

## NOTICE OF FILING

This document was lodged electronically in the FEDERAL CIRCUIT AND FAMILY COURT OF AUSTRALIA (FCFCOA) on 14/01/2022 8:06:00 PM AEDT and has been accepted for filing under the Court's Rules. Details of filing follow and important additional information about these are set out below.

### Details of Filing

Document Lodged: Affidavit  
File Number: MLG116/2022  
File Title: NOVAK DJOKOVIC v MINISTER FOR IMMIGRATION, CITIZENSHIP,  
MIGRANT SERVICES AND MULTICULTURAL AFFAIRS  
Registry: MELBOURNE REGISTRY- FEDERAL CIRCUIT AND FAMILY COURT  
- FEDERAL LAW



A handwritten signature in blue ink, consisting of a large, stylized loop with a small arrow-like stroke at the end.

Dated: 15/01/2022 10:38:12 AM AEDT

Registrar

### Important Information

As required by the Court's Rules, this Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The date and time of lodgment also shown above are the date and time that the document was received by the Court. Under the Court's Rules the date of filing of the document is the day it was lodged (if that is a business day for the Registry which accepts it and the document was received by 4.30 pm local time at that Registry) or otherwise the next working day for that Registry.



# Affidavit

Family Law Rules 2021 – RULE 8.15  
General Federal Law Rules 2021 – RULE 4.04

## Filed in:

- Federal Circuit and Family Court of Australia  
 Family Court of Western Australia  
 Other (specify) \_\_\_\_\_

## Type of proceedings:

- Family law proceedings  
 Migration proceedings  
 General federal law proceedings  
 Other (specify) \_\_\_\_\_

## Filed on behalf of:

Full name: NOVAK DJOKOVIC

## COURT USE ONLY

Client ID \_\_\_\_\_

File number \_\_\_\_\_

Filed at \_\_\_\_\_

Filed on \_\_\_\_\_

Court location \_\_\_\_\_

Court date \_\_\_\_\_

Name of person swearing/affirming this affidavit (SEE PART C)

NATALIE BANNISTER

Date of swearing/affirming 15 / 01 / 2022

## Part A

## About the parties

### APPLICANT 1

Family name (as used now)/Title/Organisation

DJOKOVIC

Given names (as required)

NOVAK

### APPLICANT 2

Family name (as used now)/Title/Organisation

Given names (as required)

### RESPONDENT 1

Family name (as used now)/Title/Organisation

MINISTER FOR IMMIGRATION, CITIZENSHIP,  
MIGRANT SERVICES AND MULTICULTURAL  
AFFAIRS

Given names (as required)

### RESPONDENT 2

Family name (as used now)/Title/Organisation

Given names (as required)

What is the contact address (address for service) in Australia for the party filing this affidavit?

You do not have to give your residential address. You may give another address at which you are satisfied that you will receive documents. If you give a lawyer's address, include the name of the law firm. You **must** also give an email address.

### Hall & Wilcox

Level 11, Rialto South Tower, 525 Collins Street, Melbourne VIC 3000 Australia

Phone +61 3 9603 3555

Lawyer's code 163

Email penelope.ford@hallandwilcox.com.au

## Part B About the independent children's lawyer (if appointed)

Independent children's lawyer family name	Given names
N/A	
Firm name	

## Part C About you (the deponent)

Family name (as used now)/Title/Organisation	Given names
BANNISTER	NATALIE
Gender	Usual occupation (if applicable)
<input type="checkbox"/> Male <input checked="" type="checkbox"/> Female <input type="checkbox"/> X	SOLICITOR

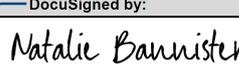
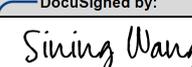
What is your address?

You do not have to give your residential address if you are concerned about your safety. You may give another address at which you are satisfied that you will receive documents.

Care of Hall & Wilcox, Level 11, Rialto South Tower, 525 Collins Street	
MELBOURNE	
State VIC	Postcode 3000

## Part D Evidence

- I am a Partner of the firm Hall & Wilcox, the solicitors for the Applicant. I have the carriage of this proceeding on behalf of the Applicant.
- The following facts and matters set out within this affidavit are within my own personal knowledge except as otherwise stated. Where I indicate in this affidavit that a matter to which I refer is based on information supplied to me by another person or in a document, I believe that matter to be true unless I state otherwise.
- Annexed hereto and marked '**NB-1**' is a bundle of correspondence (including its enclosures received from the Australian Government Solicitor today in respect of the Respondent's decision to cancel the Applicant's visa today.

DocuSigned by:  <small>08640E9BD5B94FE...</small> Signature of person making this affidavit (deponent)	DocuSigned by:  <small>FF0EC23A5B6A4CD...</small> Signature of witness
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# Part E

# Signature

I swear the contents of this affidavit are true

DocuSigned by:

*Natalie Bannister*

Signature of Deponent

Place MELBOURNE

Date 15/ 01 / 2022

DocuSigned by:

*Sining Wang*

Before me (signature of witness)

Sining Wang

Full name of witness (please print)

- Justice of the Peace
- Notary Public
- Lawyer

\*delete whichever is inapplicable

This affidavit was prepared / settled by

- deponent/s
- lawyer

NATALIE LOUISE BANNISTER

PRINT NAME AND LAWYER'S CODE

This is the document referred to as **NB-1** in the affidavit of Natalie Bannister sworn at Melbourne on 15 January 2022 before me:

DocuSigned by:  
  
FF0EC23A5B6A4CD...

Sining Wang  
Australian Legal Practitioner

## Sining Wang

---

**From:** Brown, David <David.Brown@ags.gov.au>  
**Sent:** Friday, 14 January 2022 5:46 PM  
**To:** Nick Wood; Paul Holdenson; nik.dragojlovic@vicbar.com.au; Jim Hartley  
**Cc:** Natalie Bannister; Sining Wang; Graydon Dowd; Djokovic AGS group  
**Subject:** Novak Djokovic - visa cancellation decision made

Dear Nick, Paul, Nik and Jim

A decision has now been made to cancel Mr Djokovic's visa.

Ms Bannister of your instructing solicitors will be provided with the relevant documentation.

David

---

**David Brown**

Senior Executive Lawyer  
Australian Government Solicitor  
T 03 9242 1391  
david.brown@ags.gov.au

Find out more about AGS at <http://www.ags.gov.au>

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## Sining Wang

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**From:** Brown, David <David.Brown@ags.gov.au>  
**Sent:** Friday, 14 January 2022 5:47 PM  
**To:** Associate JudgeAKelly; Mary Dalmau  
**Cc:** Natalie Bannister; Sining Wang; Djokovic AGS group; Graydon Dowd  
**Subject:** Novak Djokovic MLG 35 of 2022 Notification of visa cancellation

Dear Mary

### **Novak Djokovic MLG 35 of 2022 Notification of visa cancellation**

At the conclusion of the proceeding in this Court on Monday 10 January 2022, the respondent committed to informing the Court, and Mr Djokovic's legal team, should his visa be cancelled again.

That has now happened, with his visa being cancelled by Minister Hawke today under s 133C(3) of the *Migration Act 1958* (the **Act**).

Thank you.

**David**

---

### **David Brown**

Senior Executive Lawyer  
Australian Government Solicitor  
T 03 9242 1391  
david.brown@ags.gov.au

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## Sining Wang

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**From:** Brown, David <David.Brown@ags.gov.au>  
**Sent:** Friday, 14 January 2022 6:03 PM  
**To:** Natalie Bannister  
**Cc:** Graydon Dowd; Sining Wang; Djokovic AGS group; Nick Wood; Paul Holdenson; nik.dragojlovic@vicbar.com.au; Jim Hartley  
**Subject:** Novak Djokovic - Notification of decision made by Minister Hawke to cancel Mr Djokovic's visa under s 133C(3) of the Migration Act 1958  
**Attachments:** Notification of cancellation 14 January 2022.docx; Submission 14 January 2022.pdf; Statement of Reasons 14 January 2022.pdf

Dear Natalie

### **Novak Djokovic - Notification of decision made by Minister Hawke to cancel Mr Djokovic's visa under s 133C(3) of the *Migration Act 1958***

As advised orally at 5.35pm, Minister Hawke has now decided to exercise his personal power available under s 133C(3) of the *Migration Act 1958* (the **Act**) to cancel Mr Djokovic's visa.

A letter of notification for Mr Djokovic is attached, sent to you as his legal representative, together with a copy of the Submission that was provided to the Minister when he was considering whether to cancel your client's visa, and the Minister's Statement of Reasons.

We will send you a Sigbox link and password as soon as it comes available, and I will let you know as soon as it is populated and ready to be accessed, and will copy your counsel too.

**David**

---

#### **David Brown**

Senior Executive Lawyer  
Australian Government Solicitor  
T 03 9242 1391  
david.brown@ags.gov.au

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## Sining Wang

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**From:** Brown, David <David.Brown@ags.gov.au>  
**Sent:** Friday, 14 January 2022 6:15 PM  
**To:** Natalie Bannister  
**Cc:** Graydon Dowd; Sining Wang; Nick Wood; Paul Holdenson; nik.dragojlovic@vicbar.com.au; Jim Hartley; Djokovic Aus Open canx - MCLB mailing list  
**Subject:** Novak Djokovic - Visa cancellation decision - Attachments to Submission and Statement of Reasons  
**Attachments:** Submission 14 January 2022.pdf; Statement of Reasons 14 January 2022.pdf

Dear Natalie

### **Novak Djokovic - Visa cancellation decision - Attachments to Submission and Statement of Reasons**

The attachments to the Submission to the Minister, are rather large, and can be accessed via the following link, where the documents will be able to be accessed by providing the password, as below.

Link:



Password:

The index to attachments is at page 8 of the Submission, and the same attachments - identified as A to T - are also referred to in the Statement of Reasons.

Please let me know should you experience any technical issues.

**David**

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### **David Brown**

Senior Executive Lawyer  
Australian Government Solicitor  
T 03 9242 1391  
david.brown@ags.gov.au

Find out more about AGS at <http://www.ags.gov.au>

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**Australian Government**  
**Department of Home Affairs**

**NOTIFICATION OF CANCELLATION UNDER SECTION 133C(3) OF THE *MIGRATION ACT 1958* AND INVITATION TO MAKE REPRESENTATIONS REGARDING THE REVOCATION OF THE CANCELLATION DECISION**

14 January 2022

**Sent by Email to Legal Practitioner - [natalie.bannister@hallandwilcox.com.au](mailto:natalie.bannister@hallandwilcox.com.au)**

Mr Novak DJOKOVIC

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**In reply please quote:**

File Reference: BCC2022/97686  
Client Name: Mr Novak DJOKOVIC  
Date of Birth: [REDACTED]  
Client ID: [REDACTED]  
Request ID 2085648295

Dear Mr DJOKOVIC

I am writing to advise that your Class GG subclass 408 Temporary Activity visa granted on 18 November 2021 was cancelled on 14 January 2022 by the Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs, the Hon Alex Hawke MP, under section 133C(3) of the *Migration Act 1958* ('the Act').

Under section 133C(3) of the Act, the Minister may make a personal decision to cancel a visa without notice if the Minister is satisfied that a ground for cancelling the visa under section 116 exists and the Minister is satisfied that it would be in the public interest to cancel the visa.

The attached Statement of Reasons sets out the Minister's decision in your case and provides particulars of the relevant information upon which his decision was made.

**Revoking the decision to cancel your visa**

The decision to cancel your visa has been made by the Minister personally. While the Administrative Appeals Tribunal (AAT) has the power to review decisions to cancel or refuse a visa made by delegates of the Minister, it cannot review decisions made by the Minister personally.

Under s133F(4) of the Act, the Minister has the power to revoke his own decision if:

- a. you make representations in accordance with the invitation; and
- b. you satisfy the Minister that the ground for cancelling the visa referred to in subsection 133C(3) does not exist.

A copy of the section 133C(3) visa cancellation decision record (Statement of Reasons) is attached. Pursuant to section 133F(4), you are invited to make representations to the Minister about the possible revocation of his decision to cancel your visa.

Since the Minister may revoke his decision only if you satisfy him that the ground for cancelling the visa under section 116 does not exist, any representations you make should be directed to that matter.

### **How to make representations about revocation of the decision to cancel your visa**

If you wish to make representations about the possible revocation of the cancellation decision, regulation 2.49A of the *Migration Regulations 1994* ('the Regulations') requires your representations to:

- be made in writing; and
- be made within 28 days after you are taken to receive this notice.

### **Timeframe to make representations about revocation**

Any representations made in relation to the possible revocation of the original decision must be made within the prescribed timeframe. The combined effect of section 133F(3)(b) of the Act and regulation 2.49A(2)(b) of the Regulations is that any representations **MUST** be made within 28 days after you are taken to have received this letter.

Please note that the 28 day period for making representations cannot be extended. If you do not make any representations within this timeframe, the cancellation of your visa cannot be considered for possible revocation.

As this letter was sent to you by Email, you are taken to have received this letter at the end of the day it was transmitted.

### **Where to send your representations about revocation**

If you decide to make representations to the Minister, your representations may be sent by mail or email to the Complex and Controversial Cases Section.

Postal address

Complex and Controversial Cases  
Department of Home Affairs  
PO Box 25  
Belconnen ACT 2616

Email address

[complex.cancellations@homeaffairs.gov.au](mailto:complex.cancellations@homeaffairs.gov.au)

## Next steps

If you believe that you may not have received a complete set of the documents pertaining to the original decision, please contact this office as soon as possible, using the contact details shown above.

As your visa has been cancelled, it is no longer in effect. Unless you hold, or are granted, another visa, you are an unlawful non-citizen, and may be detained and removed from Australia.

Regards

Position Number: 60006926  
Character and Cancellation Branch  
Status Resolution and Visa Cancellation Division  
Department of Home Affairs

14 January 2022

## SECTION 133C(3) OF THE MIGRATION ACT 1958

**PART A: PERSONAL AND VISA DETAILS**1. Personal particulars of visa holder

Family Name: DJOKOVIC

Given Names: Novak

Date and Place of Birth: [REDACTED]

Citizenship: Serbia

Marital Status: Married

Sex: Male

Client ID: [REDACTED]

2. Visa details

Date of visa grant: 18 November 2021

Visa class/subclass: Class GG subclass 408 Temporary Activity

Visa expiry date: 5 April 2022

Previous visa cancellations: Nil

File Number:

**PART B: CONSIDERATION OF STATUTORY CRITERIA UNDER SECTION 133C(3)**1. Subsection 133C(3) of the *Migration Act 1958* ('the Act') provides:

*The Minister may cancel a visa held by a person if:*

- (a) the Minister is satisfied that a ground for cancelling the visa under section 116 exists; and*
- (b) the Minister is satisfied that it would be in the public interest to cancel the visa.*

## 2. Section 116(1) of the Act provides:

*Subject to subsections (2) and (3), the Minister may cancel a visa if he or she is satisfied that:*

...

*(e) the presence of its holder in Australia is or may be, or would or might be, a risk to:*

- (i) the health, safety or good order of the Australian community or a segment of the Australian community ...*

## 3. By operation of s 133C(4), the rules of natural justice do not apply to a decision under subsection 133C(3) of the Act. I understand that, while an obligation to accord procedural fairness is not imposed, that does not preclude me from seeking information from the visa holder in relation to a decision under this power. If I make a decision under subsection 133C(3), the person concerned must be notified of the decision in writing, including particulars of the relevant information, and be invited to make representations about revocation of the decision (section 133F). Under subsection 133F(4) of the Act, I may revoke the decision if the person makes representations in accordance with the invitation and the person satisfies me that the ground for cancelling the visa referred to in subsection 133C(3) does not exist.

## 4. I am aware that a delegate made a decision on 6 January 2022 under section 116 to cancel Mr DJOKOVIC's visa, and that the cancellation decision was quashed by the Federal Circuit and Family Court of Australia (FCFCA) on 10 January 2022. At the conclusion of the proceedings, the Court was informed that I would be considering whether to exercise a personal power of cancellation under section 133C(3) of the Act.

5. Following the outcome of the FCFCA proceedings, Mr DJOKOVIC's visa ceased to be cancelled, he was released from immigration detention and is now in the community.
6. Subsequently, Mr DJOKOVIC's legal representatives have provided lengthy submissions and supporting documentation concerning the possible cancellation of his visa under section 133C(3) of the Act (**Attachment A**). In those submissions, Mr DJOKOVIC takes issue with the possible use of the section 133C(3) power, rather than proceeding under a process in which Mr DJOKOVIC would have a right to be heard before a decision is made. I chose to proceed under section 133C(3), having regard to the need to consider possible cancellation of the visa quickly, in light of the particular circumstances of the case and the public interest in resolving the matter expeditiously. That public interest includes: (a) the upcoming start of the Australian Open; (b) the prospect of litigation challenging my decision and the desirability, if possible, of affording the Court time to hear arguments and make its decision; and (c) a situation where Mr DJOKOVIC is in the community while he may be a risk to health and good order. Further, Mr DJOKOVIC had had opportunities to put forward his position in documents to the Court and in further submissions provided by his legal representatives to me.
7. In case there might have been anything else Mr DJOKOVIC wanted to say but has not said, I have done my best to consider matters alive to the fact that Mr DJOKOVIC's view may not have been sought on everything.

## **GROUND FOR CANCELLING THE VISA**

8. My power to cancel a person's visa under subsection 133C(3) of the Act is subject to two conditions. The first is that I must be satisfied that a ground for cancelling the visa under section 116 of the Act exists. The second is that I must be satisfied that it would be in the public interest to cancel the visa. Once I am satisfied of both of these conditions, I may decide to cancel the visa.

### **Section 116(1)(e)(i)**

9. Section 116(1)(e)(i) of the Act provides that the Minister may cancel a visa if he or she is satisfied that the presence of its holder in Australia is or may be, or would or might be, a risk to the health, safety or good order of the Australian community or a segment of the Australian community.
10. By way of background, I note that:
  - Mr DJOKOVIC arrived in Australia on 5 January 2022 to compete in the 2022 Australian Open tennis tournament. He is present in Australia during a time in which the Australian community is experiencing a significant, and rising, number of COVID-19 cases and an active, vocal, minority of people in the community opposing vaccination (or compulsory vaccination) against COVID-19.
  - During an interview with an officer from the Department on 6 January 2022, Mr Djokovic stated he had not been vaccinated against COVID-19 (**Attachment B**).
  - That Mr DJOKOVIC has not been vaccinated against COVID-19 is information that was also included in Mr DJOKOVIC's Australia Travel Declaration (**Attachment C**).
  - Mr DJOKOVIC also provided copies of his COVID-19 test results, being a positive polymerase chain reaction (PCR) test (the result dated 16 December 2021), a negative PCR test (the result dated 22 December 2021) and a positive SARS-COV-2 RBD IgG test, which seems to confirm that Mr DJOKOVIC was identified as having a recent or prior infection (the result dated 23 December 2021) (**Attachments D and E**).

- Mr DJOKOVIC also provided a 'testimonial' from Associate Professor Verica Jovanovic dated 12 January 2022, which states that Mr DJOKOVIC's positive test result sampled on 16 December 2021 and subsequent negative test result sampled on 22 December 2021 are 'legitimate'. Associate Professor Jovanovic also stated that '[o]ur test system is reliable, accurate and the test results of Mr Novak Djokovic are legitimate' (**Attachment F**).

### **Risk to health**

11. Mr DJOKOVIC has provided me with a substantial volume of journal articles, medical studies and medical evidence.<sup>1</sup> He asserts that these materials demonstrate that:
  - Mr DJOKOVIC poses a negligible threat of infection to others. He contends that the risk of him infecting others is less than, or at the very least comparable to, that of any other person referred to in s 5(3)(a) of the Biosecurity (Entry Requirements – Human Coronavirus with Pandemic Potential) Determination 2021, that is, a person who has received a course of vaccination with one or more accepted COVID-19 vaccines and received the last vaccination at least 7 days before the day the international flight was scheduled to commence.
  - There is evidence that vaccination following a recent infection with COVID-19 may result in more severe and adverse side effects. Mr DJOKOVIC contends that he is at risk of suffering more severe adverse side effects from vaccination, because he has been recently infected with COVID-19.
  - Mr DJOKOVIC argues that the risk of suffering more severe adverse side effects, as a result of his recent infection with COVID-19, is itself a 'medical contraindication' against vaccination.
12. I also received advice from the Commonwealth Department of Health on 11 January 2022, which was cleared by the Chief Medical Officer of the Commonwealth (Health Advice) (**Attachment G**). On the assumptions that Mr DJOKOVIC tested positive for COVID-19 on 16 December 2021, tested negative for COVID-19 on 22 December 2021, was asymptomatic from at least 27 December 2021, and is not vaccinated against COVID-19, the Health Advice concludes that:
  - 'Mr Djokovic is unlikely to be infectious with SARS-COV-2 and as such is likely to constitute a LOW risk of transmitting SARS-CoV-2 to others. This assessment applies to all other demographic groups.'
  - Having regard to the specific additional control measures applicable to the Australian Open, 'it is assessed that the risk of a transmission event related to the Australian Open is VERY LOW.'
13. I have not sought or read the actual medical material that Mr DJOKOVIC provided to me which underpinned his contentions, because I am not medically trained. Nor am I sure if the Health Advice from the Commonwealth Department of Health and the Chief Medical Officer was given aware of the various medical material relied on by Mr DJOKOVIC. If there is a difference between the Health Advice in referring to a 'low' risk and a 'very low' risk and Mr DJOKOVIC's contention that he poses a 'negligible' risk, I will therefore proceed on the assumption in his favour that he poses a 'negligible' risk.
14. I have also not sought or read the extensive factual materials which Mr DJOKOVIC has provided on whether recent infection with COVID-19 is a medical contraindication against vaccination because I am willing to assume, in the time available, that Mr DJOKOVIC has a medical reason for not being vaccinated.

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<sup>1</sup> These materials were attached to emails sent on behalf of Mr DJOKOVIC on 10 January 2022 at around 6:36pm; an email sent on 11 January 2022 at around 11:06am; an email sent on 11 January 2022 at around 12:44pm; an email attaching a letter sent on 11 January 2022 at around 12:57pm; an email attaching a letter sent at 9:24am on 12 January 2022; an email sent at 10:51am on 12 January 2022; and an email sent on 13 January 2022 at around 11:12am.

15. I will also assume that Mr DJOKOVIC entered Australia consistently with ATAGI documents. I am aware that there was a dispute about this in the FCFCA in relation to the delegate's decision. For present purposes, I will assume that Mr DJOKOVIC's position is correct rather than seeking to get to the bottom of this here. I weigh this against cancellation both at the public interest stage and the discretion stage. That I am assuming he currently has a medical reason not to be vaccinated does not ultimately affect my reasoning on health and good order as explained below.
16. Further, I have had regard to the fact that he received a letter from Tennis Australia, which was signed by Dr Carolyn Broderick and reviewed by an Independent Expert Medical Review Panel comprised of [REDACTED] (**Attachment E**). I have taken into account that upon receipt of this letter, Mr DJOKOVIC considered that he had a valid medical exemption to come to Australia, and that he would thereafter be entitled to remain in Australia (**Attachment A**). I give this factor some weight in the exercise of my discretion against cancellation.
17. Although I make the assumptions above and accept that Mr DJOKOVIC poses a negligible individual risk of transmitting COVID-19 to other persons, I nonetheless consider that his presence may be a risk to the health of the Australian community.
18. In this respect, I have given consideration to the fact that Mr DJOKOVIC is a high profile unvaccinated individual, who has indicated publicly that he is opposed to becoming vaccinated against COVID-19 (which for convenience I refer to as 'anti-vaccination'). Mr DJOKOVIC has previously stated that he 'wouldn't want to be forced by someone to take a vaccine' to travel or compete in tournaments (**Attachment H**).
19. I have not sought the views of Mr DJOKOVIC on his present attitude to vaccinations. Even acknowledging this, the material before me makes it clear that he has publicly expressed anti-vaccination sentiment. Further, just as important is how those in Australia may perceive his views on vaccinations, rather than his presently held opinion should it be different from what has been publicly identified.
20. I am informed by the Commonwealth Department of Health (cleared by the Chief Medical Officer) (**Attachment I**) that:
  - Immunisation is one of the most successful public health interventions of the past 200 years. The Australian Government has supported immunisation and has strongly encouraged vaccination in the context of SARS-CoV-2. Vaccination was the fifth element of Australia's COVID-19 Vaccine and Treatment Strategy released in August 2020. The Strategy supports early access to, and delivery of, safe and effective COVID-19 vaccines and treatments. It was developed to provide Australians with safe and effective vaccines under a targeted and responsive national COVID-19 vaccination policy and immunisation program based on up-to-date health advice.
  - COVID-19 vaccinations provided significant protection against infection, transmission and severe disease against earlier variants. This protection was viewed as extremely important managing transmission and also in protecting individuals, the community, health system capacity and the economy. The Omicron variant has impacted vaccine efficacy and current vaccines now provide less protection against infection and transmission but do continue to provide significant protection against severe disease. This protection is essential to protect individuals from severe disease and also from resultant morbidity and potential mortality. In the context of widespread community transmission and large case numbers vaccination remains essential in preventing health system overload related to presentations of people with severe COVID-19 disease.
21. The Australian Technical Advisory Group on Immunisation (ATAGI) has also stated on 24 December 2021 that '[s]trong evidence has accumulated over the past two weeks to indicate that booster doses of COVID-19 vaccines are likely to increase protection against infection with the Omicron variant. Although some early data suggest that the risk of hospitalisation due to disease caused by the Omicron variant is

lower than that with the Delta variant, this difference would not be enough to offset the impact of high case numbers on the health system.' (**Attachment J**).

22. Because of this, I consider that Mr DJOKOVIC's presence in Australia may pose a health risk to the Australian community, in that his presence in Australia may foster anti-vaccination sentiment leading to (a) other unvaccinated persons refusing to become vaccinated, (b) other unvaccinated persons being reinforced in their existing view not to become vaccinated, and/or (c) a reduction in the uptake of booster vaccines. Specifically this may lead to one or more of the following:
- i. An increase in anti-vaccination sentiment being generated in the Australian community, leading to others refusing to become vaccinated or refusing to receive a booster vaccine; and/or
  - ii. A reinforcing of the views of a minority in the Australian community who remain unvaccinated against COVID-19 and who are at risk of contracting COVID-19 (as to which, there are media reports that some groups opposed to vaccination have supported Mr DJOKOVIC's presence in Australia, by reference to his unvaccinated status) (**Attachments K and L**); and/or
  - iii. An increased number of people deciding to not receive a booster vaccine; and/or
  - iv. Unvaccinated persons becoming very unwell and/or transmitting it to others; and/or
  - v. Increased pressure placed on the Australian health system, a significant contributing factor being the number of unvaccinated persons contracting COVID-19 and requiring medical attention or assistance (**Attachment M**).
23. I have also given consideration to the fact that there is evidence to suggest that Mr DJOKOVIC has, in the past, shown an apparent disregard for the need to isolate following the receipt of a positive COVID-19 test result (**Attachment N**). On 18 December 2021, Mr DJOKOVIC knowingly attended an interview and photoshoot with L'Equipe. He states that he ensured that he socially distanced and wore a mask, but did not wear a mask while his photograph was being taken. Mr DJOKOVIC has publicly acknowledged that it was an 'error of judgment' to attend this interview, and that he should have rescheduled this commitment, given that he had received a positive test result beforehand on 17 December 2021 (**Attachment O**).
24. Given Mr DJOKOVIC's high profile status and position as a role model in the sporting and broader community, his ongoing presence in Australia may foster similar disregard for the precautionary requirements following receipt of a positive COVID-19 test in Australia. In particular, his behaviour may encourage or influence others to emulate his prior conduct and fail to comply with appropriate public health measures following a positive COVID-19 test result, which itself could lead to the transmission of the disease and serious risk to their health and others. I consider this to be an additional factor contributing to the possible risk to the health of the Australian community.
25. Accordingly, I am satisfied that the presence of Mr DJOKOVIC in Australia may be a risk to the health of the Australian community. I am so satisfied because his presence in Australia may be counterproductive to efforts at vaccination by others in Australia, which may be a risk to the Health of the Australian community.
26. It is also reported that in June 2020, Mr DJOKOVIC organised the Adria Tour, a charity tennis exhibition series in Serbia and Croatia. Media reports suggest that the event lacked social distancing protocols and resulted in a cluster of COVID-19 cases, including the infection of Mr DJOKOVIC and his wife (**Attachment P**). While these media reports are concerning, I have ultimately not given weight to this incident, because it is not clear that any of the alleged failures to comply with social distancing protocols and other public health precautions were endorsed or encouraged by Mr DJOKOVIC personally.

### Risk to good order

27. Separately and quite independently from the health risks referred to above and summarised in paragraph 22, I also consider that Mr DJOKOVIC's presence in Australia may be a risk to the good order of the Australian community.
28. In *Tien v Minister for Immigration and Multicultural Affairs* (1998) 89 FCR 80 at 93-94 (*Tien*), Goldberg J described the expression 'good order', as used in section 116(1)(e), in these terms:
 

*... an element of a risk that the person's presence in Australia might be disruptive to the proper administration or observance of the law in Australia or might create difficulties or public disruption in relation to the values, balance and equilibrium of Australian society. It involves something in the nature of unsettling public actions or activities. ...*
29. Further, in *Newall v Minister for Immigration and Multicultural Affairs* [1999] FCA 1624 at [30], Branson J went on to explain that:
 

*satisfaction might be based on the risk of an adverse reaction by certain members of the Australian society to his presence in this country ..., rather than on concern about the likely or possible conduct of the applicant in Australia.*
30. On 18 March 2020, the Governor-General declared that a human biosecurity emergency exists regarding the listed human disease 'human coronavirus with pandemic potential' (section 475 of the *Biosecurity Act 2015, Biosecurity (Human Biosecurity Emergency) (Human Coronavirus with Pandemic Potential) Declaration 2020*). The human biosecurity emergency period is currently in force until 17 February 2022 (unless extended).
31. COVID-19 has entered Australia and represents a severe and immediate threat to human health in Australia as it has the ability to cause high levels of morbidity and mortality and to disrupt the Australian community socially and economically.
32. With rising case numbers and increased pressure on the health system, it is important that the general community act consistently with requirements, recommendations and advice by the Commonwealth, State and Territory governments in responding to the COVID-19 pandemic. I consider that the orderly management of the pandemic by the Commonwealth, State and Territory governments is a component of the good order of the community, particularly bearing in mind the adverse community-wide consequences of a failure to appropriately manage the consequences of the pandemic. In broad terms, Commonwealth, State and Territory governments' approaches to managing the pandemic have involved a number of aspects, including vaccination, testing, compliance with social distancing and other various public health and safety measures.
33. Consequently, I consider that behaviour by influential persons and role models, which demonstrates a failure to comply with, or a disregard of, public health measures has the potential to undermine the efficacy and consistency of the Australian Government's, and State and Territory Government's, management of the evolving COVID-19 pandemic. As noted above, Mr DJOKOVIC is such a person of influence and status. Having regard to the matters set out above regarding Mr DJOKOVIC's conduct after receiving a positive COVID-19 result, his publicly stated views, as well as his unvaccinated status, I consider that his ongoing presence in Australia may pose a risk to the good order of the Australian community. In particular, his presence in Australia may encourage other persons to disregard or act inconsistently with public health advice and policies in Australia, including but not limited to, becoming vaccinated against COVID-19 or receiving a booster vaccine.
34. In addition, I consider that Mr DJOKOVIC's ongoing presence in Australia may lead to an increase in anti-vaccination sentiment generated in the Australian community, potentially leading to an increase in civil unrest of the kind previously experienced in Australia with rallies and protests which may themselves be a source of community transmission. I consider that those rallies and protests involve 'something in the nature of unsettling public actions or activities', as described by Goldberg J in *Tien*.

35. I also consider that there may be a risk of an adverse reaction by some members of the Australian community to Mr DJOKOVIC's presence in Australia on the basis of their concerns about his unvaccinated status and his apparent disregard for the need to isolate following the receipt of a positive COVID-19 test result.
36. These opposing reactions may themselves be a source of discord and create public disruption. Mr DJOKOVIC has attracted a high level of press coverage and public interest at a critical juncture in the government's management of a rapidly evolving public health emergency.
37. Accordingly, I am satisfied that the presence of Mr DJOKOVIC in Australia may be a risk to the good order of the Australian community.

## **PUBLIC INTEREST**

38. I have considered whether it would be in the public interest to cancel Mr DJOKOVIC's visa in accordance with subsection 133C(3)(b) of the Act.
39. In considering the public interest, I have considered that unvaccinated persons create a greater health risk of contracting COVID-19 and spreading COVID-19 to others than vaccinated persons, either of which will further burden the Australian health system. Despite my acceptance above that Mr DJOKOVIC's recent infection with COVID-19 means that he is at a negligible risk of infection and therefore presents a negligible risk to those around him, I am concerned that his presence in Australia, given his well-known stance on vaccination, creates a risk of strengthening the anti-vaccination sentiment of a minority of the Australian community.
40. I note that the costs associated with treatment for those affected by COVID-19 are substantial. COVID-19 cases are having a significant impact on the health system in all states and territories, with significantly reduced medical resources in intensive care units and bed availability (**Attachment M**).
41. Mr DJOKOVIC has previously indicated publicly that he is opposed to becoming vaccinated against COVID-19 (**Attachment H**). He has also acknowledged that he knowingly failed to isolate following the receipt of a positive COVID-19 test result (**Attachment O**).
42. In light of Mr DJOKOVIC's stance on vaccination and acknowledged failure to follow precautionary measures following receipt of a positive COVID-19 test result, I consider that cancelling his visa would be consistent with the Australian Government's strong stance on the benefits of vaccination and appropriate measures directed to managing the COVID-19 pandemic.
43. Further, the health and good order points discussed above are each separately relevant to whether it is in the public interest to cancel Mr DJOKOVIC's visa. The health and good order of the Australian community are matters of public interest.
44. In a letter dated 11 January 2022, Mr DJOKOVIC raises the following arguments as to why he considers it would not be in the public interest to cancel his visa (**Attachment A**):
  - He poses 'no risk to public health and safety'.
  - He has made no attempt to contravene any Australian laws.
  - 'He is a person of good standing, and a diplomat of the nation of Serbia. In addition to being the best tennis player in the world, he is known for his philanthropic efforts, including his generous donations towards coronavirus relief, as well as towards Australian bushfire relief.'
  - There is support in Australia and abroad for Mr DJOKOVIC to remain in Australia and play in the Australian Open in 2022.
  - Cancelling Mr DJOKOVIC's visa would be likely to adversely affect Australia's global reputation and call into question its border security principles and policies.

- Cancelling Mr DJOKOVIC's visa would prejudice Australia's economic interests, and jeopardise the viability of Australia continuing to host the Australian Open.
- Cancelling Mr DJOKOVIC's visa would create the appearance of politically motivated decision-making.

45. I have considered the points raised by Mr DJOKOVIC. Without intending to be exhaustive, I make the following comments on the specific points raised above:

- The issue of whether he poses a risk to public health and safety has been addressed above.
- I acknowledge that he has personally made no attempt to contravene any Australian law, that he is a person of good standing and is known for his philanthropic efforts.
- I acknowledge also that there is some support in Australia and abroad for Mr DJOKOVIC to remain in Australia to compete in the Australian Open.
- I acknowledge also that there are diplomatic considerations, which I address below.
- I do not accept, however, that cancelling Mr DJOKOVIC's visa would create the appearance of politically motivated decision-making or that it would call into question Australia's border security principles and policies.
- I also do not accept that cancelling Mr DJOKOVIC's would prejudice Australia's economic interests, and jeopardise the viability of Australia continuing to host the Australian Open.

46. I also acknowledge that Mr DJOKOVIC is now in the community, and that some unrest has already occurred, such that it is too late to avoid it. This weighs in my mind against the public interest in cancellation.

47. In addition, as mentioned above, I weighed the issue about whether Mr DJOKOVIC entered Australia consistently with the ATAGI documents as a factor against cancellation.

48. On balance, I consider that the points against cancellation mentioned above, including those raised by Mr DJOKOVIC, are outweighed by the other public interest factors mentioned in paragraphs 39 to 43 above. Notwithstanding the issues raised by Mr DJOKOVIC and the substantial impact that a cancellation decision would have on him as an individual, which is discussed in Part C below, I have given significant weight to the matters of public health and good order discussed above, which are each separately relevant to whether it is in the public interest to cancel his visa. These matters go to the very preservation of life and health of many members of the general community and further are crucial to maintaining the health system in Australia, which is facing increasing strain in the current circumstances of the pandemic.

## **PART C: OTHER CONSIDERATIONS**

49. Recognising the power to cancel a visa under subsection 133C(3) of the Act is discretionary, I have taken into account Mr DJOKOVIC's circumstances in determining whether there are other factors that would support a decision not to cancel Mr DJOKOVIC's visa.

### ***Purpose of the visa holder's travel to and stay in Australia:***

50. Mr DJOKOVIC was granted a Class GG subclass 408 Temporary Activity visa on 18 November 2021 for the purpose of travelling to Australia to participate in the Australian Open which commences on 17 January 2022. I have taken into account the fact Mr DJOKOVIC's visa was granted for a specific purpose to enable him to take part in a time-limited elite tennis tournament.

51. I find there is no information to indicate this purpose of travel has changed and give this consideration some weight against cancelling the visa.

***The extent of their compliance with visa conditions:***

52. Mr DJOKOVIC's Class GG subclass 408 Temporary Activity visa was granted subject to condition 8107 (work limitation); condition 8303 (activity limitation).
53. I note Mr DJOKOVIC has an extensive compliant travel history, with no evidence of non-compliance with previous visa conditions.
54. I give this consideration some weight against cancelling the visa.

***Australian Travel Declaration:***

55. I am aware that the Australia Travel Declaration for Mr DJOKOVIC has a false answer to question two. [REDACTED] has provided a statutory declaration saying that it was her fault and that she did not check the answer with Mr DJOKOVIC. I will assume that to be true. Mr DJOKOVIC said in his affidavit in the FCFCA that he authorised his agent to submit his Australia Travel Declaration to the Australian Government Department of Home Affairs. While I will assume that Mr DJOKOVIC has not breached any laws in circumstances where his agent says that she is to blame, I am still concerned because Australia Travel Declarations are important documents, and the information in them should not be false. Mr DJOKOVIC's Australia Travel Declaration had a false answer. Mr DJOKOVIC should have been more careful. The circumstances of the false answer on the Australia Travel Declaration do not weigh against cancellation. Those circumstances are at most neutral, although I am minded to give it some small weight in favour of cancellation. I do so recognising that the Australian Travel Declaration is separate from the visa application process. My decision would be the same though even if I did not take the false answer on the Australia Travel Declaration into account.

***The degree of hardship that may be caused to the visa holder and any family members:***

56. I consider that the cancellation of Mr DJOKOVIC's visa is likely to cause him and his family significant inconvenience and emotional hardship and distress, and is likely to result in significant reputational, financial and professional implications for him, including his inability to compete at the Australian Open.
57. Given the likely hardship caused to Mr DJOKOVIC by a visa cancellation, I give this consideration some weight against cancelling the visa.

***The visa holder's past and present behaviour towards the Department:***

58. There is no record of any adverse behaviour by Mr DJOKOVIC towards the Department nor is there any information to indicate that he has not previously complied with his obligations. Indeed, Mr DJOKOVIC has been cooperative in his dealings with the Department. I give this consideration some weight against cancelling the visa.
59. In addition, as mentioned in paragraphs 15 and 16 above, I weighed the issue about whether Mr DJOKOVIC entered Australia consistently with the ATAGI documents, as well as the fact that he considered that he had a valid medical exemption to come to Australia, and that he would thereafter be entitled to remain in Australia, as a factor against cancellation.

***Any consequential cancellations that may result:***

60. There are no consequential cancellations that may result should Mr DJOKOVIC's visa be cancelled. Consequently, I am unable to give any weight towards or against cancelling Mr DJOKOVIC's visa when considering this factor.

***Legal consequences of a decision to cancel the visa:***

61. I have considered the legal consequences of a decision to cancel Mr DJOKOVIC's Class GG subclass 408 Temporary Activity visa is that he may become an unlawful non-citizen and liable for detention pending removal from Australia.
62. The cancellation of Mr DJOKOVIC's visa would also enliven section 48 of the Act, significantly limiting the types of visas Mr DJOKOVIC could apply for while he is in Australia.

63. In addition, for a period of three years from the date of the cancellation of his visa, Mr DJOKOVIC would not be able to be granted any class of visa that is subject to Public Interest Criterion 4013 except in certain circumstances including, but not limited to, compelling circumstances that affect the interests of Australia. The exclusion period will be considered as part of any new visa application and can be waived in certain circumstances, noting each case is assessed on its own merits.
64. I have considered that Mr DJOKOVIC regularly travels to Australia to compete in tennis tournaments and would need to declare this visa cancellation as part of a visa application process which may affect his ability to be granted a visa to enter Australia in the future.
65. I consider the above consequences are significant. Consequently, I give this consideration some weight against cancelling the visa.

***Australia's international obligations and diplomatic considerations:***

66. I am not aware of any international obligations that would or may be breached as a result of cancelling Mr DJOKOVIC's visa. Mr DJOKOVIC is a national of Serbia, and has previously resided in Serbia, and he has not expressed any concerns or issues with the Department that would give rise to any international obligations to which Australia is a signatory. Consequently, I regard this consideration to be neutral.
67. I am aware that the Serbian government has expressed its strong support for Mr DJOKOVIC to remain in Australia and that it may react negatively to the cancellation of his visa. According to media reports, Serbia's Prime Minister says her government is willing to 'guarantee' that Mr DJOKOVIC will respect local regulations if he is allowed to stay and compete in the Australian Open (**Attachment Q**).
68. I give these diplomatic considerations some weight against cancelling the visa.

***Conclusion on factors relevant to exercise of discretion***

69. I accept that there are some factors in favour of a decision not to cancel Mr DJOKOVIC's visa. However, I consider that these factors are outweighed by either the public health or the good order considerations, considered separately and independently from each other, as discussed above, together with the public interest considerations discussed above.
70. Even if the factors discussed above which I have identified as 'other considerations' are properly understood to form part of the public interest, my conclusion that it is in the public interest to cancel Mr DJOKOVIC's visa would remain the same. I would still consider it in the public interest to do so.

**PART D: DECISION**

71. After considering all the matters discussed above, I am satisfied that the reasons for cancelling Mr DJOKOVIC's visa outweigh the reasons not to cancel the visa. I have therefore decided to cancel Mr DJOKOVIC's Class GG subclass 408 Temporary Activity visa under subsection 133C(3) of the Act.



THE HON ALEX HAWKE MP  
Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs

Dated: 14 / 1 / 2022



**Australian Government**  
**Department of Home Affairs**

**Submission**

For decision  
PDMS Ref. Number: MS22-000046  
Date of Clearance: 14/01/2022

**To** **Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs**

**Subject** **Cancellation consideration of Mr Novak DJOKOVIC's Class GG subclass 408 Temporary Activity visa under section 133C of the Migration Act 1958**

**Timing** *As soon as possible, noting there are health, diplomatic and media considerations relevant to this decision, and Mr DJOKOVIC is currently in the community.*

**Recommendations**

That you:

1. indicate whether you wish to consider cancelling Mr DJOKOVIC's Class GG subclass 408 Temporary Activity visa under section 133C(3) of the Act **without natural justice** in the public interest.
2. if after considering the submission, you decide to **cancel** Mr DJOKOVIC's Class GG subclass 408 Temporary Activity visa under section 133C(3) without natural justice, sign the decision record (Statement of Reasons) at **Attachment 1**;
3. note that if you decide to cancel Mr DJOKOVIC's visa under section 133C(3), he will become an unlawful non-citizen and will become liable for detention;
4. note that if you decide to cancel Mr DJOKOVIC's visa under section 133C(3), he will, as required by section 133F, be invited to make representations to you, within 28 days of notification, about revocation of your cancellation decision.

cancel under s133C(3) without natural justice / not cancel / please discuss

signed / not signed

noted / please discuss

noted / please discuss

**Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs**

Signature.....

Date: 14/1/2022

Minister's Comments				
Rejected Yes/No	Timely Yes/No	Relevance <input type="checkbox"/> Highly relevant <input type="checkbox"/> Significantly relevant <input type="checkbox"/> Not relevant	Length <input type="checkbox"/> Too long <input type="checkbox"/> Right length <input type="checkbox"/> Too brief	Quality Poor 1.....2.....3.....4.....5 Excellent Comments:

**Cancellation Consideration under section 133C**

- On 6 January 2022 Mr DJOKOVIC's Class GG subclass 408 Temporary Activity visa was cancelled by an Australian Border Force (ABF) officer on the basis that his presence in Australia is or may be a risk to the health, safety or good order of the Australian community or a segment of that community and he was placed in immigration detention. On 10 January 2022 the Federal Circuit and Family Court of Australia (the FCFA) found this decision was subject to error and the cancellation decision was quashed, immediately following which Mr DJOKOVIC was released from immigration detention.
- It is open to you to consider cancelling Mr DJOKOVIC's visa in the public interest under section 133C(3) of the *Migration Act 1958* (the Act), without natural justice. You may consider the factors in the draft Statement of Reasons at Attachment 1 when considering whether or not you might make a decision under section 133C(3) of the Act, without natural justice.
- You may consider that the fact that Mr DJOKOVIC is a high profile unvaccinated individual, who has indicated publicly that he is opposed to becoming vaccinated against COVID-19 and that he has previously stated that he "wouldn't want to be forced by someone to take a vaccine" to travel or compete in tournaments may pose a risk to the health of the Australian community (**Attachment H**).
- You may also consider that proceeding to make a decision without natural justice is proportionate considering the ongoing risk to the community that may be posed by Mr DJOKOVIC's presence in Australia, noting the proximity of the commencement of the Australian Open tennis tournament (scheduled to commence on 17 January 2022) and the length of time he would be likely to be in the community, which may prolong the possible risk to the health, safety or good order of the Australian community or a segment of it.
- If you choose to consider cancelling Mr DJOKOVIC's visa under section 133C(3) of the Act, you are not required to afford Mr DJOKOVIC the opportunity to make submissions about whether his visa should be cancelled before you make your decision. However, even though Mr DJOKOVIC has no right to natural justice under section 133C(3) of the Act, according to

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current Full Federal Court of Australia authority, when making a decision under section 133C(3) of the Act, you may choose to seek information from the visa holder. Accordingly, it is open to you to seek information from Mr DJOKOVIC on topics of your choosing, or allow him to comment on information of your choosing, within a time of your choosing. Whether you wish to do so is a matter for your discretion. If you wish to give Mr DJOKOVIC such an opportunity, you would need to specify a timeframe that is reasonable in all the circumstances, including having regard to the breadth of topics on which you have sought or permitted Mr DJOKOVIC to comment. You may consider that a period of less than 28 days is reasonable.

6. In addition to the material provided by Mr DJOKOVIC to the FCFA, Mr DJOKOVIC had already provided information to the ABF and has provided further submissions to the Department of Home Affairs about why his visa should not be cancelled (**Attachment R**). The arguments in those submissions to you are included for your consideration in this submission and associated attachments.
7. Should you be minded to consider cancelling Mr DJOKOVIC's visa under section 133C(3) of the Act without natural justice, including if you do not wish to seek further information from Mr DJOKOVIC, this submission and associated attachments set out the matters that you may wish to take into account.
8. If, after considering this submission and the attachments, you decide to cancel Mr DJOKOVIC's visa under section 133C(3) of the Act, please sign the Statement of Reasons at **Attachment 1**, subject to any amendment you consider necessary.
9. Should you decide to cancel Mr DJOKOVIC's visa, Mr DJOKOVIC will become an unlawful non-citizen, and will be liable for detention and removal from Australia.

**Background**

10. Mr DJOKOVIC is a citizen of Serbia who arrived in Australia on 5 January 2022 as the holder of a Class GG subclass 408 Temporary Activity visa to participate in the 2022 Australian Open Tennis Tournament.
11. Mr DJOKOVIC provided evidence in the Australia Travel Declaration, completed before his arrival (**Attachment C**), and to ABF officers on arrival (**Attachment B**), that he was not vaccinated against COVID-19. He also advised ABF officers on arrival that he had tested positive for COVID-19 on 16 December 2021 and then negative for COVID-19 on 22 December 2021 (**Attachment D**). Mr DJOKOVIC provided a 'testimonial' from Assistant Professor Verica Jovanovic dated 12 January 2022, (**Attachment F**) which states that Mr DJOKOVIC's positive test result sampled on 16 December 2021 and subsequent negative test result sampled on 22 December 2021 are 'legitimate'. Assistant Professor Jovanovic also stated that '[o]ur test system is reliable, accurate and the test results of Mr Novak Djokovic are legitimate'. Mr DJOKOVIC also provided evidence of a positive test for SARS-COV-2 RBD IgG test, which seems to confirm that Mr DJOKOVIC was identified as having a recent or prior infection (the result dated 23 December 2021) (**Attachment E**).

**Operation of section 133C(3)**

12. Section 133C(3) of the Act is your personal power to cancel a visa, without natural justice if:
  - you are satisfied that a ground for cancelling the visa under section 116 of the Act exists (section 133C(3)(a)); and

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- you are satisfied that it would be in the public interest to cancel the visa (section 133C(3)(b)).
13. This power may only be exercised by you personally (section 133C(7)). Furthermore, you do not have a duty to consider whether to exercise the power, whether or not you are requested to do so, or in any other circumstances (section 133C(8)).
  14. Note that any representations made by Mr DJOKOVIC to seek revocation of a decision to cancel his visa, in response to an invitation under section 133F of the Act, can bear only on the question of whether or not the ground for cancelling the visa does not exist, not on the exercise of your residual discretion under section 133C(3) of the Act.
  15. Section 133C(4) of the Act provides that the rules of natural justice, and the procedure set out in Subdivisions E and F, do not apply to a decision under section 133C(3) of the Act.
  16. Section 133F of the Act provides that, following a decision under section 133C(3) of the Act to cancel a visa, the person who is the subject of the decision is to be notified of the decision, given reasons for the decision and invited to make representations about possible revocation of the decision. Under section 133F of the Act, if the person makes representations in accordance with the invitation and satisfies you that the ground for cancelling the visa referred to in section 133C(3) of the Act does not exist, you may revoke the cancellation decision.
  17. If you make the decision to cancel Mr DJOKOVIC's visa under section 133C(3) of the Act, he may make representations to you about possible revocation of your decision within 28 days of being given written notice of your decision.
  18. Should you make a decision to cancel Mr DJOKOVIC's visa under section 133C(3) of the Act, he will not be able to seek merits review by the AAT, but it will be open to him to seek judicial review.

**Ground for cancellation under section 116 – section 133C(3)(a)**

19. Section 116(1)(e) of the Act enables the Minister to cancel a visa if he or she is satisfied that:
  - (e) the presence of its holder in Australia is or may be, or would or might be, a risk to:*
    - (i) the health, safety or good order of the Australian community or a segment of the Australian community; or*
    - (ii) the health or safety of an individual or individuals;*
20. It is open to you, after considering the attachments to this submission and the facts and information outlined in the draft Statement of Reasons at **Attachment 1**, to find that a ground for the cancellation of Mr DJOKOVIC's visa under section 116(1)(e) of the Act exists.

**Public interest – section 133C(3)(b)**

21. Even if you consider that the relevant ground for cancellation under section 116 of the Act exists, the cancellation power under section 133C(3) of the Act is not enlivened unless you are also satisfied that the cancellation would be in the public interest, as required by section 133C(3)(b) of the Act.
22. What you consider to be in the public interest is a matter for you to determine personally. In determining whether cancellation is in the public interest, it should be noted that the term is

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not exhaustively judicially defined. It is generally accepted, however, that a statutory reference to public interest imports a broad discretionary judgement about matters of public policy which is confined only by the subject matter and the scope and purpose of the statute concerned. Determination of whether a decision is in the public interest will depend on a balancing of competing public interests.

23. In considering whether it would be in the public interest to cancel Mr DJOKOVIC's visa, you may wish to give specific consideration to:
- Although Mr DJOKOVIC's recent infection with COVID-19 means that he is at a low risk of infection and therefore presents a low risk to others in the Australian community and a very low risk at the Australian Open, his presence in Australia, given his well-known stance on vaccination, may create a risk of strengthening the anti-vaccination sentiment of a minority of the Australian community.
  - The costs associated with treatment for those affected by COVID-19 are substantial. COVID-19 cases are having a significant impact on the health system in all states and territories, with significantly reduced medical resources in intensive care units and bed availability (**Attachment M**).
  - Mr DJOKOVIC has previously indicated publicly that he is opposed to becoming vaccinated against COVID-19. He has also acknowledged that he knowingly failed to isolate following the receipt of a positive COVID-19 test result (**Attachment O**).
  - The arguments raised by Mr DJOKOVIC about why it would not be in the public interest to cancel his visa (**Attachment R**).
24. After considering the above information, the facts and information outlined in the draft Statement of Reasons at **Attachment 1**, it is open for you give significant weight to the matters of public health and good order discussed above and to find that that the points raised above by Mr DJOKOVIC are outweighed by the other public interest factors mentioned above.
25. You may also wish to consider that remaining in Australia is a privilege that Australia confers on non-citizens and the community expectation is that a non-citizen who has been granted a visa to travel to and remain in Australia will behave in a manner that does not put the health or good order of the Australian community at risk. You may find that it would be in the public interest to cancel Mr DJOKOVIC's visa insofar that it is consistent with the expectations of the public that a person who has failed to obtain a COVID-19 vaccine and has repeatedly made public statements against vaccinations (**Attachment H**) should expect to forfeit the privilege of staying in Australia.
26. Having regard to the above information, it may be open to you to find that it would be in the public interest to cancel Mr DJOKOVIC's visa.

**Other considerations**

27. The power to cancel a visa under section 133C(3) of the Act is discretionary. It is open to you to take other relevant circumstances into account in determining whether to exercise your power to cancel Mr DJOKOVIC's visa.
28. As detailed in the draft Statement of Reasons **Attachment 1**, you may wish to take into account Mr DJOKOVIC's circumstances and whether there are factors that support a decision not to cancel Mr DJOKOVIC's visa.

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29. It is open to you to give each of these considerations weight in favour of a decision not to cancel Mr DJOKOVIC's visa or in the alternative weight in favour of visa cancellation.
30. Having considered all of the relevant factors, it is open to you to find that there are some factors in favour of a decision not to cancel Mr DJOKOVIC's visa, however you are not satisfied that these factors outweigh the public interest and the risk Mr DJOKOVIC poses to the health or good order of the Australian community.

### Legal consequences of cancelling Mr Djokovic's visa

31. You may wish to note that cancellation of Mr DJOKOVIC's visa would also enliven section 48 of the Act, significantly limiting the types of visas Mr DJOKOVIC could apply for while he is in Australia.
32. You may also wish to note that, for a period of three years from the date of the cancellation of his visa, Mr DJOKOVIC would not be able to be granted any class of visa that is subject to Public Interest Criterion 4013 except in certain circumstances including, but not limited to, compelling circumstances that affect the interests of Australia. The exclusion period will be considered as part of any new visa application and can be waived in certain circumstances, noting each case is assessed on its own merits.

### Conclusion

33. After considering all of the above and the attachments, you may be satisfied that:
  - A ground for cancelling Mr DJOKOVIC's visa under section 116 of the Act exists, and so the requirement under section 133C(3)(a) of the Act is met; and
  - It would be in the public interest to cancel Mr DJOKOVIC's visa, and so the requirement under section 133C(3)(b) of the Act is also met.
34. It is open to you to conclude that factors in favour of a decision not to cancel the visa outweigh the factors in favour of visa cancellation, and that Mr DJOKOVIC's visa should therefore not be cancelled, despite the requirements of section 133C(3) of the Act being met in this case.
35. If your decision is to cancel Mr DJOKOVIC's visa, please record your decision and sign the decision record at **Attachment 1**.

### Consultation – internal/external

36. Nil.

### Consultation – Secretary

37. The Secretary was not consulted on the approach in this submission.

### Client service implications

38. Nil.

**Sensitivities**

- 39. There is significant national and international media interest regarding Mr DJOKOVIC.
- 40. There are some diplomatic considerations relevant to this decision and it will be necessary to ensure these are managed appropriately.

**Financial/systems/legislation/deregulation implications**

- 41. Nil.

**Attachments**

**Attachment 1** Statement of Reasons

**Attachment 2** Index of relevant material for Mr DJOKOVIC

<b>Authorising Officer</b>
Cleared by:
Justine Jones First Assistant Secretary Status Resolution and Visa Cancellation Division
Date: 14 / 01 / 2022 Ph: 02 6264 2833

**Contact Officer** Justine Jones, First Assistant Secretary, Status Resolution and Visa Cancellation Division,  
Ph: 02 6264 2833

- CC Secretary
- Commissioner
- Special Counsel
- AGS Outposted Counsel
- Deputy Secretary, Immigration and Settlement Services
- Group Manager, Legal
- Group Manager, Executive and International
- First Assistant Secretary, Immigration Programs
- Assistant Secretary, Character and Cancellation Branch
- Assistant Secretary, Status Resolution Branch
- Assistant Secretary, Migration & Citizenship Law Branch
- Assistant Secretary, Migration and Citizenship Litigation Branch

**INDEX OF RELEVANT MATERIAL FOR MR DJOKOVIC**

<b>Attachment</b>	<b>Description of Attachment</b>
<b>Attachment A</b>	Mr DJOKOVIC - Letter from Hall & Wilcox to Minister Hawke – 11 January 2022
<b>Attachment B</b>	Mr DJOKOVIC - transcript of interview by ABF – 6 January 2022 – vaccination status (page 3 of IKL-1)
<b>Attachment C</b>	Mr DJOKOVIC – Australian Travel Declaration
<b>Attachment D</b>	Mr DJOKOVIC - transcript of interview by ABF – 6 January 2022 – COVID-19 test results (pages 3-4 of IKL-1)
<b>Attachment E</b>	Novak DJOKOVIC - COVID-19 PCR test results – 16 DEC 2021 (positive) and 22 DEC 2021 (negative), positive COVID-19 antibody test – 23 DEC 2021
<b>Attachment F</b>	Mr DJOKOVIC - testimonial on test results from Asst Prof Verica Jovanovic – 12 January 2022
<b>Attachment G</b>	Advice from Department of Health to Department of Home Affairs about Mr Djokovic's level of risk of infecting others with COVID-19 – 11 January 2022
<b>Attachment H</b>	What has Novak Djokovic actually said about vaccines
<b>Attachment I</b>	Advice from Department of Health to Department of Home Affairs on immunisation strategy and COVID-19 – 12 January 2022
<b>Attachment J</b>	ATAGI Statement on the Omicron variant and the timing of COVID-19 booster vaccination – 24 December 2021
<b>Attachment K</b>	Media reporting on anti-vaccination civil unrest
<b>Attachment L</b>	Media reporting on anti-vaccine protests
<b>Attachment M</b>	Impacts on health systems – NSW and Victoria
<b>Attachment N</b>	Serbian PM condemns Djokovic's breach of public health orders
<b>Attachment O</b>	Novak DJOKOVIC - Instagram statement – 12 January 2022
<b>Attachment P</b>	Novak Djokovic on coronavirus, vaccines and his ill-fated Adria tour
<b>Attachment Q</b>	Serbian Prime Minister offers guarantee Novak Djokovic will abide by Australian regulations
<b>Attachment R</b>	Novak DJOKOVIC – additional documents, various dates
<b>Attachment S</b>	Statutory Declaration from [REDACTED] on DJOKOVIC Australian Travel Declaration – 11 JAN 2022
<b>Attachment T</b>	Novak DJOKOVIC – affidavit sworn in the Federal Circuit Court – 10 JAN 2022

11 January 2022

Our ref: NLB SSW 193699

The Hon Alex Hawke MP  
Minister for Immigration, Citizenship,  
Migrant Services and Multicultural Affairs

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Dear Minister Hawke

**Foreshadowed consideration of cancellation decision under section 133C(3): Novak Djokovic**

We act for Mr Djokovic.

- 1 At the end of the hearing yesterday, counsel for the Minister for Home Affairs informed Kelly J that the Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs (**Minister for Immigration**) would be considering exercising his personal discretionary power to cancel Mr Djokovic's visa pursuant to section 133C of the *Migration Act 1958* ('the Act').
- 2 We write to address the Minister for Immigration on the foreshadowed consideration of the exercise of that discretionary power.
- 3 Before going to the substantive matters, we express Mr Djokovic's grave disappointment and concern that the Minister for Immigration is even considering taking this extraordinary action. Representatives of the Australian Government, including the Prime Minister, the Minister for Health and the Minister for Home Affairs, have repeatedly stated to the public that Mr Djokovic would be subject to the same rules as everyone else, and that there would be no special treatment to Mr Djokovic.<sup>1</sup>
- 4 As it turns out, however, there is no 'rule' that required Mr Djokovic to be 'fully vaccinated' in order to enter Australia. Mr Djokovic held a Subclass 408 visa, that was granted to him on 18 November 2021, that granted him positive permission to travel to and enter Australia: section 29 of the Act. Mr Djokovic was thereby entitled to enter Australia, unless his visa was lawfully cancelled. It was purportedly cancelled by a delegate of the Minister for Home Affairs under section 116(1)(e)(i) of the Act in the early hours of 6 January 2022 but, as the

<sup>1</sup> "[T]here should be no special rules for Novak Djokovic at all. None whatsoever." Scott Morrison, 5 January 2022, <https://www.pm.gov.au/media/press-conference-canberra-act-34>

"[O]n the issue of Mr Djokovic, rules are rules and there are no special cases. Rules are rules." Scott Morrison, 6 January 2022, <https://www.pm.gov.au/media/press-conference-canberra-act-35>

"Great to chat with @sunriseon7 this morning about how Australia's border rules apply to everyone equally. No one gets special treatment", Karen Andrews MP, <https://twitter.com/karenandrewsmp/status/1479195583751458817>

"Yes, it's tough but it is fair and equitable and it's one rule for all under this Australian Government." Greg Hunt MP, <https://www.health.gov.au/ministers/the-hon-greg-hunt-mp/media/minister-hunt-interview-on-sunrise-on-6-january-2022-on-novak-djokovic-covid-19-testing-and-covid-19-vaccines-for-kids>

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Federal Circuit Court and Family Court of Australia determined yesterday, that purported decision was unlawful.

- 5 In that respect, we note that on 5 January 2022, the Prime Minister of Australia, Scott Morrison MP said in answer to the question 'How did Mr Djokovic get an exemption to come into Australia, and have we seen his vaccination passport?':

Well, that is a matter for the Victorian Government. They have provided him with an exemption to come to Australia, and so we then act in accordance with that decision.

...

Well, that's how it works. States provide exemptions for people to enter on those basis (sic), and that's been happening for the last two years. So there's no change to that arrangement. The Victorian Government made their decision on that. And so I'd have to refer to the Victoria Government about their reasons for doing so. Thank you.

- 6 The fact that Mr Morrison then, just over an hour after the delegate made the unlawful cancellation decision in the early hours of 6 January 2022, tweeted as follows:

Mr Djokovic's visa has been cancelled. Rules are rules, especially when it comes to our borders . No one is above these rules. ...

suggests that this is driven by politics, not law. In particular, there are no 'rules' whatsoever that Mr Djokovic breached by coming to Australia.

- 7 It is the Minister for Home Affairs, rather than Mr Djokovic, that did not follow the 'rules'. The Minister for Home Affairs has conceded that the actions of her delegates were unreasonable. Following that concession, it is remarkable that the Minister for Immigration now seeks to engage his personal discretionary powers to cancel Mr Djokovic's visa, even though there is no 'rule' Mr Djokovic has not complied with. Indeed, as the evidence in the Court proceeding now concluded clearly shows, Mr Djokovic reasonably believed that he had every requisite permission from both the Federal and State governments to enter.

- 8 It is even more remarkable that the Minister for Immigration is considering making a decision under section 133C(3) (a process under which Mr Djokovic has no right to natural justice), rather than to make a decision under section 133C(1) (a process in which Mr Djokovic would have a right to be heard before the decision is made). No justification has been offered for this extraordinary approach.

- 9 We have grave concerns that any cancellation decision would involve illegality, including but not limited to improper purpose.

- 10 Having made those observations, we now address the law and the evidence. The documents referenced in this letter have recently been provided to you.

### **Section 133C(3)**

- 11 Section 133C(3) requires the Minister for Immigration to be satisfied both that:

- (a) a ground for cancelling the visa under section 116 exists; and
- (b) it would be in the public interest to cancel the visa.

- 12 For the reasons set out below, the Minister for Immigration cannot be satisfied of either of those matters.

**Risk to public health and safety - section 116(1)(e)(i)**

- 13 As you are aware, Mr Djokovic recently tested positive for COVID-19 on 16 December 2021 and subsequently tested negative for COVID-19 on 22 December 2021. Evidence of the test results have been provided to you.
- 14 Mr Djokovic poses a negligible threat of infection to others. Further, the risk of Mr Djokovic infecting others is less than, or at the very least comparable to, that of any other person who is lawfully entitled to enter Australia in accordance with section 3(a) of the *Biosecurity (Entry Requirements—Human Coronavirus with Pandemic Potential) Determination 2021 (Determination)*.
- 15 There is a substantial body of medical evidence that demonstrates that persons who have been recently infected with COVID-19 have immunity to re-infection that is higher than that, or at least equal to that, of those who have been vaccinated.<sup>2</sup>
- 16 Indeed, ATAGI, in its guidance issued on 14 December 2021, accepts that natural immunity follows from SARS-Cov-2 infection. Further, in the same guidance, ATAGI states that 'evidence suggests that past infection reduces the risk of reinfection for at least six months'.

<sup>2</sup> Dan, Jennifer M., et al. "Immunological memory to SARS-CoV-2 assessed for up to eight months after infection." *BioRxiv* (2020).

Le Bert, Nina, et al. "SARS-CoV-2-specific T cell immunity in cases of COVID-19 and SARS, and uninfected controls." *Nature* 584.7821 (2020): 457-462.

Gazit, S., Shlezinger, R., Perez, G., Lotan, R., Peretz, A., Ben-Tov, A., ... & Patalon, T. (2021). Comparing SARS-CoV-2 natural immunity to vaccine-induced immunity: reinfections versus breakthrough infections. *MedRxiv*.

Wajnberg, Ania, et al. "Robust neutralizing antibodies to SARS-CoV-2 infection persist for months." *Science* 370.6521 (2020): 1227-1230.

Haveri, Anu, et al. "Persistence of neutralizing antibodies a year after SARS-CoV-2 infection in humans." *European journal of immunology* 51.12 (2021): 3202-3213.

O Murchu, Eamon, et al. "Quantifying the risk of SARS-CoV-2 reinfection over time." *Reviews in medical virology* (2021): e2260.

Wadman, M. "Having SARS-CoV-2 once confers much greater immunity than a vaccine—but vaccination remains vital." *Science* 373.6559 (2021): 1067-8.

Zhang, Jie, et al. "One-year sustained cellular and humoral immunities of COVID-19 convalescents." *Clinical Infectious Diseases* (2021).

Lumley, Sheila F., et al. "Antibodies to SARS-CoV-2 are associated with protection against reinfection." *medRxiv* (2020).

Lumley, Sheila F., et al. "Antibody status and incidence of SARS-CoV-2 infection in health care workers." *New England Journal of Medicine* 384.6 (2021): 533-540.

Cohen, Kristen W., et al. "Longitudinal analysis shows durable and broad immune memory after SARS-CoV-2 infection with persisting antibody responses and memory B and T cells." *Medrxiv* (2021).

Wei, Jia, et al. "Anti-spike antibody response to natural SARS-CoV-2 infection in the general population." *Nature communications* 12.1 (2021): 1-12.

Mishra, Bijaya K., et al. "Natural immunity against COVID-19 significantly reduces the risk of reinfection: findings from a cohort of sero-survey participants." *medRxiv* (2021).

Sheehan, Megan M., Anita J. Reddy, and Michael B. Rothberg. "Reinfection rates among patients who previously tested positive for COVID-19: a retrospective cohort study." *medRxiv* (2021).

Vitale, Josè, et al. "Assessment of SARS-CoV-2 Reinfection 1 Year After Primary Infection in a Population in Lombardy, Italy." *JAMA internal medicine* (2021).

Hanrath, Aidan T., Brendan Al Payne, and Christopher JA Duncan. "Prior SARS-CoV-2 infection is associated with protection against symptomatic reinfection." *Journal of Infection* 82.4 (2021): e29-e30.

Wang, Zijun, et al. "Naturally enhanced neutralizing breadth to SARS-CoV-2 after one year." *bioRxiv* (2021).

Zuo, Jianmin, et al. "Robust SARS-CoV-2-specific T cell immunity is maintained at 6 months following primary infection." *Nature immunology* 22.5 (2021): 620-626.

Alfego, David, et al. "A population-based analysis of the longevity of SARS-CoV-2 antibody seropositivity in the United States." *EClinicalMedicine* 36 (2021): 100902.

Shenai, Mahesh B., Ralph Rahme, and Hooman Noorchashm. "Equivalency of Protection From Natural Immunity in COVID-19 Recovered Versus Fully Vaccinated Persons: A Systematic Review and Pooled Analysis." *Cureus* 13.10 (2021).

- 17 Studies indicate that the level of protection from reinfection acquired from prior COVID-19 infection is 95%.<sup>3</sup> The improved immunity from COVID-19 is present in recently infected persons regardless of disease severity during recent infection.<sup>4</sup>
- 18 Further, there is medical evidence that suggests that vaccination against COVID-19 following recent infection has little or no effect on improving the patient's immune response to COVID-19 reinfection, and is unnecessary.<sup>5</sup>
- 19 There is simply no basis upon which the Minister for Immigration could be lawfully satisfied that Mr Djokovic 'is or may be, or would or might be, a risk ... to the health ... of the Australian community or a segment of the Australian community', within the meaning of s 116(1)(e)(i) of the Act. If the Minister purports to find that he is, he should expect to be subjected to a searching cross-examination as to his purported basis for this purported finding.

### Evidence of medical contraindication – Determination 3(b)

- 20 There is evidence that vaccination following recent infection may result in more severe adverse side effects.<sup>6</sup> Dr John O'Horo, M.D., a leading infectious diseases physician at Mayo Clinic, is quoted as saying: '*...those vaccinated shortly after recovery may mount a more robust immune response to the COVID-19 vaccine. This could cause stronger side effects*'.<sup>7</sup>
- 21 There is evidence that adults vaccinated after recent COVID-19 infection have suffered adult multisystem inflammatory syndrome (MIS-A).<sup>8</sup>
- 22 Again, Mr Djokovic has previously produced evidence of recent COVID-19 infection and recovery.
- 23 Mr Djokovic has accordingly demonstrated that he is a person who is at risk of suffering more severe adverse side effects from vaccination, because he has been recently infected with COVID-19. This is, plainly, a medical contraindication.

<sup>3</sup> Abu-Raddad, Laith J., et al. "SARS-CoV-2 antibody-positivity protects against reinfection for at least seven months with 95% efficacy." *EClinicalMedicine* 35 (2021): 100861.

See also: Goldberg, Yair, et al. "Protection of previous SARS-CoV-2 infection is similar to that of BNT162b2 vaccine protection: A three-month nationwide experience from Israel." *medRxiv* (2021).

Pilz, Stefan, et al. "SARS-CoV-2 re-infection risk in Austria." *European Journal of Clinical Investigation* 51.4 (2021): e13520.

Petersen, Maria Skaalum, et al. "SARS-CoV-2 natural antibody response persists for at least 12 months in a nationwide study from the Faroe Islands." *Open forum infectious diseases*. Vol. 8. No. 8. US: Oxford University Press, 2021.

Gudbjartsson, Daniel F., et al. "Humoral immune response to SARS-CoV-2 in Iceland." *New England Journal of Medicine* 383.18 (2020): 1724-1734.

Chivese, Tawanda, et al. "The prevalence of adaptive immunity to COVID-19 and reinfection after recovery, a comprehensive systematic review and meta-analysis of 12 011 447 individuals." *medRxiv* (2021).

<sup>4</sup> Nielsen, Stine SF, et al. "SARS-CoV-2 elicits robust adaptive immune responses regardless of disease severity." *EBioMedicine* 68 (2021): 103410.

Rodda, Lauren B., et al. "Functional SARS-CoV-2-specific immune memory persists after mild COVID-19." *Cell* 184.1 (2021): 169-183.

Rank, Andreas, et al. "One year after mild COVID-19: the majority of patients maintain specific immunity, but one in four still suffer from long-term symptoms." *Journal of clinical medicine* 10.15 (2021): 3305.

<sup>5</sup> Appelman, Brent, et al. "Time since SARS-CoV-2 infection and humoral immune response following BNT162b2 mRNA vaccination." *EBioMedicine* 72 (2021): 103589.

Shrestha, Nabin K., et al. "Necessity of COVID-19 vaccination in previously infected individuals." *medRxiv* (2021).

<sup>6</sup> Morales-Núñez, José Javier, et al. "Neutralizing antibodies titers and side effects in response to BNT162b2 vaccine in healthcare workers with and without prior SARS-CoV-2 infection." *Vaccines* 9.7 (2021): 742.

Kelsen, Steven, et al. "A Longitudinal Study of BNT162b2 Vaccine-Induced Humoral Response and Reactogenicity in Health Care Workers with Prior COVID-19 Disease." *COVID-19 Research* (2021).

<sup>7</sup> <https://www.mayoclinichealthsystem.org/hometown-health/featured-topic/recent-infection-could-affect-covid-19-vaccination>

<sup>8</sup> Salzman, M. B., Huang, C., O'Brien, C. M., & Castillo, R. D. (2021). Multisystem Inflammatory Syndrome after SARS-CoV-2 Infection and COVID-19 Vaccination. *Emerging Infectious Diseases*, 27(7), 1944-1948.

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**Definition of ‘medical contraindication’ within the meaning of the Determination**

- 24 An observation is made in respect of the potential broader policy implications if a dispute in respect of the proposed visa cancellation is to be further adjudicated on the merits.
- 25 The Determination requires to provide evidence of ‘medical contraindication’. That term is not defined by the Biosecurity Act 2015 or the Determination. It bears its ordinary meaning.
- 26 In particular, the Determination does not require evidence of some *severe* or *absolute* medical contraindication (such as high risk of adverse reaction, or risk of severe adverse consequences). The Minister would be in error to interpret the Determination so.
- 27 It would be open, and indeed correct, for Mr Djokovic to contend that the proper interpretation of the Determination is to provide evidence of *any* medical contraindication that is applicable to the visa holder.
- 28 For the reasons set out above, there is a body of medical evidence of medical contraindication against vaccination for those who have been recently infected with COVID-19.
- 29 Additionally, however, there is ample evidence that there are risks of adverse side effects arising from vaccination against COVID-19 *generally*,<sup>9</sup> and an abundance of cases where adverse side effects have been reported. Those general risks must fall within the definition of a ‘medical contraindication’ to vaccination. Those risks apply to Mr Djokovic.
- 30 Were a Court to apply the above interpretation of the Determination (as would be contended by Mr Djokovic), there could be much broader and unintended national policy consequences to the classes of persons falling within cl 3(b) of the Determination. Such consequences are not intended by Mr Djokovic - he merely wishes to play in a professional sporting event as a professional sportsperson, and has no interest in shaping Australia’s national policy - however it is a consequence that may well flow from such a judicial challenge if the visa cancellation is pressed.
- 31 In those circumstances, it is clear that the preferable outcome for all parties involved would be to allow Mr Djokovic to remain in Australia for the duration of his visa, as he is entitled to.

**Public interest**

- 32 As set out above, Mr Djokovic poses no risk to public health and safety. He has also made no attempt to contravene any laws of Australia. He is a person of good standing, and a diplomat of the nation of Serbia. In addition to being the best tennis player in the world, he is known for his philanthropic efforts, including his generous donations towards coronavirus relief as well as towards Australian bushfire relief.
- 33 There is vocal support in Australia and abroad for Mr Djokovic to remain in Australia and play in the Australian Open 2022. For example:
- (a) an online poll from the Age shows support for Mr Djokovic remaining in Australia at 60% (screenshot attached); and

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<sup>9</sup> See e.g. <https://www.health.gov.au/resources/publications/covid-19-vaccination-after-your-comirnaty-pfizer-vaccine>  
<https://www.health.gov.au/resources/publications/covid-19-vaccination-after-your-vaxzevria-astrazeneca-vaccine>  
<https://www.health.gov.au/resources/publications/covid-19-vaccination-after-your-spikevax-moderna-vaccine>

(b) an online petition for Mr Djokovic to be freed to play in the Australian Open has gathered over 83,000 signatures (at the time of this letter).<sup>10</sup>

- 34 There are several matters that would go against the public interest if the Australian Government were to make a second attempt to cancel Mr Djokovic's visa.
- 35 First, that action would be likely to (further) adversely affect Australia's global reputation, and call into question Australia's border security principles and policies - and indeed the rule of law in Australia generally.
- 36 Secondly, that action would prejudice Australian economic interests, and jeopardise the viability of Australia continuing to host this prestigious, international sporting event.
- 37 Thirdly, that action would create the appearance of politically motivated decision-making.
- 38 Cancelling Mr Djokovic's visa and deporting him would plainly be adverse to the public interest, and respectfully, could only serve political interests. The Minister for Immigration cannot be satisfied that there is any public interest in cancelling Mr Djokovic's visa.

#### **Availability for cross-examination**

- 39 Should the Minister for Immigration purport to cancel Mr Djokovic's visa under section 133C(3), we hold instructions to immediately apply to the Courts for relief. Further, we have instructions to seek an urgent (almost immediate) final trial. Judge Kelly is already well-familiar with issues in the case, including the proper interpretation of the ATAGI guidelines.
- 40 In the meantime, we request that you take all appropriate steps to ensure that the Minister is available for cross-examination at short notice in the event that the Minister purports to cancel Mr Djokovic's visa. We anticipate that, if such a decision be made, then proceedings will be commenced forthwith, and that we will ask the Court to conduct an urgent final hearing, and to issue a subpoena to the Minister to attend to give evidence at that hearing.

#### **Undertaking**

- 41 Finally, we confirm the undertaking received from the AGS that:
- (a) AGS will notify both Mr Djokovic's legal representatives and Judge Kelly's chambers within 30 minutes of the Minister for Immigration making any purported cancellation decision; and
- (b) there will be no attempt to remove Mr Djokovic for 24 hours after notification.

Specifically, we ask that this notification be done by:

- (a) telephone call to Natalie Bannister on 0409 418 259; and
- (b) email to Mr Djokovic's solicitors: Ms Bannister and Graydon Dowd; and
- (c) email to Mr Djokovic's counsel: Paul Holdenson QC, Nick Wood SC, Nik Dragojlovic, and Jim Hartley.

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<sup>10</sup> <https://lifepetitions.com/petition/petition-novaka-djokovic-s-medical-exemption-must-be-acknowledged-by-australia-s-government>

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We invite you to consider the above matters and contact us for any further information required. Mr Djokovic and his advisors also remain open to discuss the terms of his stay in Australia, should that assist the Minister.

Yours faithfully



**Hall & Wilcox**



## ATAGI expanded guidance on acute major medical conditions that warrant a temporary medical exemption relevant for COVID-19 vaccines

Updated: 26 November 2021

The below guidance is prepared to support completion of the [Australian Immunisation Register immunisation medical exemption \(IM011\) form](#), [Guidelines for immunisation medical exemption](#).

This advice covers those for whom an exemption can be provided and does not cover clinical management of adverse events. For the management of adverse events refer to your local Specialist Immunisation Service.

### Background

COVID-19 vaccines have been demonstrated to be safe and effective and as such are recommended for all Australians from 12 years of age. There are very few situations where a vaccine is contraindicated and as such, medical exemption is expected to be rarely required.

### Temporary exemptions

An exemption should not be given when an alternative COVID-19 vaccine is available and when completing the medical exemption ([IM011](#)) form all COVID-19 brands must be selected.

Valid reasons for a temporary exemption include:

- For an mRNA COVID-19 vaccine, inflammatory cardiac illness within the past 3 months, e.g., myocarditis or pericarditis; acute rheumatic fever or acute rheumatic heart disease (i.e., with active myocardial inflammation); or acute decompensated heart failure
- For all COVID-19 vaccines:
  - Acute major medical condition (e.g. undergoing major surgery or hospital admission for a serious illness). Typically, these are time-limited conditions (or the medical treatment for them is time limited).
  - PCR-confirmed SARS-CoV-2 infection, where vaccination can be deferred until 6 months after the infection. Vaccination should be deferred for 90 days in people who have received anti-SARS-CoV-2 monoclonal antibody or convalescent plasma therapy.
  - Any serious adverse event attributed to a previous dose of a COVID-19 vaccine, without another cause identified, and with no acceptable alternative vaccine available. For example a person <60 years of age, contraindicated to receive Pfizer vaccine and in whom the risks do not outweigh the benefits for receipt of AstraZeneca vaccine, is eligible for a temporary exemption.
  - If the vaccinee is a risk to themselves or others during the vaccination process they may warrant a temporary vaccine exemption. This may include a range of individuals with underlying developmental or mental health disorders, but noting that non-pharmacological interventions can safely facilitate vaccination in many individuals with behavioural

disturbances and that specialist services may be available to facilitate the safe administration of vaccines in this population.

Chronic symptoms following COVID-19 ("Long COVID") are not a contraindication to COVID-19 vaccines, but do warrant a clinical discussion with the patient.

Pregnancy is not a valid reason for exemption in the absence of any of the criteria listed above.

## Assessment of serious adverse events following immunisation (AEFI)

An adverse event is considered serious if it:

- requires in-patient hospitalisation or prolongation of existing hospitalisation OR results in persistent or significant disability/ incapacity OR is potentially life-threatening.

AND

- has been reported to a state/territory adverse event surveillance system and/or the TGA.

AND

- has been determined following review by, and/or on the opinion of, an experienced immunisation provider/medical specialist to be associated with a risk of recurrence of the serious adverse event if another dose is given.

Assessment of an adverse event following immunisation (AEFI) requires detailed information on the event, a determination of the likelihood of a causal link with vaccination, as well as the severity of the condition.

Examples of serious AEFI include: thrombosis with thrombocytopenia (TTS) following Vaxzevria [COVID-19 Vaccine AstraZeneca]; medically significant illness (e.g., immune thrombocytopenia purpura (ITP), myocarditis), potentially life-threatening events (e.g., anaphylaxis); and/or persistent or significant disability (e.g., Guillain-Barré Syndrome). These reactions do not include common expected local or systemic reactions known to occur within the first few days after vaccination.

Attributing a serious adverse event to a previous dose of a COVID-19 vaccine may require discussion with the individual's GP, local immunisation service or relevant medical specialist.

## Duration of temporary exemption

Temporary exemptions for longer than 6 months are NOT recommended in the first instance, as they should be reviewed as the individual recovers from their acute major medical illness. This time limitation will allow individuals who can safely be vaccinated to be protected against COVID-19 in a timely way.

- It may take a few weeks for any changes to an individual's vaccine status to be updated on the AIR with regards to a temporary medical exemption.
- It should also be noted that an individual may not be optimally protected from COVID-19 until they have completed the recommended vaccine schedule and this temporary exemption may need to be reconsidered depending on the SARS CoV-2 epidemiology at the time.
- Temporary medical exemptions can only be completed by those authorised to do so [AIR medical exemption criteria], utilising their Medicare provider number.

## More information

[ATAGI Clinical Guidance on COVID-19 vaccine in Australia in 2021](#)

[The Australian Immunisation Handbook](#)

How to report an AEFI: <https://www.health.gov.au/health-topics/immunisation/health-professionals/reporting-and-managing-adverse-vaccination-events>

[Risk- benefit document.](#)

**Affidavit**

Family Law Rules 2021 – RULE 8.15  
 General Federal Law Rules 2021 – RULE 4.04

**Filed in:**

- Federal Circuit and Family Court of Australia  
 Family Court of Western Australia  
 Other (specify) \_\_\_\_\_

**Type of proceedings:**

- Family law proceedings  
 Migration proceedings  
 General federal law proceedings  
 Other (specify) \_\_\_\_\_

**Filed on behalf of:**

Full name: NOVAK DJOKOVIC

**COURT USE ONLY**

Client ID \_\_\_\_\_

File number \_\_\_\_\_

Filed at \_\_\_\_\_

Filed on \_\_\_\_\_

Court location \_\_\_\_\_

Court date \_\_\_\_\_

Name of person swearing/affirming this affidavit (SEE PART C)

CAROLYN RUTH BRODERICK

Date of swearing/affirming 07 / 01 / 2022

**Part A****About the parties****APPLICANT 1**

Family name (as used now)/Title/Organisation

DJOKOVIC

Given names (as required)

NOVAK

**APPLICANT 2**

Family name (as used now)/Title/Organisation

\_\_\_\_\_

Given names (as required)

\_\_\_\_\_

**RESPONDENT 1**

Family name (as used now)/Title/Organisation

MINISTER FOR HOME AFFAIRS

Given names (as required)

\_\_\_\_\_

**RESPONDENT 2**

Family name (as used now)/Title/Organisation

\_\_\_\_\_

Given names (as required)

\_\_\_\_\_

What is the contact address (address for service) in Australia for the party filing this affidavit?

You do not have to give your residential address. You may give another address at which you are satisfied that you will receive documents. If you give a lawyer's address, include the name of the law firm. You **must** also give an email address.

**Hall & Wilcox**

Level 11, Rialto South Tower, 525 Collins Street, Melbourne VIC 3000 Australia

Phone +61 3 9603 3555

Lawyer's code 163

Email penelope.ford@hallandwilcox.com.au

**Part B** About the independent children's lawyer (if appointed)

Independent children's lawyer family name	Given names
N/A	
Firm name	

**Part C** About you (the deponent)

Family name (as used now)/Title/Organisation	Given names
BRODERICK	CAROLYN RUTH
Gender	Usual occupation (if applicable)
<input type="checkbox"/> Male <input checked="" type="checkbox"/> Female <input type="checkbox"/> X	MEDICAL PRACTITIONER

What is your address?

You do not have to give your residential address if you are concerned about your safety. You may give another address at which you are satisfied that you will receive documents.

Care of Tennis Australia of Olympic Boulevard
MELBOURNE
State VIC      Postcode 3000

**Part D** Evidence

1. I am a medical practitioner with a Bachelor of Medicine/Bachelor of Surgery from the University of NSW, a Fellowship of the Australasian College of Sport and Exercise Medicine Physicians and a PhD from the University of Sydney. I have worked as a medical practitioner for approximately 32 years.
2. I am the Chief Medical Officer of Tennis Australia and I am authorised to swear this affidavit.
3. As part of my role at Tennis Australia, I was involved in setting up an independent expert medical review panel for the purpose of reviewing applications from players and players' support staff for medical exemptions to vaccination to attend or participate in the Australian Open tennis tournament.
4. While considering what process to adopt, the review process was discussed with the Victorian Government's Department of Health (**DoH**). In addition to Tennis Australia's requirements, I understand that a person who is unvaccinated requires a medical exemption in order to enter into the State of Victoria.
5. The DoH and Tennis Australia put in place a two-step process for considering medical exemptions for unvaccinated entrants. First, the application for a medical exemption would be determined by a panel of suitably-qualified independent experts, appointed by Tennis Australia, who would either approve, reject or ask for further information for each application.

DocuSigned by: <i>Carolyn Ruth Broderick</i> Signature of person making this affidavit (deponent)	DocuSigned by: <i>Sining Wang</i> Signature of witness
---	--

## ATTACHMENT A

6. Tennis Australia appointed [REDACTED] (MBBS, B. Med.Sci., FRACP, FTTM (RCPS Glasgow) FISTM, PhD), Professor of Infectious Diseases and Virology and [REDACTED] (MBBS, MA (Bioinf), FRACP, PhD), Infectious Disease Physician as its expert panel (**TA's Panel**).
7. If the application was approved by TA's Panel, the application would be provided to the DoH's independent panel (**DoH Panel**) which would then make its own determination.
8. I initially received a number of applications for a medical exemption to vaccination. I passed each application to one of our employees [REDACTED], who removed identifying information from each application to ensure that each application did not contain information which could identify the applicant.
9. TA's Panel and the DoH Panel are each tasked with determining whether each application for medical exemption met the Australian Technical Advisory Group on Immunisation (ATAGI) guidelines on medical exemptions to vaccination.
10. On 28 December 2021, TA's Panel approved the plaintiff's medical exemption to vaccination.
11. The plaintiff's application, the subject of the TA's Panel approved exemption, was then provided to the DoH Panel.
12. The DoH Panel reviewed and endorsed the plaintiff's application for medical exemption to vaccination.
13. On 30 December 2021, I signed a letter confirming that the 2 panels had approved the plaintiff's application for medical exemption to vaccination. Annexed to this affidavit and marked '**CRB-1**' is a true copy of this advice regarding medical exemption to vaccination granted to the plaintiff.

DocuSigned by:

*Carolyn Ruth Broderick*  
Signature of person making this affidavit (deponent)

0FB77BDC07FE437...

DocuSigned by:

*Sining Wang*  
Signature of witness

FF0EC23A3B0A4CD...

**Part E** Signature

I affirm the contents of this affidavit are true

DocuSigned by:  
*Carolyn Ruth Broderick*  
Signature of Deponent

MELBOURNE  
Place Date 07/01/2022

DocuSigned by:  
*Sining Wang*  
Before me (signature of witness)

Sining Wang  
Full name of witness (please print)

- Justice of the Peace
- Notary Public
- Lawyer

This affidavit was prepared / settled by  deponent/s  lawyer

HALL & WILCOX  
PRINT NAME AND LAWYER'S CODE

DocuSigned by:  
*Carolyn Ruth Broderick*  
Signature of person making this affidavit (deponent)

DocuSigned by:  
*Sining Wang*  
Signature of witness

# ATTACHMENT A

This is the document referred to as **CRB-1** in the affidavit of Carolyn Ruth Broderick affirmed at Melbourne on 7 January 2022 before me:

DocuSigned by:

*Sining Wang*

FF0EC23A5B6A4CD...

Sining Wang

Australian Legal Practitioner

**Medical exemption from COVID vaccination**

30<sup>th</sup> December 2021



**Name: NOVAK DJOKOVIC**  
**DOB: [REDACTED]**  
**Country of birth: Republic of Serbia**  
**Passport number: [REDACTED]**

Tennis Australia  
Country of the Kulin Nations  
Olympic Boulevard  
Melbourne Victoria 3000  
Private Bag 6060  
Richmond Victoria 3121  
T +61 3 9914 4000  
F +61 3 9650 2743  
tennis.com.au

To whom it may concern,

Mr Novak Djokovic has been provided with a medical exemption from COVID vaccination on the grounds that this individual has recently recovered from COVID.

The date of the first positive COVID PCR test was recorded on the 16/12/21 and it has now been more than 14 days since the first positive PCR test. Mr Djokovic has not had a fever or respiratory symptoms of COVID-19, in the last 72 hours

This temporary exemption is valid until 16/5/22.

This certificate for exemption has been provided by an Independent Expert Medical Review panel commissioned by Tennis Australia. The decision of the panel has been reviewed and endorsed by an independent Medical Exemptions Review Panel of the Victorian State Government. The conditions of the exemption are consistent with the recommendations of the Australian Technical Advisory Group on Immunisation (ATAGI).

Yours sincerely,

A handwritten signature in black ink that reads "C Broderick".

Dr Carolyn Broderick MBBS, FACSEP, PhD  
Chief Medical Officer, Tennis Australia & Australian Open

**Independent Expert Medical Review Panel**

[REDACTED]  
MBBS, B.Med.Sci., FRACP, FFTM (RCPS Glasgow) FISTM, PhD  
Professor of Infectious Diseases and Virology  
*COVID Advisor: Healthscope, Epworth Health, AFL, Tennis Australia, ICC, FIBA*

[REDACTED]  
MBBS, MA (Bioinf), FRACP, PhD  
Infectious Disease Physician  
*COVID Advisor: Epworth Health, Tennis Australia*

**Daily Victorian COVID-19 case numbers published by the Victorian Department of Health**

- (a) 11 January 2022: 171,369 active cases
- (b) 10 January 2022: 161,035 active cases
- (c) 9 January 2022: 146,863 active cases
- (d) 8 January 2022: 83,390 active cases
- (e) 7 January 2022: 69,680 active cases
- (f) 6 January 2022: 61,120 active cases
- (g) 5 January 2022: 51,317 active cases



ATTACHMENT A  
ИНСТИТУТ ЗА ЈАВНО ЗДРАВЉЕ СРБИЈЕ  
„Др Милан Јовановић Батут”  
INSTITUT ZA JAVNO ZDRAVLJE SRBIJE  
„Dr Milan Jovanović Batut”  
INSTITUTE OF PUBLIC HEALTH OF SERBIA  
”Dr Milan Jovanovic Batut”

Шифра потврде: 7371999-259039

Šifra potvrde / Confirmation code

**ПОТВРДА О РЕЗУЛТАТУ ТЕСТИРАЊА НА ВИРУС SARS-CoV-2**

POTVRDA O REZULTATU TESTIRANJA NA VIRUS SARS-CoV-2  
ANALYSIS ON VIRUS SARS-CoV-2 REPORT

**Име пацијента: NOVAK DJOKOVIĆ**

Ime pacijenta: NOVAK DJOKOVIĆ / Name: NOVAK DJOKOVIĆ

**Датум рођења:** [REDACTED]

Datum rođenja / Date Of Birth

**Пол: Мушко**

Pol: Muško / Gender: Male

**ЈМБГ:** [REDACTED]

JMBG / Personal. No.

**Датум узорковања: 16.12.2021 13:05:12**

Datum uzorkovanja / Date of sampling

**Здравствена установа која је узела узорак: Лабораторија - Завод за биоциде и медицинску екологију**

Zdravstvena ustanova koja je uzela uzorak / Sampling Health Institution

**Лаб. број протокола: P12426**

Lab. broj protokola / Sample ID

**Врста узорка: Назофарингеални брис**

Vrsta uzorka: Nazofaringealni bris / Type of Sample: Nasopharyngeal swab

**Врста анализе и произвођач теста: Real Time PCR test-SARS-CoV-2, , Xpert Xpress SARS-CoV-2 (GeneXpert)**

Vrsta analize i proizvođač testa / Method of analysis and test manufacturer

**Резултат: Позитиван**

Rezultat: Pozitivan / Result: Positive

**Датум издавања резултата: 16.12.2021 20:19:56**

Datum izdavanja rezultata / Date of result

**Лабораторија: Лабораторија - Завод за биоциде и медицинску екологију**

Laboratorija / Laboratory



Ова потврда важи без потписа и печата

Ova potvrda važi bez potpisa i pečata / This certificate is valid without signatures and seals



**ATTACHMENT A**  
**ИНСТИТУТ ЗА ЈАВНО ЗДРАВЉЕ СРБИЈЕ**  
**„Др Милан Јовановић Батут”**  
**INSTITUT ZA JAVNO ZDRAVLJE SRBIJE**  
**„Dr Milan Jovanović Batut”**  
**INSTITUTE OF PUBLIC HEALTH OF SERBIA**  
**”Dr Milan Jovanovic Batut”**

Шифра потврде: 7320919-259039

Šifra potvrde / Confirmation code

**ПОТВРДА О РЕЗУЛТАТУ ТЕСТИРАЊА НА ВИРУС SARS-CoV-2**

POTVRDA O REZULTATU TESTIRANJA NA VIRUS SARS-CoV-2  
ANALYSIS ON VIRUS SARS-CoV-2 REPORT

**Име пацијента: NOVAK DJOKOVIĆ**

Ime pacijenta: NOVAK DJOKOVIĆ / Name: NOVAK DJOKOVIĆ

**Датум рођења:** [REDACTED]

Datum rođenja / Date Of Birth

**Пол: Мушко**

Pol: Muško / Gender: Male

**ЈМБГ:** [REDACTED]

JMBG / Personal. No.

**Датум узорковања: 22.12.2021 14:12:10**

Datum uzorkovanja / Date of sampling

**Здравствена установа која је узела узорак: Институт за вирусологију, вакцине и серуме Торлак**

Zdravstvena ustanova koja je uzela uzorak / Sampling Health Institution

**Лаб. број протокола: 688913**

Lab. broj protokola / Sample ID

**Врста узорка: Назофарингеални брис**

Vrsta uzorka: Nazofaringealni bris / Type of Sample: Nasopharyngeal swab

**Врста анализе и произвођач теста: Real Time PCR test-SARS-CoV-2, , Sansure Biotech INC; Hunan Province**

Vrsta analize i proizvođač testa / Method of analysis and test manufacturer

**Резултат: Негативан**

Rezultat: Negativan / Result: Negative

**Датум издавања резултата: 22.12.2021 16:15:49**

Datum izdavanja rezultata / Date of result

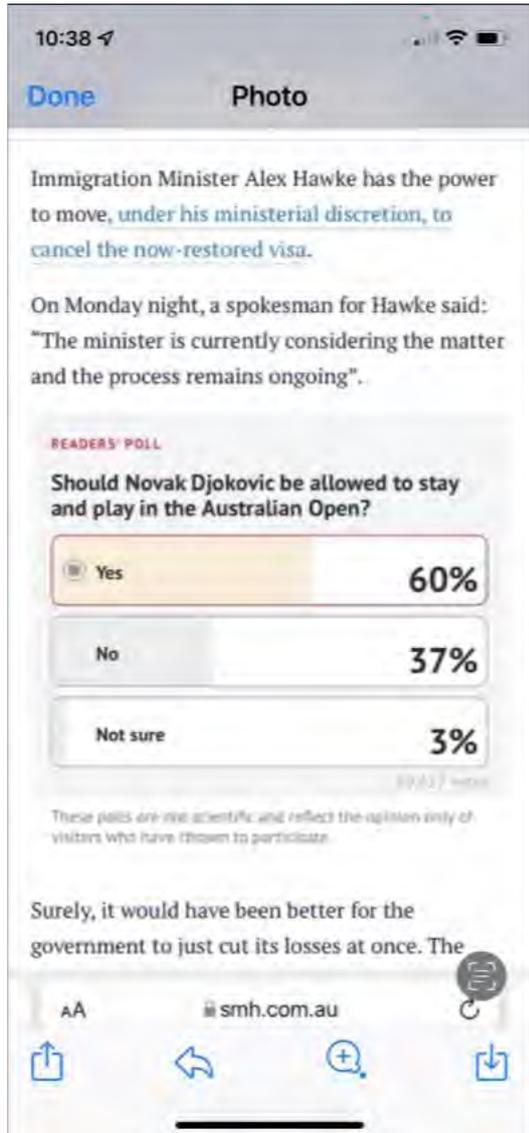
**Лабораторија: Институт за вирусологију, вакцине и серуме Торлак**

Laboratorija / Laboratory



Ова потврда важи без потписа и печата

Ova potvrda važi bez potpisa i pečata / This certificate is valid without signatures and seals



FCR Form 59

## AFFIDAVIT

IN THE FEDERAL CIRCUIT AND  
FAMILY COURT OF AUSTRALIA  
REGISTRY: MELBOURNE

NO MLG35/2022

**NOVAK DJOKOVIC**

Applicant

**MINISTER FOR HOME AFFAIRS**

Respondent

Name of deponent: Isobel Kathleen Leonard

Date affirmed: 7 January 2022

I, Isobel Kathleen Leonard, of Level 10, 60 Martin Place, Sydney in the State of New South Wales, lawyer, affirm:

1. I am an AGS lawyer (within the meaning of s 55I of the *Judiciary Act 1903* (Cth)) and I am assisting Mr David Brown who has carriage of this matter on behalf of the respondent.
2. I make this affidavit from my own knowledge.
3. On 7 January 2022, the Department of Home Affairs sent to AGS, by electronic drop box, 3 audio files titled:
  - 3.1. Interview Audio Part 1 of 3 – Djokovic – Novak – 22 05 1987 – SERBIA (SERB) – Male – 90470082110.WMA
  - 3.2. Interview Audio Part 2 of 3 – Djokovic – Novak – 22 05 1987 – SERBIA (SERB) – Male – 90470082110.WMA
  - 3.3. Interview Audio Part 3 of 3 – Djokovic – Novak – 22 05 1987 – SERBIA (SERB) – Male – 90470082110.WMA
4. On the same day, I transcribed the audio files with the assistance of my AGS colleagues Rian Terrell and Marian Monisse.



Filed on behalf of the First Respondent  
Minister for Immigration and Border Protection  
Prepared by: David Brown  
AGS lawyer within the meaning of s 55I of the *Judiciary Act 1903*  
Address for Service:  
The Australian Government Solicitor  
Level 34, 600 Bourke Street, MELBOURNE VIC 3000  
jolanta.kowalewska@ags.gov.au

File ref: 22000117

Telephone: 03 9242 1249  
Lawyer's Email: jolanta.kowalewska@ags.gov.au  
Facsimile: 03 9242 1333

Annexed and marked **IKL-1** is a copy of the transcripts of the 3 audio recordings prepared on 7 January 2022 by Mr Terrell, Ms Monisse and myself.

Affirmed by the deponent  
at Sydney in the State of New South Wales  
on 7 January 2022.

Before me:

  
.....

.....  
Brooke Griffin

AGS lawyer (within the meaning of s 55I  
of the *Judiciary Act 1903*)

**Annexure IKL-1**

**IN THE FEDERAL CIRCUIT AND  
FAMILY COURT OF AUSTRALIA  
REGISTRY: MELBOURNE**

**NO MLG35/2022**

**NOVAK DJOKOVIC**  
Applicant

**MINISTER FOR HOME AFFAIRS**  
Respondent

This is the document referred to as Annexure IKL-1 in the affidavit of Isobel Kathleen Leonard affirmed at Sydney on 7 January 2022 before me:

.....  .....

AGS Lawyer

TRANSCRIPT OF INTERVIEW PREPARED BY AGS (Part 1 of 3)

12:21 AM, THURSDAY, 6 JANUARY 2022, MELBOURNE

5

SUDHIR R (INTERVIEWER): Interview commenced at 00:21 hours on 6 of the January 2022 at Melbourne Airport. This is a record of interview with R Sudhir position number 60063579, an officer of the Department of Home Affairs, and  
10 Novak Djokovic.

DJOKOVIC: Very good.

INTERVIEWER: Thank you. Now, this interview will be conducted in English,  
15 please confirm you do not require an interpreter and can understand me.

DJOKOVIC: I confirm I can understand.

INTERVIEWER: Thank you. [inaudible] I will [inaudible] your comprehension and  
20 understanding of English and I am satisfied that the interview can be conducted in English. Should you have difficulty at any time during the interview please let me know and an interpreter will be arranged.

DJOKOVIC: Ok.

25

INTERVIEWER: This interview is being recorded by a voice recorder to ensure there is an accurate record of what is said. This room is also under video surveillance for duty of care purposes. Do you object to this interview being recorded?

30 D: I do not.

INTERVIEWER: Thank you. I am now going to caution you that if you provide false or forged documents or false or misleading information you can be prosecuted under Australian laws under s 234 of the *Migration Act* or s 137 of the Criminal Code. You  
35 are now in a Department of Home Affairs workplace and Australian law states that workplaces have to be safe. The workers here must take care of your health and safety. You must also take care of your own health and safety and other people around you. If you know of anything that would affect anyone's health or safety here then you should tell us. I will ask you a number of health related questions. Are you  
40 feeling sick today?

DJOKOVIC: No.

INTERVIEWER: Thank you. Do you suffer from any medical condition requiring  
45 treatment or medication?

DJOKOVIC: No.

INTERVIEWER: Thank you. Are you under the influence of drugs or alcohol?  
50

DJOKOVIC: No.

INTERVIEWER: Thank you. Please tell me if you need to take a break at any time during the interview. I'm going to ask you identification questions now.

5

DJOKOVIC: Yes.

INTERVIEWER: Are you an Australian citizen?

10

DJOKOVIC: No.

INTERVIEWER: Thank you. Are you a permanent, Australian permanent resident?

DJOKOVIC: No.

15

INTERVIEWER: Thank you. Can you please state your full name and date of birth for the voice recorder?

DJOKOVIC: Novak Djokovic 22<sup>nd</sup> of May 1987.

20

INTERVIEWER: Thank you. Are you known by any other names?

DJOKOVIC: No.

25

INTERVIEWER: Now I'm just going to present you a copy of the passport and incoming passenger card. Is this the travel document that you have travelled to Australia on today?

DJOKOVIC: Yes.

30

INTERVIEWER: Thank you. You have completed the incoming passenger card yourself, answered all the questions, and is this your signature?

DJOKOVIC: Yes, yes.

35

INTERVIEWER: Thank you. Do you have any secondary ID like a driver's licence or identity card from your home country?

DJOKOVIC: I, I do have my residence card, do you want me to provide?

40

INTERVIEWER: Yeah, if you've got that handy.

INTERVIEWER: Thank you. I'll make a photocopy of this.

45

DJOKOVIC: Yes.

INTERVIEWER: And we can (inaudible) to you. Do you have any checked in or carry-on luggage?

50

DJOKOVIC: I have one carry-on and two... three checked in.

INTERVIEWER: Thank you. I'm now going to ask you questions about your trip to Australia.

DJOKOVIC: Yes.

5

INTERVIEWER: You do not have to answer these questions if you do not wish to. (inaudible) Any information that you provide will be used to assess whether you will be allowed to enter and remain in Australia.

10 DJOKOVIC: Ok.

INTERVIEWER: This is your opportunity to provide information that will assist me to assist your case.

15 DJOKOVIC: Alright.

INTERVIEWER: So I'm going to ask you what were your reasons for travelling to Australia?

20 DJOKOVIC: I'm a professional tennis player and the main reason for me coming to Australia is participating in the Australian Open in Melbourne, Victoria.

INTERVIEWER: And question regarding your vaccination, are you vaccinated - - -

25 DJOKOVIC: I'm not -

INTERVIEWER: - - - for COVID-19? Not vaccinated?

DJOKOVIC: I'm not vaccinated.

30

INTERVIEWER: Have you ever had COVID?

DJOKOVIC: Yes.

35 INTERVIEWER: So when did you?

DJOKOVIC: I had COVID twice, I had COVID in June 2020 and I had COVID recently in – I was tested positive – PCR – on 16<sup>th</sup> of December 2021.

40 INTERVIEWER: Thank you. Sorry what was the date? 16<sup>th</sup> of December?

DJOKOVIC: 16<sup>th</sup> of December 2021, I have the documents as well to confirm that if you want I can provide – there's a –

45 INTERVIEWER: Thank you. I'll just take a photocopy of this document -

DJOKOVIC: Yes. The PCR tests – this is – yes, this is the positive one on 16 December PCR, 16 December and this is in English it's right on there.

50 INTERVIEWER: Positive.

DJOKOVIC: Yes. And this one is 22<sup>nd</sup> - - -

INTERVIEWER: Yep.

5 DJOKOVIC: - - - and negative.

INTERVIEWER: Negative. So what I'm going to do as I said like I'm just going to make a photocopy of these - - -

10 DJOKOVIC: Yes

INTERVIEWER: - - - test reports and then I'm going to give it back to you.

DJOKOVIC: Sure.

15

INTERVIEWER: Ok. For our records, I keep a copy.

INTERVIEWER: I'm just going to suspend this interview. So this interview has been suspended at 00:29 hours.

20

INTERVIEWER: So the interview's been recommenced 00:35 hours. I'm just going to ask you questions regarding your visa.

DJOKOVIC: Yes.

25

INTERVIEWER: Who did the visa application for you?

DJOKOVIC: Well, the request for the visa was sent by my manager and visa was subject to the possible medical exemption that was issued recently to me.

30

INTERVIEWER: So for the medical exemption which you received, did you provide some kind of documents?

DJOKOVIC: Yes, we did provide documents.

35

INTERVIEWER: Are you aware what sort of documents were provided?

DJOKOVIC: Well I have, I don't have the documents printed out with me, but I have, I can try to find electronically, we did send an email to independent medical panel that was selected by the Federal Australian Government - - -

40

INTERVIEWER: Ok.

DJOKOVIC: - - - to review the requests medical exemption requests that we have sent.

45

INTERVIEWER: So it was selected by Federal Government?

DJOKOVIC: Yes.

50

INTERVIEWER: And that was to review your medical exemption?

DJOKOVIC: As it was brought to my attention that there was two medical panels, one was the Federal one and the other one was I think related to the Victorian state -  
--

5

INTERVIEWER: Ok.

DJOKOVIC: --- and Tennis Australia. And I might be wrong for the second one, I apologise if I am, but I know that there is the medical panel, Federal Government for sure, the second one I think it's a mix between the Victorian Government and Tennis Australia, I'm not 100% sure but I can check.

10

INTERVIEWER: That's fine. So have you got some form of documentation ---

15

DJOKOVIC: Yes.

INTERVIEWER: --- with you documenting the exemption?

DJOKOVIC: Yes. They're all here. This is the visa that was granted. That's the letter from Tennis Australia.

20

INTERVIEWER: So, who did this Australian Travel Declaration application for you?

25

DJOKOVIC: It was the government.

INTERVIEWER: Oh the government? They did it for you?

30

DJOKOVIC: Yes.

INTERVIEWER: Ok.

DJOKOVIC: They provided also, I think it's for official use only, the QR codes ---

35

INTERVIEWER: Yes.

DJOKOVIC: --- I think it's one of the next papers. Obviously everything is in the system so you, I think, electronically can also track and validate.

40

INTERVIEWER: Ok, so this medical exemption pretty much talks about the review panel from, by Tennis Australia, it doesn't talk about Federal Government? But you are sure definitely ---

45

DJOKOVIC: Yes, the process was, yes, the process there was two medical panels -  
-

INTERVIEWER: Ok.

50

DJOKOVIC: --- there was one that was related to the Federal Government for sure.

INTERVIEWER: Ok.

DJOKOVIC: And I actually received the emails from them with the permission. I have an email, actually my agent has the email, so I mean I can ask to electronically provide it to you via email if you want, if you need the additional information,  
5 because they, they told me that this would be sufficient for the review.

INTERVIEWER: Ok. Yeah that's fine, so in case we need it, I'll let you know - - -

DJOKOVIC: Ok.  
10

INTERVIEWER: - - - but not at the moment. We should have these documents, in case we don't have these documents, definitely we should have these documents - - -

DJOKOVIC: Alright.  
15

INTERVIEWER: - - - but in case we don't, I'll take a photocopy of these documents as well.

DJOKOVIC: Alright.  
20

INTERVIEWER: Alright. It was all your manager who did the application - - -

DJOKOVIC: Yes.  
25

INTERVIEWER: - - - exemption, everything for you?

DJOKOVIC: Yes.

INTERVIEWER: Ok. That's fine. Take that away. Thank you. I'm just going to suspend this interview once again. So the interview's been suspended at 00:40 hours.  
30

INTERVIEWER: So the interview is being recommenced at 00:46 hours. Ok. So as far as we know, you know, your medical exemption was not assessed by Federal Government, so yeah, that's what I want to check with you - - -  
35

DJOKOVIC: Yes, so I just checked with my agent and she has provided me with the very document that I have in front of me and here it says that this, that this certificate it is a medical exemption from COVID vaccination and this certificate for exemption has been provided by independent expert medical review panel commissioned by  
40 Tennis Australia and the decision of the panel has been reviewed and endorsed by independent medical exemption review panel of the Victorian State Government - - -

INTERVIEWER: Ok, so - - -

DJOKOVIC: - - - and then based upon that, I received the Federal, Australian Federal Government Department of Home Affairs - - -

INTERVIEWER: Yep, so, when the Australian - - -

DJOKOVIC: - - - travel declaration.  
50

INTERVIEWER: So the Australian Travel Declaration, so previously you said to me that it was done by the government.

5 DJOKOVIC: Yes, well I, I probably made a mistake, it was not the Federal Government, it was the Victorian Government that had selected the independent medical panel that has reviewed together with the Australian Open, and then the Department of Home Affairs has issued the travel document declaration.

10 INTERVIEWER: Yeah, so what I'm trying to gather here with like the Australian travel declaration, who did this application online for you, was it - - -

DJOKOVIC: My agent, my agent. Yes, yes, yes.

15 INTERVIEWER: And she would have provided information based on - - -

DJOKOVIC: That was based on, yes exactly, based on the, this certificate of medical exemption.

20 INTERVIEWER: And so, because previously you stated that you had emails as well from Federal Government saying that - - -

DJOKOVIC: I made a, yes, I apologise and I made a mistake.

25 INTERVIEWER: No - in case you have got the emails, we would like to see those emails.

DJOKOVIC: I will look for the emails and I am asking my agent and I will - so it is a Victorian Department of Health.

30 INTERVIEWER: Ok.

DJOKOVIC: So, I apologise.

35 INTERVIEWER: That's absolutely fine.

DJOKOVIC: Ok.

INTERVIEWER: Alright, and -

40 DJOKOVIC: Yes.

INTERVIEWER: You're requesting an email from?

45 DJOKOVIC: Yes, I'm requesting just for -

INTERVIEWER: That's alright. Ok.

50 DJOKOVIC: I just asked them to send, if there is an email from Federal Government, to send to me. But... this is what was provided to me, because we were, since I am participating in Tennis Australian Open that is run by Tennis Australia, my communication was directly to them because that's what the procedure that has

been, that I have been introduced to, that they have informed me that this is the way to do it. And so I have provided all my PCR, positive, negative tests, my antibodies to them and some additional information and then they have sent it to further to the Victorian independent medical panel, Victorian state government, independent  
5 medical panel. And they have reviewed it with their own Tennis Australian medical panel and Victorian state, so then, as a result of that I was granted to access Australia with a medical exemption permission. That's the whole story basically. And I am checking if there is anything else in regards to the government, Federal Government, but as I had understood from before, the Victorian state government needs to  
10 approve. So, they need to approve, it was basically not up to Federal Government when it comes to my granted access to Melbourne and to Victoria. So that's really up to the state, and that's why the process has been such, included them.

INTERVIEWER: That's absolutely fine, but the thing is you have come to Australia and it is pretty much governed by Federal Government.  
15

DJOKOVIC: This I understand. This I understand. So do you need any additional documents from me?

INTERVIEWER: Yeah, if you are claiming that you did receive emails from Federal Government - - -  
20

DJOKOVIC: Ok.

INTERVIEWER: - - - because, yeah, we want to give you every opportunity to provide as much information as you can.  
25

DJOKOVIC: Alright. Ok so. No we did not get any emails from the Federal Government. This is what we got from the Australian Open player medical team, because they are the organisers of the event, so this is what we got.  
30

INTERVIEWER: Ok, that's fine.

DJOKOVIC: Sorry, I apologise.  
35

INTERVIEWER: That's absolutely fine. Thank you. So I'm just going to suspend this interview once again. So the interview is being suspended at 00:52 hours.  
40

TRANSCRIPT OF INTERVIEW (Part 2 of 3)**RESUMED: 3.55AM**

5 INTERVIEWER: The interview is being commenced at 3.55am. Now, Novak based on the information you have provided to us I am just going to issue you a notice of intention to consider cancellation of your visa. So I'm just going to read out all the information.

10 DJOKOVIC: I don't understand, are you cancelling my visa, or?

INTERVIEWER: This is a notice of intention to consider cancellation under s 116 of the Migration Act 1958. So once I serve this notice to you I will give you like, you know, 20 minutes -- or whatever if you need more time you can request that --  
15 and you need to provide us reasons why we shouldn't cancel the visa.

DJOKOVIC: I mean, I am really failing to understand what else do you want me to provide to you. I have provided all the documents that Tennis Australia and Victorian government has asked me to do in the last three/four weeks, this is what we  
20 have been doing. My agent and I have been in a constant communication through my agent with Tennis Australia and the Victorian state government, the medical panel. They -- whatever they asked us to do -- this is their set of rules they have provided, so they have allowed to have the medical exemption for a COVID  
25 vaccination. I applied, they approved, I just really don't know what else do you want me to say. What -- I just -- I have nothing else -- I arrived here because of these documents otherwise I wouldn't have been allowed to come in. I just really don't understand what is the reason you don't allow me to enter your country -- just I mean, I have been waiting four hours and I still fail to, to understand what's the main reason -- like -- lack of what papers? Lack of what information do you need? Or?  
30

INTERVIEWER: Ah yep, I am just going to read out all of the information to you and I'm going to give you a copy of this as well. So everything is in there. But yeah, I have to go through this process and then the explanation you have given me, I mean, you can give it to me after the timeframe which we give you. The 20 minutes  
35 we have to give you.

DJOKOVIC: So you're giving me legally 20 minutes to try to provide additional information that I don't have? At 4 o'clock in the morning? I mean you kind of put me in a very awkward position where at 4 in the morning I can't call director of  
40 Tennis Australia, I can't engage with anyone from the Victorian state government through Tennis Australia. You put me in a very uncomfortable position. I don't know what else I can tell you. Everything that I was asked to do is here.

INTERVIEWER: Yeah.  
45

DJOKOVIC: And I wouldn't be here sitting in front of you if I wasn't complying to all the rules and regulations set by your government. I just -- I don't know why -- to me it is a little bit shocking that you are -- that you are going to give me a notice to cancel my visa based on what?  
50

INTERVIEWER: Notice -- notice to consider -- like, you know, this is ---

DJOKOVIC: Yes but you're telling me. You know, basically you're putting me in a position where what I can do, what is my answer to that? You're giving me 20  
5 minutes to do what? I tell you right away I have nothing else to tell you. If you can, we wait for 8 in the morning and then I can call Tennis Australia and then we can try and figure this out. But right now? They're all sleeping, I don't know. I mean I just arrived at 1am, I don't know what else I can do at this moment. I know legally  
10 you're following -- it just doesn't make any sense. I have done everything I possibly can. Right now I can call my agent. You -- you told me not to use my phone, so I'm not communicating with anybody, no one knows what's going on. We did everything we possibly can and just I really don't know what else I can tell you in this 20 minutes.

15 INTERVIEWER: Yep ok, so do you think this is not the right time to participate in the interview? And you would be participating in an interview at a later stage? Is that --

DJOKOVIC: I really -- ok -- so I really need to understand from you because you've  
20 been giving me very vague answers, or literally no answers at all, for the last four hours. I mean I have been here with, three times, we suspended the interview, we are recommencing it, now you are coming back with the consideration to cancel, which I don't really understand what it means. And then you telling I have 20 minutes before you make a final call.

25 INTERVIEWER: This is the process we follow, it's a legal process which we have to follow. All the information regarding why we are considering cancelling your --

DJOKOVIC: Can you read it? Can you read me it right, please?

30 INTERVIEWER: I am going to go through this form

DJOKOVIC: Ok

35 INTERVIEWER: And it's in detail, so I'll explain it, like read out everything--

DJOKOVIC: Ok

INTERVIEWER: And I'll give you a copy of it as well for you to read.

40

DJOKOVIC: Alright.

INTERVIEWER: And then yeah, if you have questions, yeah definitely, ask questions.

45

DJOKOVIC: Yes, I have a lot of questions that I have already asked.

INTERVIEWER: Yes, yes most welcome. So I am just going to read out this notice of intention to consider cancellation under section 116 of the Migration Act 1958.

50

DJOKOVIC: Yes.

INTERVIEWER: Family name, Djokovic. Given names, Novak. Date of birth 22<sup>nd</sup> of May 1987. Nationality Serbia. Country of birth Serbia.

5 Possible grounds for cancellation. It has come to my attention, as a delegate of the  
Minister for Home Affairs and Minister for Immigration and Border Protection, that  
there appear to be a ground for cancellation of your subclass GG408 visa granted on  
18 November 2021, relying on a ground at s 116(1)(e)(i). You arrived at Melbourne  
airport as the holder of subclass GG408 temporary activity visa. This visa allows  
10 entry into Australia to participate in Australian open tennis tournament. During an  
interview with the Australian Border Force officer you have stated you are not  
vaccinated against COVID-19. You have also provided a copy of medical exemption  
issued by Tennis Australia. This medical exemption was issued on the grounds that  
the visa holder has recently recovered from COVID-19. Under the Biosecurity Act  
15 2015, there are requirements for entry into Australian territory. These requirements  
include that international travellers make a declaration as to their vaccination status  
(vaccinated, unvaccinated, or medically contraindicated). Travellers may make a  
declaration that they have a medical contraindication and must provide evidence of  
that medical contraindication provided by their medical practitioner. Previous  
20 infection with COVID-19 is not considered a medical contraindication for COVID-  
19 vaccination in Australia.

Unvaccinated persons create a greater health risk of contracting COVID-19 and  
spreading COVID-19 to others, either of which will further burden the Australian  
25 health system.

DJOKOVIC: You tell me that. I'm sorry to interrupt but that's not true. I have been  
this -- this is what we -- this is what the independent medical panel of Victorian state  
government has stated explicitly that they -- that if you have recovered or if you have  
30 the positive test of coronavirus and negative test of coronavirus in the last six months  
and you have a sufficient amount of antibodies, you're considered to be part of the  
process of getting a medical exemption. That's how I got it. I communicated  
directly with the Victorian state government, that's absolutely not true. I -- I -- we  
directly communicate with them and they ask me, I actually have to come back with  
35 antibodies, so that's what, this is, these are the tests that we have been provided to  
them. And we have emailed that test, I provided it to you, you, you've read it, it's  
directly from the Victorian state independent medical panel.

INTERVIEWER: Yes that's what I have noted, like, any medical exemption issued  
40 by Tennis Australia and Victoria.

DJOKOVIC: It's not only Tennis Australia, it's Tennis Australia medical panel and  
independent Victorian state medical panel. It's two, it's not only Tennis Australia,  
45 it's your state's medical panel that has approved that where I am at the moment.

INTERVIEWER: Victorian state medical panel, yep --

DJOKOVIC: Victorian state medical panel has approved my request for medical  
exemption and then they've sent it to the federal government and the federal  
50 government send this -- which is a travel declaration.

INTERVIEWER: Travel declaration.

DJOKOVIC: So it's, what you've been reading to me right now, is absolutely not accurate.

5

INTERVIEWER: Now this one is Biosecurity Act 2015, so this is like uh federal government act -- so I am not sure this is something we will look into -- as I said, let me read this out --

10 DJOKOVIC: Okay.

INTERVIEWER: And then if you want to --

DJOKOVIC: Alright. Ok.

15

INTERVIEWER: A copy of the relevant section of the Biosecurity Act 2015 is attached for your reference. The information you have provided does not show a medical contraindication to COVID-19 vaccines or evidence of that provided by a medical practitioner.

20

Unvaccinated persons create a greater health risk of contracting COVID-19 and spreading COVID-19 to others, either of which will further burden the Australian health system. Ensuring unvaccinated persons do not enter Australia is a key mechanism through which the Australian Government has slowed the spread of COVID-19 within the Australian community.

25

All visa holders, whether permanent or temporary are expected to abide by all public health directives issued by both Commonwealth and state and territory jurisdictions. A breach of these directions is considered a potential risk to the health, safety or good order of the Australian community.

30

Subject to section 116(1) of the Migration Act 1958, the Minister may cancel a visa if he or she is satisfied that the presence of its holder in Australia is or may be, or would or might be, a risk to the health, safety or good order of the Australian community or a segment of the Australian community.

35

Based on the information -- above information -- I am satisfied there appears to be a ground to consider cancelling your subclass GG-408 visa, due to you presenting a risk to the health, safety or good order of the Australian community or a segment of the Australian community. The ground is that, the Minister may cancel a visa if he or she is satisfied that if its holder has not entered Australia or has so entered but not has been immigration cleared it would be liable to be cancelled under Section 116(1)(e)(i) of the Migration Act 1958.

40

45 Biosecurity Act 2015 reference. (3) For the purposes of paragraph (2)(a), the declaration is a declaration of which of the following paragraphs apply to the individual -- the individual (i) has received a course of vaccinations with one or more accepted COVID-19 vaccines in accordance with a schedule for receiving that course of vaccinations that is accepted by the Therapeutic Goods Administration; and (ii)  
50 received the last vaccination in the course of vaccinations at least 7 days before the day the relevant international flight was scheduled to commence; and (iii) can

50

produce evidence of the matters mentioned in subparagraphs (i) and (ii); (b) the individual (i) has a medical contraindication to COVID-19 vaccines; and (ii) can produce evidence provided by a medical practitioner of the matter mentioned in subparagraph (i); neither paragraph (a) nor (b) applies to the individual.

5

So I give a copy of that to you.

10 The Migration Act 1958 gives you the opportunity to comment on the intention to consider cancellation of your visa and to give reasons why your visa should not be cancelled. Your comments could include why grounds for cancellation do not exist or why you should -- why your visa should not be cancelled.

15 You are provided -- you are invited to provide your comments at the interview. Interview will be held on 6<sup>th</sup> of Jan 2022 at Melbourne airport. If you choose not to comment, the delegate may make his/her decision based on the information available to them. If your visa is cancelled you may be refused immigration clearance. You may also be detained and removed from Australia as an unlawful non-citizen under section 189 of the Migration Act 1958. The visas of any dependants may also be cancelled.

20

If your visa is cancelled, you may become subject to an exclusion period. If you are subject to an exclusion period as a result of a visa cancellation, you may be prevented from being granted various types of visas for a period of up to 3 years. You may also be prevented from making a valid application for certain classes of visa while in Australia.

25

If a decision is made not to cancel your visa you will be immigration cleared and allowed to enter Australia.

30 Except in the case of consideration of cancellation of a visa under regulation 2.43(2), factors the delegate may take into consideration in making a decision whether to cancel your visa include (but are not limited to) the following: the purpose of your travel to Australia; extent of compliance with the conditions of your visa; the degree of hardship which may be caused to you or your family (as per the Convention on the Rights of the Child, the best interests of any child in Australia under 18 years of age will be considered); the circumstances in which the ground for cancellation arose; your behaviour in relation to the department, now and on any previous occasion; whether there are mandatory legal consequences to a cancellation decision.

35

40 So just, the intention, the notice of intention to consider cancellation under s 116 of the Migration Act 1958. I'm just going to sign it here. Sign it at 4.11. If you want to sign it?

45

DJOKOVIC: Well, I would not want to sign this document unless I have some answers to my questions.

INTERVIEWER: Alright, yes, that's fine.

50 DJOKOVIC: Because I have been notified thank you for that but as I told you Mr Rughiv I really don't understand how come in your system you don't have the information that if you have encountered Covid and been positive on Covid in the

last six months and have the sufficient amount of antibodies and a negative test which I all provided, you are granted to access the country.

5 I just -- I am really confused -- because this is what I have been getting from official  
Tennis Australia and Victorian government medical panels for the last three weeks  
and four weeks. So I don't know really what to do at 4am. If you allow me to  
switch on my phone and make a call to my agent and try and get a hold of people  
from Tennis Australia cause it's 4am, obviously everyone is sleeping but this is the  
10 only thing I can do right now, because I really don't have anything else to provide to  
you in terms of the paperwork cause this is the focus point of why I'm here is exactly  
what I have provided to you. What you've read to me is simply not something that  
has been communicated to me, so I really am a little bit surprised that I am in this  
situation because how am I supposed to even come to Australia if I didn't have these  
documents which are official documents. I need your assistance, I'm sure that you  
15 have the tests that or I'm sure that you have confirmed that I'm in the system that I  
have been approved to have the medical exemption. So the test -- my question is  
how come you don't have in the system the Covid 6 months regulation for the  
medical exemption?

20 INTERVIEWER: So you are telling me that the medical panel --

DJOKOVIC: Yes, Victorian exemption.

INTERVIEWER: So it's fine -- the 6 month thing -- it's fine -- and you will be  
25 exempted to come to Australia.

DJOKOVIC: Yes, exactly.

INTERVIEWER: So, and that's what I have been trying to explain to you. Like, it's  
30 fine if that's what they've said. Like coming to Australia, it's a federal thing.  
Federal government controls the ports.

DJOKOVIC: Okay.

35 INTERVIEWER: Right. So I previously I tried to explain you as well and that's  
why I gave you opportunity to provide me any correspondence which was sent by  
Victorian tennis authorities to the federal government.

40 DJOKOVIC: But I can't provide you that if I have no opportunity to speak with  
them?

INTERVIEWER: Yep

45 DJOKOVIC: I have not had right, I don't have any right, because that's the  
communication happening between tennis Australia, Victorian government and the  
federal government. Me I was -- well me and my agent -- we were instructed that we  
can only communicate with Tennis Australia and that's it. And that's how we  
requested what we requested and that's the only avenue that we took so right now if  
you allow me to make a call and try and, you know, do something about it. I will ask  
50 my agent if she has some kind of correspondence or can get someone from Tennis  
Australia to provide what you're looking for, but I mean when I spoke to her last this

document here is what she told me that this is the, from the Australian travel declaration, home affairs government Australia, so that's the federal government, sent it to my agent with a QR code which Australia travel has been assessed. So basically they have received all the documentation from the Victorian state government, that by the way we did not selectively, individually choose to, to address it to the Victorian government, that was the procedure, we had to respect that, and comply with it, and that's what the Tennis Australia told us to do, so we sent all the documentation to Tennis Australia, medical documentation. They sent it to Victorian state government. First they review it within their own independent medical panel within the Tennis Australia, then they send it to independent medical panel of Victorian state government. Both of these panels approved, and then Victorian state government has communicated further with the federal government and federal government has reviewed all of the medical documentation and accepted it and granted me the access to your country, this is how I'm here. I mean, I just, I don't know what other approval do I need more to provide to you, cannot you not call someone in the federal government to provide this information, or --

INTERVIEWER: When I asked you about the question about Australian travel declaration, who did the application for you, previously you said it was your manager who did the application for you. So -- and when I asked you what kind of documents were provided -- you said the manager would know that -- am I right?

DJOKOVIC: No, no, no. No, no no. You, you again, I mean ---

INTERVIEWER: See the way it works -- I -- what I'm getting is like your manager would have given the exemption letter which was provided by Victoria --

DJOKOVIC: No sir, no sir.

INTERVIEWER: And tennis Australia with this application.

DJOKOVIC: Sir, just to confirm again. And I'm sorry, my manager on my own behalf has communicated only with Tennis Australia, no one else. But because the procedure was such, selected or stated or determined by the federal government and Victorian state government, they've told us that this document coming from the federal state government -- federal government of Australia -- which is the document for travel documentation will come directly on her email. This is what happened. This is the only communication we've had with the foreign government. We have communicated only to tennis Australia, provided them every document that they asked for. They provided to the independent panel -- independent medical panel -- and then the Victorian state government taken all the documentation from us, from the tennis Australia, from them, and sent it to the federal government, and then the federal government said okay, fine, access granted, travel declaration, QR code, you are free to go.

INTERVIEWER: Okay.

DJOKOVIC: And this is -- otherwise I wouldn't be flying here. There's absolutely no way I would put myself in a position to come and sit here with you and it would definitely -- I mean -- it would come to my attention or my agent or the team of people around me that the six months Covid regulation was not in place. It was

absolutely in place. And I'm sure there is a way to check that, whether it is with the federal government, or Victorian government, whether it's with tennis Australia, whatever I can do to provide I will. Because I mean I made it all the way to Australia because they all made it, you know, very clear and certain to me that I have  
5 all the documentation that I possibly can provide to you.

INTERVIEWER: That's fine, but I need to go through this properly, and so, that's fine if you don't want to sign it, but I will still, I will make a photocopy of it, I will give it to you, so I'm just going to say you're not going to sign.  
10

DJOKOVIC: So can you just explain to me whether you allow me to acquire more information through my phone with my agent?

INTERVIEWER: So not at this stage, once I finish this interview I will come back and I will let you know.  
15

DJOKOVIC: Okay.

INTERVIEWER: And like I said, if you need more time, like if you think this is not the right time to participate in the interview because you are not able to get in touch with Victorian tennis or the Victorian government --  
20

DJOKOVIC: Yes

INTERVIEWER: That's fine, we are more than willing to give you, but you know, I'll speak to my bosses, and yeah --  
25

DJOKOVIC: I mean, it's 4am, I don't know what I can do

INTERVIEWER: Yeah exactly.  
30

DJOKOVIC: I guess at 8am or 7.30 or 8am I will be able, I will be able to get a hold of someone at Tennis Australia, not someone, the director of Tennis Australia, I mean, I mean, through my agent, we can call, we can get them to engage, and that  
35 they are the ones that have the contact of the medical panel, the Victorian state government. I don't have, as I said, I repeat, neither myself or anybody who's in my team, my agent, has communicated directly to neither federal nor the Victorian state government, only to tennis Australia, they're the ones who have been communicated further, so that's all I can state right now. And I mean if you give me more time I  
40 can do something, but you know I don't know why, I can't do anything at this moment, unless I have my phone on and I can start calling my agent and people and I don't know, maybe we can wake someone up and try to get something.

INTERVIEWER: As I said, I will have to speak with my bosses and check on that.  
45

DJOKOVIC: Okay.

INTERVIEWER: But at this stage, if you're not willing to sign, that's fine, no issues. I'm just going to write you did not sign. And just going to put a time in here because  
50 we have to give you a minimum of ten minutes but if you request more, yeah, that's fine, and in the meantime --

DJOKOVIC: It would be great if you can in the meantime get approval if I can give somebody a call, I mean I can speak in front of you, it is no problem, I will not contact anybody else.

5

INTERVIEWER: Yes, now that's fine [inaudible]. So -- Okay. This is... Okay, so I'm just going to suspend this interview -- the interview is being suspended at 4.23am.

10 INTERVIEWER: So the interview is being recommenced at 4.32am. So in regards to using the phone, yeah that's fine, can use the phone and yep, call whoever you want to, and then I'm going to give you like, 20 minutes and then I will come back and speak with you. The interview is being suspended at 4.33am.

15 INTERVIEWER: So the interview is being recommenced at 5.20am. Okay - I have already served you with the notice of intention to consider cancellation and at the moment you need -- what have you have advised me is that you need rest and up to 8/8.30. And that's when you would be able to talk to your solicitor again.

20 DJOKOVIC: Yes.

INTERVIEWER: And get some more information. So that's absolutely fine, I have spoken with my supervisors and they're more than happy to allow you have to rest. So any more questions?

25

DJOKOVIC: No, no more questions for now.

INTERVIEWER: So what's going to happen now, because I'm going to be finishing my shift, so this case is going to be handed over to another team. Another case officer is going to come out, and speak to you. They'll introduce themselves and take it from there.

30

DJOKOVIC: Right now, or?

35 INTERVIEWER: Later. Because by that time I'll be finishing off.

DJOKOVIC: Alright:

INTERVIEWER: Okay, so just to let you know. Thank you. I'm just going to suspend this interview. The interview is being suspended at 5.22am.

40

[UNKNOWN SPEAKER: [Inaudible]]

INTERVIEWER 2: Do you want to just come up to this other room for a minute?

45

DJOKOVIC: Sure, sure, sure.

INTERVIEWER: So the interview is being commenced at 6.07am.

50 INTERVIEWER 2: Alright, alright Novak, so you mentioned before that you wanted 15 minutes to decide if you wanted to respond now or wait later.

DJOKOVIC: Yes.

5 INTERVIEWER 2: So you've mentioned that you want, that you didn't want to proceed with the interview now?

DJOKOVIC: I wanted to postpone it to 8.30 if possible, yes.

10 INTERVIEWER 2: Look if you -- you also mentioned earlier that you didn't really have anything else you could add.

DJOKOVIC: But maybe I will have something in a few hours.

15 INTERVIEWER 2: Ok, if you don't respond then a decision might be made based on the information that's at hand now.

DJOKOVIC: Ok so you want to make a decision now.

20 INTERVIEWER 2: Yeah, it's possible yeah, that decision can be made based on the information that we already have, which if you don't respond it's not going to be --

DJOKOVIC: Yeah --

25 INTERVIEWER 2: Potentially the full --

DJOKOVIC: I know you're going to cancel my visa, it's obvious. But what does that mean, in terms of, excuse me, me staying here and waiting for the lawyers to engage with --

30 INTERVIEWER 2: At the airport? Do you mean staying at the airport?

DJOKOVIC: Yes because I'm not allowed to -- just to wait for another two or three hours to see whether or not they can do something, now that's the whole idea.

35 INTERVIEWER 2: So look, if your visa would be cancelled you wouldn't stay here, you would go to a hotel in the city.

DJOKOVIC: Oh okay, so I would go to the hotel.

40 INTERVIEWER 2: Yeah, in the city.

DJOKOVIC: Okay.

45 INTERVIEWER 2: You wouldn't be staying here at the airport.

DJOKOVIC: But that hotel? Is it like a Covid hotel?

50 INTERVIEWER 2: No, it's, I don't know the name of it, it's, because if someone is refused entry into the country and currently at the moment we're not putting them into immigration detention centre, so the, I'm guessing the department has contracted

with the hotel to allow people in, you know, refused entry to the country to stay at the hotel there.

5 DJOKOVIC: So does that mean I can take my bags with me?

INTERVIEWER 2: Yes, you can but, Serco -- you probably wouldn't have full access to. You'd have to ask Serco.

10 DJOKOVIC: Yes, yeah.

INTERVIEWER 2: You'd need to ask the company that's contracted to -- you wouldn't have someone from the Australian border force at the hotel with you --

15 DJOKOVIC: No, no I understand

INTERVIEWER 2: But the company called Serco that manage that process, you'd need to ask them what their rules are about --

20 DJOKOVIC: So you'd cancel my visa, I'd be escorted to the hotel.

INTERVIEWER 2: if your visa was cancelled, you'd be escorted to the hotel by Serco.

25 DJOKOVIC: By Serco, ok. From here.

INTERVIEWER 2: Yeah

DJOKOVIC: And then I'd have to wait in the hotel until, for the notice.

30 INTERVIEWER: Yeah so what's going to happen is then we'll inform the airline, like only in case the decision gets made to cancel the visa,

DJOKOVIC: Okay

35 INTERVIEWER: So once you'll go to the hotel,

DJOKOVIC: Yep

40 INTERVIEWER: Which is where you're going to be staying, we'll inform the Serco, we'll inform the airline, and yeah, whenever it is like suitable, they'll find a ticket for you, or like, to fly back, they'll let us know, we'll let the Serco know, and then you'll come back.

45 INTERVIEWER 2: But in the meantime --

DJOKOVIC: I can stay there.

INTERVIEWER 2: You can stay there, and you do what you need to do with your legal representatives.

50

DJOKOVIC: Okay, okay. Fine I have nothing to add then to the process, I mean I will just, I mean I can write on the document, what I told the both of you, if you want

–

5 INTERVIEWER 2: There are some questions about what hardship it would cause you, and any complications to you -- look it's probably in your favour if you did let Sudhir ask you the questions. But, you know, if you want to say you don't want to respond, or you have nothing further that you want to add, that's your right --

10 DJOKOVIC: I mean you, you can ask me questions regarding the process, I mean it's not an issue, I can go through that, I don't know what the questions are.

INTERVIEWER: First thing is like, I just wanted to see if, what's your response to the NOIC, notice of intention to cancel, so do you have anything to say, why the visa shouldn't, why shouldn't we consider cancelling the visa?

DJOKOVIC: As I said before, I just, what I can say is, I'm surprised that there is insufficient information on the very reason why I was granted the medical exemption by Victorian state independent medical panel which confirmed that I have fulfilled the criteria to enter Australia based on, based on the criteria which they have imposed which is not on the paper that you read to me and that is if you had encountered or had a positive Covid PCR test in the previous six months, and you can provide the negative PCR test and the sufficient amount of antibodies, then you are granted access and that's exactly what happened in the whole process. So we provided -- I provided medical documentation of 16 November, I was positive on PCR test covid-19, 22<sup>nd</sup> I was negative. I sent the blood analysis from my antibodies and had a sufficient amount and I was granted the access to Australia and I received that documentation that supported my medical exemption and travel declaration coming from the federal government.

30 INTERVIEWER: Okay. Is there anything else you'd like to add?

DJOKOVIC: No.

35 INTERVIEWER: No, that's fine. I'm just going to suspend this interview now. The interview is being suspended at 6.14am, okay.

**SUSPENDED 06:14AM**

40 **TRANSCRIPT OF INTERVIEW (Part 3 of 3)**

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**RESUMED 07:38AM**

45 INTERVIEWER: The interview is being commenced at 7:39 a.m.

Ok, so what I'm gonna do, I'm just going to read out the decision so this is a notification of the decision, ok.

50 Djokovic Novak today on sixth of January 2022, you were notified of an intention to consider cancelling you subclass GG408 visa, granted on eighteenth of November

2021, under section 116 of the Migration Act 1958. You responded to the notice of intention to consider cancelling the visa, refer to Item 5 and Item 8 Part B for details of your response. Your comments have been taken into account in making this decision. I'm satisfied there are grounds for visa cancellation under section  
5 116(1)(e)(i). Please refer to the reverse of pages 1, 2, and 3 for reference to the relevant legislation. Where the Minister can cancel a visa under subsec- - -  
subsection 116(1) of the Act, the Minister must do so if there exists prescribed circumstances in which the visa must be cancelled. See subsection 116(3) of the Act  
10 and the prescribed circumstances in sub regulation 2.43(2) of the Migration Regulations 1994 and refer to reverse of page 3.

After weighing up all the information available to me, I was satisfied that grounds for cancelling your visa outweighed the reasons for not cancelling. A copy of the  
15 Department's Decision Record is attached. Your visa, ahh, has been cancelled on sixth of January 2022. As your visa has been cancelled, you may be refused immigration clearance. You may also be detained and removed from Australia as an unlawful non-citizen under section 189 of the Migration Act 1958. Where your visa is evidenced in your passport, it will be stamped inoperative due to the cancellation. Note: the decision to cancel is not merits reviewable under the Migration Act 1958.  
20 Other relevant agencies will be advised that your visa has been cancelled. Um, so this is the notification and the time is, um, 7:42 a.m. Um, up to you, your choice if you wish to sign - - -

MR DJOKOVIC: No.

25

INTERVIEWER: No?

MR DJOKOVIC: Mm - - -

30 INTERVIEWER: That's fine - - - um, I'm just gonna invite another officer into the room. Um - - -

MR DJOKOVIC: - - - yeah - - -

35 INTERVIEWER: - - - and she's gonna detain you.

DETAINING OFFICER: Hello.

MR DJOKOVIC: Hello.

40

DETAINING OFFICER: Is that - - -

INTERVIEWER: Yeah

45 DETAINING OFFICER: Over here - - - (??)

INTERVIEWER: This is Officer Beck. Ah, - yeah, she's gonna introduce herself.

DETAINING OFFICER: Okay - - - so Mr Novak Djokovic - - -

50

MR DJOKOVIC: - - - yes - - -

5 DETAINING OFFICER: My name is Beck, I'm an officer of the Australian Border Force. It has come to my attention that you are an unlawful non-citizen in Australia. Therefore, I am detaining you under section 189(1) of the Migration Act of 1958 at - -

INTERVIEWER: - - - 7:43 - - -

10 DETAINING OFFICER: at 07:43 hours on the sixth of January 2022. Now I'll leave you with my colleague.

INTERVIEWER: Thank you.

15 DETAINING OFFICER: Thank you.

INTERVIEWER: As part of this process we have to offer you consulate access. Um. Do you need contact details of the consulates – Serbian consulate, or - -

20 MR DJOKOVIC: Errm- - - if you have the details, yes.

INTERVIEWER: Yep, ok.

MR DJOKOVIC: If you could provide this- - -

25 INTERVIEWER: Ok, sure- - -

MR DJOKOVIC: Yeah- - -

30 INTERVIEWER: I'll provide you- - - I will get you all the details uh

MR DJOKOVIC: Yeah- - -

INTERVIEWER: - - - email address and telephone number- - -

35 MR DJOKOVIC: - - - okay- - -

INTERVIEWER: - - - and then you can speak to them. Do you have any questions?

40 MR DJOKOVIC: Ah, just regarding the next step am I going to be escorted to a hotel? Or what is the- - -

INTERVIEWER: Yep- - -

45 MR DJOKOVIC: - - -next step?

INTERVIEWER: Yeah so- - - the next step is gonna be you would be escorted to a hotel- - -

50 MR DJOKOVIC: Okay- - -

INTERVIEWER: - - - ah, that's where you will stay, and then inform the airline, and once we get some more information, SERCO it's another agency who takes care of it, they'll inform you and then they'll bring you back to the airport- - -

5 MR DJOKOVIC: Okay- - -

INTERVIEWER: And yeah, we'll take it from there.

10 MR DJOKOVIC: Okay. Which airline are you- - - because I, do I have any, decision in where I'm gonna go or- - - travel? Because I can buy my own ticket to go back.

INTERVIEWER: Yeah- - - that- - - that's right. Pretty much the way it works whichever airline you flew with, we'll inform them and it's their responsibility. So you came with, with e- - -

15

MR DJOKOVIC: Emirates, yeah- - -

INTERVIEWER: - - - that's - - -

20 MR DJOKOVIC: - - - so will go back to Dubai.

INTERVIEWER: Yeah so, yeah so we get in touch with Emirates- - -

MR DJOKOVIC: okay- - -

25

INTERVIEWER: and they're the ones who - - -

MR DJOKOVIC: Okay.

30 INTERVIEWER: We tell them that.

MR DJOKOVIC: Alright, so do I leave now like- - -

35 INTERVIEWER: Yep. So if your- - - if you don't have any more questions, yeah, I'll just cease this interview- - -

MR DJOKOVIC: Okay.

40 INTERVIEWER: Alright, so the interview is being ceased at 7:45 a.m. on sixth of January 2022.

**CEASED 07:45 AM**

## ATD for Novak Djokovic

## Health Survey

## Trip Information

1. Are you an Australian citizen, permanent resident or immediate family member?

Yes  No

1.1. Enter your intended length of stay in Australia.

27

2. Have you travelled, or will you travel, in the 14 days prior to your flight to Australia?

Note: Giving false or misleading information is a serious offence. You may also be liable to a civil penalty for giving false or misleading information.

Yes  No

3. Phone number while you are outside Australia:

[REDACTED]

4. Email contact details when outside Australia:

[REDACTED]

5. Are you transiting through Australia to another country?

No

5.4. Provide your address in Australia - street number & name:

Street Address

[REDACTED]

City/town

[REDACTED]

State

[REDACTED]

Zip/Postcode

[REDACTED]

Country

Australia

5.5. Phone number in Australia.

Note: This is an essential requirement. Your phone number may be used by health authorities to contact you should that be necessary.

[REDACTED]

5.6. Alternative phone number in Australia:

[REDACTED]

5.7. Email contact details when in Australia:

[REDACTED]

5.8. Within 14 days after arriving in Australia, or within 14 days after leaving quarantine, do you intend to travel to another state?

Yes  No

6. Before you travel to (or transit through) Australia, you must present a negative COVID-19 test when checking in for your flight, unless you are exempt. The COVID-19 Polymerase Chain Reaction (PCR) test must be taken 3 days or less before you depart for Australia. To find out if you are exempt or for more information, go to: [Coronavirus \(COVID-19\) FAQs for international travellers to Australia | Australian Government Department of Health](#) Click 'Yes' to acknowledge you understand this requirement.

7. Has a doctor ever told you that you had COVID-19, or have you ever tested positive for COVID-19?

Yes  No

7.1. Provide the month and year of diagnosis

7.2. What country were you in when you had COVID-19?

7.3. Do you have any evidence to show your positive COVID-19 test result? (If yes, bring your evidence with you when you travel).

Yes  No

8. Have you ever received a COVID-19 vaccine?

Yes  No

9. Please provide your vaccination status. I declare I am fully vaccinated with an [Australian approved or recognised COVID-19 vaccine](https://www.passports.gov.au/guidance-foreign-vaccination-certificates). [https://www.passports.gov.au/guidance-foreign-vaccination-certificates]. I have evidence to support this. My last dose of the vaccine was at least 7 days before the day my flight is scheduled to commence.

Yes  No

9.1. I am under 18 years of age and not fully vaccinated.

Yes  No

9.1.1. I declare **I cannot be vaccinated for medical reasons** See [Proof of medical exemption when coming to Australia](https://www.homeaffairs.gov.au/vaccinated-travellers#toc-6) [https://www.homeaffairs.gov.au/vaccinated-travellers#toc-6]. I have medical proof to support this.

Yes  No

9.1.1.1. Upload proof that you are unable to be vaccinated for medical reasons. (Valid proof includes a medical certificate, your Australian COVID-19 digital certificate or immunisation history statement.) You will be required to present this at check-in.

[3416 medical exemption from covid vaccination novak djokovic.pdf](#)

10. Which state or territory quarantine arrangement applies to you on arrival in Australia?

Note: You must comply with public health requirements, including post-arrival testing and quarantine requirements in the state or territory of your arrival, and any other state or territory that you plan to travel to. Detailed information is available at [Quarantine](https://www.australia.gov.au/quarantine) [https://www.australia.gov.au/quarantine].

Warning: Penalties apply for breaches of state and territory health orders.

11. Are you experiencing any symptoms of COVID-19, such as fever, sore throat or a cough?

Yes  No

12. Have you, or anyone you are travelling with, been in contact with a known case of COVID-19 in the last 14 days?

Yes  No

Medical exemption certificate attached

**Medical exemption from COVID vaccination**

30<sup>th</sup> December 2021



**Name: NOVAK DJOKOVIC**  
**DOB: [REDACTED]**  
**Country of birth: Republic of Serbia**  
**Passport number: [REDACTED]**

To whom it may concern,

Mr Novak Djokovic has been provided with a medical exemption from COVID vaccination on the grounds that this individual has recently recovered from COVID.

The date of the first positive COVID PCR test was recorded on the 16/12/21 and it has now been more than 14 days since the first positive PCR test. Mr Djokovic has not had a fever or respiratory symptoms of COVID-19, in the last 72 hours

This temporary exemption is valid until 16/5/22.

This certificate for exemption has been provided by an Independent Expert Medical Review panel commissioned by Tennis Australia. The decision of the panel has been reviewed and endorsed by an independent Medical Exemptions Review Panel of the Victorian State Government. The conditions of the exemption are consistent with the recommendations of the Australian Technical Advisory Group on Immunisation (ATAGI).

Yours sincerely,

Dr Carolyn Broderick MBBS, FACSEP, PhD  
Chief Medical Officer, Tennis Australia & Australian Open

**Independent Expert Medical Review Panel**

[REDACTED]

MBBS, B.Med.Sci., FRACP, FFTM (RCPS Glasgow) FISTM, PhD  
Professor of Infectious Diseases and Virology  
*COVID Advisor: Healthscope, Epworth Health, AFL, Tennis Australia, ICC, FIBA*

[REDACTED]

MBBS, MA (Bioinf), FRACP, PhD  
Infectious Disease Physician  
*COVID Advisor: Epworth Health, Tennis Australia*

FCR Form 59

## AFFIDAVIT

IN THE FEDERAL CIRCUIT AND  
FAMILY COURT OF AUSTRALIA  
REGISTRY: MELBOURNE

NO MLG35/2022

**NOVAK DJOKOVIC**

Applicant

**MINISTER FOR HOME AFFAIRS**

Respondent

Name of deponent: Isobel Kathleen Leonard

Date affirmed: 7 January 2022

I, Isobel Kathleen Leonard, of Level 10, 60 Martin Place, Sydney in the State of New South Wales, lawyer, affirm:

1. I am an AGS lawyer (within the meaning of s 55I of the *Judiciary Act 1903* (Cth)) and I am assisting Mr David Brown who has carriage of this matter on behalf of the respondent.
2. I make this affidavit from my own knowledge.
3. On 7 January 2022, the Department of Home Affairs sent to AGS, by electronic drop box, 3 audio files titled:
  - 3.1. Interview Audio Part 1 of 3 – Djokovic – Novak – 22 05 1987 – SERBIA (SERB) – Male – 90470082110.WMA
  - 3.2. Interview Audio Part 2 of 3 – Djokovic – Novak – 22 05 1987 – SERBIA (SERB) – Male – 90470082110.WMA
  - 3.3. Interview Audio Part 3 of 3 – Djokovic – Novak – 22 05 1987 – SERBIA (SERB) – Male – 90470082110.WMA
4. On the same day, I transcribed the audio files with the assistance of my AGS colleagues Rian Terrell and Marian Monisse.



Filed on behalf of the First Respondent  
Minister for Immigration and Border Protection  
Prepared by: David Brown  
AGS lawyer within the meaning of s 55I of the *Judiciary Act 1903*  
Address for Service:  
The Australian Government Solicitor  
Level 34, 600 Bourke Street, MELBOURNE VIC 3000  
jolanta.kowalewska@ags.gov.au

File ref: 22000117

Telephone: 03 9242 1249  
Lawyer's Email: jolanta.kowalewska@ags.gov.au  
Facsimile: 03 9242 1333

Annexed and marked **IKL-1** is a copy of the transcripts of the 3 audio recordings prepared on 7 January 2022 by Mr Terrell, Ms Monisse and myself.

Affirmed by the deponent  
at Sydney in the State of New South Wales  
on 7 January 2022.

Before me:

  
.....

.....  
Brooke Griffin

AGS lawyer (within the meaning of s 55I  
of the *Judiciary Act 1903*)

**Annexure IKL-1**

**IN THE FEDERAL CIRCUIT AND  
FAMILY COURT OF AUSTRALIA  
REGISTRY: MELBOURNE**

**NO MLG35/2022**

**NOVAK DJOKOVIC**  
Applicant

**MINISTER FOR HOME AFFAIRS**  
Respondent

This is the document referred to as Annexure IKL-1 in the affidavit of Isobel Kathleen Leonard affirmed at Sydney on 7 January 2022 before me:

.....  .....

AGS Lawyer

TRANSCRIPT OF INTERVIEW PREPARED BY AGS (Part 1 of 3)

12:21 AM, THURSDAY, 6 JANUARY 2022, MELBOURNE

5

SUDHIR R (INTERVIEWER): Interview commenced at 00:21 hours on 6 of the January 2022 at Melbourne Airport. This is a record of interview with R Sudhir position number 60063579, an officer of the Department of Home Affairs, and  
10 Novak Djokovic.

DJOKOVIC: Very good.

INTERVIEWER: Thank you. Now, this interview will be conducted in English,  
15 please confirm you do not require an interpreter and can understand me.

DJOKOVIC: I confirm I can understand.

INTERVIEWER: Thank you. [inaudible] I will [inaudible] your comprehension and  
20 understanding of English and I am satisfied that the interview can be conducted in English. Should you have difficulty at any time during the interview please let me know and an interpreter will be arranged.

DJOKOVIC: Ok.  
25

INTERVIEWER: This interview is being recorded by a voice recorder to ensure there is an accurate record of what is said. This room is also under video surveillance for duty of care purposes. Do you object to this interview being recorded?

30 D: I do not.

INTERVIEWER: Thank you. I am now going to caution you that if you provide false or forged documents or false or misleading information you can be prosecuted under Australian laws under s 234 of the *Migration Act* or s 137 of the Criminal Code. You  
35 are now in a Department of Home Affairs workplace and Australian law states that workplaces have to be safe. The workers here must take care of your health and safety. You must also take care of your own health and safety and other people around you. If you know of anything that would affect anyone's health or safety here then you should tell us. I will ask you a number of health related questions. Are you  
40 feeling sick today?

DJOKOVIC: No.

INTERVIEWER: Thank you. Do you suffer from any medical condition requiring  
45 treatment or medication?

DJOKOVIC: No.

INTERVIEWER: Thank you. Are you under the influence of drugs or alcohol?  
50

DJOKOVIC: No.

INTERVIEWER: Thank you. Please tell me if you need to take a break at any time during the interview. I'm going to ask you identification questions now.

5

DJOKOVIC: Yes.

INTERVIEWER: Are you an Australian citizen?

10 DJOKOVIC: No.

INTERVIEWER: Thank you. Are you a permanent, Australian permanent resident?

DJOKOVIC: No.

15

INTERVIEWER: Thank you. Can you please state your full name and date of birth for the voice recorder?

DJOKOVIC: Novak Djokovic 22<sup>nd</sup> of May 1987.

20

INTERVIEWER: Thank you. Are you known by any other names?

DJOKOVIC: No.

25 INTERVIEWER: Now I'm just going to present you a copy of the passport and incoming passenger card. Is this the travel document that you have travelled to Australia on today?

DJOKOVIC: Yes.

30

INTERVIEWER: Thank you. You have completed the incoming passenger card yourself, answered all the questions, and is this your signature?

DJOKOVIC: Yes, yes.

35

INTERVIEWER: Thank you. Do you have any secondary ID like a driver's licence or identity card from your home country?

DJOKOVIC: I, I do have my residence card, do you want me to provide?

40

INTERVIEWER: Yeah, if you've got that handy.

INTERVIEWER: Thank you. I'll make a photocopy of this.

45 DJOKOVIC: Yes.

INTERVIEWER: And we can (inaudible) to you. Do you have any checked in or carry-on luggage?

50 DJOKOVIC: I have one carry-on and two... three checked in.

INTERVIEWER: Thank you. I'm now going to ask you questions about your trip to Australia.

DJOKOVIC: Yes.

5

INTERVIEWER: You do not have to answer these questions if you do not wish to. (inaudible) Any information that you provide will be used to assess whether you will be allowed to enter and remain in Australia.

10 DJOKOVIC: Ok.

INTERVIEWER: This is your opportunity to provide information that will assist me to assist your case.

15 DJOKOVIC: Alright.

INTERVIEWER: So I'm going to ask you what were your reasons for travelling to Australia?

20 DJOKOVIC: I'm a professional tennis player and the main reason for me coming to Australia is participating in the Australian Open in Melbourne, Victoria.

INTERVIEWER: And question regarding your vaccination, are you vaccinated - - -

25 DJOKOVIC: I'm not -

INTERVIEWER: - - - for COVID-19? Not vaccinated?

DJOKOVIC: I'm not vaccinated.

30

INTERVIEWER: Have you ever had COVID?

DJOKOVIC: Yes.

35 INTERVIEWER: So when did you?

DJOKOVIC: I had COVID twice, I had COVID in June 2020 and I had COVID recently in – I was tested positive – PCR – on 16<sup>th</sup> of December 2021.

40 INTERVIEWER: Thank you. Sorry what was the date? 16<sup>th</sup> of December?

DJOKOVIC: 16<sup>th</sup> of December 2021, I have the documents as well to confirm that if you want I can provide – there's a –

45 INTERVIEWER: Thank you. I'll just take a photocopy of this document -

DJOKOVIC: Yes. The PCR tests – this is – yes, this is the positive one on 16 December PCR, 16 December and this is in English it's right on there.

50 INTERVIEWER: Positive.

DJOKOVIC: Yes. And this one is 22<sup>nd</sup> - - -

INTERVIEWER: Yep.

5 DJOKOVIC: - - - and negative.

INTERVIEWER: Negative. So what I'm going to do as I said like I'm just going to make a photocopy of these - - -

10 DJOKOVIC: Yes

INTERVIEWER: - - - test reports and then I'm going to give it back to you.

DJOKOVIC: Sure.

15

INTERVIEWER: Ok. For our records, I keep a copy.

INTERVIEWER: I'm just going to suspend this interview. So this interview has been suspended at 00:29 hours.

20

INTERVIEWER: So the interview's been recommenced 00:35 hours. I'm just going to ask you questions regarding your visa.

DJOKOVIC: Yes.

25

INTERVIEWER: Who did the visa application for you?

DJOKOVIC: Well, the request for the visa was sent by my manager and visa was subject to the possible medical exemption that was issued recently to me.

30

INTERVIEWER: So for the medical exemption which you received, did you provide some kind of documents?

DJOKOVIC: Yes, we did provide documents.

35

INTERVIEWER: Are you aware what sort of documents were provided?

DJOKOVIC: Well I have, I don't have the documents printed out with me, but I have, I can try to find electronically, we did send an email to independent medical panel that was selected by the Federal Australian Government - - -

40

INTERVIEWER: Ok.

DJOKOVIC: - - - to review the requests medical exemption requests that we have sent.

45

INTERVIEWER: So it was selected by Federal Government?

DJOKOVIC: Yes.

50

INTERVIEWER: And that was to review your medical exemption?

DJOKOVIC: As it was brought to my attention that there was two medical panels, one was the Federal one and the other one was I think related to the Victorian state -  
--

5

INTERVIEWER: Ok.

DJOKOVIC: --- and Tennis Australia. And I might be wrong for the second one, I apologise if I am, but I know that there is the medical panel, Federal Government for sure, the second one I think it's a mix between the Victorian Government and Tennis Australia, I'm not 100% sure but I can check.

10

INTERVIEWER: That's fine. So have you got some form of documentation ---

15

DJOKOVIC: Yes.

INTERVIEWER: --- with you documenting the exemption?

DJOKOVIC: Yes. They're all here. This is the visa that was granted. That's the letter from Tennis Australia.

20

INTERVIEWER: So, who did this Australian Travel Declaration application for you?

25

DJOKOVIC: It was the government.

INTERVIEWER: Oh the government? They did it for you?

30

DJOKOVIC: Yes.

INTERVIEWER: Ok.

DJOKOVIC: They provided also, I think it's for official use only, the QR codes ---

35

INTERVIEWER: Yes.

DJOKOVIC: --- I think it's one of the next papers. Obviously everything is in the system so you, I think, electronically can also track and validate.

40

INTERVIEWER: Ok, so this medical exemption pretty much talks about the review panel from, by Tennis Australia, it doesn't talk about Federal Government? But you are sure definitely ---

45

DJOKOVIC: Yes, the process was, yes, the process there was two medical panels -  
-

INTERVIEWER: Ok.

50

DJOKOVIC: --- there was one that was related to the Federal Government for sure.

INTERVIEWER: Ok.

DJOKOVIC: And I actually received the emails from them with the permission. I have an email, actually my agent has the email, so I mean I can ask to electronically provide it to you via email if you want, if you need the additional information,  
5 because they, they told me that this would be sufficient for the review.

INTERVIEWER: Ok. Yeah that's fine, so in case we need it, I'll let you know - - -

DJOKOVIC: Ok.  
10

INTERVIEWER: - - - but not at the moment. We should have these documents, in case we don't have these documents, definitely we should have these documents - - -

DJOKOVIC: Alright.  
15

INTERVIEWER: - - - but in case we don't, I'll take a photocopy of these documents as well.

DJOKOVIC: Alright.  
20

INTERVIEWER: Alright. It was all your manager who did the application - - -

DJOKOVIC: Yes.  
25

INTERVIEWER: - - - exemption, everything for you?

DJOKOVIC: Yes.

INTERVIEWER: Ok. That's fine. Take that away. Thank you. I'm just going to suspend this interview once again. So the interview's been suspended at 00:40 hours.  
30

INTERVIEWER: So the interview is being recommenced at 00:46 hours. Ok. So as far as we know, you know, your medical exemption was not assessed by Federal Government, so yeah, that's what I want to check with you - - -  
35

DJOKOVIC: Yes, so I just checked with my agent and she has provided me with the very document that I have in front of me and here it says that this, that this certificate it is a medical exemption from COVID vaccination and this certificate for exemption has been provided by independent expert medical review panel commissioned by  
40 Tennis Australia and the decision of the panel has been reviewed and endorsed by independent medical exemption review panel of the Victorian State Government - - -

INTERVIEWER: Ok, so - - -

DJOKOVIC: - - - and then based upon that, I received the Federal, Australian Federal Government Department of Home Affairs - - -

INTERVIEWER: Yep, so, when the Australian - - -

DJOKOVIC: - - - travel declaration.  
50

INTERVIEWER: So the Australian Travel Declaration, so previously you said to me that it was done by the government.

5 DJOKOVIC: Yes, well I, I probably made a mistake, it was not the Federal Government, it was the Victorian Government that had selected the independent medical panel that has reviewed together with the Australian Open, and then the Department of Home Affairs has issued the travel document declaration.

10 INTERVIEWER: Yeah, so what I'm trying to gather here with like the Australian travel declaration, who did this application online for you, was it - - -

DJOKOVIC: My agent, my agent. Yes, yes, yes.

15 INTERVIEWER: And she would have provided information based on - - -

DJOKOVIC: That was based on, yes exactly, based on the, this certificate of medical exemption.

20 INTERVIEWER: And so, because previously you stated that you had emails as well from Federal Government saying that - - -

DJOKOVIC: I made a, yes, I apologise and I made a mistake.

25 INTERVIEWER: No - in case you have got the emails, we would like to see those emails.

DJOKOVIC: I will look for the emails and I am asking my agent and I will - so it is a Victorian Department of Health.

30 INTERVIEWER: Ok.

DJOKOVIC: So, I apologise.

35 INTERVIEWER: That's absolutely fine.

DJOKOVIC: Ok.

INTERVIEWER: Alright, and -

40 DJOKOVIC: Yes.

INTERVIEWER: You're requesting an email from?

45 DJOKOVIC: Yes, I'm requesting just for -

INTERVIEWER: That's alright. Ok.

50 DJOKOVIC: I just asked them to send, if there is an email from Federal Government, to send to me. But... this is what was provided to me, because we were, since I am participating in Tennis Australian Open that is run by Tennis Australia, my communication was directly to them because that's what the procedure that has

been, that I have been introduced to, that they have informed me that this is the way to do it. And so I have provided all my PCR, positive, negative tests, my antibodies to them and some additional information and then they have sent it to further to the Victorian independent medical panel, Victorian state government, independent  
5 medical panel. And they have reviewed it with their own Tennis Australian medical panel and Victorian state, so then, as a result of that I was granted to access Australia with a medical exemption permission. That's the whole story basically. And I am checking if there is anything else in regards to the government, Federal Government, but as I had understood from before, the Victorian state government needs to  
10 approve. So, they need to approve, it was basically not up to Federal Government when it comes to my granted access to Melbourne and to Victoria. So that's really up to the state, and that's why the process has been such, included them.

INTERVIEWER: That's absolutely fine, but the thing is you have come to Australia and it is pretty much governed by Federal Government.  
15

DJOKOVIC: This I understand. This I understand. So do you need any additional documents from me?

INTERVIEWER: Yeah, if you are claiming that you did receive emails from Federal Government - - -  
20

DJOKOVIC: Ok.

INTERVIEWER: - - - because, yeah, we want to give you every opportunity to provide as much information as you can.  
25

DJOKOVIC: Alright. Ok so. No we did not get any emails from the Federal Government. This is what we got from the Australian Open player medical team, because they are the organisers of the event, so this is what we got.  
30

INTERVIEWER: Ok, that's fine.

DJOKOVIC: Sorry, I apologise.  
35

INTERVIEWER: That's absolutely fine. Thank you. So I'm just going to suspend this interview once again. So the interview is being suspended at 00:52 hours.  
40

TRANSCRIPT OF INTERVIEW (Part 2 of 3)**RESUMED: 3.55AM**

5 INTERVIEWER: The interview is being commenced at 3.55am. Now, Novak based on the information you have provided to us I am just going to issue you a notice of intention to consider cancellation of your visa. So I'm just going to read out all the information.

10 DJOKOVIC: I don't understand, are you cancelling my visa, or?

INTERVIEWER: This is a notice of intention to consider cancellation under s 116 of the Migration Act 1958. So once I serve this notice to you I will give you like, you know, 20 minutes -- or whatever if you need more time you can request that --  
15 and you need to provide us reasons why we shouldn't cancel the visa.

DJOKOVIC: I mean, I am really failing to understand what else do you want me to provide to you. I have provided all the documents that Tennis Australia and Victorian government has asked me to do in the last three/four weeks, this is what we  
20 have been doing. My agent and I have been in a constant communication through my agent with Tennis Australia and the Victorian state government, the medical panel. They -- whatever they asked us to do -- this is their set of rules they have provided, so they have allowed to have the medical exemption for a COVID  
25 vaccination. I applied, they approved, I just really don't know what else do you want me to say. What -- I just -- I have nothing else -- I arrived here because of these documents otherwise I wouldn't have been allowed to come in. I just really don't understand what is the reason you don't allow me to enter your country -- just I mean, I have been waiting four hours and I still fail to, to understand what's the main reason -- like -- lack of what papers? Lack of what information do you need? Or?  
30

INTERVIEWER: Ah yep, I am just going to read out all of the information to you and I'm going to give you a copy of this as well. So everything is in there. But yeah, I have to go through this process and then the explanation you have given me, I mean, you can give it to me after the timeframe which we give you. The 20 minutes  
35 we have to give you.

DJOKOVIC: So you're giving me legally 20 minutes to try to provide additional information that I don't have? At 4 o'clock in the morning? I mean you kind of put me in a very awkward position where at 4 in the morning I can't call director of  
40 Tennis Australia, I can't engage with anyone from the Victorian state government through Tennis Australia. You put me in a very uncomfortable position. I don't know what else I can tell you. Everything that I was asked to do is here.

INTERVIEWER: Yeah.  
45

DJOKOVIC: And I wouldn't be here sitting in front of you if I wasn't complying to all the rules and regulations set by your government. I just -- I don't know why -- to me it is a little bit shocking that you are -- that you are going to give me a notice to cancel my visa based on what?  
50

INTERVIEWER: Notice -- notice to consider -- like, you know, this is ---

DJOKOVIC: Yes but you're telling me. You know, basically you're putting me in a position where what I can do, what is my answer to that? You're giving me 20  
5 minutes to do what? I tell you right away I have nothing else to tell you. If you can, we wait for 8 in the morning and then I can call Tennis Australia and then we can try and figure this out. But right now? They're all sleeping, I don't know. I mean I just arrived at 1am, I don't know what else I can do at this moment. I know legally  
10 you're following -- it just doesn't make any sense. I have done everything I possibly can. Right now I can call my agent. You -- you told me not to use my phone, so I'm not communicating with anybody, no one knows what's going on. We did everything we possibly can and just I really don't know what else I can tell you in this 20 minutes.

15 INTERVIEWER: Yep ok, so do you think this is not the right time to participate in the interview? And you would be participating in an interview at a later stage? Is that --

DJOKOVIC: I really -- ok -- so I really need to understand from you because you've  
20 been giving me very vague answers, or literally no answers at all, for the last four hours. I mean I have been here with, three times, we suspended the interview, we are recommencing it, now you are coming back with the consideration to cancel, which I don't really understand what it means. And then you telling I have 20 minutes before you make a final call.

25 INTERVIEWER: This is the process we follow, it's a legal process which we have to follow. All the information regarding why we are considering cancelling your --

DJOKOVIC: Can you read it? Can you read me it right, please?

30 INTERVIEWER: I am going to go through this form

DJOKOVIC: Ok

35 INTERVIEWER: And it's in detail, so I'll explain it, like read out everything--

DJOKOVIC: Ok

INTERVIEWER: And I'll give you a copy of it as well for you to read.

40

DJOKOVIC: Alright.

INTERVIEWER: And then yeah, if you have questions, yeah definitely, ask questions.

45

DJOKOVIC: Yes, I have a lot of questions that I have already asked.

INTERVIEWER: Yes, yes most welcome. So I am just going to read out this notice of intention to consider cancellation under section 116 of the Migration Act 1958.

50

DJOKOVIC: Yes.

INTERVIEWER: Family name, Djokovic. Given names, Novak. Date of birth 22<sup>nd</sup> of May 1987. Nationality Serbia. Country of birth Serbia.

5 Possible grounds for cancellation. It has come to my attention, as a delegate of the  
Minister for Home Affairs and Minister for Immigration and Border Protection, that  
there appear to be a ground for cancellation of your subclass GG408 visa granted on  
18 November 2021, relying on a ground at s 116(1)(e)(i). You arrived at Melbourne  
airport as the holder of subclass GG408 temporary activity visa. This visa allows  
10 entry into Australia to participate in Australian open tennis tournament. During an  
interview with the Australian Border Force officer you have stated you are not  
vaccinated against COVID-19. You have also provided a copy of medical exemption  
issued by Tennis Australia. This medical exemption was issued on the grounds that  
15 the visa holder has recently recovered from COVID-19. Under the Biosecurity Act  
2015, there are requirements for entry into Australian territory. These requirements  
include that international travellers make a declaration as to their vaccination status  
(vaccinated, unvaccinated, or medically contraindicated). Travellers may make a  
declaration that they have a medical contraindication and must provide evidence of  
20 that medical contraindication provided by their medical practitioner. Previous  
infection with COVID-19 is not considered a medical contraindication for COVID-  
19 vaccination in Australia.

Unvaccinated persons create a greater health risk of contracting COVID-19 and  
spreading COVID-19 to others, either of which will further burden the Australian  
25 health system.

DJOKOVIC: You tell me that. I'm sorry to interrupt but that's not true. I have been  
this -- this is what we -- this is what the independent medical panel of Victorian state  
government has stated explicitly that they -- that if you have recovered or if you have  
30 the positive test of coronavirus and negative test of coronavirus in the last six months  
and you have a sufficient amount of antibodies, you're considered to be part of the  
process of getting a medical exemption. That's how I got it. I communicated  
directly with the Victorian state government, that's absolutely not true. I -- I -- we  
directly communicate with them and they ask me, I actually have to come back with  
35 antibodies, so that's what, this is, these are the tests that we have been provided to  
them. And we have emailed that test, I provided it to you, you, you've read it, it's  
directly from the Victorian state independent medical panel.

INTERVIEWER: Yes that's what I have noted, like, any medical exemption issued  
40 by Tennis Australia and Victoria.

DJOKOVIC: It's not only Tennis Australia, it's Tennis Australia medical panel and  
independent Victorian state medical panel. It's two, it's not only Tennis Australia,  
45 it's your state's medical panel that has approved that where I am at the moment.

INTERVIEWER: Victorian state medical panel, yep --

DJOKOVIC: Victorian state medical panel has approved my request for medical  
exemption and then they've sent it to the federal government and the federal  
50 government send this -- which is a travel declaration.

INTERVIEWER: Travel declaration.

DJOKOVIC: So it's, what you've been reading to me right now, is absolutely not accurate.

5

INTERVIEWER: Now this one is Biosecurity Act 2015, so this is like uh federal government act -- so I am not sure this is something we will look into -- as I said, let me read this out --

10 DJOKOVIC: Okay.

INTERVIEWER: And then if you want to --

DJOKOVIC: Alright. Ok.

15

INTERVIEWER: A copy of the relevant section of the Biosecurity Act 2015 is attached for your reference. The information you have provided does not show a medical contraindication to COVID-19 vaccines or evidence of that provided by a medical practitioner.

20

Unvaccinated persons create a greater health risk of contracting COVID-19 and spreading COVID-19 to others, either of which will further burden the Australian health system. Ensuring unvaccinated persons do not enter Australia is a key mechanism through which the Australian Government has slowed the spread of COVID-19 within the Australian community.

25

All visa holders, whether permanent or temporary are expected to abide by all public health directives issued by both Commonwealth and state and territory jurisdictions. A breach of these directions is considered a potential risk to the health, safety or good order of the Australian community.

30

Subject to section 116(1) of the Migration Act 1958, the Minister may cancel a visa if he or she is satisfied that the presence of its holder in Australia is or may be, or would or might be, a risk to the health, safety or good order of the Australian community or a segment of the Australian community.

35

Based on the information -- above information -- I am satisfied there appears to be a ground to consider cancelling your subclass GG-408 visa, due to you presenting a risk to the health, safety or good order of the Australian community or a segment of the Australian community. The ground is that, the Minister may cancel a visa if he or she is satisfied that if its holder has not entered Australia or has so entered but not has been immigration cleared it would be liable to be cancelled under Section 116(1)(e)(i) of the Migration Act 1958.

40

45 Biosecurity Act 2015 reference. (3) For the purposes of paragraph (2)(a), the declaration is a declaration of which of the following paragraphs apply to the individual -- the individual (i) has received a course of vaccinations with one or more accepted COVID-19 vaccines in accordance with a schedule for receiving that course of vaccinations that is accepted by the Therapeutic Goods Administration; and (ii)  
50 received the last vaccination in the course of vaccinations at least 7 days before the day the relevant international flight was scheduled to commence; and (iii) can

50

produce evidence of the matters mentioned in subparagraphs (i) and (ii); (b) the individual (i) has a medical contraindication to COVID-19 vaccines; and (ii) can produce evidence provided by a medical practitioner of the matter mentioned in subparagraph (i); neither paragraph (a) nor (b) applies to the individual.

5

So I give a copy of that to you.

The Migration Act 1958 gives you the opportunity to comment on the intention to consider cancellation of your visa and to give reasons why your visa should not be cancelled. Your comments could include why grounds for cancellation do not exist or why you should -- why your visa should not be cancelled.

10

You are provided -- you are invited to provide your comments at the interview. Interview will be held on 6<sup>th</sup> of Jan 2022 at Melbourne airport. If you choose not to comment, the delegate may make his/her decision based on the information available to them. If your visa is cancelled you may be refused immigration clearance. You may also be detained and removed from Australia as an unlawful non-citizen under section 189 of the Migration Act 1958. The visas of any dependants may also be cancelled.

15

20

If your visa is cancelled, you may become subject to an exclusion period. If you are subject to an exclusion period as a result of a visa cancellation, you may be prevented from being granted various types of visas for a period of up to 3 years. You may also be prevented from making a valid application for certain classes of visa while in Australia.

25

If a decision is made not to cancel your visa you will be immigration cleared and allowed to enter Australia.

Except in the case of consideration of cancellation of a visa under regulation 2.43(2), factors the delegate may take into consideration in making a decision whether to cancel your visa include (but are not limited to) the following: the purpose of your travel to Australia; extent of compliance with the conditions of your visa; the degree of hardship which may be caused to you or your family (as per the Convention on the Rights of the Child, the best interests of any child in Australia under 18 years of age will be considered); the circumstances in which the ground for cancellation arose; your behaviour in relation to the department, now and on any previous occasion; whether there are mandatory legal consequences to a cancellation decision.

35

So just, the intention, the notice of intention to consider cancellation under s 116 of the Migration Act 1958. I'm just going to sign it here. Sign it at 4.11. If you want to sign it?

40

DJOKOVIC: Well, I would not want to sign this document unless I have some answers to my questions.

45

INTERVIEWER: Alright, yes, that's fine.

DJOKOVIC: Because I have been notified thank you for that but as I told you Mr Rughiv I really don't understand how come in your system you don't have the information that if you have encountered Covid and been positive on Covid in the

50

last six months and have the sufficient amount of antibodies and a negative test which I all provided, you are granted to access the country.

5 I just -- I am really confused -- because this is what I have been getting from official  
Tennis Australia and Victorian government medical panels for the last three weeks  
and four weeks. So I don't know really what to do at 4am. If you allow me to  
switch on my phone and make a call to my agent and try and get a hold of people  
from Tennis Australia cause it's 4am, obviously everyone is sleeping but this is the  
10 only thing I can do right now, because I really don't have anything else to provide to  
you in terms of the paperwork cause this is the focus point of why I'm here is exactly  
what I have provided to you. What you've read to me is simply not something that  
has been communicated to me, so I really am a little bit surprised that I am in this  
situation because how am I supposed to even come to Australia if I didn't have these  
documents which are official documents. I need your assistance, I'm sure that you  
15 have the tests that or I'm sure that you have confirmed that I'm in the system that I  
have been approved to have the medical exemption. So the test -- my question is  
how come you don't have in the system the Covid 6 months regulation for the  
medical exemption?

20 INTERVIEWER: So you are telling me that the medical panel --

DJOKOVIC: Yes, Victorian exemption.

INTERVIEWER: So it's fine -- the 6 month thing -- it's fine -- and you will be  
25 exempted to come to Australia.

DJOKOVIC: Yes, exactly.

INTERVIEWER: So, and that's what I have been trying to explain to you. Like, it's  
30 fine if that's what they've said. Like coming to Australia, it's a federal thing.  
Federal government controls the ports.

DJOKOVIC: Okay.

35 INTERVIEWER: Right. So I previously I tried to explain you as well and that's  
why I gave you opportunity to provide me any correspondence which was sent by  
Victorian tennis authorities to the federal government.

40 DJOKOVIC: But I can't provide you that if I have no opportunity to speak with  
them?

INTERVIEWER: Yep

45 DJOKOVIC: I have not had right, I don't have any right, because that's the  
communication happening between tennis Australia, Victorian government and the  
federal government. Me I was -- well me and my agent -- we were instructed that we  
can only communicate with Tennis Australia and that's it. And that's how we  
requested what we requested and that's the only avenue that we took so right now if  
you allow me to make a call and try and, you know, do something about it. I will ask  
50 my agent if she has some kind of correspondence or can get someone from Tennis  
Australia to provide what you're looking for, but I mean when I spoke to her last this

document here is what she told me that this is the, from the Australian travel declaration, home affairs government Australia, so that's the federal government, sent it to my agent with a QR code which Australia travel has been assessed. So basically they have received all the documentation from the Victorian state  
5 government, that by the way we did not selectively, individually choose to, to address it to the Victorian government, that was the procedure, we had to respect that, and comply with it, and that's what the Tennis Australia told us to do, so we sent all the documentation to Tennis Australia, medical documentation. They sent it to Victorian state government. First they review it within their own independent  
10 medical panel within the Tennis Australia, then they send it to independent medical panel of Victorian state government. Both of these panels approved, and then Victorian state government has communicated further with the federal government and federal government has reviewed all of the medical documentation and accepted it and granted me the access to your country, this is how I'm here. I mean, I just, I  
15 don't know what other approval do I need more to provide to you, cannot you not call someone in the federal government to provide this information, or --

INTERVIEWER: When I asked you about the question about Australian travel declaration, who did the application for you, previously you said it was your manager  
20 who did the application for you. So -- and when I asked you what kind of documents were provided -- you said the manager would know that -- am I right?

DJOKOVIC: No, no, no. No, no no. You, you again, I mean ---

25 INTERVIEWER: See the way it works -- I -- what I'm getting is like your manager would have given the exemption letter which was provided by Victoria --

DJOKOVIC: No sir, no sir.

30 INTERVIEWER: And tennis Australia with this application.

DJOKOVIC: Sir, just to confirm again. And I'm sorry, my manager on my own behalf has communicated only with Tennis Australia, no one else. But because the procedure was such, selected or stated or determined by the federal government and  
35 Victorian state government, they've told us that this document coming from the federal state government -- federal government of Australia -- which is the document for travel documentation will come directly on her email. This is what happened. This is the only communication we've had with the foreign government. We have communicated only to tennis Australia, provided them every document that they  
40 asked for. They provided to the independent panel -- independent medical panel -- and then the Victorian state government taken all the documentation from us, from the tennis Australia, from them, and sent it to the federal government, and then the federal government said okay, fine, access granted, travel declaration, QR code, you are free to go.

45 INTERVIEWER: Okay.

DJOKOVIC: And this is -- otherwise I wouldn't be flying here. There's absolutely no way I would put myself in a position to come and sit here with you and it would  
50 definitely -- I mean -- it would come to my attention or my agent or the team of people around me that the six months Covid regulation was not in place. It was

absolutely in place. And I'm sure there is a way to check that, whether it is with the federal government, or Victorian government, whether it's with tennis Australia, whatever I can do to provide I will. Because I mean I made it all the way to Australia because they all made it, you know, very clear and certain to me that I have  
5 all the documentation that I possibly can provide to you.

INTERVIEWER: That's fine, but I need to go through this properly, and so, that's fine if you don't want to sign it, but I will still, I will make a photocopy of it, I will give it to you, so I'm just going to say you're not going to sign.  
10

DJOKOVIC: So can you just explain to me whether you allow me to acquire more information through my phone with my agent?

INTERVIEWER: So not at this stage, once I finish this interview I will come back and I will let you know.  
15

DJOKOVIC: Okay.

INTERVIEWER: And like I said, if you need more time, like if you think this is not the right time to participate in the interview because you are not able to get in touch with Victorian tennis or the Victorian government --  
20

DJOKOVIC: Yes

INTERVIEWER: That's fine, we are more than willing to give you, but you know, I'll speak to my bosses, and yeah --  
25

DJOKOVIC: I mean, it's 4am, I don't know what I can do

INTERVIEWER: Yeah exactly.  
30

DJOKOVIC: I guess at 8am or 7.30 or 8am I will be able, I will be able to get a hold of someone at Tennis Australia, not someone, the director of Tennis Australia, I mean, I mean, through my agent, we can call, we can get them to engage, and that  
35 they are the ones that have the contact of the medical panel, the Victorian state government. I don't have, as I said, I repeat, neither myself or anybody who's in my team, my agent, has communicated directly to neither federal nor the Victorian state government, only to tennis Australia, they're the ones who have been communicated further, so that's all I can state right now. And I mean if you give me more time I  
40 can do something, but you know I don't know why, I can't do anything at this moment, unless I have my phone on and I can start calling my agent and people and I don't know, maybe we can wake someone up and try to get something.

INTERVIEWER: As I said, I will have to speak with my bosses and check on that.  
45

DJOKOVIC: Okay.

INTERVIEWER: But at this stage, if you're not willing to sign, that's fine, no issues. I'm just going to write you did not sign. And just going to put a time in here because  
50 we have to give you a minimum of ten minutes but if you request more, yeah, that's fine, and in the meantime --

DJOKOVIC: It would be great if you can in the meantime get approval if I can give somebody a call, I mean I can speak in front of you, it is no problem, I will not contact anybody else.

5

INTERVIEWER: Yes, now that's fine [inaudible]. So -- Okay. This is... Okay, so I'm just going to suspend this interview -- the interview is being suspended at 4.23am.

10 INTERVIEWER: So the interview is being recommenced at 4.32am. So in regards to using the phone, yeah that's fine, can use the phone and yep, call whoever you want to, and then I'm going to give you like, 20 minutes and then I will come back and speak with you. The interview is being suspended at 4.33am.

15 INTERVIEWER: So the interview is being recommenced at 5.20am. Okay - I have already served you with the notice of intention to consider cancellation and at the moment you need -- what have you have advised me is that you need rest and up to 8/8.30. And that's when you would be able to talk to your solicitor again.

20 DJOKOVIC: Yes.

INTERVIEWER: And get some more information. So that's absolutely fine, I have spoken with my supervisors and they're more than happy to allow you have to rest. So any more questions?

25

DJOKOVIC: No, no more questions for now.

INTERVIEWER: So what's going to happen now, because I'm going to be finishing my shift, so this case is going to be handed over to another team. Another case officer is going to come out, and speak to you. They'll introduce themselves and take it from there.

30

DJOKOVIC: Right now, or?

35 INTERVIEWER: Later. Because by that time I'll be finishing off.

DJOKOVIC: Alright:

INTERVIEWER: Okay, so just to let you know. Thank you. I'm just going to suspend this interview. The interview is being suspended at 5.22am.

40

[UNKNOWN SPEAKER: [Inaudible]]

INTERVIEWER 2: Do you want to just come up to this other room for a minute?

45

DJOKOVIC: Sure, sure, sure.

INTERVIEWER: So the interview is being commenced at 6.07am.

50 INTERVIEWER 2: Alright, alright Novak, so you mentioned before that you wanted 15 minutes to decide if you wanted to respond now or wait later.

DJOKOVIC: Yes.

5 INTERVIEWER 2: So you've mentioned that you want, that you didn't want to proceed with the interview now?

DJOKOVIC: I wanted to postpone it to 8.30 if possible, yes.

10 INTERVIEWER 2: Look if you -- you also mentioned earlier that you didn't really have anything else you could add.

DJOKOVIC: But maybe I will have something in a few hours.

15 INTERVIEWER 2: Ok, if you don't respond then a decision might be made based on the information that's at hand now.

DJOKOVIC: Ok so you want to make a decision now.

20 INTERVIEWER 2: Yeah, it's possible yeah, that decision can be made based on the information that we already have, which if you don't respond it's not going to be --

DJOKOVIC: Yeah --

25 INTERVIEWER 2: Potentially the full --

DJOKOVIC: I know you're going to cancel my visa, it's obvious. But what does that mean, in terms of, excuse me, me staying here and waiting for the lawyers to engage with --

30 INTERVIEWER 2: At the airport? Do you mean staying at the airport?

DJOKOVIC: Yes because I'm not allowed to -- just to wait for another two or three hours to see whether or not they can do something, now that's the whole idea.

35 INTERVIEWER 2: So look, if your visa would be cancelled you wouldn't stay here, you would go to a hotel in the city.

DJOKOVIC: Oh okay, so I would go to the hotel.

40 INTERVIEWER 2: Yeah, in the city.

DJOKOVIC: Okay.

45 INTERVIEWER 2: You wouldn't be staying here at the airport.

DJOKOVIC: But that hotel? Is it like a Covid hotel?

50 INTERVIEWER 2: No, it's, I don't know the name of it, it's, because if someone is refused entry into the country and currently at the moment we're not putting them into immigration detention centre, so the, I'm guessing the department has contracted

with the hotel to allow people in, you know, refused entry to the country to stay at the hotel there.

5 DJOKOVIC: So does that mean I can take my bags with me?

INTERVIEWER 2: Yes, you can but, Serco -- you probably wouldn't have full access to. You'd have to ask Serco.

10 DJOKOVIC: Yes, yeah.

INTERVIEWER 2: You'd need to ask the company that's contracted to -- you wouldn't have someone from the Australian border force at the hotel with you --

15 DJOKOVIC: No, no I understand

INTERVIEWER 2: But the company called Serco that manage that process, you'd need to ask them what their rules are about --

20 DJOKOVIC: So you'd cancel my visa, I'd be escorted to the hotel.

INTERVIEWER 2: if your visa was cancelled, you'd be escorted to the hotel by Serco.

25 DJOKOVIC: By Serco, ok. From here.

INTERVIEWER 2: Yeah

DJOKOVIC: And then I'd have to wait in the hotel until, for the notice.

30 INTERVIEWER: Yeah so what's going to happen is then we'll inform the airline, like only in case the decision gets made to cancel the visa,

DJOKOVIC: Okay

35 INTERVIEWER: So once you'll go to the hotel,

DJOKOVIC: Yep

40 INTERVIEWER: Which is where you're going to be staying, we'll inform the Serco, we'll inform the airline, and yeah, whenever it is like suitable, they'll find a ticket for you, or like, to fly back, they'll let us know, we'll let the Serco know, and then you'll come back.

45 INTERVIEWER 2: But in the meantime --

DJOKOVIC: I can stay there.

INTERVIEWER 2: You can stay there, and you do what you need to do with your legal representatives.

50

DJOKOVIC: Okay, okay. Fine I have nothing to add then to the process, I mean I will just, I mean I can write on the document, what I told the both of you, if you want

–

5 INTERVIEWER 2: There are some questions about what hardship it would cause you, and any complications to you -- look it's probably in your favour if you did let Sudhir ask you the questions. But, you know, if you want to say you don't want to respond, or you have nothing further that you want to add, that's your right --

10 DJOKOVIC: I mean you, you can ask me questions regarding the process, I mean it's not an issue, I can go through that, I don't know what the questions are.

INTERVIEWER: First thing is like, I just wanted to see if, what's your response to the NOIC, notice of intention to cancel, so do you have anything to say, why the visa shouldn't, why shouldn't we consider cancelling the visa?

DJOKOVIC: As I said before, I just, what I can say is, I'm surprised that there is insufficient information on the very reason why I was granted the medical exemption by Victorian state independent medical panel which confirmed that I have fulfilled the criteria to enter Australia based on, based on the criteria which they have imposed which is not on the paper that you read to me and that is if you had encountered or had a positive Covid PCR test in the previous six months, and you can provide the negative PCR test and the sufficient amount of antibodies, then you are granted access and that's exactly what happened in the whole process. So we provided -- I provided medical documentation of 16 November, I was positive on PCR test covid-19, 22<sup>nd</sup> I was negative. I sent the blood analysis from my antibodies and had a sufficient amount and I was granted the access to Australia and I received that documentation that supported my medical exemption and travel declaration coming from the federal government.

30 INTERVIEWER: Okay. Is there anything else you'd like to add?

DJOKOVIC: No.

35 INTERVIEWER: No, that's fine. I'm just going to suspend this interview now. The interview is being suspended at 6.14am, okay.

**SUSPENDED 06:14AM**

40 **TRANSCRIPT OF INTERVIEW (Part 3 of 3)**

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**RESUMED 07:38AM**

INTERVIEWER: The interview is being commenced at 7:39 a.m.

45 Ok, so what I'm gonna do, I'm just going to read out the decision so this is a notification of the decision, ok.

Djokovic Novak today on sixth of January 2022, you were notified of an intention to consider cancelling you subclass GG408 visa, granted on eighteenth of November

50

2021, under section 116 of the Migration Act 1958. You responded to the notice of intention to consider cancelling the visa, refer to Item 5 and Item 8 Part B for details of your response. Your comments have been taken into account in making this decision. I'm satisfied there are grounds for visa cancellation under section  
5 116(1)(e)(i). Please refer to the reverse of pages 1, 2, and 3 for reference to the relevant legislation. Where the Minister can cancel a visa under subsec- - -  
subsection 116(1) of the Act, the Minister must do so if there exists prescribed circumstances in which the visa must be cancelled. See subsection 116(3) of the Act and the prescribed circumstances in sub regulation 2.43(2) of the Migration  
10 Regulations 1994 and refer to reverse of page 3.

After weighing up all the information available to me, I was satisfied that grounds for cancelling your visa outweighed the reasons for not cancelling. A copy of the  
15 Department's Decision Record is attached. Your visa, ahh, has been cancelled on sixth of January 2022. As your visa has been cancelled, you may be refused immigration clearance. You may also be detained and removed from Australia as an unlawful non-citizen under section 189 of the Migration Act 1958. Where your visa is evidenced in your passport, it will be stamped inoperative due to the cancellation. Note: the decision to cancel is not merits reviewable under the Migration Act 1958.  
20 Other relevant agencies will be advised that your visa has been cancelled. Um, so this is the notification and the time is, um, 7:42 a.m. Um, up to you, your choice if you wish to sign - - -

MR DJOKOVIC: No.

25

INTERVIEWER: No?

MR DJOKOVIC: Mm - - -

30 INTERVIEWER: That's fine - - - um, I'm just gonna invite another officer into the room. Um - - -

MR DJOKOVIC: - - - yeah - - -

35 INTERVIEWER: - - - and she's gonna detain you.

DETAINING OFFICER: Hello.

MR DJOKOVIC: Hello.

40

DETAINING OFFICER: Is that - - -

INTERVIEWER: Yeah

45 DETAINING OFFICER: Over here - - - (??)

INTERVIEWER: This is Officer Beck. Ah, - yeah, she's gonna introduce herself.

DETAINING OFFICER: Okay - - - so Mr Novak Djokovic - - -

50

MR DJOKOVIC: - - - yes - - -

5        DETAINING OFFICER: My name is Beck, I'm an officer of the Australian Border Force. It has come to my attention that you are an unlawful non-citizen in Australia. Therefore, I am detaining you under section 189(1) of the Migration Act of 1958 at - -

INTERVIEWER: - - - 7:43 - - -

10       DETAINING OFFICER: at 07:43 hours on the sixth of January 2022. Now I'll leave you with my colleague.

INTERVIEWER: Thank you.

15       DETAINING OFFICER: Thank you.

INTERVIEWER: As part of this process we have to offer you consulate access. Um. Do you need contact details of the consulates – Serbian consulate, or - -

20       MR DJOKOVIC: Errm- - - if you have the details, yes.

INTERVIEWER: Yep, ok.

MR DJOKOVIC: If you could provide this- - -

25       INTERVIEWER: Ok, sure- - -

MR DJOKOVIC: Yeah- - -

30       INTERVIEWER: I'll provide you- - - I will get you all the details uh

MR DJOKOVIC: Yeah- - -

INTERVIEWER: - - - email address and telephone number- - -

35       MR DJOKOVIC: - - - okay- - -

INTERVIEWER: - - - and then you can speak to them. Do you have any questions?

40       MR DJOKOVIC: Ah, just regarding the next step am I going to be escorted to a hotel? Or what is the- - -

INTERVIEWER: Yep- - -

45       MR DJOKOVIC: - - -next step?

INTERVIEWER: Yeah so- - - the next step is gonna be you would be escorted to a hotel- - -

50       MR DJOKOVIC: Okay- - -

INTERVIEWER: - - - ah, that's where you will stay, and then inform the airline, and once we get some more information, SERCO it's another agency who takes care of it, they'll inform you and then they'll bring you back to the airport- - -

5 MR DJOKOVIC: Okay- - -

INTERVIEWER: And yeah, we'll take it from there.

10 MR DJOKOVIC: Okay. Which airline are you- - - because I, do I have any, decision in where I'm gonna go or- - - travel? Because I can buy my own ticket to go back.

INTERVIEWER: Yeah- - - that- - - that's right. Pretty much the way it works whichever airline you flew with, we'll inform them and it's their responsibility. So you came with, with e- - -

15

MR DJOKOVIC: Emirates, yeah- - -

INTERVIEWER: - - - that's - - -

20 MR DJOKOVIC: - - - so will go back to Dubai.

INTERVIEWER: Yeah so, yeah so we get in touch with Emirates- - -

25 MR DJOKOVIC: okay- - -

INTERVIEWER: and they're the ones who - - -

MR DJOKOVIC: Okay.

30 INTERVIEWER: We tell them that.

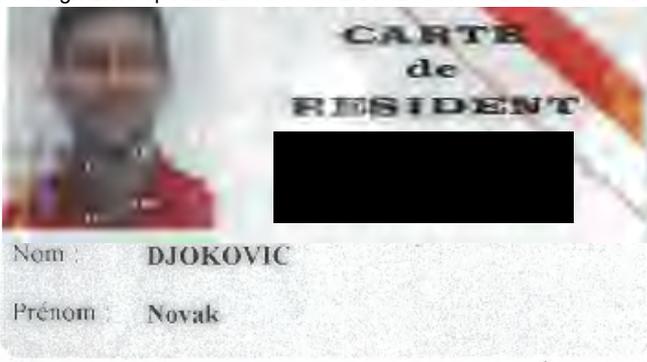
MR DJOKOVIC: Alright, so do I leave now like- - -

35 INTERVIEWER: Yep. So if your- - - if you don't have any more questions, yeah, I'll just cease this interview- - -

MR DJOKOVIC: Okay.

40 INTERVIEWER: Alright, so the interview is being ceased at 7:45 a.m. on sixth of January 2022.

**CEASED 07:45 AM**



à BELGRADE (SERBIE)

Nationalité : SERBE

Adresse :

Profession : **joueur de tennis professionnel**

Signature du titulaire :

Le Directeur  
de la Sûreté Publique

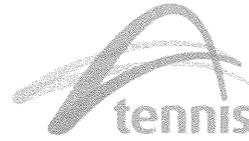


Délivrée le 6 Novembre 2019

ATTACHMENT E

**Medical exemption from COVID vaccination**

30<sup>th</sup> December 2021



**Name: NOVAK DJOKOVIC**  
**DOB: [REDACTED]**  
**Country of birth: Republic of Serbia**  
**Passport number: [REDACTED]**

Tennis Australia  
Country of the Kulin Nations  
Olympic Boulevard  
Melbourne Victoria 3000  
Private Bag 6060  
Richmond Victoria 3121  
T +61 3 9914 4000  
F +61 3 9650 2743  
tennis.com.au

To whom it may concern,

Mr Novak Djokovic has been provided with a medical exemption from COVID vaccination on the grounds that this individual has recently recovered from COVID.

The date of the first positive COVID PCR test was recorded on the 16/12/21 and it has now been more than 14 days since the first positive PCR test. Mr Djokovic has not had a fever or respiratory symptoms of COVID-19, in the last 72 hours

This temporary exemption is valid until 16/5/22.

This certificate for exemption has been provided by an Independent Expert Medical Review panel commissioned by Tennis Australia. The decision of the panel has been reviewed and endorsed by an independent Medical Exemptions Review Panel of the Victorian State Government. The conditions of the exemption are consistent with the recommendations of the Australian Technical Advisory Group on Immunisation (ATAGI).

Yours sincerely,

A handwritten signature in black ink, appearing to read 'C Broderick'.

Dr Carolyn Broderick MBBS, FACSEP, PhD  
Chief Medical Officer, Tennis Australia & Australian Open

**Independent Expert Medical Review Panel**

[REDACTED]  
MBBS, B.Med.Sci., FRACP, FFTM (RCPS Glasgow) FISTM, PhD  
Professor of Infectious Diseases and Virology  
*COVID Advisor: Healthscope, Epworth Health, AFL, Tennis Australia, ICC, FIBA*

[REDACTED]  
MBBS, MA (Bioinf), FRACP, PhD  
Infectious Disease Physician  
*COVID Advisor: Epworth Health, Tennis Australia*



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INSTITUT ZA JAVNO ZDRAVLJE SRBIJE  
„Dr Milan Jovanović Batut“  
INSTITUTE OF PUBLIC HEALTH OF SERBIA  
"Dr Milan Jovanovic Batut"

Шифра потврде: 7320919-259039

Šifra potvrde / Confirmation code

**ПОТВРДА О РЕЗУЛТАТУ ТЕСТИРАЊА НА ВИРУС SARS-CoV-2**

POTVRDA O REZULTATU TESTIRANJA NA VIRUS SARS-CoV-2

ANALYSIS ON VIRUS SARS-CoV-2 REPORT

**Име пацијента: NOVAK DJOKOVIĆ**

Ime pacijenta: NOVAK DJOKOVIĆ / Name: NOVAK DJOKOVIĆ

**Датум рођења:** [REDACTED]

Datum rođenja / Date Of Birth

**Пол: Мушко**

Pol: Muško / Gender: Male

**ЈМБГ:** [REDACTED]

JMBG / Personal. No.

**Датум узорковања: 22.12.2021 14:12:10**

Datum uzorkovanja / Date of sampling

**Здравствена установа која је узела узорак: Институт за вирусологију, вакцине и серуме Торлак**

Zdravstvena ustanova koja je uzela uzorak / Sampling Health Institution

**Лаб. број протокола: 688913**

Lab. broj protokola / Sample ID

**Врста узорка: Назофарингеални брис**

Vrsta uzorka: Nazofaringealni bris / Type of Sample: Nasopharyngeal swab

**Врста анализе и произвођач теста: Real Time PCR test-SARS-CoV-2, , Sansure Biotech INC; Hunan Province**

Vrsta analize i proizvođač testa / Method of analysis and test manufacturer

**Резултат: Негативан**

Rezultat: Negativan / Result: Negative

**Датум издавања резултата: 22.12.2021 16:15:49**

Datum izdavanja rezultata / Date of result

**Лабораторија: Институт за вирусологију, вакцине и серуме Торлак**

Laboratorija / Laboratory



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„Dr Milan Jovanović Batut“  
INSTITUTE OF PUBLIC HEALTH OF SERBIA  
"Dr Milan Jovanovic Batut"

Шифра потврде: 7371999-259039

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**ПОТВРДА О РЕЗУЛТАТУ ТЕСТИРАЊА НА ВИРУС SARS-CoV-2**

POTVRDA O REZULTATU TESTIRANJA NA VIRUS SARS-CoV-2

ANALYSIS ON VIRUS SARS-CoV-2 REPORT

**Име пацијента: NOVAK DJOKOVIĆ**

Ime pacijenta: NOVAK DJOKOVIĆ / Name: NOVAK DJOKOVIĆ

**Датум рођења:** [REDACTED]

Datum rođenja / Date Of Birth

**Пол: Мушко**

Pol: Muško / Gender: Male

**ЈМБГ:** [REDACTED]

JMBG / Personal. No.

**Датум узорковања: 16.12.2021 13:05:12**

Datum uzorkovanja / Date of sampling

**Здравствена установа која је узела узорак: Лабораторија - Завод за биоциде и медицинску екологију**

Zdravstvena ustanova koja je uzela uzorak / Sampling Health Institution

**Лаб. број протокола: P12426**

Lab. broj protokola / Sample ID

**Врста узорка: Назофарингеални брис**

Vrsta uzorka: Nazofaringealni bris / Type of Sample: Nasopharyngeal swab

**Врста анализе и произвођач теста: Real Time PCR test-SARS-CoV-2, , Xpert Xpress SARS-CoV-2 (GeneXpert)**

Vrsta analize i proizvođač testa / Method of analysis and test manufacturer

**Резултат: Позитиван**

Rezultat: Pozitivan / Result: Positive

**Датум издавања резултата: 16.12.2021 20:19:56**

Datum izdavanja rezultata / Date of result

**Лабораторија: Лабораторија - Завод за биоциде и медицинску екологију**

Laboratorija / Laboratory



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**ATTACHMENT E**  
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**INSTITUT ZA JAVNO ZDRAVLJE SRBIJE**  
**„Dr Milan Jovanović Batut”**  
**INSTITUTE OF PUBLIC HEALTH OF SERBIA**  
**”Dr Milan Jovanovic Batut”**

Шифра потврде: 7332142-259039

Šifra potvrde / Confirmation code

**ПОТВРДА О РЕЗУЛТАТУ ТЕСТИРАЊА НА ВИРУС SARS-CoV-2**

POTVRDA O REZULTATU TESTIRANJA NA VIRUS SARS-CoV-2  
ANALYSIS ON VIRUS SARS-CoV-2 REPORT

**Име пацијента: NOVAK DJOKOVIĆ**

Ime pacijenta: NOVAK DJOKOVIĆ / Name: NOVAK DJOKOVIĆ

**Датум рођења:** [REDACTED]

Datum rođenja / Date Of Birth

**Пол: Мушко**

Pol: Muško / Gender: Male

**ЈМБГ:** [REDACTED]

JMBG / Personal. No.

**Датум узорковања: 23.12.2021 11:03:48**

Datum uzorkovanja / Date of sampling

**Здравствена установа која је узела узорак: Институт за вирусологију, вакцине и серуме Торлак**

Zdravstvena ustanova koja je uzela uzorak / Sampling Health Institution

**Лаб. број протокола: S2199/21**

Lab. broj protokola / Sample ID

**Врста узорка: Серум**

Vrsta uzorka: Serum / Type of Sample: Serum

**Врста анализе и произвођач теста: SARS-CoV-2 RBD S-Protein Immunoglobulin G (IgG) test, ELISA, TestLine**

Vrsta analize i proizvođač testa / Method of analysis and test manufacturer

**Резултат: позитиван (Вредност=172 U/mL)**

Rezultat: pozitivan (Vrednost=172 U/mL) / Result: positive (Value=172 U/mL)

**Датум издавања резултата: 23.12.2021 13:05:06**

Datum izdavanja rezultata / Date of result

**Лабораторија: Институт за вирусологију, вакцине и серуме Торлак**

Laboratorija / Laboratory

Референтне вредности (Reference values)

<18 U/ml negativan (negative)

18-22 U/ml graničan (equivocal)

>22 U/ml pozitivan (positive)

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Телефон централа: 011-2684-566

Факс: 011-2685-735

Електронска пошта: [kabinet@batut.org.rs](mailto:kabinet@batut.org.rs)

Број рачуна: 840-624661-88

Матични број: 07036027

ПИБ: 102000930

Mr. Novak Djokovic

No 159/1  
January 12, 2022

### TESTIMONIAL

We hereby confirm that the test results presented by Mr. Novak Djokovic are legitimate.

Novak Djokovic's *positive test* was sampled at **13:05:12 on December 16th 2021** and the *subsequent negative result* was sampled at **14:12:10 on December 22<sup>nd</sup> 2021**.

Our testing system is reliable, accurate and the test results of Mr. Novak Djokovic are legitimate.

Acting Director

Asst. Prof Verica Jovanovic, MD, PhD



Disclosure: the above testimonial is issued at the formal request of Mr. Novak Djokovic

**Advice from the Department of Health about Mr Djokovic's level of risk of infecting others – provided to the Department of Home Affairs on 11 January 2022 at 10:13pm**

**Question 1: about restrictions in Victoria broadly**

Please assume:

- International arrivals into Victoria must have an international covid-19 vaccination certificate or valid foreign vaccination certificate and must present evidence of a negative PCR test taken within 3 days of departure, and get an international passenger arrival permit from Service Victoria - – noting these arrangements are separate to Commonwealth arrangements for travel exemptions and visas, and completion of the Australia Travel Declaration
  - Non-vaccinated international arrivals must quarantine for 14 days in a hotel, or at home if they have a valid medical exemption
  - Only fully vaccinated people can attend sporting and recreation facilities and sporting events, hospitality venues, entertainment and tourism venues, and gambling and adult entertainment venues (<https://www.coronavirus.vic.gov.au/how-we-live>)
- a. On the assumption that Mr Djokovic tested positive for COVID-19 on 16 December 2021, tested negative for COVID-19 on 22 December 2021, and was asymptomatic from at least 27 December 2021, and that he is unvaccinated, what is the nature and degree of risk that he may present to others? If the nature and degree of risk varies between groups or segments of people, please identify them separately and the nature and degree of the risk for each.

**Based on the assumptions above and the requirement under the Biosecurity Act for a PCR test prior to travel to Australia, we can infer that Mr Djokovic has recently been infected with and cleared SARS-CoV-2. As such, regardless of vaccination status, this information with consideration of the evidence around transmission supports the following:**

- **Mr Djokovic is protected from future infection for a period of at least several months**
- **Mr Djokovic demonstrated a negative test on the 22 December and is likely protected from interval exposures**

**As such it can be considered that Mr Djokovic is unlikely to be infectious with SARS-CoV-2 and as such is likely to constitute a LOW risk of transmitting SARS-CoV-2 to others. This assessment applies to all other demographic groups.**

- b. If Mr Djokovic presents a risk of infecting other people with COVID-19, what if any are the risks arising from their infection with COVID-19 and the magnitude of those risks?

**Based on the above assumptions it is considered that Mr Djokovic is unlikely to be infectious with SARS-CoV-2 and as such is likely to constitute a LOW risk of transmitting SARS-CoV-2 to others. It is noted that some segments of the population are more vulnerable to severe COVID-19 than others, however, given the likelihood of transmission is LOW it is UNLIKELY that an infection with the propensity to cause severe illness could occur. Thus this risk is equally assessed as LOW.**

**Question 2: about restrictions on unvaccinated persons attending the Australian Open**

Please assume

- All Australian Open (AO) patrons aged over 12 years 2 months will be fully vaccinated. Patrons will be asked to check in using a Service Victoria app and show their digital

vaccination certificate to AO staff. If an attendee has a valid medical exception which exempts them from covid vaccination, the only acceptable evidence is a valid Australian Immunisation Register immunisation medical exemption form (section 14(i), Terms and conditions: <https://www.tennis.com.au/wp-content/uploads/2021/12/AO2022-Ticket-Conditions-of-Sale-and-Entry-FINAL-2.12.21.pdf>)

- The terms and conditions of ticketed entry for AO include that Tennis Australia may withdraw an attendee's right to attend the AO and access Melbourne Park if the attendee tests positive for covid, is identified as a close contact, is in the process of completing government-mandated self-isolation, present with covid symptoms, or fail to comply with vaccination requirements (s 14(e) Terms and Conditions)
- All patrons aged 8 years and over are required to wear a face mask unless seated outdoors or eating/drinking. Masks are additionally required when the arena roof is closed
- Assume that employees at the AO should be vaccinated based on the *Guidance for the Pandemic (Open Premises) Order 2022 (No. 3)* (section 12) which requires a person working at an open premises to be fully vaccinated if they are aged over 12 years 2 months, or to be an excepted worker (<https://www.health.vic.gov.au/sites/default/files/2022-01/pandemic-open-premises-order-no-3-pdf.pdf>)
  - a. On the assumption that Mr Djokovic tested positive for COVID-19 on 16 December 2021, tested negative for COVID-19 on 22 December 2021, and was asymptomatic from at least 27 December 2021, and that he is unvaccinated, what is the nature and degree of risk that he may present to others? If the nature and degree of risk varies between groups or segments of people, please identify them separately and the nature and degree of the risk for each.

**Based on the assumptions detailed above and the requirement under the Biosecurity Act for a PCR test prior to travel to Australia, we can infer that Mr Djokovic has recently been infected with and cleared SARS-CoV-2. As such, regardless of vaccination status, this information with consideration of the evidence around transmission supports the following:**

- **Mr Djokovic is protected from future infection for a period of at least several months**
- **Mr Djokovic demonstrated a negative test on the 22 December and is likely protected from interval exposures**

**As such it can be considered that Mr Djokovic is unlikely to be infectious with SARS-CoV-2 and as such is likely to constitute a LOW risk of transmitting SARS-CoV-2 to others. This assessment applies to all other demographic groups.**

- b. If Mr Djokovic presents a risk of infecting other people with COVID-19, what if any are the risks arising from their infection with COVID-19 and the magnitude of those risks?

**Based on the above assumptions it is considered that Mr Djokovic is unlikely to be infectious with SARS-CoV-2 and as such is likely to constitute a LOW risk of transmitting SARS-CoV-2 to others. The additional controls as detailed above are noted. Given these additional controls, it is assessed that the risk of a transmission event related to the Australian Open is VERY LOW. Whilst it is noted that some segments of the population are more vulnerable to severe COVID-19 than others, given the likelihood of a transmission event at the Australian Open is VERY LOW it is VERY UNLIKELY that an infection with the propensity to cause severe illness could occur. Thus this risk is assessed as VERY LOW.**

**Question 3**

If Mr Djokovic presents a risk of infecting other people with COVID-19, what if any are the risks arising from their infection with COVID-19 and the magnitude of those risks?

**Based on the above assumptions it is considered that Mr Djokovic is unlikely to be infectious with SARS-CoV-2 and as such is likely to constitute a LOW risk of transmitting SARS-CoV-2 to others. It is noted that some segments of the population are more vulnerable to severe COVID-19 than others, however, given the likelihood of a transmission event is LOW it is UNLIKELY that an infection with the propensity to cause severe illness could occur. Thus this risk is equally assessed as LOW.**

World | Africa | Australia | Europe | Latin America | Middle East | US & Canada

# What has Novak Djokovic actually said about vaccines?

🕒 3 days ago



GETTY IMAGES

| Novak Djokovic has never disclosed whether he has been vaccinated against Covid-19

**World men's tennis number one Novak Djokovic has had his visa for Australia revoked, after he was granted an exemption from Covid vaccination rules to play in the Australian Open - prompting anger from Australians and a political row.**

But what has he actually said about vaccines?

The Serbian star, 34, has not officially disclosed his Covid-19 vaccination status, but he's made his resistance to jabs clear in the past.

In April 2020, well before Covid vaccines were available, Djokovic said he was "opposed to vaccination".

He later clarified his position by adding that he was "no expert" and would keep an "open mind" but wanted to have "an option to choose what's best for my body."

**During a Facebook live, he explained that he "wouldn't want to be forced by someone to take a vaccine" to travel or compete in tournaments.**

He added that he was "curious about wellbeing and how we can empower our metabolism to be in the best shape to defend against imposters like Covid-19."

In Djokovic's home country, where it's estimated that under half the population is fully vaccinated against Covid, his comments were criticised at the time by government epidemiologist Predrag Kon, who accused the athlete of "creating misconceptions".

## Questionable science

The tennis star has a track record when it comes to questionable scientific claims.

In his book *Serve to Win*, Djokovic described how in 2010 he met with a nutritionist who asked him to hold a piece of bread in his left hand while he pressed down on his right arm. Djokovic claims he was much weaker while holding the bread, and cited this as evidence of gluten intolerance.

And during an Instagram live, he claimed that positive thought could "cleanse" polluted water, adding that "scientists have proven that molecules in water react to our emotions."

According to Dr David Nunan, a senior researcher at the Centre for Evidence-Based Medicine at the University of Oxford, "on the balance of probabilities it is highly unlikely that such claims are true - at least not by current conventions of scientific theory and practice."

- **Twists and turns of Djokovic's Australia mess**

Earlier in the pandemic, Djokovic's wife repeated a 5G conspiracy theory on Instagram - her post was given a misinformation label by the social network.

## Anti-vaccine activists

While he's been defended by fans and Serbian politicians, the vice dispute has

While he's been defended by fans and Serbian politicians, the visa dispute has really galvanised anti-vaccination activists, although Djokovic has never explicitly come out in support of their more extreme positions.



GETTY IMAGES

Anti-vaccine activists have rallied in support of the tennis star

In Telegram groups promoting anti-vax theories, he's been portrayed as a hero and an icon of freedom of choice. Twitter users have gathered under hashtags in support of Djokovic and to call for a boycott of the Australian Open.

One influential conspiracy-laced account claimed the star was a "political prisoner" and asked: "If this is what they can do to a multimillionaire superstar, what can they do to you?"

## More on this story

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### Twists and turns of Djokovic's Australia mess

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### Australian fury over Djokovic vaccine waiver

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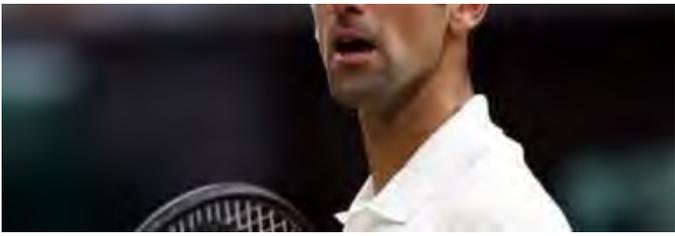


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**Advice from the Department of Health provided to the Department of Home Affairs  
on 12 January 2022**

Immunisation is one of the most successful public health interventions of the past 200 years. The Australian Government has supported immunisation and has strongly encouraged vaccination in the context of SARS-CoV-2. Vaccination was the fifth element of Australia's COVID-19 Vaccine and Treatment Strategy released in August 2020. The Strategy supports early access to, and delivery of, safe and effective COVID-19 vaccines and treatments. It was developed to provide Australians with safe and effective vaccines under a targeted and responsive national COVID-19 vaccination policy and immunisation program based on up-to-date health advice.

COVID-19 vaccinations provided significant protection against infection, transmission and severe disease against earlier variants. This protection was viewed as extremely important managing transmission and also in protecting individuals, the community, health system capacity and the economy. The Omicron variant has impacted vaccine efficacy and current vaccines now provide less protection against infection and transmission but do continue to provide significant protection against severe disease. This protection is essential to protect individuals from severe disease and also from resultant morbidity and potential mortality. In the context of widespread community transmission and large case numbers vaccination remains essential in preventing health system overload related to presentations of people with severe COVID-19 disease.



12 January 2022

[Coronavirus \(COVID-19\) health alert](#)

## Australian Government

### Department of Health



### ATAGI Statement on the Omicron variant and the timing of COVID-19 booster vaccination

A statement from the Australian Technical Advisory Group on Immunisation (ATAGI) about the COVID-19 Omicron variant and the timing of COVID-19 booster vaccination.

**Date published:**

24 December 2021

**Type:**

News

**Intended audience:**

General public



ATAGI notes that the course of the COVID-19 pandemic has significantly changed in recent weeks. Case numbers of COVID-19 due to the Omicron variant are rapidly increasing and this variant now dominates in some regions of Australia. Internationally, the Omicron variant has become dominant in several countries with case numbers growing rapidly in some. Preliminary data from large superspreading events in New South Wales involving younger people suggested that two doses of vaccine did not provide any significant protection against SARS-CoV-2 infection due to the Omicron variant.

Strong evidence has accumulated over the past two weeks to indicate that booster doses of COVID-19 vaccines are likely to increase protection against infection with the Omicron variant. Although some early data suggest that the risk of hospitalisation due to disease caused by the Omicron variant is lower than that with the Delta variant, this difference would not be enough to offset the impact of high case numbers on the health system.

There are now reassuring data on the safety of early booster doses in tens of millions of people, with no new safety signals identified in the United Kingdom where more than 21 million booster doses have been delivered.

ATAGI expects that booster vaccination alone will not be sufficient to avert a surge due to Omicron. However, maximising booster coverage by expanding eligibility and encouraging high uptake, in combination with enhanced public health and social measures, may prevent a large surge in case numbers, hospitalisations and deaths. ATAGI also acknowledges the demands that the booster and paediatric COVID-19 vaccination programs will have on the immunisation workforce.

### Recommendations

- In light of emerging evidence, ATAGI now recommends that the eligibility for COVID-19 booster vaccination be expanded for adults aged 18 and older.
- ATAGI recommends bringing forward the minimum interval between the primary course and the booster dose from 5 months to 4 months as soon as practical, noting the holiday period. It is understood that this is achievable from 4 January, although some providers may have flexibility to administer before that time.
- As soon as practical, ATAGI recommends providing boosters to all eligible adults from a minimum of 3 months following the second dose of the primary course.
- Pregnant women aged 18 or older who received their primary COVID-19 vaccination course  $\geq$  4 months ago are recommended to have a booster dose. When practical and in line with the broader community, this interval should be brought forward to 3 months.
- Immunocompromised individuals who have received 3 primary doses of a COVID-19 vaccine are also recommended to have a booster dose in line with the timing for the general population, i.e., currently a 4-month interval from their primary course, and when capacity permits, 3 months.

- ATAGI reinforces that timely receipt of a booster dose is particularly important for:
  - people with risk factors for severe disease (including those aged  $\geq 60$  years, those with underlying medical conditions, those in aged/disability care and Aboriginal and Torres Strait Islander peoples); and
  - people with increased risk of exposure to SARS-CoV-2. This may include those in an outbreak area, or those with a high risk of occupational exposure. The impact of occupational risks is magnified in settings where workers may transmit the virus to others with increased risk of severe disease, such as aged/disability care facilities.
- ATAGI recommends that providers and jurisdictional immunisation program coordinators encourage and facilitate access for those at greatest risk to receive COVID-19 boosters as a priority.
- Both Comirnaty (Pfizer) or Spikevax (Moderna- 50 $\mu$ g) are recommended for use as a booster vaccine, and both are considered equally acceptable. AstraZeneca can be used for people who have contraindications to the Pfizer and Moderna vaccines.
- ATAGI recommends that anyone aged 12 or older who is unvaccinated should receive a COVID-19 vaccine as soon as possible.

## Background and considerations

ATAGI has been closely monitoring the epidemiology and characteristics of COVID-19 caused by the Omicron variant as well as emerging data on the need, potential benefits and optimal timing of a vaccine booster dose to prevent COVID-19 due to this variant. There is now sufficient evidence to support bringing forward the interval from 5 months after the primary course, as recommended on 17 December 2021, to 4 months and when capacity permits, to 3 months, in order to provide greater protection, particularly for higher-risk groups.

## Epidemiology of COVID-19 due to the Omicron variant

The Omicron variant was first designated a variant of concern on 26 November 2021. Since then, large numbers of cases have been reported in many countries where the Omicron variant is now dominant. The rapid growth in case numbers relative to the Delta variant, as well as studies of contacts of cases demonstrating its higher secondary attack rate provide evidence that Omicron can spread rapidly even in populations where there has been widespread infection and/or COVID-19 vaccination.

In Australia, case numbers of Omicron have continued to increase sharply. As of 22 December 2021, 547 confirmed cases due to the Omicron variant have been reported in Australia, but a substantial number of suspected unconfirmed cases are also likely to be due to the Omicron variant (awaiting confirmation via sequencing). In New South Wales, the Omicron variant is thought to be dominant in all regions, and community transmission of the Omicron variant is occurring in all jurisdictions apart from Western Australia.

A preliminary analysis of superspreading events in New South Wales involving the Omicron variant has suggested very low vaccine effectiveness, with the proportion of cases who received two doses of vaccine similar to the proportion of other attendees at the venue who were not infected. Notably, these events involved younger people, the majority of whom received two doses of vaccine relatively recently.

## Anticipated benefits of an earlier booster dose for protection against COVID-19 due to Omicron

An earlier booster dose is expected to reduce the risk of symptomatic infection, severe illness and death from COVID-19. In combination with enhanced public health and social measures, it is also expected to mitigate the impacts of COVID-19 on the health system and its the broader impacts on the community.

## Preventing symptomatic disease

Strong evidence suggests that booster doses of COVID-19 vaccines may enhance protection against symptomatic disease due to the Omicron variant. This is primarily based on in vitro studies of neutralising antibodies demonstrating that the decreased binding seen with the Omicron variant compared with ancestral strains can be overcome by increasing antibody concentrations with a booster dose. Multiple studies have shown a 2 to >20-fold decrease in neutralising antibody titre against Omicron compared with wild type and/or Delta variant in sera after the primary vaccination course. Studies demonstrate that neutralising antibody titres are higher against Omicron following a booster dose of an mRNA vaccine.<sup>1,2</sup>

A mathematical modelling study has examined the relationship between neutralising antibody titres and vaccine effectiveness estimated in epidemiological studies. The investigators predicted that six months after primary immunisation with an mRNA vaccine, efficacy for Omicron is estimated to have waned to around 40% against symptomatic disease, and 80% against severe disease (36.7% [95% CI: 7.7-73], 70.9% [95% CI: 32.9-91.5] and 81.1% [95% CI: 42.1-96] for the AstraZeneca, Pfizer and Moderna vaccines, respectively). A booster dose with an mRNA vaccine has the potential to increase efficacy for Omicron to 86.2% (95% CI: 72.6-94%) against symptomatic infection and 98.2% (95% CI: 90.2-99.7%) against severe infection.<sup>3</sup>

A recent pre-print study from the UK suggested that protective effectiveness against symptomatic COVID-19 due to the Omicron strain was not observable after 2 doses of the AstraZeneca vaccine and was only approximately 35% at about 4 to 6 months (from 15 weeks onwards) after 2 doses of the Pfizer vaccine. Although the number of cases who had received booster doses was small (10 cases receiving a booster after primary AstraZeneca vaccination and 16 cases after primary Pfizer vaccination), the protective effectiveness against symptomatic disease was estimated at about 70-75% after receiving a Pfizer booster dose for both groups.<sup>4</sup> Further data from the UK and Europe comparing vaccine effectiveness against the Omicron and Delta strain are anticipated in coming weeks.

## Reducing transmission of SARS-CoV-2 in the community

The effectiveness of a booster dose to prevent onward transmission of Omicron from infected persons, and the duration of protection afforded by a booster are currently unclear. It is expected a reduction in symptomatic infection will parallel a reduction in transmission. ATAGI will continue to closely monitor emerging data regarding these evidence gaps.

## Reducing severe COVID

Despite key uncertainties, it is reasonable to assume that protection against severe disease is likely to be enhanced by a booster dose, particularly in those with risk factors for severe COVID-19. However, it is not yet known to what degree boosters may provide additional protection against severe disease, hospitalisation or intensive care admissions.

Firstly, the severity of COVID-19 caused by the Omicron strain is not yet known. Early data from South Africa suggest that the odds of hospitalisation with Omicron are around 80% lower than that observed in previous waves.<sup>5</sup> Similar data from Scotland suggest that the risk of hospitalisation due to Omicron is reduced by two-thirds compared to Delta.<sup>6</sup> It should be noted that in these countries, some protection may have been provided by infection with previous strains, which may limit the generalisability of these findings to Australia where prior infection is much less common. However, high case numbers would still translate into substantial numbers of hospitalisations even if Omicron causes much less severe disease than Delta.

Second, protection against severe disease is generally higher than against symptomatic infection. The modelling study discussed above validated neutralising antibody titres against vaccine effectiveness against symptomatic infection<sup>3</sup>. This study suggests that protection against severe disease due to Omicron is also likely to be significantly impaired, particularly when waning protection over time is accounted for, and would be restored by a booster dose of an mRNA vaccine.

### Reducing impacts on the healthcare system

Mathematical modelling of the Australian context also suggests that maximising booster doses for all adults may contribute to mitigating the peak number of severe cases of COVID-19 due to Omicron expected in the coming few months. When expanded (and earlier) delivery of booster doses are used in combination with more extensive public health and social control measures, the most major impacts of Omicron on severe health outcomes and on the Australian healthcare system could be mitigated.

Reduced illness in healthcare workers would also be expected to preserve the capacity of the healthcare system to deliver services. Similarly reduced illness in the community would mitigate against the broader impacts of disease caused by the highly transmissible Omicron variant.

### Safety of a booster dose given 3 months after a primary course

#### Common adverse events

Local and international data provide reassurance that booster doses are well tolerated and safe.

There are now considerable data characterising the expected systemic and local adverse event profile in countries where boosters have been administered after 5-6 months. [The AusVaxSafety](#) active surveillance system has collated data from more than 92,000 respondents who received booster doses. In this system, the proportion reporting common systemic and local reactions were similar after the booster dose compared with after the second primary dose. No safety issues of concerns have been noted in the USA where millions of booster doses of mRNA vaccines have been administered. Local and systemic reactions and health impacts were reported less frequently following a booster dose than dose 2 of the primary series, and the nature of these reactions were similar to those after a primary series.<sup>7</sup>

There are more limited data on the expected adverse events when boosters are administered earlier than 5 months. A UK study found that AstraZeneca, Moderna and Pfizer COVID-19 vaccines given as booster doses around 3 months after a primary course of either the AstraZeneca or Pfizer vaccine were all generally well tolerated.<sup>8</sup> The most common systemic reactions for all booster vaccines were fatigue and headache, and the most common local reaction was injection site pain. Adverse events were more common in those who received a Moderna booster (compared with a Pfizer booster), in those who had a different brand of booster vaccine than what was used for the primary course (compared with those who had the same vaccine brand for all doses), and in younger (compared with older) participants.

#### Vaccine associated myocarditis

The impact of reducing the interval between the primary course and booster dose to 3 months on the risk of myocarditis is not yet known. Data from the UK, where more than 21 million booster doses have been administered, have not identified any new safety signals.<sup>9</sup>

It should be noted that myocarditis appears to be more common after second doses in younger males. As of 12 December 2021, the overall rate of myocarditis for all ages reported to the Therapeutic Goods Administration (TGA) is 1.6 (95% CI 1.5 – 1.7) per 100,000 doses of Pfizer COVID-19 vaccine and 2.5 (95% CI 1.8 – 3.3) per 100,000 doses of Moderna COVID-19 vaccine given. Preliminary data from people who received a Pfizer booster vaccine at least 5 months after a Pfizer primary course suggest that the risk of myocarditis is not higher after the booster dose than after the second dose.<sup>10</sup>

There are currently no data on the risk of myocarditis after a booster dose of the Moderna vaccine, but this is expected to be available in coming weeks. More information on myocarditis and pericarditis after mRNA vaccines is available [here](#).

### Implications for the rollout program and Omicron control

ATAGI does not anticipate that shortening the booster interval alone will be sufficient to suppress the rapid spread of the Omicron variant, and additional non-pharmaceutical public health measures are likely to be required to prevent continued rapid growth in case numbers.

As a result of the shortened recommended interval between the COVID-19 primary course and booster dose, a large number of people are currently eligible or will soon become eligible for a booster dose. Currently, around 4 million people are eligible for boosters at 5 months; this would increase to around 7.2 million if the eligibility interval was brought forward to 4 months, and to 11 million if brought forward to 3 months. ATAGI is conscious of the burden of a sharp increase in demand will have on immunisation service providers, particularly over the holiday period. Bringing forward eligibility in stages, initially from 5 months to 4 months, then later to 3 months will achieve the goal of maximising booster coverage as quickly as possible. However, it will also implicitly prioritise the higher risk populations who received their primary vaccines first. ATAGI recommends that all possible measures be undertaken to facilitate timely access to a booster dose for people with increased risk of severe disease, i.e., provide enhanced direct protection. ATAGI recognises some flexibility may be required for operational reasons, particularly in high-risk settings such as remote communities and within aged/disability care facilities.

### Uncertainties and evidence gaps

As noted above, the severity of disease caused by the Omicron variant remains uncertain. While few people have been hospitalised with COVID-19 due to Omicron in Australia to date, this may reflect the expected lag between diagnosis and progression to severe disease; it may also reflect the younger population in whom the Omicron variant was first detected.

There is still little evidence on the incremental benefit of booster doses in protecting against severe disease or reducing onward transmission of Omicron variant of SARS-CoV-2, and on the duration of protection provided by COVID-19 booster doses.

ATAGI will continue to closely monitor the situation and review data that informs these key evidence gaps and will update recommendations accordingly.

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**Tags:**[Communicable diseases](#)[Emergency health management](#)[Immunisation](#)[Coronavirus \(COVID-19\)](#)[COVID-19 vaccines](#)[← All news](#)

## ATTACHMENT K

Date	Description	Information	Link
12/12/21	Protests against COVID vaccine mandates and pandemic restrictions take place in Melbourne, Sydney, Gold Coast	Thousands of people have again marched in Australian cities to protest against vaccine mandates and government responses to the COVID-19 pandemic.	<a href="#">Protests against COVID vaccine mandates and pandemic restrictions take place in Melbourne, Sydney, Gold Coast - ABCNews</a>
12/12/21	'Free Victoria': Anti-mandate protesters march in Melbourne	Thousands of protesters again converged on Melbourne to oppose the COVID-19 vaccine mandate and new emergency laws introduced by the Andrews government – but crowd numbers continue to dwindle compared to previous “freedom” rallies.	<a href="#">COVID Victoria: Anti-vaccine mandate protesters march in Melbourne (theage.com.au)</a>
04/12/21	Covid vaccine protests in Melbourne as Kerry Chant warns of ‘uptick’ in Sydney Omicron cases	Thousands of people again turned out in Melbourne on Saturday in the first mass demonstration since the Victorian government passed its new pandemic laws. The mostly mask-less crowds marched through Treasury Gardens shouting “sack Dan Andrews” and “freedom”, and were seen waving Donald Trump placards, United Australia party posters, Eureka and national flags, and signs about various conspiracy theories.	<a href="#">Covid vaccine protests in Melbourne as Kerry Chant warns of ‘uptick’ in Sydney Omicron cases   Australia news   The Guardian</a>
21/09/21	Covid: Melbourne construction sites shut after violent vaccine protest	Australia's Victoria state has shut construction sites across Melbourne following a violent protest against mandatory Covid-19 vaccines.  The protest on Monday was against a requirement for staff to prove they had received a vaccine dose to access their workplace.	<a href="#">Covid: Melbourne construction sites shut after violent vaccine protest - BBC News</a>
21/09/21	Construction workers in Melbourne protest mandatory vaccinations.	Construction workers in Melbourne, Australia, clashed violently with the police for the second day in a row on Tuesday in a dispute over mandatory vaccinations.	<a href="#">Construction Workers in Melbourne, Australia, Protest Vaccine Mandate - The New York Times (nytimes.com)</a>
20/09/21	Victoria records 567 COVID cases and one death as construction workers protest mandatory vaccination	Violent brawls erupted during protests today in Melbourne's CBD, as more than 500 workers gathered outside the CFMEU (Construction, Forestry, Maritime, Mining and Energy Union) headquarters on Elizabeth Street rallying against mandatory vaccinations.	<a href="#">Victoria records 567 COVID cases and one death as construction workers protest mandatory vaccination - ABC News</a>

### **Old Parliament House fire protesters linked to anti-vaccine and conspiracy groups**

The protesters have been accused of spreading Covid-19 misinformation in Indigenous communities

Michael McGowan @mmcgowan, The Guardian (www.theguardian.com)

Fri 31 Dec 2021 18.20 AEDT; Last modified on Tue 4 Jan 2022 16.15 AEDT

Leaders of a group of protesters who set fire to the facade of Old Parliament House in [Canberra](#) are closely linked to a complex network of anti-vaccination and conspiracy groups which have been accused of spreading misinformation in Indigenous communities during the Covid-19 pandemic.

The fire, which broke out during a protest at the entrance to the building on Thursday, caused extensive damage to the doors and portico.

There have been a series of demonstrations by Indigenous groups as well as elements of the anti-vaccination movement and sovereign citizen groups at Old Parliament House over the past days.

On 22 December another fire was lit at the entrance by the same group of protesters. A protester posted video of that fire on Instagram with the caption: "These Doors are Coming Down Either Way".

Among the protesters are Indigenous land rights activists, anti-vaccine groups and so-called sovereign citizens.

The latter is a fringe conspiracy group rooted in antisemitism and organised around a haphazard collection of pseudo-legal beliefs broadly grouped around the notion that modern government is an illegitimate corporation.

Like many other threads of conspiratorial thinking, sovereign citizens have enjoyed a confused renaissance during the pandemic. When footage began emerging during the early stages of Covid-19 of people asking police bizarre questions at border stops or describing themselves as a "a living woman" to Bunnings employees, it was [largely as a result of sovereign citizen-inflected beliefs](#).

Before the fire on Friday, a piece of paper was taped to a door at Old Parliament House labelled a "notice of acquiescence by default". It was addressed to, among others, "The Australian Commonwealth de facto Corporate Administration" and contained a garbled set of legalese mirroring sovereign citizen beliefs.

Intertwined with the protesters were various fringe anti-vaccination groups as well as members of the "freedom movement" which has pushed anti-lockdown protests during the Covid-19 pandemic before morphing into a catch-all conspiracy movement.

Attempts by elements of the conspiracy movement to influence Indigenous groups have been well documented.

As the Age has previously reported, some of those movements have been active in promoting misinformation in remote Indigenous communities. In September the Guardian revealed a group had attempted to push ivermectin into the remote regional town of Wilcannia during a Covid outbreak there. There is no evidence that ivermectin has any beneficial effect as a Covid treatment, and it may be harmful in some circumstances.

Leaders of the Aboriginal Tent Embassy, established in 1972, condemned the actions that led to Thursday's fire.

“The actions of such protestors conducting a ‘smoking ceremony’ was done so without the knowledge, consent or mandate of the embassy council and traditional owners responsible for the regulation of the Aboriginal Tent Embassy,” it said in a statement.

There were claims following the fire that it may have been the result of a smoking ceremony that got out of hand, or as a result of police using pepper spray to disperse the crowd.

However, footage on social media showed that the fire was well lit before police arrived at the scene, and ACT police told the Age the pepper spray used was water-based and did not contain an accelerant.

Footage taken by protestors themselves shows many of them celebrating after the fire began to engulf the front of the building.

The protests were widely condemned by political leaders. Scott Morrison said it was “disgraceful”.

“I’m disgusted and appalled by the behaviour that would see Australians come and set fire to such a symbol of democracy in this country,” the prime minister said on Thursday.

But the Greens senator Lidia Thorpe, the party’s first Indigenous representative, wrote on Twitter: “Seems like the colonial system is burning down. Happy New Year everyone.”

She later deleted the tweet, and the party’s leader, Adam Bandt said: “Greens don’t want to see the planet burning or Old Parliament.” However, he did not publicly criticise Thorpe nor has she apologised for the comment.

Old Parliament House now houses the Museum of Australian Democracy. Its director, Daryl Karp, called the fire “tragic” and said damage to the building was potentially irreparable.

“To actually be closed, and to be closed because of violent protests is really tragic,” she told the ABC on Friday.

<https://www.theguardian.com/australia-news/2021/dec/31/old-parliament-house-fire-protesters-linked-to-anti-vaccine-and-conspiracy-groups>



## CORONAVIRUS

# Protests against COVID vaccine mandates and pandemic restrictions take place in Melbourne, Sydney, Gold Coast

Posted Sun 12 Dec 2021 at 1:33pm, updated Sun 12 Dec 2021 at 6:34pm

Thousands of people have again marched in Australian cities to protest against vaccine mandates and government responses to the COVID-19 pandemic.

In Melbourne, people gathered outside state parliament before walking down Bourke Street and on to Carlton Gardens.

Police estimated approximately 4,000 people were present.

Traffic was blocked off by the protesters. Parts of the CBD were already closed for the Melbourne Marathon, which ran on Sunday morning for the first time in two years.

Many in the crowd were holding signs and flags.

"These mandates need to stop, they need to let people get back to work," one woman said as she marched.

Two doses of the safe and effective COVID-19 vaccines are required to access most venues and workplaces in Victoria.

The health benefits of being vaccinated far outweigh any potential risks, and serious side effects are extremely rare.

Refrains of "sack Dan Andrews" and "my body, my choice" were chanted by the Melbourne crowd.

The state's controversial pandemic bill has now been made law, and Premier Daniel Andrews on Friday made a formal pandemic declaration under the new legislation.

The latest data from Victoria's health department shows that 92 per cent of Victorians aged 12 and over have had at least two doses of a COVID-19 vaccine.

A majority of people receiving intensive care in Victorian hospitals are unvaccinated.

The Melbourne protest was largely peaceful, overseen by a significant police presence.

A 59-year-old woman was arrested in relation to an assault of a police officer. She was released and is expected to be charged with unlawful assault.

According to a police spokesperson, the officer was not seriously injured.

### Key points:

- The protests contain a range of views and demands, but many participants are against vaccine mandates
- In Melbourne and Sydney, crowds of thousands marched through the streets
- A demonstration on the Gold Coast took place just hours before the reopening of Queensland's border

Some demonstrators yelled at reporters covering the march, calling the media "scumbags" and "fake news".

The so-called "freedom" protests are loosely organised and contain a range of views and objectives.

A small but prominent portion of the protesters have links to far-right extremism and unfounded conspiracy theories.

## **Sydney protest focus on worker mandates**

In Sydney, thousands of protesters marched through the streets of the CBD beating drums, blowing whistles and carrying flags from around the world.

After starting in Hyde Park they converged on Alfred Park where a stage was set up for speakers and live music.

While restrictions will ease for the unvaccinated this week, protesters voiced particular concern over vaccine mandates for health and education workers.

Mother-of-two Sylvia told the ABC she was there to protect her children.

"Starting to vaccinate five to 11-year-olds really shook me to the core," she said.

The nationwide rollout of COVID-19 vaccines to children in that cohort will begin on January 10, [after approval from peak medical advisors at the Therapeutic Goods Administration and Australian Technical Advisory Group on Immunisation](#).

As for adults, the vaccines for children are voluntary and have been found to be safe and effective.

From Wednesday December 15 in NSW, regardless of vaccine status, mask-wearing will no longer be required outdoors and will only apply to some indoor settings including public transport.

Check-ins will also be limited to some venues such as hospitals, gyms and aged-care facilities.

There will no longer be any restrictions on the number of visitors to people's homes or to aged-care facilities.

Capacity restrictions will also be lifted at hairdressers, hospitality venues, gyms, indoor swimming pools and other recreation and sporting facilities.

Travel between Greater Sydney and regional areas will also be allowed for all.

## **Protest in Queensland before border opens**

In Queensland, thousands gathered in Coolangatta at the Gold Coast, right near the New South Wales border.

The crowd held signs opposing vaccines, lockdowns and masks.

It came just hours before the reopening of Queensland's border to vaccinated people coming from interstate hotspots.

## Media Release

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# COVID-19 (Coronavirus) statistics

12 January 2022

To Monday 10 January across NSW, 95.1 per cent of people aged 16 and over have received a first dose of a COVID-19 vaccine, and 93.7 per cent have received two doses.

Of the people aged 12 to 15, 81.6 per cent have received a first dose of COVID-19 vaccine, and 78.1 per cent have received two doses.

Of people aged 5 to 11, 1.8 per cent have received a first dose of a COVID-19 vaccine.

The total number of vaccines administered in NSW is now 14,135, 854 with 4,526,842 administered by NSW Health to 8pm last night and 9,669,012 administered by the GP network, pharmacies and other providers to 11.59pm on Monday 10 January 2022.

NSW Health encourages everyone who is eligible to book into a NSW Health vaccination clinic or another provider without delay through the [COVID-19 vaccine clinic finder](https://www.health.nsw.gov.au/resources/apps-and-tools/covid-19-vaccine-clinic-finder) [<https://www.health.nsw.gov.au/resources/apps-and-tools/covid-19-vaccine-clinic-finder>].

Booster doses of COVID-19 vaccine are now available for people aged 18 and over. People aged 18 years and over are eligible for a booster if they had their second dose at least four months ago. We urge people to get their booster dose as soon as they are eligible, to best protect themselves, their loved ones and the community from the ongoing transmission of COVID-19. We also strongly recommend that people aged 12 years and over who are severely immunocompromised have a third primary dose of vaccine from two months after their second dose.

NSW Health vaccination clinics across the state are now administering the Pfizer COVID-19 vaccine to children aged five to 11 years old. NSW Health is encouraging parents and caregivers to make a booking for vaccination at any NSW Health vaccination clinic, at a general practitioner, or a community pharmacy.

Sadly NSW Health is today reporting the deaths of 21 people with COVID-19; 17 men and four women.

Seven of these deaths have been included following the conclusion of coronial investigations – four since 23 December 2021, one from September 2021 and two from October 2021.

One person was aged in their 30s, one person was aged in their 40s, two people were aged in their 50s, four people were aged in their 60s, six people were aged in their 70s,

four people were aged in their 80s, two people were aged in their 90s and one person was aged 100+.

**ATTACHMENT M**

Of the 21 people who died; 12 were vaccinated, eight were not vaccinated and one person had received one dose of a COVID-19 vaccine.

Four people were from south western Sydney, four people were from the Northern Beaches, four people were from south eastern Sydney, one person was from Inner Sydney, two people were from western Sydney, two people were from the Newcastle area, two people were from the Wollongong area and two people were from northern Sydney.

NSW Health expresses its sincere condolences to their loved ones.

There are currently 2,242 COVID-19 cases admitted to hospital, with 175 people in intensive care, 54 of whom require ventilation.

There were 134,411 COVID-19 tests reported to 8pm last night, compared with the previous day's total of 71,325.

NSW recorded 34,759 new cases of COVID-19 detected by PCR testing in the 24 hours to 8pm last night. As increasingly people follow NSW Health's advice to use rapid antigen tests for diagnosing COVID-19, the number of PCR tests will underestimate the true number of people who have tested positive for COVID-19.

118 COVID-19 cases have been excluded following further investigation, bringing the total number of cases in NSW since the beginning of the pandemic to 535,836.

<b>Cases</b>	<b>Count</b>
Confirmed cases (including interstate residents in NSW health care facilities)	535,836
Deaths (in NSW from confirmed cases)	777
Total tests carried out	26,397,902
Total vaccinations administered in NSW	14,195,854

People are at risk of developing COVID-19 for 14 days after they were last in contact with a COVID-positive person, so it is important to take precautions during this time. While most of the people who will become positive do so within the first week after exposure, around a quarter develop their infection in the following seven days. If you have had a high-risk interaction with someone who has COVID-19, it is important to exercise caution and avoid high-risk settings and large indoor gatherings for 14 days after you last had contact with them.

Of the 34,759 cases reported to 8pm last night, 7,350 are from South Western Sydney Local Health District (LHD), 5,394 are from Western Sydney LHD, 3,911 are from South Eastern Sydney LHD, 3,410 are from Hunter New England LHD, 3,237 are from Northern Sydney LHD, 2,522 are from Sydney LHD, 2,169 are from Illawarra Shoalhaven LHD, 1,345

are from Nepean Blue Mountains LHD, 1,054 are from Central Coast LHD, 962 are from Northern NSW LHD, 809 are from Western NSW LHD, 681 are from Murrumbidgee LHD, 467 are from Southern NSW LHD, 452 are from Mid North Coast LHD, 37 are from Far West LHD and 959 are yet to be assigned to an LHD.

## ATTACHMENT M

If you are directed to [get tested](https://www.nsw.gov.au/covid-19/stay-safe/testing/clinics) [https://www.nsw.gov.au/covid-19/stay-safe/testing/clinics] for COVID-19 or [self-isolate](https://www.nsw.gov.au/covid-19/rules/self-isolation) [https://www.nsw.gov.au/covid-19/rules/self-isolation] at any time, you must follow the self-isolation [rules](https://www.nsw.gov.au/covid-19/rules/self-isolation) [https://www.nsw.gov.au/covid-19/rules/self-isolation].

If you have any [COVID-19 symptoms](https://www.nsw.gov.au/covid-19/stay-safe/testing/symptoms) [https://www.nsw.gov.au/covid-19/stay-safe/testing/symptoms] it is still important that you have a test and self-isolate until you receive a negative test result.

There are COVID-19 testing locations across NSW, many of which are open seven days a week. To find your nearest clinic visit [COVID-19 clinics](https://www.nsw.gov.au/covid-19/how-to-protect-yourself-and-others/clinics) [https://www.nsw.gov.au/covid-19/how-to-protect-yourself-and-others/clinics] or contact your GP.

## COVID-19 vaccination update

NSW COVID-19 vaccination rate	Total* (ages 16 and over)	Total* (ages 12 – 15)	Total* (ages 5 -11)
All providers – first doses	95.1%	81.6%	1.8%
All providers – second doses	93.7%	78.1%	n/a

\*to 11.59pm 10 January 2021

COVID-19 vaccination doses administered by NSW Health	Doses past 24 hours*	All doses
NSW Health – first doses	4,331	2,221,202
NSW Health – second doses	393	1,940,173
NSW Health – third doses	14,467	365,467
<b>Total</b>	<b>19,191</b>	<b>4,526,842</b>

\*notified from 8pm 10 January 2022 to 8pm 11 January 2022.

[Video of today's press conference](https://vimeo.com/665038655/661706dd9e) [https://vimeo.com/665038655/661706dd9e].

# ATTACHMENT M



The screenshot shows a website header with a red navigation bar. The navigation bar contains the following items: 'VICTORIA' logo, 'Department of Health', 'Hospitals & health services' with a dropdown arrow, 'Primary & community health' with a dropdown arrow, 'Public health' with a dropdown arrow, and 'Mental health' with a dropdown arrow. Below the navigation bar is a breadcrumb trail: 'Home > About the Department of Health > Media releases > Coronavirus update for Victoria - 4 January 2022'. The main content area features a large red heading: 'Coronavirus update for Victoria - 4 January 2022'. Below the heading is a video player with a play button icon. The date '04/01/22' is displayed below the video player. The text of the update is as follows:



04/01/22

There are **516** COVID-19 cases in hospital in Victoria – **56** active cases in ICU, with **24** of those on a ventilator. There are an additional **52** cleared cases in ICU.

**5,036,286** vaccine doses have been administered by Victoria's state-commissioned services, with **192** administered yesterday at state-run centres.

**94.5 per cent** of Victorians aged 12 and over have now had at least one dose of a COVID-19 vaccine and **92.9 per cent** have had two doses. This excludes the most recent Commonwealth data.

**11 per cent** of Victorians aged 12 and over have had three doses of a COVID-19 vaccine. This includes third primary doses, as well as third doses (which are currently available for people 18 and over).

Victoria was notified of **14,020** new cases of COVID-19 yesterday. All cases were locally acquired. The **10** LGAs with the highest number of new cases are Wyndham, Casey, Melbourne, Brimbank, Hume, Stonnington, Whittlesea, Port Phillip, Yarra and Melton.

All locations containing new cases will be published today at [Victorian COVID-19 data](#) .

Community sample testing of positive cases for the Omicron variant indicates that it is now the dominant strain of COVID-19 in Victoria. 76 per cent of samples collected over the Christmas period were the Omicron variant. Further testing to confirm this finding will take place over the coming week.

There are **48,297** active cases in Victoria. The total number of confirmed cases in Victoria since the beginning of the pandemic is **213,490**.

Sadly, the Department was notified yesterday of **two** deaths of people aged in their 80s. This brings the total number of deaths in Victoria since the pandemic began to **1,542**.

**60,515** COVID-19 tests were processed yesterday. The total number of tests performed in Victoria since the pandemic began is **17,573,427**.

There are currently more than **10,820** active close contacts in isolation in Victoria.

## Updates

### Testing

A number of private pathology testing sites have suspended operations and will remain closed for at least the remainder of this week. This is so private providers can process a backlog of outstanding tests.

See [Where to get tested](#)  for a list of private pathology centres affected by this temporary closure.

Larger testing centres delivered by the Department of Health remain open, and you can use the [map of testing centres](#) to find open testing sites and see wait time and queue suspensions.

**We thank Victorians for their patience and understanding while we manage unprecedented demand on the network.**

Only people with COVID-19 symptoms and people who have tested positive on a Rapid Antigen Test should be getting a PCR test currently.

(In addition, people who are required to use Rapid Antigen Tests (e.g., asymptomatic household contacts) but cannot access a Rapid Antigen Test can get a PCR.)

Asymptomatic people in the community who want to check if they have COVID-19 should not get a PCR test. They should opt for Rapid Antigen Tests, and if they are currently unavailable, should continue to monitor for symptoms and stay COVIDSafe.

The Victorian Government has secured an order for 34 million Rapid Antigen Tests to be delivered by the end of January.

We will have more to say about the distribution of free Rapid Antigen Tests soon.

## **Serbian PM condemns Djokovic's breach of public health orders saying it appears to be a 'clear violation of the rules'**

The Serbian Prime Minister has said Novak Djokovic socialising while knowingly COVID-positive appears to be a "clear violation of the rules" adding that "no one is allowed to breach the isolation rules".

[Jack Mahony](#) Digital Reporter, skynews.com.au

January 12, 2022 - 6:46PM

Novak Djokovic has admitted to breaching Serbia's COVID-19 protocols after the Serbian Prime Minister said: "the laws equally apply to all".

The comments came after there was speculation that the world number one had been socialising at events in Belgrade while COVID positive.

On Wednesday Djokovic confirmed he had attended events in the Serbian capital after he knew he was COVID positive on Wednesday.

The 34-year-old admitted to attending an interview and photoshoot at his tennis centre in Belgrade after he had received a positive PCR test result.

"While I went home after the interview to isolate for the required period, on reflection, this was an error of judgement and I accept that I should have rescheduled this commitment," he wrote on Instagram.

Prior to Djokovic's admission the Serbian Prime Minister Ana Brnabic reiterated that no one was above the public health rules.

"I think it is important that everyone knows that in Serbia the laws equally apply to all and that surely no one is allowed to breach the isolation rules as it therefore puts the health of other people in jeopardy," she said.

Ms Brnabic reminded Serbians that the government remains "grateful" to Djokovic for what he is doing for the Republic of Serbia.

Despite the praise she said the government will maintain that rules must be followed adding that authorities are expected to investigate whether Djokovic breached the health orders.

"There are some standards that have to be met, in this case it seems to me that if he was aware of it (the positive COVID test) then it is a clear violation of the rules," the Prime Minister said.

"What the sanctions are? That's what the relevant institutions will have to look into."

According to Serbian Law "whoever during an epidemic of a dangerous contagious disease fails to act pursuant to regulations, decisions or orders setting forth measures for its suppression or prevention" can be punished by a fine or imprisonment by three years, [News.com.au](#) reported.

The event where Djokovic appears to have breached the rules was an interview and photoshoot with French newspaper L'Equipe.

In photos from the event, Djokovic appeared maskless with his reasoning for not wanting to cancel the event being because he "didn't want to let the journalist down".

Djokovic has also faced criticism for incorrectly filling out his immigration entry form to Australia.

The form asks arrivals if they have travelled in the 14 days prior to their arrival in Australia and Djokovic ticked “no” despite travelling from Serbia to Spain within two weeks of his flight touching down in Melbourne.

In the same social media post where Djokovic admitted he breach the Serbian health orders he revealed it was his “support team” who filled out the form and ticked the “incorrect box”.

Djokovic went on to say the mistake was a “human error” as a result of “living in challenging times in a global pandemic”.

According to the statement Djokovic’s team provided additional information to the Australian Government to “clarify this matter”.

Australia’s Department of Home Affairs states that giving “false or misleading information” on an immigration form is a “serious offence” that carries a maximum penalty of 12 months imprisonment.

<https://www.skynews.com.au/australia-news/sport/serbian-pm-condemns-djokovics-breach-of-public-health-orders-saying-it-appears-to-be-a-clear-violation-of-the-rules/news-story/768c7f9829c2592a288c1ce8c122cc82>

STATEMENT BY NOVAK DJOKOVIC  
12 January 2022

I want to address the continuing misinformation about my activities and attendance at events in December in the lead up to my positive PCR COVID test result.

This is misinformation which needs to be corrected, particularly in the interest of alleviating broader concerns in the community about my presence in Australia, and to address matters which are very hurtful and concerning to my family.

I want to emphasise that I have tried very hard to ensure the safety of everyone and my compliance with testing obligations.

I attended a basketball game in Belgrade on 14 December after which it was reported that a number of people tested positive with COVID-19. Despite having no COVID symptoms, I took a rapid antigen test on 16 December which was negative, and out of an abundance of caution, also took an official and approved PCR test on that same day.

The next day I attended a tennis event in Belgrade to present awards to children and took a rapid antigen test before going to the event, and it was negative.

I was asymptomatic and felt good, and I had not received the notification of a positive PCR test result until after that event.

The next day, on 18 December I was in my tennis centre in Belgrade to fulfil a long-standing commitment for a L'Equipe interview and photoshoot. I cancelled all other events except for the L'Equipe interview.

I felt obliged to go ahead and conduct the L'Equipe interview as I didn't want to let the journalist down, but did ensure I socially distanced and wore a mask except when my photograph was being taken.

While I went home after the interview to isolate for the required period, on reflection, this was an error of judgement and I accept that I should have rescheduled this commitment.

On the issue of my travel declaration, this was submitted by my support team on my behalf – as I told immigration officials on my arrival – and my agent sincerely apologises for the administrative mistake in ticking the incorrect box about my previous travel before coming to Australia. This was a human error and certainly not deliberate. We are living in challenging times in a global pandemic and sometimes these mistakes can occur. Today, my team has provided additional information to the Australian Government to clarify this matter.

While I felt it was important to address and clarify misinformation I will not be making any further comment out of utmost respect for the Australian Government and their authorities and the current process.

It is always an honour and a privilege to play in the Australian Open. The Australian Open is much-loved by players, fans and the community, not just in Victoria and in Australia, but around the globe, and I just want to have the opportunity to compete against the best players in the world and perform before one of the best crowds in the world.

<https://www.instagram.com/p/CYnO7cDqbdj/>

# ***Novak Djokovic on Coronavirus, Vaccines and His Ill-Fated Adria Tour***

He's monitoring his health closely in the run up to the United States Open. He's not against all vaccines but wouldn't want to be forced to take one to play. And he says he had good intentions with his tour that became a coronavirus cluster.

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52





Novak Djokovic training at Arthur Ashe Stadium on Wednesday. “I was very close to not coming” to New York to play the United States Open, Djokovic said. Credit...Mike Lawrence/U.S.T.A.



**By Christopher Clarey**

Published Aug. 20, 2020 Updated June 21, 2021

Negotiations and trans-Atlantic flight complete, [Novak Djokovic](#) was seated on the sofa of one of his hard-won concessions this week: a spacious rented home near New York City, nestled amid the trees and far from the commotion.

Djokovic had just put on a shirt after sunbathing on the terrace.

“With the trees and serenity, being in this kind of environment is a blessing,” Djokovic said on a Zoom call. “And I’m grateful, because I’ve seen the hotel where the majority of players are staying. I don’t want to sound arrogant or anything like that, and I know the U.S.T.A. did their best in order to provide accommodation and organize everything and organize these bubbles so the players can actually compete and come here, but it’s tough for most of the players, not being able to open their window and being in a hotel in a small room.”

It has been a bumpy and tortuous road to staging the United States Open amid the coronavirus pandemic. Djokovic's demands and complaints — public and private — did not make it any smoother for the United States Tennis Association to facilitate the tournament. But unlike many other leading international players, including Rafael Nadal and Roger Federer, Djokovic is actually here after this long and unexpected break from the tennis tour.

He is still ranked No. 1 and remains a perfect 18-0 in 2020, just as he was when the pandemic-related hiatus began in March.

But he was hardly a big winner during the forced off-season. He generated concern and controversy by questioning vaccination and claiming that water could be affected by human emotions. And he dented his credibility and brand by organizing the Adria Tour, a charity exhibition series in Serbia and Croatia in June that seriously lacked in social distancing and decorum, leading to a cluster of coronavirus cases. It was canceled before the finish with several leading players and some support staff testing positive.

[Djokovic and his wife Jelena were among them](#), and they isolated for two weeks with their two young children in their native city of Belgrade, Serbia.

“We tried to do something with the right intentions,” Djokovic said of the tour. “Yes, there were some steps that could have been done differently, of course, but am I going to be then forever blamed for doing a mistake? I mean, OK, if this is the way, fine, I’ll accept it, because that’s the only thing I can do. Whether it’s fair or not, you tell me, but I know that the intentions were right and correct, and if I had the chance to do the Adria Tour again, I would do it again.”

#### **Editors' Picks**

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Cinderella by Way of Cassavetes



'All Creatures Great and Small' Returns With Even More Creatures



For the Most Tender Chicken, Skip This Step



Image



Djokovic said he did not decide to come to the United States Open until less than a week before he arrived, after getting assurances from European governments that players would not have to quarantine as they returned for the French Open and other tournaments. Credit...Mike Lawrence/U.S.T.A.

Djokovic was full of mixed emotions in this week's interview, ranging from apologetic to defiant, and said he had used the long break to deepen his connections with his family and his understanding of issues like ecology and health.

"I think this is a huge transformational phase for all of us on this planet, and I think maybe even the last wake-up call," he said.

Djokovic said his coronavirus symptoms were mild, lasting four to five days. He said he had no fever but did have fatigue and some loss of smell and taste and sensed some loss of stamina when he initially returned to practice.

But with concern mounting about the long-term health effects of the virus, Djokovic, who favors a plant-based diet and natural healing when possible, said he was closely monitoring himself and looking into long-term effects.

"I've done a CT scan of my chest, and OK, everything is clear. I've done several tests since my negative test for the coronavirus as well before coming to New York," he said. "I've done my blood tests, my urine tests, my stool tests, everything that I possibly can. I'm obviously doing that prevention anyway but of course now more than ever because we don't really know what we're dealing with."

Djokovic, traveling without his family, arrived in New York on Saturday, to "get acclimated" to the unusual restrictions for the tournament and "just to be able to be OK once it's go time."

He will first play in the Western & Southern Open, a combined men's and women's event that has been moved from its usual location outside Cincinnati to the U.S. Open site to create a two-tournament bubble. He will compete in singles and doubles, teaming up with his Serbian compatriot Filip Krajinovic, with his first match either Sunday or Monday.

Both tournaments will be played without spectators at the U.S.T.A. Billie Jean King National Tennis Center in Queens, with players and their support staff required to be tested regularly and banned from traveling beyond their lodging and the tournament site without express permission from U.S. Open leadership.

"I was very close to not coming," said Djokovic, who said he decided to go to New York less than a week before he arrived and only after players were given guarantees by European governments that they would not be expected to quarantine when they traveled to Europe after the U.S. Open.

"There were a lot of uncertainties," he said. "And there still are, yeah, a lot of things that are not really clear."

He continued: "I want to play. I mean that's why I'm here. I am personally not afraid of being in a risky, dangerous health situation for myself. If I felt that way, I most likely would not be here. I am cautious of course, and I have to be responsible and of course respect the regulations and rules and restrictions as anybody else. But things are unpredictable. Anything can happen in the tennis court or off the tennis court."

## **The Coronavirus Pandemic: Latest Updates**

Updated

Jan. 9, 2022, 3:48 p.m. ET26 minutes ago

26 minutes ago

- [Starting later this week, some at-risk Americans become eligible for a 4th Covid shot.](#)
- [One week in, Mayor Adams is staying the course on N.Y.C. schools](#)
- [As Omicron spreads, the C.D.C. seeks to clarify its message on testing and isolation.](#)

Djokovic said his own experience with the coronavirus had not altered his views on vaccines. He has said that he would have a difficult decision to make if receiving a coronavirus vaccine became mandatory to compete on the tennis circuit.

"I see that the international media has taken that out of context a little bit, saying that I am completely against vaccines of any kind," he said. "My issue here with vaccines is if someone is forcing me to put something in my body. That I don't want. For me that's unacceptable. I am not against vaccination of any kind, because who am I to speak about vaccines when there are people that have been in the field of medicine and saving lives around the world? I'm sure that there are vaccines that have little side effects that have helped people and helped stop the spread of some infections around the world."

But Djokovic did express concern about potential issues with a coronavirus vaccine.

“How are we expecting that to solve our problem when this coronavirus is mutating regularly from what I understand?” he said.

Djokovic said the U.S.T.A.’s leadership was initially reluctant to allow players to stay in rented homes during the U.S. Open. They relented but imposed strict conditions. Djokovic must pay not only the rent but also for round-the-clock security approved and monitored by the U.S.T.A, in part to help enforce the same protocols other players are following.

This is not simply the honor system.

“It’s super important I made this investment because it’s going to make me feel better,” Djokovic said. “I’m going to recover better and can actually have some outdoor time when I’m not on site.”

He has come with the maximum three team members, another concession he worked to secure from the U.S.T.A., which originally planned to restrict players to just one team member. One of Djokovic’s housemates is Goran Ivanisevic, the former Wimbledon champion who is one of his coaches and also contracted the coronavirus during the Adria Tour, along with other players and coaches.

To those watching from afar, that outcome seemed logical in light of the lack of safety measures. Fans were allowed in stadiums. Masks were recommended but not required. Players hugged, high-fived and even danced the limbo in close quarters in a Belgrade nightclub.

“I agree things could have been done differently with the nightclub,” Djokovic said. “The sponsors organized. They invited players. We felt comfortable. We had a successful event. Everybody was really happy and joyful.”

Djokovic said the tour, conceived with the idea of helping lower-ranked pro players in the former Yugoslavia during the hiatus, was organized in cooperation with national governments and tennis federations. At the time, coronavirus numbers were low in Serbia and Croatia with few societal restrictions.

“We’ve done everything they asked us to do, and we followed the rules from the Day 1,” Djokovic said.

## The Coronavirus Pandemic: Key Things to Know

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Card 1 of 6

**The global surge.** The coronavirus is spreading faster than ever, but it appears that [Omicron is milder](#) than previous variants. Still, the latest surge in cases is causing [hospitalizations in the U.S. to rise](#) and [lifesaving treatments to be rationed](#).

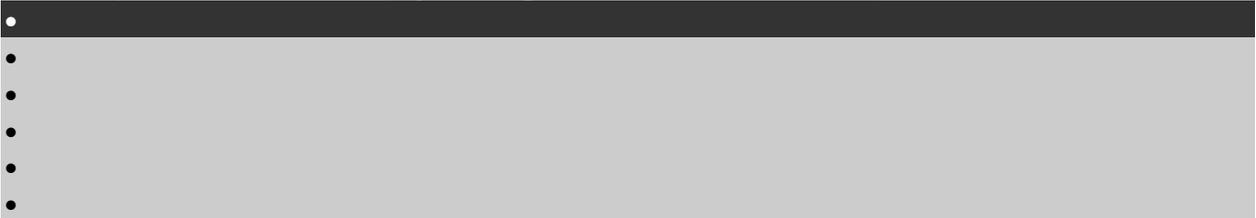
**Boosters.** The C.D.C. endorsed Pfizer boosters for [children ages 12 to 17](#) and said [being “up to date” on the vaccine now included a booster](#). But scientists are raising concerns that [“forever boosting”](#) is not a viable long-term strategy.

**Testing.** A new study suggests that two widely used [at-home antigen tests may fail to detect some Omicron cases](#) in the first days of infection. The study comes as a White House official said that the cost of rapid at-home tests would be [reimbursed by insurers starting next week](#).

**Mandates under review.** The [Supreme Court heard oral arguments](#) over efforts to overturn two major Biden administration policies intended to raise Covid vaccination rates: its vaccine-or-testing mandate aimed at large employers and a vaccination requirement for some health care workers. [Here's a breakdown of the arguments.](#)

**Around the world.** In China, a city of 13 million is locked down over a handful of cases, leading to questions over [how long the country's zero-Covid strategy can last](#). In France, President Emmanuel Macron drew criticism for saying the government should [make life miserable for the unvaccinated](#).

**Staying safe.** Worried about spreading Covid? Keep yourself and others safe by following some basic guidance on [when to test](#) and [how to use at-home virus tests](#) (if you can find them). Here is what to do [if you test positive for the coronavirus](#).



But Djokovic said he soon grasped that the view from abroad was very different.

“When someone from Australia or America looks at what was happening in Serbia, they’re like, ‘Oh my God, I mean are you crazy? What are these people doing?’” Djokovic said. “So I really understand.”

There was also criticism in Croatia of the tour and the Croatian tennis federation’s role in managing the event. But Djokovic, who also made sizable donations with his wife to coronavirus relief efforts in Serbia and Italy, maintains the tour was still worth organizing for the funds it generated for the region.

“I don’t think I’ve done anything bad to be honest,” he said. “I do feel sorry for people that were infected. Do I feel guilty for anybody that was infected from that point onward in Serbia, Croatia and the region? Of course not. It’s like a witch hunt, to be honest. How can you blame one individual for everything?”



Image



Djokovic said the perception that he is against vaccines “of any kind” is incorrect. “My issue here with vaccines is if someone is forcing me to put something in my body. That I don’t want,” he said. Credit...Mike Lawrence/U.S.T.A.

Djokovic is 33, but this will be the first of the 61 Grand Slam tournaments he has played in his long and triumphant career in which his biggest rivals — Nadal and Federer — will both be absent.

Nadal, 34, the reigning U.S. Open men's champion, chose to prioritize the clay-court season that will closely follow the U.S. Open on the reconfigured tennis calendar. Federer, 39, does not plan to play again in 2020 after two knee surgeries this year.

In New York, the rightly named Big Three will be reduced to one.

“It is strange, because these two guys are the legends of our sport and with or without crowds, they are going to be missed a lot,” Djokovic said.

But he insisted that their absence and the absence of eight other players in the men's top 100, including the 2016 U.S. Open champion Stan Wawrinka, did not diminish the significance of this tournament in his opinion because “a super majority” of top players will be there.

Federer holds the men's record with 20 Grand Slam singles titles. Nadal has 19. Djokovic has 17, and he said the quest for 18 was “of course” a significant factor in his decision to cross the Atlantic.

“One of the reasons why I keep on playing professional tennis on this level is because I want to reach more heights in the tennis world,” he said.

He said Federer's Grand Slam record and men's record of 310 weeks at No. 1 remained among his primary targets. Djokovic is at 282 weeks and he could surpass Federer by March.

Djokovic said he feels ready after the longest break of his career, but he doesn't know for certain. And he would have welcomed discussion about playing best-of-three sets at the U.S. Open instead of the usual best-of-five.

“Maybe in the future we should have that conversation. Because these kind of circumstances are very unusual,” he said.

His presence, however difficult to secure, is a major boost for both tournaments in New York. He has won three U.S. Opens and five of the last seven Grand Slam singles titles. The absence of the entire Big Three would have sent the asterisk debate into overdrive.

“I cannot say it's the main reason why I'm here, but it's one of the reasons,” he said. “First of all, I have to think about myself and my health and my fitness and whether my team is OK to be here. Once that was checked, then I of course also felt responsible as a top player to be here. It's important for our sport to keep going.”

**More on Tennis and the Coronavirus**

Novak Djokovic Tests Positive for the Coronavirus  
June 23, 2020

With Simona Halep Out, U.S. Open Field Is Missing Many Top Women  
Aug. 17, 2020

After It All, Serena Williams Still Has No. 24 In Sight  
Aug. 7, 2020

Christopher Clarey has covered global sports for The Times and the International Herald Tribune for more than 25 years from bases in France, Spain and the United States. His specialties are tennis, soccer, the Olympic Games and sailing. [@christophclarey](#)

A version of this article appears in print on Aug. 21, 2020, Section B, Page 7 of the New York edition with the headline: About the Open, And Vaccines, And the Virus .... [Order Reprints](#) | [Today's Paper](#) | [Subscribe](#)

READ 52 COMMENTS

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## Serbian Prime Minister offers guarantee Novak Djokovic will abide by Australian regulations if allowed to stay

Posted Wed 12 Jan 2022 at 4:42am, updated Wed 12 Jan 2022 at 5:20am

Serbia's Prime Minister Ana Brnabić says her government is ready to guarantee men's tennis world number one Novak Djokovic will respect local regulations if he is allowed to stay in Melbourne and compete in the Australian Open.

Her comments came after it was alleged Djokovic attended a Belgrade Tennis Association event while not wearing a mask on December 17 — the day after he tested positive to COVID-19 for a second time.

Ms Brnabić said Djokovic would have "clearly violated the rules" in place in Serbia if the tennis star had known his test result before he participated in the event, but she added that more information about the incident was needed.

"I don't know when he received the test result, when he read it," Ms Brnabić said.

When asked what would happen if Djokovic was found to have breached quarantine rules, she said the Serbian government would "deal with it".

"We will have an insight into that information because I think that information is part of the investigation that is currently led by the immigration ministry of Australia," she said.

"In the end, they made public a part of Novak's medical documentation, which I am not even sure was fair on their part to make it public, because it is not fair to make anyone's medical documentation public, unless they had Novak's explicit consent for that."

### 'Neither optimistic nor pessimistic'

Non-residents who are unvaccinated against COVID-19 cannot enter Australia unless they have been given an exemption. Djokovic, who is not vaccinated, based his exemption on him having contracted the virus last month.

Australian Border Force cancelled his visa before [Djokovic had that decision overturned in the Federal Circuit Court](#).

However the tennis star's fate remains in the balance as Immigration Minister Alex Hawke continues to consider whether to use his ministerial powers to cancel the Serbian star's visa.

## ATTACHMENT Q

If that happens, it could mean Djokovic is banned from entering Australia for three years, although ban periods are done on a case-by-case basis.

That investigation could involve [whether or not Djokovic lied on his entry papers](#) about his travel prior to coming to Australia.

Ms Brnabić, who recently spoke with Australian Prime Minister Scott Morrison, said she was "neither optimistic nor pessimistic" about whether Djokovic would be permitted to stay in Australia, where he hopes to win a record 21st grand slam title.

"I hope that final decision will be announced soon," she said.

"Uncertainty is not good for any of the stakeholders, neither Djokovic nor the Australian Open."

**ABC/Reuters**

# Affidavit

Family Law Rules 2021 – RULE 8.15  
General Federal Law Rules 2021 – RULE 4.04

## Filed in:

- Federal Circuit and Family Court of Australia  
 Family Court of Western Australia  
 Other (specify) \_\_\_\_\_

## Type of proceedings:

- Family law proceedings  
 Migration proceedings  
 General federal law proceedings  
 Other (specify) \_\_\_\_\_

## Filed on behalf of:

Full name: NOVAK DJOKOVIC

## COURT USE ONLY

Client ID \_\_\_\_\_

File number \_\_\_\_\_

Filed at \_\_\_\_\_

Filed on \_\_\_\_\_

Court location \_\_\_\_\_

Court date \_\_\_\_\_

Name of person swearing/affirming this affidavit (SEE PART C)

CAROLYN RUTH BRODERICK

Date of swearing/affirming 07 / 01 / 2022

## Part A

## About the parties

### APPLICANT 1

Family name (as used now)/Title/Organisation

DJOKOVIC

Given names (as required)

NOVAK

### APPLICANT 2

Family name (as used now)/Title/Organisation

\_\_\_\_\_

Given names (as required)

\_\_\_\_\_

### RESPONDENT 1

Family name (as used now)/Title/Organisation

MINISTER FOR HOME AFFAIRS

Given names (as required)

\_\_\_\_\_

### RESPONDENT 2

Family name (as used now)/Title/Organisation

\_\_\_\_\_

Given names (as required)

\_\_\_\_\_

What is the contact address (address for service) in Australia for the party filing this affidavit?

You do not have to give your residential address. You may give another address at which you are satisfied that you will receive documents. If you give a lawyer's address, include the name of the law firm. You **must** also give an email address.

### Hall & Wilcox

Level 11, Rialto South Tower, 525 Collins Street, Melbourne VIC 3000 Australia

Phone +61 3 9603 3555

Lawyer's code 163

Email penelope.ford@hallandwilcox.com.au

## Part B About the independent children's lawyer (if appointed)

Independent children's lawyer family name	Given names
N/A	
Firm name	

## Part C About you (the deponent)

Family name (as used now)/Title/Organisation	Given names
BRODERICK	CAROLYN RUTH
Gender	Usual occupation (if applicable)
<input type="checkbox"/> Male <input checked="" type="checkbox"/> Female <input type="checkbox"/> X	MEDICAL PRACTITIONER

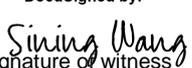
What is your address?

You do not have to give your residential address if you are concerned about your safety. You may give another address at which you are satisfied that you will receive documents.

Care of Tennis Australia of Olympic Boulevard
MELBOURNE
State VIC      Postcode 3000

## Part D Evidence

- I am a medical practitioner with a Bachelor of Medicine/Bachelor of Surgery from the University of NSW, a Fellowship of the Australasian College of Sport and Exercise Medicine Physicians and a PhD from the University of Sydney. I have worked as a medical practitioner for approximately 32 years.
- I am the Chief Medical Officer of Tennis Australia and I am authorised to swear this affidavit.
- As part of my role at Tennis Australia, I was involved in setting up an independent expert medical review panel for the purpose of reviewing applications from players and players' support staff for medical exemptions to vaccination to attend or participate in the Australian Open tennis tournament.
- While considering what process to adopt, the review process was discussed with the Victorian Government's Department of Health (**DoH**). In addition to Tennis Australia's requirements, I understand that a person who is unvaccinated requires a medical exemption in order to enter into the State of Victoria.
- The DoH and Tennis Australia put in place a two-step process for considering medical exemptions for unvaccinated entrants. First, the application for a medical exemption would be determined by a panel of suitably-qualified independent experts, appointed by Tennis Australia, who would either approve, reject or ask for further information for each application.

DocuSigned by:  Signature of person making this affidavit (deponent)	DocuSigned by:  Signature of witness
---	--

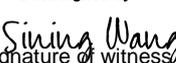
6. Tennis Australia appointed [REDACTED] (MBBS, B. Med.Sci., FRACP, FTTM (RCPS Glasgow) FISTM, PhD), Professor of Infectious Diseases and Virology and [REDACTED] (MBBS, MA (Bioinf), FRACP, PhD), Infectious Disease Physician as its expert panel (**TA's Panel**).
7. If the application was approved by TA's Panel, the application would be provided to the DoH's independent panel (**DoH Panel**) which would then make its own determination.
8. I initially received a number of applications for a medical exemption to vaccination. I passed each application to one of our employees [REDACTED], who removed identifying information from each application to ensure that each application did not contain information which could identify the applicant.
9. TA's Panel and the DoH Panel are each tasked with determining whether each application for medical exemption met the Australian Technical Advisory Group on Immunisation (ATAGI) guidelines on medical exemptions to vaccination.
10. On 28 December 2021, TA's Panel approved the plaintiff's medical exemption to vaccination.
11. The plaintiff's application, the subject of the TA's Panel approved exemption, was then provided to the DoH Panel.
12. The DoH Panel reviewed and endorsed the plaintiff's application for medical exemption to vaccination.
13. On 30 December 2021, I signed a letter confirming that the 2 panels had approved the plaintiff's application for medical exemption to vaccination. Annexed to this affidavit and marked '**CRB-1**' is a true copy of this advice regarding medical exemption to vaccination granted to the plaintiff.

DocuSigned by:

  
Signature of person making this affidavit (deponent)

0FB77BDC07FE437...

DocuSigned by:

  
Signature of witness

FF0EC23A3B0A4CD...

# Part E Signature

I affirm the contents of this affidavit are true

DocuSigned by:  
*Carolyn Ruth Broderick*  
 Signature of Deponent

MELBOURNE  
 Place Date 07/01/2022

DocuSigned by:  
*Sining Wang*  
 Before me (signature of witness)

Sining Wang  
 Full name of witness (please print)

- Justice of the Peace
- Notary Public
- Lawyer

This affidavit was prepared / settled by  deponent/s  
 lawyer

HALL & WILCOX  
 PRINT NAME AND LAWYER'S CODE

DocuSigned by:  
*Carolyn Ruth Broderick*  
 Signature of person making this affidavit (deponent)

DocuSigned by:  
*Sining Wang*  
 Signature of witness

This is the document referred to as **CRB-1** in the affidavit of Carolyn Ruth Broderick affirmed at Melbourne on 7 January 2022 before me:

DocuSigned by:

*Sining Wang*

FF0EC23A5B6A4CD...

Sining Wang

Australian Legal Practitioner

**Medical exemption from COVID vaccination**

30<sup>th</sup> December 2021

**Name: NOVAK DJOKOVIC**  
**DOB: [REDACTED]**  
**Country of birth: Republic of Serbia**  
**Passport number: [REDACTED]**



Tennis Australia  
Country of the Kallit Nation  
Olympic Boulevard  
Melbourne Victoria 3000  
Private Bag 6063  
Richmond Victoria 3121  
T +61 3 9914 4000  
F +61 3 9650 2743  
tennis.com.au

To whom it may concern,

Mr Novak Djokovic has been provided with a medical exemption from COVID vaccination on the grounds that this individual has recently recovered from COVID.

The date of the first positive COVID PCR test was recorded on the 16/12/21 and it has now been more than 14 days since the first positive PCR test. Mr Djokovic has not had a fever or respiratory symptoms of COVID-19, in the last 72 hours

This temporary exemption is valid until 16/5/22.

This certificate for exemption has been provided by an Independent Expert Medical Review panel commissioned by Tennis Australia. The decision of the panel has been reviewed and endorsed by an independent Medical Exemptions Review Panel of the Victorian State Government. The conditions of the exemption are consistent with the recommendations of the Australian Technical Advisory Group on Immunisation (ATAGI).

Yours sincerely,

A handwritten signature in black ink that reads "C Broderick".

Dr Carolyn Broderick MBBS, FACSEP, PhD  
Chief Medical Officer, Tennis Australia & Australian Open

**Independent Expert Medical Review Panel**

[REDACTED]

MBBS, B.Med.Sci., FRACP, FFTM (RCPS Glasgow) FISTM, PhD  
Professor of Infectious Diseases and Virology  
*COVID Advisor: Healthscope, Epworth Health, AFL, Tennis Australia, ICC, FIBA*

[REDACTED]

MBBS, MA (Bioinf), FRACP, PhD  
Infectious Disease Physician  
*COVID Advisor: Epworth Health, Tennis Australia*

occupation  
of person  
making the  
declaration

matter  
declared to

years.

Travel Document Holder \*

4 (Optional:  
email  
address  
and/or  
telephone  
number of  
person  
making the  
declaration)

4

person  
before  
whom the  
declaration  
is made  
(see over)



10 (Optional:  
email  
address  
and/or

number of  
person  
before  
whom the  
declaration  
is made



**From:** [Natalie Rannister](#)  
**To:** [Brown, David](#)  
**Cc:** [Sining Wang](#); [Graydon Dowd](#)  
**Subject:** Novak Djokovic [HW-Active:FD3264722]  
**Date:** Tuesday, 11 January 2022 11:05:50 AM  
**Attachments:** [Mimecast Large File Send \(xvless\).msg](#)  
[image003.pdf](#)  
[image004.pdf](#)  
[image005.pdf](#)  
[image007.pdf](#)

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I'm using Mimecast to share large files with you. Please see the attached instructions.

Dear David,

Can you please advise whether you are now have instructions to act for the Minister of Immigration?

Please find attached a link to the attachments sent to you yesterday.

We also attach the following additional documents (which we understand you already have, but are provided again for the avoidance of doubt.

1. PCR test results on 16 Dec 2022 and 22 Dec 2022
2. Affidavit of Catherine Broderick dated 7 January 2022 and its annexure (exemption letter dated 30 December 2021)
3. ATAGI expanded guidance on temporary medical exemptions for COVID-19 vaccines

Separately, we draw your attention to the daily Victorian COVID-19 case numbers published the by the Victorian Department of Health:

- a. 11 January 2022: 171,369 active cases
- b. 10 January 2022: 161,035 active cases
- c. 9 January 2022: 146,863 active cases
- d. 8 January 2022: 83,390 active cases
- e. 7 January 2022: 69,680 active cases
- f. 6 January 2022: 61,120 active cases
- g. 5 January 2022: 51,317 active cases

We intend to make further submissions.

Kindly acknowledge receipt.

Yours faithfully,

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[Keep up to date and view our Latest Thinking](#)

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## ATAGI expanded guidance on acute major medical conditions that warrant a temporary medical exemption relevant for COVID-19 vaccines

Updated: 26 November 2021

The below guidance is prepared to support completion of the [Australian Immunisation Register immunisation medical exemption \(IM011\) form](#), [Guidelines for immunisation medical exemption](#).

This advice covers those for whom an exemption can be provided and does not cover clinical management of adverse events. For the management of adverse events refer to your local Specialist Immunisation Service.

### Background

COVID-19 vaccines have been demonstrated to be safe and effective and as such are recommended for all Australians from 12 years of age. There are very few situations where a vaccine is contraindicated and as such, medical exemption is expected to be rarely required.

### Temporary exemptions

An exemption should not be given when an alternative COVID-19 vaccine is available and when completing the medical exemption ([IM011](#)) form all COVID-19 brands must be selected.

Valid reasons for a temporary exemption include:

- For an mRNA COVID-19 vaccine, inflammatory cardiac illness within the past 3 months, e.g., myocarditis or pericarditis; acute rheumatic fever or acute rheumatic heart disease (i.e., with active myocardial inflammation); or acute decompensated heart failure
- For all COVID-19 vaccines:
  - Acute major medical condition (e.g. undergoing major surgery or hospital admission for a serious illness). Typically, these are time-limited conditions (or the medical treatment for them is time limited).
  - PCR-confirmed SARS-CoV-2 infection, where vaccination can be deferred until 6 months after the infection. Vaccination should be deferred for 90 days in people who have received anti-SARS-CoV-2 monoclonal antibody or convalescent plasma therapy.
  - Any serious adverse event attributed to a previous dose of a COVID-19 vaccine, without another cause identified, and with no acceptable alternative vaccine available. For example a person <60 years of age, contraindicated to receive Pfizer vaccine and in whom the risks do not outweigh the benefits for receipt of AstraZeneca vaccine, is eligible for a temporary exemption.
  - If the vaccinee is a risk to themselves or others during the vaccination process they may warrant a temporary vaccine exemption. This may include a range of individuals with underlying developmental or mental health disorders, but noting that non-pharmacological interventions can safely facilitate vaccination in many individuals with behavioural

disturbances and that specialist services may be available to facilitate the safe administration of vaccines in this population.

Chronic symptoms following COVID-19 ("Long COVID") are not a contraindication to COVID-19 vaccines, but do warrant a clinical discussion with the patient.

Pregnancy is not a valid reason for exemption in the absence of any of the criteria listed above.

## Assessment of serious adverse events following immunisation (AEFI)

An adverse event is considered serious if it:

- requires in-patient hospitalisation or prolongation of existing hospitalisation OR results in persistent or significant disability/ incapacity OR is potentially life-threatening.

AND

- has been reported to a state/territory adverse event surveillance system and/or the TGA.

AND

- has been determined following review by, and/or on the opinion of, an experienced immunisation provider/medical specialist to be associated with a risk of recurrence of the serious adverse event if another dose is given.

Assessment of an adverse event following immunisation (AEFI) requires detailed information on the event, a determination of the likelihood of a causal link with vaccination, as well as the severity of the condition.

Examples of serious AEFI include: thrombosis with thrombocytopenia (TTS) following Vaxzevria [COVID-19 Vaccine AstraZeneca]; medically significant illness (e.g., immune thrombocytopenia purpura (ITP), myocarditis), potentially life-threatening events (e.g., anaphylaxis); and/or persistent or significant disability (e.g., Guillain-Barré Syndrome). These reactions do not include common expected local or systemic reactions known to occur within the first few days after vaccination.

Attributing a serious adverse event to a previous dose of a COVID-19 vaccine may require discussion with the individual's GP, local immunisation service or relevant medical specialist.

## Duration of temporary exemption

Temporary exemptions for longer than 6 months are NOT recommended in the first instance, as they should be reviewed as the individual recovers from their acute major medical illness. This time limitation will allow individuals who can safely be vaccinated to be protected against COVID-19 in a timely way.

- It may take a few weeks for any changes to an individual's vaccine status to be updated on the AIR with regards to a temporary medical exemption.
- It should also be noted that an individual may not be optimally protected from COVID-19 until they have completed the recommended vaccine schedule and this temporary exemption may need to be reconsidered depending on the SARS CoV-2 epidemiology at the time.
- Temporary medical exemptions can only be completed by those authorised to do so [AIR medical exemption criteria], utilising their Medicare provider number.

## More information

[ATAGI Clinical Guidance on COVID-19 vaccine in Australia in 2021](#)

[The Australian Immunisation Handbook](#)

How to report an AEFI: <https://www.health.gov.au/health-topics/immunisation/health-professionals/reporting-and-managing-adverse-vaccination-events>

[Risk- benefit document.](#)

**From:** [Rachel Giudicatti](#)  
**To:** [Brown, David](#)  
**Cc:** [Natalie Bannister](#); [Graydon Dowd](#); [Sining Wang](#)  
**Subject:** FW: Djokovic v Minister MLG35/2022 [HW-Active.FID3264722]  
**Date:** Wednesday, 12 January 2022 10:52:31 AM  
**Attachments:** [image05.png](#)  
[image06.png](#)  
[image07.png](#)  
[image08.png](#)  
[povrtaCovid19\\_23\\_12.PDF](#)  
**Importance:** High

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Dear Mr Brown

We refer to our email below.

Our letter inadvertently omitted a further document in support of the proposition that our client's visa should not be cancelled, being a positive antibody test dated 23 December 2021.

A copy of this test is **attached**.

For the avoidance of doubt, we confirm that the 'Relevant Information' definition underneath paragraph 6 of our letter refers to the material described in paragraphs 1-6 inclusive (as well as the **attached** test), not merely the material described in paragraph 6.

Regards

**Rachel Giudicatti** | Senior Associate

T +61 3 9603 3672 | F +61 3 9670 9632 | M +61 459 998 579  
[Rachel.Giudicatti@hallandwilcox.com.au](mailto:Rachel.Giudicatti@hallandwilcox.com.au) | [professional profile](#)



[www.hallandwilcox.com.au](http://www.hallandwilcox.com.au)



---

**From:** Rachel Giudicatti  
**Sent:** Wednesday, 12 January 2022 9:24 AM  
**To:** Brown, David <David.Brown@ags.gov.au>  
**Cc:** Graydon Dowd <Graydon.Dowd@hallandwilcox.com.au>; Natalie Bannister <natalie.bannister@hallandwilcox.com.au>; Sining Wang <Sining.Wang@hallandwilcox.com.au>  
**Subject:** Djokovic v Minister MLG35/2022 [HW-Active.FID3264722]  
**Importance:** High

Dear Mr Brown

Please see our **attached** correspondence and the enclosures.

Regards

**Rachel Giudicatti** | Senior Associate

T +61 3 9603 3672 | F +61 3 9670 9632 | M +61 459 998 579  
[Rachel.Giudicatti@hallandwilcox.com.au](mailto:Rachel.Giudicatti@hallandwilcox.com.au) | [professional profile](#)



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**Subject:** FW: Novak Djokovic [HW-Active.FID3264722]  
**Date:** Thursday, 13 January 2022 at 11:11:35 am Australian Eastern Daylight Time  
**From:** Natalie Bannister  
**To:** Brown, David  
**CC:** Sining Wang  
**Attachments:** image017.png, image018.png, image019.png, image020.jpg, image021.png, image022.png, image023.png, image024.png, IMG\_20220112\_0003.pdf

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Dear David

We refer to our correspondence yesterday and now provide some further relevant information for the Minister’s attention, namely the enclosed letter from Assoc Professor Verica Jovanovic. We ask that you confirm that the Minister will consider this information before making any decision.

Should the Minister for Immigration purport to cancel Mr Djokovic’s visa under section 133C(3), we hold instructions to immediately apply to the Courts for relief. Further, we have instructions to seek an urgent (almost immediate) final trial. Judge Kelly is already well-familiar with issues in the case, including the proper interpretation of the ATAGI guidelines.

In the meantime, we request that you take all appropriate steps to ensure that the Minister is available for cross-examination at short notice in the event that the Minister purports to cancel Mr Djokovic’s visa. We anticipate that, if such a decision be made, then proceedings will be commenced forthwith, and that we will ask the Court to conduct an urgent final hearing, and to issue a subpoena to the Minister to attend to give evidence at that hearing.

Sincerely

**Natalie Bannister** | Partner & National Commercial Practice Leader

T +61 3 9603 3566 | F +61 3 9670 9632 | M +61 409 418 259  
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12 January 2022

Our ref: NLB SSW 193699

Mr David Brown  
Senior Executive Lawyer  
Australian Government Solicitor

Natalie Bannister  
Partner & National Commercial Practice Leader  
natalie.bannister@hallandwilcox.com.au  
+61 3 9603 3566

**By email:** David.Brown@ags.gov.au

Sining Wang  
Senior Associate & China Practice Manager  
sining.wang@hallandwilcox.com.au  
+61 3 9603 3524

Dear Mr Brown

### **Foreshadowed cancellation of visa under section 133C(3): Mr Novak Djokovic**

As you know, we act for Mr Novak Djokovic, and it is our understanding that you act for the Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs (“**Minister**”).

We understand that the Minister is presently giving consideration to whether our client's visa should be cancelled under section 133C(3) of the *Migration Act 1958* (Cth).

In regard to that consideration, you will be aware that we have provided the following material to the Minister:

- 1 An email sent about 5:31 pm on 10 January 2022 with an attachment being a document giving reasons why our client's visa should not be cancelled;
- 2 A further email sent about 6:36 pm on 10 January 2022 providing material referred to in the document provided earlier that day, in support of the proposition that our client's visa should not be cancelled, being:
  - (a) Rodda, Lauren B., et al. "Functional SARS-CoV-2-specific immune memory persists after mild COVID-19." *Cell* 184.1 (2021): 169-183;
  - (b) Kelsen, Steven, et al. "A Longitudinal Study of BNT162b2 Vaccine-Induced Humoral Response and Reactogenicity in Health Care Workers with Prior COVID-19 Disease." *COVID-19 Research* (2021);
  - (c) Alfego, David, et al. "A population-based analysis of the longevity of SARS-CoV-2 antibody seropositivity in the United States." *EClinicalMedicine* 36 (2021): 100902;
  - (d) Lumley, Sheila F., et al. "Antibodies to SARS-CoV-2 are associated with protection against reinfection." *medRxiv* (2020);
  - (e) Lumley, Sheila F., et al. "Antibody status and incidence of SARS-CoV-2 infection in health care workers." *New England Journal of Medicine* 384.6 (2021): 533-540;

- 
- (f) Wei, Jia, et al. "Anti-spike antibody response to natural SARS-CoV-2 infection in the general population." *Nature communications* 12.1 (2021): 1-12;
  - (g) Vitale, Josè, et al. "Assessment of SARS-CoV-2 Reinfection 1 Year After Primary Infection in a Population in Lombardy, Italy." *JAMA internal medicine* (2021);
  - (h) Gazit, S., et al. "Comparing SARS-CoV-2 natural immunity to vaccine-induced immunity: reinfections versus breakthrough infections." *MedRxiv* (2021);
  - (i) Shenai, Mahesh B., et al. "Equivalency of Protection From Natural Immunity in COVID-19 Recovered Versus Fully Vaccinated Persons: A Systematic Review and Pooled Analysis." *Cureus* 13.10 (2021);
  - (j) Wadman, M. "Having SARS-CoV-2 once confers much greater immunity than a vaccine—but vaccination remains vital." *Science* 373.6559 (2021): 1067-8;
  - (k) Gudbjartsson, Daniel F., et al. "Humoral immune response to SARS-CoV-2 in Iceland." *New England Journal of Medicine* 383.18 (2020): 1724-1734;
  - (l) Dan, Jennifer M., et al. "Immunological memory to SARS-CoV-2 assessed for up to eight months after infection." *BioRxiv* (2020);
  - (m) Cohen, Kristen W., et al. "Longitudinal analysis shows durable and broad immune memory after SARS-CoV-2 infection with persisting antibody responses and memory B and T cells." *Medrxiv* (2021);
  - (n) Mishra, Bijaya K., et al. "Natural immunity against COVID-19 significantly reduces the risk of reinfection: findings from a cohort of sero-survey participants." *medRxiv* (2021);
  - (o) Wang, Zijun, et al. "Naturally enhanced neutralizing breadth to SARS-CoV-2 after one year." *bioRxiv* (2021);
  - (p) Shrestha, Nabin K., et al. "Necessity of COVID-19 vaccination in previously infected individuals." *medRxiv* (2021);
  - (q) Morales-Núñez, José Javier, et al. "Neutralizing antibodies titers and side effects in response to BNT162b2 vaccine in healthcare workers with and without prior SARS-CoV-2 infection." *Vaccines* 9.7 (2021): 742;
  - (r) Rank, Andreas, et al. "One year after mild COVID-19: the majority of patients maintain specific immunity, but one in four still suffer from long-term symptoms." *Journal of Clinical Medicine* 10.15 (2021): 3305;
  - (s) Zhang, Jie, et al. "One-year sustained cellular and humoral immunities of COVID-19 convalescents." *Clinical Infectious Diseases* (2021);
  - (t) Haveri, Anu, et al. "Persistence of neutralizing antibodies a year after SARS-CoV-2 infection in humans." *European journal of immunology* 51.12 (2021): 3202-3213;
  - (u) Hanrath, Aidan T., Brendan Al Payne, and Christopher JA Duncan. "Prior SARS-CoV-2 infection is associated with protection against symptomatic reinfection." *Journal of Infection* 82.4 (2021): e29-e30;

- (v) Goldberg, Yair, et al. "Protection of previous SARS-CoV-2 infection is similar to that of BNT162b2 vaccine protection: A three-month nationwide experience from Israel." medRxiv (2021);
  - (w) O Murchu, Eamon, et al. "Quantifying the risk of SARS-CoV-2 reinfection over time." Reviews in medical virology (2021): e2260;
  - (x) Sheehan, Megan M., et al. "Reinfection rates among patients who previously tested positive for COVID-19: a retrospective cohort study." medRxiv (2021);
  - (y) Wajnberg, Ania, et al. "Robust neutralizing antibodies to SARS-CoV-2 infection persist for months." Science 370.6521 (2020): 1227-1230;
  - (z) Zuo, Jianmin, et al. "Robust SARS-CoV-2-specific T cell immunity is maintained at 6 months following primary infection." Nature immunology 22.5 (2021): 620-626;
  - (aa) Abu-Raddad, Laith J., et al. "SARS-CoV-2 antibody-positivity protects against reinfection for at least seven months with 95% efficacy." EClinicalMedicine 35 (2021): 100861;
  - (bb) Nielsen, Stine SF, et al. "SARS-CoV-2 elicits robust adaptive immune responses regardless of disease severity." EBioMedicine 68 (2021): 103410;
  - (cc) Petersen, Maria Skaalum, et al. "SARS-CoV-2 natural antibody response persists for at least 12 months in a nationwide study from the Faroe Islands." Open forum infectious diseases. Vol. 8. No. 8. US: Oxford University Press, 2021;
  - (dd) Pilz, Stefan, et al. "SARS-CoV-2 re-infection risk in Austria." European Journal of Clinical Investigation 51.4 (2021): e13520;
  - (ee) Le Bert, Nina, et al. "SARS-CoV-2-specific T cell immunity in cases of COVID-19 and SARS, and uninfected controls." Nature 584.7821 (2020): 457-462; and
  - (ff) Chivese, Tawanda, et al. "The prevalence of adaptive immunity to COVID-19 and reinfection after recovery, a comprehensive systematic review and meta-analysis of 12 011 447 individuals." medRxiv (2021);
- 3 A further email sent at about 11.06 am on 11 January 2022:
- (a) attaching the following additional documents:
    - (i) Affidavit of Carolyn Broderick affirmed on 7 January 2022 and its exhibit (being the exemption letter dated 30 December 2021); and
    - (ii) "ATAGI expanded guidance on acute major medical conditions that warrant a temporary medical exemption relevant for COVID-19 vaccines", Australian Government, Department of Health, 26 November 2021; and
  - (b) listing the daily Victorian COVID-19 case numbers published by the Victorian Department of Health between 5 January 2022 and 11 January 2022 inclusive;
- 4 A further email sent at about 12.43 pm on 11 January 2022 attaching the PCR test results for Mr Djokovic dated 16 December 2021 and 22 December 2021;
- 5 A further email sent at about 12:57 pm on 11 January 2022 attaching a letter:

- 
- (a) enclosing a screenshot of an online poll from the Age, showing support for Mr Djokovic remaining in Australia at 60%; and
- (b) referring to various footnoted material, comprising:
- (i) the documents listed at paragraph 2 above provided on 10 January 2022; and
- (ii) additional links and documents as set out below:
- (A) “[T]here should be no special rules for Novak Djokovic at all. None whatsoever.” Scott Morrison, 5 January 2022, <https://www.pm.gov.au/media/press-conference-canberra-act-34>
- (B) “[O]n the issue of Mr Djokovic, rules are rules and there are no special cases. Rules are rules.” Scott Morrison, 6 January 2022, <https://www.pm.gov.au/media/press-conference-canberra-act-35>
- (C) “Great to chat with @sunriseon7 this morning about how Australia’s border rules apply to everyone equally. No one gets special treatment”, Karen Andrews MP, 7 January 2022, <https://twitter.com/karenandrewsmp/status/1479195583751458817>
- (D) “Yes, it’s tough but it is fair and equitable and it’s one rule for all under this Australian Government.” Greg Hunt MP, 6 January 2022, <https://www.health.gov.au/ministers/the-hon-greg-hunt-mp/media/minister-hunt-interview-on-sunrise-on-6-january-2022-on-novak-djokovic-covid-19-testing-and-covid-19-vaccines-for-kids>
- (E) “Recent infection could affect COVID-19 vaccination.” Mayo Clinic Health Assessment, 3 June 2021, <https://www.mayoclinichealthsystem.org/hometown-health/featured-topic/recent-infection-could-affect-covid-19-vaccination>
- (F) “COVID-19 vaccination - after your Pfizer (COMIRNATY) vaccine”, Australian Government, Department of Health, last updated 10 January 2022, <https://www.health.gov.au/resources/publications/covid-19-vaccination-after-your-comirnaty-pfizer-vaccine>
- (G) “COVID-19 vaccination – After your Vaxzevria (AstraZeneca) vaccine”, Australian Government, Department of Health, last updated 11 January 2022, <https://www.health.gov.au/resources/publications/covid-19-vaccination-after-your-vaxzevria-astrazeneca-vaccine>
- (H) “COVID-19 vaccination – After your Spikevax (Moderna) vaccine”, Australian Government, Department of Health, last updated 7 January 2022, <https://www.health.gov.au/resources/publications/covid-19-vaccination-after-your-spikevax-moderna-vaccine>
- (I) an online petition for Mr Djokovic to be freed to play in the Australia Open with over 83,000 signatures at the date of our letter (since

increased to over 86,000 at the date of this letter),  
<https://lifepetitions.com/petition/petition-novaka-djokovic-s-medical-exemption-must-be-acknowledged-by-australia-s-government>

- (J) Appelman, Brent, et al. "Time since SARS-CoV-2 infection and humoral immune response following BNT162b2 mRNA vaccination." EBioMedicine 72 (2021): 103589 (copy **enclosed**, inadvertently omitted from the documents listed at paragraph 2 above provided on 10 January 2022); and
- (K) Salzman, M. B., Huang, C., O'Brien, C. M., & Castillo, R. D. (2021). "Multisystem Inflammatory Syndrome after SARS-CoV-2 Infection and COVID-19 Vaccination". Emerging Infectious Diseases, 27(7), 1944-1948 (copy **enclosed**, inadvertently omitted from the documents listed at paragraph 2 above provided on 10 January 2022).

6 We now **enclose** a statutory declaration of [REDACTED], Novak Djokovic's agent in relation to Mr Djokovic's Australian Travel Declaration.

(this material, the **Relevant Information**).

7 Given that:

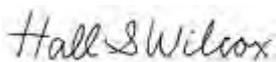
- (a) the Minister is already taking several days to consider the issue of whether he should cancel our client's visa;
- (b) the Minister's consideration of the issue arises in a context including that the Federal Circuit and Family Court of Australia found that a delegate of the Minister for Home Affairs acted unreasonably by (in effect) cutting short our client's opportunity to give an explanation as to why his visa should not be cancelled; and
- (c) the material has already been provided to the Minister and is directly relevant to the issues that (we understand) your client is considering,

we require that you confirm by return that the Minister will consider the Relevant Information.

8 If we do not receive that confirmation, we presently intend to make an application for urgent relief from Judge A Kelly seeking prohibition. The relief would include that your client be prohibited from making a decision in regard to cancellation without considering the Relevant Material, on the basis that to fail to have regard to the Relevant Material would be legally unreasonable.

9 We shall be grateful to receive your reply by **no later than 11.00 am today**.

Yours sincerely,



**Hall & Wilcox**

to move, under his ministerial discretion, to cancel the now-restored visa.

On Monday night, a spokesman for Hawke said: “The minister is currently considering the matter and the process remains ongoing”.

**READERS' POLL**

**Should Novak Djokovic be allowed to stay and play in the Australian Open?**



69,417 votes

These polls are not scientific and reflect the opinion only of visitors who have chosen to participate.

Surely, it would have been better for the

government to just cut its losses at once. The

Please find below Mr Djokovic's response to the Minister's notice. Enclosed with this response is a bundle of scholarly references, as footnoted below, which support the responses set out in this letter.

### Risk to public health and safety - section 116(1)(e)

- 1 Mr Djokovic has recently tested negative for COVID-19 infection. He poses a negligible threat of infection to others. Further, the risk of Mr Djokovic infecting others is less than, or at the very least comparable to, that of any other person who is lawfully entitled to enter Australia in accordance with section 3(a) of the Biosecurity (Entry Requirements—Human Coronavirus with Pandemic Potential) Determination 2021 (**Determination**).
- 2 There is a body of medical evidence demonstrating that persons who have been recently infected with COVID-19 have immunity to re-infection that is higher than that, or at least equal to that, of those who have been double vaccinated. In other words, they are at less risk of infection.<sup>1</sup> The studies indicate that the level of protection from reinfection acquired from prior COVID-19 infection is as high as 95%.<sup>2</sup> The improved immunity from COVID-19 is present in recently infected persons regardless of disease severity during recent infection.<sup>3</sup>

<sup>1</sup> Dan, Jennifer M., et al. "Immunological memory to SARS-CoV-2 assessed for up to eight months after infection." *BioRxiv* (2020).

Le Bert, Nina, et al. "SARS-CoV-2-specific T cell immunity in cases of COVID-19 and SARS, and uninfected controls." *Nature* 584.7821 (2020): 457-462.

Gazit, S., Shlezinger, R., Perez, G., Lotan, R., Peretz, A., Ben-Tov, A., ... & Patalon, T. (2021). Comparing SARS-CoV-2 natural immunity to vaccine-induced immunity: reinfections versus breakthrough infections. *MedRxiv*.

Wajnberg, Ania, et al. "Robust neutralizing antibodies to SARS-CoV-2 infection persist for months." *Science* 370.6521 (2020): 1227-1230.

Haveri, Anu, et al. "Persistence of neutralizing antibodies a year after SARS-CoV-2 infection in humans." *European journal of immunology* 51.12 (2021): 3202-3213.

O Murchu, Eamon, et al. "Quantifying the risk of SARS-CoV-2 reinfection over time." *Reviews in medical virology* (2021): e2260.

Wadman, M. "Having SARS-CoV-2 once confers much greater immunity than a vaccine—but vaccination remains vital." *Science* 373.6559 (2021): 1067-8.

Zhang, Jie, et al. "One-year sustained cellular and humoral immunities of COVID-19 convalescents." *Clinical Infectious Diseases* (2021).

Lumley, Sheila F., et al. "Antibodies to SARS-CoV-2 are associated with protection against reinfection." *medRxiv* (2020).

Lumley, Sheila F., et al. "Antibody status and incidence of SARS-CoV-2 infection in health care workers." *New England Journal of Medicine* 384.6 (2021): 533-540.

Cohen, Kristen W., et al. "Longitudinal analysis shows durable and broad immune memory after SARS-CoV-2 infection with persisting antibody responses and memory B and T cells." *Medrxiv* (2021).

Wei, Jia, et al. "Anti-spike antibody response to natural SARS-CoV-2 infection in the general population." *Nature communications* 12.1 (2021): 1-12.

Mishra, Bijaya K., et al. "Natural immunity against COVID-19 significantly reduces the risk of reinfection: findings from a cohort of sero-survey participants." *medRxiv* (2021).

Sheehan, Megan M., Anita J. Reddy, and Michael B. Rothberg. "Reinfection rates among patients who previously tested positive for COVID-19: a retrospective cohort study." *medRxiv* (2021).

Vitale, Josè, et al. "Assessment of SARS-CoV-2 Reinfection 1 Year After Primary Infection in a Population in Lombardy, Italy." *JAMA internal medicine* (2021).

Hanrath, Aidan T., Brendan Al Payne, and Christopher JA Duncan. "Prior SARS-CoV-2 infection is associated with protection against symptomatic reinfection." *Journal of Infection* 82.4 (2021): e29-e30.

Wang, Zijun, et al. "Naturally enhanced neutralizing breadth to SARS-CoV-2 after one year." *bioRxiv* (2021).

Zuo, Jianmin, et al. "Robust SARS-CoV-2-specific T cell immunity is maintained at 6 months following primary infection." *Nature immunology* 22.5 (2021): 620-626.

<sup>2</sup> Abu-Raddad, Laith J., et al. "SARS-CoV-2 antibody-positivity protects against reinfection for at least seven months with 95% efficacy." *EClinicalMedicine* 35 (2021): 100861.

See also: Goldberg, Yair, et al. "Protection of previous SARS-CoV-2 infection is similar to that of BNT162b2 vaccine protection: A three-month nationwide experience from Israel." *medRxiv* (2021).

Pilz, Stefan, et al. "SARS-CoV-2 re-infection risk in Austria." *European Journal of Clinical Investigation* 51.4 (2021): e13520.

Petersen, Maria Skaalum, et al. "SARS-CoV-2 natural antibody response persists for at least 12 months in a nationwide study from the Faroe Islands." *Open forum infectious diseases*. Vol. 8. No. 8. US: Oxford University Press, 2021.

Gudbjartsson, Daniel F., et al. "Humoral immune response to SARS-CoV-2 in Iceland." *New England Journal of Medicine* 383.18 (2020): 1724-1734.

Chivese, Tawanda, et al. "The prevalence of adaptive immunity to COVID-19 and reinfection after recovery, a comprehensive systematic review and meta-analysis of 12 011 447 individuals." *medRxiv* (2021).

<sup>3</sup> Nielsen, Stine SF, et al. "SARS-CoV-2 elicits robust adaptive immune responses regardless of disease severity." *EBioMedicine* 68 (2021): 103410.

Rodda, Lauren B., et al. "Functional SARS-CoV-2-specific immune memory persists after mild COVID-19." *Cell* 184.1 (2021): 169-183.

- 3 Further, there is medical evidence that suggests that vaccination against COVID-19 following recent infection has little or no effect on improving the patient's immune response to COVID-19 reinfection, and is unnecessary.<sup>4</sup>
- 4 The medical evidence provided with this response accordingly demonstrates that Mr Djokovic is not a risk to public health and safety within the meaning of section 116(1)(e).

#### **Evidence of medical contraindication - Determination 3(b)**

- 5 There is evidence that vaccination following recent infection may result in more severe adverse side effects.
- 6 Dr John O'Horo, M.D., a leading infectious diseases physician at Mayo Clinic, is quoted as saying: "...*those vaccinated shortly after recovery may mount a more robust immune response to the COVID-19 vaccine. This could cause stronger side effects*".<sup>5</sup>
- 7 There is evidence that adults vaccinated after recent COVID-19 infection have suffered adult multisystem inflammatory syndrome (MIS-A).<sup>6</sup>
- 8 Mr Djokovic has produced evidence of recent COVID-19 infection and recovery.
- 9 Mr Djokovic is accordingly a person who is at risk of suffering more severe adverse side effects from vaccination, because he has been recently infected with COVID-19.

#### **Definition of 'medical contraindication' within the meaning of the Determination**

- 10 Finally, an observation is made in respect of the potential broader policy implications if a dispute in respect of the proposed visa cancellation is to be further adjudicated on the merits.
- 11 The Determination requires to provide evidence of medical contraindication. The Determination does not require evidence of *absolute* medical contraindication (such as risk of death). The Minister would be in error to require Mr Djokovic to produce evidence of *absolute* medical contraindication.
- 12 It would be open, and indeed correct, for Mr Djokovic to contend that the proper interpretation of the Determination is to provide evidence of *any* medical contraindication that is applicable to the visa holder.
- 13 For the reasons set out above, there is a body of medical evidence of medical contraindication against vaccination for those who have been recently infected with COVID-19.
- 14 Additionally, however, there is ample evidence that there are risks of adverse side effects arising from vaccination against COVID-19 *generally*, and an abundance of cases where adverse side effects have been reported. Those general risks must fall within the definition of a 'medical contraindication' to vaccination. Those risks apply to Mr Djokovic.
- 15 Were a Court to apply the above interpretation of the Determination (as would be contended by Mr Djokovic), there could be much broader and unintended national policy consequences to the classes of persons falling within cl 3(b) of the Determination. Such consequences are not intended by Mr Djokovic - he merely wishes to play in a professional sporting event as a professional sportsperson, and has no interest in shaping Australia's

---

Rank, Andreas, et al. "One year after mild COVID-19: the majority of patients maintain specific immunity, but one in four still suffer from long-term symptoms." *Journal of clinical medicine* 10.15 (2021): 3305.

<sup>4</sup> Appelman, Brent, et al. "Time since SARS-CoV-2 infection and humoral immune response following BNT162b2 mRNA vaccination." *EBioMedicine* 72 (2021): 103589.

Shrestha, Nabin K., et al. "Necessity of COVID-19 vaccination in previously infected individuals." *medRxiv* (2021).

<sup>5</sup> <https://www.mayoclinichealthsystem.org/hometown-health/featured-topic/recent-infection-could-affect-covid-19-vaccination>

<sup>6</sup> Salzman, M. B., Huang, C., O'Brien, C. M., & Castillo, R. D. (2021). Multisystem Inflammatory Syndrome after SARS-CoV-2 Infection and COVID-19 Vaccination. *Emerging Infectious Diseases*, 27(7), 1944-1948.

national policy - however it is a consequence that may well flow from such a judicial challenge if the matter is pressed.

In those circumstances, the preferable outcome for all parties involved would be to allow Mr Djokovic to enter Australia on his visa and play in the Australian Open.

**Public Interest**

It is not in the public interest to cancel this visa:

- in circumstances where that action might affect Australia's global reputation, economic interests, jeopardise the viability of a major International sporting event
- call into question Australia's border security principles and policies
- create the appearance of politically motivated decision making.
-

# Affidavit

Family Law Rules 2021 – RULE 8.15  
General Federal Law Rules 2021 – RULE 4.04

**Filed in:**

- Federal Circuit and Family Court of Australia  
 Family Court of Western Australia  
 Other (specify) \_\_\_\_\_

**Type of proceedings:**

- Family law proceedings  
 Migration proceedings  
 General federal law proceedings  
 Other (specify) \_\_\_\_\_

**Filed on behalf of:**

Full name: NOVAK DJOKOVIC

**COURT USE ONLY**

Client ID \_\_\_\_\_

File number \_\_\_\_\_

Filed at \_\_\_\_\_

Filed on \_\_\_\_\_

Court location \_\_\_\_\_

Court date \_\_\_\_\_

Name of person swearing/affirming this affidavit (SEE PART C)

CAROLYN RUTH BRODERICK

Date of swearing/affirming 07 / 01 / 2022

## Part A

### About the parties

**APPLICANT 1**

Family name (as used now)/Title/Organisation

DJOKOVIC

Given names (as required)

NOVAK

**APPLICANT 2**

Family name (as used now)/Title/Organisation

\_\_\_\_\_

Given names (as required)

\_\_\_\_\_

**RESPONDENT 1**

Family name (as used now)/Title/Organisation

MINISTER FOR HOME AFFAIRS

Given names (as required)

\_\_\_\_\_

**RESPONDENT 2**

Family name (as used now)/Title/Organisation

\_\_\_\_\_

Given names (as required)

\_\_\_\_\_

What is the contact address (address for service) in Australia for the party filing this affidavit?

You do not have to give your residential address. You may give another address at which you are satisfied that you will receive documents. If you give a lawyer's address, include the name of the law firm. You **must** also give an email address.

**Hall & Wilcox**

Level 11, Rialto South Tower, 525 Collins Street, Melbourne VIC 3000 Australia

Phone +61 3 9603 3555

Lawyer's code 163

Email penelope.ford@hallandwilcox.com.au

## Part B About the independent children's lawyer (if appointed)

Independent children's lawyer family name	Given names
N/A	
Firm name	

## Part C About you (the deponent)

Family name (as used now)/Title/Organisation	Given names
BRODERICK	CAROLYN RUTH
Gender	Usual occupation (if applicable)
<input type="checkbox"/> Male <input checked="" type="checkbox"/> Female <input type="checkbox"/> X	MEDICAL PRACTITIONER

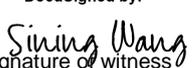
What is your address?

You do not have to give your residential address if you are concerned about your safety. You may give another address at which you are satisfied that you will receive documents.

Care of Tennis Australia of Olympic Boulevard
MELBOURNE
State VIC      Postcode 3000

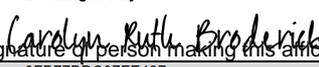
## Part D Evidence

- I am a medical practitioner with a Bachelor of Medicine/Bachelor of Surgery from the University of NSW, a Fellowship of the Australasian College of Sport and Exercise Medicine Physicians and a PhD from the University of Sydney. I have worked as a medical practitioner for approximately 32 years.
- I am the Chief Medical Officer of Tennis Australia and I am authorised to swear this affidavit.
- As part of my role at Tennis Australia, I was involved in setting up an independent expert medical review panel for the purpose of reviewing applications from players and players' support staff for medical exemptions to vaccination to attend or participate in the Australian Open tennis tournament.
- While considering what process to adopt, the review process was discussed with the Victorian Government's Department of Health (**DoH**). In addition to Tennis Australia's requirements, I understand that a person who is unvaccinated requires a medical exemption in order to enter into the State of Victoria.
- The DoH and Tennis Australia put in place a two-step process for considering medical exemptions for unvaccinated entrants. First, the application for a medical exemption would be determined by a panel of suitably-qualified independent experts, appointed by Tennis Australia, who would either approve, reject or ask for further information for each application.

DocuSigned by:  Signature of person making this affidavit (deponent)	DocuSigned by:  Signature of witness
---	--

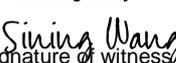
6. Tennis Australia appointed [REDACTED] (MBBS, B. Med.Sci., FRACP, FTTM (RCPS Glasgow) FISTM, PhD), Professor of Infectious Diseases and Virology and [REDACTED] (MBBS, MA (Bioinf), FRACP, PhD), Infectious Disease Physician as its expert panel (**TA's Panel**).
7. If the application was approved by TA's Panel, the application would be provided to the DoH's independent panel (**DoH Panel**) which would then make its own determination.
8. I initially received a number of applications for a medical exemption to vaccination. I passed each application to one of our employees [REDACTED], who removed identifying information from each application to ensure that each application did not contain information which could identify the applicant.
9. TA's Panel and the DoH Panel are each tasked with determining whether each application for medical exemption met the Australian Technical Advisory Group on Immunisation (ATAGI) guidelines on medical exemptions to vaccination.
10. On 28 December 2021, TA's Panel approved the plaintiff's medical exemption to vaccination.
11. The plaintiff's application, the subject of the TA's Panel approved exemption, was then provided to the DoH Panel.
12. The DoH Panel reviewed and endorsed the plaintiff's application for medical exemption to vaccination.
13. On 30 December 2021, I signed a letter confirming that the 2 panels had approved the plaintiff's application for medical exemption to vaccination. Annexed to this affidavit and marked '**CRB-1**' is a true copy of this advice regarding medical exemption to vaccination granted to the plaintiff.

DocuSigned by:

  
Signature of person making this affidavit (deponent)

0FB77BDC07FE437...

DocuSigned by:

  
Signature of witness

FF0EC23A3B0A4CD...

# Part E Signature

I affirm the contents of this affidavit are true

DocuSigned by:  
*Carolyn Ruth Broderick*  
 Signature of Deponent

MELBOURNE  
 Place Date 07/01/2022

DocuSigned by:  
*Sining Wang*  
 Before me (signature of witness)

Sining Wang  
 Full name of witness (please print)

- Justice of the Peace
- Notary Public
- Lawyer

This affidavit was prepared / settled by  deponent/s  lawyer

HALL & WILCOX  
 PRINT NAME AND LAWYER'S CODE

DocuSigned by:  
*Carolyn Ruth Broderick*  
 Signature of person making this affidavit (deponent)

DocuSigned by:  
*Sining Wang*  
 Signature of witness

This is the document referred to as **CRB-1** in the affidavit of Carolyn Ruth Broderick affirmed at Melbourne on 7 January 2022 before me:

DocuSigned by:

*Sining Wang*

FF0EC23A5B6A4CD...

Sining Wang

Australian Legal Practitioner

**Medical exemption from COVID vaccination**

30<sup>th</sup> December 2021

**Name: NOVAK DJOKOVIC**  
**DOB: [REDACTED]**  
**Country of birth: Republic of Serbia**  
**Passport number: [REDACTED]**



Tennis Australia  
Country of the Kallit Nation  
Olympic Boulevard  
Melbourne Victoria 3000  
Private Bag 6063  
Richmond Victoria 3121  
T +61 3 9914 4000  
F +61 3 9650 2743  
tennis.com.au

To whom it may concern,

Mr Novak Djokovic has been provided with a medical exemption from COVID vaccination on the grounds that this individual has recently recovered from COVID.

The date of the first positive COVID PCR test was recorded on the 16/12/21 and it has now been more than 14 days since the first positive PCR test. Mr Djokovic has not had a fever or respiratory symptoms of COVID-19, in the last 72 hours

This temporary exemption is valid until 16/5/22.

This certificate for exemption has been provided by an Independent Expert Medical Review panel commissioned by Tennis Australia. The decision of the panel has been reviewed and endorsed by an independent Medical Exemptions Review Panel of the Victorian State Government. The conditions of the exemption are consistent with the recommendations of the Australian Technical Advisory Group on Immunisation (ATAGI).

Yours sincerely,

A handwritten signature in black ink that reads "C Broderick".

Dr Carolyn Broderick MBBS, FACSEP, PhD  
Chief Medical Officer, Tennis Australia & Australian Open

**Independent Expert Medical Review Panel**

[REDACTED]  
MBBS, B.Med.Sci., FRACP, FFTM (RCPS Glasgow) FISTM, PhD  
Professor of Infectious Diseases and Virology  
*COVID Advisor: Healthscope, Epworth Health, AFL, Tennis Australia, ICC, FIBA*

[REDACTED]  
MBBS, MA (Bioinf), FRACP, PhD  
Infectious Disease Physician  
*COVID Advisor: Epworth Health, Tennis Australia*

occupation  
of person  
making the  
declaration

matter  
declared to

years.

Travel Document Holder \*

4 (Optional:  
email  
address  
and/or  
telephone  
number of  
person  
making the  
declaration)

4

person  
before  
whom the  
declaration  
is made  
(see over)



10 (Optional:  
email  
address  
and/or

number of  
person  
before  
whom the  
declaration  
is made



**From:** [Natalie Rannister](#)  
**To:** [Brown, David](#)  
**Cc:** [Sining Wang](#); [Graydon Dowd](#)  
**Subject:** Novak Djokovic [HW-Active:FD3264722]  
**Date:** Tuesday, 11 January 2022 11:05:50 AM  
**Attachments:** [Mimecast Large File Send \(keyless\).msg](#)  
[image003.pdf](#)  
[image004.pdf](#)  
[image005.pdf](#)  
[image007.pdf](#)

**CAUTION:** This email originated from outside of the organisation. Do not follow guidance, click links, or open attachments unless you recognise the sender and know the content is safe.

I'm using Mimecast to share large files with you. Please see the attached instructions.

Dear David,

Can you please advise whether you are now have instructions to act for the Minister of Immigration?

Please find attached a link to the attachments sent to you yesterday.

We also attach the following additional documents (which we understand you already have, but are provided again for the avoidance of doubt.

1. PCR test results on 16 Dec 2022 and 22 Dec 2022
2. Affidavit of Catherine Broderick dated 7 January 2022 and its annexure (exemption letter dated 30 December 2021)
3. ATAGI expanded guidance on temporary medical exemptions for COVID-19 vaccines

Separately, we draw your attention to the daily Victorian COVID-19 case numbers published the by the Victorian Department of Health:

- a. 11 January 2022: 171,369 active cases
- b. 10 January 2022: 161,035 active cases
- c. 9 January 2022: 146,863 active cases
- d. 8 January 2022: 83,390 active cases
- e. 7 January 2022: 69,680 active cases
- f. 6 January 2022: 61,120 active cases
- g. 5 January 2022: 51,317 active cases

We intend to make further submissions.

Kindly acknowledge receipt.

Yours faithfully,

Hall & Wilcox | Smarter Law Update  
[Keep up to date and view our Latest Thinking](#)

**If our bank account details change, we will notify you by letter, phone call or face-to-face, but never by email.**

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## ATAGI expanded guidance on acute major medical conditions that warrant a temporary medical exemption relevant for COVID-19 vaccines

Updated: 26 November 2021

The below guidance is prepared to support completion of the [Australian Immunisation Register immunisation medical exemption \(IM011\) form](#), [Guidelines for immunisation medical exemption](#).

This advice covers those for whom an exemption can be provided and does not cover clinical management of adverse events. For the management of adverse events refer to your local Specialist Immunisation Service.

### Background

COVID-19 vaccines have been demonstrated to be safe and effective and as such are recommended for all Australians from 12 years of age. There are very few situations where a vaccine is contraindicated and as such, medical exemption is expected to be rarely required.

### Temporary exemptions

An exemption should not be given when an alternative COVID-19 vaccine is available and when completing the medical exemption ([IM011](#)) form all COVID-19 brands must be selected.

Valid reasons for a temporary exemption include:

- For an mRNA COVID-19 vaccine, inflammatory cardiac illness within the past 3 months, e.g., myocarditis or pericarditis; acute rheumatic fever or acute rheumatic heart disease (i.e., with active myocardial inflammation); or acute decompensated heart failure
- For all COVID-19 vaccines:
  - Acute major medical condition (e.g. undergoing major surgery or hospital admission for a serious illness). Typically, these are time-limited conditions (or the medical treatment for them is time limited).
  - PCR-confirmed SARS-CoV-2 infection, where vaccination can be deferred until 6 months after the infection. Vaccination should be deferred for 90 days in people who have received anti-SARS-CoV-2 monoclonal antibody or convalescent plasma therapy.
  - Any serious adverse event attributed to a previous dose of a COVID-19 vaccine, without another cause identified, and with no acceptable alternative vaccine available. For example a person <60 years of age, contraindicated to receive Pfizer vaccine and in whom the risks do not outweigh the benefits for receipt of AstraZeneca vaccine, is eligible for a temporary exemption.
  - If the vaccinee is a risk to themselves or others during the vaccination process they may warrant a temporary vaccine exemption. This may include a range of individuals with underlying developmental or mental health disorders, but noting that non-pharmacological interventions can safely facilitate vaccination in many individuals with behavioural

disturbances and that specialist services may be available to facilitate the safe administration of vaccines in this population.

Chronic symptoms following COVID-19 ("Long COVID") are not a contraindication to COVID-19 vaccines, but do warrant a clinical discussion with the patient.

Pregnancy is not a valid reason for exemption in the absence of any of the criteria listed above.

## Assessment of serious adverse events following immunisation (AEFI)

An adverse event is considered serious if it:

- requires in-patient hospitalisation or prolongation of existing hospitalisation OR results in persistent or significant disability/ incapacity OR is potentially life-threatening.

AND

- has been reported to a state/territory adverse event surveillance system and/or the TGA.

AND

- has been determined following review by, and/or on the opinion of, an experienced immunisation provider/medical specialist to be associated with a risk of recurrence of the serious adverse event if another dose is given.

Assessment of an adverse event following immunisation (AEFI) requires detailed information on the event, a determination of the likelihood of a causal link with vaccination, as well as the severity of the condition.

Examples of serious AEFI include: thrombosis with thrombocytopenia (TTS) following Vaxzevria [COVID-19 Vaccine AstraZeneca]; medically significant illness (e.g., immune thrombocytopenia purpura (ITP), myocarditis), potentially life-threatening events (e.g., anaphylaxis); and/or persistent or significant disability (e.g., Guillain-Barré Syndrome). These reactions do not include common expected local or systemic reactions known to occur within the first few days after vaccination.

Attributing a serious adverse event to a previous dose of a COVID-19 vaccine may require discussion with the individual's GP, local immunisation service or relevant medical specialist.

## Duration of temporary exemption

Temporary exemptions for longer than 6 months are NOT recommended in the first instance, as they should be reviewed as the individual recovers from their acute major medical illness. This time limitation will allow individuals who can safely be vaccinated to be protected against COVID-19 in a timely way.

- It may take a few weeks for any changes to an individual's vaccine status to be updated on the AIR with regards to a temporary medical exemption.
- It should also be noted that an individual may not be optimally protected from COVID-19 until they have completed the recommended vaccine schedule and this temporary exemption may need to be reconsidered depending on the SARS CoV-2 epidemiology at the time.
- Temporary medical exemptions can only be completed by those authorised to do so [AIR medical exemption criteria], utilising their Medicare provider number.

## More information

[ATAGI Clinical Guidance on COVID-19 vaccine in Australia in 2021](#)

[The Australian Immunisation Handbook](#)

How to report an AEFI: <https://www.health.gov.au/health-topics/immunisation/health-professionals/reporting-and-managing-adverse-vaccination-events>

[Risk- benefit document.](#)

**From:** [Rachel Giudicatti](#)  
**To:** [Brown, David](#)  
**Cc:** [Natalie Bannister](#); [Graydon Dowd](#); [Sining Wang](#)  
**Subject:** FW: Djokovic v Minister MLG35/2022 [HW-Active.FID3264722]  
**Date:** Wednesday, 12 January 2022 10:52:31 AM  
**Attachments:** [image05.png](#)  
[image06.png](#)  
[image07.png](#)  
[image08.png](#)  
[povrtaCovid19\\_23\\_12.PDF](#)  
**Importance:** High

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Dear Mr Brown

We refer to our email below.

Our letter inadvertently omitted a further document in support of the proposition that our client's visa should not be cancelled, being a positive antibody test dated 23 December 2021.

A copy of this test is **attached**.

For the avoidance of doubt, we confirm that the 'Relevant Information' definition underneath paragraph 6 of our letter refers to the material described in paragraphs 1-6 inclusive (as well as the **attached** test), not merely the material described in paragraph 6.

Regards

**Rachel Giudicatti** | Senior Associate

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**From:** Rachel Giudicatti  
**Sent:** Wednesday, 12 January 2022 9:24 AM  
**To:** Brown, David <David.Brown@ags.gov.au>  
**Cc:** Graydon Dowd <Graydon.Dowd@hallandwilcox.com.au>; Natalie Bannister <natalie.bannister@hallandwilcox.com.au>; Sining Wang <Sining.Wang@hallandwilcox.com.au>  
**Subject:** Djokovic v Minister MLG35/2022 [HW-Active.FID3264722]  
**Importance:** High

Dear Mr Brown

Please see our **attached** correspondence and the enclosures.

Regards

**Rachel Giudicatti** | Senior Associate

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**Subject:** FW: Novak Djokovic [HW-Active.FID3264722]  
**Date:** Thursday, 13 January 2022 at 11:11:35 am Australian Eastern Daylight Time  
**From:** Natalie Bannister  
**To:** Brown, David  
**CC:** Sining Wang  
**Attachments:** image017.png, image018.png, image019.png, image020.jpg, image021.png, image022.png, image023.png, image024.png, IMG\_20220112\_0003.pdf

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Dear David

We refer to our correspondence yesterday and now provide some further relevant information for the Minister’s attention, namely the enclosed letter from Assoc Professor Verica Jovanovic. We ask that you confirm that the Minister will consider this information before making any decision.

Should the Minister for Immigration purport to cancel Mr Djokovic’s visa under section 133C(3), we hold instructions to immediately apply to the Courts for relief. Further, we have instructions to seek an urgent (almost immediate) final trial. Judge Kelly is already well-familiar with issues in the case, including the proper interpretation of the ATAGI guidelines.

In the meantime, we request that you take all appropriate steps to ensure that the Minister is available for cross-examination at short notice in the event that the Minister purports to cancel Mr Djokovic’s visa. We anticipate that, if such a decision be made, then proceedings will be commenced forthwith, and that we will ask the Court to conduct an urgent final hearing, and to issue a subpoena to the Minister to attend to give evidence at that hearing.

Sincerely

**Natalie Bannister** | Partner & National Commercial Practice Leader

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12 January 2022

Our ref: NLB SSW 193699

Mr David Brown  
Senior Executive Lawyer  
Australian Government Solicitor

Natalie Bannister  
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**By email:** David.Brown@ags.gov.au

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Senior Associate & China Practice Manager  
sining.wang@hallandwilcox.com.au  
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Dear Mr Brown

### **Foreshadowed cancellation of visa under section 133C(3): Mr Novak Djokovic**

As you know, we act for Mr Novak Djokovic, and it is our understanding that you act for the Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs ("**Minister**").

We understand that the Minister is presently giving consideration to whether our client's visa should be cancelled under section 133C(3) of the *Migration Act 1958* (Cth).

In regard to that consideration, you will be aware that we have provided the following material to the Minister:

- 1 An email sent about 5:31 pm on 10 January 2022 with an attachment being a document giving reasons why our client's visa should not be cancelled;
- 2 A further email sent about 6:36 pm on 10 January 2022 providing material referred to in the document provided earlier that day, in support of the proposition that our client's visa should not be cancelled, being:
  - (a) Rodda, Lauren B., et al. "Functional SARS-CoV-2-specific immune memory persists after mild COVID-19." *Cell* 184.1 (2021): 169-183;
  - (b) Kelsen, Steven, et al. "A Longitudinal Study of BNT162b2 Vaccine-Induced Humoral Response and Reactogenicity in Health Care Workers with Prior COVID-19 Disease." *COVID-19 Research* (2021);
  - (c) Alfego, David, et al. "A population-based analysis of the longevity of SARS-CoV-2 antibody seropositivity in the United States." *EClinicalMedicine* 36 (2021): 100902;
  - (d) Lumley, Sheila F., et al. "Antibodies to SARS-CoV-2 are associated with protection against reinfection." *medRxiv* (2020);
  - (e) Lumley, Sheila F., et al. "Antibody status and incidence of SARS-CoV-2 infection in health care workers." *New England Journal of Medicine* 384.6 (2021): 533-540;

- 
- (f) Wei, Jia, et al. "Anti-spike antibody response to natural SARS-CoV-2 infection in the general population." *Nature communications* 12.1 (2021): 1-12;
  - (g) Vitale, Josè, et al. "Assessment of SARS-CoV-2 Reinfection 1 Year After Primary Infection in a Population in Lombardy, Italy." *JAMA internal medicine* (2021);
  - (h) Gazit, S., et al. "Comparing SARS-CoV-2 natural immunity to vaccine-induced immunity: reinfections versus breakthrough infections." *MedRxiv* (2021);
  - (i) Shenai, Mahesh B., et al. "Equivalency of Protection From Natural Immunity in COVID-19 Recovered Versus Fully Vaccinated Persons: A Systematic Review and Pooled Analysis." *Cureus* 13.10 (2021);
  - (j) Wadman, M. "Having SARS-CoV-2 once confers much greater immunity than a vaccine—but vaccination remains vital." *Science* 373.6559 (2021): 1067-8;
  - (k) Gudbjartsson, Daniel F., et al. "Humoral immune response to SARS-CoV-2 in Iceland." *New England Journal of Medicine* 383.18 (2020): 1724-1734;
  - (l) Dan, Jennifer M., et al. "Immunological memory to SARS-CoV-2 assessed for up to eight months after infection." *BioRxiv* (2020);
  - (m) Cohen, Kristen W., et al. "Longitudinal analysis shows durable and broad immune memory after SARS-CoV-2 infection with persisting antibody responses and memory B and T cells." *Medrxiv* (2021);
  - (n) Mishra, Bijaya K., et al. "Natural immunity against COVID-19 significantly reduces the risk of reinfection: findings from a cohort of sero-survey participants." *medRxiv* (2021);
  - (o) Wang, Zijun, et al. "Naturally enhanced neutralizing breadth to SARS-CoV-2 after one year." *bioRxiv* (2021);
  - (p) Shrestha, Nabin K., et al. "Necessity of COVID-19 vaccination in previously infected individuals." *medRxiv* (2021);
  - (q) Morales-Núñez, José Javier, et al. "Neutralizing antibodies titers and side effects in response to BNT162b2 vaccine in healthcare workers with and without prior SARS-CoV-2 infection." *Vaccines* 9.7 (2021): 742;
  - (r) Rank, Andreas, et al. "One year after mild COVID-19: the majority of patients maintain specific immunity, but one in four still suffer from long-term symptoms." *Journal of Clinical Medicine* 10.15 (2021): 3305;
  - (s) Zhang, Jie, et al. "One-year sustained cellular and humoral immunities of COVID-19 convalescents." *Clinical Infectious Diseases* (2021);
  - (t) Haveri, Anu, et al. "Persistence of neutralizing antibodies a year after SARS-CoV-2 infection in humans." *European journal of immunology* 51.12 (2021): 3202-3213;
  - (u) Hanrath, Aidan T., Brendan Al Payne, and Christopher JA Duncan. "Prior SARS-CoV-2 infection is associated with protection against symptomatic reinfection." *Journal of Infection* 82.4 (2021): e29-e30;

- (v) Goldberg, Yair, et al. "Protection of previous SARS-CoV-2 infection is similar to that of BNT162b2 vaccine protection: A three-month nationwide experience from Israel." medRxiv (2021);
  - (w) O Murchu, Eamon, et al. "Quantifying the risk of SARS-CoV-2 reinfection over time." Reviews in medical virology (2021): e2260;
  - (x) Sheehan, Megan M., et al. "Reinfection rates among patients who previously tested positive for COVID-19: a retrospective cohort study." medRxiv (2021);
  - (y) Wajnberg, Ania, et al. "Robust neutralizing antibodies to SARS-CoV-2 infection persist for months." Science 370.6521 (2020): 1227-1230;
  - (z) Zuo, Jianmin, et al. "Robust SARS-CoV-2-specific T cell immunity is maintained at 6 months following primary infection." Nature immunology 22.5 (2021): 620-626;
  - (aa) Abu-Raddad, Laith J., et al. "SARS-CoV-2 antibody-positivity protects against reinfection for at least seven months with 95% efficacy." EClinicalMedicine 35 (2021): 100861;
  - (bb) Nielsen, Stine SF, et al. "SARS-CoV-2 elicits robust adaptive immune responses regardless of disease severity." EBioMedicine 68 (2021): 103410;
  - (cc) Petersen, Maria Skaalum, et al. "SARS-CoV-2 natural antibody response persists for at least 12 months in a nationwide study from the Faroe Islands." Open forum infectious diseases. Vol. 8. No. 8. US: Oxford University Press, 2021;
  - (dd) Pilz, Stefan, et al. "SARS-CoV-2 re-infection risk in Austria." European Journal of Clinical Investigation 51.4 (2021): e13520;
  - (ee) Le Bert, Nina, et al. "SARS-CoV-2-specific T cell immunity in cases of COVID-19 and SARS, and uninfected controls." Nature 584.7821 (2020): 457-462; and
  - (ff) Chivese, Tawanda, et al. "The prevalence of adaptive immunity to COVID-19 and reinfection after recovery, a comprehensive systematic review and meta-analysis of 12 011 447 individuals." medRxiv (2021);
- 3 A further email sent at about 11.06 am on 11 January 2022:
- (a) attaching the following additional documents:
    - (i) Affidavit of Carolyn Broderick affirmed on 7 January 2022 and its exhibit (being the exemption letter dated 30 December 2021); and
    - (ii) "ATAGI expanded guidance on acute major medical conditions that warrant a temporary medical exemption relevant for COVID-19 vaccines", Australian Government, Department of Health, 26 November 2021; and
  - (b) listing the daily Victorian COVID-19 case numbers published by the Victorian Department of Health between 5 January 2022 and 11 January 2022 inclusive;
- 4 A further email sent at about 12.43 pm on 11 January 2022 attaching the PCR test results for Mr Djokovic dated 16 December 2021 and 22 December 2021;
- 5 A further email sent at about 12:57 pm on 11 January 2022 attaching a letter:

- 
- (a) enclosing a screenshot of an online poll from the Age, showing support for Mr Djokovic remaining in Australia at 60%; and
- (b) referring to various footnoted material, comprising:
- (i) the documents listed at paragraph 2 above provided on 10 January 2022; and
- (ii) additional links and documents as set out below:
- (A) “[T]here should be no special rules for Novak Djokovic at all. None whatsoever.” Scott Morrison, 5 January 2022, <https://www.pm.gov.au/media/press-conference-canberra-act-34>
- (B) “[O]n the issue of Mr Djokovic, rules are rules and there are no special cases. Rules are rules.” Scott Morrison, 6 January 2022, <https://www.pm.gov.au/media/press-conference-canberra-act-35>
- (C) “Great to chat with @sunriseon7 this morning about how Australia’s border rules apply to everyone equally. No one gets special treatment”, Karen Andrews MP, 7 January 2022, <https://twitter.com/karenandrewsmp/status/1479195583751458817>
- (D) “Yes, it’s tough but it is fair and equitable and it’s one rule for all under this Australian Government.” Greg Hunt MP, 6 January 2022, <https://www.health.gov.au/ministers/the-hon-greg-hunt-mp/media/minister-hunt-interview-on-sunrise-on-6-january-2022-on-novak-djokovic-covid-19-testing-and-covid-19-vaccines-for-kids>
- (E) “Recent infection could affect COVID-19 vaccination.” Mayo Clinic Health Assessment, 3 June 2021, <https://www.mayoclinichealthsystem.org/hometown-health/featured-topic/recent-infection-could-affect-covid-19-vaccination>
- (F) “COVID-19 vaccination - after your Pfizer (COMIRNATY) vaccine”, Australian Government, Department of Health, last updated 10 January 2022, <https://www.health.gov.au/resources/publications/covid-19-vaccination-after-your-comirnaty-pfizer-vaccine>
- (G) “COVID-19 vaccination – After your Vaxzevria (AstraZeneca) vaccine”, Australian Government, Department of Health, last updated 11 January 2022, <https://www.health.gov.au/resources/publications/covid-19-vaccination-after-your-vaxzevria-astrazeneca-vaccine>
- (H) “COVID-19 vaccination – After your Spikevax (Moderna) vaccine”, Australian Government, Department of Health, last updated 7 January 2022, <https://www.health.gov.au/resources/publications/covid-19-vaccination-after-your-spikevax-moderna-vaccine>
- (I) an online petition for Mr Djokovic to be freed to play in the Australia Open with over 83,000 signatures at the date of our letter (since

increased to over 86,000 at the date of this letter),  
<https://lifepetitions.com/petition/petition-novaka-djokovic-s-medical-exemption-must-be-acknowledged-by-australia-s-government>

- (J) Appelman, Brent, et al. "Time since SARS-CoV-2 infection and humoral immune response following BNT162b2 mRNA vaccination." EBioMedicine 72 (2021): 103589 (copy **enclosed**, inadvertently omitted from the documents listed at paragraph 2 above provided on 10 January 2022); and
- (K) Salzman, M. B., Huang, C., O'Brien, C. M., & Castillo, R. D. (2021). "Multisystem Inflammatory Syndrome after SARS-CoV-2 Infection and COVID-19 Vaccination". Emerging Infectious Diseases, 27(7), 1944-1948 (copy **enclosed**, inadvertently omitted from the documents listed at paragraph 2 above provided on 10 January 2022).

6 We now **enclose** a statutory declaration of [REDACTED], Novak Djokovic's agent in relation to Mr Djokovic's Australian Travel Declaration.

(this material, the **Relevant Information**).

7 Given that:

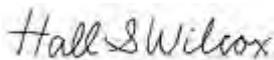
- (a) the Minister is already taking several days to consider the issue of whether he should cancel our client's visa;
- (b) the Minister's consideration of the issue arises in a context including that the Federal Circuit and Family Court of Australia found that a delegate of the Minister for Home Affairs acted unreasonably by (in effect) cutting short our client's opportunity to give an explanation as to why his visa should not be cancelled; and
- (c) the material has already been provided to the Minister and is directly relevant to the issues that (we understand) your client is considering,

we require that you confirm by return that the Minister will consider the Relevant Information.

8 If we do not receive that confirmation, we presently intend to make an application for urgent relief from Judge A Kelly seeking prohibition. The relief would include that your client be prohibited from making a decision in regard to cancellation without considering the Relevant Material, on the basis that to fail to have regard to the Relevant Material would be legally unreasonable.

9 We shall be grateful to receive your reply by **no later than 11.00 am today**.

Yours sincerely,



**Hall & Wilcox**

## DISPATCHES

# Multisystem Inflammatory Syndrome after SARS-CoV-2 Infection and COVID-19 Vaccination

Mark B. Salzman, Cheng-Wei Huang, Christopher M. O'Brien, Rhina D. Castillo

We report 3 patients in California, USA, who experienced multisystem inflammatory syndrome (MIS) after immunization and severe acute respiratory syndrome coronavirus 2 infection. During the same period, 3 adults who were not vaccinated had MIS develop at a time when  $\approx 7\%$  of the adult patient population had received  $\geq 1$  vaccine.

Multisystem inflammatory syndrome (MIS) in children (MIS-C) and adults (MIS-A) are febrile syndromes with elevated inflammatory markers that usually manifest 2–6 weeks after a severe acute respiratory syndrome 2 (SARS-CoV-2) infection (1–3). The Brighton Collaboration Case Definition for MIS-C/A was recently published to be used in the evaluation of patients after SARS-CoV-2 immunization (3); some scientists are concerned that vaccination against SARS-CoV-2 can trigger MIS-C/A. We report 6 cases of MIS from a large integrated health system in Southern California, USA; 3 of those patients received SARS-CoV-2 vaccination shortly before seeking care for MIS. All 6 patients met the Brighton Collaboration Level 1 of diagnostic certainty for a definitive case and had MIS illness onset between January 15–February 15, 2021. The Chief Compliance Officer for the Southern California Permanente Medical Group reviewed this case series and confirmed that it was compliant with the Health Insurance Portability and Accountability Act for publication.

## The Study

Patient 1 was a 20-year-old Hispanic woman who sought care for 3 days of a diffuse body rash, tac-

tile fever, sore throat, mild neck discomfort, and fatigue. There was no cough, congestion, headache, or abdominal pain. She had vomiting and diarrhea, which had subsided 8 days before admission. She received her first dose of SARS-CoV-2 vaccine 15 days before admission. She had no known coronavirus disease (COVID-19) exposure but was SARS-CoV-2 PCR and nucleocapsid IgG positive. She was hypotensive at arrival to the emergency department, requiring inotropic support. She had elevated troponin and brain natriuretic peptide (BNP) with a left ventricular ejection fraction initially mildly reduced at 45% but 30%–35% the following day. She responded well to therapy with intravenous immunoglobulin (IVIG) and methylprednisolone (Table 1).

Patient 2 was a 40-year-old Hispanic man who sought care after 6 days of episodic fevers up to 101.7°F. Associated symptoms included dyspnea on exertion, headache, neck pain, lethargy, abdominal pain, and diarrhea. No chest pain was present. He had a history of SARS-CoV-2 vaccination and laboratory-confirmed mild to moderate COVID-19, both within 48 days before seeking care (Figure). His exam was notable for sweats, diffuse abdominal pain on palpation, tachycardia, and tachypnea. Patient 2 fulfilled Brighton Level 1 criteria for MIS-A with documented fevers, gastrointestinal and neurologic symptoms, elevated inflammatory and cardiac markers, and electrocardiogram changes that were concerning for myocarditis (3). He responded well to treatment with dexamethasone (Table 1).

Patient 3 was an 18-year-old Asian American man who sought care at the emergency department with a history of 3 days of fever as high as 104°F with headache, vomiting, diarrhea, and abdominal cramping (Figure). He denied any upper respiratory symptoms. He had a history of a laboratory-confirmed COVID-19 infection 6 weeks before the onset of symptoms and received the first dose of

Author affiliations: Kaiser Permanente West Los Angeles Medical Center, Los Angeles, California, USA (M.B. Salzman); Kaiser Permanente Los Angeles Medical Center, Los Angeles (C.-W. Huang); Kaiser Permanente Zion Medical Center, San Diego, California, USA (C.M. O'Brien); Kaiser Permanente Tustin Ranch Medical Offices, Tustin, California, USA (R.D. Castillo)

DOI: <https://doi.org/10.3201/eid2707.210594>

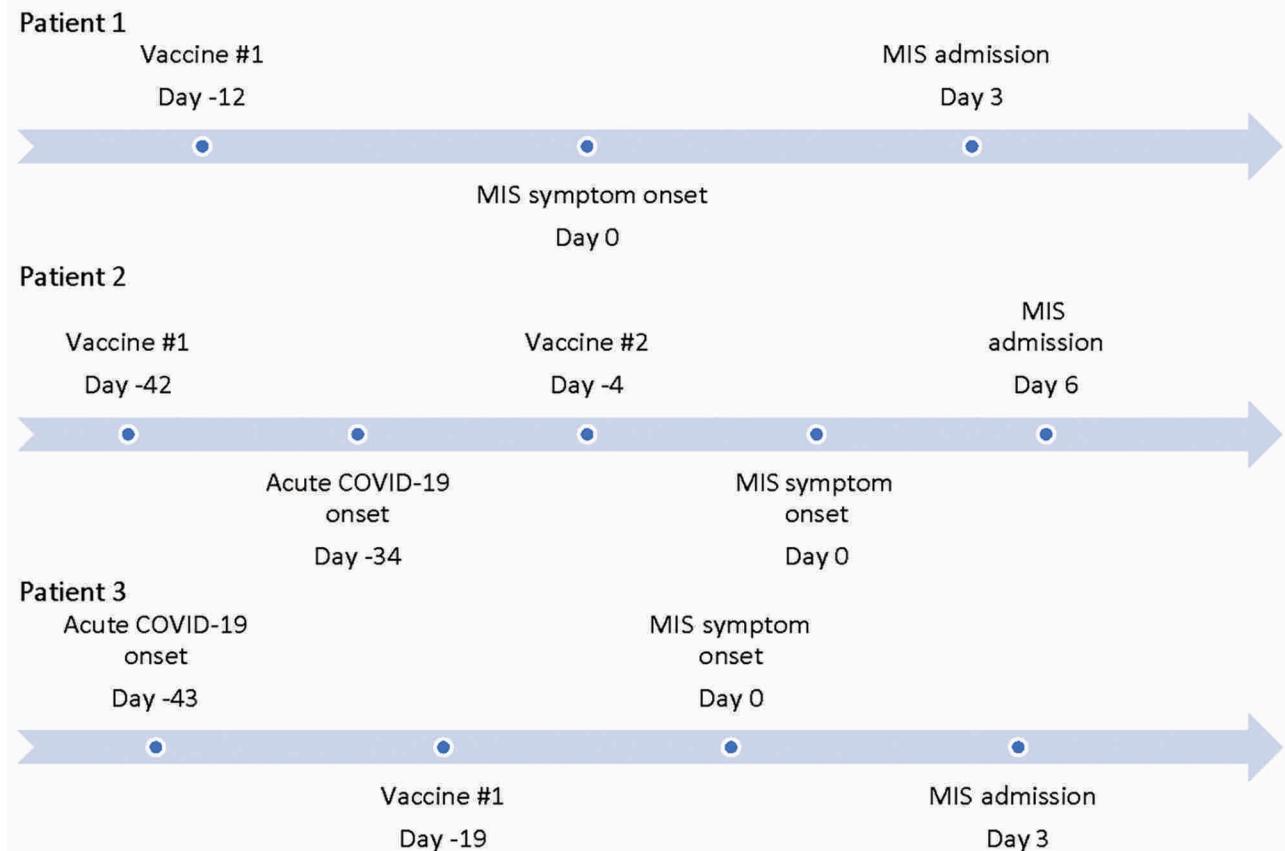
the SARS-CoV-2 vaccine 18 days before the onset of symptoms. In the emergency department, he was found to be hyponatremic and hypotensive (Table 1). His examination was notable for tachycardia and abdominal tenderness. He had elevated inflammatory markers, thrombocytopenia, and lymphopenia. Echocardiogram revealed mild to moderate reduced systolic function with an ejection fraction

**Table 1.** Demographic, laboratory, and clinical characteristics of 3 patients who had multisystem inflammatory syndrome after SARS-CoV-2 immunization, Southern California, USA

Characteristic	Patient 1	Patient 2	Patient 3
Age, y/sex	20 y/F	40 y/M	18 y/M
Race/ethnicity	Hispanic/Latina	Hispanic/Latino	Asian/Filipino
Underlying conditions	Asthma	Depression, hyperlipidemia	Asthma
Symptoms	Fever and rash for 3 d, diarrhea, vomiting, cardiogenic shock, acute renal failure	6 d of fevers, malaise, diarrhea, neck pain, headache, lethargy	3 d of fever, 2 d of abdominal pain, diarrhea, vomiting and headache
Initial vital signs	Pulse: 130 beats/min, BP 73/56 mm Hg, RR 20 breaths/min, temp 99.4°F, repeat temp 101.4, O <sub>2</sub> sats 99% on RA; BMI: 27.85	Pulse 102 beats/min, BP 136/88 mm Hg, RR 20 breaths/min, temp 99.2°F, O <sub>2</sub> sats 97% on RA; BMI: 28.89	Pulse 96 beats/min, BP 98/58 mm Hg, RR 20 breaths/min, temp 97.9°F, sats 97% on RA; BMI: 23.99
Treatment	Vasopressors × 3 d, IVIG 100 g, methylprednisolone 1 g/d for 3 d, heparin, broad spectrum antibiotics, remdesivir	Dexamethasone 6 mg/d for 10 d, ceftriaxone, azithromycin, enoxaparin	IVIG 100 g, methylprednisolone 1 g/d for 3 d, anakinra 100 mg/d for 3 d, broad-spectrum antibiotics, aspirin
Imaging	TTE: normal LV, mildly reduced EF 45% which decreased to 30%–35% the next day; chest radiograph: subtle bibasilar ground glass opacities	EKG: ST depression and T wave inversion in inferior leads; TTE: normal LV; EF: 50%–55%; CT angiogram: no pulmonary embolism, minimal ground glass opacities	TTE: normal LV size with mild to moderately reduced EF 40%–45%, right ventricle mildly dilated with normal systolic function; chest radiograph: right pleural effusion; CT abdomen and pelvis: hepatomegaly, splenomegaly, small ascites; pericholecystic fluid; retroperitoneal adenopathy.
Length of hospital stay	8 d	3 d	9 d
First vaccine	12 d before symptom onset	42 d before symptom onset	19 d before symptom onset
Second vaccine	NA	4 d before symptom onset	NA
Previously known COVID-19 disease	No	34 d before symptom onset	43 d before symptom onset
Initial lab results (reference range)			
Serum leukocytes, × 1,000/mcL (4.5–14.5)	32.3	11.3	7
Lymphocytes absolute, × 1,000/mcL (1.5–6.8)	0.55	0.94	0.26
Neutrophils absolute, × 1,000/mcL (1.5–8.00)	31.75	12.68	6.28
Platelets, × 1,000/mcL (130–400)	155	312	63
Creatinine, mg/dL (≤1.00)	2.64	1.12	1.12
C-reactive protein, mg/L (<7.4)	378	199.4	185.5
D-dimer, µg FEU/mL (≤0.49)	3.01	1.15	3.44
Ferritin, ng/mL (17–168)	533	1,079.7	3,002
Fibrinogen, mg/dL (218–441)	801	875	693
Troponin, ng/mL (≤0.03)	1.54	0.37	0.06
BNP, pg/mL (≤99)	1,498	672	106
LDH, U/L (≤279)	251	156	291
AST, U/L (≤34)	43	55	59
ALT, U/L (<63)	28	83	58
Procalcitonin, ng/mL (0.0–0.1)	160.92	0.01	4.41
SARS-COV-2 nucleocapsid	Positive	Positive	Positive
IgG qualitative			
SARS-COV-2 PCR	Positive	Positive	Negative
Blood culture	Negative × 2	Negative × 2	Negative × 2
Urine culture	Negative	Not done	Negative (after antibiotics)
Bacterial GI PCR panel	Negative	Not done	Negative

\*All patients received the Pfizer-BioNTech vaccine (<https://www.pfizer.com>). ALT, alanine aminotransferase; AST, aspartate aminotransferase; BMI, body mass index; BNP, brain natriuretic peptide; BP, blood pressure; CT, computed tomography; EF, ejection fraction; EKG, electrocardiogram; GI, gastrointestinal; IVIG, intravenous immunoglobulin; LDH, lactate dehydrogenase; LV, left ventricle; MR, mitral regurgitation; NA, not applicable; RA, room air; RR, respiratory rate; SARS-CoV-2, severe acute respiratory syndrome coronavirus 2; sats, saturations; temp, temperature; TR, tricuspid regurgitation; TTE, transthoracic echocardiogram.

## DISPATCHES



**Figure.** Timeline displaying intervals between coronavirus (COVID-19) vaccine, acute COVID-19 symptom onset, and MIS symptom onset in patients in California, USA. MIS, multisystem inflammatory syndrome.

of 40%–45%. He responded well to therapy with methylprednisolone, IVIG, and anakinra.

Patient 4 was a 62-year-old Asian American man who sought care at the emergency department for fever lasting 5 days. For 6 days he had had nausea and vomiting, which developed 23 days after a laboratory-confirmed mild to moderate acute COVID-19 illness that subsided after 1 week. He also had 4 days of bilateral hearing loss. He was hypotensive, requiring inotropic support. He had thrombocytopenia, elevated inflammatory markers, and elevated troponin with diffuse ST elevations on electrocardiogram (Table 2). He responded well to treatment with methylprednisolone, including improvement in his hearing loss.

Patient 5 was a 29-year-old Hispanic woman who experienced fever, chills, headache, and nausea 28 days after a laboratory-confirmed acute COVID-19 illness. She sought care at the emergency department with hypotension requiring inotropic support. Clinicians diagnosed MIS-A on the basis of conjunctivitis, evidence of colitis on abdominal imaging, elevated inflammatory markers, lymphopenia, and elevated

BNP. She responded well to treatment with methylprednisolone and IVIG (Table 2).

Patient 6 was a 23-year-old Hispanic man who experienced fever and abdominal pain 38 days after a laboratory-confirmed mild to moderate acute COVID-19 illness. He was hypotensive, requiring inotropic support. He had mesenteric adenitis on abdominal imaging. He had elevated inflammatory markers, neutrophilia, lymphopenia, and a left ventricular ejection fraction of 20% on echocardiogram. He was treated with IVIG and methylprednisolone (Table 2). He died 12 days after admission.

### Conclusions

At the time of our study, our medical group was only vaccinating healthcare workers and patients  $\geq 75$  years of age. The 3 patients that were immunized qualified for early vaccination because they either worked or volunteered in a healthcare setting. These cases occurred  $\approx 1$  month after the peak surge of COVID-19 cases in Southern California. At the time these patients sought care, only  $\approx 7\%$  of the adult ( $\geq 18$  years of age) population who were

**Table 2.** Demographic, laboratory, and clinical characteristics of patients who had multisystem inflammatory syndrome without SARS-CoV-2 immunization, California, USA

Characteristic	Patient 4	Patient 5	Patient 6
Age/sex	62 y/M	29 y/F	23 y/M
Race/ethnicity	Asian	Hispanic/Latina	Hispanic/Latino
Underlying conditions	Hyperlipidemia, gout, atrial fibrillation	Obesity	Asthma, obesity
Signs and symptoms	6 d of fever, vomiting, abdominal pain, 4 d of hearing loss; shock, acute renal failure	4 d of fever, headaches, vomiting, abdominal pain; conjunctivitis, shock, acute kidney injury	4 d of fever, abdominal pain, diarrhea, cough, SOB; shock
Initial vital signs	Pulse 121 beats/min, BP 112/63 mm Hg, RR 20 breaths/min, temp 101.6°F, O <sub>2</sub> sats 98%; within 1 h in ER: BP 70/56 mm Hg, pulse 112 beats/min, RR 28 breaths/min, O <sub>2</sub> sat 97%; BMI: 28.1	Pulse 140 beats/min, BP 102/71 mm Hg (61/48 mm Hg after 5 h of being in ER), RR 20, temp 105.2°F, O <sub>2</sub> sats 99%; BMI: 31.63	Pulse 125 beats/min, BP 87/27 mm Hg, temp 98.2°F, O <sub>2</sub> sats 98% on RA; BMI: 40.3
Treatment	Vasopressors, methylprednisolone 125 mg every 6 h, broad spectrum antibiotics, enoxaparin	Vasopressors, methylprednisolone 30 mg every 12 h, IVIG 100 g, heparin, ceftriaxone, ciprofloxacin	Vasopressors, IVIG 2 g/kg, methylprednisolone 1 g daily for 3 d, broad spectrum antibiotics
Imaging	EKG: diffuse ST elevation; TTE: mild concentric LVH, mild LV systolic dysfunction, EF 50%; CT angiogram: no evidence of embolus; increased interstitial markings and hazy ground glass changes, small bilateral pleural effusions; 6 mm pericardiac effusion; ultrasound: right popliteal DVT	TTE: LVEF 50%–55%, mild TR regurgitation, abdominal CT with colitis and enlarged lymph nodes	EKG: sinus tachycardia, no ST changes; TTE: LVEF 20%, global hypokinesis, abdominal CT with mesenteric adenitis
Length of hospital stay	7 d	10 d	12 d; deceased
First vaccine	NA	NA	NA
Second vaccine	NA	NA	NA
Previously known COVID-19	23 days before symptom onset	28 d before symptom onset	38 d before symptom onset
Initial lab results (reference ranges)			
Serum leukocytes, × 1,000/mcL (4.5–14.5)	18.4	10.2	6.8
Lymphocytes absolute, × 1,000/mcL (1.5–6.8)	0.00	0.35	0.52
Neutrophils absolute, × 1,000/mcL (1.5–8.00)	17.66	9.66	14.35
Platelets, × 1,000/mcL (130–400)	102	170	185
Creatinine, mg/dL (≤1.00)	2.24	0.78	2.49
C-reactive protein, mg/L (<7.4)	351.7	364.9	246.3
D-dimer, µg FEU/mL (≤0.49)	7.21	5.79	>4
Ferritin, ng/mL (17–168)	5,032	606	1,273 at admission, >18,000 at its peak 2 days later
Fibrinogen, mg/dL (218–441)	N/A	N/A	454
Troponin, ng/mL (≤0.03)	0.85	0.06	<0.02
BNP, pg/mL (≤99)	931	331	228
LDH, U/L (≤279)	267	N/A	224
AST, U/L (≤34)	38	N/A	42
ALT, U/L (<63)	40	55.8	88
Procalcitonin, ng/mL (0.0–0.1)	Not done	8.15	29.37
SARS-CoV-2 nucleocapsid IgG qualitative	Not done	Positive	Not done
SARS-CoV-2 PCR	Positive	Negative	Positive
Blood culture	Negative x 2	Negative x 4	Negative x 9
Urine culture	Negative (after antibiotics)	Negative (after antibiotics)	Negative (after antibiotics)
Bacterial GI PCR panel	Not done	Negative	Not done

\*ALT, alanine aminotransferase; AST, aspartate aminotransferase; BMI, body mass index; BNP, brain natriuretic peptide; BP, blood pressure; CT, computed tomography; COVID-19, coronavirus disease; DVT, deep venous thrombosis; EF, ejection fraction; EKG, electrocardiogram; GI, gastrointestinal; IVIG, intravenous immunoglobulin; LDH, lactate dehydrogenase; LV, left ventricle; MR, mitral regurgitation; NA, not applicable; RA, room air; RR, respiratory rate; SARS-CoV-2, severe acute respiratory syndrome coronavirus 2; sats, saturations; temp, temperature; TR, tricuspid regurgitation; TTE, transthoracic echocardiogram.

## DISPATCHES

members of the Kaiser Permanente patient group ( $\approx 3,776,000$  members) had received  $\geq 1$  SARS-CoV-2 vaccine, whereas 3 of the 6 patients in this study who had MIS were vaccinated. These 6 patients were hospitalized at 5 of the 15 Kaiser Permanente medical centers across Southern California. We believe the temporal association after SARS-CoV-2 immunization is worth noting, given the theoretical concern of MIS-C/A after vaccination (3). We did not identify any patients with MIS after vaccination who did not have recent SARS-CoV-2 infection. It is possible that other case-patients in our member population were hospitalized outside of our 15 medical centers and thus were not captured for this case series.

Overall, MIS is rare in adults. In comparison we treated  $>50$  children with MIS-C during January 2021–February 2021 and  $>100$  since May 2020 among a pediatric population of 960,000.

The Centers for Disease Control and Prevention (CDC) allows for vaccination after a SARS-CoV-2 infection after recovery from the acute illness and after the isolation period, with no recommended minimal interval between infection and vaccination (4). Most cases of MIS-C/A occur 2–6 weeks after an exposure or infection (1–3), although we have seen several children brought for care as late as 8–10 weeks after a confirmed infection or exposure. We need to continue to monitor for MIS-C/A after SARS-CoV-2 infection and immunization as more of the population are vaccinated, especially as vaccines are administered to children who are at higher risk for MIS. CDC and the US Food and Drug Administration co-manage VAERS (the Vaccine Adverse Event Reporting System), which is being used to monitor for adverse events after COVID-19 vaccines. MIS-C/A is listed as a postvaccination adverse event of special interest (5) and should be reported to VAERS (6).

**About the Author**

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to move, under his ministerial discretion, to cancel the now-restored visa.

On Monday night, a spokesman for Hawke said: “The minister is currently considering the matter and the process remains ongoing”.

**READERS' POLL**

**Should Novak Djokovic be allowed to stay and play in the Australian Open?**



69,417 votes

These polls are not scientific and reflect the opinion only of visitors who have chosen to participate.

Surely, it would have been better for the

government to just cut its losses at once. The



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Research paper

## Time since SARS-CoV-2 infection and humoral immune response following BNT162b2 mRNA vaccination



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### ABSTRACT

**Background:** To optimise the use of available SARS-CoV-2 vaccines, some advocate delaying second vaccination for individuals infected within six months. We studied whether post-vaccination immune response is equally potent in individuals infected over six months prior to vaccination.

**Methods:** We tested serum IgG binding to SARS-CoV-2 spike protein and neutralising capacity in 110 health-care workers, before and after both BNT162b2 messenger RNA (mRNA) vaccinations. We compared outcomes between participants with more recent infection ( $n = 18$ , median two months, IQR 2-3), with infection-vaccination interval over six months ( $n = 19$ , median nine months, IQR 9-10), and to those not previously infected ( $n = 73$ ).

**Findings:** Both recently and earlier infected participants showed comparable humoral immune responses after a single mRNA vaccination, while exceeding those of previously uninfected persons after two vaccinations with 2.5 fold ( $p = 0.003$ ) and 3.4 fold ( $p < 0.001$ ) for binding antibody levels, and 6.4 and 7.2 fold for neutralisation titres, respectively (both  $p < 0.001$ ). The second vaccine dose yielded no further substantial improvement of the humoral response in the previously infected participants (0.97 fold,  $p = 0.92$ ), while it was associated with a 4 fold increase in antibody binding levels and 18 fold increase in neutralisation titres in previously uninfected participants (both  $p < 0.001$ ). Adjustment for potential confounding of sex and age did not affect these findings.

**Interpretation:** Delaying the second vaccination in individuals infected up to ten months prior may constitute a more efficient use of limited vaccine supplies.

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### 1. Introduction

Since December 2020 over one billion vaccines have been administered worldwide as the main strategy to combat this Severe Acute Respiratory Syndrome Coronavirus 2 (SARS-CoV-2) pandemic by

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## Research in context

### *Evidence before this study*

Recent studies show that a single mRNA vaccination in individuals with recent COVID-19 (up to six months prior) provides a potent immune response, equivalent to, or exceeding, the antibody response after two vaccinations in individuals without previous SARS-CoV-2 infection. Little is known about immune responses after a single vaccine dose in individuals that suffered from COVID-19 over six months prior to vaccination.

### *Added value of this study*

We show that one dose of the BNT162b2 mRNA vaccine induces a humoral immune response in individuals previously infected with SARS-CoV-2 that exceeds antibody responses in uninfected individuals after two vaccine doses, even if the infection occurred more than six months prior. The humoral immune response after each dose in individuals infected over six months prior was shown to be at least similar to those recently infected; the second vaccination elicited no substantial improvement of humoral response for previously infected in either group. Our study is the first to compare data of individuals with recent infection (within six months) to those infected over six months ago - and suggests a single mRNA vaccine in individuals infected up to ten months prior to vaccination is sufficient to elicit a potent humoral immune response.

### *Implications of all the available evidence*

To maximise the number of individuals protected against SARS-CoV-2 by vaccination, delayed administration of the second dose for individuals with previous infection up to six months is accepted policy in parts of the world. Available evidence suggests this strategy could include individuals that suffered COVID-19 up to ten months prior to vaccination, and possibly longer. This could enable earlier vaccination of uninfected individuals.

nucleic acid amplification testing (NAAT), and presence of COVID-19 related symptoms since the previous visit. For comprehensive details about inclusion and follow-up of this cohort we refer to the original article of the S3 study [9].

Between January 6th and 13th 2021, a selection of cohort participants received their first dose of BNT162b2 mRNA vaccine. This selection was based on potential, work-related, high exposure to SARS-CoV-2 as part of the national vaccination strategy in the Netherlands. A second dose was administered 21 days after the first; sera were obtained within 24 h of the first vaccination, 21 days after the first vaccination, and 28 days after the second dose.

Participants were divided in three groups with regard to previous infection status: (1) participants infected within six months prior to vaccination, named recently infected, (2) participants infected earlier (over six months prior to vaccination), named earlier infected, and (3) previously uninfected participants.

The infection date was determined by the date of a positive SARS-CoV-2 NAAT result. For subjects without an available positive NAAT result, the timing of infection was based on the history of clinical symptoms in combination with seroconversion measured at previous timepoints of the study. For participants with asymptomatic seroconversion, we used the midpoint between the last seronegative sample and the first seropositive sample. Participants without a positive NAAT result or seroconversion during follow-up since onset of the cohort in March 2020, were considered uninfected.

## 2.2. Ethics

The study was approved by the Medical Research Ethics Committee of both hospitals and accepted by the competent authority, the Central Committee on Research on Human Subjects (NL73478.029.20). Written informed consent was obtained from each participant.

## 2.3. Serological response

In the months prior to vaccination, seroconversion was defined as a serological response using a Wantai SARS-CoV-2 total-Ig enzyme-linked immunosorbent assay (Wantai ELISA) [10]. To quantify the serum IgG response to SARS-CoV-2 spike protein following vaccination, we used a custom Luminex assay. To identify recent SARS-CoV-2 infections, serum obtained within 24 h of first vaccination was tested for a serological response by using the Luminex assay. In case of intermediate IgG SARS-CoV-2 spike protein binding in previously uninfected participants, a Wantai ELISA was performed to confirm this recent infection.

The custom Luminex assay was described previously [11]. In short, prefusion stabilized trimeric SARS-CoV-2 spike protein was covalently coupled to Luminex Magplex beads with a ratio of 75  $\mu$ g protein to 12.5 million beads. The protein design of SARS-CoV-2 spike protein is described previously [11]. Optimisation studies showed an optimal dilution of sera of 1:100,000 for measuring the infection and vaccination response. After an overnight incubation, plates were washed with TBS containing 0.05% Tween-20 (TBST) and resuspended in 50  $\mu$ l of Goat-anti-human IgG-PE (RRID AB\_2795648, validated by Southern Biotech). Read-out was performed on a Magpix (Luminex). Resulting mean fluorescence intensity (MFI) values are the median of approximately 50 beads per well and were corrected by subtraction of MFI values from buffer and beads only wells.

To investigate the neutralising capacity of sera of those previously infected and a random sample of 50 previously uninfected, we used the previously described pseudovirus neutralisation assay [11]. In short, serial dilutions of heat-inactivated sera were mixed 1:1 with SARS-CoV-2 pseudovirus and incubated for 1h at 37 °C before adding this mixture to HEK293T cells expressing angiotensin converting enzyme 2 (ACE2) receptor of SARS-CoV-2. After 48 h of incubation at 37 °C, cells were lysed and luciferase activity was measured by using

inducing artificial herd immunity [1]. The rate-limiting factor for many vaccine strategies is the limited availability of vaccines. Studies on antibody response following vaccination are emerging, and demonstrate that for those with previous SARS-CoV-2 infection one dose of messenger RNA (mRNA) vaccine induces antibody levels similar to, or even exceeding the antibody response for those without previous SARS-CoV-2 infection after two doses [2–8]. Data on antibody response in patients with a long interval between infection and vaccination (i.e. more than six months) are still sparse. We compared the SARS-CoV-2 Spike protein specific IgG antibody levels and neutralising antibody titres of sera before and after the first and second dose of BNT162b2 (Pfizer-BioNTech) mRNA vaccine between (1) participants infected within six months prior to vaccination, (2) previously infected participants infected earlier (over six months prior to vaccination) and (3) previously uninfected participants.

## 2. Methods

### 2.1. Study design

In March 2020 we initiated a prospective serologic surveillance cohort study among hospital healthcare workers in two tertiary medical centers in the Netherlands (S3 cohort; NL 73478.029.20, Netherlands Trial Register NL8645). In short, follow-up visits were scheduled regularly (March, April, May, June, October 2020, January 2021) and included serological testing, surveys regarding results of

Nano-Glo Luciferase Assay System (Promega). Relative luminescence units were normalized to the units from cells infected with pseudovirus in absence of serum. Neutralisation levels were the serum dilution at which infectivity was inhibited 50% (ID<sub>50</sub>) using a non-linear regression curve fit (GraphPad Prism software version 8.3). Neutralisation ID<sub>50</sub> values < 100 were considered negative.

#### 2.4. Statistical analysis

Binding antibody levels and neutralisation titres were reported as medians with interquartile ranges (IQR). Antibody levels were compared between groups by using a Mann-Whitney-U test (MW). For categorical outcomes a chi-square test was used ( $\chi^2$ ). In order to adjust for participants' sex and age as potential confounders, we log transformed all outcomes and then performed univariable and multivariable linear regression analysis. Results were considered statistically significant at  $p < 0.05$ . We used R Core Team (2020). R: A language and environment for statistical computing. R Foundation for Statistical Computing, Vienna, Austria.

#### 2.5. Role of the funding source

The funders of the study had no role in the study design, data collection, data analysis, writing of the report, or in the decision to submit for publication.

### 3. Results

We included 110 participants who received their first vaccination with BNT162b2 (Pfizer-BioNTech) mRNA vaccine in January 2021, of whom 73 individuals were previously uninfected and 37 had a documented infection with SARS-CoV-2 in the past year. 8 out of 37 participants remained asymptomatic during infection. Median age of participants was 42 years (IQR 32–54) and 69% were female (Table 1). The median interval between SARS-CoV-2 infection and vaccination in the recently infected group was two months (IQR 2-3,  $n = 18$ ), and in the earlier infected group nine months (IQR 9-10,  $n = 19$ ) (Table 1). Binding antibody findings of three participants were excluded from analysis due to technical issues. Neutralising antibody levels of one participant after the first vaccination were excluded because of a suspected sample switch as this sample showed a discrepant high neutralisation capacity compared to normal binding levels at the same time point and lower neutralisation titres following second vaccination.

#### 3.1. Humoral immune response in participants with and without previous infection

Most participants with prior documented SARS-CoV-2 infection still had detectable anti-spike protein antibodies pre-vaccination

(median 162 MFI, IQR 70–341, Fig. 1a). After one vaccine dose, binding antibody levels increased 36 and 664 fold for the previously infected and uninfected individuals, respectively. Binding antibody levels in previously infected individuals after one dose significantly exceeded those observed in the fully vaccinated individuals without a history of SARS-CoV-2 infection (median 5846 MFI, IQR 3806–9394, and 2188 MFI, IQR 1200–3848, respectively,  $p < 0.001$  (MW)). Similarly, individuals with a previous infection of SARS-CoV-2 had higher neutralising antibody titres after one vaccine dose, compared to fully vaccinated uninfected individuals (median 12,615 ID<sub>50</sub>, IQR 8003–19,111, and 1863 ID<sub>50</sub>, IQR 1314–3031, respectively,  $p < 0.001$  (MW)) (Fig. 1b). Only a few uninfected individuals showed substantial neutralising titres following a single vaccination (median 102 ID<sub>50</sub>, IQR 100–315). None of the participants had signs of an SARS-CoV-2 infection after the first vaccination.

After the second vaccine dose, binding antibody levels and neutralisation titres increased 4.1 and 18.2 fold for the previously uninfected individuals, respectively; whereas antibody binding levels and neutralisation titres in previously infected individuals did not change substantially: 0.92 and 1.17 fold change, respectively.

#### 3.2. Adjustment for confounding

Univariable regression analysis mirrored above outcomes: binding antibody levels values were significantly higher in both the recently infected group (log MFI: 8.33) and earlier infected group (log MFI: 8.72) 21 days after the first vaccination, as compared to the uninfected group 28 days after the second vaccination (log MFI: 7.59, difference 0.74, 95% CI: 0.15–1.34 and 1.13, 95% CI: 0.53–1.72, respectively). Neutralisation titres were significantly higher in both the recently infected group (log ID<sub>50</sub>: 8.96) and earlier infected group (log ID<sub>50</sub>: 9.41) 21 days after the first vaccination, as compared to the uninfected group 28 days after the second vaccination (log ID<sub>50</sub>: 7.57, difference 1.39 (95% CI: 0.81–1.95) and 1.84 (95% CI: 1.28–2.39), respectively). Adding sex and age to the model as potential confounders, did not importantly alter these results (Table 2).

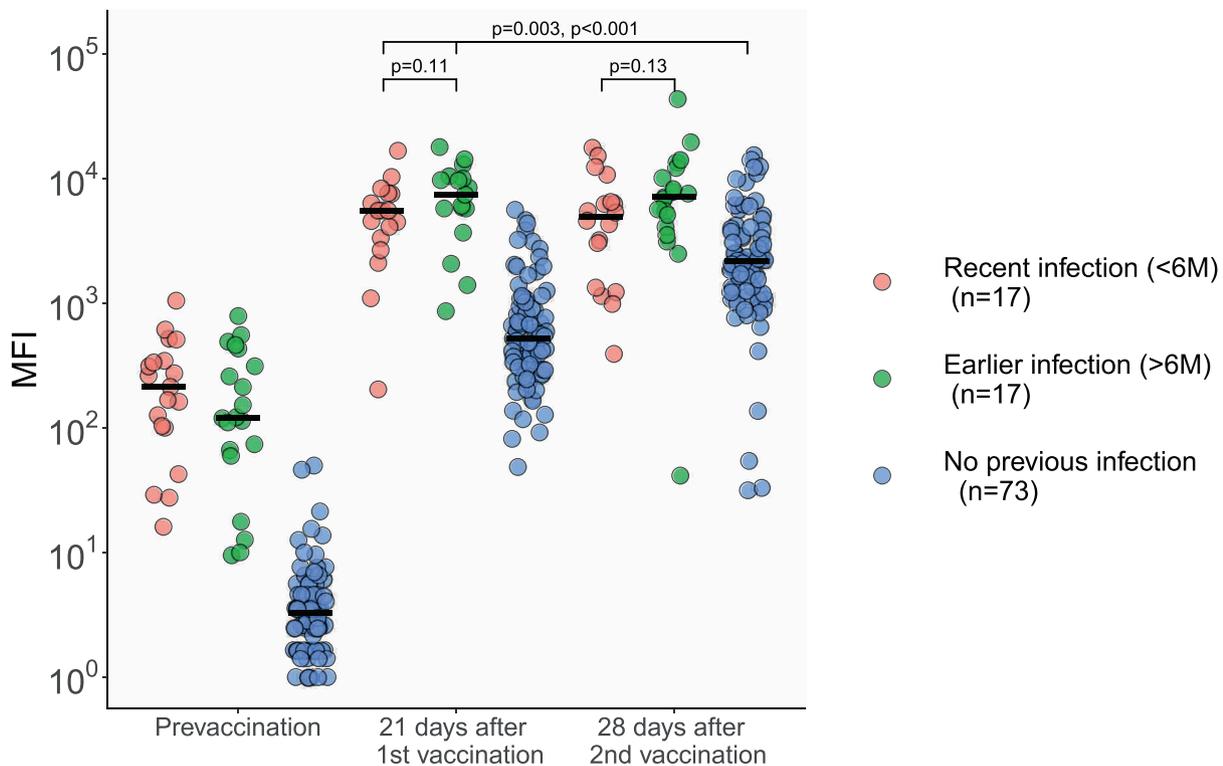
#### 3.3. Time since infection and humoral immune response

Pre-vaccination antibody binding levels were similar between recently and earlier infected participants (median 215 MFI, IQR 65–343, and 121 MFI, IQR 62–404,  $p = 0.33$  (MW)). After the first vaccination dose, no difference was observed between these groups for both binding antibody levels (5,558 MFI, IQR 3353–7,584, and 7453 MFI, IQR 5788–10,062,  $p = 0.11$  (MW)), and neutralisation titres (11,844 ID<sub>50</sub>, IQR 7428–15,924 and 13,384 ID<sub>50</sub>, IQR 8907–24,475,  $p = 0.26$  (MW)). After the second vaccination, antibody binding levels were similar between recently and earlier infected participants (median 4989 MFI, IQR 1770–6479, and median 7131 MFI, IQR

**Table 1**  
Study participants characteristics.

	Previously infected ( $n = 37$ )		Uninfected ( $n = 73$ )	Total ( $n = 110$ )
	Recent infection ( $<6$ months) ( $n = 18$ )	Earlier infection ( $>6$ months) ( $n = 19$ )		
Age, y (median (IQR))	40.0 (32.0–52.0)	32.0 (27.0–42.0)	44.0 (33.0–54.0)	42.0 (32.0–54.0)
Sex, Female (%)	12 (67)	18 (95)	46 (63)	76 (69)
<b>Previous infection documented by:</b>				
Both NAAT & serology positive (%)	15 (83)	12 (63)		27 (25)
Only seroconversion (%)	3 (17)	7 (37)		10 (9)
<b>Time between vaccine and infection,</b> Months (median (IQR))	2.0 (2.0–3.0)	9.0 (9.0–10.0)	-	5.5 (2.0–9.0)

NAAT: nucleic acid amplification testing. IQR: interquartile range.



**Fig. 1.** Antibody levels and neutralisation in convalescent COVID-19 patients and uninfected participants prior to and after first and second vaccine dose. The overarching line represents the comparison of both the previous infected groups after the first vaccination with the non-infected group after the second vaccination. The number of patients (n) in the legend is for the prior infectious group on “21 days after vaccination” and for the non-infectious group on “28 days after second vaccination”. a: Serum IgG binding levels to SARS-CoV-2 spike protein. The number of participants with a recent infection, earlier infection and no previous infection pre-vaccination were:  $n = 19$ ,  $n = 20$  and  $n = 84$ , respectively, at 21 days after the first vaccination:  $n = 17$ ,  $n = 17$ ,  $n = 82$ , respectively, and at 28 days after the second vaccination:  $n = 18$ ,  $n = 19$  and  $n = 73$ , respectively. Group medians were compared using the Mann-Whitney-U test. There was no significant difference at 21 days after the first vaccination and at 28 days after the second vaccination between the recent infection and the earlier infection groups,  $p = 0.11$  and  $p = 0.13$ , respectively. The results of the recently infected and earlier infected groups at 21 days after the first vaccination were significantly different from the non-infected group at 28 days after the second vaccination,  $p = 0.003$  and  $p < 0.001$  respectively. MFI: Mean Fluorescence Intensity. b: Serum neutralisation of SARS-CoV-2 pseudovirus, with a lower limit of detection of 100 ID<sub>50</sub>. The number of participants with a recent infection, earlier infection and no previous infection pre-vaccination were:  $n = 16$ ,  $n = 20$  and  $n = 6$ , respectively, at 21 days after the first vaccination:  $n = 18$ ,  $n = 19$ ,  $n = 82$ , respectively, and at 28 days after the second vaccination:  $n = 18$ ,  $n = 18$  and  $n = 51$ , respectively. Group medians were compared using the Mann-Whitney-U test. There was no significant difference at 21 days after the first vaccination and at 28 days after the second vaccination between the recently infected and earlier infected groups,  $p = 0.26$  and  $p = 0.15$ , respectively. The recently infected and the earlier infected groups at 21 days after the first vaccination were significantly different from the non-infected group at 28 days after the second vaccination,  $p < 0.001$  and  $p < 0.001$  respectively. ID<sub>50</sub>: 50% Inhibitory Dilution.

4628–11,213,  $p = 0.13$  (MW)). Corresponding neutralisation titres were: median 14,391 ID<sub>50</sub>, IQR 11,409–16,931, and 17,832 ID<sub>50</sub>, IQR 9447–36,747,  $p = 0.15$  (MW).

Binding antibody levels and neutralising titres are plotted against time since infection in Supplementary Fig. S1a + b.

### 3.4. Side effects

Overall, 100 (91%) participants reported any side effect after the first dose, and 84 (76%) after the second dose. After the first vaccination dose, previously infected individuals experienced more local skin reactions (19.4 vs 2.9%,  $p = 0.01$  ( $\chi^2$ )) and muscle soreness (61.1 vs 24.3%,  $p < 0.001$  ( $\chi^2$ )) compared to uninfected individuals. Also, more individuals without prior infection reported no complaints at all (0 vs 14.3%,  $p = 0.04$  ( $\chi^2$ )). We found no significant difference in the incidence of side effects after the second dose (Supplementary Table S1).

## 4. Discussion

In this study, we demonstrate that one dose of the BNT162b2 mRNA vaccine boosts the humoral immune response in individuals previously infected with SARS-CoV-2 to a level that exceeds antibody responses in uninfected individuals after two vaccine doses, even if the infection occurred over six months prior.

The humoral immune response after each dose in individuals infected over six months ago was at least similar to those recently infected. In addition, no substantial rise in serum binding antibody levels or neutralising capacity was observed following second vaccination in either group of previously infected individuals. Our study is the first to compare SARS-CoV-2 antibody binding and neutralisation responses in individuals with recent infection (within six months) to those infected more than six months prior to vaccination. Also it is the first to include all relevant time points (before vaccination, 21 days after first vaccination, 28 days after second vaccination), in a well documented cohort followed since the onset of the pandemic.

Our findings are in line with previous studies showing that recently infected participants (mean time since infection: 111 days) had higher neutralisation titres after one vaccine dose in comparison to previously uninfected participants after the second dose, with a trend towards increasing neutralisation titres over time since infection [7]. Another study comprising only individuals with earlier infection (median time since infection: eight-nine months) showed both higher binding and neutralising antibody responses after a single dose of mRNA vaccine compared to individuals not previously infected [6]. These studies together with the current study strongly suggest that a single vaccine dose in previously infected individuals with an infection-vaccine interval longer than six months induces an immune response at least similar to recently infected individuals. This conclusion is in line with the hypothesis that infection is

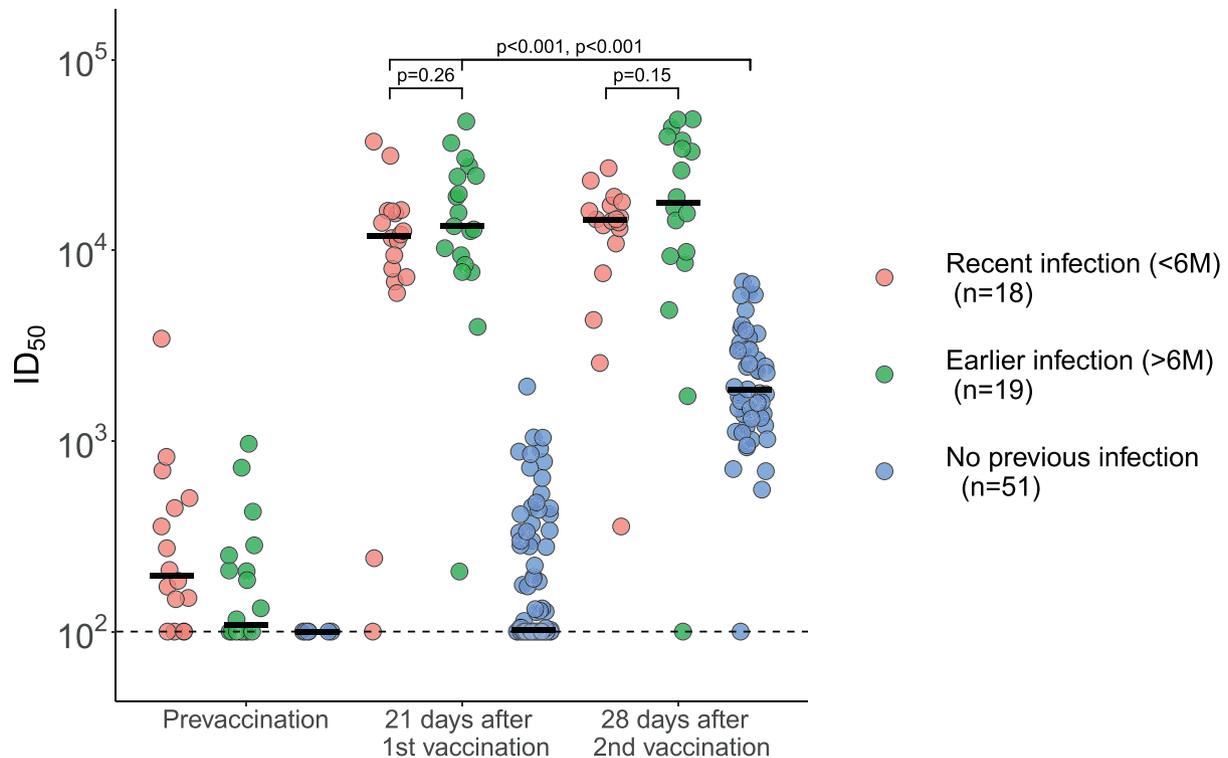


Fig. 1. Continued.

analogous to a first vaccine dose, making the first real vaccine dose act as a 'boost' for individuals with a history of SARS-CoV-2 infection [4]. This response in previously exposed individuals is most likely explained by a recall of SARS-CoV-2 specific memory B cells elicited during their first exposure to the virus [12]. Our results demonstrate this effect is durable over time up to at least ten months after infection.

Furthermore, we found no substantial change in immune response following the second vaccination for previously infected participants. Prior research found serum neutralising potency against SARS-CoV-2 pseudovirus actually decreased following the second dose in previously infected individuals, reducing the likelihood of additional benefit of the second dose in these individuals.<sup>2</sup>

Considering limited vaccine supply in the midst of this global pandemic, several countries (including the Netherlands) currently recommend administering a single dose to individuals infected in the previous six months, whilst the regular scheme of two doses is advised when infection was over six months ago [13].<sup>12</sup> Our results suggest this may be extended to at least ten months past infection,

which could make vaccines for previously uninfected individuals more readily available.

Our study has some important potential limitations. First and foremost the sample size of previously infected participants is relatively low. Second, our healthcare worker cohort consists of relatively healthy, young individuals with a mild or asymptomatic history of SARS-CoV-2 infection; results may not be generalisable to e.g. immunocompromised individuals or those with severe previous COVID-19 disease. Lastly, we did not evaluate cellular immune responses which are likely to contribute to vaccine efficacy as well [14]. However, neutralising antibody levels are shown to be predictive of immunity to COVID-19 [15].

In conclusion, one dose of the BNT162b2 mRNA vaccine induces humoral immune responses in individuals previously infected with SARS-Cov-2 exceeding those of uninfected individuals after two doses, whether infected occurred recently or over six months prior to vaccination. Delayed administration of the second vaccination dose for individuals with previous infection up to ten months, and likely longer, may constitute a more efficient vaccination strategy.

Table 2

Univariable and multivariable linear regression analysis. Serum binding antibody levels in log transformed MFI values 21 days after the first vaccination in recently ( $n = 17$ ) and earlier infected participants ( $n = 17$ ), were compared to log transformed MFI values 28 days after the second vaccination in uninfected participants ( $n = 73$ ). Neutralizing capacity in log transformed ID<sub>50</sub> values in recently ( $n = 18$ ) and earlier infected participants ( $n = 19$ ) were compared to log transformed ID<sub>50</sub> values 28 days after the second vaccination in uninfected participants ( $n = 51$ ). Multivariable model includes participant sex and age as potential confounders.

	log MFI	Difference with uninfected (95% CI)	log ID50	Difference with uninfected (95% CI)
<b>Univariable</b>				
Uninfected	7.59	-	7.57	-
Recently infected	8.33	0.74 (0.15–1.34)	8.96	1.39 (0.82–1.95)
Earlier infected	8.72	1.13 (0.53–1.72)	9.41	1.84 (1.28–2.39)
<b>Multivariable</b>				
Uninfected	7.63	-	7.24	-
Recently infected	8.31	0.68 (0.09–1.26)	8.60	1.36 (0.80–1.92)
Earlier infected	8.48	0.85 (0.22–1.47)	8.91	1.67 (1.09–2.25)

CI: Confidence interval, MFI: Mean Fluorescence Intensity, ID<sub>50</sub>: 50% Inhibitory Dilution.

## 5. Study group

First Name	Surname	Degree	Department	Research institute	Location
Brent	Appelman	Dhr, MD	Center for Experimental and Molecular Medicine	Amsterdam Infection & Immunity	AMC
Diederik	Beek van de	Dhr, MD PhD	Neurology	Amsterdam Neuroscience	AMC
Marije K	Bomers	Mw, MD PhD	Internal medicine	Amsterdam Infection & Immunity	VUmc
Justin	Brabander de	Dhr, MD	Center for Experimental and Molecular Medicine	Amsterdam Infection & Immunity	AMC
Matthijs C	Brouwer	Dhr, MD PhD	Neurology	Amsterdam Neuroscience	AMC
David TP	Buis	Dhr, MD	Internal medicine	Amsterdam Infection & Immunity	VUmc
Nora	Chekrouni	Mw, MD	Neurology	Amsterdam Neuroscience	AMC
Marit J	Gils van	Mw, PhD	Medical Microbiology & Infection prevention	Amsterdam Infection & Immunity	AMC
Menno D	Jong de	Dhr, MD PhD	Medical Microbiology & Infection prevention	Amsterdam Infection & Immunity	AMC
AH Ayesha	Lavell	Mw, MD	Internal medicine	Amsterdam Infection & Immunity	VUmc
Niels	Mourik van	Dhr, MD	intensive care medicine	Amsterdam Infection & Immunity	AMC
Sabine E	Olie	Mw, MD	Neurology	Amsterdam Neuroscience	AMC
Edgar JG	Peters	Dhr, MD PhD	Internal medicine	Amsterdam Infection & Immunity	VUmc
Tom DY	Reijnders	Dhr, MD	Center for Experimental and Molecular Medicine	Amsterdam Infection & Immunity	AMC
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W Joost	Wiersinga	Dhr, MD PhD	Center for Experimental and Molecular Medicine	Amsterdam Infection & Immunity	AMC

## Contributor

All contributing authors have read and approved the final version of the manuscript.

BA, KvdS and AHAL (equal): Conceptualisation, data curation and verification, formal analysis, investigation, methodology, project administration, visualisation, writing - original draft and writing - review & editing.

MSch and Mslim: Investigation, project administration, writing - review & editing

MP, JB, MO, KT: data curation, formal analysis, investigation, project administration.

AV, WW, RS and YS: Conceptualisation, investigation, project administration, resources, writing - review & editing.

LV: Conceptualisation, data curation investigation, project administration, resources, writing - review & editing.

MG: Conceptualisation, formal analysis, investigation, project administration, resources, supervision, writing - review & editing.

MB and JS: Conceptualisation, data verification, formal analysis, funding acquisition, investigation, methodology, project administration, resources, supervision, validation, writing - original draft, writing - review & editing.

## Data sharing statement

The original study protocol and data dictionary will be made available to researchers upon request. Researchers willing to access the de-identified participant dataset should send a request to [j.sikkens@amsterdamumc.nl](mailto:j.sikkens@amsterdamumc.nl). Requests for data will be evaluated and access will depend on the informed consent and permission of legal research support of Amsterdam UMC.

## Declaration of Competing Interest

M. Bomers and J. Sikkens report grants from Netherlands Organization for Health Research and Development ZonMw, grants from Amsterdam UMC Corona Research Funds, during the conduct of the study. All other authors declare no conflict of interests.

## Acknowledgements

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## Supplementary materials

Supplementary material associated with this article can be found in the online version at doi:[10.1016/j.ebiom.2021.103589](https://doi.org/10.1016/j.ebiom.2021.103589).

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Please find below Mr Djokovic's response to the Minister's notice. Enclosed with this response is a bundle of scholarly references, as footnoted below, which support the responses set out in this letter.

### Risk to public health and safety - section 116(1)(e)

- 1 Mr Djokovic has recently tested negative for COVID-19 infection. He poses a negligible threat of infection to others. Further, the risk of Mr Djokovic infecting others is less than, or at the very least comparable to, that of any other person who is lawfully entitled to enter Australia in accordance with section 3(a) of the Biosecurity (Entry Requirements—Human Coronavirus with Pandemic Potential) Determination 2021 (**Determination**).
- 2 There is a body of medical evidence demonstrating that persons who have been recently infected with COVID-19 have immunity to re-infection that is higher than that, or at least equal to that, of those who have been double vaccinated. In other words, they are at less risk of infection.<sup>1</sup> The studies indicate that the level of protection from reinfection acquired from prior COVID-19 infection is as high as 95%.<sup>2</sup> The improved immunity from COVID-19 is present in recently infected persons regardless of disease severity during recent infection.<sup>3</sup>

<sup>1</sup> Dan, Jennifer M., et al. "Immunological memory to SARS-CoV-2 assessed for up to eight months after infection." *BioRxiv* (2020).

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Zuo, Jianmin, et al. "Robust SARS-CoV-2-specific T cell immunity is maintained at 6 months following primary infection." *Nature immunology* 22.5 (2021): 620-626.

<sup>2</sup> Abu-Raddad, Laith J., et al. "SARS-CoV-2 antibody-positivity protects against reinfection for at least seven months with 95% efficacy." *EClinicalMedicine* 35 (2021): 100861.

See also: Goldberg, Yair, et al. "Protection of previous SARS-CoV-2 infection is similar to that of BNT162b2 vaccine protection: A three-month nationwide experience from Israel." *medRxiv* (2021).

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- 3 Further, there is medical evidence that suggests that vaccination against COVID-19 following recent infection has little or no effect on improving the patient's immune response to COVID-19 reinfection, and is unnecessary.<sup>4</sup>
- 4 The medical evidence provided with this response accordingly demonstrates that Mr Djokovic is not a risk to public health and safety within the meaning of section 116(1)(e).

#### **Evidence of medical contraindication - Determination 3(b)**

- 5 There is evidence that vaccination following recent infection may result in more severe adverse side effects.
- 6 Dr John O'Horo, M.D., a leading infectious diseases physician at Mayo Clinic, is quoted as saying: "...those vaccinated shortly after recovery may mount a more robust immune response to the COVID-19 vaccine. This could cause stronger side effects".<sup>5</sup>
- 7 There is evidence that adults vaccinated after recent COVID-19 infection have suffered adult multisystem inflammatory syndrome (MIS-A).<sup>6</sup>
- 8 Mr Djokovic has produced evidence of recent COVID-19 infection and recovery.
- 9 Mr Djokovic is accordingly a person who is at risk of suffering more severe adverse side effects from vaccination, because he has been recently infected with COVID-19.

#### **Definition of 'medical contraindication' within the meaning of the Determination**

- 10 Finally, an observation is made in respect of the potential broader policy implications if a dispute in respect of the proposed visa cancellation is to be further adjudicated on the merits.
- 11 The Determination requires to provide evidence of medical contraindication. The Determination does not require evidence of *absolute* medical contraindication (such as risk of death). The Minister would be in error to require Mr Djokovic to produce evidence of *absolute* medical contraindication.
- 12 It would be open, and indeed correct, for Mr Djokovic to contend that the proper interpretation of the Determination is to provide evidence of *any* medical contraindication that is applicable to the visa holder.
- 13 For the reasons set out above, there is a body of medical evidence of medical contraindication against vaccination for those who have been recently infected with COVID-19.
- 14 Additionally, however, there is ample evidence that there are risks of adverse side effects arising from vaccination against COVID-19 *generally*, and an abundance of cases where adverse side effects have been reported. Those general risks must fall within the definition of a 'medical contraindication' to vaccination. Those risks apply to Mr Djokovic.
- 15 Were a Court to apply the above interpretation of the Determination (as would be contended by Mr Djokovic), there could be much broader and unintended national policy consequences to the classes of persons falling within cl 3(b) of the Determination. Such consequences are not intended by Mr Djokovic - he merely wishes to play in a professional sporting event as a professional sports person, and has no interest in shaping Australia's

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Rank, Andreas, et al. "One year after mild COVID-19: the majority of patients maintain specific immunity, but one in four still suffer from long-term symptoms." *Journal of clinical medicine* 10.15 (2021): 3305.

<sup>4</sup> Appelman, Brent, et al. "Time since SARS-CoV-2 infection and humoral immune response following BNT162b2 mRNA vaccination." *EBioMedicine* 72 (2021): 103589.

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<sup>5</sup> <https://www.mayoclinichealthsystem.org/hometown-health/featured-topic/recent-infection-could-affect-covid-19-vaccination>

<sup>6</sup> Salzman, M. B., Huang, C., O'Brien, C. M., & Castillo, R. D. (2021). Multisystem Inflammatory Syndrome after SARS-CoV-2 Infection and COVID-19 Vaccination. *Emerging Infectious Diseases*, 27(7), 1944-1948.

national policy - however it is a consequence that may well flow from such a judicial challenge if the matter is pressed.

In those circumstances, the preferable outcome for all parties involved would be to allow Mr Djokovic to enter Australia on his visa and play in the Australian Open.

**Public Interest**

It is not in the public interest to cancel this visa:

- in circumstances where that action might affect Australia's global reputation, economic interests, jeopardise the viability of a major International sporting event
- call into question Australia's border security principles and policies
- create the appearance of politically motivated decision making.
-

**From:** [Sining Wang](#)  
**To:** [alex.hawke.mp@aph.gov.au](mailto:alex.hawke.mp@aph.gov.au)  
**Cc:** [Brown, David](#); [Natalie Bannister](#)  
**Subject:** RE: Letter - contraindication [HW-Active.FID3264722]  
**Date:** Monday, 10 January 2022 6:35:49 PM  
**Attachments:** [image005.png](#)  
[image006.png](#)

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Dear Minister Hawke,

Further to the email below, please find attached a link to a bundle of scholarly articles referred to in the letter sent to you earlier today.

<https://drive.google.com/file/d/1Knue9cQwA8rFVeBOay27mQWWg4TxMfUz/view?usp=sharing>

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**From:** Natalie Bannister <[Natalie.Bannister@hallandwilcox.com.au](mailto:Natalie.Bannister@hallandwilcox.com.au)>

**Sent:** Monday, 10 January 2022 5:31 PM

**To:** alex.hawke.mp@aph.gov.au

**Cc:** Brown, David <[David.Brown@ags.gov.au](mailto:David.Brown@ags.gov.au)>

**Subject:** Letter - contraindication [HW-Active.FID3264722]

Dear Minister Hawke

We act for Mr Novak Djokovic.

Please see enclosed reasons why no ground exists for cancelling Mr Djokovic's visa and also why it would not be in the public interest to do so.

We intend to make further submissions about this matter.

Yours sincerely

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**Landon BOLDRINI**

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Please find below Mr Djokovic's response to the Minister's notice. Enclosed with this response is a bundle of scholarly references, as footnoted below, which support the responses set out in this letter.

### Risk to public health and safety - section 116(1)(e)

- 1 Mr Djokovic has recently tested negative for COVID-19 infection. He poses a negligible threat of infection to others. Further, the risk of Mr Djokovic infecting others is less than, or at the very least comparable to, that of any other person who is lawfully entitled to enter Australia in accordance with section 3(a) of the Biosecurity (Entry Requirements—Human Coronavirus with Pandemic Potential) Determination 2021 (**Determination**).
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- 3 Further, there is medical evidence that suggests that vaccination against COVID-19 following recent infection has little or no effect on improving the patient's immune response to COVID-19 reinfection, and is unnecessary.<sup>4</sup>
- 4 The medical evidence provided with this response accordingly demonstrates that Mr Djokovic is not a risk to public health and safety within the meaning of section 116(1)(e).

#### **Evidence of medical contraindication - Determination 3(b)**

- 5 There is evidence that vaccination following recent infection may result in more severe adverse side effects.
- 6 Dr John O'Horo, M.D., a leading infectious diseases physician at Mayo Clinic, is quoted as saying: "...those vaccinated shortly after recovery may mount a more robust immune response to the COVID-19 vaccine. This could cause stronger side effects".<sup>5</sup>
- 7 There is evidence that adults vaccinated after recent COVID-19 infection have suffered adult multisystem inflammatory syndrome (MIS-A).<sup>6</sup>
- 8 Mr Djokovic has produced evidence of recent COVID-19 infection and recovery.
- 9 Mr Djokovic is accordingly a person who is at risk of suffering more severe adverse side effects from vaccination, because he has been recently infected with COVID-19.

#### **Definition of 'medical contraindication' within the meaning of the Determination**

- 10 Finally, an observation is made in respect of the potential broader policy implications if a dispute in respect of the proposed visa cancellation is to be further adjudicated on the merits.
- 11 The Determination requires to provide evidence of medical contraindication. The Determination does not require evidence of *absolute* medical contraindication (such as risk of death). The Minister would be in error to require Mr Djokovic to produce evidence of *absolute* medical contraindication.
- 12 It would be open, and indeed correct, for Mr Djokovic to contend that the proper interpretation of the Determination is to provide evidence of *any* medical contraindication that is applicable to the visa holder.
- 13 For the reasons set out above, there is a body of medical evidence of medical contraindication against vaccination for those who have been recently infected with COVID-19.
- 14 Additionally, however, there is ample evidence that there are risks of adverse side effects arising from vaccination against COVID-19 *generally*, and an abundance of cases where adverse side effects have been reported. Those general risks must fall within the definition of a 'medical contraindication' to vaccination. Those risks apply to Mr Djokovic.
- 15 Were a Court to apply the above interpretation of the Determination (as would be contended by Mr Djokovic), there could be much broader and unintended national policy consequences to the classes of persons falling within cl 3(b) of the Determination. Such consequences are not intended by Mr Djokovic - he merely wishes to play in a professional sporting event as a professional sports person, and has no interest in shaping Australia's

---

Rank, Andreas, et al. "One year after mild COVID-19: the majority of patients maintain specific immunity, but one in four still suffer from long-term symptoms." *Journal of clinical medicine* 10.15 (2021): 3305.

<sup>4</sup> Appelman, Brent, et al. "Time since SARS-CoV-2 infection and humoral immune response following BNT162b2 mRNA vaccination." *EBioMedicine* 72 (2021): 103589.

Shrestha, Nabin K., et al. "Necessity of COVID-19 vaccination in previously infected individuals." *medRxiv* (2021).

<sup>5</sup> <https://www.mayoclinichealthsystem.org/hometown-health/featured-topic/recent-infection-could-affect-covid-19-vaccination>

<sup>6</sup> Salzman, M. B., Huang, C., O'Brien, C. M., & Castillo, R. D. (2021). Multisystem Inflammatory Syndrome after SARS-CoV-2 Infection and COVID-19 Vaccination. *Emerging Infectious Diseases*, 27(7), 1944-1948.

national policy - however it is a consequence that may well flow from such a judicial challenge if the matter is pressed.

In those circumstances, the preferable outcome for all parties involved would be to allow Mr Djokovic to enter Australia on his visa and play in the Australian Open.

**Public Interest**

It is not in the public interest to cancel this visa:

- in circumstances where that action might affect Australia's global reputation, economic interests, jeopardise the viability of a major International sporting event
- call into question Australia's border security principles and policies
- create the appearance of politically motivated decision making.
-

**Landon BOLDRINI**

---

**From:** Sining Wang <Sining.Wang@hallandwilcox.com.au>  
**Sent:** Monday, 10 January 2022 6:36 PM  
**To:** alex.hawke.mp@aph.gov.au  
**Cc:** Brown, David; Natalie Bannister  
**Subject:** RE: Letter - contraindication [HW-Active.FID3264722]

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Dear Minister Hawke,

Further to the email below, please find attached a link to a bundle of scholarly articles referred to in the letter sent to you earlier today.

<https://drive.google.com/file/d/1Knue9cOwA8rFVeBQay27mQWWg4TxMfUZ/view?usp=sharing>

**Sining Wang** | Senior Associate & China Practice Manager

T +61 3 9603 3524 | F +61 3 9670 9632 | M +61 408 360 888  
Sining.Wang@hallandwilcox.com.au | professional profile



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---

**From:** Natalie Bannister <Natalie.Bannister@hallandwilcox.com.au>  
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**To:** alex.hawke.mp@aph.gov.au  
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We intend to make further submissions about this matter.

Yours sincerely

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- 13 For the reasons set out above, there is a body of medical evidence of medical contraindication against vaccination for those who have been recently infected with COVID-19.
- 14 Additionally, however, there is ample evidence that there are risks of adverse side effects arising from vaccination against COVID-19 *generally*, and an abundance of cases where adverse side effects have been reported. Those general risks must fall within the definition of a 'medical contraindication' to vaccination. Those risks apply to Mr Djokovic.
- 15 Were a Court to apply the above interpretation of the Determination (as would be contended by Mr Djokovic), there could be much broader and unintended national policy consequences to the classes of persons falling within cl 3(b) of the Determination. Such consequences are not intended by Mr Djokovic - he merely wishes to play in a professional sporting event as a professional sportsperson, and has no interest in shaping Australia's

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Rank, Andreas, et al. "One year after mild COVID-19: the majority of patients maintain specific immunity, but one in four still suffer from long-term symptoms." *Journal of clinical medicine* 10.15 (2021): 3305.

<sup>4</sup> Appelman, Brent, et al. "Time since SARS-CoV-2 infection and humoral immune response following BNT162b2 mRNA vaccination." *EBioMedicine* 72 (2021): 103589.

Shrestha, Nabin K., et al. "Necessity of COVID-19 vaccination in previously infected individuals." *medRxiv* (2021).

<sup>5</sup> <https://www.mayoclinichealthsystem.org/hometown-health/featured-topic/recent-infection-could-affect-covid-19-vaccination>

<sup>6</sup> Salzman, M. B., Huang, C., O'Brien, C. M., & Castillo, R. D. (2021). Multisystem Inflammatory Syndrome after SARS-CoV-2 Infection and COVID-19 Vaccination. *Emerging Infectious Diseases*, 27(7), 1944-1948.

national policy - however it is a consequence that may well flow from such a judicial challenge if the matter is pressed.

In those circumstances, the preferable outcome for all parties involved would be to allow Mr Djokovic to enter Australia on his visa and play in the Australian Open.

**Public Interest**

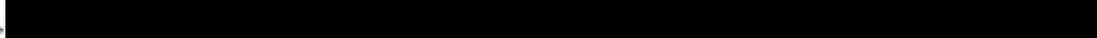
It is not in the public interest to cancel this visa:

- in circumstances where that action might affect Australia's global reputation, economic interests, jeopardise the viability of a major International sporting event
- call into question Australia's border security principles and policies
- create the appearance of politically motivated decision making.
-

Commonwealth of Australia  
 STATUTORY DECLARATION  
*Statutory Declarations Act 1959*

ATTACHMENT S

1 Insert the name, address and occupation of person making the declaration

I,  agent, make the following declaration under the *Statutory Declarations Act 1959*:

2 Set out matter declared to in numbered paragraphs

1. I am currently engaged by Mr Novak Djokovic as his agent, and have been so for approximately 11 years.
2. As part of my work for Mr Djokovic, I manage his travel arrangements. In January 2022, I was involved in making arrangements for Mr Djokovic to travel to Melbourne, Australia in order for him to compete in the 2022 Australian Open.
3. On 1 January 2022, I completed and submitted to the Australian Government's Department of Home Affairs, an online Australia Travel Declaration (ATD) form on behalf of Mr Djokovic. A copy of the ATD I completed on behalf of Mr Djokovic is attached to this statutory declaration.
4. The online service managed by the Australian Government's Department of Home Affairs expressly permits a person to submit details on behalf of someone else. I selected this option when completing the ATD form on behalf Mr Djokovic on 1 January 2022. I have recently logged on to the ATD portal and confirm that this option appears (as it did on 1 January 2022) on screen as follows:

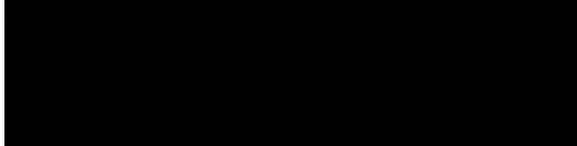
Travel Document Holder \*

I am the passport/travel document holder  I am submitting details on behalf of somebody else for example a family member

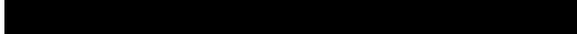
5. Question 2 of the ATD form asks whether the relevant traveller has travelled, or will travel, within 14 days prior to their flight to Australia. I answered 'no' to that question when completing the ATD for Mr Djokovic. That was a mistake. I did not check with Mr Djokovic the correctness of my answer to question 2 before I submitted the ATD form.
6. It has recently been highlighted to me that Mr Djokovic travelled from Serbia to Spain on or about 28 December 2021. On this basis, I realise that I should have checked what I thought was correct and answered 'yes' to question 2 when completing the ATD on behalf of Mr Djokovic.
7. My error in answering question 2 on the ATD completed on behalf of Mr Djokovic was inadvertent and unintentional. I recognise the importance of complete and accurate answers on important forms such as the ATD. I am deeply sorry, distressed and very embarrassed for the error.

I understand that a person who intentionally makes a false statement in a statutory declaration is guilty of an offence under section 11 of the *Statutory Declarations Act 1959*, and I believe that the statements in this declaration are true in every particular.

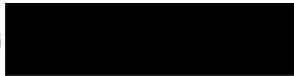
3 Signature of person making the declaration

3 

4 (Optional: email address and/or telephone number of person making the declaration)

4 

5 Place  
6 Day  
7 Month and year

Declared at 5  on 6 14<sup>th</sup> of 7 January 2022

Before me, Robert Benjamin Kovacs, a person enrolled on the roll of the Supreme Court of Victoria, in the sense that I watched Ms Cappellaro sign this document by audio-visual link online, which she then scanned and sent to me by email.

8 Signature of person before whom the declaration is made (see over)



9 Full name, qualification and address of person before whom the declaration is made (in printed letters)

9

Robert Benjamin Kovacs  
An Australian legal practitioner within the meaning of the Legal Profession Uniform Law (Victoria).  
Special Counsel  
Withers LLP  
20 Old Bailey  
London EC4M 7AN

10 (Optional: email address and/or telephone number of person before whom the declaration is made)

10

*Note 1* A person who intentionally makes a false statement in a statutory declaration is guilty of an offence, the punishment for which is imprisonment for a term of 4 years — see section 11 of the *Statutory Declarations Act 1959*.

*Note 2* Chapter 2 of the *Criminal Code* applies to all offences against the *Statutory Declarations Act 1959* — see section 5A of the *Statutory Declarations Act 1959*.

# Affidavit

Family Law Rules 2021 – RULE 8.15  
General Federal Law Rules 2021 – RULE 4.04

**Filed in:**

- Federal Circuit and Family Court of Australia
- Family Court of Western Australia
- Other (specify) \_\_\_\_\_

**Type of proceedings:**

- Family law proceedings
- Migration proceedings
- General federal law proceedings
- Other (specify) \_\_\_\_\_

**Filed on behalf of:**

Full name: \_\_\_\_\_ NOVAK DJOKOVIC \_\_\_\_\_

**COURT USE ONLY**

Client ID \_\_\_\_\_

File number \_\_\_\_\_

Filed at \_\_\_\_\_

Filed on \_\_\_\_\_

Court location \_\_\_\_\_

Court date \_\_\_\_\_

Name of person swearing/affirming this affidavit (SEE PART C)

NOVAK DJOKOVIC

Date of swearing/affirming \_\_\_\_\_ / 01 / 2022

## Part A About the parties

**APPLICANT 1**

Family name (as used now)/Title/Organisation

DJOKOVIC

Given names (as required)

NOVAK

**RESPONDENT 1**

Family name (as used now)/Title/Organisation

MINISTER FOR HOME AFFAIRS

Given names (as required)

**APPLICANT 2**

Family name (as used now)/Title/Organisation

Given names (as required)

**RESPONDENT 2**

Family name (as used now)/Title/Organisation

Given names (as required)

What is the contact address (address for service) in Australia for the party filing this affidavit?

You do not have to give your residential address. You may give another address at which you are satisfied that you will receive documents. If you give a lawyer's address, include the name of the law firm. You must also give an email address.

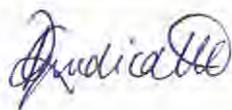
**Hall & Wilcox**

Level 11, Rialto South Tower, 525 Collins Street, Melbourne VIC 3000 Australia

Phone +61 3 9603 3555

Lawyer's code 163

Email penelope.ford@hallandwilcox.com.au



**Part B** About the independent children's lawyer (if appointed)

Independent children's lawyer family name

Given names

N/A

Firm name

**Part C** About you (the deponent)

Family name (as used now)/Title/Organisation

Given names

NOVAK

DJOKOVIC

Gender

 Male Female X

Usual occupation (if applicable)

PROFESSIONAL TENNIS PLAYER

What is your address?

You do not have to give your residential address if you are concerned about your safety. You may give another address at which you are satisfied that you will receive documents.

Care of Hall &amp; Wilcox, Level 11, Rialto South Tower, 525 Collins Street

MELBOURNE

State VIC

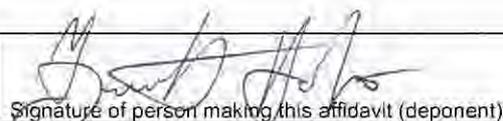
Postcode 3000

**Part D** Evidence

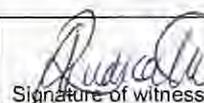
1. I am the applicant in this proceeding.
2. I swear this affidavit in support of an application dated 6 January 2022 made on my behalf by my solicitors, Hall & Wilcox, seeking orders as set out in that application (which I believe may be amended).
3. The following facts and matters set out within this affidavit are within my own personal knowledge except as otherwise stated.

**Background**

4. I am a professional tennis player and a citizen of the Republic of Serbia.
5. I was invited by Tennis Australia (TA) to travel to Australia and play in the 2022 Australian Open tennis tournament. TA is the governing body for tennis in Australia. I have travelled to Australia on at least 9 previous occasions over approximately the last decade to participate in the Australian Open and other tennis tournaments and events in Australia.
6. I have not previously encountered any major immigration or other issues in relation to my entry to Australia. On all previous occasions I have secured the necessary visas from the Commonwealth Government of Australia without difficulty, in consultation with TA, and in what I understand to be the usual manner.
7. I have never been refused an Australian visa in the past and, prior to the event that is the subject of this proceeding, I have not had any previous Australian visa held by me cancelled.



Signature of person making this affidavit (deponent)



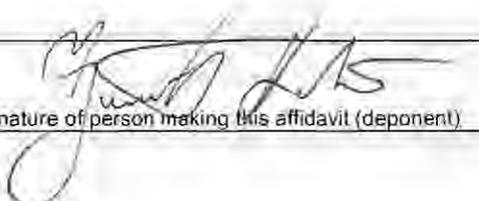
Signature of witness

**My preparation for travel to Australia**

8. The 2022 Australian Open is scheduled to commence on Monday 17 January 2022 and to finish on Sunday 30 January 2022. The final event of the Australian Open is the Men's Singles Final. I have been fortunate to win the Men's Singles Final at the Australian Open on 9 previous occasions.
9. In or about October or November 2021, I applied for an Australian temporary entry visa, with the assistance of my agent and TA, in order to be able to compete in the 2022 Australian Open. My application was accepted by the Australian Government and a Temporary Activity (subclass 408) visa was granted to me on 18 November 2021. Annexed to this affidavit and marked 'ND-1' is a true copy of the Temporary Activity (subclass 408) visa dated 18 November 2021 granted to me.
10. On 16 December 2021, I was tested and diagnosed with SARS-CoV-2 (COVID). Annexed hereto and marked 'ND-2' is a true copy of my COVID-PCR test result issued by the Institute of Public Health of Serbia showing a positive COVID result dated 16 December 2021.
11. On 22 December 2021, I undertook a further COVID-PCR test, which recorded a negative result. Annexed hereto and marked 'ND-3' is true copy of my COVID-PCR test result issued by the Institute of Public Health of Serbia showing a negative COVID result dated 22 December 2021.
12. As I regularly travel across international borders, I understand that each country has its own entry requirements and, in particular, requirements relating to measures to protect people against the risks of COVID infection. In December 2021, I understood that Australian Government requirements for entry into Australia required me to be vaccinated against COVID or have a medical exemption. I further understood that having a recent COVID infection was a valid ground for obtaining a medical exemption. In consultation with my agent and TA, I sought a medical exemption on the basis that I had been recently infected with, and recovered from, a COVID infection. On 30 December 2021, I was advised by TA that an Independent Expert Medical Review Panel commissioned by TA, reviewed and endorsed by an independent Medical Exemptions Review Panel of the Victorian State Government, had provided me with a temporary medical exemption from COVID vaccination which was valid until 16 May 2022 on the grounds that I had recently recovered from COVID. Annexed to this affidavit and marked 'ND-4' is a true copy of the medical exemption granted to me by the Independent Expert Medical Review Panel dated 30 December 2021.
13. The medical exemption document dated 30 December 2021 stated that the exemption was consistent with the recommendations of the Australian Technical Advisory Group on Immunisation (ATAGI). I have at all times understood that I was entitled to the medical exemption granted to me, based on my recent COVID infection in December 2021, and that this was consistent with all Australian Government entry requirements.

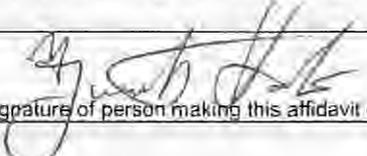
**My travel to and arrival in Australia**

14. On about 1 January 2022, I authorised my agent to submit my Australia Travel Declaration to the Australian Government Department of Home Affairs, based on my understanding that I was entitled to enter Australia on the basis of my temporary visa and the medical exemption granted to me. On 1 January 2022, my agent received an email from the Department of Home Affairs advising that my Australia Travel Declaration had been assessed. Annexed to this affidavit and marked 'ND-5' is a true copy of my Australia Travel Declaration Assessment dated 1 January 2022 advising that I met the requirements for quarantine-free arrival upon my arrival in Australia.
15. On about 2 January 2022, I was issued with a Border Travel Permit from the Victorian State Government. Annexed to this affidavit and marked 'ND-6' is a true copy of the Border Travel Permit issued to me on 2 January 2022.
16. At this time, having had my visa granted, a medical exemption issued to me, my Australia Travel Declaration assessed and approved by the Australian Government, and the Border Travel Permit issued by the Victorian State Government, I believed that I had satisfied all the necessary requirements for entry into Australia.

	
Signature of person making this affidavit (deponent)	Signature of witness

## ATTACHMENT T

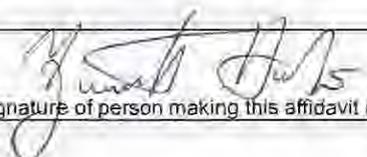
17. On Tuesday 4 January 2022 I departed from Spain to travel to Melbourne via Dubai. I arrived in Melbourne by commercial airliner at approximately 11:30pm (local time) on Wednesday 5 January 2022. The total trip took about 25 hours, including layovers at various airports. I arrived in Melbourne together with three of my coaches and support staff. Upon landing, we were asked to exit the plane before anyone else and were escorted to passport control. At this point I was asked to produce my passport, which I did. My passport was not returned to me and I have not seen it since then. The passport control officer asked me if I was vaccinated. I said no, but that I have a medical exemption. He asked me for paperwork to support my claim to a medical exemption. I gave him copies of the following documents which I had printed prior to my departure from Spain:
- Visa granted 18 November 2021 (Exhibit ND-1)
  - Medical Exemption 30 December 2021 (Exhibit ND-4)
  - Travel Declaration dated 1 January 2022 (Exhibit ND-5)
  - Border Travel Permit dated 2 January 2022 (Exhibit ND-6)
18. My interaction with the passport control officer lasted only a few minutes. I understood that the passport control officer was not satisfied with my documents, so he called over a male officer from Australian Border Force (ABF) who I subsequently understood to be known as 'Sudhir R' (SR). The passport control officer handed my passport to SR, but I do not recall what happened at that point to my other documents. SR then escorted me to a small room with a table, two chairs and a video camera inside it. He told me that the camera was turned on and that ABF officers would be watching what was going on in the room. SR then left the room for a short time and returned with a small handheld voice recorder and some paperwork. SR told me that everything we speak about would be on the record. The voice recorder was then used throughout the night on occasions when I was being formally interviewed by SR, but not during every conversation I had with him or other ABF officers.
19. At about 12:20am on 6 January 2022, SR commenced a formal interview with me in the small room. He asked me to provide my documentation, and so I gave to him the same documents which I had previously given to the passport control officer. I was asked by SR whether I had previously been infected by COVID. I told him that I had been infected twice with COVID, the most recent occasion being in December 2021. I also gave SR copies of my COVID-PCR test results (Exhibits ND-2 and ND-3), which I had not provided to the passport control officer. I gave these additional documents to him because I understood that the main reason why I was allowed to travel to Australia under a medical exemption was because I had been infected with COVID in the last 6 months. That is why I wanted him to see the COVID-PCR test results, but I recall he did not appear to be very interested in these documents. He then copied those two documents.
20. This interview with SR was interrupted (or suspended) on about 6 to 8 occasions because he told me that he needed to go outside to speak with his supervisors about my documents and the information he was getting from me in the interview. On one such occasion, I started using my phone in the room while SR was away, in order to communicate with my agent, and provide information about what was happening to me. After about 15-20 minutes I was told that I was not able to use my phone and I must switch it off and put it away. I turned off my phone and placed it in my tennis bag next to me as directed. After approximately 90 minutes, there did not appear to be anything else I could provide to him, and so the interview ended and I was allowed to go into the corridor to rest on the sofa.
21. Several hours later, just after 4:00am on 6 January 2022, I was given a document by SR which was a Notice of intention to consider cancellation of my visa. Annexed hereto and marked 'ND-7' is a true copy of the Notice of intention to consider cancellation (forming part of the subsequent record of decision). When he read to me the page headed 'ATTACHMENT A (Part A)', I made some comments. When he said that previous infection with COVID-19 is not considered a medical contraindication for COVID-19 vaccination in Australia, I said that that's not true, and I told him that the Independent State Government medical panel had said and I explained why. I then referred to the two medical panels and the Travel Declaration (which had been assessed by the Commonwealth Government and indicated that I could lawfully enter into Australia).
22. SR signed the notice in front of me at about 4:11am. I did not sign it because I was confused and did not know what to do and I wanted advice from my lawyers. My agent and I had done all that was asked of us in making the application for entry into Australia. I believed that I had complied with all the rules about being permitted to enter into Australia. I did not understand what was happening. And I did not understand why he was considering cancelling my visa. I was upset and confused. It was about 4:00am and I needed some

 Signature of person making this affidavit (deponent)	 Signature of witness
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## ATTACHMENT T

help, and I told him that. I wanted to speak to TA, but could not speak to them until 8:00am. He told me he was giving me 20 or so minutes to respond, give comments or give any other information that may affect their decision whether to cancel my visa. At that point I was allowed to use my phone again, being given an opportunity to make a phone call. After making such a call, I asked SR if my lawyers could speak with him (or other ABF officers) directly. SR left the room in order to speak with his superiors. When he came back he said that that would not be possible. SR said that he could only allow my legal representative to be present on the phone and listen to the interview, but the lawyer would not be permitted to speak or participate. I then requested more time to consider what to do because I was tired and I wanted to get some rest and I also wanted to wait for a time closer to local business hours when I could have a better opportunity to contact my lawyers, TA representatives and other relevant people for assistance. At this point it was about 5:00am and SR again left the room to check with his superiors. When he returned, and I believed without turning on the recorder again, he told me that they would grant me more time and they would review everything between 8:00am and 8:30am. After this conversation, I went out to the sofa in the corridor and started to rest. I was mentally and physically tired at this stage and wanted to rest, and I had understood that I had until 8:30am to do so. I was told that a bed was being prepared for me in a separate room to rest, so I waited on the sofa until the bed was made ready.

23. At about 5:00-5:30am, two of SR's superiors approached me on the sofa to speak with me. I was aware that they were his superiors because I had met one of them earlier in the evening and SR described him to me as his superior; the other one I had not previously met. They said to me that it had come to their attention that I was requesting to postpone the decision making on my visa cancellation to 8:30am. They asked why that was the case and whether I wanted to rest. I replied yes, but also that I wanted some help and legal support and advice from my representatives that are currently sleeping and are difficult to get a hold of at this early hour. They told me that my legal representatives wouldn't be able to make an appeal in the hypothetical case of any visa cancellation before they had made a decision about the cancellation. They said that the sooner that they make a decision, the better for me and my representatives. They said that if they did not cancel my visa, then I would be free to go and I could go to where I was to stay while in Melbourne. They said that if they cancelled my visa, then my lawyers would know what they had to deal with, and could do their legal work to challenge the cancellation. At this point I felt that they were trying to persuade or convince me that it would be better if I responded to the notice earlier rather than later, and that I should do what they were saying. But I said I needed to speak with someone and think about this, because I was confused, I thought I had some time, and I preferred to have more time. I wanted some advice from one of my lawyers, someone from Tennis Australia and/or my agent. The two ABF officers then left me on the sofa.
24. Shortly after this, I was advised that a bed had been prepared for me in a nearby room. I lay down thinking I had time to consider my situation. I was mentally starting to slow down and was on the bed with headphones trying to sleep. I was woken up by SR and one of his superiors. The superior said that I wanted some time to think, which I now had had, and that I now needed to tell them what to do. I didn't know what to do, and said I preferred to have more time and I didn't know what more they expected me to tell them. They presented to me that it was better for me if the interview was done right away; they said that I can give my comments on the Notice and then they can make a decision, and then my legal team can know what to do, because right now they can't do anything. I felt like I had no choice, but I had to participate in the interview.
25. At this point it was approximately 6:00am and SR and his superior invited me into the interview room. The superior then left, and SR started a formal interview with me. At that point I realised I would not have until 8:30am to prepare and seek advice. I was again asked to explain why I had sought a medical exemption from the COVID vaccination requirements for entry into Australia. I explained that I had been recently infected with COVID in December 2021 and on this basis I was entitled to a medical exemption in accordance with Australian Government rules and guidance. I further explained that my medical exemption had been granted by the Independent Expert Medical Review Panel, that I had previously provided all relevant medical reports to TA, including my COVID-PCR test results, and that accordingly the visa should not be cancelled. I told the ABF officers that I had correctly made my Australian Travel Declaration and otherwise satisfied all necessary requirements in order to lawfully enter Australia on my visa.
26. After the interview ended, SR left the interview room and returned at approximately 7:40am. He then informed me that they had decided to cancel my visa and that I would be removed from Australia as an unlawful non-citizen. They informed me I was to be taken from the airport to a hotel. This eventually occurred, and I now remain at a hotel under detention.

 Signature of person making this affidavit (deponent)	 Signature of witness
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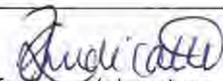
- 27. During my conversations with SR, he did not say anything about me being a risk to the health or safety of the community, other than simply reading from the documents contained in the Notice of intention to cancel my visa.
- 28. During my conversations with SR, he did not explain to me that he himself had any discretion about the decision on whether to cancel my visa. On the basis of SR frequently leaving me to check things with his superiors, I believed his superiors were making the decision about the cancellation of my visa. A couple of times I spoke with a female ABF officer and asked her what was going on, why things were taking so long, and when she replied she would say they were on the line and they are just waiting. This all gave me the impression or idea that the decision about my visa was not completely up to the people that were talking to me, and instead it was up to someone else above them.

**Part E Signature**

I swear the contents of this affidavit are true

Signature of Deponent 

MELBOURNE  
Place Date 10/01/22

  
Before me (signature of witness)

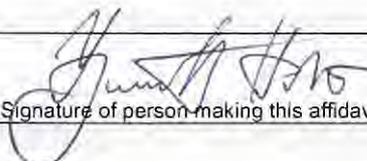
RACHEL GIUDICATTI  
Full name of witness (please print)

- Justice of the Peace
- Notary Public
- Lawyer

\*delete whichever is inapplicable

This affidavit was prepared / settled by  deponent/s  lawyer

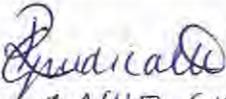
MALL & WILCOX  
PRINT NAME AND LAWYER'S CODE

 Signature of person-making this affidavit (deponent)  Signature of witness

This is the document referred to as ND-1 in the affidavit of Novak Djokovic sworn/affirmed at

Melbourne on 10 January before me RACHEL GIUDICATTI  
2022

[witness to sign and provide name and qualification].

  
RACHEL GIUDICATTI  
Australian legal Practitioner



Australian Government  
Department of Home Affairs

Dear Novak DJOKOVIC

We have granted you a Temporary Activity (subclass 408) visa on 18 November 2021.

**\*\*\*Important information on travel to Australia\*\*\***

The Australian Government has implemented a number of arrangements in response to the COVID-19 pandemic. You may not be able to enter Australia unless you are in an exempt category or have received a travel exemption. Information about these arrangements is updated regularly on our website [covid19.homeaffairs.gov.au](https://www.homeaffairs.gov.au/covid19)

You should check the website for current arrangements, prior to travelling.

<b>Application status</b>	
Temporary Activity (subclass 408):	<b>Granted</b>

**Visa conditions**

8107 - Work limitation  
8303 - Activity limitation

An explanation of each condition of this Temporary Activity (subclass 408) visa is provided below.

You can check these conditions at any time by using the Visa Entitlement Verification Online (VEVO) service. The four-digit number presented next to each condition above is used in VEVO to identify each condition that applies to this Temporary Activity (subclass 408) visa.

**Visa duration and travel**

Date of grant	18 November 2021
Must not arrive after	18 May 2022
Length of stay	3 month(s) from the date of first arrival
Travel	Multiple entries

**Visa summary**

Name	Novak DJOKOVIC
Date of birth	[REDACTED]
Visa	Temporary Activity (subclass 408)
Activity	Invited for other social/cultural activity
Date of grant	18 November 2021
Visa grant number	0289584778727

Passport (or other travel document) number	[REDACTED]
Passport (or other travel document) country	SERBIA
Application ID	65647182
Transaction reference number	EGORU87C94
Proposer	Tennis Australia Limited

### Why keep this notice?

- Employers and other government agencies might ask for details in this notice so they can carry out checks using VEVO.
- To access your visa record in VEVO.

### Temporary Activity (subclass 408) visa conditions Work limitation (visa condition 8107)

This condition means that if you have been granted works rights in Australia, but these work rights are subject to limitations. Your condition allows you to be employed by a particular employer or undertake specific activities in Australia.

If you are working for a particular employer you must:

- continue to be employed by that employer
- not work for any other employer
- not be self-employed
- not undertake any work that is inconsistent with the purpose of the visa.

If you are allowed to undertake specific activities in Australia other than employment you must:

- continue to undertake those activities
- not undertake any activities that are inconsistent with the purpose of the visa
- not be self-employed
- not undertake work for another person that is inconsistent with the purpose of the visa.

Failure to meet the above requirements will mean you are in breach of condition 8107 and your visa may be cancelled.

### Activity limitation (visa condition 8303)

This condition means that you must not become involved in activities disruptive to, or violence threatening harm to the Australian community or a group within the community.

### Australian working conditions

#### Workplace rights

Pay rates and workplace conditions are set by Australian law. All people working in Australia, including those from overseas, have rights and protections at work. These cannot be taken away by contracts or agreements.

This is the document referred to as ND-2 in the affidavit of Novak Djokovic sworn/affirmed at

Melbourne on 10 January before me Rachel Giudicatti  
2022

[witness to sign and provide name and qualification].

*Giudicatti*  
RACHEL GIUDICATTI  
Australian Legal Practitioner



11  
ИНСТИТУТ ЗА ЈАВНО ЗДРАВЉЕ СРБИЈЕ  
„Др Милан Јовановић Батут“  
INSTITUT ZA JAVNO ZDRAVLJE SRBIJE  
„Dr Milan Jovanović Batut“  
INSTITUTE OF PUBLIC HEALTH OF SERBIA  
“Dr Milan Jovanović Batut”

Шифра потврде: 7371999-259039

Šifra potvrde / Confirmation code

**ПОТВРДА О РЕЗУЛТАТУ ТЕСТИРАЊА НА ВИРУС SARS-CoV-2**

POTVRDA O REZULTATU TESTIRANJA NA VIRUS SARS-CoV-2  
ANALYSIS ON VIRUS SARS-CoV-2 REPORT

**Име пацијента: NOVAK DJOKOVIĆ**

Ime pacijenta / NOVAK DJOKOVIC / Name: NOVAK DJOKOVIC

**Датум рођења:** [REDACTED]

Datum rođenja / Date Of Birth

**Пол: Мушко**

Pol: Muško / Gender: Male

**ЈМБГ:** [REDACTED]

JMBG / Personal No

**Датум узорковања: 16.12.2021 13:05:12**

Datum uzorkovanja / Date of sampling

**Здравствена установа која је узела узорак: Лабораторија - Завод за биоциде и медицинску екологију**

Zdravstvena ustanova koja je uzela uzorak / Sampling Health Institution

**Лаб. број протокола: P12426**

Lab. broj protokola / Sample ID

**Врста узорка: Назофарингеални брис**

Vrsta uzorka: Nazofaringealni bris / Type of Sample: Nasopharyngeal swab

**Врста анализе и произвођач теста: Real Time PCR test-SARS-CoV-2, , Xpert Xpress SARS-CoV-2 (GeneXpert)**

Vrsta analize i proizvođač testa / Method of analysis and test manufacturer

**Резултат: Позитиван**

Rezultat: Pozitivan / Result: Positive

**Датум издавања резултата: 16.12.2021 20:19:56**

Datum izdavanja rezultata / Date of result

**Лабораторија: Лабораторија - Завод за биоциде и медицинску екологију**

Laboratorija / Laboratory



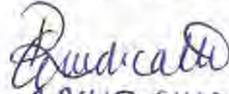
Ова потврда важи без потписа и печата

Ova potvrda važi bez potpisa i pečata / This certificate is valid without signatures and seals

This is the document referred to as ND-3 in the affidavit of Novak Djokovic sworn/affirmed at

Melbourne on 10 January before me Rachel Giudicatti  
2022

[witness to sign and provide name and qualification].

  
RACHEL GIUDICATTI  
Australian Legal Practitioner



13

ИНСТИТУТ ЗА ЈАВНО ЗДРАВЉЕ СРБИЈЕ  
„Др Милан Јовановић Батут“  
INSTITUT ZA JAVNO ZDRAVLJE SRBIJE  
„Dr Milan Jovanović Batut“  
INSTITUTE OF PUBLIC HEALTH OF SERBIA  
"Dr Milan Jovanović Batut"

Шифра потврде: 7320919-259039

Sifra potvrde / Confirmation code

### ПОТВРДА О РЕЗУЛТАТУ ТЕСТИРАЊА НА ВИРУС SARS-CoV-2

POTVRDA O REZULTATU TESTIRANJA NA VIRUS SARS-CoV-2

ANALYSIS ON VIRUS SARS-CoV-2 REPORT

**Име пацијента: NOVAK DJOKOVIĆ**

Ime pacijenta: NOVAK DJOKOVIĆ / Name: NOVAK DJOKOVIĆ

**Датум рођења:** [REDACTED]

Datum rođenja / Date Of Birth

**Пол: Мушко**

Pol: Musko / Gender: Male

**ЈМБГ:** [REDACTED]

JMBG / Personal No

**Датум узорковања: 22.12.2021 14:12:10**

Datum uzorkovanja / Date of sampling

**Здравствена установа која је узела узорак: Институт за вирусологију, вакцине и серуме Торлак**

Zdravstvena ustanova koja je uzela uzorak / Sampling Health Institution

**Лаб. број протокола: 688913**

Lab. broj protokola / Sample ID

**Врста узорка: Назофарингеални брис**

Vrsta uzorka: Nazofaringealni bris / Type of Sample: nasofaryngeal swab

**Врста анализе и произвођач теста: Real Time PCR test-SARS-CoV-2, , Sansure Biotech INC; Hunan Province**

Vrsta analize i proizvođač testa / Method of analysis and test manufacturer

**Резултат: Негативан**

Rezultat: Negativan / Result: Negative

**Датум издавања резултата: 22.12.2021 16:15:49**

Datum izdavanja rezultata / Date of result

**Лабораторија: Институт за вирусологију, вакцине и серуме Торлак**

Laboratorija / Laboratory



Ова потврда важи без потписа и печата

Ova potvrda važi bez potpisa i pečata / This certificate is valid without signatures and seals

This is the document referred to as ND-4 in the affidavit of Novak Djokovic sworn/affirmed at

Melbourne on 10 January before me Rachel Giudicatti  
2022

[witness to sign and provide name and qualification].

*R. Giudicatti*  
RACHEL GIUDICATTI  
Australian Legal Practitioner

**Medical exemption from COVID vaccination**

30<sup>th</sup> December 2021



Name: **NOVAK DJOKOVIC**  
DOB: [REDACTED]  
Country of birth: **Republic of Serbia**  
Passport number: [REDACTED]

To whom it may concern,

Mr Novak Djokovic has been provided with a medical exemption from COVID vaccination on the grounds that this individual has recently recovered from COVID.

The date of the first positive COVID PCR test was recorded on the 16/12/21 and it has now been more than 14 days since the first positive PCR test. Mr Djokovic has not had a fever or respiratory symptoms of COVID-19, in the last 72 hours

This temporary exemption is valid until 16/5/22.

This certificate for exemption has been provided by an Independent Expert Medical Review panel commissioned by Tennis Australia. The decision of the panel has been reviewed and endorsed by an independent Medical Exemptions Review Panel of the Victorian State Government. The conditions of the exemption are consistent with the recommendations of the Australian Technical Advisory Group on Immunisation (ATAGI).

Yours sincerely,

A handwritten signature in cursive script that reads "C Broderick".

Dr Carolyn Broderick MBBS, FACSEP, PhD  
Chief Medical Officer, Tennis Australia & Australian Open

**Independent Expert Medical Review Panel**

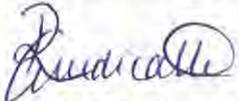
[REDACTED]

[REDACTED]

This is the document referred to as ND-5 in the affidavit of Novak Djokovic sworn/affirmed at

Melbourne on 10 January before me Rachel Giudicatti  
2022

[witness to sign and provide name and qualification].

  
RACHEL GIUDICATTI  
Australian Legal Practitioner

Da: **Australia Travel Declaration** no-reply@ald.homeaffairs.gov.au &  
Oggetto: Your Australia Travel Declaration has been received  
Data: 1 gennaio 2022 11:37  
A: [REDACTED]



**Australian Government**  
**Department of Home Affairs**

Dear Novak Djokovic

We have received your Australia Travel Declaration on 01 Jan 2022 10:36 (UTC).

### Status

#### **Your Australia Travel Declaration has been assessed**

Your responses indicate that you meet the requirements for a quarantine-free arrival into Australia where permitted by the jurisdiction of your arrival.

However, states and territories may require you to self-isolate at home and undertake additional COVID-19 testing. Currently, you are required to undertake a COVID-19 PCR test within 24 hours of arrival and again on day 6 after your arrival. These requirements may vary so you need to check the requirements on [australia.gov.au/quarantine](https://australia.gov.au/quarantine) closer to your arrival.

Please print or download this email and store it safely for use when requested on your day of travel.

### QR Code





## Declaration Details

**Given Name**

Novak

**Family Name**

Djokovic

**Travel Document**

[REDACTED]

**Submission (UTC)**

01 Jan 2022 10:36

**Valid Until (UTC)**

02 Jul 2022 22:36

**TravelMode**

Air

**Departure Country**

United Arab Emirates

**Departure Date**

05 Jan 2022

**Port**

MEL

**Flight Number**

EK408

**Arrival Date**

05 Jan 2022

## Why keep this notice?

- You may be requested by airline staff to show that you have completed your Australia Travel Declaration
- You may be requested by Australian Border Force officers to show that you

have completed your Australia Travel Declaration

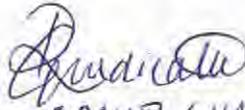
### **Privacy Notice**

The Department of Home Affairs (the Department) is bound by the Australian Privacy Principles (APPs) in Schedule 1 to the Privacy Act 1988 (Cth) (Privacy Act). The APPs regulate how we collect, use, store and disclose personal information, and how you may seek access to, or correction of, the personal information that we hold about you.

This is the document referred to as ND-6 in the affidavit of Novak Djokovic sworn/affirmed at

Melbourne on 10 January before me Rachel Giudicatti  
2022

[witness to sign and provide name and qualification].

  
RACHEL GIUDICATTI  
Australian legal Practitioner

# Border Travel Permit



For travel between

**UNITED ARAB EMIRATES -  
TOORAK**

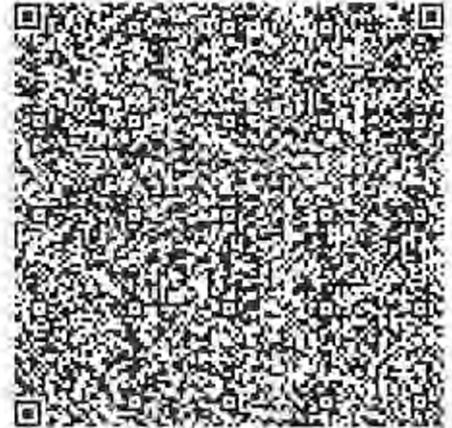
Date of travel

05/01/2022

Date of issue

22:27 02/01/2022 AEDT

This permit is valid for **14 days** from the date of entry into Victoria and can only be used for a single trip.



For official use. Only Authorised officers can scan this code.

People travelling

novak djokovic

Restriction status

I am an international arrival

Contact Details

[REDACTED]

Vaccination status

I'm fully vaccinated or have a medical exemption

Home address

[REDACTED]

Destination

[REDACTED]

Origin

airport  
UNITED ARAB EMIRATES

Destination Contact

Melbourne

I declare I comply with the conditions below. If I am travelling with dependents below 12 years and 2 months of age, I declare they comply too.

Where I've been

- I am entering Victoria and have been in another country in the past 14 days

My health

- I am:
  - fully vaccinated against COVID-19, or have a medical exemption from vaccination, or
  - above 12 years and 2 months and below 18 years of age and not fully vaccinated against COVID-19 (and do not have a medical exemption from vaccination) and I am:
    - travelling with at least one parent or guardian who is fully vaccinated against COVID-19 or has a medical exemption from vaccination, or
    - travelling without a parent or guardian, or
    - below 12 years and 2 months of age and travelling without a parent or guardian
- I understand that children below 12 years and 2 months of age do not need to be vaccinated

When I'm travelling

- I will carry this permit, evidence of my vaccination status or medical exemption from vaccination, proof of my ID and home address for 14 days after arriving in Australia
- I will show them to an Authorised Officer, Victoria Police, or Protective Services Officer (or other person as directed) if asked

Keeping safe

- If I am entering Victoria from another Australian state or territory, I will comply with all remaining requirements that are applicable relative to the time I arrived in Australia.
- I will get a polymerase chain reaction (PCR) or rapid antigen (RA) test:
  - within 24 hours of entering Victoria, if I arrive in Victoria within 24 hours of arriving in Australia and have not already taken a test during this time, and
  - between days 5-7 after arriving in Australia.
- After arriving in Victoria, I will travel immediately and directly to a premises where I will quarantine until I receive a negative result from the COVID-19 test taken within 24 hours of entering Victoria.
- While transiting to the premises I will only leave my vehicle to:
  - seek medical care or medical supplies
  - use a restroom
  - pay for fuel
  - purchase essential items, or takeaway food or drink
- If I leave my vehicle I will:
  - wear a face covering at all times (unless an exception applies)
  - minimise contact with other persons and practice physical distancing
  - keep a detailed record of all places I stop.
- I will remain in quarantine until I receive a negative result from the COVID-19 test taken within 24 hours of entering Victoria, unless:
  - obtaining medical care or medical supplies
  - getting a COVID-19 PCR or RA test
  - in an emergency

- o required by law
- o leaving Victoria
- While in quarantine I won't share bedrooms, bathrooms or any other facilities with people outside my travelling party.
- For 14 days after arriving in Australia, I will carry evidence of my negative COVID-19 test results and show them to an Authorised Officer, Victoria Police, or Protective Services Officer (or other person as directed) if asked.
- I will comply with all pandemic orders issued by Victoria's Minister for Health.
- I'll monitor myself for COVID-19 symptoms and get tested if they appear.
- If I am 12 years and 2 months of age or older and fully vaccinated I will also:
  - o not visit a school, childcare or early childhood service, aged care residential facility, disability care facility or hospital (other than to receive emergency medical care) until 7 days have passed since my arrival in Australia unless:
    - I have received a negative result from a PCR test taken within 24 hours of visiting the setting; or
    - I have received a negative result from a RA test taken on the day of visiting the setting.
- If I am 18 years or older and have a medical exemption from vaccination, I will also:
  - o not visit a school, childcare or early childhood service, aged care residential facility, disability care facility or hospital (other than to receive emergency medical care) in Victoria until 14 days have passed since my arrival in Australia.
- If I am above 12 years and 2 months and below 18 years of age and have a medical exemption from vaccination, I will also:
  - o not attend a school in Victoria until 7 days have passed since my arrival in Australia and I have received a negative result from my COVID-19 test taken between days 5-7 after arriving in Australia
  - o not visit a childcare or early childhood service, aged care residential facility, disability care facility or hospital (other than to receive emergency medical care) in Victoria for 14 days after arriving in Australia.
- If I am above 12 years and 2 months and below 18 years of age and not fully vaccinated and do not have a medical exemption from vaccination, I will also:
  - o travel immediately and directly to my normal residence (or other suitable premises), and quarantine there until 7 days have passed since my arrival in Australia
  - o not leave quarantine except to obtain medical care, for COVID-19 testing, in an emergency, if required by law, or to leave Victoria
  - o not share bedrooms, bathrooms or any other facilities with people outside my travelling party
  - o not attend a school until 7 days have passed since my arrival in Australia and I have received a negative result from my COVID-19 test taken between days 5-7 after arriving in Australia
  - o not visit a childcare or early childhood service, aged care residential facility, disability care facility or hospital (other than to receive emergency or medical care) in Victoria until 14 days have passed since my arrival in Australia.
  - o wear a face covering at all times (unless a lawful reason applies not to), if I leave quarantine for any permitted reason.
- If I am below 12 years and 2 months of age, I will also:
  - o not attend a school until 7 days have passed since my arrival in Australia and I have received a negative result from my COVID-19 test taken between days 5-7 after arriving in Australia
  - o not visit a childcare or early childhood service, aged care residential facility, disability care facility or hospital (other than to receive emergency or medical care) in Victoria until 14 days have passed since my arrival in Australia.

#### About this International passenger arrivals permit

- I understand I need a new permit after each time I have been overseas to enter Victoria

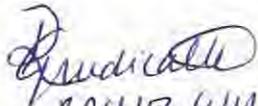
I declare all information I've given in this application is true and correct.

There are more than 200 testing locations across Victoria. [Find one near your home.](#)

This is the document referred to as ND-7 in the affidavit of Novak Djokovic sworn/affirmed at

Melbourne on 10 January before me Rachel Giudicatti  
2022

[witness to sign and provide name and qualification].

  
RACHEL GIUDICATTI  
Australian Legal Practitioner



*Cancellation of visa under section 116 of the Migration Act*

s 116

- (1) Subject to subsections (2) and (3), the Minister may cancel a visa if he or she is satisfied that:
  - (a) the decision to grant the visa was based, wholly or partly, on a particular fact or circumstance that is no longer the case or that no longer exists; or
  - (aa) the decision to grant the visa was based, wholly or partly, on the existence of a particular fact or circumstance, and that fact or circumstance did not exist; or
  - (b) the holder has not complied with a condition of the visa; or
  - (c) another person required to comply with a condition of the visa has not complied with that condition; or
  - (d) if its holder has not entered Australia or has not entered but has not been immigration cleared – it would be liable to be cancelled under subsection 118(1) if correct information were provided if its holder had so entered and been immigration cleared; or
  - (e) the presence of its holder in Australia is, or may be, grounds or might be, a risk to:
    - (i) the health, safety or good order of the Australian community or – in respect of the Australian community, of
    - (ii) the health or safety of an individual or individuals; or
  - (f) the visa should not have been granted because the application for it, or its grant, was in contravention of this Act or of another law of the Commonwealth; or
  - (g) in the case of a student visa:
    - (i) its holder is not, or is likely not to be, a genuine student; or
    - (ii) its holder has engaged, or is engaging or is likely to engage, while in Australia, in conduct (including activities) not contemplated by the visa; or
    - (iii) a requirement applied for cancelling a visa applies to the holder.
- (1AA) Subject to subsections (2) and (3), the Minister may cancel a visa if he or she is not satisfied as to the visa holder's identity.
- (1AB) Subject to subsections (2) and (3), the Minister may cancel a visa (the *current visa*) if he or she is satisfied that:
  - (a) incorrect information was given, by or on behalf of the person who holds the current visa, to:
    - (i) an officer; or
    - (ii) an automated system; or
    - (iii) the Minister; or
    - (iv) any other person, or a natural person performing a function or purpose, under this Act; or
    - (v) any other person, or body performing a function or purpose in an administrative process that occurred or occurs in relation to the visa; and
  - (b) the incorrect information was taken into account in, or in connection with, making:
    - (i) a decision that permits the person to make a valid application for a visa; or
    - (ii) a decision to grant a visa to the person; and
    - (c) the giving of the incorrect information is not covered by subsection 117(1).
- (1AC) Subject to subsections (2) and (3), the Minister may cancel a visa (the *current visa*) if he or she is satisfied that:
  - (a) a credit was applied for or received by, or on behalf of, the person (the *visa holder*) who holds the current visa from another person's account in the occurrence of a sponsorship-related event; or
  - (b) a credit was offered or provided by, or on behalf of, the person (the *visa holder*) who holds the current visa to another person in relation to the occurrence of a sponsorship-related event.
- (1AD) Subsection 116A(1) applies:
  - (a) whether or not the visa holder (so the current visa or any previous visa) at the time the credit was asked for, received, offered or provided; and
  - (b) whether or not the sponsorship-related event relates to the current visa or any previous visa that the visa holder held; and
  - (c) whether or not the sponsorship-related event occurred.
- (1A) The regulations may prescribe the matters to which the Minister may have regard in determining whether he or she is satisfied as mentioned in paragraph (1)(b), such regulations to not need to be made to override the Minister may have regard for that purpose.
- (2) This Minister is not to cancel a visa under subsection (1), (1AA), (1AB) or (1AC) if there exist prescribed circumstances in which a visa is not to be cancelled.

- (3) If the Minister may cancel a visa under subsection (1), (1AA), (1AB) or (1AC), the Minister must do so if there exist prescribed circumstances in which a visa must be cancelled.

Reg 2.43

- (1) For the purposes of paragraph 116(1)(g) of the Act (which deals with circumstances in which the Minister may cancel a visa), the grounds prescribed are the following:
  - (a) that the Foreign Minister has personally determined that:
    - (i) in the case of a visa (other than a relevant visa – the holder of the visa is a person whose presence in Australia:
      - (A) is, or would be, contrary to Australia's foreign policy interests; or
      - (B) may be directly or indirectly associated with the possession of weapons of mass destruction; or
    - (ii) in the case of a relevant visa – the holder of the visa is a person whose presence in Australia may be directly or indirectly associated with the proliferation of weapons of mass destruction; or
  - (b) in the case of a person who is the holder of a visa (other than a relevant visa) the person:
    - (i) is declared under paragraph 6(1)(b) or (2)(b) of the *Autonomous Sanctions Regulations 2011* to be the purpose of preventing the person from travelling to, entering or remaining in Australia; or
    - (ii) is not a person for whom the Foreign Minister has waived the operation of the declaration in accordance with regulation 19 of the *Autonomous Sanctions Regulations 2011*;
  - (c) that the holder of the visa has been assessed by the Australian Security Intelligence Organisation to be directly or indirectly a risk to security within the meaning of section 4 of the *Australian Security Intelligence Legislation Act 1979*;
  - (d) in the case of:
    - (i) the holder of an Electronic Travel Authority (Class UE) visa who is under 18; or
    - (ii) the holder of a Tourist (Class TF) visa, that was applied for using form 801E, who is under 18; or
    - (iii) the holder of a Visitor (Class TV) visa who is under 18; or
    - (iv) the holder of a Student 600 (Visitor) visa in the tourist stream, that was applied for using form 1419 (Internet), who is under 18; that either:
      - (A) both of the following apply:
        - (i) the law of the visa holder's home country does not permit the removal of the visa holder;
        - (ii) at least 1 of the persons who could lawfully determine what the additional applicant is to live and not consent to the grant of the visa; or
      - (B) the grant of the visa was inconsistent with any Australian order in force in relation to the visa holder;
  - (e) in the case of a Student 600 (Electronic Travel Authority) visa – that, despite the grant of the visa, the Minister is satisfied that the visa holder:
    - (i) did not have, at the time of the grant of the visa, an intention only to stay in, or visit, Australia temporarily for the tourism or business purposes for which the visa was granted; or
    - (ii) has ceased to have that intention;
  - (f) in the case of:
    - (i) the holder of an Electronic Travel Authority (Class UE) visa who is under 18 and is not accompanied by his or her parent or guardian; or
    - (ii) the holder of a Tourist (Class TR) visa, that was applied for using form 801E, who:
      - (A) is under 18; and
      - (B) is not accompanied by his or her parent or guardian; or
      - (iii) the holder of a Visitor (Class TV) visa who is under 18 and is not accompanied by his or her parent or guardian; or
      - (iv) the holder of a Student 600 (Visitor) visa in the tourist stream, that was applied for using form 1419 (Internet), who is under 18 and is not accompanied by his or her parent or guardian;
- (2) If the holder of that visa does not have adequate funds, or adequate arrangements have not been made, for the holder's maintenance, support and general welfare during the holder's maintenance period in Australia:
  - (a) in the case of a temporary visa held by a person other than a visa holder mentioned in paragraph (1) – that the visa holder asks the Minister in writing to cancel the visa;
  - (b) in the case of a temporary visa held by a person who is under the age of 18 years and is not a spouse, a former spouse or engaged to be married – that:
    - (i) a person who is at least 18 years of age and who can decide whether or not the visa holder is to be asked the Minister to cancel the visa; and

Department of Home Affairs

**Part A – Notice of intention to consider cancelling a visa (continued)****7 Opportunity to comment**

The *Migration Act 1958* gives you the opportunity to comment on the intention to consider cancellation of your visa and to give reasons why your visa should not be cancelled. Your comments could include:

- why grounds for cancellation do not exist; or
- why your visa should not be cancelled.

You are invited to provide your comments at interview.

Interview will be held on 

Day	Month	Year
06	01	2022

Beginning at 

4:35
------

At the following location 

Melbourne Airport
-------------------

If you choose not to comment, the delegate may make his/her decision based on the information available to them.

If your visa is cancelled you may be refused immigration clearance. You may also be detained and removed from Australia as an unlawful non-citizen under s189 of the *Migration Act 1958*. The visas of any dependants may also be cancelled.

If your visa is cancelled, you may become subject to an exclusion period. If you are subject to an exclusion period as a result of a visa cancellation, you may be prevented from being granted various types of visas for a period of up to 3 years. You may also be prevented from making a valid application for certain classes of visa while in Australia.

If a decision is made not to cancel your visa you will be immigration cleared and allowed to enter Australia.

Except in the case of consideration of cancellation of a visa under Reg 2.43(2), factors the delegate may take into consideration in making a decision whether to cancel your visa include (but are not limited to) the following:

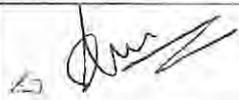
- the purpose of your travel to Australia;
- extent of compliance with the conditions of your visa;
- the degree of hardship which may be caused to you or your family (**Note:** As per the Convention on the Rights of the Child, the best interests of any child in Australia under 18 years of age will be considered);
- the circumstances in which the ground for cancellation arose;
- your behaviour in relation to the Department, now and on any previous occasion;
- whether there are mandatory legal consequences to a cancellation decision.

**8 Disclosure of information**

**Note:** The Privacy Act protects information you give in this interview. For more information, see the reverse of pages 3 and 4.

**9 Delegate's details**

Signature of officer



Name 

Sudhir R
----------

Position number 

60063579
----------

Date 

Day	Month	Year
06	Jan	2022

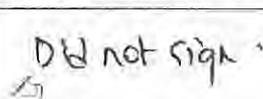
 Time 

4:11
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**10 Visa holder's signature to acknowledge that this notice has been received**

Refusal to acknowledge receipt of this notice will not prevent the delegate from making a decision on whether to cancel your visa.

Signature of visa holder



Date 

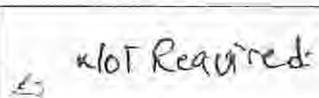
Day	Month	Year
06	Jan	2022

 Time 

4:22
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**11 Interpreter details**

Signature of interpreter



Date 

Day	Month	Year

 Time 

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TIS number 

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*Cancellation of visa under section 116 of the Migration Act (continued)*

- (d) the Minister is satisfied that the holder compelling reason to believe that the cancellation of the visa would not be in the best interests of the visa holder.
- (i) in the case of the holder of
  - (A) a Subclass 456 (Business Short Stay) visa, or
  - (B) a Subclass 459 (Sponsored Business Visitor (Short Stay)) visa, or
  - (C) a Subclass 600 (Visitor) visa in the Business Visitor stream, or
  - (D) a Subclass 650 (Electronic Travel Authority (Business Entitlement - Long Validity)) visa, or
  - (E) a Subclass 677 (Electronic Travel Authority (Business Entitlement - Short Validity)) visa, or
 that, despite the grant of the visa, the Minister is satisfied that the visa holder did not have, at the time of the grant of the visa, or has ceased to have, an intention only to stay in, or visit, Australia temporarily for business purposes;
- (ii) in the case of a holder of
  - (A) a Subclass 401 (Temporary Work (Short Stay Specified)) visa, or
  - (B) a Subclass 410 (Temporary Work (Short Stay Activities)) visa, or
  - (C) a Subclass 402 (Training and Research) visa, or
  - (D) a Subclass 403 (Temporary Work (International Functions)) visa, or
  - (E) a Subclass 407 (Training) visa, or
  - (F) a Subclass 408 (Temporary Activity) visa, or
  - (G) a Subclass 418 (Special Programme) visa, or
  - (H) a Subclass 420 (Entertainment) visa, or
  - (I) a Subclass 485 (Superclass) visa,
 that the grounds in subregulation (1A) are met; or
- (j) in the case of the holder of
  - (A) a Subclass 630 (Visitor) visa that is not in the Frequent Traveller stream, or
  - (B) a Subclass 676 (Tourist) visa, or
  - (C) a Subclass 679 (Sponsored Family Visitor) visa,
 that, despite the grant of the visa, the Minister is satisfied that the visa holder did not have, at the time of the grant of the visa, or has ceased to have, an intention only to visit, or remain in, Australia temporarily for the purpose of visiting an Australian citizen or Australian permanent resident who is a parent, spouse, de facto partner, child, brother or sister of the visa holder or for another purpose, other than a purpose related to business or medical treatment;
- (k) in the case of the holder of a Subclass 600 (Visitor) visa in the Frequent Traveller stream – that, despite the grant of the visa, the Minister is satisfied that the visa holder did not have, at the time of the grant of the visa, or has ceased to have, an intention only to visit, or remain in, Australia as a tourist or to engage in a business visitor activity;
- (l) in the case of the holder of a Subclass 610 (Electronic Travel Authority (Visitor)) visa – that, despite the grant of the visa, the Minister is satisfied that the visa holder did not have, at the time of the grant of the visa, or has ceased to have, an intention only to visit Australia temporarily for tourist purposes;
- (m) in the case of a holder of a Subclass 617 (Visitor) visa – that, despite the grant of the visa, the Minister is satisfied that the visa holder did not have, at the time of the grant of the visa, or has ceased to have, an intention only to stay in, or visit, Australia temporarily for the purpose of business purposes for which the visa was granted;
- (n) in the case of the holder of a Subclass 487 (Temporary Work (Skilled)) visa that was granted on the basis that the applicant met the requirements of subregulation 487.223(4) on or after 18 March 2018 – that, despite the grant of the visa, the Minister is satisfied that
  - (A) the holder did not have a genuine intention to perform the occupation mentioned in paragraph 487.223(4) on or after 18 March 2018 at the time of grant of the visa, or
  - (B) the holder has ceased to have a genuine intention to perform that occupation, or
  - (C) the position associated with the nominated occupation ceased to exist;
- (o) in the case of the holder of a Subclass 482 (Temporary (High Skill/Short-term) visa in the Short-term stream, Medium-term stream or Labour Agreement stream) – that, despite the grant of the visa, the Minister is satisfied that
  - (A) the holder did not have a genuine intention at the time of grant of the visa to perform the occupation mentioned in subregulation 482.212(1) of Schedule 2, or
  - (B) the holder has ceased to have a genuine intention to perform that occupation, or
  - (C) the occupation associated with that occupation ceased to exist;

- (p) in the case of the holder of a Subclass 457 (Temporary Work (Skilled)) visa or a Subclass 482 (Temporary Skill Shortage) visa who is a primary sponsored person in relation to a person who is, or was, a standard business sponsor or party to a labour agreement (the sponsor) – that
  - (i) the sponsor has given false or misleading information to the Department or the Administrative Appeals Tribunal, or
  - (ii) the sponsor has failed to satisfy a sponsorship obligation, or
  - (iii) the sponsor has been cancelled or barred under section 140A of the Act, or
  - (iv) the labour agreement has been terminated, has been suspended or has expired;
- (q) in the case of a holder of
  - (A) a Subclass 401 (Temporary Work (Long Stay Activity)) visa, or
  - (B) a Subclass 402 (Training and Research) visa, or
  - (C) a Subclass 407 (Training) visa, or
  - (D) a Subclass 408 (Temporary Activity) visa, or
  - (E) a Subclass 418 (Special Programme) visa, or
  - (F) a Subclass 420 (Entertainment) visa,
 who is a primary sponsored person in relation to a person who is, or was, an approved sponsor – that 1 of the grounds specified in subregulation (1B) is met;
- (r) in the case of a holder of
  - (A) a Subclass 401 (Temporary Work (Long Stay Activity)) visa, or
  - (B) a Subclass 402 (Training and Research) visa, or
  - (C) a Subclass 407 (Training) visa, or
  - (D) a Subclass 420 (Entertainment) visa, or
  - (E) a Subclass 457 (Temporary Work (Skilled)) visa, or
  - (F) a Subclass 482 (Temporary Skill Shortage) visa,
 who is a secondary sponsored person in relation to a person who is, or was, an approved sponsor – that the person who is, or was, an approved sponsor of the primary sponsored person to whom the secondary sponsored person is related has not listed the secondary sponsored person in the latest nomination in which the primary sponsored person is identified;
- (s) in the case of a holder of
  - (A) a Subclass 401 (Temporary Work (Long Stay Activity)) visa, or
  - (B) a Subclass 408 (Temporary Activity) visa granted on the basis that the primary sponsored person satisfied the criteria in clause 408.227 (foreign worker) or 408.224 (domestic worker) of Schedule 2, or
  - (C) a Subclass 427 (Temporary Work (Skilled)) visa, or
  - (D) a Subclass 482 (Temporary Skill Shortage) visa,
 who is a primary sponsored person or a secondary sponsored person in relation to a person who is, or was, an approved sponsor – that the person who is, or was, an approved sponsor has paid the return travel costs to the holder in accordance with the sponsorship obligation mentioned in regulation 2.60 of 2.80A;
- (t) that the Minister reasonably suspects that the holder of the visa has committed an offence under section 232A, 233, 233A, 234 or 235 of the Act;
- (u) that
  - (i) a certificate is in force under paragraph 27(1)(j) of the Act, giving effect to a computer programme that is functioning correctly, and
  - (ii) both of the following apply:
    - (A) the visa was granted at the time, or during the period, that is specified in the certificate;
    - (B) the grant of the visa is an outcome from the operation of that programme, under an arrangement made under subsection 455A(1) of the Act that is specified in the certificate;
- (v) the holder of the visa provided a digital passenger declaration of a kind referred to in paragraph 3(3A)(1)(a) (other than a digital passenger declaration that was withdrawn before the time referred to in paragraph 3(3A)(1)(b)) and either or both of the following apply:
  - (i) the digital passenger declaration was incorrect at the time it was provided;
  - (ii) the holder, or a person in charge of the holder, on the relevant flight or voyage, has provided incorrect information in relation to the digital passenger declaration;
- (w) that the Minister reasonably suspects that the visa has been obtained as a result of the fraudulent conduct of any person;
- (x) in the case of the holder of a temporary visa (other than a Subclass 600 (Bridging (General)) visa, a Subclass 601 (Bridging (Protection Visa Applicant)) visa or a Subclass 444 (Special Category) visa) – that the Minister is satisfied that the holder has been convicted of an offence against a law of the Commonwealth, a State or Territory (whether or not the person had the visa at the time of the conviction and regardless of the penalty imposed (if any)).



**Australian  
BORDER FORCE**

### ATTACHMENT A (Part A)

You have arrived at Melbourne Airport as the holder of a subclass GG408 (Temporary Activity) visa. This visa allows entry into Australia to Participate in Australia Open Tennis Tournament.

During an interview with an Australian Border Force (ABF) officer, you have stated you are not vaccinated against COVID-19. You have also provided a copy of a medical exemption issued by Tennis Australia. This medical exemption was issued on the grounds that you have recently recovered from COVID-19. Under the Biosecurity Act 2015, there are requirements for entry into Australian territory. These requirements include that international travellers make a declaration as to their vaccination status (vaccinated, unvaccinated, or medically contraindicated). Travellers may make a declaration that they have a medical contraindication and must provide evidence of that medical contraindication provided by their medical practitioner. Previous infection with COVID-19 is not considered a medical contraindication for COVID-19 vaccination in Australia.

A copy of the relevant section of the *Biosecurity Act 2015* is attached for your reference. The information you have provided does not show a medical contraindication to COVID-19 vaccines or evidence of that provided by a medical practitioner.

Unvaccinated persons create a greater health risk of contracting COVID-19 and spreading COVID-19 to others, either of which will further burden the Australian health system. Ensuring unvaccinated persons do not enter Australia is a key mechanism through which the Australian Government has slowed the spread of COVID-19 within the Australian community.

All visa holders, whether permanent or temporary are expected to abide by all public health directives issued by both Commonwealth and state and territory jurisdictions. A breach of these directions is considered a potential risk to the health, safety or good order of the Australian community.

Subject to Section 116(1) of the *Migration Act 1958*, the Minister may cancel a visa if he or she is satisfied that:

- (e) the presence of its holder in Australia is or may be, or would or might be, a risk to:
- (i) the health, safety or good order of the Australian community or a segment of the Australian community

Based on the above information, I am satisfied there appears to be a ground to consider cancelling your subclass GG-408 visa, due to you presenting a risk to the health, safety or good order of the Australian community or a segment of the Australian community. The ground is that, the Minister may cancel a visa if he or she is satisfied that... if its holder has not entered Australia or has so entered but has not been immigration cleared – it would be liable to be cancelled under Section 116(1)(e)(i) of the Migration Act 1958.

**Biosecurity Act 2015 reference:**

(3) For the purposes of paragraph (2)(a), the declaration is a declaration of which of the following paragraphs apply to the individual:

(a) the individual:

(i) has received a course of vaccinations with one or more accepted COVID-19 vaccines in accordance with a schedule for receiving that course of vaccinations that is accepted by the Therapeutic Goods Administration; and

(ii) received the last vaccination in the course of vaccinations at least 7 days before the day the relevant international flight was scheduled to commence; and

(iii) can produce evidence of the matters mentioned in subparagraphs (i) and (ii);

(b) the individual:

(i) has a medical contraindication to COVID-19 vaccines; and

(ii) can produce evidence provided by a medical practitioner of the matter mentioned in subparagraph (i);

(c) neither paragraph (a) nor (b) applies to the individual.





Department of Home Affairs

Part B – Record of decision whether to cancel visa (continued)

6 Assessment

I am satisfied that there are:

GROUNDS  
OR

NO GROUNDS ▶ Go to Question 11

for cancellation of the visa holder's visa under:

s116(1)(a)

s116(1)(aa)

s116(1)(b) because I am satisfied that you have not complied with condition

(Refer to reverse of pages 4, 5, 6 and front and reverse of page 7 for details of conditions)

s116(1)(c)

s116(1)(d) because I am satisfied a ground exists at

(Enter relevant ground here – s101, s102, s103, s104 or s105)

s116(1)(e) (i)  (ii)

s116(1)(f)

s116(1)(fa) (i)  (ii)

s116(1)(g) because I am satisfied a ground exists at

Reg 2.43(1)

other

Please refer to reverse of pages 1, 2 and 3 for reference to the relevant legislation.

Where the Minister can cancel a visa under subsection 116(1) of the Act, the Minister must do so if there exist prescribed circumstances in which the visa must be cancelled (see subsection 116(3) of the Act and the 'prescribed circumstances' in subregulation 2.43(2) of the *Migration Regulations 1994*) – refer to reverse of page 3.

7

Details of the evidence and findings about why the delegate is satisfied GROUNDS for cancellation DO EXIST

During interview, the visa holder stated he was not vaccinated against COVID-19. The Visa holder also provided a copy of a medical exemption issued by Tennis Australia. This medical exemption was issued on the grounds that the visa holder has recently recovered from COVID-19. The visa holder stated he had received an Australian Travel Declaration from the Department of Home Affairs, which was lodged on his behalf by Tennis Australia.

Under the Biosecurity Act 2015, there are requirements for entry into Australian territory. These requirements include that international travellers make a declaration as to their vaccination status (vaccinated, unvaccinated, or medically contraindicated). Travellers may make a declaration that they have a medical contraindication and must provide evidence of that medical contraindication provided by their medical practitioner. Previous infection with COVID-19 is not considered a medical contraindication for COVID-19 vaccination in Australia.

Unvaccinated persons create a greater health risk of contracting COVID-19 and spreading COVID-19 to others, either of which will further burden the Australian health system. Ensuring unvaccinated persons do not enter Australia is a key mechanism through which the Australian Government has slowed the spread of COVID-19 within the Australian community.

All visa holders, whether permanent or temporary are expected to abide by all public health directives issued by both Commonwealth and state and territory jurisdictions. A breach of these directions is considered a potential risk to the health, safety or good order of the Australian community.

Subject to Section 116(1) of the Migration Act 1958, the Minister may cancel a visa if he or she is satisfied that:  
(e) the presence of its holder in Australia is or may be, or would or might be, a risk to:  
(i) the health, safety or good order of the Australian community or a segment of the Australian community

Based on the above information, I am satisfied there are grounds to consider cancelling the visa holder's subclass GG-408 visa. The ground is that the Minister may cancel a visa if he or she is satisfied that: ... if its holder has not entered Australia or has so entered but has not been immigration cleared – it would be liable to be cancelled under Section 116(1)(e)(i) of the Migration Act 1958.





Visa conditions (continued)

- (5) If the visa is a Subclass 407 (Training) visa, the holder must not:
  - (a) cease to engage in the most recently nominated program or reason to which the holder is identified, or
  - (b) engage in work or an activity that is inconsistent with the most recently nominated program to which the holder is identified, or
  - (c) engage in work or an activity for an employer other than an employer identified in accordance with paragraph 2.77A(1)(b) (as set out in subregulation 2.77A(9)) in the most recent nomination to which the holder is identified.
- 8108 The holder must not be employed in Australia (or any) overseas for more than 3 months without the prior permission in writing of the Secretary.
- 8109 The holder must not change details of times and places of engagement specified in the application to be taken as an Australian during the visa period, without the prior permission in writing of the Secretary.
- 8110 The holder:
  - (a) must not engage in work in Australia (except in the household of the employer in relation to whom the visa was granted) and
  - (b) must not work in a position or occupation inconsistent with the position or occupation in relation to which the visa was granted, and
  - (c) must not engage in work for another person or on the holder's own account while undertaking the employment in relation to which the visa was granted, and
  - (d) must not cease to be employed by the employer in relation to whom the visa was granted, unless paragraph (e) applies, and
  - (e) must, with the written permission of the Foreign Minister, cease to remain in Australia after the permanent departure of that employer.
- 8111 The holder must not:
  - (a) perform work in Australia (except in the household of the employer who is the holder's sponsor in relation to the visa) and
  - (b) remain in Australia after the permanent departure of that employer.
- 8112 The holder must not engage in work in Australia that might otherwise be carried out by an Australian citizen or an Australian permanent resident.
- 8113 The holder must not work in Australia other than as a member of the crew of a non-military ship.
- 8114 The holder must not work in Australia otherwise than as a member of the crew of a ship or boat.
- 8115 The holder must not work in Australia other than by engaging in a business visitor activity.
- 8116 The holder must not work in Australia other than by engaging in an activity specified in a legislative instrument made by the Minister for this clause.
- 8117 The holder must not work in Australia other than as a member of the crew on one or both of the following:
  - (a) the flight on which the holder leaves Australia,
  - (b) one flight from a proclaimed airport to the proclaimed airport from which the holder leaves Australia.
- 8118 The holder must not work in Australia other than as a member of the crew on one or more of the following:
  - (a) the flight on which the holder travels to Australia,
  - (b) one flight from the proclaimed airport at which the holder enters Australia to another proclaimed airport,
  - (c) the flight on which the holder leaves Australia,
  - (d) one flight from a proclaimed airport to the proclaimed airport from which the holder leaves Australia.
- 8201 (1) While in Australia the holder must not engage, for more than 3 months, in any studies or training.
  - (2) However, subclause (1) does not apply to a visa mentioned in the table into Visa:

- (c) has the written permission of the Minister to engage for more than 3 months in any studies or training because of compelling and compassionate circumstances.
- 8202 Subclass 825 (Medical Treatment (Long Stay)) visa in relation to which the holder:
  - (a) is under 16 years,
  - (b) has experienced a change in circumstances while in Australia, and
  - (c) has the written permission of the Minister to engage for more than 3 months in any studies or training because of compelling and compassionate circumstances.
- 8203 (1) The holder must be enrolled in a full-time course of study or research to which:
  - (a) a Deferral Student or
  - (b) a Foreign Affairs student or
  - (c) a secondary exchange student,
- (2) A holder not covered by subclause (1):
  - (a) must be enrolled in a full-time registered course, and
  - (b) subject to subclause (3), must maintain enrolment in a registered course that, once completed, will provide a qualification from the Australian Qualifications Framework that is of the same level as, or at a higher level than, the registered course in relation to which the visa was granted, and
  - (c) must ensure that neither of the following subparagraphs applies in respect of a registered course undertaken by the holder:
    - (i) the institution providing the course has certified the holder for a registered course undertaken by the holder, as not sufficiently satisfactory course progress for section 19 of the *Education Services for Overseas Students Act 2000* and the relevant standard of the national code made by the Education Minister under section 33 of that Act,
    - (ii) the education provider has certified the holder for a registered course undertaken by the holder, as not sufficiently satisfactory course attendance for section 19 of the *Education Services for Overseas Students Act 2000* and the relevant standard of the national code made by the Education Minister under section 33 of that Act.
- (3) A holder is taken to satisfy the requirements set out in paragraph (2)(b) if the holder:
  - (a) is enrolled in a course of the Australian Qualifications Framework level 10, and
  - (b) obtains the minimum in a course of the Australian Qualifications Framework level 9.
- 8204 The holder must not change the entire course of study or research or research topic, unless approval is given by the Minister, after the Minister has obtained an assessment from the competent Australian authorities that the holder is not likely to be directly or indirectly a risk to Australian national security.
- 8205 The holder must not undertake to complete a course of study or research or thesis or research topic, for:
  - (a) a graduate certificate, a graduate diploma, a master's degree or a doctorate, or
  - (b) any tertiary course (enrolled and preliminary to a course of study or research for a master's degree or a diploma), unless approval is given by the Minister after the Minister has obtained an assessment from the competent Australian authorities that the holder is not likely to be directly or indirectly a risk to Australian national security.
- 8207 The holder must not engage in any studies or training in Australia.
- 8301 After entry to Australia, the holder must satisfy relevant public interest criteria before the visa ceases.
- 8302 After entry to Australia, all relevant members of the family unit must satisfy the relevant public interest criteria before the visa ceases.
- 8303 The holder must not become involved in activities that might be of confidence-preserving harm to the Australian community or a group within the Australian community.
- 8401 The holder must cease:
  - (a) at the time of times, and
  - (b) at a place or in a manner, also specified by the Minister from time to time.
- 8402 The holder must remain:
  - (a) within the geographical area of the effect of the migration Act, and
  - (b) in the office or the first location specified in the visa grant instrument (paragraph 81(a)).
- 8501 The holder must provide information requested by the health authorities concerning the holder, if a condition.
- 8602 If the holder is the visa holder of a visa mentioned in the table into Visa:

Visa	Condition
Student (Student (5-year)) visa in relation to which the holder is undertaking an ELICOS of less than 20 hours per week	Subclass 802 (Medical Treatment) visa in relation to which the holder: <ul style="list-style-type: none"> <li>(a) is under 16 years,</li> <li>(b) has experienced a change in circumstances while in Australia, and</li> <li>(c) has the written permission of the Minister to engage for more than 3 months in any studies or training because of compelling and compassionate circumstances.</li> </ul>
Subclass 825 (Medical Treatment (Long Stay)) visa in relation to which the holder: <ul style="list-style-type: none"> <li>(a) is under 16 years,</li> <li>(b) has experienced a change in circumstances while in Australia, and</li> <li>(c) has the written permission of the Minister to engage for more than 3 months in any studies or training because of compelling and compassionate circumstances.</li> </ul>	Subclass 825 (Medical Treatment (Long Stay)) visa in relation to which the holder: <ul style="list-style-type: none"> <li>(a) is under 16 years,</li> <li>(b) has experienced a change in circumstances while in Australia, and</li> <li>(c) has the written permission of the Minister to engage for more than 3 months in any studies or training because of compelling and compassionate circumstances.</li> </ul>

Department of Home Affairs

Part B – Record of decision whether to cancel visa (continued)

Client circumstances in which the ground for cancellation arose (whether there were any extenuating circumstances beyond the visa holder's control that led to the grounds existing)

The visa holder stated that Tennis Australia facilitated his medical exemption from COVID19 vaccination requirement and completed the Australian Travel Declaration on his behalf.

I consider that Tennis Australia would have facilitated his medical exemption and Australian Travel Declaration based on information the visa holder provided to them. As such, I don't consider these constitute extenuating circumstances beyond the visa holder's control.

Based on the above, I apply significant weight in favour of visa cancellation for this factor.

Visa holder's behaviour in relation to the Department, now and on any previous occasion (whether they have been truthful and cooperative in their dealings with the Department)

There is no indication the visa holder has been uncooperative in any dealings with the department. The visa holder has been cooperative during the current process. I therefore give some weight to this factor in favour of not cancelling the visa.

10 Other relevant reasons (including mandatory legal consequences)

I have also considered the legal consequences of a decision to cancel the visa holder's visa and note that if the visa is cancelled he:

- will be subject to a s48 bar on applying for certain visas
- will be affected by a risk factor under Public Interest Criteria 4013 which may affect the eligibility for other visas in the future
- may be liable for detention and removal from Australia

Considering the visa holder regularly travels to Australia to compete in tennis tournaments, I consider the above consequences to be significant. As such, I assign reasonable weight in favour of not cancelling the visa for this factor.

11 Decision

After weighing up all of the information available to me, I am satisfied that the grounds for cancelling the visa outweigh the reasons for not cancelling. I have therefore decided to cancel the visa.

OR

As I am satisfied there exist prescribed circumstances in which the visa must be cancelled, I must cancel the visa under regulation 2.43(2).

OR

After weighing up all of the information available to me, I am satisfied that the reasons not to cancel the visa outweigh the grounds for cancellation. I have therefore decided not to cancel the visa.

OR

After weighing up all of the information available to me, I am not satisfied that there is a ground for cancellation. I have therefore decided not to cancel the visa.

12 Delegate's details

Signature of officer: 

Name: Sudhir R

Position number: 60063579

Date: 06-Jan-2022 Time: 7:29

*Visa conditions (continued)*

- 8503** The holder will not, after entering Australia, be entitled to be granted a substantive visa, other than a protection visa, while the holder remains in Australia.
- 8504** The holder must enter Australia as the holder of the visa to which the condition applies before a date specified by the Minister.
- 8505** The holder must continue to live at the address specified by the holder before grant of the visa.
- 8506** The holder must notify Immigration at least 2 working days in advance of any change in the holder's address.
- 8507** The holder must, within the period specified by the Minister for the purpose:
- pay; or
  - make an arrangement that is satisfactory to the Minister to pay, the costs (within the meaning of Division 10 of Part 2 of the Act) of the holder's detention.
- 8508** The holder must make a valid application for a visa of a class that can be granted in Australia within the time specified by the Minister for the purpose. **Note:** For the meaning of valid application see s16 of the Act. Broadly, a valid application is one that is formally in order for consideration, not necessarily one that can be granted.
- 8509** Within 5 working days after the date of grant, the holder must:
- make a valid application for a substantive visa; or
  - show an officer a ticket for travel to a country other than Australia that the Minister is satisfied will allow the holder to enter on his or her arrival.
- 8510** Within the time specified by the Minister for the purpose, the holder must, either:
- show an officer a passport that is in force; or
  - make an arrangement satisfactory to the Minister to obtain a passport.
- 8511** Within the time specified by the Minister for the purpose, the holder must show an officer a ticket for travel to a country other than Australia that the Minister is satisfied will allow the holder to enter on his or her arrival.
- 8512** The holder must leave Australia by the date specified by the Minister for the purpose.
- 8513** The holder must notify Immigration of his or her residential address within 5 working days of grant.
- 8514** During the visa period of the visa, there must be no material change to the circumstances on the basis of which it was granted.
- 8515** The holder of the visa must not marry or enter into a de facto relationship before entering Australia.
- 8516** The holder must continue to be a person who would satisfy the primary or secondary criteria, as the case requires, for the grant of the visa.
- 8517** The holder must maintain adequate arrangements for the education of any school-age dependent of the holder who is in Australia for more than 3 months as the holder of a student visa (as a person who has satisfied the secondary criteria).
- 8518** Adequate arrangements must be maintained for the education of the holder while he or she is in Australia.
- 8519** The holder must enter into the marriage in relation to which the visa was granted within the visa period of the visa.
- 8520** The relevant person who holds a Subclass 300 visa on the basis of having satisfied the primary criteria must enter into the marriage in relation to which that visa was granted within the visa period of that visa.
- 8522** The holder must leave Australia not later than the time of departure of the person:
- who has satisfied the primary criteria; and
  - of whose family unit the holder is a member.
- 8523** Each person who:
- is a member of the family unit of the holder (being a spouse or de facto partner of the holder or an unmarried child of the holder who has not turned 18); and
  - has satisfied the necessary criteria; and
  - holds a student visa because of paragraphs (a) and (b),
- must leave Australia not later than the time of departure of the holder.
- 8525** The holder must leave Australia by a specified means of transport on a specified day or within a specified period.
- 8526** The holder must notify the Secretary in writing, not earlier than 7 days before the day the visa ceases to be in effect, and not later than that day, of the holder's place of residence in Australia by posting the notification to the Central Office of Immigration for the Australian Capital Territory.
- 8527** The holder must be free from tuberculosis at the time of travel to and entry into Australia.
- 8528** The holder must not have one or more criminal convictions, for which the sentence or sentences (whether served or not) are for a total period of 12 months duration or more, at the time of travel to, and entry into, Australia.
- 8529** The holder must, after entering Australia:
- undergo a medical examination carried out by:
    - a Commonwealth Medical Officer; or
    - a medical practitioner approved by the Minister; or
    - a medical practitioner employed by an organisation approved by the Minister; and
  - undergo a chest x-ray examination conducted by a medical practitioner who is qualified as a radiologist in Australia, unless the holder:
    - is under 13 years of age and is not a person in respect of whom a Commonwealth Medical Officer has requested such an examination; or
    - is a person:
      - who is confirmed by a Commonwealth Medical Officer to be pregnant; and
      - who has been examined for tuberculosis by a chest clinic officer employed by a health authority of a state or territory; and
      - who has signed an undertaking to place himself under the professional supervision of a health authority in a state or territory and to undergo any necessary treatment; and
      - whom the Minister is satisfied should not be required to undergo a chest x-ray examination at this time.
- 8530** The holder must not deviate from the organised tour referred to in clause 600.252 of Schedule 2.
- 8531** The holder must not remain in Australia after the end of the period of stay permitted by the visa.
- 8532** If the holder has not turned 18:
- the holder must stay in Australia with a person who is:
    - a parent of the holder or a person who has custody of the holder; or
    - a relative of the holder who:
      - is nominated by a parent of the holder or a person who has custody of the holder; and
      - has turned 21; and
      - is of good character; or
  - the arrangements for the holder's accommodation, support and general welfare must be approved by the education provider (or the course to which the holder's visa relates, and the holder must not enter Australia before the day nominated by the education provider as the day on which those arrangements are to commence; or
  - in the case that the holder is a Defence Student – both:
    - the arrangements for the holder's accommodation, support and general welfare must be approved by the Defence Minister; and
    - the holder must not enter Australia before the day those arrangements are to commence; or
  - in the case that the holder is a Foreign Affairs student – both:
    - the arrangements for the holder's accommodation, support and general welfare must be approved by the Foreign Minister; and
    - the holder must not enter Australia before the day those arrangements are to commence.
- 8533** The holder must:
- in the case of a holder who was outside Australia when the visa was granted, notify the education provider of the holder's residential address in Australia within 7 days after arriving in Australia; and
  - in all cases:
    - notify the education provider of any change in the holder's residential address in Australia within 7 days after the change occurs; and
    - notify his or her current education provider of a change of education provider within 7 days after the holder receives:
      - a certificate of enrolment from the new education provider; or
      - if no confirmation of enrolment is required to be sent, or if a failure of electronic transmission has prevented an education provider from sending a confirmation of enrolment – evidence that the applicant has been enrolled by the new education provider.

*Visa conditions (continued)*

- 8534** The holder will not be entitled to be granted a substantive visa, other than:
- a protection visa; or
  - a Subclass 485 (Temporary Graduate) visa; or
  - a Subclass 590 (Student Guardian) visa;
- while the holder remains in Australia.
- 8535** The holder will not be entitled to be granted a substantive visa, other than:
- a protection visa; or
  - a Student (Temporary) (Class TU) visa that is granted to the holder on the basis of support from the Commonwealth government or a foreign government;
- while the holder remains in Australia.
- 8536** The holder must not discontinue, or deviate from, the professional development programme in relation to which the visa was granted.
- 8537 (1)** While the nominating student (within the meaning of Part 590 of Schedule 2) in relation to the holder is in Australia, the holder must reside in Australia.
- (2)** While the holder is in Australia, the holder must:
- stay with the nominating student (within the meaning of Part 590 of Schedule 2) in relation to the holder; and
  - provide appropriate accommodation and support for the nominating student; and
  - provide for the general welfare of the nominating student.
- 8538** If the holder leaves Australia without the nominating student (within the meaning of Part 590 of Schedule 2) in relation to the holder, the holder must first give to the Minister evidence that:
- there are compelling or compassionate reasons for doing so; and
  - the holder has made alternative arrangements for the accommodation, support and general welfare of the nominating student until the holder's return to Australia; and
  - if the nominating student has not turned 18, the alternative arrangements are approved by the education provider for the course to which the nominating student's visa relates.
- 8539** While the holder is in Australia, the holder must live, study and work only in an area specified by the Minister in an instrument in writing for item 0A1001 of Schedule 6A or item 6D101 of Schedule 6D, as in force:
- when the visa was granted; or
  - if the holder has held more than 1 visa that is subject to this condition – when the first of those visas was granted.
- 8540** The holder will not, after entering Australia, be entitled to be granted a substantive visa, other than a protection visa or a Subclass 462 (Work and Holiday) visa, while the holder remains in Australia.
- 8541** The holder:
- must do everything possible to facilitate his or her removal from Australia; and
  - must not attempt to obstruct efforts to arrange and effect his or her removal from Australia.
- 8542** The holder must make himself or herself available for removal from Australia in accordance with instructions given to the holder by Immigration for the purpose of that removal.
- 8543** The holder must attend at a place, date and time specified by Immigration in order to facilitate efforts to arrange and effect his or her removal from Australia.
- 8547** The holder must not be employed by any 1 employer for more than 6 months, without the prior permission in writing of the Secretary.
- 8548** The holder must not engage in any studies or training in Australia for more than 4 months.
- 8549 (1)** Unless subclause (2) applies, while the holder is in Australia, the holder must live, study and work only in a designated area, as in force:
- when the visa was granted; or
  - if the holder has held more than 1 visa that is subject to this condition – when the first of those visas was granted.
- Note:** Designated area is defined in regulation 1.03.
- (2)** For a visa granted on the basis of satisfaction of clause 159.214 or 159.311 of Schedule 2, while the holder is in Australia, the holder must live, study and work only in Norfolk Island, apart from any period during the whole of which the visa holder:
- has not turned 25; and
  - is a dependent child of a person who is ordinarily resident in Norfolk Island; and
  - lives elsewhere in Australia for the purpose of study; and
  - meets the requirements mentioned in condition 8.05 (which relates to students engaging in work).
- Note:** Condition 8.105 is not imposed on the visa.

- 8550** The holder must notify the Minister of any change in the holder's personal details, including a change to any of the following contact information:
- the holder's name;
  - an address of the holder;
  - a phone number of the holder;
  - an email address of the holder;
  - an online profile used by the holder;
  - a user name of the holder;
- not less than 2 working days before the change is to occur.
- 8551 (1)** The holder must obtain the Minister's approval before taking up employment in the following occupations, or occupations of a similar kind:
- occupations that involve the use of, or access to, chemicals of security concern;
  - occupations in the aviation or maritime industries;
  - occupations at facilities that handle security-sensitive biological agents.
- (2)** In this clause:
- chemicals of security concern** means chemicals specified by the Minister in an instrument in writing for this definition.
- Note:** The Minister's instrument will refer to chemicals that have been identified, by the Council of Australian Governments, as chemicals of security concern. Without limiting what the Council might identify, the chemicals may include:
- industrial chemicals, including chemicals used in the retail, pharmaceutical or pool and spa sectors, that could be diverted from their lawful use to other purposes such as terrorist-related activities; and
  - agricultural and veterinary chemicals that could be diverted from their lawful use to other purposes, including terrorist-related activities.
- 8552** The holder must notify the Minister of any change in the holder's employment details, not less than 2 working days before the change is to occur.
- 8553** The holder must not become involved in activities that are prejudicial to security (within the meaning of section 4 of the *Australian Security Intelligence Organisation Act 1979*).
- 8554 (1)** The holder must not acquire any of the following goods:
- weapons;
  - explosives;
  - material or documentation that provides instruction on the use of weapons or explosives.
- (2)** In this clause:
- weapon** means a thing made or adapted for use for inflicting bodily injury.
- 8555** The holder must obtain the Minister's approval before undertaking the following activities, or activities of a similar kind:
- flight training;
  - flying aircraft.
- 8556** The holder must not communicate or associate with:
- an entity listed under Part 4 of the *Charter of the United Nations Act 1945*; or
  - an organisation prescribed by the *Criminal Code Regulations 2002*.
- 8557** The holder must hold for the whole of the visa period:
- if the visa was granted on the basis of a complying investment within the meaning of regulation 5.19B as in force at a particular time – a complying investment within the meaning of regulation 5.19B as in force at that time; or
  - if the visa was granted on the basis of a complying significant investment within the meaning of regulation 5.19C as in force at a particular time – a complying significant investment within the meaning of regulation 5.19C as in force at that time; or
  - if the visa was granted on the basis of a complying premium investment within the meaning of regulation 5.19D as in force at a particular time – a complying premium investment within the meaning of regulation 5.19D as in force at that time.
- 8558** The holder must not stay in Australia for more than 12 months in any period of 18 months.
- 8559** The holder must not enter the country by reference to which:
- the holder; or
  - for a member of the family unit of another holder – the other holder, was found to be a person to whom Australia has protection obligations, unless the Minister has approved the entry in writing.

*Visa conditions (continued)*

- 8560 (1)** The holder must obtain the Minister's approval before acquiring chemicals of security concern.
- (2)** In this clause:
- chemicals of security concern** means chemicals specified by the Minister in an instrument in writing for this definition.
- Note:** The Minister's instrument will refer to chemicals that have been identified, by the Council of Australian Governments, as chemicals of security concern. Without limiting what the Council might identify, the chemicals may include:
- (a) industrial chemicals, including chemicals used in the retail, pharmaceutical or food and spa sectors, that could be diverted from their lawful use to other purposes, such as terrorist-related activities; and
  - (b) agricultural and veterinary chemicals that could be diverted from their lawful use to other purposes, including terrorist-related activities.
- 8561** If the holder is directed by the Minister to attend an interview that relates to the holder's visa (including an interview with the Australian Security Intelligence Organisation), the holder must comply with the direction.
- 8562 (1)** The holder must not take up employment in:
- (a) occupations that involve the use of, or access to, weapons or explosives; or
  - (b) occupations of a similar kind.
- (2)** In this clause:
- weapon** means a thing made or adapted for use for inflicting bodily injury.
- 8563 (1)** The holder must not undertake the following activities, or activities of a similar kind:
- (a) using or accessing weapons or explosives;
  - (b) participating in training in the use of weapons or explosives;
  - (c) possessing or accessing material or documentation that provides instruction on the use of weapons or explosives.
- (2)** In this clause:
- weapon** means a thing made or adapted for use for inflicting bodily injury.
- 8564** The holder must not engage in criminal conduct.
- 8565** The holder must notify Immigration of any change to the holder's residential address within 28 days after the change occurs.
- 8566** If the person to whom the visa is granted has shown a score of behaviour that:
- (a) has been approved by the Minister in accordance with clause 4.1 of Schedule 4; and
  - (b) when the visa is granted, is in effect in relation to that visa or another visa;
- the holder must not breach the code.
- Note:** The requirement to sign a code of behaviour may be imposed by public interest criterion 4022 or in accordance with section 195A of the Act.
- 8570** The holder must not:
- (a) enter a country of interest to which:
    - (i) the holder was found to be a person in respect of whom Australia has protection obligations; or
    - (ii) for a member of the family unit of another holder — the other holder was found to be a person in respect of whom Australia has protection obligations; or
  - (b) enter any other country unless:
    - (i) the Minister is satisfied that there are compassionate or compelling circumstances justifying the entry; and
    - (ii) the Minister has approved the entry in writing.
- 8571** The holder must maintain an ongoing relationship with the remaining State or Territory government agency of the government of the State or Territory in which the agency is (or was) located.
- 8572** If requested in writing by the Minister to do so, the holder must undergo a medical assessment carried out by any of the following:
- (a) a Medical Officer of the Commonwealth;
  - (b) a medical practitioner approved by the Minister;
  - (c) a medical practitioner employed by an organisation approved by the Minister.
- 8573** The holder must not stay in Australia for more than 12 months in any period of 24 months.
- 8576** The holder must notify Immigration of a change to any of the following within 14 days after the change occurs:
- (a) the holder's residential address;
  - (b) an email address of the holder;
  - (c) a phone number of the holder;
  - (d) the holder's passport details;
  - (e) the address of an employer of the holder;
  - (f) the address of the location of a position in which the holder is employed.
- 8507 (1)** The holder must work only in the occupation (the **nominated occupation**) nominated by the nomination identified in the application for the most recent Subclass 482 (Temporary Skill Shortage) visa granted to the holder.
- (2)** Unless subclause (3) applies, the holder must:
- (a) if the most recent Subclass 482 (Temporary Skill Shortage) visa granted to the holder is in the Labour Agreement stream — work only for the person who nominated the nominated occupation; or
  - (b) if the most recent Subclass 482 (Temporary Skill Shortage) visa granted to the holder is in the Short-term stream or Medium-term stream and the person who nominated the nominated occupation was an overseas business sponsor at the time the nomination was approved — work only in a position in the person's business; or
  - (c) if the most recent Subclass 482 (Temporary Skill Shortage) visa granted to the holder is in the Short-term stream or Medium-term stream and the person who nominated the nominated occupation was not an overseas business sponsor at the time the nomination was approved — work only in a position in the holder's business or a business of an associated entity of the person.
- (3)** This subclause applies if:
- (a) the nominated occupation is an occupation specified by the Minister in an instrument made under subregulation 2.72(13); or
  - (b) the holder is continuing to work for a person for the purpose of fulfilling a requirement under a law resulting in industrial relations and relating to the giving of notice.
- (4)** Subject to subclause (5), the holder must commence work within:
- (a) if the holder was outside Australia when the visa was granted — 90 days after the holder's arrival in Australia; or
  - (b) if the holder was in Australia when the visa was granted — 90 days after the holder's visa was granted.
- (5)** If the holder ceases employment, the period during which the holder ceases employment must not exceed 60 consecutive days.
- (6)** If the holder is required to hold a licence, registration or membership (an **authorisation**) that is mandatory to perform the nominated occupation in the location where the holder's position is situated, the holder must:
- (a) hold the authorisation within:
    - (i) if the holder was outside Australia when the visa was granted — 90 days after the holder's arrival in Australia; or
    - (ii) if the holder was in Australia when the visa was granted — 90 days after the holder's visa was granted; and
  - (b) continue to hold the authorisation while the holder is performing the occupation; and
  - (c) notify Immigration, in writing, as soon as practicable if an application for the authorisation is refused; and
  - (d) comply with each condition or requirement to which the authorisation is subject; and
  - (e) not engage in work that is inconsistent with the authorisation, including any conditions or requirements to which the authorisation is subject; and
  - (f) notify Immigration, in writing, as soon as practicable if the authorisation ceases to be in force or is revoked or cancelled.



### ATTACHMENT B (Part B)

During interview, the visa holder stated he was not vaccinated against COVID-19. The Visa holder also provided a copy of a medical exemption issued by Tennis Australia. This medical exemption was issued on the grounds that the visa holder has recently recovered from COVID-19. The visa holder stated he had received an Australian Travel Declaration from the Department of Home Affairs, which was lodged on his behalf by Tennis Australia.

Under the Biosecurity Act 2015, there are requirements for entry into Australian territory. These requirements include that international travellers make a declaration as to their vaccination status (vaccinated, unvaccinated, or medically contraindicated). Travellers may make a declaration that they have a medical contraindication and must provide evidence of that medical contraindication provided by their medical practitioner. Previous infection with COVID-19 is not considered a medical contraindication for COVID-19 vaccination in Australia.

Unvaccinated persons create a greater health risk of contracting COVID-19 and spreading COVID-19 to others, either of which will further burden the Australian health system. Ensuring unvaccinated persons do not enter Australia is a key mechanism through which the Australian Government has slowed the spread of COVID-19 within the Australian community.

All visa holders, whether permanent or temporary are expected to abide by all public health directives issued by both Commonwealth and state and territory jurisdictions. A breach of these directions is considered a potential risk to the health, safety or good order of the Australian community.

Subject to Section 116(1) of the *Migration Act 1958*, the Minister may cancel a visa if he or she is satisfied that:

- (e) the presence of its holder in Australia is or may be, or would or might be, a risk to
- (i) the health, safety or good order of the Australian community or a segment of the Australian community

Based on the above information, I am satisfied there are grounds to consider cancelling the visa holder's subclass GG-408 visa. The ground is that, the Minister may cancel a visa if he or she is satisfied that: ... if its holder has not entered Australia or has so entered but has not been immigration cleared – it would be liable to be cancelled under Section 116(1)(e)(i) of the *Migration Act 1958*.

Department of Home Affairs

**Notification of decision**

*Part C – Notification of decision to cancel visa under s116 of the Migration Act 1958*

1 Full name  
 Family name:   
 Given names:

2 On  you were notified of an intention to consider cancelling your  
 subclass  visa granted on  under section 116 of the Migration Act 1958.

3 You  DID NOT RESPOND OR ADVISED YOU DID NOT WISH TO RESPOND to the notice of intention to consider cancelling the visa   
 RESPONDED to the notice of intention to consider cancelling the visa (Refer to Item 5 and Item 8, Part B for details of your response)  Your comments have been taken into account in making this decision

4 I am satisfied that there are grounds for visa cancellation under:  
 s116(1)(a)  
 s116(1)(aa)  
 s116(1)(b) because I am satisfied that you have not complied with condition   
 (Refer to reverse of pages 4, 5, 6 and front and reverse of page 7 for details of conditions)  
 s116(1)(c)  
 s116(1)(d) because I am satisfied a ground exists at   
 (Enter relevant ground here – s101, s102, s103, s104 or s105)  
 s116(1)(e) (i)  (ii)   
 s116(1)(f)  
 s116(1)(fa) (i)  (ii)   
 s116(1)(g) because I am satisfied a ground exists at Reg 2.43(1)   
 other

Please refer to reverse of pages 1, 2 and 3 for reference to the relevant legislation.

Where the Minister can cancel a visa under subsection 116(1) of the Act, the Minister must do so if there exist prescribed circumstances in which the visa must be cancelled (see subsection 116(3) of the Act and the 'prescribed circumstances' in subregulation 2.43(2) of the Migration Regulations 1994) – refer to reverse of page 5.

After weighing up all of the information available to me I was satisfied that the grounds for cancelling your visa outweighed the reasons for not cancelling.

A copy of the Department's decision record is attached.

5 Your visa (and the visa of any dependants) has been cancelled on

As your visa has been cancelled you may be refused immigration clearance. You may also be detained and removed from Australia as an unlawful non-citizen under s189 of the Migration Act 1958.

Where your visa is evidenced in your passport, it will be stamped 'NO OPERATIVE' due to the cancellation. Note: The decision to cancel is not merits-reviewable under the Migration Act 1958.

Other relevant agencies will be advised that your visa has been cancelled.

6 Delegate's details  
 Signature of officer:   
 Name:   
 Position number:   
 Date:  Time:

7 Former visa holder's signature to verify that Part B (Record of decision whether to cancel visa) and Part C (Notification of decision to cancel visa under s116) has been received.  
 Signature of former visa holder:   
 Date:  Time:

8 Interpreter details  
 Signature of interpreter:   
 Date:  Time:   
 TIS number:

The information recorded on this form may be used as a basis for recording the electronic report of the cancellation.