

PUBLIC INQUIRY COVID-19 PROTOCOL – SEPTEMBER 2021

1. GENERAL

- 1.1 The Commission has decided that, until there is a substantial improvement in the COVID-19 situation in NSW, those involved in Commission hearings should, as far as practicable, participate remotely by audio visual link (AVL). Only those whose presence on Commission premises is deemed **essential** for the effective conduct of the public inquiry will be permitted on Commission premises for the purpose of a public inquiry. This will be determined on a case-by-case basis by the presiding Commissioner, but any attendance is subject to the limitations specified in this Protocol.
- 1.2 MS Teams is the AVL technology that will be used by the Commission to conduct public inquiries remotely.
- 1.3 The management of COVID-19 in the community and the workplace is a dynamic and rapidly 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 the 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 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.
- 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 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. 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 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. 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 as soon as possible.

4. IDENTIFYING WHO WILL PARTICIPATE REMOTELY OR AT COMMISSION PREMISES

- 4.1 No Commission officer or other person may attend Commission premises whose place of residence (whether permanent or temporary) is in an “area of concern” as specified in the Public Health (COVID-19 Additional Restrictions for Delta Outbreak) Order (No 2) 2021 (the Order).
- 4.2 A witness who does not reside in an “area of concern” may leave their residence to fulfil “legal obligations”. This would include a person summonsed to attend a public inquiry. As a general rule however, evidence will be taken from a witness remotely. Only if, in the opinion of the presiding Commissioner, there is a sound and compelling basis to require personal attendance should the witness attend the Commission’s premises.
- 4.3 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 MS Teams;

- the email address to which the invitation to participate in the relevant MS Teams 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.

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

4.5 For those participating remotely, the Commission recommends using a web browser other than Internet Explorer due to compatibility issues that may arise. The web browser may have limited features but the Commission does not believe this is an issue.

4.6 Participants may also wish to download the MS Teams Application from the Microsoft product website free of charge.

4.7 The Teams Application for iOS and Android are also available and free of charge however, features are limited. The Commission believes this could be an issue as viewing documents will be difficult and only encourages this option for parties who may not have the facilities, but do have access to a smartphone or tablet.

4.8 The MS Teams website and ‘Help’ section of the MS Teams application provides tips and advice about how to use the program.

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 witnesses 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 in the relevant MS Teams session 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 THROUGH MS TEAMS

7.1 Those participating in the public inquiry through MS Teams should email Ephraim Tsun at 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 through MS Teams 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 access through MS Teams.
- 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 MS Teams link are subject to being admitted or declined by the Commission.
- 7.5 Invited participants can “open up” the online hearing from the [Join Microsoft Teams Meeting](#) link in the online hearing invite.
- 7.6 Links to invitations must not be shared or forwarded to anyone.
- 7.7 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.
- 7.8 After ‘joining’ the online hearing, participants will enter a virtual lobby and will remain there until admitted by the Commission’s MS Teams operator into the online hearing.
- 7.9 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.
- 7.10 Online hearings are being recorded by the Commission’s recording and transcription services contractor and through MS Teams directly. Participation in an online hearing indicates the participant’s consent to being audio and visually recorded.
- 7.11 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.
- 7.12 In the event of unforeseen and unavoidable technological issues, the Commission will temporarily adjourn to address those issues.
- 7.13 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.
- 7.14 The presiding Commissioner is to be addressed as ‘Commissioner’.
- 7.15 Participants are to join an online hearing from a quiet, secure location and should be seated in front of an appropriately neutral background.
- 7.16 Participants are expected to ensure that there is sufficient internet coverage in their location and all devices are fully charged.
- 7.17 Microphones and cameras are to be tested and working prior to joining an online hearing. This can be managed through the MS Teams Device Settings.

7.18 MS Teams will accommodate up to nine active parties, but no more than six is preferable. If viewing the MS Teams session from a laptop (small screen) fewer parties are better. 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.

7.19 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 the required number of doses at required intervals of an Australian approved COVID-19 vaccine) 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).

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, 4, 5, and 6 and/or answers "no" to question 8 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, 4, 5 and 6 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 8 will be advised that they will need to provide proof of their vaccination.

8.5 Where a person answers "yes" to question 7, 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. TRAVELLING TO AND FROM THE COMMISSION

9.1 Persons who are required to be present at the Commission's premises for the purpose of a public inquiry may, if they need transport to and from the Commission's premises, travel by their own private vehicle or, if they do not have access to a vehicle, by hire car and park in the commercial carpark under the Commission premises or in other commercial parking stations nearby. The cost of any hire car and parking will be reimbursed by the Commission upon provision of a valid receipt.

9.2 The Commission will cover the reasonable travel and accommodation costs of those required to travel from country areas in order to participate in the public inquiry. Further details can be found in the *Information for Witnesses* brochure served with each summons. A copy of the brochure can also be accessed from the Commission's website at www.icac.nsw.gov.au.

10. ARRIVAL FOR THOSE ATTENDING THE COMMISSION'S PREMISES

10.1 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.

10.2 The Commission's Special Constables will not allow persons to enter the Commission's premises unless they have been pre-approved for entry.

10.3 Persons, other than Commission officers and Counsel Assisting (visitors) attending the Commission's premises for the public inquiry should arrive **no later than 9:40am** each day of the public inquiry so that there is time to complete the screening process before commencement of the public inquiry. Entry to the Commission's premises prior to 9:30am is not permitted.

10.4 Visitors may enter the Commission's 255 Elizabeth Street offices from one of two entrances, either Elizabeth Street or Castlereagh Street.

10.5 Visitors are required to complete COVID-19 registration at the reception desk or near the lifts on the ground floor of the building before proceeding to the Commission's offices on level 7.

10.6 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.

10.7 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.

10.8 All persons who attend the Commission's premises for the purpose of the public inquiry must, on arrival, also answer the screening questions in **Part 1 of Appendix A** and undertake a temperature test, the results of which will be recorded in **Part 2 of Appendix A**. The screening process and taking of temperatures will be conducted by a Special Constable. All responses will be retained by the Commission.

10.9 If the person answers "yes" to any of questions 1, 2, 3, 4, 5, and 6 and/or answers "no" to question 8 and/or their temperature is greater than 37.5, 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, 4, 5 and 6 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 7, 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.

- 10.10 If the person is not wearing a face mask, they will be provided with one and told to wear it at all times.
- 10.11 Once through screening, the visitor 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 large hearing room.
- 10.12 Temperature checks will also be taken by the Special Constable when persons return to the Commission’s premises for the continuation of the public inquiry following any luncheon adjournment.

11. THE HEARING ROOM & WAITING AREA

- 11.1 The Commission’s Special Constables will 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.
- 11.2 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.
- 11.3 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.
- 11.4 Each person attending Commission premises must comply with the requirements under any public health order to wear a mask over the person’s nose and mouth. Current restrictions require the wearing of a mask during the time a person is with other people in the hearing room or any other part of the Commission’s premises.
- 11.5 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 Human Resources, Security and Facilities. 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 Human Resources, Security and Facilities will make a record of the event and the names of the persons present to enable consultation with NSW Health.

12. CONDUCT OF THE PUBLIC INQUIRY

- 12.1 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.
- 12.2 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.

13. CLEANING

- 13.1 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.
- 13.2 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.

14. POST ATTENDANCE DIAGNOSIS

- 14.1 Anyone who has attended the public inquiry who is diagnosed with COVID-19 within fourteen (14) days of their last attendance at the Commission should notify the Commission of the diagnosis as soon as possible.

APPENDIX A – SCREENING

DATE:
NAME:

PART 1

	Question	Y/N	Comments
1	Do you have COVID-19?		
2	Have you taken a test for COVID-19 for which you are awaiting the result? (if “yes”, when do you expect the result?)		
3	Have you had any close contact with a COVID-19 positive case in the last 14 days?		
4	Are you required by NSW Health to self-isolate?		
5	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?		
6	Do you live in an “area of concern” as referred to in the Public Health (COVID-19 Additional Restrictions for Delta Outbreak) Order (No 2) 2021?		
7	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? (If “yes”, please explain the concerns).		
8	Are you fully vaccinated for COVID-19 (evidence to be sighted)?		

PART 2

Temperature Test	Time:	Time:	Time:
Is temperature is less than 37.5? Circle Yes or No.	Y or N	Y or N	Y or N
If temperature above 37.5, record reading.			