# Happy New Fear

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## Overview

The Tinpot series concerned Governments abusing power in an ‘emergency’. The final article in the series mentioned the December Covid outbreak in Sydney and an inquiry into Melbourne’s hotel quarantine failure. It said some comments would be forthcoming in the new year.

Sydney in fact had two Covid outbreaks. One in the northern beaches, one at Berala. They started simultaneously in mid-December. They totalled 220 cases. The daily peak – twenty-eight – was on 19 December. By mid-January, the outbreaks were over. Resolution included the Health Minister ordering a lockdown of the northern beaches over the Christmas-New Year period, tracing and isolation for Berala contacts, and wearing of masks in indoor communal situations.

Despite this, sections of the media went into a fear-mongering frenzy. There were claims of hundreds of unidentified cases and predictions of several thousand cases by the end of 2020. By New Year, commentary thundered NSW had lost control of the outbreak – while cases were declining. Coverage was continuous, trivia laden and aimed at changing policy rather than informing the public. There was a disingenuous clamour for a ‘short’ lockdown of all Sydney. By mid-January, ‘expert’ commentary in the media was so out of hand the Commonwealth Health Minister warned that most real experts worked for Governments and were not sounding off in the media. Media and ‘expert’ demands for abuses of power were resisted by NSW.

The reaction of decision-making officials in other States to the outbreaks was chaotic and panic stricken. State border restrictions were inconsistent: among States; with previous restrictions; with criteria; over time. The shambles was accentuated by further January 2021 Covid outbreaks – in Melbourne and Brisbane. States (other than NSW) panicked again. Restrictions across Australia became so complex and changeable several web pages attempted to provide travel advice like that for troubled tinpot countries.

The Brisbane ‘outbreak’ started with detection of infection in a single quarantine worker. It was the ‘UK strain’ - hyped as a ‘highly infectious mutant’. Queensland’s Chief Health Officer locked Brisbane down for three days. Before then, two infected people had visited at least ten public locations in eight days. Queensland identified over a thousand contacts and conducted near 300,000 Covid tests over the next 28 days. Yet it recorded no other transmissions outside quarantine – and four within. Most other States soon lifted their border restrictions on Brisbane, well short of the time span claimed – in the Courts - necessary for public health.

On 31 January, Covid was detected in one quarantine worker in Western Australia. Again, it was the highly infectious UK mutant. That was given as reason for the Commissioner of Police/State Emergency Coordinator to order a five-day lockdown of Perth and surrounding areas. No further cases were recorded.

Lack of spread of the UK strain in those States poses troubling questions. Media diversions – Covid aerosols in quarantine? – avoided answers. The diversions came with a push to relocate quarantine outside capital cities - with political benefits for State Governments. It had the appearance of media-expert-political symbiosis.

Questions about lack of spread undermine the credibility of anti-Covid policy at least in those States.

There was already some damage. South Australia had closed down over a pizza box. The Commonwealth shut-off New Zealand after a single case there. That country ‘eliminated Covid’ – repeatedly – by lockdowns.

Onto Victoria - the Melbourne inquiry’s terms of reference were limited. It concentrated on bureaucracy and procedures. It noted disorganisation and opacity of decisions was inconsistent with democratic principles. The inquiry did not refer to similar) criticisms raised prior by the Supreme Court. Nor did it address root causes. Hence, its report did not address all issues that led to the quarantine failure.

Melbourne, had two subsequent outbreaks. The first, January 2021, lasted for a week, had forty cases, and was resolved by tracing.

The second, Melbourne outbreak, in February 2021, of the ‘hyper infectious’ Covid variant had far fewer cases. Yet the Chief Health Officer ordered a five-day lockdown of the State. The explanation of that action was unsatisfactory. The reaction to that second outbreak – like that of most States to Covid - implied a lack of faith in health authorities’ resources, capability or competence.

While anti-Covid actions in every State supposedly reflected sound advice from experts, the divergence of responses – and slanging match among States – suggest that to be false. At issue are the veracity of some political leaders and the suitability – the expertise, judgement and commitment to democratic principles – of the experts their Governments supposedly relied on.

Governments, and the media, in peddling doom-laden hypochondria, have seeded doubts. Inexplicable anti-Covid reactions and unbalanced media focus – including on vaccine minutiae - abets conspiracy theories and fringe groups like anti-vaxxers. The failure of Governments to take proper responsibility contributed to an air of illegitimacy. Overt politicisation - and displays of State-of-origin petulance - by nearly all Premiers compounded suspicions of misuse of extraordinary emergency powers.

In any event, by accepting and assiduously promoting a myopic health policy wish - of never having a community Covid case - as their States central objective, most Premiers have created an untenable position. Their strategic idiocy could lead to disaster.

The anti-Covid plan is said to rely on community vaccination defeating the virus. However, Covid cases may continue to arise. If States continue to be shut down because of a very few Covid cases – the Queensland Premier’s preferred ‘national model’ – Australia will face grave problems.

Some Governments might say vaccines will end lock downs and border closures. However, such comments would be more distractions from recent excesses than trustworthy promises. A return to normality entails ending abuses of power – not hiding or making excuses for them or a pretend promise: ‘we won’t do it again’.

Normality depends first on changing what is considered an ‘emergency’ and who makes rules to combat Covid. Some officials, most Premiers and media ‘experts’ want and have put the bar for their use of extraordinary Covid emergency powers far below any reasonable and possibly lawful threshold. Worse are some of their reactions to bad judgements that caused needless problems. The start of any real return to Covid-normal will be having decisions made by Ministers accountable to Parliaments - rather than by officials with conflicting ‘reporting’ accountabilities. It also needs the Commonwealth take responsibility for quarantine.

Recommendations are made along these lines: align responsibility and legal power; make transparent the reasons for exercise of power. For the States this entails legislation to: give Ministers exclusive power to make anti-Covid directions; require publication of reasons for those directions; have those directions disallowable by Parliaments. The Commonwealth should recognise its quarantine responsibility and: legislate to require inspection, approval and rectification of quarantine systems; make conditional on Commonwealth approval State decisions that impinge on quarantine or movement of people across borders. Formal advisory committees considering anti-Covid measures should be directly controlled by Health Ministers - not officials.

The Tinpot series – which started before Covid – noted the many circumstances ‘experts’ and activists want declared as emergencies. Natural disasters, cyber, infrastructure failures and climate change are examples. In each of these, emergency proponents seek to abrogate democracy. The need for leaders who reject such attitudes is heightened by likelihood of spread of tinpot behaviour into other fields. The pandemic is just one example of what Governments and officials may have in store for the population unless they are brought to account for their behaviour. The national emergency laws, carelessly waved through Parliament late in 2020, gives rise to innumerable other possibilities.

**18 February, 2021**

## 1. Introduction

The final article in the Tinpot series referred to two tinpot like events: reaction to a Covid outbreak in Sydney; the report of an inquiry into the failure of hotel quarantine in Melbourne. The article indicated a more considered review of these would be forthcoming in the new year. This note does that and, like the Tinpot articles, gives a rough timeline of events that may be of interest later up to 18 February 2021[[1]](#endnote-1).

Its title comes from a 9GAG photo included in the article. The photo was of a poster saying ‘merry crisis and a happy new fear’. It was included to say Australian Governments and mass media seem intent on sowing fear, panic and division.

On 19 December, a Covid outbreak was reported in the northern beaches area of Sydney. The likelihood of significant spread of infection from the area was lower than normal, and the area was locked-down. Yet Governments in other States not only panicked, they urged others and their communities to panic as well – for example on 20 December – Victoria’s Premier made extraordinary announcements including a lack of confidence in NSW public health policy.[[2]](#endnote-2)

Section 2 raises some issues about that.

Given, Queensland and Western Australia criticised NSW their reactions to the Sydney outbreaks and to their own outbreaks in early 2021 are considered in Section 3.

As those States made claims to be afflicted by the ‘highly infectious mutant’ strain of (UK) Covid, the section gives some history of the origin of that descriptor.

The inquiry into the Melbourne mid-2020 quarantine[[3]](#footnote-1) failure did not have the status or powers of a royal commission. The report was issued on 21 December. It is briefly reviewed in section 4.

That section includes some comments on subsequent events in Victoria, including the outbreak of a ‘hyper-infectious’ Covid variant from a quarantine failure on 29 January.

Section 5 draws some conclusions including about entrenched public policy problems:

* The stoking of a sense of continuing crisis and pursuit of autocratic, authoritarian policies;
* Overt, combative politicisation of State reactions;
* Bad governance - officials making decisions well beyond their normal level of authority;
* Apparent success, but actual failure, of national arrangements;
* Governments trapped in idiotic strategy - commitment to unattainable goals.

Section 5 concludes with some recommendations, the principles of which might be applied to other long running ‘emergencies’.

As ever, comments and corrections are welcome.

## 2. The NSW outbreaks

### 2.1 Outbreaks

On 16 December 2020, three cases of locally transmitted Covid were identified in Sydney. Two were from the northern beaches. While the source of that outbreak remains unknown, soon afterwards, several related infections were identified elsewhere in Sydney. There was a separate case on the same day in the Bankstown district.[[4]](#endnote-3)

The outbreaks took different trajectories. The northern beaches cluster grew rapidly. Growth in the Bankstown (Berala) cluster was not for a further five days – on 21 December – with a single case. A later surge was associated with a visit of an infected person to a bottleshop just prior to Christmas.

The peak number of the combined clusters was twenty-eight cases on 19 December. After which it quickly reduced to single digits – Figure 1.

**Figure 1: NSW pre-Christmas 2020 outbreak**

By late January, the outbreaks were effectively over. There were around 220-total cases.

### 2.2 Media representation

Sections of the media misrepresented facts and promoted fear. The media sought out the ‘Covid personalities’ who, on past performance, would likely predict the worst and argue for the harshest impositions on the community. They were not disappointed.[[5]](#endnote-4)

One personality argued there may be 3,000 cases at mid-January unless greater Sydney was ‘locked down’. Their observation – we could ‘*see coronavirus blow out of proportion*’ – was supremely ironic. Another personality’s recommendation to lock-down Sydney from 30 December was backed by speculation of five hundred undetected cases – which proved nonsense. On New Year’s Day, another commentator argued NSW had lost control of the outbreak – despite the evidence being contrary.[[6]](#endnote-5)

Some argued a Sydney lockdown could be short and pre-Christmas. The argument they put, and its implicit promise to avoid home detention over Christmas-New Year, looked disingenuous not least because proponents regarded the holidays as ‘super spreader’ events.[[7]](#endnote-6)

However, other lockdown proponents faltered. When it became evident its campaign for a Sydney lockdown was failing, ABC TV changed its ‘news’ and campaigned for compulsory mask wearing.

More generally, media coverage of the outbreaks was repetitious and opinion dominated. Nothing seemed too obscure for several continuous ‘live coverages’ – except for advising locations of actual risks as is done during natural disasters.

News headlines were trivial. ‘Content’ - opinions of selected ‘experts’, criticism of Governments not complying with their latest wishes, dire predictions, and self-serving question and answer segments – was hypochondriac and mostly useless. The headlines had virtually nothing on precautions people should take.

Almost all presentations assumed reduction of Covid was society’s only goal. Savant dedication to case numbers compared with absence of reference to matters supposedly central to policy: severity; sickness and mortality rates; recovery times.

Presented beliefs - that any action to reduce Covid is right, that Governments were not doing enough to close down societies – got out of hand. So much so, in mid-January 2021 the Commonwealth Health Minister stepped in to say the real experts were working for Governments and some personalities promoted in the media were not renowned for accurate predictions etc.[[8]](#endnote-7)

### 2.3 NSW responses

Since the start of the pandemic, NSW policy aimed to match response to risk with the Health Minister making the decisions. An outbreak would be addressed by tracing unless there was a significant probability of not detecting and isolating Covid. If that probability emerged, there would be restrictions targeted to localities and activities.[[9]](#endnote-8)

The growth and number of cases in the northern beaches on 17 December - from two to twenty-three - led to that probability. The Government decided to lockdown the northern beaches. The lockdown started on 19 December 19 – the day of peak new cases.

The northern beaches – population around 250,000 – is known as ‘the insular peninsula’. One implication: compared with similarly populated areas, Covid is less likely to spread from the area. Another implication: lockdown measures within the area are unusually effective to reduce spread. A corollary: similar measures outside the area are usually less efficient. [[10]](#endnote-9)

Within the district fifty-nine cases were detected. More cases were detected beyond the area. Given the nature of the insular peninsula, there was near certainty not all initiated there. Testing confirmed this - the 16 December Bankstown area case was distinguishable from the two others of that day. In the event, NSW did not lock down any part of the State other than the northern beaches – despite warnings like: *‘fears the Berala cluster is set to explode’*.[[11]](#endnote-10)

### 2.4 General reactions of other States

There were knee-jerk reactions from other States. These suggested States were trapped to an impossible target: never having any infection.

A day after the first case NSW was identified – 17 December – most States had new border restrictions against NSW residents. These were inconsistent: among States; with criteria for Covid responses; past behaviour; with risks from Sydney. There were frequent, substantial, unexplained revisions in the ‘when, where, who’ of border restrictions.

Yet there was some consistency - in pretences elected Governments, not officials, imposed those restrictions.

Another pretence - this was something other than national shambles was – drivel:

*‘The announcements late on Thursday night marked the culmination of a rapidly evolving outbreak in NSW.’ [[12]](#endnote-11)*

Travel to/from most States Sydney’s northern beaches was stopped. Travel from wider parts of NSW to some States was stopped. A prominent feature of this wave of border restrictions was retrospectivity. People who had visited a ‘hotspot’ – defined differently in the eyes of officials from different States - prior to restrictions were required to quarantine. While having apparent logic, some applications were discriminatory and therefore likely illegal.[[13]](#endnote-12)

Another feature was endless grandstanding by Premiers of views that Australians who do not live in ‘their’ State are aliens. The showboating was facilitated by constant media reports of changes in border restrictions. Every change was reported in detail as if, for example, a half-daily update of Northern Territory restrictions on a small proportion of Sydney-siders had immense significance. The volume, inconsistencies and changes in restrictions led several media organisations and blogs to run continuous travel advisories – similar to those published for world trouble spots.

Figure 2 below shows first-up reactions to the NSW outbreaks.

**Figure 2: Reactions to Sydney outbreaks, mid December 2020[[14]](#endnote-13)**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **State** | **Restriction** | **Area applied to** | **To people in area after** | **Made by** | **Announced by** |
| NSW | Stay home | Nth beaches | 17 Dec | Minister | Minister |
| Vic. | No entryQuarantine | Nth beachesSydney | 4 Dec11 Dec / arrival 17 Dec | Chief Health OfficerNot identified | Premier |
| Qld. | Quarantine | Nth beaches | 19 Dec | Chief Health Officer | C. Health Officer |
| S.A | QuarantineRetro-quarantineRetro-quarantine in hotel | Nth beachesNth beachesIdentified premises | 11 Dec11 Dec11 Dec  | State CoordinatorState CoordinatorState Coordinator | State Coordinator |
| W.A | No entry, quarantine | NSW | Since 11 Dec and from 4 Dec | Police Commissioner/ State Emergency Coordinator | Premier |
| Tas. | No entryQuarantineRetro-quarantine | Nth beaches, other suburbsGreater SydneyNth beaches | 11 Dec4 Dec11 Dec | Public HealthPublic HealthPublic Health | Premier |
| NT | Quarantine | Nth beaches | 11 Dec | Chief Health Officer | Chief Minister |
| ACT | QuarantineQuarantine (20 Dec) | Nth beachesGreater Sydney, Illawarra, Blue Mtns, C. Coast, Shoalhaven | 11 Dec11 Dec | Chief Health OfficerChief Health Officer | Chief MinisterChief Minister |

### 2.5 Consistency of reactions with Palmer’s case

In November 2020, the High Court dismissed Mr Palmer’s attempt to invalidate the July Western Australia border closure. Reasons were not available at the time of writing.[[15]](#endnote-14)

The Chief Justice had remitted certain factual issues to the Federal Court for determination. The Court, Rangiah J, made its determination in August. Problems with that are noted elsewhere.[[16]](#endnote-15)

The Federal Court took evidence from ‘experts’. It preferred views that sought to eliminate rather than balance Covid risk.

Preventing entry from ‘hotspots’ was considered less satisfactory than preventing entry from an entire State. Quarantine was considered less satisfactory than preventing entry.

The Court found the Western Australian border should remain closed to Victoria, NSW and Queensland. This reflected assessment of high, moderate and uncertain (respective) probabilities Covid would enter Western Australia if borders were opened – moderate being 4%. Probabilities were assessed on the basis of case numbers and days since the last community Covid transmission took place.

The court accepted that 28 days of zero reported community transmission cases in a State indicated a low – acceptable – probability of no community transmission, justifying a border opening. Some State Governments and officials subsequently claimed this was their benchmark, despite not mentioning it since their imposition of border closures six-months earlier.[[17]](#endnote-16)

In October all States - except NSW - provided submissions to the High Court supporting the Federal Court’s determination. Yet, border closing reactions to the Sydney - and later Melbourne (January) and Brisbane - outbreaks were inconsistent with what was put to the Federal Court. This is demonstrated in Figure 3.[[18]](#endnote-17)

**Figure 3: Reaction to Sydney, Melbourne, Brisbane outbreaks compared with Federal Court (at 29 Jan 2021)**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **State** | **Widest Application** | **Highest Restriction**  | **First restriction after outbreak** | **End of restrictions after last case**  |
| Palmer case \* | State wide | No entry | 0 | 28 |
| NSW v. Vic. v. Qld. | NoneNone | NoneNone | NANA | NANA |
| Vic. [[19]](#footnote-2) v NSW v. Qld. |  Area (Sydney)Area(Brisbane) | No entryNo entry | 31 | >107 |
| Qld. v. NSW v. Vic. | Area(Sydney)None | No entryNone | 4NA | 15?0 |
| S.A v. NSW v. Vic. v. Qld. | State wideNoneArea(Brisbane) | No entryNone[[20]](#footnote-3)Quarantine | 4NA3 | 14? 010 |
| W.A v. NSW v. Vic. v. Qld. | State wide State wide State wide  | No entryNo entryNo entry | 3 07 | >12>2624? |
| Tas. v. NSW v. Vic. v. Qld. | Area (Sydney)LocationsArea(Brisbane) | QuarantineQuarantine Quarantine | 211 | >12<2515 |
| N.T. [[21]](#footnote-4) v. NSW  v. Vic.  v. Qld. |  Area (Sydney)NoArea(Brisbane) | QuarantineNoneQuarantine | 3NA1 | >1204 |
| A.C.T. v. NSW v. Vic. v. Qld. | Area (Sydney)NoneArea(Brisbane) | No entryNoneQuarantine | 4NA2 | 1204 |

Notes in Appendix.

Some reactions in Figure 3 entailed what the Federal Court agreed was unacceptably risky practice. Most borders were not entirely closed, but relied on quarantine. Other borders remained unrestricted for some time. Residents were ‘encouraged’, to return home - from a State with community Covid – sometimes without quarantine. Only Western Australia imposed restrictions against all affected States. Border restrictions against Victoria and Queensland were lifted well in advance of 28 days of zero community transmission.

There is yet to be any explanation of differences between what States put to the Federal and High Courts and what was later done. Similarly, there is yet to be an explanation of apparent discrimination against NSW residents.

### 2.6 State of origin

Figure 3 (above), Premiers’ media conferences, and media commentary took on the appearance of describing State-of-origin games, in particular several States v. NSW.

Among the game-playing claims was Victoria having higher quarantine standards than NSW.

A Queensland ‘expert’ opined NSW had forced Australia to waste the opportunity to eliminate Covid in November – a view debunked in a previous article. Subsequent events confirmed how ill-informed that opinion was.[[22]](#endnote-18)

Throughout the pandemic there had been widely publicised predictions the NSW approach would fail. That continued. An example was a 1 January article: ‘*how-new-south-wales-lost-control-of-the-virus’* – at a time case numbers were low and declining. All such predictions proved wrong, so far.[[23]](#endnote-19)

Another recent falsehood was: NSW is an ‘*outlier*’ detracting from Australia’s Covid performance by not immediately taking ‘*hard and fast action*’ like, for example, Queensland and Western Australia. Yet in the most recent outbreaks, NSW acted fast. Queensland and Western Australia did not experience a community outbreak. Hard and fast actions there – of locking down capital cities because of a single suspected Covid case – did not impact further transmission.[[24]](#endnote-20)

NSW was called out of step and criticised for endangering Australia. However, such claims were unbalanced and lacked analytical rigour. They did not recognise that endangerment – from potential quarantine failures – at least partly from NSW covering the failure of other States to properly cater for return of their residents from overseas. NSW quarantined a high proportion of international arrival quarantines – at times around the same number as all other States combined. These included many arrivals bound for other States. Also ignored were the more frequent quarantine breaches in other States.[[25]](#endnote-21)

Bias against NSW was not purely party political. While Governments in Victoria, Queensland and Western Australia were from the other (Labor) side of the politics, South Australia and Tasmania had conservative Governments. Also, decisions made in those other States were by officials, supposedly independent of Governments and politics.

Other factors in the bias may be: NSW was the only State where an elected representative, the Minister - not officials – was responsible for anti-Covid decisions; success of NSW testing and tracing reflected badly on other States’ lockdowns and border closures - by exposing inadequate public health resourcing which led to the ‘need’ for such measures.

The grudge against NSW proved to be factually unsupportable, so far. Equally rebutted – at times embarrassingly so - was the concomitant ‘assumption’ Covid could be eliminated. In fact, that is not an assumption, but an unfounded ideology that Covid could only be curtailed by lockdowns.[[26]](#endnote-22)

The disparagement of NSW, by other Premiers and commentators, portrayed fiscal ignorance. By remaining open, NSW effectively – more than usually - propped-up other State economies. It shielded them from the full consequences of lock-down and border closure decisions.

At times, State-of-origin furphies promulgated for other States were accompanied by displays of a lack of professionalism and possibly spite.

The Western Australian Premier’s face and signature appeared on a ‘locals-only’ T-shirt as part of a political fundraising raffle - before he claimed it was ‘lighthearted’. The Queensland Premier pointedly used a morning TV show to announce changes in restrictions-on-NSW residents, without contacting the NSW Premier - who found out the situation on a radio show later that day. It was not the first time the NSW Premier was so ‘blindsided’ by the Queensland Government.[[27]](#endnote-23)

The State-of-origin actions were likely directed at local electorates. They were consistent with Governments attempting to distract relevant electorates from their failures to establish adequate public health capabilities. That these continued a year after Australia’s first recorded Covid case was a disgrace. The participation of ‘experts’ and commentators – even if unintentionally - in what effectively was a cover-up of Government failures was pathetic.

A further State-of-origin public policy failure, and disgrace, was evident from the disparate and at times conflicting State anti-Covid decisions supposedly all based on ‘expert advice’. Apart from the fact that Governments other than NSW should not be acting on such ‘advice’ – because the power to make such decisions lies with ‘advising’ officials and not Ministers – the advice remains secret.

The secrecy creates suspicions about whether ‘advice’ exists or supports decisions.

Conflict between State policies implies some advice is wrong or not being followed. A reason to suspect that implication was absence – in some State policies - of logical links e.g., between lockdown of an area and borders being closed to those who had been in that area. There was also the conflict between expert advice given to the Courts and recent public health directions. Then there was the apparent failure of judgement in several ‘outbreaks’ - discussed later.

Public disparagement by State Premiers and ‘experts’ must corrode public trust - including in themselves when predictions and criticisms prove wrong and problems emerge at home. Together with continued inadequate resourcing and probable poor ‘advice’, this likely creates unnecessary risk to the foundation of anti-Covid policy - community responses to authorities’ requests, including requests for vaccination.

Conclusions similar to that drawn by the Victorian Supreme Court can be made. It is past time for:

* Parliaments and Governments to take on and show much greater responsibility;
* critical assessments of the performance of ‘experts’ involved in State anti-Covid decisions;
* relocation of decision-making powers from officials to Governments;
* publication of all relevant advice when decisions are made;
* Commonwealth regulation/legislation to require Commonwealth approval of decisions on border restrictions.

## 3. Queensland and Western Australia

### 3.1 Introduction

Queensland and Western Australia’s Governments advocated ‘strong’ anti-Covid measures, like border closures against States with infection. Yet, actions did not always match words. Much of this section is about Queensland. Western Australia is discussed near the end of this section.

### 3.2 Queensland background

The anti-Covid stances of Queensland appeared to include political elements and not just public health necessities. At times reactions were unpredictable with odd ‘explanations’.

Earlier in 2020, it was claimed Queensland borders would be opened to other States only if there was no – single – case of community transmission within 28 prior days. That was not applied to at least the ACT. The treatment of applications for exemptions from border restrictions became nationally notorious.[[28]](#endnote-24)

The Queensland definition of ‘hotspot’ - covering large regions with a case, or where an infected person had visited - conflicted with national criteria.[[29]](#endnote-25)

Some of Queensland’s border restrictions looked irrational. Other cases, restrictions were withdrawn more slowly than required by legislation.[[30]](#endnote-26)

The relationship of Queensland’s Government with its NSW counterpart was less than professional. By September 2020, Queensland’s communications to the NSW Government had reportedly broken down. This did not slow national media appearances of Queensland’s Premier and officials.[[31]](#endnote-27)

Queensland’s border was opened to NSW residents on 1 December 2020. Stated reasons appeared inconsistent with previously claimed criteria.[[32]](#endnote-28)

With that background, late 2020 media coverage of Queensland - outside the State – suggested anticipation of many ‘newsworthy’ items, including conflict with other parties and embarrassments. The wait was not long.

### 3.3 Reaction to Sydney outbreaks

The initial Queensland response to the Sydney northern beaches outbreak, on 19 December, was to declare Sydney a ‘hotspot’. The Premier offered a contradictory, patronising:

*‘while the cluster in Sydney appeared to be under control, shutting the border had been essential.’*

Then refuted the choice of Sydney as the hotspot:

*"This has happened in New South Wales, it has happened in the northern beaches’*[[33]](#endnote-29)

The associated map suggested normal communications had not resumed with the NSW Government. The map also suggested an author overawed by Sydney - Figure 4 below.

Two days later, Queensland’s hotspot rules were changed in a discriminatory fashion. People who had been in such areas were barred from Queensland. Unless they were Queensland residents, in which case they could enter provided they undertook quarantine.[[34]](#endnote-30)

**Figure 4: ‘Sydney’ according to the Queensland Government**

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In contrast to its depiction of a dire situation in NSW, on 24 December the Queensland Government announced the ‘*remarkable achievement*’ of its State not having community transmission for 100 days. On 2 January, Queensland residents in NSW and Victoria were virtually told to come home by their Department of Health. The confused explanation concluded with a contradiction of policy - an intention to review the NSW border closure 28 days from the first community transmission.[[35]](#endnote-31)

Such announcements were made memorable by identification of a case of community transmission soon after – echoing the pandemic of a century before. A cleaner at a Brisbane airport hotel tested positive.[[36]](#endnote-32)

In the ensuring weeks-long fiasco, Brisbane achieved what Sydney could not – status as a national hotspot. Which required an ‘incident response’ and media statement to advise on how well Queensland was performing. Also achieved was a change in Prime Ministerial attitudes: praise for a lockdown, recognition of border closures and a substantial cut to international arrivals. [[37]](#endnote-33)

All of this focussed national media attention to – with some international disbelief of - Queensland. Which, fortunately and unlike Sydney, included no adverse consequences such as a Covid outbreak. The story revolves around December-January scares about the UK strain of Covid. It is told in the next few sections.

### 3.4 UK strain

The UK strain was named: N501Y mutation. The descriptor indicated there had been many other variants of the initial Covid(s). The issues arose out of its increasing prominence in the rapid autumn growth of Covid cases in the UK - Figure 5 below.

On 31 October 2020, UK Prime Minister Boris Johnson instituted a national lockdown in response to new cases – then running at 22,000 per day on a seven-day moving average. The lockdown was intended to last for several weeks. On 23 November, with new cases running at 15,000 per day, Prime Minister Johnson said the national lockdown would end in early December, but Christmas may not be as normally enjoyed.[[38]](#endnote-34)

**Figure 5: Covid cases in the United Kingdom**



Subsequent weeks saw renewed growth in daily new cases - by 18 December, the UK moving average was 24,000. Researchers attempted to untangle causes, with possibilities including: greater movement of people; more congregation of people; onset of colder seasons; higher transmissibility.

On 18 December, research from London’s Imperial College referred to a possibility of greater infectivity. This was deduced from, among other things, increasing prevalence of the strain in total detected cases. However, there was caution:

*"It is really too early to tell… but from what we see so far it is growing very quickly, it is growing faster than [a previous variant] ever grew..."* [[39]](#endnote-35)

Nonetheless, the College presentation reportedly referred to a figure of 70% greater transmissibility - infectivity. That was repeated by Prime Minister Johnson. At issue were fears of hospitals being overrun by Covid patients and thousands of deaths per day. On 6 January 2021, with new cases per day running at 58,000, another UK lockdown was instituted.[[40]](#endnote-36)

A 21 December 2020 report in New Scientist guessed at 50% more transmissibility than other strains in the UK lockdown. However, it was ‘*not clear if this figure is more true generally*’. The report concluded with the question:

***‘What does it mean if this variant is better at spreading?*** *…standard control measures such as wearing masks and social distancing will still work.’* [[41]](#endnote-37)

For completeness, Professor Dwyer explained how such a variant may arise, and its significance, in mid-February. That explanation was not publicly available at the time of the below fiascos.[[42]](#endnote-38)

### 3.5 Australian reception

In mid-December, the question of the UK strain’s infectivity crossed the world. It found a veritable orgy of commentary in Australia - much of that knowing the answer with far greater surety than those studying the topic: ‘70% more’.

The apparent point of the orgy was to push policies. Two were of note: to reject arrivals from the UK; to set up quarantine outside capital cities. However, the attention paid to the variant led to less planned questions such as: is the new variant more dangerous? will vaccines stop it?

On 20 December, Australia’s Chief Medical Officer stated the factual situation: it was unknown how much – if at all – more infectious was the particular strain.

A few others made an equally factual point: the strain had been observed in countries other than the UK, and a ban on UK arrivals would not negate the possibility of entry to Australia.

An implication: to call it the ‘highly infectious mutant UK strain’ may dangerously misdirect policy. An implication completely ignored in the orgy.[[43]](#endnote-39)

On 21 December, the strain had been detected in two international arrivals quarantined in Sydney. Two further cases were detected in Melbourne the following day. The Chief Medical Officer said there was no reason to change restrictions in Australia.[[44]](#endnote-40)

### 3.6 The Queensland connection

End December saw another Covid variant - ‘South African’ - arrive in Brisbane. Queensland’s Chief Health Officer said it was *‘thought to be more contagious’.* It was headlined *‘highly infectious’*.[[45]](#endnote-41)

The 6 January 2021, a positive Covid test of a hotel cleaner came in six days after initial infection. She had visited eight locations while infected, including shopping centres in Brisbane - Figure 6.

**Figure 6: Brisbane outbreak?**



The Queensland Government said the cleaner’s infection was the UK strain. The media instantly added the ‘highly infectious mutant moniker’ amplifying alarm. Most State Governments panicked.

Queensland found itself on the wrong side of State border closures – except for NSW. The number of, differences in and changes for border closures across Australia then became so great several news outlets devoted entire blogs to attempt to identify border etc. arrangements for the day/hour. The Age made a belated appeal for some common sense. It fell on deaf ears.[[46]](#endnote-42)

The Commonwealth Government was alarmed by talk of the mutant. Immediately, the Prime Minister called for a meeting of ‘national cabinet’ which he had put in abeyance for some time.[[47]](#endnote-43)

### 3.7 The Brisbane lockdown - context

Queensland’s Chief Health Officer then decided to lock-down Brisbane for three days - from 8 to 11 January 2021. The Premier, however, appeared to imply she was in charge.

The BBC reported this as: Brisbane to enter three-day lockdown over a single infection.[[48]](#endnote-44)

The reason for three days was, and remains, unclear. It was purported to *‘prevent spread*’. Yet the duration was shorter than the average Covid incubation period. It conflicted with previous - and current – restrictions, notably those Queensland imposed on residents of other States. There was speculation the three days was to allow for tracing – but that was inconsistent with any prevent-spread purpose and Queensland’s claims of excellent tracing capabilities.[[49]](#endnote-45)

The lockdown could not prevent any spread that occurred in the eight days after the initiating event. That event was a quarantine breach – readers may recall previous breaches in Queensland. There may have been a further breach, on 2 January, at the Grand Chancellor Hotel. Tremendous publicity about the highly infectious mutant distracted from Government embarrassment – e.g., from criticising other States’ policies, panic reaction to the Sydney outbreaks, calls for Queensland residents to return home, and the potential shunning of the State by the Indian cricket team.[[50]](#endnote-46)

There was far less alarm in NSW about the Queensland situation. The border was not closed. The only restriction was for people in NSW who had been in Brisbane on the relevant dates to undertake what Queensland’s Chief Health Officer requested – three days quarantine. The NSW Health Chief was not alone in noting the ‘more transmissible’ claim had yet to be confirmed.[[51]](#endnote-47)

### 3.8 The reaction

The immediate reaction to the lockdown announcement was panic buying in Brisbane – often by people not wearing masks and thus conceivably becoming shopping centre vectors of the mutant. A toilet roll shortage reared its ugly head. That was understandable given lack of credible reason implied a three-day lockdown might be extended.[[52]](#endnote-48)

On 8 January, Prime Minister announced national cabinet welcomed the Brisbane lockdown. He said new Covid variants have *‘a clear higher transmissibility’*. In recognition of that, but contrary to national guidelines, the Commonwealth declared Brisbane a hotspot. International passenger arrival limits were halved in most States.[[53]](#endnote-49)

During the three-days Brisbane was locked-down reports said hundreds of the cleaner’s close contacts had been tested for Covid. Only one – their partner – tested positive. He had visited several locations while infected - before the lockdown.[[54]](#endnote-50)

On 10 January, Queensland’s Chief Health Officer was reported as saying she was relieved but not surprised no new cases had been detected. That comment was qualified by a confusing explanation of the result being due to Queenslander responses – which post-dated the cleaner’s and partner’s potential spread of infection - high numbers of tests for Covid, and that it was too early to say whether health authorities thought there would be any cases.[[55]](#endnote-51)

Four further cases were then found in quarantine in Brisbane’s Chancellor Hotel. The Chief Health Officer claimed the infection could have been transmitted via air conditioning. On 13 January, the hotel was closed. 129 guests transferred to other hotels. Some guests restarted quarantine.

### 3.9 The effect and afterwards

To date – 18 February - no further community cases have been detected in Queensland. Nor have related cases emerged in NSW or elsewhere.

The Queensland Government claimed the lockdown and hotel closure averted a wider outbreak. Evidence of that claim is yet to make the public domain. Indeed, the public evidence to date is otherwise. That evidence is the virtual absence of cases outside quarantine. The infection did not spread to anyone in the community in nine of the ten locations of initial contacts in Brisbane during the eight days before the lockdown. The only thing that may have mattered was the detection, through tracing, of the only other case outside quarantine – the cleaner’s partner.[[56]](#endnote-52)

Reports had more than 300,000 Covid tests. The cleaner and partner with the highly infectious mutant had many contacts. Of these perhaps only four contracted Covid. All were in quarantine.[[57]](#endnote-53)

Those four were staying on the seventh floor of the Grand Chancellor Hotel. The Chief Health Officer claimed they may have contracted Covid from air conditioning. A wag suggested Covid may have floated through walls.[[58]](#endnote-54)

Reported characteristics of that floor of the Grand Chancellor were not limited to air-conditioning. It was the only floor which lacked a camera to monitor quarantine. Because there was no camera there could be no proof of the type of quarantine breach Queensland had criticised in Melbourne and Sydney. Into that vacuum of evidence an air-conditioning story stepped. There are similarities with the previous South Australia pizza box panic.[[59]](#endnote-55)

A Federal Parliamentarian claimed the story was ‘fruitcake’ stuff. Despite experts claiming Covid does spread by aerosol in some circumstances – notably quarantine - that seems kind. Especially when the Premier then claimed city-wide lockdowns to single cases of UK strain Covid might become the ‘national standard’ - in a generally unintelligible interview.[[60]](#endnote-56)

On January 17, the Commonwealth revoked its declaration of Brisbane as a hotspot. Similarly, some borders were relaxed and Brisbane residents were allowed to enter the Northern Territory, South Australia and Tasmania subject to border passes and testing.[[61]](#endnote-57)

People from Queensland had been allowed into NSW throughout the entire episode. Nonetheless, the border closure against parts of NSW continued until 1 February – only fourteen days after the last community transmission. That was just half the time Queensland previously claimed was needed for public ‘safety’.[[62]](#endnote-58)

The cut to international arrivals also remained until mid-February. A single case of a ‘highly infectious’ South African variant in New Zealand led to suspension of Australia’s travel-bubble with that country. This disappointed those bragging that Ms Ardern ‘eliminated’ Covid, which her country had – several times. Further opportunities for her Government to eliminate Covid soon presented themselves.[[63]](#endnote-59)

No doubt many, following the Queensland Government’s lead, sighed with relief of the absence of spread of the highly infectious mutant. Others might only gasp in disbelief.

The story is suggestive of motivations behind strident ‘public health’ reactions to include matters apparently remote from public health. Consistent with the latter, there was virtually no comment on the paradox of a highly infectious strain infecting very few.[[64]](#endnote-60)

### 3.10 Western Australia

Compared with Queensland, Western Australia went ‘two more for one less’. A five day lockdown of the capital city and surrounding areas for not any within-community Covid transmission.

In Perth, a quarantine worker tested positive to Covid on 30 January 2021. It was suspected he contracted Covid a few days earlier and had visited around twenty locations while infected.

The next day, the Premier held an ‘emergency’ press conference, and announced a lockdown of Perth for five days starting at 6pm. He advised the gravity of the situation had been conveyed to the Prime Minister and:

*‘cautioned against panic buying saying there was “no need to rush to the supermarket today”.*[[65]](#endnote-61)

Which, in the spirit of panic just engendered, was duly ignored.

The Conversation blog had an almost immediate attempt to defend the lockdown – which was made by the Commissioner of Police/State Emergency Coordinator, not the elected Government. The attempt depicted it as trying to ‘*stamp out a new Covid cluster before it gained a foothold’*, being a ‘*circuit breake*r’ and *‘basic common sense’*. Yet, the attempt criticised ‘blunt tools’ like border closures – which are the equivalent of lockdowns - and refuted its own case:

*‘Restricting travel from specific hotpots can be a successful circuit-breaker to disease transmission.*

*But hard border closures — particularly with no evidence of widespread community transmission — seem unnecessary and counterproductive at this stage, and are associated with a host of health and economic consequences.’* [[66]](#endnote-62)

On 1 February, the ABC reported the worker had contracted the UK ‘mutant’. It reported thirteen of the worker’s close contacts had returned negative tests. This was after the worker’s housemates yielded negative tests.[[67]](#endnote-63)

Nonetheless, the local branch of the Australian Medical Association, in seeking a meeting with the Premier over the State’s ‘flawed hotel quarantine system’, was sure about community spread:

*‘after the worst fears of doctors were realised with community spread of COVID-19 in Western Australia.’*[[68]](#endnote-64)

On 5 February, the lockdown ended without any further Covid case identified. That remained the case at the time of writing, after over 100,000 tests. The lockdown did not stamp out any cluster – because there wasn’t any cluster. It was not a circuit breaker as there was no circuit to break.[[69]](#endnote-65)

Indeed, there was speculation the worker’s case was a ‘false positive’ i.e., not a Covid case at all.

One expert attempted to refute that speculation, and argue the lockdown was appropriate, by suggesting the worker may not have been very infectious. However, that did not sit well with sustained commentary about a highly infectious mutant. It also did not sit that well with Western Australia’s claim the worker remained infected for well over two weeks – more than what the Government regarded as the ‘incubation period’ - and needed to be kept in quarantine. Most of all, the attempted refutation avoided the question of whether it is appropriate to lock-down several million people on the suspicion of a single Covid case. [[70]](#endnote-66)

In the same report, another expert said Covid will be present for several years hence. He trashed the Western Australian reaction and ‘highly infectious virus in a not very infectious person’ thesis:

*“I mean, you really only had one case,” he said.*

*“In any case, when you do a lockdown, the main people who are exempted from the lockdown are essential workers. So then just the people who are still moving around, and probably more likely, if anybody was infected, they would be.”*

*He said it also should have been taken into account that the average incubation period of the virus was five days.*

*“So if you’re really worried that there’s cases out in the community, you probably have to lock down for at least 10 days and maybe 14.’* [[71]](#endnote-67)

 The Western Australian Government effectively conceded the last point. It retained some restrictions for the ‘*full 14-day incubation period*’ even though there is ‘*no indication of any community transmission’*.[[72]](#endnote-68)

Beyond having Covid restrictions when there is no indication of a Covid issue, there is a problem, hypocrisy, in that concession. The High Court case put by Western Australia against Mr Palmer in 2020 argued for border restrictions – preventing movement of people – against an area (State) which had community transmission within the previous twenty-eight days. Western Australia imposed two full incubation periods of restrictions on residents of other States. Yet its lockdown regarded only one – in fact less than half of one, five days – as sufficient to deal with a Covid outbreak among residents of its State.[[73]](#endnote-69)

Figure 3 in section 3 suggests that at end-January, Western Australian restrictions were imposed on other State residents for more than 28 days after the last community transmissions in their States. Western Australian advice re travel from NSW confirmed that was the case. [[74]](#endnote-70)

There is nothing in this story that gives the Perth lockdown any shred of common sense. Worse, Western Australia appeared to have learnt nothing from Queensland where the authorities - in very similar circumstances weeks earlier - made fools of themselves.

### 3.11 Last words

The second last word deserves to go the Australian media:

*‘The highly infectious UK strain has made its way into several Australian jurisdictions and forced Greater Brisbane into a strict three-day lockdown after a locally acquired case of the variant was detected.’*

The last word: apart from the furphy of a virus forcing lockdowns – the lockdowns were the choice of officials – that media comment may be all well and good.

Professor Dwyer’s explanation of how the UK and other variants could become and be considered more infectious – by the virus evolving to create a higher proportion of potentially infectious droplets in breath – is convincing. Yet it does not explain the ‘scoreboard’: only one within-community transmission in Brisbane and Perth after at least nine days and thirty public locations of community contact.[[75]](#endnote-71)

The merit of the lockdowns of Brisbane and Perth are in very serious question. In the absence of an authoritative explanation of why there was no community transmission of a highly infectious mutant in those cities, those lockdowns cast a shadow on their States’ anti-Covid policies.

Such farces threaten to undermine community confidence in anti-Covid policy of at least the two States concerned when public confidence needs to be at its highest – for the rollout of vaccines.

Reports have UK officials believing current vaccines will be effective against the UK variant, but their top adviser voiced concerns other Covid variants could be more resistant to vaccines. This is a critical point made by Professor Dwyer in arguing for widespread vaccination to forestall emergence of more serious mutations. And vaccination that prevents serious illness – rather than the gold standard of preventing any infection – may be the best strategy.

Whether or not vaccination eliminates Covid, it is vital to have widespread simultaneous vaccination as soon as possible. Yet there is speculation about the willingness of Australians to be vaccinated – presumably reflecting their confidence in health messages from Governments and experts.[[76]](#endnote-72)

People responsible for decisions with potential to undermine public confidence, such as the most recent Queensland and Western Australia lockdowns, should formally account for their actions before suspicion becomes the contagion to be feared.[[77]](#endnote-73)

## 4. Victoria

### 4.1 Hotel quarantine inquiry - circumstances

Melbourne prides itself on public events. However, in the pandemic, famous annual events were curtailed or cancelled. The AFL (VFL) Grand Final was held outside Melbourne – during a lockdown - for the first time in its 123-year history (which had included the 1919-20 pandemic). The public and horse owners were excluded from attending the Melbourne Cup. The 2020 Australian Grand Prix was cancelled and the 2021 race deferred from March to mid-November. Nonetheless, the Boxing Day Test and the Australian Open Tennis tournament went ahead in late 2020 and early 2021.

Between early June and late October 2020, Melbourne faced a second wave of Covid. Over 18,000 cases were recorded and more than 800 deaths were attributed to the disease. The source of the outbreak was a failure of international arrival quarantine in Melbourne hotels.

On 8 July, Melbourne was put under lockdown. This was in response to cases – 191 the previous day, 154 of which were not then linked to existing cases – exceeding tracing capacity, and what the Premier described as ‘complacency’ that the pandemic was over. The lockdown, originally expected to be six-weeks, was tightened and a curfew operated from 2 August until late September. The lockdown was extended until late October. Its duration was 112 days, at which time some experts declared Covid had been ‘eliminated’. Again.[[78]](#endnote-74)

Prior to the lockdown, on 2 July, the Premier established a board of inquiry into the quarantine failure. The prime public controversy was the hiring of private security guards to supervise hotel quarantine. Prominent media reports claimed some guards lacked suitable skills and equipment. Many suggested the task of supervising quarantine at the hotels should have been conducted by Victoria police, the Australian Defence Force, or a specialist team. The big question soon became: who decided to hire the guards to do so? Nobody owned-up.[[79]](#endnote-75)

### 4.2 Inquiry report

The inquiry issued an interim report in late November and a final report on 21 December. The final report principally dealt with the convoluted mess of anti-Covid administration in Victoria.

The mess was primarily caused by public service Departments and officials, rather than Ministers, being in charge of both operations and policy. Agencies seemingly avoided responsibilities. Such factors had been subject to adverse comments by the Supreme Court in November in Loeilo’s case.[[80]](#endnote-76)

The mess affected hotel quarantine when the Premier - early in the pandemic - accepted a Commonwealth request to conduct mass quarantine, without knowledge of public service capability. A result was a desire in Victoria – below the Premier - to quickly establish quarantine and related services.

In the rush, administration suffered. The wrong Departments took charge of, adopted the wrong frame of mind for, and deployed the wrong skills to supervising quarantine. Arrangements within the Health Department were confused. The inquiry made many detailed recommendations to prevent that situation in the future. It also made some recommendations for how quarantine should be conducted, including better treatment of detainees, for example with access to fresh air.

The report made nine recommendations to control quarantine programs based on a governing body chaired by the Secretary of a nominated Department. This new accountability structure would be a:

*‘clear line of command vesting ultimate responsibility in the approved department and Minister’.*

An implicit assumption: powers and responsibilities for quarantine and related matters are Executive in nature. It was assumed Governments alone decide how such matters should be organised and who should have which powers and responsibilities.

The inquiry did not answer the question on the public’s mind: who made the decisions about hotel quarantine? It did refer to a large number of organisations and people who may have been involved.

However, it did not refer to Loeilo case’s, which when faced with a similar question – who extended the Melbourne curfew? - found an answer. The answer in Loeilo’s case was based on the fact that the curfew rested on statutory – not Executive – powers. The answer was revealed by tracing the person to whom the Parliament, as distinct from the Government, had allocated powers and responsibilities via legislation.

Nonetheless, the inquiry drew one conclusion made by the Supreme Court: Victoria’s response to Covid involved a break-down in democratic governance.[[81]](#endnote-77)

### 4.3 Report shortcomings

The inquiry report did not draw all the conclusions it might. It did not criticise the Commonwealth because that would have been outside its terms of reference. It did not explicitly criticise those involved in buck-passing within Victoria’s Government and public service.

Another shortcoming is it did not sufficiently examine governance issues that extend into the anti-Covid response generally. It did not refer to Loeilo’s case. If it did, it might have made more of the evidence reported.

The inquiry report noted arguments within the Department of Health about organisational responsibilities and the Chief Health Officer:

*‘The decision to not (apparently) appoint Prof. Sutton was taken on the basis that the CHO [Chief Health Officer] would not have the ‘bandwidth’’….’*

and looked at the immediate consequences of that non-appointment:

*‘the senior person in this State with the recognised public health expertise necessary to oversee such a Program did not have any active oversight role in the Program.’*

However, it did not consider the question: how did someone allegedly lacking ‘bandwith’ – who on an organisation chart was several levels below the Department Secretary - regularly appear with the Premier on television, was a member of the Australian health protection principal committee, and offered public commentary on national cabinet?

If it did, it would have answered that question: Victoria’s Parliament, via legislation, gave the position of Chief Health Officer the sole authority to issue public health directions.

As that authority is extraordinarily extensive – e.g., with *‘powers to close all of Victoria during a state of emergency and confine all the people of Victoria to their homes’*, as noted in Loeilo’s case – it is of the utmost gravity.[[82]](#endnote-78)

It should be expected that a position of such great authority would have a high public profile, represent Victoria on national committees, be available at all times to report to Parliament and personally participate - with their Minister – in briefings and relevant public appearances of their Premier. The hotels inquiry was quite right to be astounded such a person – the Chief Health Officer - did not have a role of actively overseeing quarantine. However, in my view, it failed to draw the right conclusions from that situation.

This amazing situation eventuated because the authority to make public health directions – statutory - is independent from other bureaucratic machinery and concomitant powers. This is a problem to the extent the person empowered to make such directions is subject to a bureaucratic structure with a different source of authority. It is a problem to the extent that person is an official below the level of – ‘reports to’ - someone appointed by the Executive. That allowed a perception the Chief Health Officer lacked ‘bandwidth’. A person in such a position will have two, potentially conflicting, masters.

The problem becomes acute, as is apparently the case in Victoria, when the efficacy of anti-Covid responses relies on different officials with different sources of power and different levels of authority in non-emergency situations.

Because quarantine is crucial to anti-Covid efforts it seems to me almost beyond argument that responsibility for quarantine should be given to the position which Parliament gave powers to make public health directions. Such co-location of quarantine and public health directions power would create a single position, person, in charge of anti-Covid efforts.

That is in essence what the Supreme Court suggested in Loeilo’s case. Appointment of a quarantine governing body, as recommended by the inquiry, is not capable of solving the co-ordination problem unless the authority of that body comes from the same source as, and is co-extensive with, the public health directions powers. The practical implication is: both powers should be created by legislation. Parliament should give both powers to a Minister, or at least the Secretary of a Department.

This oversight by the inquiry is consistent with it not making recommendations to specifically deal with other matters adversely raised in Loeilo’s case such as the possibility of hidden political interference in ‘independent’ public health directions and questionable delegation of directions powers. Those matters would be addressed by moving the directions powers to the Minister. Similarly, the inquiry did not consider the recommendation in Loeilo’s case that criteria for anti Covid decisions should include more than just Covid matters, which is what would occur in practice if authority for decision making remained at the most senior levels.

The appearance is of a report that did not adequately understand the crucial governance issue of the pre-existing independence of anti-Covid decision making from day-to-day bureaucratic chains of command. It may not have been sufficiently curious about informal working relations that some think substitutes for responsibility– issues identified in Loeilo’s case.

Those factors are likely to influence the ability to untangle the ‘gordian knots’ in the bureaucracy. Such circumstances would compound the authority gradient issue identified earlier.[[83]](#endnote-79)

In response to the report, Victoria did create a new position – a Commissioner to oversee a *‘dedicated agency’ / ‘Administrative Authority’: ‘Covid-19 Quarantine Victoria’*. The agency ‘reports to’ the Minister for Police and Emergency Services. At the time of writing, it was unclear how that authority is formed – with possibilities including legislation, Governor in Council administrative order, or internal Departmental arrangements. [[84]](#endnote-80)

However, it does not seem to not change the core element of anti-Covid governance arrangements – of splits between quarantine, Health Department administration and the statutory powers of the Chief Health Officer. [[85]](#endnote-81)

Victoria suffered further quarantine breaches in early 2021, despite having far fewer international arrivals – except for the Australian Open tennis tournament – than NSW and Queensland.

### 4.4 First subsequent outbreak

Prior to those breaches, on 30 December, Victoria recorded three community Covid cases – the first for several months. Five more were recorded the next day. They were blamed on NSW – Victorian residents returning from Sydney. Victoria closed that border on 1 January. Victorian residents returning home later would need to quarantine for 14 days. In turn, there were border closures against Victoria.[[86]](#endnote-82)

A further 29 cases were recorded, the last on 6 January. The peak was ten cases on Saturday 2 January.

Victorians were required to wear masks indoors and numbers of people at gatherings were limited.

There was no lockdown, despite the Acting Premier – Ms Jacinta Allan MLA - referring to Covid moving ‘fast’. The outbreak was resolved by testing, tracing and isolation.

It may be significant that Melbourne hosted the Boxing Day cricket test during the outbreak, albeit with a smaller than usual crowd. Two (possible) Australian players were not allowed to participate because they had been in Sydney. At least one infected person attended the test and this resulted in most attendees being warned not to attend the Sydney test the next week.[[87]](#endnote-83)

### 4.5 Second subsequent outbreak - lockdown

The holding the Australian Open – deferred by several weeks until early February – attracted some criticism from mid-January. It differed from the cricket in that players from all around the world would converge on Melbourne via charter aircraft, and would participate after 14 days quarantine.

Former Premier Kennett challenged the honesty of the Government’s explanation of persisting with the tournament and its inconsistency. Others argued it would be foolhardy to hold the tournament attended by the public.

Several players tested positive for Covid while in quarantine – leading to isolation orders for others on the same flights. Several other players expressed dissatisfaction with the quarantine arrangements, claiming they had been misled.

Adverse comparisons were made between ‘welcoming’ overseas tennis stars with claims of Victorians being practically prevented from returning home.[[88]](#endnote-84)

The tournament began on 8 February.

Four days earlier, on 4 February, Victoria reported a quarantine worker had given a positive result to a Covid test of 2 February. The worker’s most recent shift was 29 January. It was assumed this was the initiation of the outbreak.[[89]](#endnote-85)

On 12 February, after a further eleven community cases were recorded – five in quarantine workers – the Chief Health Officer locked-down the entire State for five days. Spectators were not allowed at the Australian Open. International flights to Melbourne were suspended.

The Prime Minister was apparently supportive of a short lockdown – as he had been for Brisbane.[[90]](#endnote-86)

The Premier’s media-release explanation was the Covid cases were of the ‘hyper-infectious’ UK variant. It included an anthropomorphic exaggeration of Olympian levels:

*‘But as we’ve seen – here in Australia and around the world – we are facing a new kind of enemy. A virus that is smarter, and faster, and more infectious.* [[91]](#endnote-87)

Elements of that explanation were questionable. For example, the Australian experience – Queensland and Western Australia - had not demonstrated the variant to be more infectious. The inference that lockdowns in those States had been useful was wrong – rather they likely had major deleterious effects on other aspects of public health, public confidence, personal rights and economies. The claim the Victorian lockdown was done on the advice of health experts was misleading. It was done by officials not the Government.[[92]](#endnote-88)

An apparently defensive claim raised questions:

*‘we are reaching close contacts well within the 48-hour benchmark. But the time between exposure, incubation, symptoms and testing positive is rapidly shortening.’*

Its juxtaposition of reaching close contacts with a shortening of observed timeframes was odd. Nonetheless, the meeting of benchmarks was later confirmed by the Chief Health Officer:

*‘Our contact tracing efforts continue to meet performance benchmarks.*

*Ninety-nine per cent of new primary close contacts identified on 12 February were contacted by our contact tracers within 48 hours.*

*Over the past week, that average figure is 99.5 per cent.’*[[93]](#endnote-89)

That comment, if not curious – by reference to an average - implied any lockdown to be unnecessary, let alone the lockdown of the entire State.

The comment implied the outbreak could have been efficiently suppressed by testing and tracing.

As it was materially the same as the Premier made prior to the lockdown, it raised issues about advice and decisions made in Victoria. As had been done in Loeilo’s case. A possible inference – that the benchmarks were inappropriate – would be even worse.

Unlike the Queensland and Western Australian ‘outbreaks’, there was more than one case of transmission within the Melbourne community – as distinct from across the quarantine barrier. However, transmission was far less than in NSW, including prior to the respective lockdowns.[[94]](#endnote-90)

The relative trajectories of the two NSW and second Victorian outbreaks is shown in Figure 7 below.

**Figure 7: Trajectories of State Covid outbreaks**

The higher frequency of transmission across Victoria’s quarantine barrier implies the intensity of within-community transmission is lower than apparent in Figure 7.

It also raises questions about Victoria’s quarantine systems, made all the more pointed because of the hotel quarantine inquiry. While the Premier initially claimed Victoria’s quarantine to be among the best (of the four?) in Australia, other reports suggested not all of the inquiry’s recommendations had been implemented. They pointed to a lack of fresh air in some hotels.[[95]](#endnote-91)

Some experts renewed the argument quarantine should be shifted away from capital cities like Melbourne. Queensland had previously argued to relocate quarantine to remote areas. In the case of Victoria, the Premier mooted the possibility of purpose-built facilities at Avalon, near an airport.[[96]](#endnote-92)

Later, the Premier claimed Victoria’s quarantine had ‘higher standards’ than the rest of the nation. In apparent response, some experts suggested national oversight of quarantine – inspections by an independent authority, possibly of the Commonwealth, and greater quality control of what the States were doing. That had been suggested in previous articles.[[97]](#endnote-93)

### 4.6 Lockdown – immediate aftermath

This subsection is limited to the immediate aftermath of the lockdown – 19 February.

The lockdown was lifted on 17 February, yet some restrictions remained. The prior day had seen two cases and thus no overt change of circumstances. Rather the lockdown was lifted supposedly because of good work by Victorians which included isolation of 3,400 close contacts and 212,000 tests – and a result of six Covid cases during the lockdown.[[98]](#endnote-94)

The Premier was unable to say when international flights might resume.

These facts suggested that were the lockdown and opening rationally motivated, undisclosed circumstances may underpin the decisions. If so, the Premier’s media release explanation for the lockdown was inadequate and the media and ‘expert’ focus on mutants, Covid case numbers and quarantine arrangements was a distraction.

No further cases were reported on 17 and 18 February. On 18 February the Government reported the outbreak had a total of nineteen community cases which were mostly associated with a hotel near Tullamarine airport. That number was just over half the cases in the previous outbreak.[[99]](#endnote-95)

Unsurprisingly, debate started about whether the lockdown was justified. A media graphic – Figure 8 - illustrated one issue: the lockdown was for the less severe outbreak of 2021.

**Figure 8: media graphic**



However, two far more important issues were soon raised. The first was uncertainty created by ‘snap’ decisions such as the February lockdown. Some businesses will no longer able to confidently plan even in the short term – for inventory, staff – because of such decisions.

The second was Victorians may become tired of insufficiently explained public health decisions. That may prove dangerous if a future lockdown is really needed because of a more virulent or actually transmitted strain.

## 5. Identified issues

### 5.1 Bias and stupidity

While Covid has been suppressed, the performance of most States and the media in late 2020 and early 2020 – including abuses of power by the former and fabrications and fearmongering by the latter - is disturbing. The tale includes hysteria fuelled by misrepresentations and – at least in the case of what was put to the Courts – hypocrisy.

Much commentary - and worse, State policy - discriminated against NSW. Symbiosis among some experts, commentators and politicians of other States egged this on. Premiers of several States disgraced themselves by unprofessional behaviour, some of which bordered on spite.

Among the differences between NSW and other States was the former had elected representatives making anti-Covid decisions. Those decisions were more moderate – proportionate – and better explained than in other States. If the validity of anti-Covid laws rests on reasonable necessity, there was far greater confidence in the legality and legitimacy of the NSW approach than some alternatives including in other States and ‘expert’ proposals.

Other States became enamoured of discriminating against non-residents by border closures. Several punished their own by pointless lockdowns.

Brisbane and Perth had ‘short sharp’ lockdowns – with little public notice - despite effectively not having outbreaks. Melbourne’s February lockdown was for an outbreak half the size and much less than half the intensity of one negotiated without such a measure in January. It too was a ‘snap’ decision for a ‘short sharp’ lockdown but, unlike the others, it was made nine days into the outbreak.

The excuse of a ‘hyper-infectious mutant’ on the loose, while having theoretical validity – experts say it exists and is more infectious – makes those reactions look even worse. As does other excuse making and distractions like the interminable coverage of quarantine, aerosols and - at an extraordinarily late stage – loose talk about Commonwealth responsibilities.

Figure 9 illustrates what is visible to the public: apparent idiocy and possible deceit by excuse making. It compares the number of community transmissions of the ‘hyper infectious mutant’ in Queensland, Western Australia and Victoria *combined* against the northern beaches (non-hyper etc.) Covid in Sydney over the two-week period since their first cases were reported.

**Figure 9: Covid cases: Hyper infectious mutant v. northern beaches**

For completeness, lockdowns occurred on day 2 in Perth (W.A.), day 3 Brisbane (Qld.), day 4 Sydney (NSW) and day 9 Melbourne (Vic.).

Interpretation of the chart might bear in mind the relative populations. The northern beaches population is around 0.3million. Perth, Brisbane and Melbourne have a combined population of at least 9.4 million. The chart underestimates the relative per capita intensity of infection in those cities by a factor of at least thirty.

The principal ‘positive’ effects of the ‘short, sharp’ lockdowns in Perth, Brisbane and Melbourne were to temporarily soothe the nerves of panic-stricken Governments and to distract from their failures and embarrassment. Against that are enormous costs of loss of personal freedom and betterment, sovereign risk, and fear about future State actions. And setting precedents about shutting down society in future panics which could involve any of myriad concerns beyond a virus.

### 5.2 Conflict among States’ policies

The fact of divergence in policy and action among States – whose Covid experts meet regularly – after nearly a year of an ‘emergency’, is an indictment.

Intergovernmental expert forums which ‘justify’ and perpetuate national discord are not unknown. Notorious examples include in the rail and road sectors where such forums delay progress in order to assuage State egos, and where Commonwealth officials effectively sanction recidivism and incompetence in an effort to avoid responsibility. In my experience of those sectors, the greater and more specific the expertise, the greater the intransigence.

An intractable problem arises when the ‘my State is right’ position of officials is remitted back to their Ministers – or made public. That effectively locks-in Governments to their officials’ (conflicting) preferences removing hope of easy compromise. Officials believe they have the backing of their Government no matter what their position – their Government is reluctant to do otherwise not only because ‘experts know more’ but from a need to demonstrate the principle of ‘sovereignty’.

It may be such problems have come to afflict anti-Covid efforts. The disparity of State policies etc. is certainly not evidence to the contrary.

The threats posed by Covid – and anti-Covid policies – are more urgent than issues floating around most other intergovernmental forums. The inexplicable variation in anti-Covid rules across Australia, exemplified in websites covering daily – sometimes hourly – changes in those rules is, like toilet paper panics, a matter of national shame. That intergovernmental forums, from national cabinet down, have allowed – or perhaps even led to – such a possibility is an enormous scandal.

In these circumstances, the natural inference to be drawn from Governments’ frequent claims ‘we are following the advice’ is that either some advice is wrong and/or Premiers and others are lying.

The failure to publish claimed advice – and some Government commissioning of opinion polls to determine the popularity of anti-Covid measures - supports such inferences.[[100]](#endnote-96)

That decisions in most States are made by officials, yet reasons for their decisions - for their asserted belief of the reasonably necessity of restrictions – remain obscure. That makes the situation even worse. It puts into question, perhaps unfairly, supposedly expert or independent judgements that have been made.

### 5.3 Governance failures

The above indicates a root cause of the fiascos to be governance failures. Wrong decisions were made because the decision-making process was wrong. Decisions were made at the wrong level.

The level at which decisions were, and are, being made – in the words provided to the Victorian hotels inquiry – ‘lacks bandwidth’. Victoria’s Supreme Court in Loeilo’s case drew a similar conclusion.

A factor in some States is the lack of seniority and breadth of regular – non-emergency - authority and perspective of decision makers. Another is legislative limits to what may be taken into account in anti-Covid decisions.

Some State legislation places decision makers in conflicting formal chains of command - of ‘reporting’ to Departmental Heads and Ministers yet having a separate statutory source of authority. The highly public intrusion of Premiers - wrongly claiming such decisions as their own – may establish yet another conflicting chain of command whose opacity creates political overtones. Victoria’s Supreme Court and New Zealand’s High Court noted and decried that potential.

Those arrangements might be appropriate for a crisis – a transient emergency extending over a day or two - to deal with the presence of fire, flood or explosion. During that time, normal democratic procedures are temporarily suspended lest the crisis threaten to weaken the system of government. An ‘emergency’ that has extended for nearly a year – like Covid – is fundamentally different and requires a different approach to forestall the most likely threats to the system - from ‘within’ as identified by Justice Dixon.

Disappointingly, the courts seem more aware of this than very lengthy and costly public inquiries.

A result of Covid policy narrowness and myopia, arising from the effective abdication of decision making to officials, is an untenable position for most States. It is implausible that Australian – or State - societies can survive if principal cities - of several million people - are locked-down on suspicion of a single breach of quarantine by Covid. But that is what was being urged as ‘the standard’ by Queensland’s Premier and – even more foolishly - by the Prime Minister.

So far, States have been spared the consequences of their bad anti-Covid decisions because another party – the Commonwealth – has picked up most of the immediate financial costs. That is likely to have increased popular acceptance of – and apathy about – those decisions. The situation is not sustainable. The Commonwealth’s magic pudding will run out. The ‘positive’ effects of gaining compliance by fearmongering - and Premiers dividing communities – will wane too.

It is likely some Governments will say ‘vaccination’ is a ‘circuit breaker’, allowing lock downs and border closures to be a thing of the past. Given past performance, which entails prima facie abuses of power, there is no reason to believe this. Indeed, given the performance in several States, the opposite is most likely the case.

Vaccination is said to be unlikely to eliminate Covid. It may eliminate related illnesses in the vaccinated. But even universal vaccination may not eliminate spread. And vaccination is unlikely to be universal. Every State should expect to see community Covid into the foreseeable future - years. Will there be a lock-down affecting millions for every single suspected case?

The immediate, and urgent, answer is not to be found in the several hundred-page inquiry reports, expert assessments or pandemic porn peddled by the press, nor promises for the future whose purpose includes distracting from the past.

The answer has been identified by the courts – disturbingly ignored by several inquiries and most States. States should legislate for anti-Covid decisions to only be made by a Minister – like in NSW – as the first step to restoring democratic accountability that must underpin any ‘return to normal’.

### 5.4 Recommendations

1. State Parliaments legislate to make the validity of public health directions and decisions related to Covid conditional on the reasons for and advice related to them being:

a. published at the time of those directions by the Secretary /Head of the Department of Health; and

b. tabled in Parliament, for potential disallowance, within 14 days.

2. State Parliaments legislate to:

a. broaden the objectives of public health directions and decisions related to Covid beyond the suppression or elimination of Covid; and

b. provide a Minister with the exclusive, non-delegable power to make any public health direction and decision that is related to Covid.

3. The Commonwealth Parliament explicitly acknowledge its Government’s responsibility for quarantine and require the Government to exercise that responsibility by:

a. meeting all financial costs of quarantine of international arrivals, and if it chooses, seek to recover those costs from people subject to such quarantine;

b. approve, regularly inspect, and if necessary ensure rectification of all systems, staff, facilities and incidental matters used for international arrivals quarantine irrespective of which parties conduct those quarantine functions;

c. require all State directions and decisions relating to quarantine, whether of international arrivals or of others, to be approved by a Commonwealth Minister or delegate, and if not approved declared invalid by the Minister.

4. The Commonwealth Parliament legislate that any State direction or decision to inhibit movement of people across State borders be prohibited unless that direction or decision is:

a. approved by a Commonwealth Minister; and

b. the reasons and all advice related to (a) above is published at time of approval; and

c. any approval in (a) and all matters in (b) are tabled in Parliament within 14 days and subject to disallowance.

5. Commonwealth and State Health Ministers should establish, and attend all meetings of, a formal Committee responsible for direction and oversight of, and that receives advice from, formal expert anti-Covid advisory committees/meetings that include officials who represent or are engaged by the States or the Commonwealth.

**Appendix: Notes to Figure 3**

**Figure 3: Reaction to Sydney, Melbourne, Brisbane outbreaks compared with Federal Court (at 29 Jan 2021)[[101]](#footnote-5)**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **State** | **Widest Application[[102]](#footnote-6)** | **Highest Restriction [[103]](#footnote-7)** | **First restriction after outbreak[[104]](#footnote-8)** | **End of restrictions after last case[[105]](#footnote-9)**  |
| Palmer case \* | State wide | No entry | 0 | 28 |
| NSW v. Vic. v. Qld. | NoneNone | NoneNone | NANA | NANA |
| Vic. [[106]](#footnote-10) v NSW v. Qld. |  Area (Sydney)Area(Brisbane) | No entryNo entry | 3[[107]](#footnote-11)1[[108]](#footnote-12) | >10[[109]](#footnote-13)7[[110]](#footnote-14) |
| Qld. v. NSW v. Vic. | Area (Sydney)None | No entryNone | 4[[111]](#footnote-15)NA | 15?[[112]](#footnote-16)0[[113]](#footnote-17) |
| S.A v. NSW v. Vic. v. Qld. | State wideNoneArea(Brisbane) | No entryNone[[114]](#footnote-18)Quarantine | 4[[115]](#footnote-19)NA3[[116]](#footnote-20) | 14?[[117]](#footnote-21) 010[[118]](#footnote-22) |
| W.A v. NSW v. Vic. v. Qld. | State wide State wide State wide  | No entryNo entryNo entry | 3[[119]](#footnote-23) 0[[120]](#footnote-24)7[[121]](#footnote-25) | >12[[122]](#footnote-26)>26[[123]](#footnote-27)24? |
| Tas. v. NSW v. Vic. v. Qld. | Area (Sydney)LocationsArea(Brisbane) | QuarantineQuarantine Quarantine | 2[[124]](#footnote-28)1[[125]](#footnote-29)1 | >12 [[126]](#footnote-30)<25[[127]](#footnote-31)15[[128]](#footnote-32) |
| N.T. [[129]](#footnote-33) v. NSW  v. Vic.  v. Qld. |  Area (Sydney)NoArea(Brisbane) | QuarantineNoneQuarantine | 3NA1 | >1204 |
| A.C.T. v. NSW v. Vic. v. Qld. | Area (Sydney)NoneArea(Brisbane) | No entryNoneQuarantine | 4[[130]](#footnote-34)NA2 | 12[[131]](#footnote-35)04[[132]](#footnote-36) |

1. <https://www.thejadebeagle.com/emergency-achieved.html> [↑](#endnote-ref-1)
2. <https://www.premier.vic.gov.au/further-measures-protect-victoria> [↑](#endnote-ref-2)
3. In this note, the term quarantine refers to confinement of an individual separate from the community. This is broader than more technical usages in which quarantine is confinement of those who may have been exposed to infectious disease – and isolation is confinement of the infected. In this note, ‘quarantine’ includes isolation. [↑](#footnote-ref-1)
4. <https://www.abc.net.au/news/2021-01-03/nsw-records-eight-new-local-cases-of-covid-19/13028376> [↑](#endnote-ref-3)
5. There was frequent conflation between the outbreak – Covid from community transmissions – and total Covid cases, including those detected in quarantine. Reports of daily case numbers were supplemented by reports of cumulative numbers e.g., <https://www.smh.com.au/national/nsw/nervous-wait-as-premier-resists-pressure-for-lockdown-mask-mandate-and-a-ban-on-large-events-20201231-p56r36.html> [↑](#endnote-ref-4)
6. <https://www.abc.net.au/news/2021-01-01/will-sydney-go-into-lockdown/13024350>

The gross inaccuracy of some previous Covid predictions is noted at: <https://www.msn.com/en-au/news/australia/greg-hunt-slams-doctors-who-were-wrong-about-covid-19/ar-BB1cHMIT?ocid=mailsignout&fbclid=IwAR2KhevDg-KnH5JdH7fM78093PvpF1GPtP77tpqKsWM9b0eKNnHQQu3_Uj4>

Another example of doomsaying: <https://johnmenadue.com/tony-smith-how-new-south-wales-lost-control-of-the-virus/> [↑](#endnote-ref-5)
7. The argument was: a lockdown would aim to minimise infection spread. Yet for that objective, a lockdown’s duration is indeterminate. It would not be short and might be lengthy - experts consider 28 days as a benchmark to eliminate Covid – see: <https://www.thejadebeagle.com/tinpot-update.html>.

If a lockdown were to start on 20 December, it would likely extend into the New Year. Lockdown proponents would see that as desirable given the potential of Christmas and New Year to be what they termed ‘super spreader’ events. [↑](#endnote-ref-6)
8. <https://www.msn.com/en-au/news/australia/greg-hunt-slams-doctors-who-were-wrong-about-covid-19/ar-BB1cHMIT?ocid=mailsignout&fbclid=IwAR2KhevDg-KnH5JdH7fM78093PvpF1GPtP77tpqKsWM9b0eKNnHQQu3_Uj4> [↑](#endnote-ref-7)
9. NSW policy is noted in <https://www.thejadebeagle.com/covid---july-2020.html> [↑](#endnote-ref-8)
10. The geography and sociology suggest high civic pride and cooperation in the area. Compliance with local mandates is likely to be strong, particularly for protecting the district. This was demonstrated by high levels of community tests for Covid infection – the ratio of tests to population was near 60% in four weeks. Fifty-nine cases were detected.

4 weeks to 14 January 2021: <https://www.health.nsw.gov.au/Infectious/covid-19/Pages/stats-local.aspx> [↑](#endnote-ref-9)
11. <https://www.abc.net.au/news/2021-01-01/nsw-records-three-cases-of-coronavirus-in-western-sydney/13025912>;

<https://7news.com.au/sunrise/on-the-show/nsw-acting-premier-john-barilaro-absolutely-considering-lockdown-to-combat-sydney-bottle-shop-outbreak-c-1887523> [↑](#endnote-ref-10)
12. <https://www.theguardian.com/australia-news/2020/dec/17/queensland-western-australia-south-wa-sa-border-restrictions-nsw-covid-coronavirus-outbreak>

 [↑](#endnote-ref-11)
13. For example, NSW residents who had already travelled to some States were required to quarantine, whereas residents of those States returning from NSW were not. [↑](#endnote-ref-12)
14. <https://www.theguardian.com/australia-news/2020/dec/17/queensland-western-australia-south-wa-sa-border-restrictions-nsw-covid-coronavirus-outbreak>

<https://www.dhhs.vic.gov.au/sites/default/files/documents/202012/NSW%20Border%20Crossing%20Permit%20Scheme%20Directions%20-%2018%20December%202020%20%28signed%29.pdf>

<https://www.coronavirus.vic.gov.au/victorian-travel-permit-system>

<https://www.wa.gov.au/government/publications/nsw-outbreak-response-directions-no-3>

<https://www.covid-19.sa.gov.au/emergency-declarations/cross-border-travel> <https://coronavirus.tas.gov.au/facts/important-community-updates>

<https://www.legislation.act.gov.au/ni/2020-819/>

https://www.covid19.act.gov.au/news-articles/new-directions-for-anyone-arriving-in-the-act Chief Minister Chief Minister -from-greater-sydney [↑](#endnote-ref-13)
15. They were published 24 February <https://www.hcourt.gov.au/cases/case_b26-2020>. That will be the subject of a later article. [↑](#endnote-ref-14)
16. <https://www.thejadebeagle.com/tinpot-update.html> [↑](#endnote-ref-15)
17. <https://www.thejadebeagle.com/covid---july-2020.html>,

<https://www.thejadebeagle.com/tinpot-update.html> [↑](#endnote-ref-16)
18. <https://cdn.hcourt.gov.au/assets/cases/02-Brisbane/b26-2020/Palmer-Def.pdf>

<https://cdn.hcourt.gov.au/assets/cases/02-Brisbane/b26-2020/Palmer-AG-Victoria.pdf>

<https://cdn.hcourt.gov.au/assets/cases/02-Brisbane/b26-2020/Palmer-AG-Victoria.pdf>

<https://cdn.hcourt.gov.au/assets/cases/02-Brisbane/b26-2020/Palmer-AG-Qld.pdf>

<https://cdn.hcourt.gov.au/assets/cases/02-Brisbane/b26-2020/Palmer-AG-Tas.pdf>

<https://cdn.hcourt.gov.au/assets/cases/02-Brisbane/b26-2020/Palmer-AG-SA.pdf> <https://cdn.hcourt.gov.au/assets/cases/02-Brisbane/b26-2020/Palmer-AG-ACT.pdf>

<https://cdn.hcourt.gov.au/assets/cases/02-Brisbane/b26-2020/Palmer-AG-NT.pdf> [↑](#endnote-ref-17)
19. [↑](#footnote-ref-2)
20. [↑](#footnote-ref-3)
21. [↑](#footnote-ref-4)
22. <https://www.thejadebeagle.com/emergency-achieved.html> [↑](#endnote-ref-18)
23. <https://johnmenadue.com/tony-smith-how-new-south-wales-lost-control-of-the-virus/> [↑](#endnote-ref-19)
24. <https://www.abc.net.au/news/2021-02-09/victoria-covid-numbers-after-hotel-quarantine-worker-cases/13133862>

<https://johnmenadue.com/without-our-dithering-pm-australia-would-on-top-of-covid-19-leaderboard/>

The latter included:

*‘Since June, all jurisdictions except NSW have pursued a clear elimination policy, to reach zero community case status via a policy of squashing any outbreak before it even starts.*

*NSW has pursued a suppression model, much to the*[*anguish of other jurisdictions*](https://www.skynews.com.au/details/_6221970317001)*, but strangely praised by the PM and his lackeys. It is the outlier, and a frustration for the rest of the country as it can take them weeks to get on top of an outbreak, with impacts on borders.*

*Since the first wave, the NSW outbreaks have been extended ones, partly due to community and interstate sources. They have also had leakages from hotel quarantine as have SA, Qld and most recently – in early February – Victoria and WA. By hard and fast action, these last four eliminated their outbreaks within days.’*

Much of which is false and misleading for example:

	* ‘elimination’ is not a policy, but a (an unachievable) goal;
	* Elimination proponents use the term as a distraction from the policy, which is lockdown of large areas – cities and States – in response to a Covid case;
	* In comparison, elimination proponents use suppression to refer to a policy to align of risk with restriction, through testing, tracing and isolation of infection;
	* ‘Suppression’ does not involve lockdowns unless infection prevalence is high, testing is low or tracing is likely to be ineffective;
	* In fact, the only difference is ‘elimination’ does not rely on testing or tracing, probably due to expectations of health system failures;
	* Between June-November 2020 Victoria introduced lockdowns because its tracing capability did not match infection numbers. More recently, it returned to tracing and isolation for the January outbreak and most of the February outbreak – using a lockdown nine days into the latter but for only a period of five days – shorter than the incubation period and therefore not intended to ‘eliminate’;
	* Hence Victoria, and NSW, are not pursuing elimination policies;
	* Testing determines whether there is an outbreak. The idea of ‘squashing any outbreak before it occurs’ is an oxymoron;
	* If the ‘squash’ idea is intended to mean ‘reduce transmission’ then the timeframe for depends on the spread of infection when detected by testing;
	* Hence the length of time to ‘get on top’ of an outbreak primarily depends on testing, not on choice of restrictions;
	* If ‘get on top’ is intended to mean zero infection, States other than NSW told the courts the minimum time is 28 days – 4 weeks after the last case is recorded. They have not applied this to themselves, meaning the reason for short lockdowns is either an acceptance of (what is stated to be unacceptable) risk, or a belief there is no risk i.e., their lockdowns are abuses of power;
	* Hence the claim NSW takes ‘weeks to get on top’ is misleading. It is misleading on further grounds – by far the longest period to ‘get on top’ of an outbreak was 112 days in Victoria – all under a lockdown;
	* NSW policy has no impact on borders. Rather the border closures are made by (officials of other States) due to their lack of confidence in abilities to test and trace. Hence the statement NSW caused border closures is false. It is misleading because the failure is with the other States to equip themselves with tracing capability;
	* The Alice in Wonderland thrust of the argument: were NSW to lockdown as frequently as other States Australia would face economic collapse and federal subsidies would need to reduce, in turn reducing the ability of other States to lockdown. [↑](#endnote-ref-20)
25. <https://uk.embassy.gov.au/lhlh/covid19faq.html> [↑](#endnote-ref-21)
26. Embarrassing: a reputable medical journal carrying a declaration of Covid being eliminated in New Zealand, just prior to its re-emergence. See e.g., <https://www.nejm.org/doi/full/10.1056/NEJMc2025203>

Another embarrassing episode: the 2021 Auckland lockdown – necessitated because of inadequate testing. [↑](#endnote-ref-22)
27. <https://7news.com.au/news/wa/wa-premier-mark-mcgowan-responds-after-backlash-over-raffle-prize-c-1617408>

<https://www.9news.com.au/national/coronavirus-nsw-queensland-border-changes-gladys-berejiklian-blindsided/ed3a6580-3fa7-41e6-9bfc-9973ef510700> [↑](#endnote-ref-23)
28. <https://www.thejadebeagle.com/tinpot-update.html> [↑](#endnote-ref-24)
29. <https://www.pm.gov.au/media/national-cabinet-040920> [↑](#endnote-ref-25)
30. <https://www.thejadebeagle.com/covid---july-2020.html>

<https://www.thejadebeagle.com/acrpa.html> [↑](#endnote-ref-26)
31. <https://www.sbs.com.au/news/nsw-records-three-new-coronavirus-cases-as-queensland-border-tensions-simmer> [↑](#endnote-ref-27)
32. The reasons referred to a 28-day absence of unsourced community transmission. This differed from its previous criteria, and arguments put to the Federal and High Courts which did refer to 28 days but not always relate to within-community transmission being unsourced. <https://www.abc.net.au/news/2020-11-24/coronavirus-queensland-nsw-border-restrictions-announcement/12901854> [↑](#endnote-ref-28)
33. <https://www.abc.net.au/news/2020-12-23/coronavirus-queensland-border-compliance-checks-quarantine/13001000> [↑](#endnote-ref-29)
34. <https://www.health.qld.gov.au/system-governance/legislation/cho-public-health-directions-under-expanded-public-health-act-powers/border-restrictions> [↑](#endnote-ref-30)
35. At the time of the statement, 2 January, it was evident that the peak in NSW had passed. New cases were then averaging around four per day. Nonetheless:

*“Those states are working very hard to contain community transmission, but they are still in a critical stage of their response so we need to keep watching closely,” she said.*

*“Things can change quickly really quickly with this virus – we’ve seen that in other jurisdictions, which is why I continue to advise Queenslanders to reconsider their need to travel to New South Wales or Victoria.*

*“If you do decide to go, you need to be aware of the potential consequences, such as border changes and not making it home to Queensland before hotel quarantine is imposed.*

*“And if you’re already in Victoria or New South Wales, consider coming home.”*

*Dr Young said we’ll continue to monitor the outbreak in Greater Sydney.*

*”As we’ve said before, the earliest we will review our current border restriction for Greater Sydney is 8 January – 28 days since the first community transmission case was detected – which is sensible as this timing aligns with New South Wales’ plan to review some of their local restrictions,” she said.*

<https://www.abc.net.au/news/2021-01-02/queensland-coronavirus-victoria-return-travellers-test-isolate/13027884>

<https://www.health.qld.gov.au/news-events/doh-media-releases/releases/queensland-borders-unchanged> [↑](#endnote-ref-31)
36. <https://statements.qld.gov.au/statements/91242>

The echo is of the embarrassing: *‘On 30 April, its authorities declared there was no pneumonic influenza in Queensland – only to ‘****two days later admit it was in Brisbane General Hospital’***. <https://www.thejadebeagle.com/covid---may.html> Other echoes are to be found in tension between Commonwealth and Queensland Governments, the role of ships in intial quarantine breaches, lack of candour by Victoria and moves towards isolation by Western Australia. [↑](#endnote-ref-32)
37. <https://www.health.qld.gov.au/news-events/doh-media-releases/releases/incident-response-set-up-following-confirmation-of-brisbane-hotel-cluster> [↑](#endnote-ref-33)
38. <https://www.cnbc.com/2020/11/23/uk-expected-to-announce-it-will-lift-lockdown-soon-with-conditions-attached.html> [↑](#endnote-ref-34)
39. Similarly, a 20 December BBC report on the variant had a virologist saying:

*"The amount of evidence in the public domain is woefully inadequate to draw strong or firm opinions on whether the virus has truly increased transmission*"

<https://www.bbc.com/news/health-55388846> [↑](#endnote-ref-35)
40. Third lockdown 6 January <https://www.bbc.com/news/uk-55554550> 58,000 case average.

History of policy at <https://www.theguardian.com/world/2021/jan/04/england-changing-coronavirus-strategy-timeline> [↑](#endnote-ref-36)
41. While there was confidence the UK variant was more transmissible:

*‘There is no evidence so far that this new variant causes more severe disease or that it can evade the protection conferred by any of the*[*vaccines*](https://www.newscientist.com/article/mg24833093-800-what-will-it-take-to-get-a-covid-19-vaccine-to-the-world/)*. Some lines of evidence suggest that it spreads more readily, but the evidence isn’t conclusive.*

<https://www.newscientist.com/article/2263077-what-you-need-to-know-about-the-new-variant-of-coronavirus-in-the-uk/> [↑](#endnote-ref-37)
42. <https://johnmenadue.com/the-race-is-on-vaccines-vs-variants-the-global-response-will-determine-the-winner/> [↑](#endnote-ref-38)
43. Australia’s chief medical officer, Prof Paul Kelly, said the UK strain, known as the N501Y mutation, needed to be put in context:

*“There have been thousands of mutations of this particular novel coronavirus,” Kelly said. “There is no definite evidence that this is a significant change. There has been more transmission in recent times in the south-east of the UK and that may be associated with the virus.*

*“The infectious agent has changed a little, but a lot of people have been moving around in south-east England and have been until the recent lockdown. It is also winter.’*

<https://www.theguardian.com/world/2020/dec/21/australian-health-officials-cast-doubt-on-claim-new-uk-covid-strain-more-infectious>

<https://www.bbc.com/news/health-55388846> [↑](#endnote-ref-39)
44. <https://www.abc.net.au/news/2020-12-22/why-isnt-australia-banning-uk-flights-new-coronavirus-strain/13007540> [↑](#endnote-ref-40)
45. <https://indaily.com.au/news/2020/12/30/second-covid-variant-arrives-in-australia/> [↑](#endnote-ref-41)
46. <https://www.theage.com.au/politics/federal/border-closures-are-understandable-but-they-need-to-be-handled-better-20210106-p56s61.html>

Vic: 7 January <https://www.abc.net.au/news/2021-01-08/nsw-vic-qld-act-sa-nt-tas-wa-covid-travel-rules/13039622>;

WA: 9 January – note the State dropped the 28-day criteria it argued for, and was accepted by, the Federal Court in Mr Palmer’s challenge to the July border closure – see: <https://www.thejadebeagle.com/tinpot-update.html>

<https://www.abc.net.au/news/2021-01-22/wa-brings-down-border-with-qld-and-nsw-no-covid19-transmission/13083402>;

SA: 8 January; <https://indaily.com.au/news/2021/01/08/new-sa-border-restrictions-as-brisbane-goes-into-lockdown/>;

ACT: 8 January <https://www.covid19.act.gov.au/news-articles/update-urgent-information-about-greater-brisbane>;

Tas, NT: 8 January (14-day quarantine) <https://www.covid19.act.gov.au/news-articles/update-urgent-information-about-greater-brisbane> [↑](#endnote-ref-42)
47. <https://www.abc.net.au/news/2021-01-06/national-cabinet-uk-strain-coronavirus/13037226> [↑](#endnote-ref-43)
48. <https://www.bbc.com/news/world-australia-55582836> [↑](#endnote-ref-44)
49. See notes (above) about WA reversing its 28 days.

*‘Professor Peter Collignon from the Australian National University told 2GB …….*

*“This is a single case, and I don’t think anyone in the world has ever done this (three-day lockdown) before,” he said.*

*“Three days will not solve the problem because the average incubation period is five days. You really have to wait, people have to isolate for 10 to 14 days, even 28 days for two full incubation periods.*

*“It almost says we don’t have faith in our contact tracing system.”*

<https://www.theaustralian.com.au/breaking-news/infectious-disease-expert-says-brisbane-lockdown-unreasonable-and-wont-solve-problem/news-story/7dfd1b9f34d110c06d56f8de41de0ccc>

<https://www.9news.com.au/national/queensland-coronavirus-news-lockdown-announcements-sparks-panic-buying-at-brisbane-supermarkets/9cd1b9b9-8e55-4ca9-9b72-f82cbafe630f>

Queensland had earlier claimed to use a 28-day benchmark for hotspots in, and border closures to, other States – although the facts suggested otherwise. It had notoriously insisted on a 14-day quarantine in some cases which presented no potential for risk.

 [↑](#endnote-ref-45)
50. Not the first time: a number of quarantine breaches have been reported in Queensland: use search engine for Queensland quarantine breach 2020.

The final test match of the India-Australia cricket series was scheduled to commence in Brisbane on 14 January. The Boxing Day test in Melbourne was conducted while Covid was circulating in that city – at least one case was reported at that test. There was controversy over plans to hold the New Year (start 5 January) test in Sydney while there had been community transmission in the northern beaches and Berala clusters. Nonetheless the Sydney test went ahead, with a smaller crowd, mandatory masks and exclusion of some people from certain suburbs or who attended the Melbourne test.

From 3 January, international reports had members of the Indian cricket team expressing reservations about Queensland Covid policy and suggesting they may not travel to Brisbane. In response, NSW offered to stage another test in Sydney. In the event, the Brisbane test was held – starting a few days after the lockdown ended - and won by India.

Melbourne test: <https://www.heraldsun.com.au/news/wrong-turn-left-melbourne-family-stranded-in-across-new-south-wales-border/news-story/afeeaa2b22858983a34cdf0b868fe95f>

Sydney test: <https://www.abc.net.au/news/2021-01-07/scg-test-going-ahead-but-with-severe-restrictions/13037152>

Brisbane test – Indian cricketers: <https://cricket.yahoo.net/news/team-india-reluctant-travel-brisbane-022624645>

<https://www.hindustantimes.com/cricket/brisbane-test-in-doubt-as-indian-team-reluctant-to-accept-quarantine-proposals-report/story-oHdbp7YAPpEvExsTsGOS0O.html>

<https://www.theguardian.com/sport/2021/jan/13/india-reportedly-complain-to-cricket-australia-about-brisbane-test-hotel> [↑](#endnote-ref-46)
51. For example:

*‘The strain Queensland authorities fear is circulating in the community is at least 70 per cent more infectious than previous variants of the virus; however, Professor Collignon said it hadn’t spread “markedly” in many other countries.*

*“It’s in 30 or 40 countries but it hasn’t become the predominant strain in many of those,” he said.*

<https://www.theaustralian.com.au/breaking-news/infectious-disease-expert-says-brisbane-lockdown-unreasonable-and-wont-solve-problem/news-story/7dfd1b9f34d110c06d56f8de41de0ccc> [↑](#endnote-ref-47)
52. <https://www.9news.com.au/national/queensland-coronavirus-news-lockdown-announcements-sparks-panic-buying-at-brisbane-supermarkets/9cd1b9b9-8e55-4ca9-9b72-f82cbafe630f>

<https://www.news.com.au/lifestyle/health/health-problems/thousands-of-shoppers-flock-to-brisbane-supermarkets-ahead-of-three-day-lockdown/news-story/f0a5249282de42fb09c3e1119b3fca16> [↑](#endnote-ref-48)
53. <https://www.9news.com.au/national/australia-coronavirus-pm-scott-morrison-calls-special-meeting-of-national-cabinet/85313842-5371-43c4-a294-cbae1f28152f>

<https://www.pm.gov.au/media/statement-national-cabinet>

*‘The Commonwealth trigger for consideration of a COVID-19 hotspot in a metropolitan area is the rolling 3 day average (average over 3 days) is 10 locally acquired cases per day. This equates to over 30 cases in 3 consecutive days.’*

The Prime Minister also noted that to (7 January 2021) there had been 909 deaths from 28,571 confirmed Covid cases in Australia. The ratio is 3.2%<https://www.pm.gov.au/media/national-cabinet-040920> [↑](#endnote-ref-49)
54. See note xxiii (below), and, for example: <https://www.abc.net.au/news/2021-01-11/brisbane-lockdown-masks-restrictions-rules-update-coronavirus/13046160> [↑](#endnote-ref-50)
55. *‘I think it shows that Queenslanders are fantastic at responding. We acted very, very fast and people have responded, and we have tested large numbers, which is really good," Dr Young said on Sunday morning.*

*"It is too early to actually say what this new virus means.*

*"This is the first time we've seen it in our community in Australia. We know what's been going on in the UK, but it is very hard to unravel because they came from a different position to us.*

*"So this is all about learning every single day, but taking the most precautionary approach possible, because we don't want this to get out there.*

*"It's too early to say whether or not we think there will be cases, or there won't be cases. We have to be very careful, and everybody needs to do what they have been doing."*

<https://www.brisbanetimes.com.au/national/queensland/too-early-to-say-brisbane-awaits-news-on-end-to-lockdown-20210110-p56szi.html> [↑](#endnote-ref-51)
56. *‘Dr Young said contact tracers are working to identify locations visited by the So, partner of the quarantine hotel cleaner. Dr Young said the man started feeling ill on January 7. But she said Queensland Health officials remain concerned about a Brisbane Bunnings store and bottle shop he visited on January 5 and January 6.*

<https://www.9news.com.au/national/coronavirus-queensland-grand-chancellor-hotel-outbreak-avoided-cho-says-three-new-cases/48f0a0e3-6410-44d7-8d2c-a3f741dccdde>

<https://www.9news.com.au/national/coronavirus-how-covid19-spread-through-brisbane-quarantine-hotel/57c7b838-4a9b-4212-94e3-b72eeca864ef> [↑](#endnote-ref-52)
57. Tests: <https://covidlive.com.au/report/daily-tests/qld> [↑](#endnote-ref-53)
58. Float through walls <https://www.9news.com.au/national/coronavirus-how-covid19-spread-through-brisbane-quarantine-hotel/57c7b838-4a9b-4212-94e3-b72eeca864ef> [↑](#endnote-ref-54)
59. <https://www.abc.net.au/news/2021-01-21/coronavirus-restrictions-ease-greater-brisbane-masks/13069830> [↑](#endnote-ref-55)
60. Aerosol: <https://johnmenadue.com/expert-denialism-federal-covid-advisory-committee-slow-to-accept-airborne-evidence/> and

<https://johnmenadue.com/the-race-is-on-vaccines-vs-variants-the-global-response-will-determine-the-winner/>

The unintelligible defence was:

*“Ms Palaszczuk said*[*strict city wide lockdowns*](https://www.9news.com.au/videos/health/wa-premier-to-keep-border-closed-to-queensland/ckjqz0isp001s0gmt678cerua)*, such as in Brisbane, could become a national standard to combat further cases of the UK strain.*

*"The three days was the initial lockdown which was recommended. Also to endorse by AHPPC (Australian Health Protection Principal Committee)," the premier said.*

*"They said if this infectious strain got out in the community, it had to be a much harder lockdown than what we saw in the (Sydney) Northern Beaches.*

*"I think you would now see that swift action taken in any part of the country where there was that UK variant strain in the community. I think that will become the norm."*

<https://www.9news.com.au/national/coronavirus-queensland-premier-warns-of-further-cases-of-uk-strain/463f02b1-4a5e-4f4d-bd14-5a6f7573c96e>

That might be compared with Professor Collignon’s diagnosis:

*‘Professor Collignon said recent outbreaks in Sydney and Melbourne highlighted how it was possible to bring the virus under control without restricting people.*

*“I do think that if you have faith in the system, you can do it … We have eliminated the virus in most parts,” he said.*

*“The Avalon cluster … appears to have been brought under control and it will disappear … I suspect Berala will disappear as well.”*

*He said while it was admirable Australia was aiming for elimination, that was unlikely to ever truly occur unless the country was prepared to become a “hermit nation.”*

*“The trouble I have with elimination is that people become complacent … It’s inevitable we will have leaks,” he said.*

*“That is the reality, we just need to make the probability lower, but you have to accept you might get it.*

*“I don’t think it’s reasonable that every time we get a case we lock down our cities.”*

<https://www.theaustralian.com.au/breaking-news/infectious-disease-expert-says-brisbane-lockdown-unreasonable-and-wont-solve-problem/news-story/7dfd1b9f34d110c06d56f8de41de0ccc> [↑](#endnote-ref-56)
61. <https://www.abc.net.au/news/2021-01-17/covid-coronavirus-hotspot-greater-brisbane-restrictions-travel/13030256> [↑](#endnote-ref-57)
62. <https://www.abc.net.au/news/2021-01-28/coronavirus-queensland-covid-border-restrictions-nsw-lift/13095724> [↑](#endnote-ref-58)
63. <https://www.abc.net.au/news/2021-01-26/australia-suspends-nz-travel-bubble-with-just-one-case-why/13090094>

Elimination: see for example <https://www.9news.com.au/world/new-zealand-coronavirus-elimination-figures-auckland-cluster-jacinda-ardern/05ff9842-cfcb-4fb4-96de-193ae711acfd>

<https://www.bmj.com/content/371/bmj.m4907>

The latter claims elimination in China in December 2020. More recent reports suggested otherwise: <https://www.abc.net.au/news/2021-01-25/china-covid-19-coronavirus-cases-rise-tonghua-response/13089004>

Further opportunities for New Zealand to eliminate Covid see e.g., <https://www.abc.net.au/news/2021-02-15/new-zealand-covid-19-no-new-local-cases-auckland-in-lockdown/13155084> The happy circumstance of Covid not being reporting during the lockdown did not last – further cases were reported. And despite New Zealand authorities saying they were confident the outbreak was under control; several States did not share that confidence and reimposed travel restrictions. <https://www.abc.net.au/news/2021-02-25/nsw-victoria-queensland-impose-travel-covid-19-restriction-on-nz/13189896> [↑](#endnote-ref-59)
64. The final say on this saga is yet to be had. On 23 January, Australian media breathlessly reported the UK Prime Minister’s latest revelation: the UK mutant strain poses an increased risk of mortality.

One article headlined by ‘*New mutant Covid strain 'is up to 90 per cent more* DEADLY' went on to cite the UK’s chief scientific advisor, Sir Patrick Vallance saying:

*“the average risk is that for 1,000 people who got infected, roughly 10 would be expected to unfortunately die”.*

*“With the new variant, for 1,000 people infected, roughly 13 or 14 people might be expected to die,”*

He added: *‘the evidence is not yet strong’* and that more research is needed. Which is somewhat short of 90% - or 19 people per 1,000.

Could those figures – mortality of 1.0% to 1.4% or even 1.9% - be compared with the 3.2% cited by the Australian Prime Minister?

Irrespective of that, the article claimed greater certainty – ‘growing confidence’ – by Vallance about infectivity of the UK strain:

*‘He said it appears to be between 30 per cent and 70 per cent more transmissible’*.

The report noted UK officials believed the current vaccines would be effective against the mutant, but that Vallance referred to concerns other Covid variants could be more resistant to vaccines. This is a critical point made by Professor Dwyer in arguing for widespread vaccination to forestall emergence of more serious mutations. And vaccination that prevents serious illness – rather than the gold standard of preventing any infection – may be the best strategy.

<https://au.news.yahoo.com/uk-mutant-covid-strain-up-to-90-per-cent-more-deadly-002652230.html>

But note greater caution by some other UK scientific advisers:

<https://reaction.life/30-per-cent-more-lethal-claim-rests-on-fragile-and-uncertain-evidence-says-nervtag-member/?fbclid=IwAR3mV_8dDBQd1sk5cLOVxhhyJXsabswri0t2zqUXMs11mMhOzt_T3Ew0y5k> [↑](#endnote-ref-60)
65. <https://www.perthnow.com.au/news/coronavirus/coronavirus-crisis-mark-mcgowan-puts-wa-into-five-day-lockdown-after-hotel-covid-outbreak-ng-b881783418z> [↑](#endnote-ref-61)
66. <https://theconversation.com/perths-5-day-circuit-breaker-lockdown-isnt-an-overreaction-to-a-single-case-its-basic-common-sense-154348> [↑](#endnote-ref-62)
67. <https://www.abc.net.au/news/2021-02-01/no-new-coronavirus-cases-in-wa-after-five-day-lockdown-begins/13107976> [↑](#endnote-ref-63)
68. <https://www.amawa.com.au/news/perth-covid-19-outbreak-shines-spotlight-on-was-flawed-hotel-quarantine-system/> [↑](#endnote-ref-64)
69. The Health Minister, Mr Cook, was reported as saying the reason all internal restrictions could be lifted on February 14 *was:*

*“… we know the science tells us the 14 day period will take us through a full cycle of the disease and during that time because we’ve tested 102,000 people, we have the data to inform us that we don’t have presence of the disease out there in the community,” Mr Cook said.’*

<https://www.watoday.com.au/national/western-australia/perth-s-covid-19-case-903-still-positive-with-uk-strain-as-wa-lifts-internal-borders-mask-requirements-20210214-p572dx.html> [↑](#endnote-ref-65)
70. <https://www.watoday.com.au/national/western-australia/perth-s-covid-19-case-903-still-positive-with-uk-strain-as-wa-lifts-internal-borders-mask-requirements-20210214-p572dx.html> [↑](#endnote-ref-66)
71. <https://www.watoday.com.au/national/western-australia/dodged-a-bullet-expert-explains-why-wa-may-have-escaped-covid-spread-20210204-p56zhy.html> [↑](#endnote-ref-67)
72. <https://www.wa.gov.au/government/announcements/return-pre-lockdown-life-1201am-sunday-14-february> [↑](#endnote-ref-68)
73. While some of Rangiah J’s findings were made in relation to community transmission without an identified source, the argument put to him was wider because community transmission related to local cases with an unknown source. E.g.:

*‘In the joint experts’ report, Associate Professor Lounge notes that all experts agree that if there have been no cases of community transmission (i.e., locally acquired cases with unknown sources of infection) for 28 days in the State or Territory of origin then that is a situation of low/no transmission. She considers that the reasonable conclusion from this is that any setting that has not reached this point of low/acceptable transmission would constitute a higher probability of transmission than one which had….’.*

<https://www.judgments.fedcourt.gov.au/__data/assets/word_doc/0011/591914/J201221cor.docx?v=0.1.1> [↑](#endnote-ref-69)
74. On 14 February, NSW had no community transmission for 28 continuous days: <https://www.9news.com.au/national/coronavirus-nsw-records-zero-new-local-covid19-cases-two-in-hotel-quarantine-latest-updates/ada1f37f-f0f5-41da-aae6-e0af40594576>. Yet NSW visitors to Western Australia were required to quarantine for 14 days <https://www.wa.gov.au/organisation/covid-communications/covid-19-coronavirus-controlled-interstate-border#low-risk-states-and-territories>; <https://www.wa.gov.au/organisation/covid-communications/covid-19-coronavirus-controlled-interstate-border#state-by-state> [↑](#endnote-ref-70)
75. <https://johnmenadue.com/the-race-is-on-vaccines-vs-variants-the-global-response-will-determine-the-winner/> [↑](#endnote-ref-71)
76. <https://www.theaustralian.com.au/breaking-news/covid-vaccine-australia-nearly-10-per-cent-of-australians-will-refuse-jab/news-story/206790550f170187540c4a282910a49d> [↑](#endnote-ref-72)
77. <https://johnmenadue.com/we-have-the-tools-to-help-control-the-pandemic-we-have-to-use-them/> [↑](#endnote-ref-73)
78. <https://www.abc.net.au/news/2020-07-07/victoria-reimposes-lockdown-as-coronavirus-cases-rise/12429990>

<https://www.bbc.com/news/world-australia-54686812> [↑](#endnote-ref-74)
79. <https://www.theage.com.au/national/victoria/ten-graphs-that-show-the-rise-and-fall-of-victoria-s-covid-19-second-wave-20201027-p5694b.html> [↑](#endnote-ref-75)
80. <https://www.quarantineinquiry.vic.gov.au/> [↑](#endnote-ref-76)
81. *‘Chapter 5 notes that the decision to engage private security was not a decision made at the Ministerial level. The Premier and former Minister Mikakos said they played no part in the decision. Minister Neville was aware of the proposal but not responsible for it and Minister Pakula appears not to have been told until after private security had been engaged. Enforcement of quarantine was a crucial element of the Program that the Premier had committed Victoria to adopting, but neither he nor his Ministers had any active role in, or oversight of, the decision about how that enforcement would be achieved. In his evidence, the Premier agreed that the question of how this occurred should be capable of being answered.*

 *As the head of the Victorian Public Service at the time, the then Secretary of DPC acknowledged it was a fair point that, if no one knew who made the decision, there was an obvious risk that no one would understand that they had the responsibility for revisiting the decision if time and experience showed that it was not the correct one.*

*This was what occurred here. The decision was made without proper analysis or even a clear articulation that it was being made at all. On its face, this was at odds with any normal application of the principles of the Westminster system of responsible government. That a decision of such significance for a government program, which ultimately involved the expenditure of tens of millions of dollars and the employment of thousands of people, had neither a responsible Minister nor a transparent rationale for why that course was adopted, plainly does not seem to accord with those principles.*

*The conclusions contained in Chapter 5 find that the decision as to the enforcement model for people detained in quarantine was a substantial part of an important public health initiative and it cost the Victorian community many millions of dollars. But it remained, as multiple submissions to the Inquiry noted, an orphan, with no person or department claiming responsibility’.*

<https://www.quarantineinquiry.vic.gov.au/>

There are at least two problems with these comments.

First, if the inquiry was unable to ascertain who made the decision it could not logically rule out Ministers, including the Premier, actually or effectively making the decision.

Second, the concern about conflict with the Westminster system appears to be limited to public monies. However, given that system does not permit Governments to detain people except with the express authority of Parliament, the model of detention of people in quarantine is at least equally a concern. The point was made in Loeilo’s case:

*‘That could potentially result in a person not accountable to Parliament and, perhaps not even a senior administrative officer, exercising powers to close all of Victoria during a state of emergency and confine all the people of Victoria to their homes. While it might be said that good sense would ordinarily prevail as to who would be authorised to exercise the emergency powers, the Victorian legislation is in contrast to England’s, where the Secretary of State makes regulations and New Zealand’s where the Director-General of Health issues significant t orders. The PHW Act contains a principle of accountability….*

*This principle is more than ever important in an emergency, when decisions are made to restrict or remove basic liberties. It was unclear how decisions were made within the Department to choose the authorised officer to make directions. In this case Associate Professor Giles, who did have relevant qualifications, was appointed two days before she made the Directions. It was unclear why the Chief Health Officer did not make the Directions. The Department organizational structure concerned with exercising the emergency powers was unclear, no document could be produced explaining it and the role of officials such as Public Health Commander was not explained.*

*Parliament may wish to reconsider who should exercise these emergency powers……’.*

<https://www.supremecourt.vic.gov.au/sites/default/files/2020-11/Loielo%20v%20Giles%20%5B2020%5D%20VSC%20722_0.pdf> [↑](#endnote-ref-77)
82. <https://www.supremecourt.vic.gov.au/sites/default/files/2020-11/Loielo%20v%20Giles%20%5B2020%5D%20VSC%20722_0.pdf>, para 130. [↑](#endnote-ref-78)
83. <https://www.thejadebeagle.com/covid---july-2020.html> [↑](#endnote-ref-79)
84. Agency:<https://www.vic.gov.au/hotel-quarantine-inquiry-victorian-government-response>

Administrative Office: is referred to in the full response. [↑](#endnote-ref-80)
85. <https://www.vic.gov.au/hotel-quarantine-inquiry-victorian-government-response>

February 2021: <https://www.dhhs.vic.gov.au/sites/default/files/documents/202102/Stay%20Safe%20Directions%20%28Victoria%29%20%28No%2014%29%20-%2012%20February%202021_1.pdf> refers to ss 200 1(b) and (d) <https://content.legislation.vic.gov.au/sites/default/files/2020-12/08-46aa047%20authorised_0.pdf>

These are the same sections relied on in October 2020 e.g. <https://www.dhhs.vic.gov.au/sites/default/files/documents/202010/Stay%20at%20Home%20Directions%20%28Restricted%20Areas%29%20%28No%2019%29%20-%2018%20October%202020_0.pdf> [↑](#endnote-ref-81)
86. <https://www.dhhs.vic.gov.au/victoria-records-three-new-community-coronavirus-cases-30-december-2020>

<https://www.9news.com.au/national/victoria-introduces-hard-border-closure-with-nsw-as-local-covid-cases-continue-to-emerge/fccaa61f-3e02-4bd0-802e-b808b2c74e07> [↑](#endnote-ref-82)
87. <https://www.abc.net.au/news/2021-01-06/coronavirus-australia-live-news-latest-update-victoria-nsw/13034518> [↑](#endnote-ref-83)
88. <https://thenewdaily.com.au/sport/tennis/australian-open/2021/01/15/jeff-kennett-daniel-andrews-australian-open/>

<https://bleacherreport.com/articles/10000394-72-players-in-quarantine-amid-covid-19-after-flights-ahead-of-australian-open>

<https://johnmenadue.com/it-is-foolhardy-indeed-downright-irresponsible-to-have-spectators-at-cricket-and-tennis-matches-this-summer/>

<https://www.news.com.au/sport/tennis/australian-open/coronavirus-at-the-australian-open-victorian-mp-calls-for-sporting-event-to-be-cancelled/news-story/bc9f386b34809416c56f10d1037d81cd> [↑](#endnote-ref-84)
89. <https://www.dhhs.vic.gov.au/coronavirus-covid-19-daily-update> [↑](#endnote-ref-85)
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101. Explanations in Appendix. [↑](#footnote-ref-5)
102. Restriction applied to widest area. [↑](#footnote-ref-6)
103. Toughest restriction applied – may be to more limited area than widest area. Testing is not considered a restriction. [↑](#footnote-ref-7)
104. Start of any restriction. Dates of outbreak: NSW 17 Dec; Vic: 31 Dec; Qld: 6 Jan [↑](#footnote-ref-8)
105. End of every restriction. Dates of last case: NSW 17 Jan; Vic: 3 Jan; Qld: 7 Jan [↑](#footnote-ref-9)
106. <https://www.dhhs.vic.gov.au/media-hub-coronavirus-disease-covid-19> [↑](#footnote-ref-10)
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