

## **PUBLIC INQUIRY COVID-19 PROTOCOL – MARCH 2023**

### **1. GENERAL**

- 1.1 The Commission has decided that, until there is a substantial improvement in the COVID-19 situation in NSW, this Protocol will apply to the conduct of any public inquiry conducted by the Commission. The Commission reserves the right to change the Protocol at any time.
- 1.2 As a general rule (and subject to the screening process set out in this Protocol) those directly involved in the public inquiry on any given day (Commission officers, counsel assisting, the witness and his/her legal representative(s)) may attend the Commission’s hearing room on that day for the purpose of the public inquiry. Any attendance is subject to the limitations specified in this Protocol. Those wishing to attend remotely may, where able, participate remotely by audio visual link (AVL).
- 1.3 The maximum number of people to be accommodated in the hearing room at any time is 18. The Commission will determine who may be in the hearing room at any particular time and may require persons to participate in the public inquiry from elsewhere within the Commission’s premises or via AVL to ensure the number of people in the hearing room does not exceed 18.
- 1.4 Cisco Webex is the AVL technology used by the Commission for remote attendance at public inquiries remotely.
- 1.5 The management of COVID-19 in the community and the workplace is an evolving situation. Any person having any concerns about this Protocol or its implementation may raise those concerns with the Commission’s Chief Executive Officer. The Commission’s Chief Executive Officer will maintain regular contact with NSW Health and keep abreast of any advice that is publicly available on its COVID-19 website, to ensure that this Protocol appropriately reflects current health advice. The implementation of this Protocol will be monitored and regularly reviewed and, where appropriate, amended by the Commission’s Chief Executive Officer to ensure it remains appropriate.

### **2. PUBLIC AND MEDIA INVOLVEMENT**

- 2.1 Given the ongoing COVID-19 situation, the Commission has decided that members of the public and the media (except for the operators of any “pool” camera used to film the opening address of counsel assisting) will not be given access to the Commission’s premises for the purpose of observing the public inquiry.
- 2.2 Members of the public and the media will be able to observe the public inquiry through live-streaming and will be able to access transcripts and exhibits through the Commission’s website: [www.icac.nsw.gov.au](http://www.icac.nsw.gov.au).

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2.3 Members of the media can contact the Commission's Manager Communications and Media on 0417 467 801 or by email at [nthomas@icac.nsw.gov.au](mailto:nthomas@icac.nsw.gov.au) for additional information and assistance.

### **3. AUTHORISATION TO APPEAR AND LEGAL REPRESENTATION**

3.1 Applications for authority to appear and applications to be legally represented should be made in the week prior to the commencement of the public inquiry. They will be determined by the presiding Commissioner in chambers.

3.2 Persons anticipating they will need to appear at the public inquiry, or a specified part of the public inquiry, should make a written application (including by email) to the Commission for authorisation to appear (see paragraph 6 of the Standard Directions for Public Inquiries). The application should be emailed to Ephraim Tsun at [etsun@icac.nsw.gov.au](mailto:etsun@icac.nsw.gov.au). Such application should be made at least **three** working days before the commencement of the public inquiry.

3.3 Where the need to seek authorisation to appear only arises once the public inquiry is underway, the person seeking authorisation should email an application to Ephraim Tsun at [etsun@icac.nsw.gov.au](mailto:etsun@icac.nsw.gov.au) as soon as possible.

3.4 Applications for authorisation to be represented by an Australian legal practitioner at the public inquiry or a specified part of the public inquiry should be made in writing (including by email) to the Commission (see also paragraph 6 of the Standard Directions for Public Inquiries). The application should be emailed to Ephraim Tsun at [etsun@icac.nsw.gov.au](mailto:etsun@icac.nsw.gov.au). Such application should be made at least **three** working days before the commencement of the public inquiry.

3.5 Where the need to seek authorisation to be represented by an Australian legal practitioner only arises once the public inquiry is underway, the person seeking authorisation should email an application to Ephraim Tsun at [etsun@icac.nsw.gov.au](mailto:etsun@icac.nsw.gov.au) as soon as possible.

### **4. IDENTIFYING WHO WILL PARTICIPATE REMOTELY OR AT COMMISSION PREMISES**

4.1 Only fully vaccinated persons (persons who have received at least two doses of an Australian approved COVID-19 vaccine) and who have taken a Rapid Antigen Test that has not detected the presence of an antigen on the day of the attendance may attend Commission premises for the purposes of a public inquiry

4.2 Where it is proposed a witness is to participate in the public inquiry remotely, the case lawyer will, as soon as possible, contact the legal representative for the proposed witness (or the witness if he/she is not represented) to ascertain:

- whether the legal representative and the witness have access to the requisite equipment/technology and appropriate internet access to allow them to participate effectively in the public inquiry via AVL;

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- the email address to which the invitation to participate in the relevant AVL session is to be sent;
- the location from which the legal representative and witness will participate; and
- what arrangements will be put in place by the legal representative and witness to ensure any need for confidentiality that may arise during the public inquiry.

4.3 The Commission may conduct an AVL test run to ensure that it is feasible to have a witness and any legal representative participate remotely.

## **5. SITTING TIMES**

5.1 Sitting times will generally be between 10:00am to 4:00pm with a morning tea break and a lunch break between 1:00pm and 2:00pm.

## **6. PUBLICATION OF WITNESS LISTS**

6.1 The Commission will publish on its website prior to each week of the public inquiry the name of each witness who it is intended will give evidence during the following week and the day the person is likely to give evidence. This will allow those involved in the public inquiry to determine whether they need to participate via AVL on any given day to, for example, seek leave to cross-examine a witness.

6.2 Such lists may be altered during the course of the week to reflect the changing circumstances of the public inquiry. Any changes to the list will be published as soon as possible on the Commission's website

## **7. ACCESSING THE PUBLIC INQUIRY VIA AVL**

7.1 Those participating in the public inquiry via AVL should email Ephraim Tsun at [etsun@icac.nsw.gov.au](mailto:etsun@icac.nsw.gov.au) at least one working day before their anticipated participation with details of the time(s) they wish to access the public inquiry via AVL and the reason why access is required. This is so that appropriate arrangements can be made by the Commission.

7.2 The Commission reserves the right to prioritise AVL access.

7.3 Where the hearing is for a full day duration, relevant persons may receive two online hearing invites – one for the morning session and another for the afternoon session.

7.4 Persons who receive a link to join an online hearing via the AVL link are subject to being admitted or declined by the Commission.

7.5 Links to invitations must not be shared or forwarded to anyone.

7.6 When joining the online hearing, participants will be asked to enter their first name and surname. This name will be displayed for all participants to see.

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- 7.7 After ‘joining’ the online hearing, participants will enter a virtual lobby and will remain there until admitted by the Commission’s AVL operator into the online hearing.
- 7.8 Participants should join the online hearing **at least 10 minutes prior to the hearing commencement time** to allow sufficient time to address any technical issues.
- 7.9 Online hearings are being recorded by the Commission’s recording and transcription services contractor and through the AVL directly. Participation in an online hearing indicates the participant’s consent to being audio and visually recorded.
- 7.10 Unless directed otherwise by the presiding Commissioner, participants may wear headsets during the online hearing as this improves the audio quality for the other participants and for the recording made for the purpose of producing the transcript.
- 7.11 In the event of unforeseen and unavoidable technological issues, the Commission will temporarily adjourn to address those issues.
- 7.12 Except that persons addressing the Commission are not required to stand, the same formal etiquette and protocol of a physical attendance at a Commission hearing is expected for any online attendance.
- 7.13 The presiding Commissioner is to be addressed as ‘Commissioner’.
- 7.14 Participants are to join an online hearing from a quiet, secure location and should be seated in front of an appropriately neutral background.
- 7.15 Participants are expected to ensure that there is sufficient internet coverage in their location and all devices are fully charged.
- 7.16 Microphones and cameras are to be tested and working prior to joining an online hearing.
- 7.17 Other than the presiding Commissioner, counsel assisting, the witness and the witness’ legal representative (or person cross-examining the witness), all other participants should keep their microphones muted and cameras turned off.
- 7.18 Those speaking during the online hearing should do so clearly and avoid talking over other participants.

## **8. PRE-ATTENDANCE SCREENING OF THOSE ATTENDING COMMISSION PREMISES**

- 8.1 Only fully vaccinated persons (being persons who have received at least two doses of an Australian approved COVID-19 vaccine) and those who have taken a Rapid Antigen Test that has not detected the presence of an antigen on the day of the attendance are permitted to attend the Commission’s premises for the purposes of a public inquiry (this includes the presiding Commissioner, counsel assisting, Commission officers and anyone else).

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- 8.2 All persons identified by the Commission as being proposed to be accommodated in the Commission’s hearing room or office for the purpose of the public inquiry will be contacted by the case lawyer or case officer prior to their attendance to answer the screening questions at **Part 1 of Appendix A**.
- 8.3 If the person answers “yes” to any of questions 1, 2, 3, and 4 and/or answers “no” to question 6 they will be told not to attend the Commission. A witness will be advised that they may be required to confirm in writing relevant information in respect of their answers to questions 1, 2, 3, and 4 and also to submit a medical report by a registered medical practitioner to the Commission confirming that they are suffering from relevant symptoms.
- 8.4 A person answering “yes” to question 6 will be advised that they will need to provide proof of their vaccination.
- 8.5 Where a person answers “yes” to question 5, they will be asked to provide details of their concern. These concerns will be reported to the presiding Commissioner who will determine whether the person should attend the Commission or participate in the public inquiry remotely.
- 8.6 Where a person, who it is proposed be accommodated in the hearing room for the purpose of the public inquiry, answers “yes” to question 7 (and those concerns cannot be satisfactorily addressed), they will be asked to provide details of their concern. In the case of a witness, the concerns will be reported to the presiding Commissioner who will determine what steps should be taken. In the case of anyone else who is not a Commission officer, they will be told they will not be able to attend the Commission and will need to make arrangements to participate via AVL.

## **9. ARRIVAL FOR THOSE ATTENDING THE COMMISSION’S PREMISES**

- 9.1 The Commission will determine which persons, if any, will be allowed on Commission premises for the purposes of a public inquiry on any particular day.
- 9.2 The Commission’s Special Constables will not allow persons to enter the Commission’s premises unless they have been pre-approved for entry.
- 9.3 Persons, other than Commission officers and counsel assisting (visitors) attending the Commission’s premises for the public inquiry should arrive **no later than 9:15am** each day of the public inquiry so that there is time to complete the screening process before commencement of the public inquiry.
- 9.4 Visitors may enter the Commission’s 255 Elizabeth Street offices from one of two entrances, either Elizabeth Street or Castlereagh Street.
- 9.5 There are five lifts to the Commission’s hearing room on level 7 and their interiors are roughly 1.6 by 1.9 metres in size. The lifts buttons, both internal and external, are regularly wiped down by building management and there are markers on each lift floor indicating only three people should be in the lift at the same time.

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- 9.6 Upon arrival on level 7, visitors should enter the Commission’s reception area and proceed to the reception desk where a Special Constable will check they have been approved for entry and explain the procedure that will be followed to gain further access to the Commission’s premises. Visitors will be asked to use the hand sanitiser station adjacent to the reception area.
- 9.7 Upon attendance at the Commission’s premises all visitors are required to complete the Commission’s COVID-19 registration and a Rapid Antigen Test.
- 9.8 All persons who attend the Commission’s premises for the purpose of the public inquiry must, on arrival, answer the screening questions in **Part 1 of Appendix A**, complete a Rapid Antigen Test, the results of which will be recorded in **Parts 2 and 3 of Appendix A** or electronically. All responses will be retained by the Commission.
- 9.9 If, during the screening process, the person answers “yes” to any of questions 1, 2, 3, and 4 and/or answers “no” to question 6, they will be told to leave the Commission. A witness will be advised that they may be required to confirm in writing relevant information in respect of their answers to questions 1, 2, 3, and 4 and also to submit a medical report by a registered medical practitioner to the Commission confirming that they are suffering from relevant symptoms. Where a witness answers “yes” to question 5, they will be asked to provide details of their concern. These concerns will be reported to the presiding Commissioner who will determine whether the person should attend the Commission or participate in the public inquiry remotely.
- 9.10 If the person answers “yes” to question 6, they will be required to show evidence of having been fully vaccinated in order to be allowed to remain on Commission premises.
- 9.11 Where a person, who it is proposed be accommodated in the hearing room for the purpose of the public inquiry, answers “yes” to question 7 (and those concerns cannot be satisfactorily addressed), they will be asked to provide details of their concern. In the case of a witness, these concerns will be reported to the presiding Commissioner who will determine what steps should be taken. In the case of anyone else who is not a Commission officer, they will be told they will not be able to attend the Commission and will need to make arrangements to participate via AVL.
- 9.12 Once the Rapid Antigen Test has been taken and the screening process has been completed, any witness and any Australian legal practitioner representing the witness attending the Commission’s premises will be directed to place any bags they have on the conveyor belt of the x-ray machine and to proceed through the security scanner to the waiting area outside the main hearing room to await the result of their Rapid Antigen Test. Once a satisfactory Rapid Antigen Test result is available the person will be asked to proceed to the hearing room in which the compulsory examination is to be conducted. If the person’s Rapid Antigen Test detects the presence of an antigen they will be advised and asked to leave the Commission’s premises.

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## **10. THE HEARING ROOM & WAITING AREA**

- 10.1 The Commission's Special Constables control visitor access to the hearing room and the waiting area adjacent to the hearing room to ensure that the number of people in each space does not exceed relevant capacity.
- 10.2 Each position where people may sit in the hearing room and waiting area is clearly marked to ensure appropriate social distancing. No person should sit outside a marked area.
- 10.3 Hand sanitiser is provided and is to be used where necessary. Those attending the Commission should bring their own bottled water. The Commission will not provide jugs, glasses or water.
- 10.4 Persons in the hearing room, other than a witness when giving evidence (unless granted permission to do so by the presiding Commissioner), may wear a mask over the person's nose and mouth.
- 10.5 If any person present in the Commission's premises exhibits any signs of illness or reports feeling unwell they must leave immediately. The presiding Commissioner will determine immediately after such an event whether to suspend proceedings, following consultation with those present, to ensure the safety and wellbeing of all those present and to ensure that appropriate arrangements are taken to undertake cleaning of the premises. All such incidents will be reported to the Manager People, Governance and Security. All persons present on the premises at the time will be kept informed by the Commission of any developments following such an incident. In such event, the Manager People, Governance and Security will make a record of the event and the names of the persons present to enable consultation with NSW Health.

## **11. CONDUCT OF THE PUBLIC INQUIRY**

- 11.1 Subject to any modification by this Protocol, the Commission's Standard Directions for Public Inquiries applies. The Commission's Public Inquiry Procedural Guidelines also applies. These are published in the *Information for Witnesses* brochure served with each summons and can also be accessed from the Commission's website at [www.icac.nsw.gov.au](http://www.icac.nsw.gov.au).
- 11.2 As a general rule, during the public inquiry paper documents or other things should not be passed around within the hearing room. Electronic versions of documents to be put to the witness will be shown on the screens to reduce the risk of COVID-19 transmission. If the handling of any document or other thing is unavoidable, then those handling them should use the hand sanitiser provided before and after handling the document or other thing.

## **12. CLEANING**

- 12.1 The Commission will ensure that all hard surfaces in the Commission's premises used by those participating in the public inquiry will be thoroughly cleaned at the end of each day.

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12.2 If two or more witnesses are required to be physically present on any one day to give evidence, disinfectant will be available in the witness box for use by the next witness.

### **13. POST ATTENDANCE DIAGNOSIS**

13.1 Anyone who has attended the public inquiry who is diagnosed with COVID-19 within seven (7) days of their last attendance at the Commission should notify the Commission of the diagnosis as soon as possible.

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## APPENDIX A – SCREENING

**DATE:**  
**NAME:**

### PART 1

|   | <b>Question</b>   | <b>Y/N</b> | <b>Comments</b> |
|---|---|------------|-----------------|
| 1 | Have you or a household member been diagnosed with COVID-19 in the last five days?  |            |                 |
| 2 | Have you taken a test for COVID-19 for which you are awaiting the result?<br>If yes, when do you expect the result?   |            |                 |
| 3 | In the last five days, have you been in close physical contact with a person you know had COVID-19?   |            |                 |
| 4 | Do you have <i>any</i> flu-like symptoms including fever, cough, sore throat, runny nose, shortness of breath, or loss of taste or smell?   |            |                 |
| 5 | Do you have any concerns regarding attending the Commission due to any personal vulnerability to COVID-19 or any such vulnerability of a person with whom you are in regular contact?<br><br>If yes, please explain the concerns. |            |                 |
| 6 | Have you received at least two doses of an Australian approved COVID-19 vaccine (evidence to be sighted)?   |            |                 |
| 7 | Do you have any concerns about taking a Rapid Antigen Test upon arrival at the Commission's premises?   |            |                 |

### PART 2

| <b>RAPID ANTIGEN TEST (RAT)</b>                           | <b>Only required if attending a hearing</b> |
|---|---|
| <b><i>Tested on site</i></b><br>Is test result negative?  | <b>Y or N</b>                               |
| <b><i>Tested off site</i></b><br>Is test result negative? | <b>Y or N</b>                               |

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