

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1. The Commonwealth has provided to the Commission a voluntary statement dated 12 June 2020 (Statement), a voluntary submission dated 16 July 2020 (Submission), and a supplementary voluntary submission dated 31 July 2020.
2. On 31 July 2020, the Commission wrote to the Commonwealth by email as follows:

The Commissioner notes the media reports that have emerged in the last 24 hours concerning the role of the ABF in relation to the arrival and disembarkation of the Ruby Princess in Sydney on 19 March 2020. In light of same, the Commissioner invites the Commonwealth to make a supplementary submission to the Commission addressing the issues canvassed in those reports, whilst also noting that he is not necessarily of the view that any such further submission is required.
3. This further supplementary submission is provided voluntarily in response to that invitation. It has been prepared by the Australian Government Solicitor and adopts the abbreviations used in, and should be read together with, the Statement and the Submission.
4. The Commonwealth is aware of media reporting which occurred shortly before, and continued after, the Commission's email of 31 July 2020, concerning the topics there mentioned. The tenor of at least some of the reporting is to the effect that passengers were allowed off the Ruby Princess after the ABF mistook negative flu tests for coronavirus test results. To the extent that the reporting suggests that ABF officers were responsible for making a decision to allow passengers to disembark and did so on the basis of misinterpreted test results, that inference should be rejected by the Commission. In this respect, the Commonwealth makes two short submissions.
5. First, the ABF officer the subject of the reporting provided immigration and customs clearance in respect of the vessel, not biosecurity clearance. None of the ABF officers carrying out duties at the Port of Sydney were appointed as 'biosecurity officers' for the purposes of the Biosecurity Act: Statement, [15]. Accordingly, none of the ABF officers in attendance at the arrival of the Ruby Princess on 19 March 2020 had statutory or administrative responsibility for the granting of pratique, or in relation to any other biosecurity clearance functions, under that Act: see, eg, Statement, [13].<sup>1</sup> The clearance to disembark requested of and provided by the relevant ABF officer to a member of the Ruby Princess crew was given after the conclusion of the ABF's customs and immigration checks (see Statement, [158]) and was clearance provided only in relation to functions performed under the Migration Act and Customs Act, as generally outlined in the Statement at [60]-[62] and [157]-[158].
6. Second, contrary to the tenor of some of the reporting, information about test results was not provided to ABF until *after* the conclusion of its 'customs and immigrations checks' (see Statement, [158]) and *after* the Ruby Princess commenced disembarking passengers: see Statement, [158], [162]; cf at [172]-[173].

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<sup>1</sup> This was specifically noted in the Statement at [173] in respect of the relevant officer.

7. The Commonwealth accepted in the Statement at [173] that the ABF officer the subject of the reporting appears to have misinterpreted the test results emailed to him by Carnival's port agent. However, this misinterpretation had no bearing on passengers being permitted to disembark or the granting of pratique as the ABF officer had no biosecurity role to play in those matters and the provision of the information about the test results did not occur until after passengers commenced disembarking.