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OCOM 2020/677

Senator Katy Gallagher
Chair Senate Select Committee on COVID-19

Via email: covid.sen@aph.gov.au

Dear Senator

I refer to your letter of 12 August 2020 which invited me to reflect on evidence to the Committee on 5 May in relation to further information which has come to light, mainly through two submissions the Commonwealth has made to the New South Wales Special Commission of Inquiry into the Ruby Princess (the NSW Inquiry).

Your letter refers to Exhibit 114 and Exhibit 119 to the NSW Inquiry. These are two of the four voluntary statements made by the Commonwealth to the NSW Inquiry, dated 12 June 2020 and 16 July 2020. The Commonwealth has made two further voluntary statements to the NSW Inquiry dated 31 July and 3 August 2020, which are Exhibits 125 and 126 published on the website of the NSW Inquiry. For the Committee's convenience I provide these two further exhibits with this letter. I note that the exhibits are the same as the voluntary statements provided to the NSW Inquiry, but have a few redactions for privacy and other reasons that the NSW Inquiry agreed to.

I also provide a copy of a recent letter from the Attorney-General to the Shadow Attorney-General regarding the Commonwealth's co-operation with the NSW Inquiry. I note that this letter has been sent on the same day that the Report of the NSW Inquiry is due to be provided to the NSW government. However, that Report has not been published, and so this letter was prepared without being able to consider any findings or recommendations that may be made in that report.

Your letter states that the Commonwealth submissions to the NSW Inquiry reveal that:

- It was officials from Australian Border Force and the Department of Agriculture who were onboard the *Ruby Princess* on 19 March, and it was these officials that provided practical and formal pratique, which allowed Ruby Princess passengers to disembark.
- An Australian Border Force official provided 'practical pratique' – allowing the passengers to disembark – despite not having the legal authority to provide pratique, and before any Commonwealth official had received the health assessment from New South Wales Health or conducted the appropriate human health checks.
- Despite knowledge of ill passengers onboard with symptoms consistent with COVID-19, Department of Agriculture human biosecurity officials failed to conduct new health checks specifically required by the new "National Protocol for Managing Novel Coronavirus disease (COVID-19) risk from Cruise Ships".
- Tragically, Australian Border Force officials incorrectly read the tests results for sick passengers on the Ruby Princess – mistaking negative flu test results for negative COVID-19 test results – before allowing those passengers to disembark.

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In relation to these points I state as follows:

- With respect, the Commonwealth voluntary statements do not indicate that any ABF officer gave formal or practical pratique in relation to the Ruby Princess. Pratique is granted under the *Biosecurity Act 2015* by a *biosecurity officer*. None of the ABF officers attending the Ruby Princess on 19 March were appointed as biosecurity officers under the Biosecurity Act or otherwise had statutory or administrative responsibility for the granting of pratique, or in relation to any other biosecurity clearance functions under that Act. Nor did any ABF officer purport to give any kind of biosecurity clearance. The clearance that was requested of and provided by an ABF officer to a member of the Ruby Princess crew was given after the conclusion of customs and immigration checks and was clearance provided only in relation to functions performed under the Migration Act and Customs Act. Further, the comments in the Commonwealth voluntary statements regarding pratique clearly relate to whether pratique was granted by a DAWE officer. They contain no statement or indication that pratique was granted by an ABF officer. (Please see: Exhibit 126 at [5]; Exhibit 119 at [50] to [54]; Exhibit 114 at [15], [157] and [158].)
- Questions regarding what DAWE officers may have done regarding pratique should be addressed to DAWE.
- Whilst I agree that it appears an ABF officer misinterpreted test results for sick passengers on the Ruby Princess as being negative COVID-19 test results, that did not occur *before* passengers were allowed to disembark. It occurred *after* the Ruby Princess had commenced disembarking passengers. The misinterpretation had no bearing on passengers being permitted to disembark or the granting of pratique because the ABF officer had no biosecurity role in these matters, and the provision of information about test results did not occur until after passengers commenced disembarking, and after a DAWE biosecurity officer apparently granted formal pratique via the MARS system at 7:37am. (Please see: Exhibit 126 at [6], and Exhibit 119 at [51] and [52.2])
 - Further, in my view, the misinterpretation by the ABF officer was caused by a statement made to the officer by Carnival's port agent. The ABF officer recalls that that the Carnival port agent told him that the test results have come back negative. (Exhibit 114 at [172]) In context that could only be taken by the ABF officer that the swabs of Ruby Princess passengers which had been taken from the Ruby Princess that morning for COVID-19 testing had come back negative, for COVID. The ABF officer asked the port agent to send that information to him in writing in an email. The port agent then sent an email to the ABF Officer at 8:38am with the attached Lab form. The ABF officer was expecting that email and quickly reviewed it. (Exhibit 114 at [173]) It was in this context that the misunderstanding appears to have occurred.
 - The ABF officer was not medically trained. I also ask the Committee to please note that although the ABF officer is a "Senior Border Force Officer" that is a junior rank. It is equivalent to APS5, and is eight ranks below me, and five ranks below Senior Executive Service level. I ask the Committee to please bear these matters in mind in considering any findings regarding the misinterpretation that apparently occurred, which does not appear to have had any practical consequences in relation to the disembarkation.

Your letter also asks me to explain three particular statements made by me in light of particular statements included in the Commonwealth's voluntary statements to the NSW Inquiry.

Statement 1: *We don't undertake that function, as you've heard today. We don't have a biosecurity function. We don't attend at all to any medical records or medical reports or MARS or any of those things to make such a determination...*

That statement was made by me in response to a question regarding "whether or not the ABF deemed the boat low risk, or is it your contention that NSW Health deemed it low risk?" That statement was appropriate in answering that question in my view. The ABF was not involved in determining whether the Ruby Princess posed a human biosecurity risk, and does not attend to medical reports in order to make any such biosecurity determination.

OFFICIAL

The several statements in the Commonwealth's first voluntary statement referred to in your letter do not indicate otherwise. It is true that an ABF officer asked another ABF officer to "investigate information about ill passengers on the Ruby Princess and to provide a report", however that was not for the purpose of any ABF officer making any biosecurity determination or exercising any biosecurity function under the Biosecurity Act. The same applies to all the other statements referred to. The request was made and some investigation and reports done so that the ABF would be aware of any apparent potential issues. The ABF officers were trying to be helpful, and provide appropriate information. I accept that in doing so it seems an ABF officer misinterpreted a Lab form, which I have addressed above. The ABF officers were not purporting to undertake any biosecurity function under the Biosecurity Act.

Statement 2: *Pratique is given by the department of agriculture to vessels to come into port—and they can talk about that—and that's the biosecurity side of it...*

That statement correctly indicated that the Department of Agriculture Water and Environment is responsible for the granting of pratique, and questions regarding pratique should be directed to that Department. None of the statements in the Commonwealth's voluntary statements referred to in your letter give any indication that ABF granted pratique and I refer to my previous statements in this letter in that regard.

Further, and with respect, your letter wrongly states that paragraph 52.1 of Exhibit 119 "describe the actions of the ABF official to allow passengers to disembark at approximately 6:30am as "practical granting of pratique to allow the passengers to depart". There is no reference to any ABF officer in that paragraph, which does refer to biosecurity officers, twice. That paragraph, and the entire section from [50] to [54] of Exhibit 119 relating to pratique are about whether and when pratique was granted by a biosecurity officer. None of the ABF officers who attended the Ruby Princess were appointed as biosecurity officers or otherwise had any role in granting pratique under the Biosecurity Act. Nor did they purport to do so.

I further note that the Carnival port agent, Ms Tokovic, gave evidence to the NSW Inquiry that she had to obtain, and did obtain, clearance from ABF and "the Department of Agriculture" for passengers to disembark from the Ruby Princess. (NSW Inquiry transcript for 6 May at page 519.)

Statement 3: *But what my officer did wasn't to give them permission or not give them permission; she simply shared with them information that we had from New South Wales Health that said an expert panel of four biosecurity experts, medical doctors, cleared the ship for disembarkation of passengers and crew. That information was known to the Border Force at that time, at two o'clock in the morning. It was also known to the Department of Agriculture and it was known to New South Wales Health. The decisions that flowed from that advice really hinged on that advice from the expert panel of four doctors, who said: 'It's low risk. You're free to disembark the passengers'*

That statement was made in an explanation regarding an interaction between a junior ABF officer and the Sydney harbourmaster, employed by NSW Ports, that occurred in the early hours of 19 March. I consider that statement I made was appropriate. The point I was making is that the junior ABF officer was not making decisions for the Sydney harbourmaster but was trying to be helpful to the Sydney harbourmaster by obtaining and sharing information available to her regarding the NSW Health assessment that had occurred. The Commonwealth's first voluntary statement describes in detail the interaction with the Sydney harbourmaster. (Exhibit 114 at [132] – [141].) All the ABF documents referred to in those paragraphs have been provided to the NSW Inquiry.

Your letter refers to other statements in the Commonwealth's voluntary statements, which relate to interactions between NSW Health and DAWE. Particular questions regarding those interactions should be addressed to DAWE.

None of those extracts from the Commonwealth voluntary statements are, in my view, inconsistent with the statement referred to that I made in evidence to the Committee. It was known at two o'clock in the morning of 19 March by ABF officers that: NSW Health had advised that the Ruby Princess could disembark; and NSW Health officers would not be attending the Ruby Princess on 19 March. (Please see Exhibit 114 at [122] and [139].) However, it seems that ABF officers knew those things at that time indirectly from Carnival, and did not have, at the time, any written record of the NSW Health assessment. Nor would the ABF officers have known that the NSW Health assessment was done by an expert panel of four biosecurity experts. If my evidence indicates to the contrary in relation to these two aspects, then I apologise for that. However, it is

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certainly true that such an assessment was done by NSW Health on 18 March by a panel of four medical experts.


My evidence in Statement 3 could have been more accurately stated as:

But what my officer did wasn't to give them permission or not give them permission; she simply shared with them information that we had through the Carnival agent reflecting the advice of NSW Health that the vessel was cleared for disembarkation. That information was known to the Border Force at that time, at two o'clock in the morning. It was also known to the Department of Agriculture and it was known to New South Wales Health. The New South Wales Health panel was an expert panel of four biosecurity experts, medical doctors

I thank the Committee for raising these queries and providing me with an opportunity to address them in writing.

Yours sincerely

Michael Outram APM
Commissioner

 August 2020

Cc: Secretary Department of Home Affairs;
Secretary Department of Agriculture, Water and Environment;
Secretary Department of Health

Attachments:

- a) Letter Chair to Commissioner Outram 12 August 2020
- b) Exhibit 125 to NSW Inquiry
- c) Exhibit 126 to NSW Inquiry
- d) Letter Attorney-General to Shadow Attorney-General 11 August 2020



THE SENATE SELECT COMMITTEE ON COVID-19

12 August 2020

Mr Michael Outram APM
Commissioner
Australian Border Force

Via email:

Dear Commissioner

Thank you for your service to the people of Australia during a difficult period for our nation.

Over the past six months, the COVID-19 pandemic has challenged the resources and capabilities of governments and government agencies at the federal, state and local level.

On behalf of the Senate Select Committee on COVID-19 (the Committee), please pass on our thanks to your front-line officials for their hard work and commitment to keep Australia safe.

The challenging nature of an unprecedented global pandemic has led to mistakes – and few have been more significant than the decision to allow the *Ruby Princess* to dock in Sydney Harbour and disembark its passengers on 19 March 2020.

Ultimately, the Commonwealth is accountable for the management of our borders, and while some state agencies play a role, fundamentally the buck stops with those empowered by the Parliament under federal legislation.

Since your appearance before the Committee on 5 May where you gave evidence on this topic, a significant amount of new information has come to light, principally through two submissions the Commonwealth has made to the New South Wales Special Commission of Inquiry into the *Ruby Princess* (the NSW Inquiry).

I request that you reflect on the evidence you provided to the Committee on 5 May, and I invite you to correct your evidence where you feel appropriate.

In particular, I note that the Commonwealth submissions to the NSW Inquiry reveals that:

- It was officials from Australian Border Force and the Department of Agriculture who were onboard the *Ruby Princess* on 19 March, and it was these officials that provided practical and formal pratique, which allowed *Ruby Princess* passengers to disembark.
- An Australian Border Force official provided ‘practical pratique’ – allowing the passengers to disembark – despite not having the legal authority to provide pratique, and before any Commonwealth official had received the health assessment from New South Wales Health or conducted the appropriate human health checks.

- Despite knowledge of ill passengers onboard with symptoms consistent with COVID-19, Department of Agriculture human biosecurity officials failed to conduct new health checks specifically required by the new “National Protocol for Managing Novel Coronavirus disease (COVID-19) risk from Cruise Ships”.
- Tragically, Australian Border Force officials incorrectly read the tests results for sick passengers on the Ruby Princess – mistaking negative flu test results for negative COVID-19 test results – before allowing those passengers to disembark.

Additionally, I also draw your attention to the attached Australian Border Force documents that Senator Keneally has obtained via a Freedom-of-Information request.

These documents show that senior officials in the Australian Border Force have known since 20 March – one day after the Ruby Princess passengers disembarked – about your official’s error in communicating those COVID-19 test results.

Given this new information, it would assist the Committee if you could review your evidence. In particular, I would invite you to consider the following evidence you provided:

Statement 1:

We don't undertake that function, as you've heard today. We don't have a biosecurity function. We don't attend at all to any medical records or medical reports or MARS or any of those things to make such a determination...

I invite you to explain your statement given the Commonwealth’s statement to the NSW Inquiry indicates that:

- A senior ABF official asked another ABF official at 5:59am on 19 March to, *"investigate information about ill passengers on the Ruby Princess and to provide a report."* (Paragraph 148, Exhibit 114).
- At around 6:56am a number of different ABF officers were advised from another ABF officer that, *"based on the advice from New Zealand, that passengers on the Ruby Princess did not undergo testing in New Zealand and asked that officers be informed accordingly."* (Paragraph 160, Exhibit 114).
- An ABF official, *"asked the Port Agent to send this information [the test results of passengers] to him in writing in an email"* (Paragraph 172, Exhibit 114)
- The ABF official received the email he requested, including a document titled *"Lab form for coronavirus testing from a cruise ship"* from the ship's Port Agent (Paragraph 173, Exhibit 114).
- In receiving this email, the ABF official, *"misinterpreted this document"*, mistaking negative flu results for negative COVID-19 results (Paragraph 173, Exhibit 114).
- The ABF official then provided a report via email to senior ABF officials where he relied on his misinterpretation of these test results and reported, *"[a]dvice received (see attached doctors report) from Port Agent re swab tests from isolated pax on Ruby Princess. All tests returned back NEGATIVE."* (Paragraph 174, Exhibit 114).

- The same ABF official provided a "further report" to senior ABF officials where he prepares his own incorrect summary of test results in a "*table containing personal details including name, passenger/crew, status, 'Swabs Taken' and 'Results'*" (Paragraph 177, Exhibit 114). This same email was also sent to the Department of Agriculture by the same ABF official (Paragraph 178, Exhibit 114).

Statement 2:

Pratique is given by the department of agriculture to vessels to come into port—and they can talk about that—and that's the biosecurity side of it...

I invite you to explain your statement given the Commonwealth's statement to the NSW Inquiry indicates that:

- "*At the conclusion of ABF's customs and immigration checks, someone from the Ruby Princess crew asked whether the vessel had clearance to disembark and [an ABF official] responded 'yes'.*" (Paragraph 158, Exhibit 114)
- However, the Commonwealth notes that this approval by the ABF official to disembark at approximately 6:30am, was provided before pratique was formally granted:

"The Commonwealth's view is that pratique was granted by [an Agriculture] biosecurity officer, by her submission of a routine vessel inspection form in MARS at 7.37am." (Paragraph 51, Exhibit 119).
- Further, the Commonwealth notes:

"...pratique appears not to have been formally granted before disembarkation, clearly passengers were permitted to disembark in advance of that occurring and no biosecurity officers sought to prevent passengers from disembarking." (Paragraph 52.1, Exhibit 119).
- The Commonwealth goes on to describe the actions of the ABF official to allow passengers to disembark at approximately 6:30am as "*practical granting of pratique to allow passengers to depart*" (Paragraph 52.1, Exhibit 119).

Statement 3:

But what my officer did wasn't to give them permission or not give them permission; she simply shared with them information that we had from New South Wales Health that said an expert panel of four biosecurity experts, medical doctors, cleared the ship for disembarkation of passengers and crew. That information was known to the Border Force at that time, at two o'clock in the morning. It was also known to the Department of Agriculture and it was known to New South Wales Health. The decisions that flowed from that advice really hinged on that advice from the expert panel of four doctors, who said: 'It's low risk. You're free to disembark the passengers'...

I invite you to explain your statement given the Commonwealth's statement to the NSW Inquiry indicates:

- On 21 February 2020, the Department of Agriculture requested that New South Wales Health notify them, "*by text or email 'once the risk assessment is done and [NSW Health] decides to attend a vessel'*" (Paragraph 33, Exhibit 19).

- The Commonwealth noted that this, "*process was followed regularly in the five weeks before 18 March 2020, but ceased in the days leading up to that date*" (Paragraph 34, Exhibit 19).
- In the absence of NSW Health proactively providing the Department of Agriculture with its health risk assessment, the first time any Commonwealth official proactively sought NSW Health advice about the Ruby Princess was at 7:31am (Paragraphs 43-4, Exhibit 119).
- The Commonwealth also notes, "*it would have been preferable if explicit confirmation had been sought from NSW Health as to their assessment*" prior to passengers disembarking the Ruby Princess (Paragraph 35, Exhibit 19).

It would assist the Committee if you could provide an explanation to the apparent differences between your evidence and the evidence the Commonwealth provided to the NSW Inquiry. And, if you do need to correct the record, the Committee would also appreciate your explanation as to why the evidence you initially provided to the Committee now needs to be corrected.

I ask that you respond to this letter by midday Thursday 13 August 2020.

I look forward to your response.

Kind regards

Senator Katy Gallaghe
Committee Chair



Special Commission of Inquiry into the Ruby Princess

EXHIBIT 125

Supplementary Voluntary Submission of the Commonwealth of Australia
dated 31 July 2020 and accompanying documents



Australian Government Solicitor

**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)**

31 July 2020

The Australian Government Solicitor
Level 42 MLC Centre
19 Martin Place
Sydney NSW 2000
Contact: Simon Daley, Chief Solicitor
File ref: 20203214

Part I: Introduction

1. The Commonwealth has provided to the Commission a voluntary statement dated 12 June 2020 (Statement) and a voluntary submission dated 16 July 2020 (Submission).

2. On 24 July 2020, the senior solicitor assisting the Commission wrote to the Commonwealth by email in the following terms (Email):

I refer to the above Special Commission, in which I assist Commissioner Walker SC. I further refer to paragraph 69 of the Commonwealth's first Voluntary Statement to the Special Commission dated 12 June 2020, and the Determination referred to in footnote 46 of that Statement.

It appears that the class of persons described in that Determination are not taken to enter Australia (and are, therefore, not subject to passport control pursuant to s 166 of the *Migration Act 1958* (Cth) (**the Act**) if the conditions in s 80 of the Act are satisfied. Section 80(a) of the Act provides that a person is not taken to leave Australia if a person does not go to a foreign country (other than for transit purposes).

It appears to the Special Commission that the passengers aboard the Ruby Princess did not satisfy the requirements of s 80(a) of the Act. I would be grateful if you could advise whether the Commonwealth has a different view.

3. The Commonwealth (represented by Home Affairs, Agriculture and Commonwealth Health) provides this supplementary submission, in response to the Email, to assist the Commission.
4. This supplementary submission is provided voluntarily. It should not be taken as a concession that the Commonwealth or its officers and employees are bound by the *Special Commissions of Inquiry Act 1983* (NSW) or are subject to any of the Commission's coercive powers.
5. This supplementary submission has been prepared by the Australian Government Solicitor and should be read together with the Statement and the Submission. It assumes a familiarity with those documents and adopts the abbreviations used in them.

Part II: Supplementary submission

6. This supplementary submission addresses in turn two topics raised by the Commission's Email:
 - a. The requirements for the operation of ss 80 and 169 of the Migration Act, as relevant to the arrival of the Ruby Princess in Sydney on 19 March 2020.
 - b. Whether passengers aboard the Ruby Princess on its arrival met those requirements.
7. In short, the Commonwealth agrees with what is stated in the Email to be the Commission's understanding of the requirements for the operation of ss 80 and 169, but considers that those requirements were met in the case of passengers who were not 'way port joiners'. This reflects a considered view of the meaning of 'transit purposes', as that expression appears in s 80(a), which has long been adopted and applied by Home Affairs and predecessor Departments.

REQUIREMENTS FOR THE OPERATION OF SECTIONS 80 AND 169 OF THE MIGRATION ACT

8. Section 166(1) of the Migration Act imposes an obligation on a person who 'enters Australia'¹ to do various things, without unreasonable delay, which are for the purpose of assisting with immigration clearance. Section 169(1) provides, for the purposes of s 166, that a person who 'goes outside the migration zone' and 'under section 80 is not taken to leave Australia' is not, on re-entering the migration zone, taken to enter Australia, but may be directed by a clearance officer to comply with s 166.
9. Section 80 of the Migration Act provides that a person is taken not to 'leave Australia'² if the person goes outside the migration zone on a vessel and:
 - (a) does not go (other than for transit purposes) to a foreign country; and
 - (b) remains a passenger, or a member of the crew, of that vessel while outside the migration zone; and
 - (c) is outside the migration zone for no longer than the prescribed period.

The prescribed period for the purposes of s 80(c) is 30 days.³

10. Sections 169(2)-(4) affect the operation of s 169(1). Section 169(2) disapplies s 169(1) to a person who goes outside the migration zone on an 'international passenger cruise ship', as defined in s 169(4). Section 169(3) then empowers the Minister or Secretary to determine in writing that, 'despite subsection (2), subsection (1) does apply to a class of persons'. The combined effect of these provisions is that a person who goes outside the migration zone on an international passenger cruise

¹ The phrase 'enter Australia' is defined in s 5 of the Migration Act, in relation to a person, to mean 'enter the migration zone'. Migration zone is also defined in s 5.

² The phrase 'leave Australia' is defined in s 5 of the Migration Act, in relation to a person and subject to s 80, to mean 'leave the migration zone'.

³ Migration Regulations, s 3.07.

ship, which, as defined in s 169(4), would include the Ruby Princess, will only *potentially* fall within the scope of s 169(1) if they fall within a class of persons in respect of whom the Minister or Secretary has made a determination under s 169(3). But s 169(1) still, in terms, only operates if the person is one to whom s 80 applies.

11. The Commonwealth does not submit that s 169(3) has any wider operation relevant to the present matter. It does not consider that s 169(3) empowers the Minister or Secretary to exempt a class of persons from having to comply with any of the internal requirements of s 169(1).⁴
12. The Commonwealth understands the above analysis to be consistent with the Commission's analysis as described in the Email.

WHETHER PASSENGERS ABOARD THE RUBY PRINCESS MET THE RELEVANT REQUIREMENTS

13. Consistently with the above analysis, by the *Migration (VES 20/002: Class of Persons Taken Not to Enter Australia) Determination 2020* (Cth) (Determination), which was referred to in the Statement at [69] and fn 46,⁵ a delegate of the Secretary determined under s 169(3) that 'despite subsection 169(2) of the [Migration] Act, subsection 169(1) does apply to the class of persons, other than way port joiners, who are passengers or crew on an international passenger cruise ship voyage specified for the corresponding vessel listed' in 13 schedules, one of which was for the Ruby Princess and included the presently relevant voyage: see Determination, Sch 13, item 1. The phrase 'way port joiners' is defined in the Determination to mean 'passengers or crew who join an international cruise ship voyage at an overseas port'. The relevant effect of the Determination was that passengers and crew who departed Australia on the Ruby Princess on 8 March 2020 could potentially fall within the scope of s 169(1) upon re-entering Australian on 19 March 2020, but only if they otherwise met its requirements.
14. The main such requirement is that each person 'under section 80 is not taken to leave Australia'. The Commonwealth considers that s 80 had that effect in respect of each passenger or crew member on board the Ruby Princess who was not a way port joiner.⁶
15. Sections 80(b) and (c) do not present any issues. There is no reason to think that any person who left Australia on 8 March 2020 as a passenger or crew member of

⁴ Such a reading would be in tension with the words 'despite subsection (2)', which indicate that the work done by s 169(3) is to negate the effect of s 169(2).

⁵ The Determination accompanied the Statement as DHA.0001.0003.1731.

⁶ A person was required to be immigration cleared under s 166 if either: (i) they were a passenger or crew member who joined the voyage at an overseas port and thereby a way port joiner (such that the Determination did not apply to them and s 169(2) applied), or (ii) they did not go outside the migration zone on the vessel and remain a passenger or crew member on the vessel while outside the migration zone (such that the chapeau of s 80, and s 80(b), did not apply to them). However, any theoretical difference between these concepts does not appear presently to be material, and 'way port joiner' will be used compendiously to describe both groups.

the Ruby Princess did not retain that status throughout the cruise, and none was outside the migration zone for longer than 30 days: see [9] above.

16. As to whether s 80(a) applied, Home Affairs and its predecessor Departments have long taken the view that passengers and crew other than way port joiners on a cruise voyage which begins and ends at a port in Australia (a 'round trip cruise'), and which docks at ports in foreign countries for only short periods of time, do not go to those foreign countries 'other than for transit purposes'. This view extends to passengers who, during those short periods, disembark the ship temporarily and may even leave the relevant foreign port on day trips.
17. The words 'other than for transit purposes', appearing in s 80, are not defined for the purposes of the Migration Act. They were inserted as part of a redraft of the predecessor provision, s 26ZU, effected by s 38 of the *Migration Legislation Amendment Act 1994* (Cth). The relevant explanatory memorandum provided:

This section has been redrafted to better express the policy intention which is that passengers and crew on round trip cruises, fishermen and others who leave Australia and return within a prescribed time are taken not to leave Australia provided that they do not go to a foreign country (other than for transit purposes).
18. The explanatory memorandum's reference to 'round trip cruises' provides context for what is meant by the words 'other than for transit purposes' as they appear later in the sentence and in s 80, in that it reveals an understanding that s 80(a) would have work to do and achieve a policy intention in respect of passengers and crew on such cruises. This understanding was also later confirmed by Parliament's introduction of ss 169(2)-(5) by the *Migration Legislation Amendment Act (No 1) 2008* (Cth), which (when read with ss 80(a)-(b) and 169(1)) only have work to do to the extent that passengers or crew who leave and re-enter the migration zone on international passenger cruise ships, as defined, and remain as such whilst outside the migration zone, can be seen to fall within s 80(a).
19. The experience of Home Affairs and its predecessor Departments was in 1994 and 2008, and is presently, that round trip cruises as a matter of course involve cruise ships docking in foreign ports for short periods, and passengers disembarking the ship temporarily, including for day trips. The Commonwealth would regard it as an unduly narrow understanding of the policy intention, as expressed in the passage of the explanatory memorandum extracted at [17] above, that only those passengers and crew on round trip cruises who do not disembark the ship temporarily whilst is docked at foreign ports for short periods, are taken not to leave Australia.
20. The Commonwealth also considers that its position with respect to round trip cruises is consistent with the ordinary meaning, as reflected in the Macquarie Dictionary's definition of the term 'transit' as relevantly meaning:⁷
 - a. when used as a noun – 'the act or fact of passing across or through; passage from one place to another', and

⁷ Macquarie Dictionary Online (Macquarie, 2020), entry for 'transit'.

- b. when used in the phrase ‘in transit’ (which can be seen as related to its use in s 80(a), given that provision’s application in the field of international travel) – ‘passing through a place; staying for only a short time’.
21. Consistently with its longstanding position, Home Affairs routinely grants ‘Round Trip Cruise’ (RTC) status to round trip cruises which will visit any foreign ports only for short periods. RTC status is granted by a delegate of the Secretary or Minister making a determination under s 169(3) in respect of the relevant voyage, which occurs only after the cruise operator satisfies Home Affairs that passengers and crew who remain with the voyage for its duration will meet each of the requirements of s 80. Accompanying this supplementary submission are a Procedural Instruction and Standard Operating Procedure which refer to the relevant departmental processes, among other matters.⁸ Those processes commence with an application by a cruise vessel operator to Home Affairs in respect of individual voyages for which the operator wishes to be granted RTC status. Such an application is generally accompanied by itineraries for each such voyage: see, eg, the application for the relevant Ruby Princess voyage, which took the form of a letter from Carnival Australia to DHA dated 12 July 2019.⁹ The processes culminate in a letter to the cruise vessel operator advising that RTC status has been granted, and a determination being made under s 169(3) in the form of the Determination.¹⁰ A consequence of this process being followed and RTC status being granted in respect of a voyage is that Home Affairs only requires ABF officers to subject way port joiners to round trip cruises to immigration clearance under s 166 upon the conclusion of that voyage in Australia: see, as an example of this occurring, Statement, [157]. That process was followed in respect of the voyage of the Ruby Princess which culminated in its arrival in Sydney on 19 March 2020.

⁸ Occasional references are made in these documents to a ‘way port leaver’ – defined in the Standard Operating Procedure as a person ‘who disembarks the ship at an international port’ – needing to be subjected to immigration clearance. In context, these references should be understood as being to persons who disembark the ship other than for transit purposes (eg, permanently) at an international port; the relevant ‘clearance’ is that which is necessary upon a person’s departure from Australia (rather than on any subsequent return to Australia): see, eg, Standard Operating Procedure at [4.3]-[4.4]; Procedural Instruction at [4.5]. This is also how the similar reference in the letter accompanying this supplementary submission as DHA.0001.0003.2556 to ‘[p]assengers that ... leave vessel at an overseas port’ should be understood.

⁹ A copy of this letter accompanies this supplementary submission as DHA.0001.0003.2556. The letter also records Carnival’s understanding that its application for RTC status was ‘as per criteria under Section 80 of the Migration Act 1958, where each voyage covered during this period must depart Australia and return to Australia within 30 days and call at overseas port(s) for transit purposes only.’

¹⁰ See, in respect of the Ruby Princess, Letter, ABF to Carnival Australia (4 September 2019) (DHA.0003.0002.0033), attaching determination under s 169(3) (4 September 2019) (DHA.0003.0002.0037). This determination was repealed and replaced by the Determination on 13 March 2020: Determination, paragraph (b).

INDEX TO DOCUMENTS ACCOMPANYING SUPPLEMENTARY SUBMISSION

	Document name	Document date	Document ID
98.	Home Affairs, Standard Operating Procedure – Cruise Ship Processing: Round Trip Cruise	12 September 2018	DHA.0003.0002.0001
99.	Home Affairs, Procedural Instruction – Round Trip Cruises: Processing Overview	21 July 2018	DHA.0003.0002.0024
100.	Letter, Carnival Australia to DHA, attaching RTC Voyage Summary	12 July 2019	DHA.0001.0003.2556 DHA.0003.0002.0036
101.	Letter, ABF to Carnival Australia, attaching determination under s 169(3)	4 September 2019	DHA.0003.0002.0033 DHA.0003.0002.0037



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Cruise Ship Processing: Round Trip Cruise

Standard Operating Procedure

This instruction sets out the procedures for the processing of travellers and crew on board a cruise ship that has been granted Round Trip Status under Section 80 of the Migration Act 1958.

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Table of Contents

1.	<u>Introduction</u>	4
	1.1. <u>Background</u>	4
2.	<u>Scope</u>	4
	2.1. <u>In Scope</u>	4
	2.2. <u>Out of Scope</u>	4
3.	<u>Glossary</u>	5
4.	<u>Standard Operating Procedure</u>	8
	4.1. <u>Overview</u>	8
	Travellers	8
	Crew	8
	<u>SECTION 1: OUTWARDS ROUND TRIP CRUISES</u>	9
	4.2. <u>Round Trip Cruise outwards processing</u>	9
	4.3. <u>Processing the traveller</u>	9
	<u>RTC travellers</u>	9
	<u>Way port leaving travellers</u>	9
	4.4. <u>Processing the crew</u>	10
	<u>RTC Crew</u>	10
	<u>Way port leaving crew</u>	10
	4.5. <u>Processing complex Round Trip Cruise's</u>	11
	4.6. <u>Traveller reconciliation</u>	11
	4.7. <u>Crew reconciliation</u>	11
	4.8. <u>Late reporting of way port leavers</u>	12
	<u>Late reporting of travellers</u>	12
	<u>Late reporting of crew</u>	12
	4.9. <u>Tourist Refund Scheme</u>	12
	<u>SECTION 2: INWARDS ROUND TRIP CRUISES</u>	13
	4.10. <u>Round Trip Cruise – Inwards processing</u>	13
	<u>RTC Travellers</u>	13
	<u>Way port joiners</u>	13
	<u>Back to Back travellers</u>	13
	4.11. <u>Processing the crew</u>	14
	<u>RTC Crew</u>	14
	4.12. <u>Traveller reconciliation</u>	15
	4.13. <u>Crew reconciliation</u>	15
	4.14. <u>Border Receipting</u>	15
	4.15. <u>Enroute outward processing</u>	15
	4.16. <u>Travellers processing</u>	16
	4.17. <u>Crew processing</u>	16

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5.	<u>Accountability and responsibilities</u>	17
6.	<u>Statement of Expectation</u>	17
	<u>Directions</u>	17
	<u>Policy, Guidance and Recommendations</u>	17
	<u>Exercise of Legislative Powers and Functions</u>	18
	<u>What happens if this Policy Statement is not followed?</u>	18
7.	<u>Related Framework documents</u>	18
	7.1. <u>Policy Statement</u>	18
	7.2. <u>Procedural Instructions</u>	18
	7.2. <u>Standard Operating Procedures</u>	18
8.	<u>References and legislation</u>	18
	8.1. <u>Migration Act 1958</u>	18
9.	<u>Consultation</u>	19
	9.1. <u>Internal consultation</u>	19
	9.2. <u>External consultation</u>	19
10.	<u>Document details</u>	19
	10.1. <u>Document change control</u>	19
	10.2. <u>Approval</u>	20
11.	<u>Appendices</u>	20
	11.1. <u>Appendix A</u>	20
	<u>Form B521 Seaports – Notification of crew sign-off</u>	20
	11.2. <u>Appendix B</u>	21
	<u>Form B522 Seaports – Notification of crew sign-on</u>	21
	11.3. <u>Appendix C</u>	22
	<u>Form B465 Crew Declaration</u>	22

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1. Introduction

1.1. Background

Communication is the key to cruise ship processing. Effective communication with the ship and staff will ensure all crew and travellers are accounted for prior to giving clearance. Given the complications with travellers disembarking for day trips and then embarking at a later time it, is important to know the clearance status of all travellers.

The ships purser can provide valuable assistance by identifying the status of all travellers and should be given clear instructions that Australian Border Force (ABF) officers will require access to all travellers and their travel documents.

The ships purser should be provided with the contact details of the ABF officer who is responsible for processing the travellers and crew.

Officers should also be aware of the need to communicate information between ports of call. In particular, information on travellers and crew (including direct transit travellers) should be forwarded to the last port to assist with resource allocation and reconciliation.

2. Scope

2.1. In Scope

This instruction applies to staff in the Maritime environments providing immigration clearance under the *Migration Act 1958*.

2.2. Out of Scope

Clearance of travellers and/or goods under the *Customs Act 1901*.

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3. Glossary

Table 1 – Common terms and definitions used in this instruction

Term	Acronym (if applicable)	Definition
'C Movement		"C" movements are the term used in Departmental systems for shipping movements. *Note – use the entire craft ID only replace the alpha character.
'R' Movement		"R" movements are the term used in Departmental systems for Round Trip voyages. Create a cruise using the craft ID and replace the "C" of the craft ID with an "R". *Note – use the entire craft ID only replace the alpha character.
Advanced Passenger Processing	APP	Is a traveller processing system. All travellers travelling to Australia, including all transit travellers, must be processed through APP. Note: Infringement notices may be issued to operators who fail to comply with APP obligations.
Agent		Is responsible for the correct and timely provision of the vessel and the traveller and crew details. They will ensure the lodgement of a "letter of request" 20 working days prior to arrival and are responsible for all travel, transfer and accommodation bookings.
Australian Border Force	ABF	The Australian Border Force is an agency within the Home Affairs portfolio responsible for offshore and onshore border control enforcement, investigations, compliance and detention operations in Australia.
Australian Border Force officer	ABF officer	An ABF officer is an Immigration and Border Protection worker (see section 4 Australian Border Force Act) authorised to perform border clearance duties.
Back to Back travellers		Is a traveller who is conducting consecutive voyages on the vessel which may include Round Trip Cruise (RTC) voyages or a combination of RTC and direct voyages.
Boarding Information Report	Boarding IR	Is a system adjustment in the Information Network To Enhance Response Control, Enforcement and Prevention Techniques (INTERCEPT) and should be created when boarding activity is performed such as: <ul style="list-style-type: none"> • face to passport checks – the Boarding IR should indicate the number of crew checked; list the crew that have not been checked or those that have been checked • crew muster

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Term	Acronym (if applicable)	Definition
		<ul style="list-style-type: none"> • check of crew docs to pre-arrival crew list • ships documents (certificates) check)/Logs examination • compliance checks • tasks performed at request of the vessel, such as bond releases.
Boarding officer		Is an ABF officer who boards a vessel to communicate with the Ships Purser about important timings and procedures for crewmember and traveller clearance. They also communicate with the Ships Purser about when and where sign-on and sign-off crew will be processed and by whom as well as ensure to provide the ship with ABF contact details.
Crew sign-off		Is an action crew take when signing-off a vessel at end of contract.
Crew sign-on		Is an action crew take signing-on a vessel at the commencement of a contract.
Direct Arrival		Is a vessel that arrives directly to an overseas port, excluding a Round Trip Cruise
Direct Departure		Is a vessel that departs directly to an overseas port, excluding a Round Trip Cruise.
Disembarking traveller		Is a traveller who arrives from overseas and permanently leaves a vessel.
Domestic/Coastal traveller		Is a traveller who joins a vessel at an Australian port and disembarks at another Australian port, before the vessel leaves for overseas.
Embarking traveller		Is a traveller who joins a vessel in Australia and departs Australia on the same vessel.
Information Network To Enhance Response Control, Enforcement and Prevention Techniques	INTERCEPT	Is a national risk management and operations control system used by ABF officers that incorporates alerts and information against which all vessels, aircraft, cargo handling premises and persons are screened. It includes processing for Maritime Crew visa (MCV) and advanced passenger processing for maritime crew and movements.
Intermediate arrival		Is a vessel that arrives from an Australian port.

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Term	Acronym (if applicable)	Definition
Intermediate departure		Is a vessel that departs for an Australian port.
Overlander		Is a traveller who disembarks at an Australian port and embarks at another Australian port on the same vessel.
Passenger Analysis Clearance Evaluation	PACE	Is a system used to process travellers at Australia's international air and seaports.
Round Trip Cruise	RTC	RTC is the term that is used to describe a voyage that meets section 80 of the <i>Migration Act 1958</i> (Migration Act).
Ships Purser		Is an appointed member of a ship's crew who handles communications with the ABF relating to the crew, travellers and the ship's movements. They provide accurate and timely lists to ABF and other government agencies and inform transit travellers that they will be required to present to ABF officers – either on the ship between the final two ports or onshore if no outward en route clearance is to be conducted. They also inform the ABF of any crew or traveller changes that may occur.
Transit traveller		Is a traveller who arrives in Australia on a vessel and departs Australia on the same vessel.
Way port joiner		Is a crewmember or traveller who joins a ship at an international port while the ship was on a Round Trip Cruise. Full immigration and customs inwards clearance is still required.
Way port leaver		Is a crewmember or traveller who disembarks a ship at an international port while the ship was on a Round Trip Cruise. Full immigration clearance is still required.

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4. Standard Operating Procedure

4.1. Overview

It is important to distinguish between round trip crew, travellers and way port leaver crew or travellers. Each will be processed differently in Departmental systems.

All travellers embarking on a Round Trip Cruise (RTC) are entered into Passenger Analysis Clearance Evaluation (PACE) as "R" movements. These movements are not recorded in the Departmental Movements Database as the travellers are not deemed to have departed Australia for immigration purposes, as per section 80 of the *Migration Act 1958*

Travellers

PACE will record the travellers who will be remaining with the vessel throughout the RTC voyage with an 'R' movement.

PACE will record the travellers to be immigration cleared for RTC voyages, that is way point joiners/leavers, with a 'C' movement.

Crew

Crew who are way port leavers (crew who leave the RTC mid journey and not intended to return to Australia) are to be processed with a departure movement in Information Network To Enhance Response Control, Enforcement and Prevention Techniques (INTERCEPT).

Crew who are way port joiners (who join the RTC mid journey and intend to arrive into Australia as a new member of the ships crew) are to be processed with an arrival movement in INTERCEPT.

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SECTION 1: OUTWARDS ROUND TRIP CRUISES

4.2. Round Trip Cruise outwards processing

Pre departure checks are to be conducted well in advance of the vessels' departure (if time permits). The operator of a ship is obliged to report all persons expected to be on board when it departs from the port at least 48 hours prior to departure.

It should be noted that as a vessel on an RTC is deemed not to have left Australia (section 80 of the Migration Act), travellers are unable to use such voyages to revalidate their multiple entry visas and extend their stay. They will be deemed not to have left Australia, and must make other arrangements to revalidate or extend any visa held.

4.3. Processing the traveller

RTC travellers

It is the responsibility of the Ships Purser to provide a list of travellers embarking on a RTC. RTC travellers are those that depart and return on the same vessel.

ABF officers processing travellers, including back to back travellers on consecutive RTC Voyages are required to undertake the following steps:

- obtain a manifest of embarking RTC travellers from the ships purser or Shipping Agent, if not already provided
- create an 'R' movement in PACE table
- use live PACE to process travellers
- conduct a face-to-passport check on all travellers as they present
- action the alerts generated from PACE.

It is important to note that although travellers are not deemed to have left Australia on a RTC because of section 80 of the Migration Act, all alerts including information that may prevent them departing from Australia must be actioned and the traveller referred to the referring agency for further action.

Way port leaving travellers

It is the responsibility of the Ships Purser to provide a list of way port leavers on a RTC. Way port leavers are travellers who will depart on the RTC voyage but will disembark mid journey and not return to Australia.

ABF officers processing way port leaving travellers on RTC Voyages are required to undertake the following steps:

- obtain a list of way port leavers from the ship or Shipping Agent, if not already provided
- create a 'C' movement in PACE table
- separate the way port leavers from the RTC travellers as they present
- use live PACE to process the way port leavers
- conduct a face-to-passport check on all travellers as they present
- action the alerts generated from PACE.

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4.4. Processing the crew

Crew on board RTC voyages are generally treated the same as when on international voyages. The exception to this is they cannot apply for a Maritime Crew Visa (MCV) whilst on a RTC as they must be outside of Australia at the time of application, and the vessel is deemed not to have left Australia.

RTC Crew

- Prior to the vessels departure, ABF officers will undertake the following steps processing RTC crew prior to departure:
- update any expected sign on's, sign off's and/or way port leavers
- check INTERCEPT for any alerts – action as required
- view the PACE responses generated in INTERCEPT for all crew including sign on's, sign off's, and way port leavers
- update the movement in INTERCEPT with expected departure details and number of travellers on board
- check the round trip tick box (this will create the arrival at the next Australian port).

Crew processing – Sign on procedures

ABF officers processing crew sign on's are required to undertake the following steps:

- enter expected sign on details into INTERCEPT
- action any alerts
- print Form B522 Notification of sign-on (Appendix B). Use this to reconcile sign on and sign off crew in INTERCEPT correct and amend as appropriate
- conduct a face-to-passport check of the crew members signing on
- confirm Sign On in INTERCEPT crew list verify crew member details in INTERCEPT

Crew processing – Sign off procedures

ABF officers processing crew sign off's are required to undertake the following steps:

- enter expected sign off details into INTERCEPT
- action any alerts
- print Form B521 Notification of Sign-off (Appendix A). Use this to reconcile sign on and sign off crew in INTERCEPT correct and amend as appropriate
- conduct a face-to-passport check of the crew members signing off
- collect Form B465 crew declaration (Appendix C) from the crew member
- conduct clearance activities, including cabin and baggage examination as required
- confirm sign off in the crew list
- verify crew member details in INTERCEPT.

Way port leaving crew

It is the responsibility of the Ships Purser to provide a list of all way port leavers. Way port leavers are travellers who will depart on the RTC voyage but will disembark mid journey and not return to Australia.

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Note: All way port leavers are processed at their final departure port from Australia.

ABF officers processing crew way port leavers are required to undertake the following steps:

- obtain a list of way port leavers from the ship or Shipping Agent, if not already provided
- mark in INTERCEPT as way port leaver
- physically separate the way port leavers from the RTC crew at the time of processing
- conduct a face-to-passport check on crew way port leavers
- action any alerts generated.

4.5. Processing complex Round Trip Cruise's

If the vessel is continuing onto another Australian port prior to departure of the RTC, each port is to ensure that:

- all embarking travellers are recorded in PACE on either an "R" or "C" movement, according to the travellers category
- way port leaver crew are processed at the final port – ensure pursers are asked for a list of way port leaver crew at the **final port**
- notate the port, date and the number of sign on's, and domestic crew processed at your port in the Information section of the boarding I.R. in INTERCEPT
- **Note:** ABF officers need to communicate information between ports of call. In particular, information on travellers and crew (including transit travellers) should be forwarded to the last port by email and recorded in an INTERCEPT Boarding IR to assist with resource allocation and reconciliation. Include details of travellers and crew movement (transit/domestic) in the notes section of INTERCEPT.

4.6. Traveller reconciliation

Traveller reconciliation on RTCs is an important process especially if it is a complex RTC and the vessel has conducted voyages to various Australian ports before departing.

The last Australian port is responsible for 100% accuracy. The ABF Supervisor overseeing RTC processing is to ensure that every traveller and crew member on board is accounted for and that they have been processed according to their status, that is RTC, back to backs or way port leavers.

ABF officers tasked with reconciling travellers on a RTC are required to undertake the following steps:

- 1) obtain an electronic outward manifest for all travellers, according to type – RTC, Way port leavers
- 2) compare the ships outward traveller list to the PACE list. Use the craft ID with 'R' for the RTC travellers and 'C' for the way port leavers.

4.7. Crew reconciliation

ABF officers tasked with reconciling crew on a RTC are required to undertake the following steps:

- Obtain a copy (paper or electronic) of the crew manifest from the ship, and obtain any sign on's/off's for the current port
- obtain crew departure manifest from INTERCEPT

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- compare the ships outward manifest to the INTERCEPT list.

4.8. Late reporting of way port leavers

If travellers or crew are to disembark at an overseas place it is the responsibility of the ship or Shipping Agent to inform the ABF prior to the vessels departure.

However, there are times when a person is off loaded overseas unexpectedly and it is only when the vessel returns that this is reported.

It is important to correct the previous movement as soon as possible.

Late reporting of travellers

ABF officers are to check if there were any previously not reported way port leavers as these travellers will need full immigration outward clearance. ABF officers are required to then undertake the following steps:

- remove any way port leavers from the departure outward 'R' movement
- create (or add any additional way port leavers to) and outward 'C' movement for previous departure date
- process the way port leavers on the outward 'C' movement
- review any alerts, for the way port leavers and refer as required.

Late reporting of crew

ABF officers are to check if there were any previously not reported way port leavers as these crew members will need full immigration outward clearance. ABF officers are required to then undertake the following steps:

- mark the way port leavers on the departure movement (this will need to be done by the last Australian departure port)
- review any alerts, for way port leavers and refer as required.

4.9. Tourist Refund Scheme

The Tourist Refund Scheme is available to all travellers on a RTC when that cruise has an international port included on its scheduled ports of call. It is to be offered at final port Australian port only.

Refer to *Procedural Instruction: Tourist Refund Scheme*

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SECTION 2: INWARDS ROUND TRIP CRUISES

4.10. Round Trip Cruise – Inwards processing

RTC Travellers

As the travellers disembark, separate the way port joiner travellers for ease of processing. ABF officers are required to undertake the following steps:

- all travellers are to present an Incoming Passenger Card (IPC) to the ABF officer at the primary line
- RTC IPCs are retained for 12 months.

Way port joiners

It is the responsibility of the Ships Purser to provide a list of all way port joiners. Way port joiners are travellers who were not on the original departure of the vessel and have joined the cruise mid journey.

ABF officers processing way port joiners are required to undertake the following steps:

- obtain a list of way port joiners, if not already provided
- process on the inward 'C' movement in PACE
- use live PACE
- ensure the traveller completes an IPC
- conduct a face-to-passport check on all way port joiners
- way port joiners IPCs must be checked for responses to health and character questions and the completeness of the card
- immigration clear the way port joiners
- retain the way port passenger card.

Back to Back travellers

Travellers who are travelling on consecutive voyages on the same vessel (which may include RTC voyages or a combination of RTC and direct voyages) are defined as back-to-back travellers.

ABF officers processing back-to-back travellers on consecutive RTC voyages are required to undertake the following steps:

- account for the traveller/s and ensure they are included in the Inwards "R" movement in PACE and subsequently in the Outwards "R" movement for the second and or subsequent voyages
- instruct the traveller to present to the ABF for outward primary clearance
- conduct any baggage examinations as required for travellers.

ABF officers processing back-to-back travellers on RTC inward or Direct departure voyages are required to undertake the following steps:

- account for the traveller/s and ensure they are included in the Inwards 'R' movement in PACE
- collect the IPC

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- instruct the traveller to present to the ABF for outward primary clearance
- conduct any baggage examinations as required for travellers.

4.11. Processing the crew

RTC Crew

When the outward movement is created and the round trip cruise tick box is checked the inward movement will be automatically created. All crew reported for the outward movement will be included in the inward movement unless marked as a way port leaver.

Crew processing – Sign on procedures

ABF officers processing crew sign on's are required to undertake the following steps:

- enter expected sign on details into INTERCEPT
- action any alerts
- print Form B522 (Notification of sign-on). Use this to reconcile sign on and sign off crew. Correct and amend INTERCEPT as appropriate
- conduct a face-to-passport check of the crew members signing on
- confirm Sign On in INTERCEPT crew list
- verify crew member details in INTERCEPT.

Crew processing – Sign off procedures

ABF officers processing crew sign off's are required to undertake the following steps:

- enter expected sign off details into INTERCEPT
- action any alerts
- print form B521. Use this to reconcile sign on and sign off crew. Correct and amend INTERCEPT as appropriate
- conduct a face-to-passport check of the crew members signing off
- collect Form B465 (crew declaration) from the crew member
- conduct clearance activities, including cabin and baggage examination as required
- confirm sign off in the crew list
- verify crew member details in INTERCEPT.

Way port joiner crew

It is the responsibility of the Ships Purser to provide a list of all way port joiners. Way port joiners are travellers who would not have departed on the RTC voyage but will embark mid journey and arrive into Australia as a direct arrival.

ABF officers processing crew way port joiners are required to undertake the following steps:

- obtain a list of way port joiners from the ship or agent, if not already provided
- mark the crew in INTERCEPT as a way port joiner
- separate the way port joiners from the RTC crew

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- conduct a face-to-passport check on all the way port joiner crew
- action any alerts.

4.12. Traveller reconciliation

Traveller reconciliation on RTCs is an important process if it is a complex RTC and the vessel has conducted voyages to various Australian ports before departing.

The last Australian port is responsible for ensuring that every traveller and crew member is on board is accounted for and that they have been processed according to their status. (i.e. RTC, back to backs or way port leavers).

ABF officers tasked with traveller reconciliation are required to undertake the following steps:

- obtain an electronic outward manifest for all travellers, according to type – RTC, Way port leavers.
- compare the ships outward passenger list to the PACE list. Use the craft ID with 'R' for the Round trip cruise travellers and 'C' for the way port leavers.
 - manually compare the two lists. Any discrepancies may be duplicates in PACE or travellers not accounted for.
- follow up action to locate discrepancy as required.

4.13. Crew reconciliation

ABF officers need to communicate information between ports of call. In particular, information on travellers and crew (including direct transit travellers) should be forwarded to the last port to assist with resource allocation and reconciliation.

ABF officers tasked with crew reconciliation are required to undertake the following steps:

- Obtain crew manifest from the ship; and obtain any sign on's/off's for the current port
- Obtain crew departure manifest
- Compare the ships outward crew list to the INTERCEPT list.

4.14. Border Receipting

Travellers and crew on board RTCs are to be given concessions on any goods purchased while overseas. Any GST or duty on goods imported is to be collected. These are to be recorded in Border Receipting.

4.15. Enroute outward processing

If a vessel is conducting a circumnavigation of Australia on a RTC voyage, it may be necessary for ABF officers to join at an intermediate Australian port to reconcile travellers.

Outwards en route clearances are to be administered by Australian Border Operation Centre (ABOC). It is recommended that staff for en route outward to be selected from both the final port and en route embarking port. Due to PACE limitations, at least one ABF officer from the final port will be required if live PACE is to be used.

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Permission to perform an en route clearance will depend on:

- length of the voyage between Australian ports
- numbers and type of travellers
- resource availability at final and embarking en route port
- number of sea days or working days between second last and final port. If necessary ABF officers may need to embark at third final port
- industry involvement.

4.16. Travellers processing

ABF officers processing travellers during en route outwards clearance are required to undertake the following steps:

- process travellers into an 'R' expected movement created in PACE. It is important this is done in a timely manner to allow for any outward alert actions to be performed.
- conduct a face-to-passport check of travellers
- action alerts and refer as required
- on arrival into the last Australian port, hand over to the onshore team any work performed or referrals to be followed up.

4.17. Crew processing

Crew who are involved in complex RTC's do not require any special treatment. Way point joiners are to be added to the arrival movement at the first Australian port. Way port leavers are to be marked on the departure movement at the last Australian port.

Sign on and Sign offs are to be conducted at the port in which the crew member joins or departs

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5. Accountability and responsibilities

If ABF officers require clarification or assistance in regard to this instruction, they should contact the Traveller Operational Policy by email Traveller.Operational.Policy.Section@abf.gov.au or telephone: 02 6160 5504 AEST.

The Superintendent, Traveller Operational Policy has responsibility for the preparation and dissemination of this Standard Operating Procedure in regards to operational policy and programme management of border clearance activities for air and sea travellers, under the Customs Act and Migration Act.

The Director, Traveller Policy Advice and Support section has responsibility for preparation and dissemination of the Policy Statement in relation to this Standard Operating Procedure.

6. Statement of Expectation

Directions

The APS Code of Conduct states that 'an APS employee must comply with any lawful and reasonable direction given by someone in the employee's Agency who has authority to give the direction' (subsection 13(5) of the Public Service Act 1999).

Failure by an APS employee to comply with any direction contained in a PPCF document may be determined to be a breach of the APS Code of Conduct, which could result in sanctions up to and including termination of employment, as set out in subsection 15(1) of the Public Service Act 1999.

The Secretary's Professional Standards Direction, issued under subsection 55(1) of the Australian Border Force Act 2015, requires all IBP workers who are not APS employees (such as contractors or consultants) to comply with any lawful and reasonable direction given by someone in the Department with authority to issue that direction.

Failure by an IBP worker who is not an APS employee to comply with a direction contained in a PPCF document may be treated as a breach of the Professional Standards Direction, which may result in the termination of their engagement under section 57 of the Australian Border Force Act 2015. Non-compliance may also be addressed under the terms of the contract engaging the contractor or consultant.

Policy, Guidance and Recommendations

For all other provisions of PPCF documents, the Secretary and the Commissioner expect all IBP workers to:

- consider whether a proposed departure from any provision set out in a PPCF document is reasonable and justified in the circumstances;
- consider the risks of departing from any provision set out in a PPCF document;
- be responsible and accountable for the consequences of departing from, or not adhering to the content of, all PPCF documents, including where such departure or non-adherence results in a breach of any legal or other obligations which lead to adverse outcomes for the Department;
- be responsible for documenting the reasons/justification for their decision to depart from, or not adhere to, any PPCF document.

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Exercise of Legislative Powers and Functions

IBP workers who make decisions or who exercise powers or functions under legislation have a duty to make these decisions or exercise these powers or functions in accordance with the requirements of the legislation and legal principle.

What happens if this Policy Statement is not followed?

Failure to comply with a direction contained in this document may constitute a breach of the APS Code of Conduct, and may result in a sanction, up to and including termination of employment, being imposed under subsection 15(1) of the Public Service Act 1999.

For IBP workers who are not APS employees, failure to comply may constitute a breach of a direction under section 55 of the Australian Border Force Act 2015, and may result in the termination of their engagement under section 57 of that Act. Non-compliance may also be addressed under the terms of the contract engaging the IBP worker.

7. Related Framework documents

This instruction must be read in conjunction with the following documents:

7.1. Policy Statement

[TT-2983] Border Clearance

7.2. Procedural Instructions

[BC-536] Arrival, immigration clearance at airports and seaports

[BC-2514] Round Trip Cruises – Processing overview

[TI-2874] Tourist Refund Scheme

7.2. Standard Operating Procedures

[BC-674] Cruise Ship Processing – En route clearance

[C-2841] Cruise Ship Processing – Intermediate Voyages

8. References and legislation

8.1. Migration Act 1958

This Act sets out the primary requirements relating to immigration clearance as follows:

- Section 166 outlines the evidence of identity that must be presented to a clearance officer or an authorised system upon entry to Australia.
- Section 167 outlines when and where evidence must be presented to comply with section 166
- Section 168 outlines the circumstances where section 166 does not apply.
- Section 172 outlines a person's immigration clearance status, that is, whether the person has been immigration cleared, is in immigration clearance, has been refused immigration clearance or has bypassed immigration clearance.

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- Section 173 outlines the circumstances where a visa ceases to be in effect if the visa holder enters Australia in a way not permitted.
- Section 174 outlines the circumstances where a visa ceases if the holder remains without immigration clearance.
- Section 175 outlines the evidence that may be required to be given to a clearance officer upon a person's departure from Australia.

Other sections of the Act and Regulations are also important in the context of this instruction, they are:

- Section 80 - Outlines that certain persons taken not to leave Australia.

9. Consultation

9.1. Internal consultation

The following internal stakeholders were consulted in the development of this Standard Operating Procedure:

- Integrity and Professional Standards, Integrity and Professional Standards Branch
- FOI Privacy and Records Management Branch, Records Management Section
- Traveller Policy Branch, Traveller Policy Advice and Support Section.

9.2. External consultation

No external consultation.

10. Document details

BCS Category/Function	Trade & Traveller Clearance Management
BCS Sub-Category/Sub-Function	Passenger and Crew Processing
Period of Effect	12 September 2021

10.1. Document change control

Version number	Date of issue	Author(s)	Brief description of change
1.0	02 Jun 17	Aimee KAMENZ	Update of document into SOP
1.1	11 Sep 17	Aimee KAMENZ	Cleared PPCF Quality Assurance
1.2	10 Sep 18	Paul ABERCROMBIE	Reviewed for SES Approval.

For Official Use Only**10.2. Approval**


Approved by:	Pat DEVER Superintendent Traveller Operational Policy
Approved on (date):	12 September 2018

11. Appendices**11.1. Appendix A**

Form B521 Seaports – Notification of crew sign-off

(Available on Department of Home Affairs website)

For Official Use Only



SEAPORTS - NOTIFICATION OF SIGN-OFF
Migration Act 1958

• This form is required to assist Australian immigration entry and control processes as prescribed in the *Migration Act 1958* and the *Migration Regulations*.
 • This form is to be lodged with the Department of Immigration and Border Protection as early as possible - at least 24 hours prior to the actual sign-off of the crew or spouse/dependent children of crew listed - excluding weekends and public holidays.
 • Failure to advise the Department of Immigration and Border Protection in a timely manner may result in processing delays, the agent / master must liaise directly with the Department of Immigration and Border Protection to determine details of where / when sign-off and clearance activity will occur.

We require this information to enable us to conduct appropriate Customs checks prior to crew signing off vessels. The information provided may be disclosed to the following Government agencies: Department of Agriculture, Australian Federal Police and the Attorney Generals Department.

VESSEL DETAILS

VESSEL NAME:	PORT:	ARRIVAL DATE: / /	DEPARTURE DATE: / /
--------------	-------	-------------------	---------------------

CREW DETAILS (INCLUDING SPOUSE / DEPENDENT CHILDREN)						SIGN-OFF PARTICULARS			
FAMILY NAME * <small>(AS PER PASSPORT)</small>	GIVEN NAMES <small>(AS PER PASSPORT)</small>	PASSPORT NUMBER	PASSPORT NATIONALITY <small>(COUNTRY OF ISSUE)</small>	DATE OF BIRTH <small>(DD/MM/YY)</small>	S E X	SIGN-OFF PARTICULARS			# OF DAYS**
						DATE	TIME	REASON <small>if repatriation include flight details: if hospitalisation include hospital</small>	

DECLARATION

I declare that all the particulars contained in this notification are complete, exact and true to the best of my knowledge. I further declare that I will be responsible for the maintenance of the above crew / spouse / dependent children and will guarantee their departure from Australia.

NAME: SIGNATURE: * Authorised Agent / Master
(*Strike out whichever is not applicable) DATE: / /

* Please include all crew in alphabetical order. If space provided is insufficient, additional pages providing the same data fields should be attached.
 ** The standard period of sign-off is 5 days. Any period above 10 days must be referred to the Department of Immigration and Border Protection.


B521 JUL 2018D

11.2. Appendix B

Form B522 Seaports – Notification of crew sign-on

(Available on Department of Home Affairs website)

For Official Use Only



SEAPORTS - NOTIFICATION OF SIGN-ON

Migration Act 1958

• This form is required to assist Australian immigration entry and control as processes as prescribed in the Migration Act 1958 and the Migration Regulations.
 • This form is to be lodged with the Department of Immigration and Border Protection as early as possible - at least 24 hours prior to the actual sign-on of the crew / spouse / dependent children listed - excluding weekends and public holidays.
 • Failure to advise the Department of Immigration and Border Protection in a timely manner may result in processing delays, the agent / master must liaise directly with the Department of Immigration and Border Protection to determine details of where / when sign-on and clearance activity will occur.

We require this information to enable us to conduct appropriate Immigration and Customs checks prior to crew signing on vessels. The information provided may be disclosed to the following Government agencies: Department of Agriculture, Australian Federal Police and the Attorney General's Department.

VESSEL DETAILS

VESSEL NAME:	PORT:	ARRIVAL DATE: / /	DEPARTURE DATE: / /
--------------	-------	-------------------------	---------------------------

CREW DETAILS (INCLUDING SPOUSE / DEPENDENT CHILDREN)									
FAMILY NAME * <small>(AS PER PASSPORT)</small>	GIVEN NAMES <small>(AS PER PASSPORT)</small>	PASSPORT NUMBER	PASSPORT NATIONALITY <small>(COUNTRY OF ISSUE)</small>	DATE OF BIRTH <small>(DDMMYY)</small>	S E X	SIGN-ON PARTICULARS			AUSTRALIAN MARITIME CREW VISA HOLDER? <small>(YES/NO)</small>
						DATE	TIME	RATING	

DECLARATION

I declare that all the particulars contained in this notification are complete, exact and true to the best of my knowledge.

NAME:	SIGNATURE:	* Authorised Agent / Master <small>(*Strike out whichever is not applicable)</small>	DATE: / /
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* Please include all crew in alphabetical order. If space provided is insufficient, additional pages providing the same data fields should be attached.


(B622 JUL 2015)

11.3. Appendix C

Form B465 Crew Declaration

(Available on Department of Home Affairs website)

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CREW DECLARATION

Approved Form Customs Act 1901 Section 71AAAB

Family/Surname:		Given Names:	
Date of Birth: / /	Sex: Male <input type="checkbox"/> Female <input type="checkbox"/>	Flight number or name of ship:	
Passport Number:		Country of Issue:	
Intended Address in Australia:			State:
Phone:		Email:	

YOU MUST ANSWER EVERY QUESTION - IF UNSURE X YES

Are You Bringing Into Australia:			
1. Goods that may be prohibited or subject to restrictions, such as medicines, steroids, illegal pornography, firearms, weapons or illicit drugs?	YES		NO
2. More than 2250ml of alcoholic beverages or 50 cigarettes or 50g of tobacco products?	YES		NO
3. Goods obtained overseas or purchased duty and/or tax free in Australia with a combined total price of more than AUD\$450, including gifts?	YES		NO
4. Goods/Samples for business/commercial use?	YES		NO
5. AUD\$10,000 or more in Australian or foreign currency equivalent? <small>Note: If a Customs Officer or Police Officer asks, you must report travellers cheques, cheques, money orders or other bearer negotiable instruments of any amount.</small>	YES		NO
6. Meat, poultry, fish, seafood, eggs, dairy, fruit, vegetables?	YES		NO
7. Grains, seeds, bulbs, straw, nuts, plants, parts of plants, traditional medicines or herbs, wooden articles?	YES		NO
8. Animals, parts of animals, animal products including equipment, pet food, eggs, biological, specimens, birds, fish, insects, shells, bee products?	YES		NO
9. Soil, items with soil attached or used in freshwater areas e.g. sports/recreational equipment, shoes?	YES		NO
10. Have you been in contact with farms, farm animals, wilderness areas or freshwater streams/lakes etc, in the past 30 days?	YES		NO
11. Were you in Africa, South/Central America or the Caribbean in the last 6 days?	YES		NO

NOTE: If in doubt about anything, please decline or ask any Officer of Customs or Department of Agriculture Officer for clarification.

Foreign Crew Use Only

Expected date of departure: / /	Flight number or name of ship:	Airport/Port:
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Information sought on this form is required to administer customs, quarantine, statistical, health, wildlife and currency laws of Australia and its collection is authorised by legislation. It will be disclosed only to agencies administering these areas and those entitled to receive it under Australian law. The leaflet 'Safeguarding your personal information' is available at Australian ports and airports.

WARNINGS

- Aircraft / Vessel stores are goods under Customs and Quarantine control and must not be removed without authority.
- It is an offence to make a false statement to the Department of Immigration and Border Protection. You may be penalised or prosecuted.
- Penalties for drug offences are severe in Australia.
- It is an offence to provide false or misleading information about quarantine goods you may be carrying, with "on the spot" fines of up to \$340 or prosecution. In addition you may be prosecuted for undeclared goods imported in contravention of the Quarantine Act 1908.
- Upon departure from Australia you must also declare to a Customs Officer if you are carrying AUD\$10,000 or more in Australian or foreign currency equivalent.

Declaration

Signature: _____

The information I have given is correct and complete

Date: / /

B465 (July 2015)



Australian Government
Department of Home Affairs

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Round Trip Cruises – Processing Overview

Procedural Instruction

This procedural instruction applies to the procedures involved in approval of Round Trip Cruise voyages.

Approval Date	21 July 2018
Date of Review	21 July 2019
Contact	
Document ID (PPN)	BC-2514
TRIM Reference	OPD2017/202878

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Table of Contents

<u>1.</u>	<u>Introduction</u>	3
	1.1. <u>Background</u>	3
<u>2.</u>	<u>Scope</u>	3
	2.1. <u>In Scope</u>	3
	2.2. <u>Out of Scope</u>	3
<u>3.</u>	<u>Glossary</u>	4
<u>4.</u>	<u>Procedural Instruction</u>	5
	4.1. <u>Designation of a Round Trip Cruise</u>	5
	4.2. <u>Manifests</u>	5
	<u>RTC Crew Manifest</u>	5
	<u>RTC Traveller Manifest</u>	5
	<u>Inwards Traveller Manifest</u>	5
	<u>Outwards Traveller Manifest</u>	5
	4.3. <u>Departure processing</u>	5
	4.4. <u>Arrival processing</u>	6
	4.5. <u>Wayport joiners and leavers</u>	6
<u>5.</u>	<u>Accountability and responsibilities</u>	7
<u>6.</u>	<u>Statement of Expectation</u>	7
<u>7.</u>	<u>Related Framework documents</u>	7
	7.1. <u>Policy Statement</u>	7
	7.2. <u>Procedural Instructions</u>	7
<u>8.</u>	<u>References and legislation</u>	8
	8.1. <u>Migration Act 1958</u>	8
<u>9.</u>	<u>Consultation</u>	8
	9.1. <u>Internal consultation</u>	8
	9.2. <u>External consultation</u>	8
<u>10.</u>	<u>Document details</u>	9
	10.1. <u>Document change control</u>	9
	10.2. <u>Approval</u>	9

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1. Introduction

1.1. Background

The term “Round Trip Cruise” (RTC) refers to a voyage on a cruise ship that starts and ends in Australia, lasts for no more than 30 days, calls at overseas ports for transit purposes only, does not raise any border integrity concerns, and has been approved by a departmental delegate.

RTCs are covered by section 80 of the *Migration Act 1958* (Migration Act) which provides that travellers and crew on such a voyage are taken not to have left Australia.

Travellers and crew on an RTC are exempt from the requirement to comply with section 166 of the Migration Act and immigration clearance requirements unless directed to do so by an ABF officer.

Arrival and departure movement records are not created for a designated RTC as the travellers and crew are deemed not to have left Australia.

Travellers and crew are still required to meet customs and biosecurity requirements.

The Traveller Policy Advice and Support section has the authority to make a determination under section 169(3) of the Migration Act as to whether a voyage on a cruise ship is designated as an RTC and is therefore exempt from immigration clearance requirements.

For further information on the policy criteria required for RTC designation, refer to *Procedural Instruction: Arrival, immigration clearance & entry – Immigration clearance at airports and seaports*.

2. Scope

2.1. In Scope

This procedural instruction applies to the procedures involved in approval of Round Trip Cruise voyages.

This procedural instruction applies to staff in the maritime environments providing immigration clearance under the *Migration Act 1958* (Migration Act).

2.2. Out of Scope

This procedural instruction does not cover processing of travellers in the air environment.

This procedural instruction does not apply to voyages that are not deemed to be Round Trip Cruises.

This procedural instruction does not provide guidance on the process of how to determine a section 80 voyage.

This procedural instruction does not apply to clearance of travellers and/or goods under the *Customs Act 1901* (Customs Act).

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3. Glossary

Table 1 – Common terms and definitions used in this instruction

Term	Acronym (if applicable)	Definition
Australian Border Force	ABF	The Australian Border Force is an agency within the Home Affairs portfolio responsible for offshore and onshore border control enforcement, investigations, compliance and detention operations in Australia.
Australian Border Force officer	ABF officer	An ABF officer is an Immigration and Border Protection worker (see section 4 Australian Border Force Act) authorised to perform border clearance duties.
Authorised officer		Has the meaning given by section 5(1) of the <i>Migration Act 1958</i> (Migration Act). Namely, meaning an officer authorised in writing by the Minister or the Secretary for the purposes of that provision.
Immigration clearance		Is a person who is in immigration clearance in the circumstances set out in the <i>Migration Act 1958</i> (Migration Act).
Non-citizen		Has the meaning given by Section 5 of the <i>Migration Act 1958</i> (Migration Act) as a person who is not an Australian citizen.
Passenger Analysis Clearance Evaluation	PACE	Is a system used to process travellers at Australia's international air and seaports.
Referral		Is a request from one departmental work area to another to undertake an activity for a specific purpose related to the processing of a visa application. It is also a record of caseload assurance checks undertaken by a decision maker.
Round Trip Cruise	RTC	A RTC is the term that is used to describe a voyage that meets section 80 of the <i>Migration Act 1958</i> (Migration Act).
Wayport joiner		Is a crewmember or traveller who joins a ship at an international port while the ship was on a Round Trip Cruise. Full immigration and customs inwards clearance is still required.
Wayport leaver		Is a crewmember or traveller who disembarks a ship at an international port while the ship was on a Round Trip Cruise. Full immigration clearance is still required.

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4. Procedural Instruction

4.1. Designation of a Round Trip Cruise

Cruise ship operators or agents seeking an RTC determination for a particular voyage (or voyages), that meet section 80 of the Migration Act criteria must formally request this from Operational Priorities, Planning & Practice section.

Operational Priorities, Planning & Practice will assess the voyage itinerary and determine if it meets both section 80 of the Migration Act requirements and departmental policy criteria for RTC designation.

If a voyage is designated as an RTC, Operational Priorities, Planning & Practice will inform the following areas:

- The cruise ship operator or agent who requested RTC status
- ABF Maritime Operations
- Border Operations Centre (BOC)

4.2. Manifests

Vessels undertaking an RTC are required to maintain four manifests for travellers and crew travelling on the vessel. Copies of these manifests are to be supplied to ABF at each Australian port of call.

RTC Crew Manifest

This manifest contains the details for all crew who depart and return to Australia on the vessel. Crew who are on the crew manifest are not normally subject to immigration clearance requirements.

RTC Traveller Manifest

This manifest contains the details for all travellers who depart and return to Australia on the vessel. Travellers who are on the traveller manifest are not normally subject to immigration clearance requirements.

Inwards Traveller Manifest

This manifest contains the details of all travellers who have joined the vessel at an overseas port. Joining travellers on the inwards traveller Manifest remain subject to immigration clearance procedures under section 166 of the Migration Act

Outwards Traveller Manifest

This manifest contains the details of all travellers who disembark the vessel at an overseas port. Travellers are subject to normal outwards clearance procedures prior to embarkation on the vessel

4.3. Departure processing

It is recommended that travellers on an RTC travel with a valid travel document and valid Australian visa (for non-citizens) in case:

- they need to leave the vessel unexpectedly overseas (e.g. due to medical reasons or the vessel's mechanical failure) and return to Australia by air
- they are directed by an ABF officer to comply with section 166 of the Migration Act on return to Australia.

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As the ABF require the movements of RTC voyages, visa or passport issues can still be referred as appropriate through border system checks, demanding the surrender of Australian passports upon request from Department of Foreign Affairs and Trade, see *Procedural Instruction: Suspended Australian travel documents*.

For example a reportable offender embarking on a RTC intending to depart Australia will be taken to have attempted to leave Australia for the purposes of Division 271A of the *Criminal Code Act 1995*. For processes to stop these travellers from departing Australia see *Procedural Instruction: Detention of reportable child offenders at the border*.

Any travellers or crew intending to leave the vessel at an overseas port must be outward immigration cleared on departure.

4.4. Arrival processing

Travellers arriving in Australia who board an RTC vessel are not normally subject to immigration clearance requirements provided they are on the RTC manifest. However, arriving travellers remain subject to ABF and biosecurity entrance requirements and as such are required to complete an Incoming Passenger Card (IPC). The IPCs are collected by ABF officers and disposed of later.

Under section 169(1) of the Migration Act, travellers and crew can be directed by an ABF officer to comply with section 166 of the Migration Act immigration clearance requirements even though they are part of an RTC. See *Procedural Instruction: Immigration clearance for sea arrivals*.

Any travellers or crew who join the vessel at an overseas port (a "wayport joiner") must be inward immigration cleared on arrival.

4.5. Wayport joiners and leavers

Travellers and crew who leave the vessel at an overseas port are required to undergo normal outwards immigration clearance procedures, see *Procedural Instruction: Immigration clearance for sea arrivals*.

The ABF officer will then create a departure movement in the Passenger Analysis Clearance Evaluation system (PACE), using the last port of call in Australia and date of departure of the vessel to create the movement.

Travellers and crew who join the vessel at an overseas port are placed on the inwards travellers manifest after their details are submitted through PACE, thereby creating an expected system movement. These travellers will not be subject to section 80 of the Migration Act and must therefore meet the immigration clearance requirements of section 166 of the Migration Act on arrival in Australia.

ABF officers will confirm the vessel's arrival movement, collect the IPC and forward it to relevant area for processing.

Any referrals generated through PACE should be cleared by an authorised officer using normal traveller processing referral procedures, see *Procedural Instruction: Immigration clearance for sea arrivals*.

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5. Accountability and responsibilities

If ABF officers require clarification or assistance in regard to this instruction, they should contact the National Border Programme by email _____ or telephone: AEST.

The Superintendent, National Border Programme has responsibility for the preparation and dissemination of this Procedural Instruction in regards to operational policy and programme management of border clearance activities for air and sea travellers, under the Customs Act and Migration Act.

The Director, Traveller Policy Advice and Support section has responsibility for preparation and dissemination of the Policy Statement in relation to this Procedural Instruction.

6. Statement of Expectation

This Procedural Instruction under the PPCF sets out guidance and directions to workers on how to implement the Department's policy.

It is expected that all workers who are subject to this Procedural Instruction will have due regard to it and will only depart from it if:

- a) the departure is reasonable and justified in the circumstances;
- b) all risks have been considered; and
- c) approval has been sought and responsibility accepted for documenting the justification for the decision.

Workers are required to comply with all reasonable and lawful directions contained in this Procedural Instruction. Failure to comply with a direction may be considered a breach of the Australian Public Service Code of Conduct (for APS employees) or the *Professional Standards Secretary's Direction* under section 55 of the *Australian Border Force Act 2015* (for non-APS employees).

All records created as a result of this procedure must be managed in accordance with the Records Management Policy Statement. Records created as a result of this policy/procedure must be saved in TRIM RM8 or an approved business system.

7. Related Framework documents

This instruction must be read in conjunction with the following documents:

7.1. Policy Statement

[TT-2983] Border Clearance.

7.2. Procedural Instructions

[BC-536] Arrival, immigration clearance at airports and seaports.

[BC-2465] Suspended Australian travel documents.

[BC-671] Cruise Ship Processing: Round Trip Cruises.

[BC-672] Cruise Ship Processing: Direct international arrivals.

[BC-2841] Cruise Ship Processing: Intermediate voyages.

[BC-674] Cruise Ship Processing: Enroute clearance.

[BC-2829] Cruise Ship Processing: Traveller and crew.

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[TT-5223] Detention of reportable child offenders at the border (s.219ZJB Customs Act).

8. References and legislation

8.1. Migration Act 1958

This Act sets out the primary requirements relating to immigration clearance as follows:

- section 166 outlines the evidence that must be presented to a clearance officer or an authorised system upon entry to Australia
- section 80 outlines certain persons taken not to have left Australia.

9. Consultation

9.1. Internal consultation

The following internal stakeholders were consulted in the development of this Procedural Instruction:

- Integrity and Professional Standards Branch
- FOI Privacy and Records Management Branch, Records Management Section
- Traveller Policy Branch, Traveller Policy Advice and Support Section
- Strategic Border Command Division.

9.2. External consultation

No external consultation.

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10. Document details

BCS Category/Function	Trade and Traveller Clearance Management
BCS Sub-Category/Sub-Function	Passenger and Crew Processing
Period of Effect	Three years from date of original approval

10.1. Document change control

Version number	Date of issue	Author(s)	Brief description of change
1.0	29 May 17	Emma WEBSTER	Updated document into PI
1.1	11 Sept 17	Sebastian BARTOSZEWICZ	Cleared PPCF Quality Assurance
1.2	05 Dec 17	Pat DEVER	Updated with SBC feedback
1.3	13 Jan 18	Aimee KAMENZ	Reviewed for SES approval
1.4	11 May 18	Aimee KAMENZ	Converted to Home Affairs template and reviewed for SES approval
1.5	12 July 18	Paul ABERCROMBE	Updated with Legal comments and reviewed for SES approval

10.2. Approval

Approved by:	Don SMITH Commander ABF Governance
Approved on (date):	21 July 2018



Friday, 12 July 2019

Department of Immigration and Border Protection
Border Security Policy Branch
Seaport Policy Section
BY EMAIL:

**RE: ROUND TRIP STATUS
NOVEMBER 2019 – APRIL 2020
PRINCESS CRUISE LINES – RUBY PRINCESS**

Dear Seaport Policy Section,

We wish to apply for Round Trip Status for the above mentioned vessel; the updated itinerary for the ship brand is attached for your perusal.

Round Trip Status application is as per criteria under Section 80 of the Migration Act 1958, where each voyage covered during this period must depart Australia and return to Australia within 30 days and call at overseas port(s) for transit purposes only.

Cruises that do not fall within above criteria are listed as follows:

Australian Coastal Cruises

Passengers that join or leave vessel at an overseas port will not be covered by Round Trip Status and are to complete normal immigration requirements.

Please note that at the completion of disembarkation, the prior voyage will terminate and the new outbound voyage will begin. This is viewable on the itinerary file by the first column (A) where the voyage number is listed. The listed voyage number covers the outbound voyage.

We thank you for your kind attention and look forward to your reply.

Yours sincerely,

Alki Hatzigeorgiou
Port Operations Manager

CC: Paul Mifsud
Nadira Hassan

RTC VOYAGE SUMMARY

Vessel	Ruby Princess (RU)				
VOYAGE NO	DEPARTURE DATE	DEPARTURE PORT	ARRIVAL DATE	ARRIVAL PORT	DESTINATION(S)
RU1942	8/11/2019	Sydney	22/11/2019	Sydney	New Caledonia, Vanuatu, Fiji
RU1943	22/11/2019	Sydney	5/12/2019	Sydney	New Zealand
RU1944	5/12/2019	Sydney	13/12/2019	Sydney	New Caledonia, Vanuatu
RU2002	13/01/2020	Sydney	27/01/2020	Sydney	New Caledonia, Vanuatu, Fiji
RU2003	27/01/2020	Sydney	8/02/2020	Sydney	New Zealand
RU2005	11/02/2020	Sydney	24/02/2020	Sydney	New Zealand
RU2006	24/02/2020	Sydney	8/03/2020	Sydney	New Zealand
RU2007	8/03/2020	Sydney	21/03/2020	Sydney	New Zealand
RU2008	21/03/2020	Sydney	1/04/2020	Sydney	New Caledonia, Vanuatu, Fiji

Ship	Arrival Date	Arrival Time	Depart Time	Depart	Port	Voyage Number	Sector Turn?	Voyage Status
Ruby Princess (RU)	24/09/2019	07:00	16:00	24/09/2019	Los Angeles, California	RU1939		International
Ruby Princess (RU)	29/09/2019	07:00	23:00	29/09/2019	Honolulu, Oahu	RU1939		
Ruby Princess (RU)	30/09/2019	08:00	17:00	30/09/2019	Nawiliwili, Kauai	RU1939		
Ruby Princess (RU)	6/10/2019	08:00	05:00	7/10/2019	Papeete, Tahiti, French Polynesia	RU1939		
Ruby Princess (RU)	7/10/2019	08:00	17:00	7/10/2019	Moorea, French Polynesia	RU1939		
Ruby Princess (RU)	10/10/2019	09:00	18:00	10/10/2019	Pago Pago, Tutuila	RU1939		
Ruby Princess (RU)	15/10/2019	07:00	18:00	15/10/2019	Auckland, New Zealand	RU1939		
Ruby Princess (RU)	16/10/2019	06:30	17:30	16/10/2019	Tauranga, New Zealand	RU1939		
Ruby Princess (RU)	18/10/2019	08:00	18:00	18/10/2019	Akaroa	RU1939		
Ruby Princess (RU)	19/10/2019	08:00	18:00	19/10/2019	Dunedin, New Zealand	RU1939		
Ruby Princess (RU)	20/10/2019	08:00	17:00	20/10/2019	Milford Sound, New Zealand	RU1939		
Ruby Princess (RU)	23/10/2019	06:00	18:45	23/10/2019	Sydney, Australia	RU1940		Domestic
Ruby Princess (RU)	26/10/2019	07:00	17:00	26/10/2019	Airlie Beach-WSY, Australia	RU1940		
Ruby Princess (RU)	27/10/2019	09:00	19:00	27/10/2019	Yorkey's Knob (Cairns)	RU1940		
Ruby Princess (RU)	28/10/2019	07:00	19:00	28/10/2019	Port Douglas, Australia	RU1940		
Ruby Princess (RU)	29/10/2019	10:00	11:00	29/10/2019	Willis Island	RU1940		
Ruby Princess (RU)	31/10/2019	08:00	18:00	31/10/2019	Brisbane, Australia	RU1940		
Ruby Princess (RU)	2/11/2019	06:00	18:45	2/11/2019	Sydney, Australia	RU1941		Domestic
Ruby Princess (RU)	4/11/2019	08:00	23:00	4/11/2019	Hobart, Tasmania	RU1941		
Ruby Princess (RU)	5/11/2019	07:00	17:00	5/11/2019	Port Arthur	RU1941		
Ruby Princess (RU)	8/11/2019	06:00	16:00	8/11/2019	Sydney, Australia	RU1942		RTC
Ruby Princess (RU)	11/11/2019	09:00	18:00	11/11/2019	Easo, Lifou	RU1942		
Ruby Princess (RU)	12/11/2019	08:00	18:00	12/11/2019	Port Vila	RU1942		
Ruby Princess (RU)	14/11/2019	07:00	18:00	14/11/2019	Dravuni Island	RU1942		
Ruby Princess (RU)	15/11/2019	08:00	18:00	15/11/2019	Suva, Viti Levu, Fiji Islands	RU1942		
Ruby Princess (RU)	16/11/2019	07:00	18:00	16/11/2019	Savusavu, Vanua Levi	RU1942		
Ruby Princess (RU)	17/11/2019	08:00	17:00	17/11/2019	Lautoka, Fiji	RU1942		
Ruby Princess (RU)	19/11/2019	08:00	18:00	19/11/2019	Noumea, New Caledonia	RU1942		
Ruby Princess (RU)	22/11/2019	06:00	18:45	22/11/2019	Sydney, Australia	RU1943		RTC
Ruby Princess (RU)	25/11/2019	07:00	16:00	25/11/2019	Milford Sound, New Zealand	RU1943		
Ruby Princess (RU)	26/11/2019	08:00	18:00	26/11/2019	Dunedin, New Zealand	RU1943		
Ruby Princess (RU)	27/11/2019	08:00	18:00	27/11/2019	Akaroa	RU1943		

Ruby Princess (RU)	28/11/2019 08:00	18:00	28/11/2019 Wellington	RU1943	
Ruby Princess (RU)	29/11/2019 07:00	14:00	29/11/2019 Napier, New Zealand	RU1943	
Ruby Princess (RU)	30/11/2019 07:00	18:30	30/11/2019 Tauranga, New Zealand	RU1943	
Ruby Princess (RU)	1/12/2019 07:00	18:00	1/12/2019 Auckland, New Zealand	RU1943	
Ruby Princess (RU)	2/12/2019 07:00	17:00	2/12/2019 Bay Of Islands, New Zealand	RU1943	
Ruby Princess (RU)	5/12/2019 06:00	18:45	5/12/2019 Sydney, Australia	RU1944	RTC
Ruby Princess (RU)	8/12/2019 08:00	18:00	8/12/2019 Noumea, New Caledonia	RU1944	
Ruby Princess (RU)	9/12/2019 08:00	18:00	9/12/2019 Mystery Island	RU1944	
Ruby Princess (RU)	10/12/2019 08:00	18:00	10/12/2019 Kuto, Île des Pins	RU1944	
Ruby Princess (RU)	13/12/2019 06:00	18:45	13/12/2019 Sydney, Australia	RU1945	International
Ruby Princess (RU)	15/12/2019 08:00	18:00	15/12/2019 Melbourne, Australia	RU1945	
Ruby Princess (RU)	17/12/2019 08:00	18:00	17/12/2019 Hobart, Tasmania	RU1945	
Ruby Princess (RU)	20/12/2019 07:00	16:00	20/12/2019 Milford Sound, New Zealand	RU1945	
Ruby Princess (RU)	21/12/2019 08:00	18:00	21/12/2019 Dunedin, New Zealand	RU1945	
Ruby Princess (RU)	22/12/2019 08:00	18:00	22/12/2019 Akaroa	RU1945	
Ruby Princess (RU)	23/12/2019 07:00	18:00	23/12/2019 Picton, New Zealand	RU1945	
Ruby Princess (RU)	24/12/2019 07:00	18:00	24/12/2019 Wellington	RU1945	
Ruby Princess (RU)	26/12/2019 09:30	20:30	26/12/2019 Tauranga, New Zealand	RU1945	
Ruby Princess (RU)	27/12/2019 07:30	18:00	27/12/2019 Auckland, New Zealand	RU1946	International
Ruby Princess (RU)	28/12/2019 08:00	18:00	28/12/2019 Bay Of Islands, New Zealand	RU1946	
Ruby Princess (RU)	30/12/2019 07:00	18:00	30/12/2019 Auckland, New Zealand	RU2001	International
Ruby Princess (RU)	31/12/2019 06:30	17:45	31/12/2019 Tauranga, New Zealand	RU2001	
Ruby Princess (RU)	2/01/2020 07:00	18:00	2/01/2020 Wellington	RU2001	
Ruby Princess (RU)	3/01/2020 07:00	18:00	3/01/2020 Picton, New Zealand	RU2001	
Ruby Princess (RU)	4/01/2020 08:00	18:00	4/01/2020 Akaroa	RU2001	
Ruby Princess (RU)	5/01/2020 08:00	18:00	5/01/2020 Dunedin, New Zealand	RU2001	
Ruby Princess (RU)	6/01/2020 08:00	17:00	6/01/2020 Milford Sound, New Zealand	RU2001	
Ruby Princess (RU)	9/01/2020 08:00	18:00	9/01/2020 Hobart, Tasmania	RU2001	
Ruby Princess (RU)	11/01/2020 08:00	18:00	11/01/2020 Melbourne, Australia	RU2001	
Ruby Princess (RU)	13/01/2020 06:00	18:45	13/01/2020 Sydney, Australia	RU2002	RTC
Ruby Princess (RU)	16/01/2020 08:00	18:00	16/01/2020 Noumea, New Caledonia	RU2002	
Ruby Princess (RU)	18/01/2020 08:00	17:00	18/01/2020 Lautoka, Fiji	RU2002	
Ruby Princess (RU)	19/01/2020 07:00	18:00	19/01/2020 Savusavu, Vanua Levi	RU2002	

Ruby Princess (RU)	20/01/2020 08:00	18:00	20/01/2020 Suva, Viti Levu, Fiji Islands	RU2002	
Ruby Princess (RU)	21/01/2020 07:00	18:00	21/01/2020 Dravuni Island	RU2002	
Ruby Princess (RU)	23/01/2020 08:00	18:00	23/01/2020 Port Vila	RU2002	
Ruby Princess (RU)	24/01/2020 07:00	15:00	24/01/2020 Easo, Lifou	RU2002	
Ruby Princess (RU)	27/01/2020 06:00	16:00	27/01/2020 Sydney, Australia	RU2003	RTC
Ruby Princess (RU)	30/01/2020 09:00	18:00	30/01/2020 Bay Of Islands, New Zealand	RU2003	
Ruby Princess (RU)	31/01/2020 07:30	18:15	31/01/2020 Tauranga, New Zealand	RU2003	
Ruby Princess (RU)	1/02/2020 12:00	19:00	1/02/2020 Napier, New Zealand	RU2003	
Ruby Princess (RU)	2/02/2020 08:00	18:00	2/02/2020 Wellington	RU2003	
Ruby Princess (RU)	3/02/2020 08:00	18:00	3/02/2020 Akaroa	RU2003	
Ruby Princess (RU)	4/02/2020 08:00	18:00	4/02/2020 Dunedin, New Zealand	RU2003	
Ruby Princess (RU)	5/02/2020 08:00	17:00	5/02/2020 Milford Sound, New Zealand	RU2003	
Ruby Princess (RU)	8/02/2020 06:00	18:45	8/02/2020 Sydney, Australia	RU2004	Domestic
Ruby Princess (RU)	11/02/2020 06:00	18:45	11/02/2020 Sydney, Australia	RU2005	RTC
Ruby Princess (RU)	14/02/2020 07:00	16:00	14/02/2020 Milford Sound, New Zealand	RU2005	
Ruby Princess (RU)	15/02/2020 08:00	18:00	15/02/2020 Dunedin, New Zealand	RU2005	
Ruby Princess (RU)	16/02/2020 08:00	18:00	16/02/2020 Akaroa	RU2005	
Ruby Princess (RU)	17/02/2020 08:00	18:00	17/02/2020 Wellington	RU2005	
Ruby Princess (RU)	18/02/2020 07:00	14:00	18/02/2020 Napier, New Zealand	RU2005	
Ruby Princess (RU)	19/02/2020 06:45	17:45	19/02/2020 Tauranga, New Zealand	RU2005	
Ruby Princess (RU)	20/02/2020 07:00	18:00	20/02/2020 Auckland, New Zealand	RU2005	
Ruby Princess (RU)	21/02/2020 07:00	17:00	21/02/2020 Bay Of Islands, New Zealand	RU2005	
Ruby Princess (RU)	24/02/2020 06:00	16:00	24/02/2020 Sydney, Australia	RU2006	RTC
Ruby Princess (RU)	27/02/2020 09:00	18:00	27/02/2020 Bay Of Islands, New Zealand	RU2006	
Ruby Princess (RU)	28/02/2020 07:00	18:00	28/02/2020 Auckland, New Zealand	RU2006	
Ruby Princess (RU)	29/02/2020 06:30	17:45	29/02/2020 Tauranga, New Zealand	RU2006	
Ruby Princess (RU)	1/03/2020 10:00	18:00	1/03/2020 Napier, New Zealand	RU2006	
Ruby Princess (RU)	2/03/2020 07:00	17:00	2/03/2020 Wellington	RU2006	
Ruby Princess (RU)	3/03/2020 08:00	18:00	3/03/2020 Akaroa	RU2006	
Ruby Princess (RU)	4/03/2020 08:00	18:00	4/03/2020 Dunedin, New Zealand	RU2006	
Ruby Princess (RU)	5/03/2020 08:00	17:00	5/03/2020 Milford Sound, New Zealand	RU2006	
Ruby Princess (RU)	8/03/2020 06:00	18:45	8/03/2020 Sydney, Australia	RU2007	RTC
Ruby Princess (RU)	11/03/2020 07:00	16:00	11/03/2020 Milford Sound, New Zealand	RU2007	

Ruby Princess (RU)	12/03/2020 08:00	18:00	12/03/2020 Dunedin, New Zealand	RU2007	
Ruby Princess (RU)	13/03/2020 08:00	18:00	13/03/2020 Akaroa	RU2007	
Ruby Princess (RU)	14/03/2020 08:00	18:00	14/03/2020 Wellington	RU2007	
Ruby Princess (RU)	15/03/2020 07:00	16:00	15/03/2020 Napier, New Zealand	RU2007	
Ruby Princess (RU)	16/03/2020 08:15	19:30	16/03/2020 Tauranga, New Zealand	RU2007	
Ruby Princess (RU)	17/03/2020 07:00	18:00	17/03/2020 Auckland, New Zealand	RU2007	
Ruby Princess (RU)	18/03/2020 07:00	17:00	18/03/2020 Bay Of Islands, New Zealand	RU2007	
Ruby Princess (RU)	21/03/2020 06:00	16:00	21/03/2020 Sydney, Australia	RU2008	RTC
Ruby Princess (RU)	24/03/2020 09:00	18:00	24/03/2020 Easo, Lifou	RU2008	
Ruby Princess (RU)	25/03/2020 08:00	18:00	25/03/2020 Port Vila	RU2008	
Ruby Princess (RU)	27/03/2020 07:00	18:00	27/03/2020 Dravuni Island	RU2008	
Ruby Princess (RU)	28/03/2020 08:00	18:00	28/03/2020 Suva, Viti Levu, Fiji Islands	RU2008	
Ruby Princess (RU)	29/03/2020 07:00	18:00	29/03/2020 Savusavu, Vanua Levi	RU2008	
Ruby Princess (RU)	30/03/2020 08:00	17:00	30/03/2020 Lautoka, Fiji	RU2008	
Ruby Princess (RU)	1/04/2020 08:00	18:00	1/04/2020 Noumea, New Caledonia	RU2008	
Ruby Princess (RU)	4/04/2020 06:00	18:45	4/04/2020 Sydney, Australia	RU2009	International
Ruby Princess (RU)	7/04/2020 08:00	17:00	7/04/2020 Milford Sound, New Zealand	RU2009	
Ruby Princess (RU)	8/04/2020 08:00	18:00	8/04/2020 Dunedin, New Zealand	RU2009	
Ruby Princess (RU)	9/04/2020 08:00	18:00	9/04/2020 Akaroa	RU2009	
Ruby Princess (RU)	11/04/2020 06:00	17:15	11/04/2020 Tauranga, New Zealand	RU2009	
Ruby Princess (RU)	12/04/2020 06:30	18:00	12/04/2020 Auckland, New Zealand	RU2009	
Ruby Princess (RU)	15/04/2020 08:00	16:00	15/04/2020 Pago Pago, Tutuila	RU2009	
Ruby Princess (RU)	18/04/2020 09:00	04:00	19/04/2020 Papeete, Tahiti, French Polynesia	RU2009	
Ruby Princess (RU)	19/04/2020 08:00	17:00	19/04/2020 Moorea, French Polynesia	RU2009	



Australian
BORDER FORCE

04 September 2019

Alki Hatzigeorgiou
Ports Operations Manager
Carnival Australia
Level 5, 465 Victoria Avenue
Chatswood, NSW 2067

Dear Alki,

Determination Notice Number: VES 19/004

Request for Round Trip Cruise status

I refer to your email of 12th July 2019 requesting Round Trip Cruise (RTC) status for the **Ruby Princess** during the period November 2019-March 2020.

A delegate of the Secretary of the Department of Home Affairs (Home Affairs) has determined, under subsection 169(3) of the Migration Act 1958 (the Act), that travellers on the voyages listed in the approved RTC table (see page 2) will be exempt from the immigration clearance requirements of section 166 of the Act, provided those passengers and crew meet the requirements of section 80 of the Act.

In order for this to occur, you must advise all passengers undertaking an approved RTC voyage that, despite this exemption, passengers and crew must be able to comply with immigration clearance if directed to do so by a clearance officer upon arrival in Australia. This means all passengers and crew will require passports/identity documents and, other than Australian citizens, hold an Australian visa that is valid for the duration of the voyage.

You must advise the cruiseships@abf.gov.au inbox if there is any change to any voyage itinerary which was submitted in conjunction with the request for RTC status.

The exemption under subsection 169(3) is subject to section 80 of the Act. Passengers and crew will not be covered by the determination if they:

- leave the vessel at an overseas port (other than for transit purposes); or
- fail to return to Australia within 30 days of departure, or
- do not remain a passenger or member of the crew of that vessel while outside the migration zone.

RTC VOYAGE SUMMARY					
Vessel	Ruby Princess (RU)				
VOYAGE NO	DEPARTURE DATE	DEPARTURE PORT	ARRIVAL DATE	ARRIVAL PORT	DESTINATION(S)
RU1942	8/11/2019	Sydney	22/11/2019	Sydney	New Caledonia, Vanuatu, Fiji
RU1943	22/11/2019	Sydney	5/12/2019	Sydney	New Zealand
RU1944	5/12/2019	Sydney	13/12/2019	Sydney	New Caledonia, Vanuatu
RU2002	13/01/2020	Sydney	27/01/2020	Sydney	New Caledonia, Vanuatu, Fiji
RU2003	27/01/2020	Sydney	8/02/2020	Sydney	New Zealand
RU2005	11/02/2020	Sydney	24/02/2020	Sydney	New Zealand
RU2006	24/02/2020	Sydney	8/03/2020	Sydney	New Zealand
RU2007	8/03/2020	Sydney	21/03/2020	Sydney	New Zealand
RU2008	21/03/2020	Sydney	1/04/2020	Sydney	New Caledonia, Vanuatu, Fiji

Important information

The exemption under subsection 169(3) relates to immigration functions only. Functions carried out under other legislation, such as customs and quarantine, are assessed independently of this determination.

Way port leavers

Passengers and crew who intend leave the vessel at an overseas port other than for transit purposes ('way port leavers') are subject to usual immigration processing on departure from Australia.

Way port joiners

Passengers and crew who join a vessel at an overseas port ('way port joiners') are not covered by the exemption under subsection 169(3) and are subject to immigration clearance processing at the first port of arrival in Australia.

Way port joiners must also be reported via Advance Passenger Processing (APP). For this reason, operators of cruise ships that take on passengers and crew at overseas ports must ensure they (or their agent) have access to the Carrier Portal and are familiar with the process.

Revocation of RTC exemption determinations

An RTC determination may be revoked if the circumstances (e.g. itinerary) of the voyage changes. We will inform you if an RTC determination is revoked.

Contact details

For any urgent enquiries please call the Australian Border Operations Centre on +61 1300 368 126 and select option 3 from the menu (Seaports Entry Operations Centre (SEOC)).

Confirmation of this letter

Home Affairs requires you to confirm, via email to the cruiseships@abf.gov.au inbox, that you have received this letter and that you have understood the conditions outlined in it.

- 3 -

Yours sincerely

Narrelle McPhail

RTC/ MTPC/ Major Event Coordination

Planning and Engagement | Strategic Coordination

Strategic Border Command | Australian Border Force

P: (02) [REDACTED] E: [REDACTED]@abf.gov.au

VES 19/004



Migration (VES 19/004: Class of Persons Taken Not to Enter Australia) Determination 2019

I, Sally Bower, Delegate of the Secretary of the Department of Home Affairs, acting under subsection 169(3) of the *Migration Act 1958* (the Act):

- (a) determine that despite subsection 169(2) of the Act, subsection 169(1) of the Act does apply to the class of persons who are passengers or crew on an international passenger cruise ship voyage specified for the corresponding vessel listed in the Schedules, other than *way port joiners*; and

Note: A *way port joiner* means a passenger or crew member who join an international passenger cruise ship voyage at an overseas port.

- (b) according to subsection 33(3) of the Acts Interpretation Act 1901, the following instruments are revoked:
- (i) all VES instruments made in 2015;
 - (ii) all VES instruments made in 2016;
 - (iii) all instruments made in 2017;
 - (iv) VES 18/001;
 - (v) VES 18/002;
 - (vi) VES 18/003;
 - (vii) VES 18/004;
 - (viii) VES 18/005;
 - (ix) VES 18/006;
 - (x) VES 18/008;
 - (xi) VES 19/001.

This instrument commences on the day after signature.

Dated: 4 September 2019

Sally Bower
 Executive Level Two, ABF Governance and Major Events Section
 Strategic Border Command
 Delegate of the Secretary of the Department of Home Affairs

SCHEDULE 1 – The vessel ‘Pacific Explorer’ – voyages

Voyage Number	Expected Departure Date	Expected Departure Port	Expected Arrival Date	Expected Arrival Port	Expected Destination(s)
PX1951N	7 October 2019	Sydney, Australia	17 October 2019	Sydney, Australia	New Caledonia, Vanuatu
PX1952	17 October 2019	Sydney, Australia	2 November 2019	Sydney, Australia	New Caledonia; Niue; Fiji & Tonga
PX1961	25 November 2019	Sydney, Australia	5 December 2019	Sydney, Australia	New Caledonia, Vanuatu
PX1965	17 December 2019	Sydney, Australia	27 December 2019	Sydney, Australia	New Caledonia, Vanuatu
PX2001	30 December 2019	Sydney, Australia	8 January 2020	Sydney, Australia	New Caledonia, Vanuatu
PX2002	8 January 2020	Sydney, Australia	16 January 2020	Sydney, Australia	New Caledonia, Vanuatu
PX2016	14 April 2020	Sydney, Australia	24 April 2020	Sydney, Australia	New Caledonia, Vanuatu
PX2023	22 May 2020	Sydney, Australia	5 June 2020	Sydney, Australia	New Caledonia, Vanuatu & Fiji
PX2025	8 June 2020	Sydney, Australia	18 June 2020	Sydney, Australia	New Caledonia, Vanuatu
PX2028	28 June 2020	Sydney, Australia	6 July 2020	Sydney, Australia	New Caledonia, Vanuatu
PX2029	6 July 2020	Sydney, Australia	15 July 2020	Sydney, Australia	New Caledonia, Vanuatu
PX2031	19 July 2020	Sydney, Australia	31 July 2020	Sydney, Australia	New Caledonia, Vanuatu & Fiji
PX2033	3 August 2020	Sydney, Australia	11 August 2020	Sydney, Australia	New Caledonia, Vanuatu
PX2038	7 September 2020	Sydney, Australia	17 September 2020	Sydney, Australia	New Caledonia, Vanuatu

VES 19/004

SCHEDULE 2 – The vessel ‘Pacific Aria’ (PR) – voyages

Voyage Number	Expected Departure Date	Expected Departure Port	Expected Arrival Date	Expected Arrival Port	Expected Destination(s)
PR1941P	6 October 2019	Brisbane, Australia	18 October 2019	Brisbane, Australia	New Caledonia, Vanuatu & Fiji
PR1942N	18 October 2019	Brisbane, Australia	25 October 2019	Brisbane, Australia	New Caledonia, Vanuatu
PR1944N	1 November 2019	Brisbane, Australia	8 November 2019	Brisbane, Australia	New Caledonia, Vanuatu
PR1945N	8 November 2019	Brisbane, Australia	15 November 2019	Brisbane, Australia	New Caledonia, Vanuatu
PR1951N	16 December 2019	Brisbane, Australia	28 December 2019	Brisbane, Australia	New Caledonia, Vanuatu & Fiji
PR2001N	28 December 2019	Brisbane, Australia	6 January 2020	Brisbane, Australia	New Caledonia, Vanuatu
PR2004N	17 January 2020	Brisbane, Australia	24 January 2020	Brisbane, Australia	New Caledonia, Vanuatu

SCHEDULE 3 – The vessel ‘Carnival Spirit’ – voyages

Voyage Number	Expected Departure Date	Expected Departure Port	Expected Arrival Date	Expected Arrival Port	Expected Destination(s)
S939	6 October 2019	Sydney, Australia	14 October 2019	Sydney, Australia	New Caledonia
S940	14 October 2019	Sydney, Australia	21 October 2019	Sydney, Australia	New Caledonia
S941	21 October 2019	Sydney, Australia	31 October 2019	Sydney, Australia	Vanuatu, New Caledonia
S944	9 November 2019	Sydney, Australia	21 November 2019	Sydney, Australia	New Caledonia, Vanuatu & Fiji
S946	25 November 2019	Sydney, Australia	6 December 2019	Sydney, Australia	New Caledonia, Vanuatu
S948	9 December 2019	Sydney, Australia	18 December 2019	Sydney, Australia	New Caledonia
S949	18 December 2019	Sydney, Australia	30 December 2019	Sydney, Australia	New Caledonia, Fiji & Vanuatu
S001	30 December 2019	Sydney, Australia	9 January 2020	Sydney, Australia	New Caledonia, Vanuatu
S004	14 January 2020	Melbourne, Australia	24 January 2020	Melbourne, Australia	New Zealand
S006	27 January 2020	Melbourne, Australia	7 February 2020	Melbourne, Australia	New Caledonia
S008	10 February 2020	Melbourne, Australia	22 February 2020	Melbourne, Australia	New Caledonia, Vanuatu
S011	2 March 2020	Melbourne, Australia	14 March 2020	Melbourne, Australia	New Zealand
S013N	16 March 2020	Sydney, Australia	24 March 2020	Melbourne, Australia	New Caledonia

VES 19/004

SCHEDULE 4 – The vessel ‘Golden Princess’ (NP) – voyages

Voyage Number	Expected Departure Date	Expected Departure Port	Expected Arrival Date	Expected Arrival Port	Expected Destination(s)
NP1938	3 November 2019	Melbourne, Australia	17 November 2019	Melbourne, Australia	New Caledonia, Vanuatu & Fiji
NP2003	10 January 2020	Melbourne, Australia	23 January 2020	Melbourne, Australia	New Zealand
NP2005	30 January 2020	Melbourne, Australia	12 February 2020	Melbourne, Australia	New Zealand
NP2006	12 February 2020	Melbourne, Australia	25 February 2020	Melbourne, Australia	New Zealand
NP2007	25 February 2020	Melbourne, Australia	10 March 2020	Melbourne, Australia	New Caledonia, Vanuatu & Fiji
NP2008	10 March 2020	Melbourne, Australia	23 March 2020	Melbourne, Australia	New Zealand

SCHEDULE 5 – The vessel ‘Pacific Dawn’ (PD) – voyages

Voyage Number	Expected Departure Date	Expected Departure Port	Expected Arrival Date	Expected Arrival Port	Expected Destination(s)
PD1952	12 October 2019	Brisbane, Australia	19 October 2019	Brisbane, Australia	New Caledonia, Vanuatu
PD1955	26 October 2019	Brisbane, Australia	2 November 2019	Brisbane, Australia	New Caledonia, Vanuatu
PD1960	23 November 2019	Brisbane, Australia	30 November 2019	Brisbane, Australia	New Caledonia, Vanuatu
PD1965	17 December 2019	Brisbane, Australia	27 December 2019	Brisbane, Australia	New Caledonia, Vanuatu
PD2001	30 December 2019	Brisbane, Australia	7 January 2020	Brisbane, Australia	New Caledonia, Vanuatu
PD2004	18 January 2020	Brisbane, Australia	25 January 2020	Brisbane, Australia	New Caledonia, Vanuatu
PD2005	25 January 2020	Brisbane, Australia	1 February 2020	Brisbane, Australia	New Caledonia, Vanuatu
PD2014	7 March 2020	Brisbane, Australia	14 March 2020	Brisbane, Australia	New Caledonia, Vanuatu
PD2018	28 March 2020	Brisbane, Australia	4 April 2020	Brisbane, Australia	New Caledonia, Vanuatu
PD2020	11 April 2020	Brisbane, Australia	18 April 2020	Brisbane, Australia	New Caledonia, Vanuatu
PD2027	18 May 2020	Brisbane, Australia	30 May 2020	Brisbane, Australia	New Caledonia, Vanuatu & Fiji
PD2028	30 May 2020	Brisbane, Australia	6 June 2020	Brisbane, Australia	New Caledonia, Vanuatu
PD2033	27 June 2020	Brisbane, Australia	4 July 2020	Brisbane, Australia	New Caledonia, Vanuatu
PD2034	4 July 2020	Brisbane, Australia	11 July 2020	Brisbane, Australia	New Caledonia, Vanuatu
PD2037	18 July 2020	Brisbane, Australia	1 August 2020	Brisbane, Australia	New Caledonia, Vanuatu, Tonga
PD2041	15 August 2020	Brisbane, Australia	22 August 2020	Brisbane, Australia	New Caledonia, Vanuatu
PD2044	5 September 2020	Brisbane, Australia	12 September 2020	Brisbane, Australia	New Caledonia, Vanuatu
PD2047	19 September 2020	Brisbane, Australia	26 September 2020	Brisbane, Australia	New Caledonia, Vanuatu

VES 19/004

SCHEDULE 6 – The vessel ‘Ruby Princess’ (RU) – voyages

Voyage Number	Expected Departure Date	Expected Departure Port	Expected Arrival Date	Expected Arrival Port	Expected Destination(s)
RU1942	8 November 2019	Sydney, Australia	22 November 2019	Sydney, Australia	New Caledonia, Vanuatu & Fiji
RU1943	22 November 2019	Sydney, Australia	5 December 2019	Sydney, Australia	New Zealand
RU1944	5 December 2019	Sydney, Australia	13 December 2019	Sydney, Australia	New Caledonia, Vanuatu
RU2002	13 January 2020	Sydney, Australia	27 January 2020	Sydney, Australia	New Caledonia, Vanuatu & Fiji
RU2003	27 January 2020	Sydney, Australia	8 February 2020	Sydney, Australia	New Zealand
RU2005	11 February 2020	Sydney, Australia	24 February 2020	Sydney, Australia	New Zealand
RU2006	24 February 2020	Sydney, Australia	8 March 2020	Sydney, Australia	New Zealand
RU2007	8 March 2020	Sydney, Australia	21 March 2020	Sydney, Australia	New Zealand
RU2008	21 March 2020	Sydney, Australia	1 April 2020	Sydney, Australia	New Caledonia, Vanuatu & Fiji

VES 19/004

SCHEDULE 7 – The vessel ‘Sea Princess’ (CP) – voyages

Voyage Number	Expected Departure Date	Expected Departure Port	Expected Arrival Date	Expected Arrival Port	Expected Destination(s)
CP1918	3 November 2019	Brisbane, Australia	17 November 2019	Brisbane, Australia	New Zealand
CP1920	24 November 2019	Brisbane, Australia	8 December 2019	Brisbane, Australia	New Zealand
CP1922	19 December 2019	Brisbane, Australia	29 December 2019	Brisbane, Australia	New Caledonia, Vanuatu
CP2001	29 December 2019	Brisbane, Australia	12 January 2020	Brisbane, Australia	New Zealand
CP2004	2 February 2020	Brisbane, Australia	16 February 2020	Brisbane, Australia	New Zealand
CP2006	23 February 2020	Brisbane, Australia	8 March 2020	Brisbane, Australia	New Zealand

VES 19/004

SCHEDULE 8 – The vessel ‘Carnival Splendor’ – voyages

Voyage Number	Expected Departure Date	Expected Departure Port	Expected Arrival Date	Expected Arrival Port	Expected Destination(s)
D947	11 December 2019	Sydney, Australia	19 December 2019	Sydney, Australia	New Caledonia
D948	19 December 2019	Sydney, Australia	28 December 2019	Sydney, Australia	New Caledonia
D001	28 December 2019	Sydney, Australia	6 January 2020	Sydney, Australia	New Caledonia
D002	6 January 2020	Sydney, Australia	16 January 2020	Sydney, Australia	New Caledonia, Vanuatu
D004	20 January 2020	Sydney, Australia	28 January 2020	Sydney, Australia	New Caledonia
D005	28 January 2020	Sydney, Australia	6 February 2020	Sydney, Australia	New Caledonia, Vanuatu
D007	10 February 2020	Sydney, Australia	18 February 2020	Sydney, Australia	New Caledonia
D009	23 February 2020	Sydney, Australia	1 March 2020	Sydney, Australia	New Caledonia
D010	1 March 2020	Sydney, Australia	11 March 2020	Sydney, Australia	New Caledonia, Vanuatu
D011	11 March 2020	Sydney, Australia	19 March 2020	Sydney, Australia	New Caledonia
D013	22 March 2020	Sydney, Australia	3 April 2020	Sydney, Australia	New Caledonia, Vanuatu & Fiji
D014	3 April 2020	Sydney, Australia	10 April 2020	Sydney, Australia	New Caledonia
D016	13 April 2020	Sydney, Australia	24 April 2020	Sydney, Australia	New Caledonia, Vanuatu
D018	27 April 2020	Sydney, Australia	7 May 2020	Sydney, Australia	New Caledonia, Vanuatu
D020	11 May 2020	Sydney, Australia	20 May 2020	Sydney, Australia	New Caledonia
D021	20 May 2020	Sydney, Australia	28 May 2020	Sydney, Australia	New Caledonia
D022	28 May 2020	Sydney, Australia	5 June 2020	Sydney, Australia	New Caledonia
D024	9 June 2020	Sydney, Australia	19 June 2020	Sydney, Australia	New Caledonia, Vanuatu
D026	22 June 2020	Sydney, Australia	3 July 2020	Sydney, Australia	New Caledonia, Vanuatu
D027	3 July 2020	Sydney, Australia	11 July 2020	Sydney, Australia	New Caledonia

Migration (VES 19/004: Class of Persons Taken Not to Enter Australia) Determination 2019

VES 19/004

Voyage Number	Expected Departure Date	Expected Departure Port	Expected Arrival Date	Expected Arrival Port	Expected Destination(s)
D028	11 July 2020	Sydney, Australia	20 July 2020	Sydney, Australia	New Caledonia
D030	30 July 2020	Sydney, Australia	7 August 2020	Sydney, Australia	New Caledonia
D032	10 August 2020	Sydney, Australia	18 August 2020	Sydney, Australia	New Caledonia
D033	18 August 2020	Sydney, Australia	28 August 2020	Sydney, Australia	New Caledonia, Vanuatu
D035	31 August 2020	Sydney, Australia	8 September 2020	Sydney, Australia	New Caledonia
D037	17 September 2020	Sydney, Australia	25 September 2020	Sydney, Australia	New Caledonia
D039	29 September 2020	Sydney, Australia	9 October 2020	Sydney, Australia	New Caledonia, Vanuatu

VES 19/004

SCHEDULE 9 – The vessel ‘Noordam’ (NO) – voyages

Voyage Number	Expected Departure Date	Expected Departure Port	Expected Arrival Date	Expected Arrival Port	Expected Destination(s)
NO200104	4 January 2020	Sydney, Australia	18 January 2020	Sydney, Australia	New Zealand
NO200402	2 April 2020	Eden, Australia	15 April 2020	Sydney, Australia	New Zealand
		Sydney, Australia	16 April 2020		



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

The Australian Government Solicitor
Level 42 MLC Centre
19 Martin Place
Sydney NSW 2000

Contact: Simon Daley, Chief Solicitor

File ref: 20203214

Further supplementary submission

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].¹ 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].

¹ 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.



The Hon Christian Porter MP

Attorney-General
Minister for Industrial Relations
Leader of the House

MC20-026524

The Hon Mark Dreyfus QC MP
Shadow Attorney-General
Shadow Minister for Constitutional Reform
Member for Isaacs
Parliament House
CANBERRA ACT 2600

Dear ~~Mr Dreyfus~~ 

I refer to your letter of 6 August 2020, concerning the Commonwealth's involvement with the NSW Special Commission of Inquiry into the Ruby Princess (the Commission).

As you will no doubt be aware, the Commonwealth's longstanding position is that neither it, nor its officers, are generally bound by the compulsory powers of state and territory Royal Commissions or equivalent bodies. Consistently with that position, Commonwealth officials usually do not appear as witnesses before such bodies.

No doubt you are also aware that the New South Wales Government itself has previously expressed views generally consistent with this position. In the case of *Commonwealth v Walker* (C7 of 2018), New South Wales filed submissions in the High Court which rejected the proposition that Mr Walker (at the time acting as a Royal Commissioner appointed under South Australian legislation) could compel Commonwealth officials to appear and give evidence. In circumstances broadly analogous to those currently before the Commission, the submissions filed by New South Wales made the point that:

... it is not lightly to be supposed that the Parliament of South Australia intended to confer upon commissions of inquiry a power coercively to compel the executive governments of other polities to appear as witnesses or to produce documents.

The issue of a summons requiring the production of documents, or the attendance of a witness to reveal information, including confidential information, relating to the governmental functions of other executive governments of the Federation, whether from those governments or from their officers, employees or agents, would involve a substantial and surprising interference with the hegemony of those governments.

Notwithstanding this well-established general position, the Commonwealth has voluntarily cooperated with the Commission in light of the significant matters into which it is inquiring, consistently with the Prime Minister's indication.

The Commonwealth has provided four voluntary statements to the Commission (dated 12 June, 16 July, 31 July and 3 August 2020), along with a considerable number of policy and operational documents, and correspondence between Commonwealth officials.

It is the Commonwealth's understanding that the provision of this information has been helpful to the Commission. Indeed, it is a matter of public record that Counsel Assisting the Commission described the Commonwealth's first voluntary statement as 'extremely detailed and of great assistance to the Commission'.

As you note, on 7 July 2020, the Special Commissioner issued a summons under the *Special Commissions of Inquiry Act 1983* (NSW), which purported to require a junior officer of the Department of Agriculture, Water and the Environment to attend a hearing before the Commission. As could be expected, the Commonwealth requested that the summons be withdrawn for lack of power. However, the Commonwealth continued to assist the Commission by providing a further voluntary statement on 16 July 2020 covering a range of matters, including the role of the junior official in question.

In light of the Commonwealth's further voluntary statement, the Commissioner expressed his gratitude for the additional information and excused the officer's attendance at the Commission. This is further evidence of the productive working relationship the Commonwealth has developed with the Commission over the course of its significant inquiry.

I have copied this correspondence to the Prime Minister, the Minister for Agriculture, Drought and Emergency Management, the Minister for Health, and the Minister for Home Affairs.

Yours sincerely

The Hon Christian Porter MP
Attorney-General
Minister for Industrial Relations
Leader of the House

CC. The Hon Scott Morrison MP, Prime Minister

The Hon David Littleproud MP, Minister for Agriculture, Drought and Emergency Management

The Hon Greg Hunt MP, Minister for Health

The Hon Peter Dutton MP, Minister for Home Affairs