
TRANSCRIPT OF PROCEEDINGS

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2014 HAZELWOOD MINE FIRE INQUIRY

MORWELL

FRIDAY, 13 JUNE 2014

(14th day of hearing)

BEFORE:

THE HONOURABLE BERNARD TEAGUE AO - Chairman

PROFESSOR EMERITUS JOHN CATFORD - Board Member

MS SONIA PETERING - Board Member

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1 MS RICHARDS: Good morning. This morning's first witness is
2 Roderick Incoll who is a bushfire risk consultant.
3 Mr Incoll, could you please come forward please.

4 <RODERICK ALAN INCOLL, sworn and examined:

5 MS RICHARDS: Good morning, Mr Incoll. Could you please 09.37AM
6 state again your full name and your address?---Roderick
7 Alan Incoll and I live at Mystery Basin Rise in Bright.
8 Mr Incoll, at the request of the Inquiry you have prepared a
9 report?---Yes.

10 You have a copy of it there in front of you. It's a report 09.37AM
11 of 286 paragraphs with six appendices. Have you
12 re-read your report recently?---Yes.
13 Are there any corrections or alterations that you would like
14 to make to your report?---No.

15 Is your report true and correct?---It is true and correct. 09.38AM
16 Are the opinions that you express in it opinions that you
17 honestly hold?---They are.

18 I tender that, if I could.

19
20 #EXHIBIT 92 - Statement of Roderick Incoll. 09.38AM

21
22 MS RICHARDS: One of the appendices to your report,
23 Mr Incoll, in fact your first appendix is a copy of
24 your curriculum vitae?---Yes.

25 You have a number of formal qualifications; your initial 09.38AM
26 qualification was in forestry?---Yes.

27 When did you obtain that and from where?---Victorian School
28 of Forestry, Creswick, in 1959.

29 You have another Diploma of Forestry that you obtained more
30 recently in the 1980s?---Yes, that was by a thesis, the 09.38AM
31 Diploma of Forestry, Victoria.

1 What was your thesis?---The thesis was about the logistics
2 required for fighting major fires and catering for the
3 firefighters.

4 You also have a Graduate Diploma of Business from Monash
5 University that you obtained in 1987?---Yes. 09.39AM

6 More recently a Bachelor of Arts in Social Science that you
7 completed in 1994?---Yes.

8 What did you major in with your Bachelor of
9 Arts?---Psychology.

10 You started your working life in 1960 as a forester?---Yes. 09.39AM

11 And worked in a range of locations for what was then
12 I believe the Forestry Commission?---Yes, Forests
13 Commission, Victoria.

14 At the same time you were a member of the army reserve?---I
15 was. 09.40AM

16 Between, I think 1963 and 1974?---Yes.

17 Between 1971 and 1972 you were a fire training officer with
18 the Fire Protection Branch in the Forests
19 Commission?---Yes, I set up the training department in
20 the Forests Commission. 09.40AM

21 Then from 1976 through to 1984 you were the District
22 Forester at Toolangi?---Yes.

23 Again, for the Forests Commission?---That's correct.

24 Toolangi is a forested area to the northeast of
25 Melbourne?---That's correct. 09.40AM

26 That position was made redundant in 1984 and you moved to a
27 quite different area of employment with the State
28 Electricity Commission of Victoria?---Yes. There were
29 similarities but there were certainly differences.

30 You worked for the State Electricity Commission here in the 09.41AM
31 Latrobe Valley between 1984 and 1989?---Correct.

1 What were the different roles that you held with the
2 SEC?---I came in as the Emergency Services officer
3 looking after the Shift Fire Service which attended to
4 anything outside the open cuts, the open cuts had their
5 own Fire Services, and I tended to the Rural Services 09.41AM
6 Group who had a role in forestry-related activities,
7 firefighting and rehabilitation works as contracted.

8 You moved from that position?---Yes, I became the
9 Superintendent, General Services.

10 In 1986?---Following the time of the rhomboid. I pretty 09.41AM
11 much stayed in that position for the rest of my time in
12 the valley, although it changed. There was a
13 reorganisation that gave me the same job with a
14 different name, which was Manager, General Services.
15 The job looked after all of the service provision right 09.42AM
16 across the valley; drafting survey, rural services,
17 Emergency Services like the Shift Fire Service, and
18 some other services. It pulled all that together into
19 a single focus. Subsequently there was a
20 reorganisation that was, I guess, focused on preparing 09.42AM
21 for the privatisation. I did a similar job but I
22 shifted to Yallourn as the Services Manager at
23 Yallourn.

24 That's the last role that you list there at the Yallourn
25 Production Centre between 1989 and 1990?---That's 09.43AM
26 correct.

27 During this period in about 1987 to 1988 you directed your
28 attention to the future of the Fire Services Group,
29 employed by the SEC. Can you tell the Board about
30 that?---Yes, as I said, I managed a three-shift Fire 09.43AM
31 Service, they were industrial firefighters and there

1 was about three shifts across three stations with a
2 good range of equipment. From memory there was about
3 40 personnel.

4 This was separate from the Mine Fire Service?---Yes, quite
5 separate. It looked after all the infrastructure
6 outside the open cuts and it attended in support of the
7 open cut Fire Services, including power stations; they
8 often went to power station fires, sometimes they
9 backed up open cuts. They also did emergency rescue,
10 they were specialists in emergency rescue.

09.43AM

09.44AM

11 It seemed to me, working with the group, that they
12 didn't have much of a career plan; I guess there was an
13 inkling of what was coming up.

14 By which you're referring to the privatisation of the
15 electricity industry?---Yes, reorganisation. It seemed
16 to me that it would be a good move, and the General
17 Manager Production agreed to try and interest the CFA
18 Board in taking over the Shift Fire Service. As a
19 result the CFA Board came down and met in the valley, I
20 made a presentation to them and showed them the
21 facilities. They went away, they were quite interested
22 in the idea. They went away and they said that in
23 refusing the offer, which would have included all of
24 the plant and equipment and the personnel, that they
25 had some legislative difficulties; bottom line. I
26 wasn't a party to the Board minutes or anything like
27 that, but I guess the interesting point was that a
28 couple of years later, following privatisation, the
29 Government simply dumped the protection of what they'd
30 been looking after and a lot more in the lap of the CFA
31 and said, there it is, it's yours, it's in the country

09.44AM

09.45AM

09.45AM

09.45AM

1 area of Victoria, look after it. I'm not sure exactly
2 what happened to the members of the Shift Fire Service
3 since I was working in another area, but I think there
4 was an opportunity foregone there.

5 Was the Mine Fire Service included in that proposal?--No. 09.46AM

6 No, they were very separate. I rarely had any business
7 with them. We had a mutual understanding that they
8 knew their business, and they were very good at it,
9 which they were, and I knew business and, if they
10 needed any assistance, they'd let me know. I was quite 09.46AM
11 happy with that arrangement because it worked very
12 effectively.

13 Your time at the state Electricity Commission came to an end
14 in 1990 and you moved back to the forestry area?---In a
15 manner of speaking. 09.46AM

16 This time was the Chief Fire Officer of what was by then
17 known as the Department of Natural Resources and
18 Environment; that was a role that you held for six
19 years until 1996?---Yes. I moved back - there was a
20 number of identities in the Department that I worked 09.47AM
21 for, I think it was Conservation and Environment to
22 start with.

23 Various names, Conservation Forests and Lands at one
24 point?---That was initially. Conservation and
25 Environment. I had five Ministers and two Governments 09.47AM
26 in six years, and I think in that there were either
27 three or four identity changes, so it was fairly
28 difficult knowing who you were giving advice to at
29 times, but yes, that was my lot.

30 During that time you were also a member of the Board of the 09.47AM
31 CFA?---I was.

1 And you were also a Director of the Australasian Fire
2 Authorities Council?---Yes, I was a Foundation Director
3 of that. We got together and decided it would be a
4 good idea and set it up and it's still operating.
5 Indeed, it's just made a submission to the Board. You left 09.48AM
6 that position in 1996?---Yes.
7 Was that a semi-retirement move?---Well, I guess it is but
8 it hasn't turned out to be.
9 Since that time you've been working as what you call a
10 Bushfire Risk Consultant?---Yes. 09.48AM
11 What is the kind of work that you've done with that
12 consultancy?---That's essentially expert witness work,
13 but there's been a lot of - for instance, I've been the
14 fire advisor to the City of Whitehorse. Initially I
15 trained their crews in fuel reduction burning and we 09.48AM
16 did a fair bit of fuel reduction burning in urban
17 reserves. We moved that contract for health and safety
18 reasons, but I did all their planning. I had some
19 trouble with intense fires in some of the bigger
20 reserves, and I did a strategic plan for them and a 09.49AM
21 fire prevention plan for each of the reserves and there
22 hasn't been any similar incidents since.
23 Since moving from the metropolitan area, that
24 role's now gone to a corporate organisation, but yes,
25 that was an interesting role. I've done a fair bit of 09.49AM
26 work for municipalities, mainly looking at fire risks
27 and giving them advice or doing some planning and
28 attending to make sure the planning was implemented.
29 There's one thing doing planning, the next thing is
30 making sure it's done, and basically I don't like doing 09.49AM
31 plans that just sit on shelves. So I tell them that to

1 start with and basically I seem to get away with it.
2 You mentioned also that you'd done some expert witness work
3 and a recent example of that is being engaged by
4 SP AusNet in the Kilmore East Bushfire class
5 action?---Yes. 09.50AM
6 That, as we read, is just coming to a conclusion?---Yes.
7 Yes, that was an interesting experience. I've done,
8 nothing like that extent, but I've done a number of
9 those I guess expert witness studies, papers, and most
10 of them seem to end up being settled out of court, but 09.50AM
11 the East Kilmore one didn't and I'll stop there.
12 That involved you giving evidence concurrently with other
13 experts over a period of some days, did it not?---Six
14 and a half days in the witness box.
15 I promise that it won't take that long today. Can we leave 09.51AM
16 your career and your collection of experience and
17 expertise and move to the instructions that you were
18 provided to complete your report. Initially you were
19 provided with a letter of instruction, that's
20 Appendix 2 to your report?---Yes. 09.51AM
21 That set out the questions that the Board asked you to
22 address and a number of documents that were available
23 to the Board at that time which are listed on the
24 second and third page, 1-21. That was provided to you
25 in a couple of volumes in hard copy?---Yes. 09.52AM
26 Subsequently, as is foreshadowed in that letter, we provided
27 a number of other statements, submissions and documents
28 and these are listed in a document that was circulated
29 to the parties yesterday, "Documents reviewed by Rod
30 Incoll." Do you have a copy of that there or can we 09.52AM
31 arrange for a copy to be provided. We have found it.

1 I think this is a document that you reviewed yesterday
2 or the day before yesterday?---Yes, that's correct.
3 That sets out a list of the additional material that you
4 were provided with after your initial letter of
5 instruction?---Yes. 09.53AM
6 It's worth noting that some of that material, in particular
7 the statement of Richard Polmear and the statement of
8 James Faithfull and also the transcript of the hearing
9 on 11 June, were only provided to you on
10 Wednesday?---Yes. 09.53AM
11 So you didn't have that material to hand when you wrote your
12 report?---No.
13 Having read that material and having sat through
14 Mr Polmear's and Mr Faithfull's evidence
15 yesterday - - -?---Yes, it was interesting. 09.54AM
16 - - - did you reconsider or review any of the opinions that
17 you expressed in your report?---No, I think they
18 reinforced the opinions that I had in the report. It
19 was more information and I guess the report would have
20 had a different slant if I'd had that, but that's just 09.54AM
21 the way it happened.
22 Then finally in terms of your instructions, you visited the
23 mine on Friday, 16 May together with Professor
24 Cliff?---Yes.
25 Can you outline what you were able to see and the 09.54AM
26 information you were able to obtain during that site
27 visit?---Yes. We entered the mine via the lookout on
28 the southern side and I could immediately see it was
29 much bigger than it used to be; in fact, the size and
30 expanse of it is one of the big issues that I guess 09.55AM
31 confronted the firefighters. From there we had a good

1 tour around the mine and down into the area across the
2 top of the groyne into the northern batters, and I was
3 able to see all that firsthand and it was quite a good
4 tour.

5 I think there are some photographs that you took during that 09.55AM
6 tour that you've incorporated into your report?---I
7 have, yes.

8 I should ask that that document headed, "Documents reviewed
9 by Rod Incoll" be incorporated into the exhibit that is
10 his report. 09.55AM

11
12 #EXHIBIT 92 - (Addition) Document headed, "Documents
13 reviewed by Rod Incoll."

14 MS RICHARDS: Going back to your report, Mr Incoll, the
15 first question that the Inquiry asked you to address 09.56AM
16 was the adequacy of the fire risk mitigation framework
17 and you start to address this issue on page 4 of your
18 report. The format that you have adopted is to look at
19 the different segments of regulation and to set out
20 your understanding of them?---Yes. 09.56AM

21 And to express a brief view at the end of each section about
22 the adequacy of that particular area of
23 regulation?---Yes.

24 The first of those is mine regulation, I won't ask you to go
25 through the basis of the regulation, I'll take you 09.56AM
26 straight to paragraph 44 where you make some
27 observations about rehabilitation and its primary
28 purpose and its connection with fire protection. Could
29 you expand on that please?---Rehabilitation is of
30 course the process for restoring land capability. I 09.57AM
31 guess I'm looking at it from another point of view. I

1 don't see fire protection and rehabilitation as being
2 coupled necessarily; what I'm interested in seeing is
3 earth cover and not necessarily rehabilitation. I
4 mean, rehabilitation achieves that, and that's fine,
5 because it ultimately has to be done, but
6 rehabilitation's not about fire protection, earth cover
7 is, and there's a distinct difference between them.

09.58AM

8 There's an acknowledgment there at paragraphs 44 and 45 that
9 rehabilitation's primary aim is not fire protection but
10 it is a side effect of it, if you like, or a side
11 benefit of it?---Absolutely. It's good - obviously
12 from a corporate point of view, if you can do the
13 rehabilitation, it saves you additional cost that might
14 be incurred in protection.

09.58AM

15 Given that it's work that must be done at some stage between
16 now and the end of the mine licence?---As long as you
17 don't have to undo it before you do the rehabilitation
18 through changing your angle of repose of the batters or
19 something like that. But, yes, I just see them as two
20 separate things; really what I'm interested in is earth
21 cover on exposed coal, either earth cover or water on
22 exposed coal during fire danger weather.

09.58AM

09.58AM

23 We'll come to that in a while. At the bottom of page 6
24 under the heading, "Is the framework for mine
25 regulation adequate?" You've expressed a number of
26 conclusions. Could you just talk through those
27 please?---I couldn't see any evidence in the
28 documentation that I read that, once approval had been
29 given or a revised plan had been approved, there didn't
30 seem to be a lot of follow-up to ensure all the
31 approved policies and plans were implemented as

09.59AM

09.59AM

1 proposed. The main opportunity for monitoring seemed
2 to be the occurrence of a reportable event, in which
3 case the mine was required to provide details of
4 actions taken or to be taken to prevent a recurrence of
5 the event. But I couldn't see any evidence in what I 10.00AM
6 read that there was going to be an audit of
7 effectiveness at the end of that process.

8 The evidence has been that since that requirement was
9 included in the Mineral Resources Development Act in
10 about 2010 there's only been one major mine fire 10.00AM
11 reported to the Chief Inspector of Mines and that that
12 report was made orally?---Yes.

13 And in view of the establishment of this Inquiry no further
14 follow-up has been - - -?---From what I read I didn't
15 see anything in there that said that, okay, let's do a 10.00AM
16 follow-up and make sure that what's being proposed is
17 actually being implemented. That's a big problem with
18 planning all the way through.

19 Then you note at paragraph 62 that there is a variation
20 between the Fire Service network schematic that's part 10.01AM
21 of the original work plan that was approved
22 in September 1996 and the Fire Service network as it
23 was at 9 February?---Yes, and we've subsequently heard
24 a lot more about that, but comparing the original plan
25 in the mining licence schedule of conditions, and the 10.01AM
26 one that was tendered to the Inquiry by Mr Dugan, there
27 was the obvious difference that the northern batters
28 didn't seem to be covered in the later model and, as I
29 say, the Inquiry's heard a lot about that.

30 Probably the most important conclusion that you draw at this 10.01AM
31 stage is that the mining licence conditions don't

1 really deal with fire protection?---Yes.

2 Aside from a reference to the Bushfire Mitigation Program,
3 Emergency Response Plan, Fire Instructions and Fire
4 Protection Policy?---It's hard to find. It's not in
5 the actual licence conditions as such, it's tucked away 10.02AM
6 in the rehabilitation department, and it's not part of
7 the initial conditions. I had trouble finding it.
8 It's in the rehabilitation documentation.

9 So this is in the 2009 variation to the work plan?---No, in
10 the originally licence document. 10.02AM

11 All right, yes?---There was only one page that covered all
12 of the aspects of fire protection, and just heads of -
13 I guess, points for attention, lists of points for
14 attention, which were subsequently done. But it seemed
15 to me that, given the importance in this environment of 10.02AM
16 fires and fire protection, that it should have been a
17 major part of the conditions.

18 You say at paragraph 64 that the lack of regulatory emphasis
19 on fire protection is remarkable?---Yes, I thought so.

20 Particularly given, in the case of this mine, its proximity 10.03AM
21 to a town?---Obviously it's all about coal production,
22 but fire protection's very much a part of that as well,
23 in my opinion, and I think that's been demonstrated all
24 through the open cut mining experience, and I think
25 that there should be a section of the mining conditions 10.03AM
26 that are explicit about the fire protection
27 arrangements.

28 The last point you note there in relation to the scheme of
29 mine regulation is the, you put it quite
30 diplomatically, extended timeline for the devising of a 10.04AM
31 methodology to assess the rehabilitation

1 liability?---Yes, I guess that is something that needs
2 to be done. It's obviously very complex and it's
3 probably quite political as well, but if you look at
4 500 hectares of mined over country and \$15 million, you
5 come up with \$30,000 a hectare and I don't think that 10.04AM
6 would do a lot of rehabilitation.

7 MEMBER PETERING: Just on that point, I did ask a couple of
8 witnesses yesterday, Mr Incoll, about ranges of costs
9 of rehabilitation. So, are you able to give a guide?
10 You just said then that \$30,000 perhaps is insufficient 10.04AM
11 per hectare. What would be a more realistic
12 number?---I wouldn't go down that path, it's not my
13 area of expertise.

14 MS RICHARDS: We haven't yet found a person whose area of
15 expertise it is, Mr Incoll?---I think it would take, it 10.05AM
16 would probably cost that to get rid of the
17 infrastructure.

18 The next area of regulation that you deal with is
19 occupational health and safety starting on page 7 and
20 you identify a couple of issues at the top of page 9. 10.05AM
21 The first of those is at paragraph 77 - start at
22 paragraph 76 but move to 77 - and you identified that
23 as far as you could tell there was no arrangements to
24 address the mine operator's obligations under s.23 of
25 the Health and Safety Act?---Yes, I found that quite 10.05AM
26 interesting, whereas s.20 sets out the obligation to
27 employees, and s.21 sets out the obligation of
28 employees; s.23 sets out the obligation of a
29 corporation to other parties, which I believe would
30 include the people in the nearby township, particularly 10.06AM
31 in view of the proximity of the township which was in

1 existence when the company took the operation over. It
2 would seem to me that, if that statement had been made
3 in some form and taken up as a risk assessment, then
4 maybe this could have been foreseen and some
5 preventative measures could have been taken. There is 10.06AM
6 an opportunity there, it's not well defined in the Act,
7 there's no implementation or regulations about it, but
8 the provision is there. I didn't have the opportunity
9 to go back into the drafting of the Act to find out why
10 it was put in there, but it nevertheless is there and I 10.07AM
11 couldn't resist the opportunity to comment on it.

12 You also distinguish between the extensive framework for
13 health and safety in relation to fire in the proximity
14 of the mine, which I take to be a reference to a fire
15 that starts in the mine?---Yes. 10.07AM

16 Because of the workings of machinery?---Yes.

17 And fire that extends into the mine from the
18 outside?---That's right, yes. I think I deal with it
19 later on, but the infamous bow-tie diagram and the flow
20 on from that does identify bushfire and gives some 10.07AM
21 parameters for its management, but it doesn't seek to
22 extend that beyond the perimeter of the mine by going
23 out and looking at risk factors that might cause ember
24 showers or whatever, some sort of fire incident to the
25 mining operation. 10.08AM

26 You make the observation at that point that the measures
27 that are adopted in relation to externally caused fire
28 are reactive rather than proactive?---Yes, that's
29 right, they are. I think the comment that I'd make is
30 that, obviously fire is well dealt with within the 10.08AM
31 mine, but I think they're really looking at what

1 happens in the mine and the impact on coal production,
2 which is what you'd expect, rather than looking beyond
3 the perimeter of the mine.

4 By reactive rather than proactive, reactive is suppressing
5 the fire once it's started; proactive is attempting to 10.09AM
6 prevent it (indistinct - multiple speakers)?---Yes,
7 that's right, it's all about response rather than
8 prevention. Although they do - the plan talks about
9 the management of the land between the perimeter of the
10 mine, perimeter of the void and the perimeter of the 10.09AM
11 land they manage, just the usual range of measures
12 you'd expect in there.

13 So fire break and vegetation management?---Fire break
14 (indistinct), very important, all of those things that
15 serve to minimise the fire hazard in the conventional 10.10AM
16 way.

17 In the sense of a fire front moving towards the mine, but
18 it's not at all effective in relation to ember
19 showers?---Or perhaps the fire front moving towards the
20 mine, as I think we'll probably get the opportunity to 10.10AM
21 discuss later.

22 Moving then to Emergency Management Planning, there are a
23 couple of observations that you make under this heading
24 having reviewed the arrangements that are in place.
25 One of those is at paragraph 104 about the overlap 10.10AM
26 between Fire Management Planning and the long
27 established Municipal Planning process. By that do you
28 mean Municipal Fire Prevention Planning?---Yes, the
29 Municipal Fire Prevention Committee, yes, and of course
30 that's currently in the process of change. As far as 10.11AM
31 I've been able to find out, the change hasn't actually

1 occurred yet.

2 We had some evidence from Mr King, and I think you were here
3 for that evidence?---I was.

4 He spoke about the transition from a Municipal Fire
5 Prevention Committee to a Municipal Fire Management 10.11AM
6 Planning Committee?---Yes.

7 The point that you are alluding to here and that you draw
8 out later in your report is that there is a legislative
9 basis for municipal fire prevention and the work of the
10 Municipal Fire Prevention Committee, but there's no 10.11AM
11 legislative basis for Integrated Fire Management
12 Planning at any level?---I'm interested in that area,
13 yes, but I think I might say that I've attended
14 Municipal Fire Prevention Planning Committees for
15 30-odd years in various parts of the State and it was 10.12AM
16 very good from the point of view of getting to know the
17 people that you'd be fighting fires with - - -

18 Which is not to be understated?---That's not to be
19 understated, but as far as the planning component went,
20 some of them did some planning or collected plans, but 10.12AM
21 as a person who is responsible for managing a major
22 hazard in those areas, that's the forest area including
23 the national parks, I was very rarely ever asked to do
24 anything or take any action in the hazards that they
25 hotly debated in the forest and parks which I was happy 10.12AM
26 to contribute to. In other words, it was basically a
27 planning committee that made plans, that sometimes made
28 plans that were never implemented. There was really no
29 implementation. It might have been good for brigade
30 co-ordination of roadside burning and things like that, 10.13AM
31 but a planning committee really doesn't do anything.

1 I've got the same criticism of the new system.
2 There's really no, as far as I'm aware, there's no
3 enabling legislation that says, once you've made that
4 plan, here's how it's going to be implemented. This is
5 the process that will be taken and this is how that 10.13AM
6 process is going to be audited to make sure it happens.
7 I mean, that's quite difficult when you've got a very
8 large international corporation sitting around the
9 table and they've got their plans, which I'm sure
10 they're happy to share or talk about, but as far as 10.13AM
11 saying, okay, well, let's get in there to that
12 particular workplace on behalf of the committee and see
13 how well you're implementing that plan or what else is
14 required; no way. I think that's a very difficult
15 proposition and that's why planning committees tend to 10.14AM
16 stay planning committees.

17 Your experience over 30 years is entirely consistent with
18 the evidence you heard Mr King give on
19 Wednesday?---Yes.

20 The other observation that you make at this point is about 10.14AM
21 the lack of an interface between the Fire Management
22 Planning process at a local level and the mine?---Well,
23 that's right. I mean, even if they're on the committee
24 or represented on the committee in some way, the same
25 comment still applies. Under the CFA Act they weren't 10.14AM
26 included in the committee, they were excluded from the
27 committee by s.43, they weren't required to attend;
28 whereas they were required to remove fire hazards under
29 s.41, which they did. I mean, those issues have to be
30 picked up if the system's going to work, otherwise 10.15AM
31 there's a lot of people in various positions putting in

1 a lot of work and nothing happens.

2 Under the heading of, "Municipal fire prevention" you also
3 comment on the overlap between the existing legislative
4 scheme under the CFA Act and the Integrated Fire
5 Management Planning framework that has developed over a 10.15AM
6 number of years with only really a policy basis?---Yes,
7 well, most municipalities seem to handle that quite
8 well from a management point of view by having the same
9 people doing both jobs, because they're essentially
10 much the same people on the committees with the same 10.16AM
11 range of interests. My fundamental problem with that
12 whole process is that the plans are never implemented.
13 Really, the sort of planning that we're talking about
14 here that is going to avoid incidents like this in
15 future, to have that sort of implementation action is, 10.16AM
16 I think, it's not worth a share, not even on the
17 horizon as far as I can see, although there's new
18 structures being put in place.

19 The last area that you deal with in your outline of the
20 regulatory framework is land use planning. You make a 10.16AM
21 couple of observations at the bottom of page 14 having
22 reviewed what's currently in place. The first of these
23 is that there is, as a legacy issue, an inadequate
24 urban buffer between the Hazelwood Coal Mine and
25 Morwell?---Well, absolutely; that's the elephant in the 10.17AM
26 room. I think Mr Langmore said 1.5 kilometres was a
27 reasonable buffer, and others have said more, but that
28 is the whole - I mean, there's a major issue there and
29 it was there when the corporation that's currently
30 managing the mine took it over, so that it wasn't news 10.17AM
31 to them.

1 As Mr Langmore notes in his submission, it's as a result of
2 decisions that were made in the 1940s and 1950s and it
3 is now the fact that has to be managed.

4 The other point that you note at paragraph 138 is
5 the establishment of eucalypt plantations to the

10.17AM

6 northwest and southwest of the mine?---Yes, well that
7 really beggars belief, it does. It proves really - I
8 mean, in 1987 I did a desktop exercise with the

9 managers from each of the open cuts and the GMP - it
10 was the GMP's exercise actually, I wrote it for him -

10.18AM

11 he was very strong on the business of bushfires and I
12 had several speakers and we did some desktop exercises
13 about this very subject of embers coming into the

14 mines. In the afternoon I put all of the people that
15 were in the exercise in a big helicopter and we

10.19AM

16 actually looked at the forests and flew down the
17 possible paths that embers could follow to get into the
18 mines. I mean, there's nothing novel about it, it's a

19 well demonstrated and well-known propensity of fires
20 and has been for many years. That exercise was just to

10.19AM

21 reinforce it and make sure that the then managers knew
22 and made proper provision for it, which I believe they
23 did. I mean, there's nothing new about it, and it just

24 beggars belief that, because of the nature of the fire
25 threat, the north to west sector is the one that's most

10.19AM

26 important from the intense fire point of view, and low
27 and behold, here we have eucalypt plantations right in
28 the path of fires which I found incredible.

29 The evidence is in a state of some uncertainty about when

30 those plantations were first put in place and whether

10.20AM

31 it was before or after the mine extended or was given

1 permission to extend westwards?---Nevertheless; I mean,
2 we're not talking about a kilometre or two, we're
3 talking about the ability of long distance spotting and
4 those plantations aren't far from the mine. I mean,
5 you can debate the issues of who did what when, but the 10.20AM
6 fact is they're well within spotting distance, as any
7 Fire Management 101 lecturer would be able to
8 demonstrate.

9 So again, your point is, like the town of Morwell, they're
10 there and it's a risk that has to be 10.21AM
11 acknowledged?---Well, they are there, that's right; I
12 mean, that is a fact. The plantations are there, I'm
13 not sure for how much longer, what the rotation is for
14 those trees, and I guess when time comes for replanting
15 this whole thing can be talked through again. I mean, 10.21AM
16 they really couldn't have picked a worse species to
17 plant there; pines wouldn't have been nearly as bad.

18 If we can move to Part 2 in which you deal with the adequacy
19 of measures taken by the mine operator to mitigate the
20 risk of fire at the mine. Before we move to your 10.21AM
21 report, I'd like to ask you about your views on the
22 foreseeability of the fire that took hold in the mine
23 on 9 February. We've had numerous witnesses describe
24 it as unprecedented, entirely unpredictable, and you
25 were here yesterday when Mr Polmear made the point that 10.22AM
26 on average an external fire had entered an open cut
27 mine in the Latrobe Valley once every 45 years and it
28 hadn't happened since privatisation of the mines.

29 What's your view about the foreseeability of the fire
30 that happened in February of this year?---If I could 10.22AM
31 preface my remarks by looking at page 51 of my report

1 which was a map that was drawn up for the policy for
2 the protection of SECV assets from rural fires which I
3 did in the mid-1980s, that shows the number of fires
4 between 1923 and 1983. You can see from the fire
5 shapes, it's rather indistinct and it's probably easier 10.23AM
6 to understand it up the other way.

7 You will need to explain this map to us, Mr Incoll?---Yes,
8 it's an aged map. The colour code down the bottom, the
9 bottom left-hand corner of the map, if we could have a
10 look at the colour code, maybe zoom in a bit on the 10.23AM
11 colour code, that will give us the range of fires from
12 1923 to 1983, the external fires around the mine. If
13 we could go back to the map and focus out a bit so we
14 can see the areas, we can see - - -

15 Sorry, can you point out where the Hazelwood Mine is on that 10.24AM
16 map? I think I can see it, but I'd just like to be
17 sure?---This is the township of Morwell we're looking
18 at there, and the Hazelwood Mine is in here.

19 On this map we can see the townships of Moe and Newborough
20 to the left?---That's the Yallourn Open Cut there. 10.24AM
21 Yallourn Open Cut right in the middle?---And that's Morwell
22 Open Cut there.

23 Immediately to the south of Morwell. The point to be drawn
24 from this map is, plenty of fire around the open cut
25 mines in the Latrobe Valley even if there were only 10.24AM
26 limited occasions on which fires actually entered the
27 mine?---It appears that there was one in 1923, that's
28 the brown one I believe, and the red one is 1944, I
29 think. Look, I'm really unclear about the details, but
30 the 2006 fires came down from the State forests and 10.25AM
31 very nearly went into the Yallourn Open Cut, I think

1 they threatened Newborough at one stage. They're
2 obviously outside the time frame of this map.

3 But the point here is that, apart from the details
4 of the fires which can be explored and properly
5 labelled and what have you, that the mine is set in the 10.25AM
6 rural countryside and there's rising ground to the west
7 of the mine and that's a perfect situation for a high
8 intensity fire, as happened. It's a significant event,
9 that's a significant opportunity for high intensity
10 fire. The fact that it doesn't happen very often - 10.26AM
11 there's some debate about how often it could happen if
12 you want to put probabilities on it - but the fact that
13 it happens at all or it's likely to happen is the issue
14 that has to be managed; not, we've had one now and it
15 won't burn again for five years so we don't need to do 10.26AM
16 anything or, it doesn't happen very often so we don't
17 need to do anything at all. I mean, the consequences
18 are so extreme that the maximum - I think the Health
19 and Safety Act says something about taking the maximum,
20 reducing the risk to the absolute minimum if the risk 10.27AM
21 can't be eliminated. This risk can't be eliminated,
22 it's always with us, so it's got to be reduced to the
23 absolutely minimum.

24 At least this is a plan that can be drawn up
25 readily and it can be implemented with some 10.27AM
26 difficulties in some areas, but it can be implemented.
27 I think the thing that can then happen is that mine
28 managers know that it's a possibility under certain
29 conditions.

30 CHAIRMAN: Can I interrupt to make the enquiry, going to the 10.27AM
31 first part of the answer, you would say it is extremely

1 vulnerable?---Yes.

2 Have you heard the expression "eggshell skull"?---Yes.

3 This is an eggshell skull so far as Victoria is

4 concerned?---It is, yes. And here's a very good

5 example of it and it's a perfect scenario for it. 10.28AM

6 Right at the end of the shooting gallery, here's a big

7 coal mine just ready to go and it's 500 hectares of

8 exposure. It's a very significant exposure, it's a

9 very significant risk exposure. It has to be handled

10 on the dualities of prevention and it has to be handled 10.28AM

11 on readiness so that, when weather conditions are such

12 on a hot dry windy day that a fire could start and

13 embers could go into the open cut, then those

14 responsible for fire response need to know where the

15 resources are going to come from to get that fire in 10.29AM

16 the first absolutely maximum of an hour.

17 MS RICHARDS: We'll come to the measures that you're

18 proposing in a short time. We've had evidence about

19 the conditions on 9 February, it was a very hot day, it

20 was typical fire weather. There was a fire already 10.29AM

21 burning to the northwest of the mine that broke its

22 control lines about half an hour before the wind

23 changed to the southwest, and almost as the wind

24 changed, a fire was apparently deliberately lit to the

25 southwest of the mine. You've read the statements by a 10.29AM

26 number of people working at the mine about what

27 happened after that. Is that the worst-case scenario

28 imaginable for the mine?---No, it's not. There's two

29 scenarios that I think are more extreme. The first one

30 is that the change doesn't come when it did and the 10.30AM

31 Hernes Oak Fire could have come into the mine propelled

1 by strong wind, and there's nothing that anyone could
2 have done to have stopped it because of the fire
3 intensity levels. It would have come into the mine and
4 the ember showering and the destruction of
5 infrastructure would have been much more severe. Now, 10.30AM
6 that's taking those weather conditions on that day, so
7 that's the first way it could have been more serious.

8 The second way is that the weather conditions
9 could have been much more extreme. If you look at the
10 weather conditions - in fact, if you go to page 50 of 10.30AM
11 my report I've got there the AWS printout from Latrobe
12 Valley Airport, if it's readable. If we zoom in about
13 the middle part of the map, we can pick up the time
14 that the wind change came through around 13:47 from
15 northwest to southwest. If we go to the green line 10.31AM
16 which is constant wind speed, if you like the minimum
17 wind speed, is in the first green column and the
18 maximum wind speed is in the second green column. You
19 can see the wind doesn't abate until pretty much after
20 8 o'clock, right up the top of the chart. The 10.31AM
21 temperature does drop from 40 degrees around the time
22 of the wind change, but the significant thing that I
23 want to point out is the third blue column which is the
24 relative humidity. The relative humidity at the time
25 of the wind change was 11 per cent. That, in terms of 10.32AM
26 relative humidity with high intensity fire, is fairly
27 high. You can see immediately the southwest wind
28 change came through, the humidity rose to 32 per cent
29 and it rose from there on. The minimum relative
30 humidity was at the time of the northwest wind change 10.32AM
31 of 11 per cent. That leads to reasonably high fuel

1 moisture contents. When you get below 7 per cent you
2 get much more extreme fire behaviour. Then if you go
3 the next step and go below 5 per cent, which we had
4 some examples of on Black Saturday, then you have
5 extremely high fire intensities and consequently much 10.33AM
6 more accelerated rates of spread, flame temperatures
7 with those winds, flame angles. There's really two
8 circumstances under which exposure could be much more
9 severe than was the case on the 9th.

10 Would you say that it's those worst-case scenarios that 10.33AM
11 should guide fire mitigation planning?---I'd go for the
12 maximum scenario, I think you have to, you have to work
13 on the maximum scenario when you're doing your
14 modelling. It's no good using a fire that was
15 sub-maximal. 10.33AM

16 Towards the end of your survey of the fire mitigation
17 measures taken by Hazelwood Mine you make an
18 observation about relationships with the CFA starting
19 at page 22 at paragraph 171. You observe that it's a
20 critical relationship that has to work 10.34AM
21 effectively?---Absolutely.

22 And note that there has been some adverse comments in
23 previous incidents about that working relationship and
24 note an apparent improvement based on the evidence that
25 you've reviewed. Then you say at paragraph 176 that 10.34AM
26 there is an outstanding issue that has to be resolved;
27 what's that issue?---Yes, it's something I'm very
28 concerned about personally as a one time CFA Board
29 member, and that is, the brigade is basically a
30 volunteer brigade that's created for the purpose of 10.35AM
31 protecting Morwell and co-operating with other brigades

1 in the area to protect life and property in the
2 district.

3 It has by virtue of privatisation been, if I could
4 us the word "lumbered", with the responsibility of
5 supporting fire suppression in an industrial operation 10.35AM
6 which is outside the normal charter of a rural brigade
7 or an urban brigade. It requires specialist skills,
8 and it's okay, sure, those specialist skills could be
9 provided, and provided the volunteers are willing,
10 those specialist skills can be learned. I'm not aware 10.35AM
11 of any brown coal firefighting competencies on the
12 Australian training framework, but the mine has its own
13 training program which fulfills its needs.

14 But okay, so you've put your CFA volunteers in,
15 they say, okay, we'll have a go at that and they're 10.36AM
16 trained and accredited as brown coal firefighters, and
17 come another 9 February and at 9 o'clock in the morning
18 a fire breaks out at Mirboo North and everyone rushes
19 down there to save the town and another fire puts
20 embers into the mine, and the backup brigade comes in 10.36AM
21 from Tyers who haven't had that training, and they're
22 really not of a lot of assistance, especially initially
23 because they don't know their way around the mine and
24 they haven't got the skills and competencies. I think
25 there's an issue there. It's not that I think there's 10.37AM
26 an issue there, I know there's an issue there.

27 Volunteers are a valuable commodity in a
28 community, particularly in a Fire Brigade where they're
29 trained. I think as a manager of people I know that -
30 or past manager of people - I know that your workforce 10.37AM
31 you've got to put a lot of effort into keeping them on

1 side, letting them know what the organisation was
2 doing, letting them know how they're going. A lot of
3 energy and effort goes into that, but there's a lot
4 more energy and effort needed with volunteers than
5 there is with a regular workforce to keep them on side 10.37AM
6 so that they're going to come back and they'll be there
7 next time you need them.

8 I think, for the Government to expect the CFA
9 volunteers just to do that and take on this extra task,
10 I think it's what I might call a great expectation. I 10.38AM
11 have got personal feedback from local brigade members
12 who, for obvious reasons, didn't want to put in a
13 personal submission, that when the mine fire comes up,
14 they basically don't attend.

15 Now, the paradox is that, on a day like 9 February 10.38AM
16 the absolutely requirement is to get that fire under
17 control as soon as possible. The thing about a
18 successful fire campaign is that, the fire is hit hard,
19 it's hit immediately, and that's your best chance of
20 putting it out; once it grows and spreads, then you're 10.39AM
21 into a prolonged campaign, particularly in a scenario
22 like the open cut mine.

23 I just can't in my mind see how you're going to be
24 able to engage a volunteer brigade. Okay, there's
25 permanent shift support down there, but I can't see how 10.39AM
26 you're going to engage them in time on a predictable
27 basis for every future emergency to do what's needed.
28 There's a big hole there that I think needs to be
29 worked through. In my view, my personal opinion is,
30 it's totally unfair to ask the CFA Brigade to do that. 10.39AM

31 And that's reflected in one of the recommendations that you

1 make in Part 4 of your report?---Yes.

2 Moving to page 23 of your report under the heading, "Is this
3 an adequate framework?", you identify one key issue at
4 paragraph 189, which is the protection of exposed coal
5 that ignites easily on hot, dry windy days; that's the 10.40AM
6 key issue for resolution in your view?---It is, yes.

7 Then at paragraph 194 you identify four issues that, in your
8 opinion, are not adequately covered by the existing
9 framework in place at the mine. Can you just explain
10 each of those and why you think each of those is an 10.40AM
11 issue?---The effective protection of exposed coalfaces
12 in the worked out area; of course, the classic there is
13 the northern batter which I think we all know - in the
14 Inquiry yesterday we all have a knowledge of where that
15 actually is, but it's the bit sitting underneath 10.41AM
16 Morwell, that's a key issue. Exposed coalfaces is one
17 thing, but of course there's a lot of other coal that's
18 in - I guess it's in dumps of different sorts, and
19 overburden of different qualities has different amounts
20 of coal in it so, if there's coal on the surface, I 10.41AM
21 guess it's exposed to burning.

22 Those exposed coalfaces, the batters, the northern
23 batters in particular I think are particularly
24 important. Effective protection of those by some
25 scenarios, and we heard some of them yesterday, I think 10.41AM
26 that can't be left undone. The control of vegetation
27 growth within the mine: There's a couple of photos in
28 my report that maybe we could go to that show - - -

29 These are on pages 31 and 32 of your report?---Yes.

30 Page 31, that one. 10.42AM

31 That was a photograph you took on 16 May?---Yes, I took it

1 when I did the trip. Now, okay, I know there's a bit
2 of a push/pull here between gust suppression and fire
3 protection, but when you've got vegetation like that on
4 coal batters and you've got embers dropping into it,
5 two things are likely to happen: First of all, you 10.42AM
6 can't get to the seat of the fire, which proved to be
7 the case according to a witness statement on
8 9 February - - -

9 You're referring to James Mauger's statement?---Mr Mauger's
10 statement. The second thing is that, on a hot, dry 10.43AM
11 windy day, you're likely to get a scrub fire in there
12 as well.

13 You make the point that control of vegetation within the
14 mine is not currently addressed by the Mine Fire Policy
15 and Code of Practice?---No, it's not covered by any of 10.43AM
16 the instructions.

17 And it should be?---It should be. They make good points
18 about control of vegetation outside the mine, but they
19 don't refer to the control of vegetation inside the
20 mine, and basically there's almost complete - you've 10.43AM
21 got ground flora there and you've got your scrub layer
22 and in places you've got trees.

23 I think if we look at the next photograph we'll see some of
24 those?---Just a couple of shots taken at random; I
25 didn't go looking for the worst area or anything. 10.43AM

26 That photograph was taken I think at Level 5 of the northern
27 batters?---Yes, that's correct.

28 And as we see, we're right near the power lines that run
29 down the centre?---Yes. That was an issue that I
30 picked up. I think the other point about mass ember 10.44AM
31 thrown into the mine from external sources resulting

1 from widespread simultaneous ignitions; it's not
2 covered. The usual run of fire is, the bow-tie diagram
3 picked up all the usual fire causes that have been
4 experienced and they're very thoroughly done because
5 they've experienced them all and they know how to deal
6 with them, and I thought that was a good exercise, but
7 it didn't cope with the mass ember throw scenario.

10.44AM

8 I've made the same comment previously. The
9 availability of sufficient resources is an absolute
10 top-notch issue.

10.45AM

11 You make the point that a key principle for success in fire
12 suppression, I'm looking at paragraph 265 of your
13 report, is fast, determined first attack?---That's it.

14 We've had evidence about the number of people who were at
15 the mine when fire first broke within the mine on
16 9 February, and as I recall from the evidence it was in
17 the 30s?---Yes. From my understanding there were 38
18 people on shift and you've got mass embers coming into
19 the mine, and I think they did a fantastic job,
20 although the strength did build up, but they did a
21 fantastic job of keeping the working faces clear, and
22 obviously they'd be the first priority. I know they
23 made a lot of effort trying to suppress the fires but,
24 I mean, 38 people, no way.

10.45AM

10.45AM

25 And with mass ember throw, you can reasonably expect
26 multiple ignition points?---Absolutely. I mean, you've
27 only got to look at the diagram a bit later on to see
28 how that happens. The availability of sufficient
29 resources, including backup - now, as soon as that
30 incident could be seen to be throwing embers into the
31 mine - I think the Traralgon control people were very

10.46AM

10.46AM

1 well aware of the fire in the mine shortly after
2 2 o'clock, but they had no - at the same time the
3 Hernes Oak Fire had been blown by the southwest change
4 into the urban area of Morwell, or abutting Morwell,
5 and all the people were engaged on their primary task 10.47AM
6 there and there was no-one left to go into the mine,
7 and the resulting fire spread caused the issues that
8 we're sitting here deliberating about. So that,
9 sufficient resources, including backup, is something
10 that has to be worked through in some reasonable form. 10.47AM

11 I take it from your earlier evidence that you don't
12 necessarily envisage that that backup will be the
13 CFA?---I'm sure it shouldn't be, and particularly it's
14 my experience that when you plan for a high intensity
15 fire in any scenario, what happens is that you'll get 10.47AM
16 three or four fires in that vicinity causing a drain on
17 resources - just, it's not the first time it's ever
18 happened here, it's happened on a number of occasions.
19 I can relate to MFB people being trained for access in
20 parks in some quite tricky places, but they knew where 10.48AM
21 they were going and what they could do, and of course,
22 when the fires broke out they were away somewhere else
23 and a backup brigade came in that really had no idea
24 and said, "We're not taking our vehicles in there."

25 I think CFA, there has to be another answer; I 10.48AM
26 don't think you can ask volunteers - the Government
27 should not be asking volunteers to do that work in the
28 mine in my opinion; there must be another scenario. I
29 know the corporation's there to make a profit and fire
30 protection costs money, but if the mine pays a little 10.48AM
31 up-front, the rest of the price is paid by someone

1 area of the mine on 9 February for two reasons: One
2 was the absence of the reticulated pipe network in some
3 parts of the worked out batters, and the other is an
4 issue of the capacity of the water supply system, and
5 that's an issue that you comment on starting at 10.51AM
6 paragraph 201.

7 You refer in paragraph 202 to what the Fire
8 Service Policy and Code of Practice says about the
9 capacity of the water supply system, and then say that,
10 in ordinary language that's saying that the mine water 10.51AM
11 supply cannot cope with peak demand?---Well, that's
12 what it says to me.

13 So clearly, if there were to be reticulated pipe system
14 across all of the exposed coalfaces, whether working or
15 non-working, there would need to be sufficient water 10.51AM
16 supply and ability to maintain pressure in that pipe
17 network to actually apply water to all of the exposed
18 coalfaces on a day of high fire danger?---Yes, well,
19 I'm not sure what the technical background of that is,
20 it's certainly not my area of expertise, but it's quite 10.52AM
21 plain to me that, if the coal's not covered by dirt or
22 water, it will catch on fire. It's really a mine
23 management decision about whether to cover it with dirt
24 or water and, if one's cheaper than the other, well so
25 be it but I believe it needs to be covered for 10.52AM
26 effective protection of the mine.

27 Subject to there being sufficient water supply and
28 reticulated pipe network throughout the area of exposed
29 coalfaces, that's one solution?---Yes, it is.

30 The other solution you identify is capping with earth, and 10.53AM
31 there are two ways that might be done: One, as you've

1 identified earlier, is full rehabilitation which is
2 something that has to be done at some stage, and the
3 other is a more temporary covering of the exposed
4 coalface with earth or with some other
5 substance?---That's right. 10.53AM

6 If I can take you now to Part 4 of your report where you set
7 out a number of measures that should be taken to
8 address gaps or short comings. The first of those is
9 that fire protection in your view should form part of
10 the conditions to the mining licence 10.53AM
11 requirement?---Yes.

12 You have reviewed among many statements the statement of
13 Kylie White from the Mine Regulator?---Yes.

14 It's her very clear position that it's not part of the Mine
15 Regulator's role to regulate or manage the risk of fire 10.54AM
16 in the mine. Should it be?---Well, yes. I mean, the
17 mining people look after the mining stuff, but they
18 need to have - I don't see the licence as being just
19 the privy of the mining department; I see that being in
20 there that the mine signs off on and the way that it's 10.54AM
21 implemented and regulated could be quite different, it
22 didn't have to be under the DSDBI as it's now called.

23 The next measure that you identify is the need to reassess
24 the rehabilitation bond and to sort out the question of
25 an appropriate methodology for doing that quickly. 10.55AM

26 We've already discussed that. The third relates to an
27 audit of effectiveness. Who do you suggest should
28 undertake such an audit? Should it be an internal
29 audit or an external audit and, if external, who should
30 be the auditor?---I think if it's a reportable event, 10.55AM
31 it needs to be an external audit. If it's significant

1 enough to be a reportable event, but obviously it can
2 be a tripartite thing with the emergency agency, the
3 mine and whatever other part of the bureaucracy can
4 manage or assist with it.

5 So it may be WorkSafe or it may be the Mine 10.56AM

6 Regulator?---Yes, I think WorkSafe's a good one because
7 they appear to be in the best position to do a thorough
8 job.

9 Then you move to questions of rehabilitation and you note
10 that the northern perimeter batters have not been 10.56AM

11 rehabilitated fully, and we've had a deal of evidence
12 over the last couple of days about why that is and the
13 process for rehabilitation. You then suggest that an
14 OHS assessment of the northern batters as a major
15 mining hazard should be conducted with a view to 10.56AM

16 achieving a solution that delivers a high degree of
17 confidence that the area will not burn during future
18 mine fires?---Yes, I believe that, and WorkSafe again
19 should be involved in that, only for the reason that
20 their methodology seems to produce results that can be 10.56AM
21 implemented.

22 The next measure that you propose concerns the Fire Services
23 pipe network, this is at paragraph 276?---Yes.

24 We had evidence yesterday, and I believe you were here for
25 it, about some fairly extensive additions to the Fire 10.57AM
26 Service pipe network during the fire?---Yes.

27 Notwithstanding that, is it still your view that there needs
28 to be a review of the adequacy of the pipe network as
29 it stands?---But I don't think that changes like that
30 should be allowed to happen; I think they should be 10.57AM
31 done on the basis of a work plan so that those obvious

1 gaps don't just appear when there's a fire. I think
2 that should all be approved and planned, and I don't
3 see how that could have been done without the DSDBI
4 knowing about it. You know, I just would have thought
5 it was part of their function, although if they say, 10.58AM
6 well, okay, it's fire protection, we're not interested
7 in fire protection, I think that's something that needs
8 to be picked up.

9 You then talk about the need for some measures to be taken
10 in relation to the s.23 duties under the Occupational 10.58AM
11 Health and Safety Act, the duty to others whose safety
12 may be affected arising from the conduct of the
13 undertaking of the mine. What do you have in mind
14 there?---I think there should be, under s.23, if it's
15 to mean anything at all, then it ought to be teased out 10.58AM
16 and a protocol established and, to me, that could be a
17 good foundation for making sure that an event like this
18 doesn't happen again, that's a possible springboard for
19 it, but it's simply a suggestion that needs to be
20 worked through. 10.59AM

21 And that's a protocol to be developed by the mine operator
22 under the auspices of WorkSafe Victoria with its advice
23 and input?---I think so.

24 You then identify a risk framework for external fires and
25 this, I take it, refers to the land use planning 10.59AM
26 dimension of regulation?---Yes.

27 So as you've identified earlier, it's not possible with the
28 waive of a magic wand to remove the existing
29 plantations, but this measure may at least ensure that
30 no further plantations are established near the 10.59AM
31 perimeter of the mine licence area?---And I think the

1 ones that are there need to be looked at, you know,
2 with a view as to whether they harvest it at the first
3 possible opportunity, then whether they are replaced or
4 not, and I'd strongly advise, if they were replaced,
5 they not be replaced with eucalyptus bicostata. 11.00AM

6 You then identified a need at paragraph 279 for action to be
7 taken by Emergency Management Victoria which will be
8 with us in a few weeks time on the commencement of the
9 Emergency Management Act 2013 - - -?---Yes.

10 - - - to clarify the operation of what currently exists 11.00AM
11 under the old Emergency Management Act and the CFA Act
12 about Emergency Management Planning and Fire Protection
13 Planning and the Integrated Fire Management Planning
14 Framework?---It needs to be morphed and it needs to be
15 widely publicised and it needs to be implemented, and 11.00AM
16 the planning that they do needs to be implemented,
17 otherwise there's really no point in them existing.

18 Then over the page you deal with the four areas that must be
19 addressed in your view to achieve effective protection
20 of the worked out area of the mine?---Yes. 11.01AM

21 We've already discussed these in some detail, they relate to
22 water supply, or as an alternative covering of exposed
23 coal; one of those would be adequate in your
24 view?---Yes, either/or.

25 Either/or, but the entirely expanse of the exposed coal in 11.01AM
26 the worked out batters should be covered by one of
27 those alternatives?---Yes.

28 Then control of vegetation within the mine, you've stated
29 should clearly be dealt with by the Mine Fire Service
30 Policy and Code of Practice it?---It should be, on the 11.01AM
31 most it's not.

1 And also the risk of embers from an external fire?---Yes.
2 You've already spoken at some length about the need for
3 backup suppression resources that do not rely so
4 heavily on volunteer fire brigades?---Yes.
5 The last area I'd like to take you to is a section in 11.02AM
6 Mr Lapsley's first statement where he deals with
7 questions of prevention. You read this a long time ago
8 and you've reviewed this section this morning, I
9 understand?---Yes.
10 It starts at page 36 of Mr Lapsley's first statement. You 11.02AM
11 have a number of observations and comments that you
12 would like to make about this, perhaps you could just
13 take us through paragraph-by-paragraph and identify
14 what issues you have?---I can deal with the first two
15 pages fairly quickly. Paragraphs 208-219 talk about 11.02AM
16 planning and they really don't talk about
17 implementation. I think I've been on the soap box
18 about this before, but planning's fine, but there needs
19 to be a framework for implementation and there needs to
20 be a process to ensure that the implementation's 11.03AM
21 carried out and audited. If the agreement of a large
22 international corporation is attained to implement
23 certain works, then there should be the ability built
24 into that agreement that the work be implemented, so
25 that they're not just plans gathering dust on a shelf. 11.04AM
26 The comments from paragraph 220-224 are similar:
27 There's a lot of planning there but I don't see much
28 about implementation. In paragraph 225.4, the
29 paragraph reads, "Initiate a formal mechanism to ensure
30 transfer of specialist knowledge across both the mine 11.04AM
31 companies and CFA for suppression of coal fires."

1 Well, I've already made comments about the role of the
2 CFA, and particularly the role of volunteer CFA
3 Brigades - I'm not taking away at all from the role of
4 the CFA shift personnel - but, you know, I question the
5 inclusion of CFA volunteers in that, except insofar as 11.04AM
6 they agree and want to be involved on a proper basis.

7 Otherwise, the final page on paragraph 227.4, "The
8 further legislative reforms are under development to
9 enable improved all-hazard planning across Government,
10 business, industry and the community for Victoria" is 11.05AM
11 excellent work; it certainly needs that additional
12 paragraph about how these plans are going to be
13 implemented, and those would be my comments, madam.

14 Thank you, Mr Incoll. I have no further questions for you
15 at this stage. Do Members of the Board have any 11.05AM
16 questions? Ms Doyle, who's representing GDF Suez has
17 some questions for you and then Dr Wilson, who's
18 representing the State, will have some questions for
19 you?---Okay, perhaps I'd like to make a few summary
20 comments. 11.06AM

21 Please do?---Okay, just a few short comments, but it's my
22 firm opinion based on long experience that the fire on
23 9 February was not the worst-case scenario, there are
24 worse to come, why not prepare for it? As David Cliff
25 said yesterday, you may not have to wait another 11.06AM
26 50 years for this to happen again, and I'm quite sure
27 of that. There's a range of factors that point out
28 that that may well happen.

29 During the preparation of my statement I reviewed
30 the internal mine fire documents and, with the 11.06AM
31 exception of the alternative method for the fire

1 protection of worked over batters which I can't
2 subscribe to at all, I found they reflect many years of
3 fire experience in a difficult operating environment
4 and stand up to scrutiny.

5 The core issue here is that fast, determined 11.07AM
6 attack and strength is required to defeat large-scale
7 ember attack from bushfires and there's no way that 38
8 shift personnel are ever going to achieve this in a 500
9 hectare mine precinct.

10 If a repeat of the community trauma associated 11.07AM
11 with this incident is to be avoided, then exposed coal,
12 particularly in the northern batters, must either be
13 covered by a safe depth of earth or other insulating
14 material or a water supply when extreme fire danger
15 weather's prevailing. 11.07AM

16 Also, I'm personally aware of low morale in the
17 volunteer CFA Brigade about being used, as they said to
18 me, "Unpaid labour for repetitive mine fires." This is
19 an issue that needs to be resolved. Thank you.

20 Thank you, Mr Incoll. 11.08AM

21 DR WILSON: If the Board pleases, Ms Doyle and I have
22 arranged it so that I'll go next if that's convenient.

23 <CROSS-EXAMINED BY DR WILSON:

24 Mr Incoll, is it fair to say that the mainstay of your
25 professional career over more than 30 years has been 11.08AM
26 predominantly in forestry?---Forest fire, yes.

27 We'll break it down, forestry in particular, then with a
28 later emphasis on fire control and logging, industrial
29 relations and even prosecutions associated with
30 forestry in some shape or form?---Indeed, yes. 11.08AM

31 To go over your CV, you worked as a forester between

1 1960-1976, have I got that right?---Sorry? Repeat
2 those dates?
3 1960-1976 you worked as a forester according to your
4 CV?---Yes, that's correct.
5 You worked for the Forests Commission between 11.08AM
6 1971-1972?---In Melbourne, yes.
7 And at a different location between 1976-1984 but still with
8 the Forests Commission?---Yes, I was a district
9 forester and a manager at that stage, yes.
10 For five years between 1984-1989 you worked for the SEC, is 11.09AM
11 that right?---Yes, I did.
12 Then between 1990-1996 you were the Chief Fire Officer?---I
13 was.
14 If I've read your CV properly, there doesn't seem to be a
15 reference to the fact that you've worked in the office 11.09AM
16 of a Mining Regulator; is that right?---I didn't.
17 Nor have you worked in a mine in mining regulation?---I
18 haven't.
19 At the risk of pointing out what the CV doesn't say, you've
20 not also got town planning qualifications; is that 11.09AM
21 right?---I don't.
22 Among your publications, you've written about fire bombing
23 in 1995?---Yes.
24 And in 1994 you presented at a seminar on fire and
25 biodiversity?---Yes. 11.09AM
26 The asset that you were giving a speech about, was that a
27 mine that you were talking about or some other
28 asset?---No, no, no.
29 What was the asset?---That what was, I guess, environmental
30 fires, mmm. 11.10AM
31 At the time that you were Chief Fire Officer it's fair to

1 say that you were uppermost concerned with the then
2 prevailing practices of fighting fires, including the
3 primacy of life being your first and foremost duty as a
4 firefighter; do you accept that?---That was part of it,
5 yes. 11.10AM

6 You tell us in paragraph 191 of your witness statement that
7 the CFA resources were insufficient; you recall saying
8 words to that effect?---Yes.

9 Have you become aware, in the course of information that's
10 unfolded in this Inquiry, that in the lead-up to the 11.10AM
11 events of 9 February there were 955 fires burning
12 across the State of Victoria?---Yes.

13 You knew that; is that right?---Yes.

14 And you've also known that one of the fires that consumed
15 the attention of the CFA on 9 February was a fire at 11.11AM
16 Jack River?---Yes.

17 A fire which no doubt you've caught up with?---Yes.

18 And it threatened life and property?---That's right.

19 Consistent with the prevailing ethos of all firefighters,
20 first and foremost one protects life?---Well, yes. 11.11AM

21 Is that right?---Yes, I guess so, life and property; the two
22 go together usually.

23 I take it, you'd make no criticism, therefore, of the
24 propriety of the firefighters on 9 February to respond
25 to the urgent circumstances that emerged in fighting 11.11AM
26 Jack River by protecting life?---Absolutely none
27 whatsoever.

28 They did the right thing?---They did.

29 You tell us in paragraph 64 of your witness statement that
30 there was a lack of regulatory emphasis on fire 11.11AM
31 protection and that it's remarkable. Do you recall

1 saying words to that effect?---I do, yes.

2 Presumably you're not speaking about the legislation that

3 Parliament has seen fit to enact, or about the subject

4 of fire protection in such Acts as the CFA Act and

5 regulations?---No. 11.12AM

6 You'd know about the legislative overlay that's prescribed

7 by the Occupational Health and Safety Act and

8 regulations - - -?---Yes.

9 - - - insofar as it relates to fire protection?---Yes.

10 You also know of course that the Crimes Act deals with 11.12AM

11 arson - - -?---Yes.

12 - - - and the particular fire that's caused by that

13 criminal behaviour?---Yes.

14 They all talk about fire protection and the prevention of

15 fires and things to do with fires; I take it you're not 11.12AM

16 suggesting in paragraph 64, when you speak of the lack

17 of regulatory emphasis, about those things?---No. No,

18 I'm not, I'm looking at the mining licence conditions.

19 We'll come to that. In the documents that you were provided

20 with in the lead up to the witness statement that you 11.13AM

21 were given, you tell us that you read the witness

22 statement of Kylie White; is that right?---Yes.

23 You will recall that she gave a very long and detailed

24 witness statement, together with an array of

25 attachments that fitted into two Lever Arch 11.13AM

26 folders?---Yes, it was.

27 You read every word of that no doubt?---No, I didn't. I

28 read the statement.

29 But not the attachments?---Not necessarily, no.

30 You didn't find it necessary to look at those?---I got 11.13AM

31 enough for what I was look at out of the statement. I

1 been circulated?---Okay, well, I'm responsible for that
2 because I've finished that document off.

3 You did in fact read her evidence, did you?---Yes, I did. I
4 think it was online.

5 Beg your pardon?---I believe it was online. 11.15AM

6 That's true, and you read it?---Yes, I did.

7 Does it follow that you read the transcript of the evidence
8 of Mr Lapsley?---Yes, I did.

9 All of it?---I didn't read all the attachments but I
10 certainly read his - - - 11.15AM

11 No, I'm talking about the transcript of his evidence in this
12 hearing?---Yes, I did.

13 He spent a number of hours giving evidence, and you read
14 every word of that, have you?---I read it, yes.

15 Presumably you also read the witness statement and the 11.16AM
16 transcript of Bob Barry?---I don't think so.

17 Do you know Mr Barry personally?---I know of him.

18 He's a very experienced and seasoned firefighting to your
19 knowledge; is that right?---I believe so.

20 You might have read among the material that he's put before 11.16AM
21 the Inquiry, that he uses the expression "eating the
22 elephant" as his description of the enormity of the
23 task that confronted him and his way of dealing with
24 it. Do you remember that?---No, I don't actually, I
25 don't think I read his witness statement unfortunately. 11.16AM

26 You tell us that you did, that it was provided to you and
27 that you reviewed it as item 7 on your list; is that a
28 mistake?---Well, I don't remember the bit about eating
29 an elephant, no. I'm sure I would have.

30 Do you recall reading from his evidence about the use of 11.16AM
31 foam in the combatting of this fire fight?---I have

1 read that, but I think I might have read it in
2 Mr Lapsley's report.

3 Do we understand you to express no criticism of the use of
4 foam as an appropriate device in fighting fire in this
5 particular event?---If I was at all connected with the 11.17AM
6 incident, I would have used that from the start.

7 Have you previously used foam in - - -?---Certainly have.
8 And you know it to be an effective firefighting tool?---Very
9 effective. Of course, we're talking about Class A foam
10 there? 11.17AM

11 Let's talk about it in general terms. Do you regard foam as
12 being an effective combatant fool when dealing with a
13 fire fight?---Absolutely.

14 You also are no doubt aware of the importance of getting the
15 correct balance of foam to water?---Yes. 11.17AM

16 It takes a little bit of time and some
17 experimentation?---Expertise is the word.

18 Indeed, and expertise as well. Do you also know of the
19 importance of preventing re-ignition after the
20 application of foam?---Yes, or any other suppressant. 11.18AM

21 Did you read any of the evidence that's been adduced in this
22 Inquiry with a particular focus on those matters, use
23 of foam, prevention of re-ignition and such like?---I
24 have read it and, as far as I read it, I agreed with it
25 because it certainly is my - it's just what I would 11.18AM
26 have expected from my previous experience with foam.

27 Insofar as the various firefighters have given evidence
28 before this Inquiry speak of the use of foam, I take it
29 you'd agree with them that that's an appropriate,
30 timely and efficient method of combatting the 11.18AM
31 fire?---Yes, and you wouldn't do it any other way as

1 far as I'm concerned.

2 Exactly, and in a mine of the enormity of this one, when the
3 fire took hold, it takes some time to move through the
4 mine and systematically apply foam progressively
5 dealing with area-by-area?---Yes. It's a very large 11.19AM
6 challenge, but I think any suppressant or any use of
7 water for suppression needs to include foam.

8 Of course, because water alone won't do the job, will
9 it?---Well, it will but you need very large quantities
10 of it and you need to keep supplying it, but you're 11.19AM
11 really increasing the wetness of water by probably
12 800 per cent by using foam.

13 You've no doubt read Mr Lapsley's evidence where he said
14 that this fire fight called for the use of thousands of
15 people to deal with it?---Absolutely. 11.19AM

16 Appropriate, no doubt?---Yes, essential.

17 Of course, the number of people is dependent upon the number
18 of available people there are to fight the
19 fire?---Well, that's right.

20 When there's 955 fires burning across the State, that 11.19AM
21 presents its own challenges?---It does.

22 It also calls, no doubt you'd agree, with sophisticated
23 application of resources to deal with incidents in the
24 variation locations?---It does.

25 Not an easy task to manage, I take it you'd agree?---No, but 11.20AM
26 it's a task that people are professionally trained to
27 do.

28 And none finer than Mr Lapsley, I take it you'd agree?---Of
29 course.

30 While we're on the subject of balancing water and foam, I 11.20AM
31 take it you understand that that is necessary - that

1 is, the balancing, because if you apply too much water
2 against batters, an instability of batters is a direct
3 consequence with its attendant risks?---I understand
4 that.

5 In other words, you can pump water as long as you like but, 11.20AM
6 if you do that, while it might have an effect on the
7 suppression of the fire, you create your own collection
8 of problems with stability of the subject matter that
9 you're putting out?---You do.

10 On 9 February those who were dealing with the fire fight in 11.21AM
11 this mine were confronted with a conundrum, may I
12 suggest to you; dealing with a fire that was taking
13 hold in the mine fire as well as diverting resources to
14 protect life and property in Jack River?---Yes.

15 I take it, if it you were the fire controller on the day, 11.21AM
16 you would have done it exactly as was done by diverting
17 people to deal with Jack River?---Absolutely. I'm not
18 criticising that for a minute or any other part of the
19 suppression activity.

20 Yes, and it's regrettable that it took as long as it did, 11.21AM
21 but when the fire took hold, that was one of the
22 fall-outs of this particular problem?---And that's why
23 it has to be hit hard as soon as possible.

24 So long as you've got people to do it?---Yes, well, that's
25 right. 11.21AM

26 You told us that you took a helicopter tour following the
27 path of embers as they entered the mine; you remember
28 giving evidence about that this morning?---That was a
29 desktop exercise.

30 Pardon me?---That wasn't actually during a fire. This is to 11.22AM
31 show the - just to the GMP, the General Manager

1 Production wanted to make sure that all the open cut
2 managers knew the likely effect of embers and where
3 they might be coming from and how to deal with them,
4 and so the flight was to look at the origin of embers
5 and how they might get into the mines. 11.22AM

6 Was this a simulation, was it, or did you actually get into
7 a helicopter?---Oh, no, we went for a flight, but we
8 had a desktop exercise, started I think about 0800,
9 went through to 1500 and I think the flight was
10 probably an hour and a half, looking at country from 11.22AM
11 the State forests right around to the southwest.

12 When undertaking this flight you were demonstrating how easy
13 it might be for embers to enter the open cut
14 mine?---Exactly.

15 Did you raise your concerns with people other than those who 11.23AM
16 accompanied you on the flight at the time?---Well,
17 obviously the General Manager Production is the top man
18 when it comes to raising concerns, yes.

19 Anyone else?---Sorry?

20 Anyone else?---General Manager Production. 11.23AM

21 No, no, beyond that person, did you raise your- - -?---No, I
22 had no need to.

23 You've told us how there was nothing new about the passage
24 of embers into the mine with the risks that it might
25 create a fire; is that right?---Yes. 11.23AM

26 But you didn't see fit to take it up with anyone beyond the
27 General Manager at the time?---Who would I talk to? I
28 worked for the SEC, the mines were run by the SEC, the
29 General Manager Production managed the mines and he was
30 where the buck stopped when it came to fire protection. 11.24AM

31 Remind us when this helicopter flight was, what

1 year?---1987. I think it was one of John Friedrich's
2 helicopters.

3 This is a National Safety Council fellow, was it?---That's
4 right.

5 Did his pet army accompany you on the flight?---No, no, no, 11.24AM
6 it was very well conducted. He ran a good operation.
7 You live in Bright, don't you, Mr Incoll?---Yes, sir.
8 That's an area well-known for its vulnerable to
9 bushfire?---Not Bright township as such otherwise I
10 would never be living there. 11.24AM
11 But the nearby area of course, the mountains in
12 particular?---The mountains, yes.

13 You tell us in paragraph 179 of your witness statement that
14 s.43 of the CFA does not apply because you tell us that
15 the mine is not subject to municipal fire planning 11.24AM
16 process; is that right?---That's right.

17 Section 43, correct me if I'm wrong, is a section intended
18 to enable a council to give a local owner of a block of
19 land a notice to slash long grass, for example?---I
20 think that's s.41; s.43 is about fire committee. 11.25AM
21 Section 41 does in fact apply, may I suggest to you, because
22 it permits the council to serve a Fire Prevention
23 Notice on an owner or occupier of property?---That's
24 right, so it does apply to the mine.

25 Yes, indeed?---Yes, but s.43 doesn't, so they don't have to 11.25AM
26 attend the committee.

27 No, but nevertheless it has been open if the local council
28 saw fit to serve a notice under s.41?---And in fact
29 they did and in fact the work was carried out.

30 You tell us, before this morning, that in your view there 11.25AM
31 were gaps in the regulatory regime in respect of fire

1 prevention. Do you recall telling us about
2 that?---Yes.

3 Ms White, about whom you've heard and read, was asked a
4 similar question, may I just give you her answer and
5 ask for your comment?---Okay.

11.26AM

6 You she was asked, "It does run the risk, does it not,
7 [page 1604 of the transcript] that difficult areas to
8 regulate may fall between the cracks", and I'll ask you
9 to accept that is what she was asked, and her answer
10 was a bit long and you'll have to bear with me, she
11 says, "I don't know whether I would describe it as
12 difficult areas of regulation that would fall between
13 the gaps. This is my observation and my working with
14 VWA and with my Inspectorate, is that they understand
15 the complexity and the major risks that such a mine as
16 Hazelwood poses, and so I don't think it's seen as a
17 way of being able to or could enable major risks to
18 fall through the cracks. I think it's appropriate to
19 ensure that, or this table has identified as being
20 areas of possible overlap and we needed to come to an
21 arrangement to effectively review these areas or
22 oversight these areas."

11.26AM

11.26AM

11.26AM

23 Accept that that's what she says, I take it you'd
24 agree with her?---Yes.

25 Finally, you were asked about volunteer firefighters this
26 morning; do you recall speaking about that?---Yes.

11.27AM

27 You expressed a lament that the volunteers are subjected to
28 the conditions that they do. Have I understood the
29 thrust of what you were saying?---More or less, yes.

30 If it was suggested to you that as at 18 November 2013 a
31 forum was convened with volunteers and their role in

11.27AM

1 Victoria's Emergency Management arrangements, do you
2 know anything about that forum?---I don't, I haven't
3 heard of it, I'm sorry.

4 If you were told that that forum has met regularly since
5 then to discuss aspects of Victoria's Emergency 11.27AM
6 Management arrangements insofar as it affects
7 volunteers, I take it you'd agree that that's a very
8 good step in the right direction?---Are we talking a
9 Statewide forum here, are we? Yes, I actually believe
10 I have read that from - I get the CFA news and I think 11.28AM
11 I - as you were speaking that came to mind, yes.

12 No doubt, you would accept that that's a commendable step in
13 the right direction?---It absolutely has to be done.
14 And it should be seen through to its conclusion?---And it
15 has to be done at the local level too. It's fine doing 11.28AM
16 it at the State level, but it counts at the local
17 level.

18 Yes, but insofar as steps have been taken and were
19 identified in November of last year as being important,
20 you agree that's good news and keep going?---Yes, it's 11.28AM
21 up here though; what I'm talking about's down here at
22 the work face, that's where the attention needs to be
23 given. You know, I'm not comfortable with the present
24 arrangement, where CFA volunteers are asked to work in
25 the mine, you know, on a fairly regular basis. I 11.29AM
26 strongly believe that's outside the charter of the CFA
27 volunteer. I think that line needs to be drawn and
28 maybe there is some little step over it, but I think
29 out of that other arrangements may well come, and
30 I believe that's the future of getting a strong backup, 11.29AM
31 is to have that specialised force that's available

1 specifically for mine fires.
2 We're going in the right direction, but you say we've got a
3 bit to go?---I'd say we've got a long way to go.
4 If the Board pleases, thank you, those are the questions of
5 this witness.

11.29AM

6 CHAIRMAN: Before I call on Ms Doyle, just a matter of power
7 poles; there's been reference to evidence as to power
8 poles or the need to change them from wooden to
9 concrete inside. The power poles that were impacted on
10 9 February, and I gather they were wooden poles, and
11 one of the steps that ought to have been taken was to
12 have those changed from wooden to concrete and that may
13 have been sufficient to avoid the problem in relation
14 to the unavailability of power within the mine for some
15 hours. Could you comment further on that aspect?---One
16 would expect so, Your Honour. I don't know that any
17 pole replacement's done these days with wooden poles,
18 I'm quite sure they're all done with concrete poles.
19 Concrete poles would have been used in that scenario,
20 but I haven't been there and seen them to confirm that,
21 but I believe that would be the case.

11.30AM

11.30AM

11.30AM

22 Having suggested a wide-ranging examination of how
23 the embers are generated and how to minimise them, I
24 think would include looking at maybe alternative
25 routing of a power supply. Surely the power supply
26 doesn't have to come in across a possible fire path;
27 there must be some other way to get power into the
28 mine, as you have in a suburban area where you have, if
29 one feed drops off they'll switch on another feed that
30 does the same job.

11.31AM

11.31AM

31 So one of the possibilities would be to look at that

1 particular area and put the vital powerlines
2 underground?---Well, whatever the solution, but
3 I believe - I mean, I don't see why there can't be
4 something coming in from the east or southeast side of
5 the mine where you're unlikely to get a fire. I mean, 11.31AM
6 that's just a normal risk mechanism; you don't have to
7 have a fire to burn poles to lose power, you could have
8 a transformer blow up or all sorts of reasons for
9 losing power and it could well happen again
10 notwithstanding concrete poles. 11.32AM

11 Yes, Ms Doyle.

12 <CROSS-EXAMINED BY MS DOYLE:

13 Mr Incoll, I'll pick up with that last question you were
14 just asked by the tribunal. You seem to agree that it
15 would be appropriate to replace any wooden poles that 11.32AM
16 failed during the fire with concrete poles. I take it
17 from that, that that is part of allowing for greater
18 redundancy in power supply?---Yes, absolutely.

19 When you did the tour of the mine recently, did you notice
20 that the poles across the top of the northern batters 11.32AM
21 had recently been replaced?---I didn't notice that, to
22 be honest, no.

23 Because it's the case they've recently been replaced but
24 with wooden poles again; you didn't see that when you
25 were there?---I didn't, no. 11.32AM

26 Have you in your work, I think you said you've done some
27 consulting work with SP AusNet - - -?---Yes, but it
28 wasn't - that's in relation to - - -

29 Oh, I know, another fire?--- - - - a class action but it
30 wasn't in relation to fire prevention. 11.33AM

31 No, but the Chairman just asked you about the prospect of

1 putting the lines underground?---Yes.

2 I assume you'd understand there'd need to be some sort of
3 study undertaken of whether that particular part of the
4 northern batters is capable of - where it is sandwiched
5 between the top of the mine the freeway - capable of 11.33AM
6 supporting underground powerlines?---I'm not competent
7 to speak about that but - - -

8 It would be a matter for SP AusNet?---Whether it should be
9 done or how it should be done, I wouldn't go down that
10 path, but as to the desirability of doing it, I think 11.33AM
11 the whole matter needs to be looked at, the alternative
12 power supply and its maintenance in the event of a
13 bushfire interrupting supplies, and that would be part
14 of the overall risk appreciation of external fires on
15 the open cut. So, as I suggested, there's a range of 11.34AM
16 alternatives including coming in from the southeast
17 where there's probably already another power line and a
18 matter of arranging the switching of suppliers.

19 I now want to take you back to the matter that Mr Wilson was
20 raising with you, the question of backup firefighting 11.34AM
21 service at the mine.

22 At paragraph 258 of your statement, perhaps if
23 that could be brought up for you, you start by
24 referring to the existing workforce and you say there
25 that, "The policy of using the existing workforce as 11.34AM
26 the firefighting force for outbreaks is eminently
27 sensible", and you point to some of the reasons why
28 that's so, the fact that they know the mine, they work
29 as a team and they build up some experience. I take it
30 from that that you're saying that that's the 11.35AM
31 appropriate first port of call, the in-house

1 team?---Absolutely.

2 You've been asked a number of questions about the support
3 offered by the CFA and you've expressed the view that
4 there are some difficulties, you see, with a volunteer
5 fire force being the only backup available to the
6 in-mine force?---Well, that's not quite right because
7 there are shift firefighters in Morwell and I have made
8 mention of that.

11.35AM

9 That's what I wanted to ask you about, Mr Incoll. Is one of
10 the possibilities that could supply greater backup to
11 the mine's firefighting force, would it include any of
12 the following possibilities: Employed CFA firefighters
13 based in Morwell or surrounds being trained up prior to
14 the fire season on fighting fires in the open cut mines
15 in the valley, such that they would be your first
16 backup or port of call? Would you think that would be
17 a good idea?---Yes, that's one option.

11.35AM

11.35AM

18 You wouldn't have had a chance to see this yet, but
19 Mr Graham, the Asset Manager of the mine, is going to
20 give evidence today and one suggestion that he is
21 proposing is that the mine offer a greater volume of
22 pre-fire or pre-fire season training to members of the
23 CFA such that they could gain orientation in the mine
24 not in an emergency situation and some training on the
25 facilities and the layout of the mine. No doubt you'd
26 agree that that would be a valuable way to prepare
27 them?---For those volunteers that want to take up that
28 opportunity, yes.

11.36AM

11.36AM

29 Going back to your idea about perhaps calling on a paid
30 workforce, do you see any value in either paid CFA
31 firefighters or even a satellite MFB firefighting force

11.36AM

1 being available in Morwell over the summer period to
2 deal with the prospect of a repeat of February?---I
3 wouldn't comment on the CFA/MFB idea. I think, if you
4 want to translate that in terms of a dedicated trained
5 Shift Fire Service that is responsible for backup in 11.37AM
6 the three mines, I think you're then starting to get
7 close to something approaching reality, depending on
8 the numbers and the way that it was organised. No,
9 that's immaterial, but it's a country area of Victoria
10 so it's CFA. 11.37AM

11 Regardless of who comprises such a force, would you agree
12 that it would be sensible and appropriate for them to
13 have access to CAFS and appropriate machinery to apply
14 foam at least over the fire season?---Of course.

15 And that, if that sort of infrastructure is not able to be 11.37AM
16 permanently housed in the valley, it might be housed
17 here over the summer period or the fire season?---Well,
18 it has to be available on a hot windy day, hot dry
19 windy day that has to be available, yes.

20 You understand that during this fire the right sort of foam 11.38AM
21 and the right sort of equipment in terms of equipment
22 with the relevant height had to be sourced either from
23 the City of Melbourne or even Interstate?---Yes, well,
24 of course. I mean, it's the first time it's been used
25 in the valley; I'd be surprised if the mines weren't 11.38AM
26 interested in having such equipment on their inventory
27 on a per mine basis, of having CAFS and obviously
28 stores of foam and the equipment to put it on with.

29 If there was a return to the idea of a joint resource, a
30 resource that could be shared between presently the 11.38AM
31 three mines, would you agree that that's the sort of

1 infrastructure such a joint force should have available
2 to it?---That's getting close to what's needed I think,
3 depending again on the numbers.

4 Now I want to take you back to the question of plantations.

5 Earlier in your evidence you said that the 11.39AM

6 establishment of plantations close to the mine beggars
7 belief. I want to show you a map produced by

8 Mr Pullman. I'm not sure if you had an opportunity to

9 read his statement, he was one of the council

10 witnesses. We'll bring up attachment JP-2 if possible 11.39AM

11 to Mr Pullman's statement. He's a gentleman from the

12 Latrobe City Council. The map I think depicts things

13 that you refer to in your statement but it's just a

14 handy way of looking at it from an aerial

15 perspective?---Yes. 11.39AM

16 I'm hoping you'll be able to see this?---Yes.

17 He's sketched around using yellow three main plantations

18 that he gave some evidence about, or actually they'll

19 show up as four on this map. The one furthest over to

20 the left as you're looking at the map that has 11.40AM

21 Lores Road and Buckleys Track cutting into it, can you

22 see that one?---Yes.

23 His evidence was that that's owned by Hancock. The one

24 further across to the right of that that has "property

25 No.21510 written on it, Mr Pullman's evidence was 11.40AM

26 that's owned by Gippsland Water; that's the more

27 sparsely populated plantation, do you see that one, it

28 also has "360 metres approximately" labelled on

29 it?---Yes.

30 Right down the bottom of the map there's a triangular one, 11.40AM

31 property No.19814. Mr Pullman's evidence was that

1 that's owned by HVP. I'm not sure it's necessary to
2 directly correlate this to each paragraph in your
3 statement, but I take it that these two, Hancock
4 Plantations, which appear to be eucalypt, and the
5 Gippsland Plantation, I'm not sure of the tree variety 11.40AM
6 there, they are the plantations or at least examples of
7 the plantations that your statement deals
8 with?---Absolutely.

9 You've suggested that the establishment of these plantations
10 represents a significant planning failure. Can I see 11.41AM
11 if I understood one of the comments you made. When you
12 were asked about the expanding footprint of the mine I
13 took you to be saying that the establishment of these
14 plantations causes all the risks and the problems
15 you've given evidence about regardless of the footprint 11.41AM
16 of this mine given how close they are even to what was
17 originally conceived to be its footprint. Would you
18 agree with that?---Yes.

19 In trying to think about what might be done, I should tell
20 you that Mr Pullman's evidence was that he's looked for 11.41AM
21 planning permits for these three plantations and none
22 exist. He's searched the records back I think to 1969.
23 He was not able to tell us whether that meant they were
24 operating without a permit when they should have one,
25 or whether it was more likely that they didn't have to 11.41AM
26 ever obtain one. He was unsure as to the reality
27 there. But what he did say was that as at present day
28 the council cannot do anything about this, it doesn't
29 own or designate the zones, it would be a matter for
30 the Minister for Planning. Does that fit with your 11.42AM
31 understanding of the scheme?---Yes.

1 That being the case, I wonder then who can do something;
2 you'd appreciate the owners of the mine can't presently
3 direct the owners of these plantations as to how they
4 conduct their business; you'd accept that?---Yes.

5 The council has the limited capacity to serve Fire 11.42AM
6 Prevention Notices on these plantation owners, but that
7 would only deal with directing them to slash grass or
8 low growing vegetation, would it not?---Well, in a
9 broad sense, we're talking about a fire hazard.

10 Yes?---The fire hazard in this case is ribbon bark which is 11.42AM
11 suspended in the crowns of the trees as shown in the
12 photograph of my report.

13 Yes, so I wondered when I read that whether it would be a
14 brave council officer who would serve a Fire Prevention
15 Notice on, say, Hancock, directing them to strip those 11.43AM
16 trees of bark, is that the sort of thing that should be
17 done?---As far as I'm concerned it's within the meaning
18 of s.41, because it is a fire hazard, it's been shown
19 to be a fire hazard, it's got a demonstrable outcome of
20 a very serious fire and it clearly fits within what I 11.43AM
21 understand as the definition of a fire hazard, and in
22 that case it fits under the ambit of s.41 of the CFA
23 Act.

24 Because, if we look to other places, there is s.110 of the
25 Mineral Resources (Sustainable Development) Act, but 11.43AM
26 that only empowers the Mine Regulator to direct the
27 mine operator to do something, so it can't reach to the
28 plantation. Do you understand that to be the
29 case?---Yes.

30 So we really are left with the power of the council to serve 11.44AM
31 a Fire Prevention Notice, perhaps as bold a one as the

1 one you've just described?---Well, yes.

2 One other possibility you refer to in your evidence was

3 looking at the future of these plantations. Mr Pullman

4 said, "Well, look, even if the Minister changed the

5 planning zones there's this notion of existing use and 11.44AM

6 the owners would no doubt have a point that they'd wish

7 to push about that." I took it from one of you're

8 answers that you were suggesting that, as this is a

9 renewable resource, perhaps once it's next harvested

10 consideration ought to be given to whether or not the 11.44AM

11 harvest should be replanted?---Absolutely. I think

12 that's a matter that ought to be looked at through an

13 appropriate mechanism and, if it comes down to

14 unfavourable land use determination or a declaration by

15 the Minister for Planning, so be it, but I think 11.44AM

16 there's a whole range of options that should be looked

17 at, but whatever, those plantations of that species

18 with that fire hazard in that location are a future

19 source of embers to cause a similar event to the one we

20 had on 9 February. But having said that, let me say 11.45AM

21 that, even if, as I said in my report, with the wave of

22 a magic wand the plantations disappeared, there's still

23 a considerable amount of vegetation, roadside breaks,

24 there's still a fair volume of embers sitting out there

25 within range of the mine - - - 11.45AM

26 And one would need to check whether or not they're under the

27 auspices of VicRoads or private property, but again,

28 it's the council's Fire Prevention Notice that could

29 operate there?---Well, not necessarily. I mean, I

30 didn't spend a lot of time looking at the actual issues 11.46AM

31 of what might be done, but I noticed in places there's

1 conservation notices on part of that - on the roadsides
2 because of the species that were growing there, and
3 it's not just a matter of - it's not matter of just
4 cleaning up the countryside and having a, you know, a
5 mineral earth break going out kilometres in each 11.46AM
6 direction, I mean, it's not feasible.

7 There's obviously a tension also - - -?---Identify the worst
8 hazard, deal with that in whatever form can be dealt
9 with, and there's a whole range of possibilities, but
10 concentrate on prevention in the mine as well. 11.46AM

11 Can I ask that Mr Incoll be shown exhibit 82. I just want
12 to go to the next page, the cover page isn't important
13 for present purposes. He needs to see who it's to and
14 from. The letterhead is Hazelwood Power, it's dated
15 22 May 1998 to Mr Mitchell, then the CEO of Gippsland 11.47AM
16 Water, "Dear John. Blue gum plantation. It's been
17 brought to my attention by a recent article in the
18 Latrobe Valley Express that Gippsland Water proposes to
19 enter into an arrangement to establish a blue gum
20 plantation at the corner of the Princes Freeway and 11.47AM
21 Strzelecki Highway." Pausing there, are you surprised
22 to see that Hazelwood Power is learning of this by the
23 press rather than some previous engagement through fire
24 planning or some other planning in the
25 municipality?---Yes. 11.47AM

26 You're surprised? It goes on it say, "This development will
27 place the plantation in close proximity to the northern
28 boundary of Hazelwood Mine and as such is of
29 considerable concern on account of the significant fuel
30 source this would represent in the time of bushfire 11.48AM
31 conditions. In the event of a fire, the proposed

1 plantation is well within the recognised distance of
2 fire spotting from either native or pine plantations."
3 He then refers to, "Historically, fires which have
4 approached and threatened the mine have occurred when
5 hot northwesterly winds have been prevalent. It is for 11.48AM
6 these reasons I would appreciate the opportunity to
7 meet with you to present our concerns."

8 The then Director of Mining, Mr Zaghodnik, is
9 hitting each of the points that you've made, isn't he,
10 Mr Incoll, this is our experience of weather, this is 11.48AM
11 our experience of plantations, this is our experience
12 of spotting, please discuss?---Exactly right.

13 Can I take you to the next page which is dated 9 November
14 1998. Just on the cover page, it's an internal
15 document initially, "Note to Jim Twomey. Fire risk. 11.49AM
16 Attached are two pieces of correspondence between Earl
17 and Mr Murray Ravenhall, the risk manager at Gippsland,
18 concerning the establishment of a eucalypt plantation
19 by Ecogen Energy in land own by Gippsland Water. They
20 are for your information only. We will monitor the 11.49AM
21 situation to ensure a Fire Management Plan is developed
22 and adhered to by the plantation owner."

23 Pausing there, those are seemingly strong and
24 appropriate words, but of course you appreciate and we
25 reading it now appreciate that people at Hazelwood 11.49AM
26 can't legislatively enforce that, but it's obviously a
27 good thing to be seeking to do?---Yes.

28 You'd agree with that?---I think absolutely, but it seems it
29 was an opportunity there to take some immediate action
30 to have that stopped. 11.50AM

31 Look at the next sentence, "Mr David Eves tells me the trees

1 have already been planted and that mine management did
2 attempt to seek resolution prior to planting, without
3 success." So you see, attempts were made and
4 failed?---Well, depends what attempts and what forum
5 they were made in, but yes, certainly that's very 11.50AM
6 revealing. But, having that letter on record and now
7 knowing that that knowledge was in the mine, it
8 surprises me that more attention wasn't paid to the
9 inevitable fire that was going to come and result from
10 those embers. 11.50AM

11 I understand that, Mr Incoll, but you understand, don't you,
12 that one operator of one piece of infrastructure that
13 is given no legislative power to control the other or
14 to prevent it establishing a risk has limits in the
15 practical world as to what it can do?---It does, I 11.50AM
16 mean, I suppose you can look at legal solutions - - -
17 What legal solutions are you - - -?---I'm not sure.

18 Can I take you to the last letter in the bundle, there's one
19 on 2 November 1998. It's from CFA to Mr Eves at
20 Hazelwood Mine. A gentleman from the CFA writes to 11.51AM
21 say, "Some months ago I attended a meeting with your
22 Director regarding the establishment of a eucalypt
23 plantation on land owned by Gippsland Water", so you
24 see that the CFA was involved in the meetings, and he
25 described where it is, "Earl was expressing deep 11.51AM
26 concern at the establishment of the plantation so close
27 to the mine. CFA is not in a position to determine
28 land usage within the municipality as we are not a
29 referral authority, but we are very interested in the
30 prevention of fire and the provision of adequate 11.51AM
31 safeguards."

1 Two things, Mr Incoll, it shows the CFA was asked,
2 it would appear, to intervene or assist and said
3 there's limits to our capacity, and the CFA was also
4 from that moment fixed with the knowledge of the risk.
5 You'd agree with that?---Yes. 11.52AM

6 It goes on to say, "At the meeting between all parties it
7 was agreed that a Fire Management Plan would be
8 developed and provided to all parties. I am confident
9 that with the implementation of a suitable Fire
10 Management Plan any threat to Hazelwood will be 11.52AM
11 minimal. History indicates that the majority of
12 plantation fire losses occur from fire entering the
13 plantation from external sources and not from internal
14 ignition." See there the focus suddenly shifts to
15 saving the trees rather than stopping fire in the mine. 11.52AM

16 Do you see a problem with that?---I mean, the earlier
17 focus on fire in the mine was commendable, I can only
18 say that it should have been sustained. It's a
19 classical exercise in what I was talking about before;
20 I mean, almost the planning and no ability to effect 11.52AM
21 the implementation. In this case, really the planning
22 process has failed the mine.

23 Yes, and you see the attempts to stop the plantation failed
24 and the attempts to ask the CFA to intervene didn't go
25 much further?---No. Well, I think they're very good 11.53AM
26 letters to have on file at the present time.

27 Thank you. I thought so. I want to ask you about
28 vegetation, Mr Incoll. I think in your opinion you
29 have pointed to an ambiguity or a tension within the
30 1994 SECV Code as picked up in the mine's current Fire 11.53AM
31 Policy?---Yes.

1 You've pointed to the fact that the code talks about, under
2 a heading of, "External", talks about vegetation, but
3 doesn't seem to really nail the point of internal
4 vegetation. You notice that on reading the two
5 documents?---Yes.

11.53AM

6 You've pointed to the fact that there are some controls
7 expressed in both policies about the trees and the
8 shrubs coming to the lip of the mine but nothing
9 overtly which gives any direction or guidance about
10 vegetation that propagates down the walls of the
11 mine?---That's correct.

11.54AM

12 I've mentioned to you earlier Mr Graham, the Asset Manager,
13 is going to give evidence this afternoon and one thing
14 he's going to say is that, having heard that view and
15 other evidence in these proceedings, the mine takes the
16 view it should undertake a program of reducing
17 vegetation on the northern batters so far as is
18 consistent with earth stability. Do you agree that
19 that's a good thing to do, despite the fact the policy
20 presently doesn't require it, but that's a good
21 advancement?---It needs to be done, and the policy
22 needs to include it. If you need writing to do
23 sensible things, it needs to be done.

11.54AM

11.54AM

24 I next want to ask you about water coverage. Can we perhaps
25 bring up, I'm sorry I haven't brought with me the
26 exhibit number, but bring up the 1994 SECV Code; it's a
27 document that Mr Incoll refers to a number of times.
28 It may be that it's attached to Mr Dugan's statement.
29 The 1994 Generation Victoria Fire Service Policy and
30 Code of Practice.

11.54AM

11.55AM

31 While that's being brought up, Mr Incoll, you

1 appreciate some of the history, don't you, that there
2 was a 1984 SECV policy?---Yes.

3 Which was then, it's been reviewed a number of times, but
4 some landmark dates are: In 1994 it was re-issued as
5 the Generation Victoria policy?---Yes. 11.56AM

6 Then in many years, but the one you've been asked to look at
7 is the 2013 version picked up by the current owners of
8 the mine?---Yes.

9 You actually quote some of this page in your statement. I
10 might be able to get by, you seem to be so across the 11.56AM
11 detail it probably won't harm you if I just remind you
12 that at page 8 it starts to talk about the plan of
13 protection, and I think you in part quote this
14 paragraph. It says, "In order to properly protect all
15 parts of the open cut, pipe work and sprays are to be 11.57AM
16 installed as laid down by this policy and Code of
17 Practice. However, it must be understood that a larger
18 water supply system would be required to run all the
19 sprays and protection systems simultaneously." Do you
20 remember reading that?---I do. 11.57AM

21 Understanding that we're looking at a document at a point in
22 time, as at 1994 in the Generation Victoria version of
23 the code there was an acknowledgment of the utility of
24 water and an acknowledgment of the then constraints or
25 limitations of the system as laid down?---Yes. 11.57AM

26 Thank you for locating that, we're at page 8. The document
27 has a lot of preliminary pages and then picks up with -
28 and it's on a page that has Clause 3, "Plan of
29 protection" at the bottom of this page, the last
30 paragraph, so that's the bit I've just quoted to you, 11.58AM
31 it sits underneath a number of bullet points that gives

1 the over-arching goals of the system.

2 If we can go to page 9 just over the page, it
3 says, "This policy provides for a diversity in the
4 simultaneous application of the fire protection water
5 supplies and distribution." Then it goes on to say, 11.58AM
6 "The maximum demand as defined in this Code of Practice
7 is an allowance of water usage upon which the design of
8 the water supply system is based. The maximum demand
9 rate of water use is considered to be sufficient to
10 meet any likely contingency within the open cut. The 11.58AM
11 distribution of this allowance of water usage is
12 reasonably flexible for any situation, but the use of
13 more water than allowed for in one area may cause a
14 reduction in the performance of the system."

15 That's again at a point in time an acknowledgment 11.59AM
16 of some of the physical limitations on the system. I
17 wanted to ask you, it's also an acknowledge that the
18 system, as in the policy, provides for alternative
19 modes of addressing fire?---Yes.

20 It deals with certain percentages of faces being able to be 11.59AM
21 doused in water or sprayed in water, but also then
22 works with some alternatives, including breaks and then
23 ultimately there's policy developed, driving distance
24 between water tanker fill points?---Yes, I've
25 specifically commented in my report that I don't 11.59AM
26 believe either of those measures is effective in a
27 large fire; they're fine in an internal fire, but not
28 in a large-scale situation where you've got the weather
29 that we've seen on the screen, strong winds, fire
30 weather and fast fire spread. To have those areas of 12.00PM
31 coal unprotected I think is completely untenable.

1 I understand you call for 100 per cent coverage but I'm just
2 focusing at this stage on the 1994 iteration and then
3 we'll come to what happened afterwards.

4 You understand, don't you, that the policy as
5 expressed in 1994 provided only ever for 50 per cent of 12.00PM
6 exposed coal and machinery to be available to be
7 sprayed or 25 per cent if other conditions were met.
8 You understood it had lower percentages than 100 and
9 then variations available?---Yes.

10 Back in the day, back in 1994, as I've put to you, the 12.00PM
11 physical constraint of the pipe system was that it was
12 incapable of spraying 100 per cent of the coalfaces at
13 any time, wasn't it? Do you recall that?---Yes.

14 You also gave a submission to this Inquiry, Mr Incoll,
15 before you were retained to give expert evidence, and 12.01PM
16 in that submission you spoke of some of your experience
17 including that period of time where you had direct
18 knowledge of the workings of the mines in the
19 valley?---Yes.

20 One of the things you said in that submission at 12.01PM
21 paragraph 15 was, "The standard response of the open
22 cut Fire Services under the SEC arrangements on hot dry
23 windy days at any time of the year was to start up
24 large scale irrigation systems that covered exposed
25 coalfaces with a water spray." Pausing there, is that 12.01PM
26 something that you'd seen actually happen?---Yes.

27 In paragraph 16 you said, "In my opinion this was an
28 effective response"?---Yes.

29 But back in the day when SEC had management of the mine,
30 they didn't have 100 per cent coverage, weren't 12.01PM
31 required to and couldn't physically produce it; you

1 accept that don't you?---Well, it seemed to me that -
2 my impression at the time was that in fact they did
3 and - - -

4 But this policy says they can't?---Well, I can't comment on
5 that, I hadn't read the policy at the time; I've read 12.02PM
6 it now. But as I say in my submission, that was the
7 understanding that I had from the open cut Fire
8 Services.

9 Sure, and it may be because you'd seen it and it looked like
10 an impressive degree of coverage, but what I'm putting 12.02PM
11 to you is, it was never 100 per cent coverage and that
12 that is not a resource that's been lost; it was never
13 there. Do you accept that?---Well, on the basis of
14 what you're telling me, I accept it, yes.

15 I understand that you say there should be 100 per cent 12.02PM
16 coverage - - -?---Well, no, let me stop you there. I
17 haven't said that. What I've said is, it needs to be
18 either covered with soil or some other material and, if
19 that's not done, then it needs to be covered with
20 water. 12.03PM

21 I understand, so it's an alternative on your approach. If
22 one sticks with the first limb of your options, the
23 100 per cent cover, so the earth issue which we haven't
24 talked about yet, so that is not done; have you done
25 any work or looked at any studies about the length of 12.03PM
26 metres or kilometres of pipes and pumps that would be
27 required or any of the engineering aspects of
28 implementing the network?---No, I'm just saying that
29 there's two alternatives and you need to use one or the
30 other and it's up to the engineers in the mine as to 12.03PM
31 the detail of it.

1 Have you read the statement of Mr Niest from VWA who gave
2 evidence in these proceedings?---I believe I have, yes.
3 Do you recall that when he was talking about the
4 occupational health and safety rubric of controlling
5 risks, so far as is reasonably practicable, that he 12.03PM
6 said that the cost of putting in extensive pipe
7 networks, when weighed against the degree of risk of
8 needing them, may well mean that that is not a
9 necessary measure under the occupational health and
10 safety regime because it's not practicable in all those 12.04PM
11 circumstances?---That's fine for him, but he doesn't
12 live in Morwell.

13 I want to go to your alternative. The alternative that you
14 described in your statement was at paragraph 281. Can
15 we bring up paragraph 281 of Mr Incoll's report. You 12.04PM
16 refer there to the covering of exposed coal, "Areas not
17 irrigated should be covered to a safe depth with an
18 earth cover." In evidence today you suggested that you
19 didn't necessarily have in mind a very deep cover. I
20 missed the precise figures you gave; how deep did you 12.04PM
21 say you thought it might need to be?---Let's settle on
22 30 centimetres.

23 So more a dusting of earth rather than a compacted?---No,
24 I'm talking about a foot, I'm talking about that much.
25 I'm basing that on some experience that I've had with 12.05PM
26 the soil cover depth required to protect underground
27 lines.

28 So two issues: What type of earth were you thinking
29 of?---Well, that's up to the open cut and the soil
30 engineers. 12.05PM

31 You talked about covering underground mines, but are you

1 talking about laying this on exposed batters that
2 aren't laid back?---It's an engineering consideration;
3 I'm not being prescriptive about it at all. What I'm
4 saying is, either it has to be covered with water or it
5 has to be covered with a safe depth of soil, and I'm 12.05PM
6 sure that they know what a safe depth of soil is the
7 same as I do.

8 Because as a non-engineer, when I hear that, I worry about
9 the next time it rains, the 30 centimetres slipping
10 down the mountain, you'd wonder whether that should be 12.06PM
11 assessed?---Let the engineers worry about that; we had
12 a couple of them in here yesterday that knew exactly
13 what they were talking about.

14 So it's the kind of thing that would need to be the subject
15 of an assessment in terms of how it would be done and 12.06PM
16 then a risk assessment in terms of whether it creates
17 other problems?---Yes. But it needs to be done
18 notwithstanding in one form or another if an event of
19 this nature's not to be repeated at some time in the
20 future. 12.06PM

21 Can I take you back, I think it's just back a page or so, to
22 paragraph 275. You quote there, paragraph 275 which is
23 at the bottom there, that there's a report on
24 rehabilitation and you extract a phrase which refers to
25 the fact that "rehabilitation hasn't been done due to 12.06PM
26 the large amount of infrastructure still required for
27 many years to come". I just wanted to be sure, you
28 understood, didn't you, that the infrastructure
29 referred to there isn't just mine infrastructure,
30 although there's a significant amount of that, it's 12.07PM
31 also assets owned by other entities; for example the

1 power lines owned by SP AusNet that we were just
2 speaking about?---Yes.

3 And two types of powerlines: Powerlines running from
4 SP AusNet into the mine, but also supplying power to
5 South Gippsland; you understood that?---Yes, I heard 12.07PM
6 the evidence of Mr Faithfull yesterday, he was very
7 detailed on that.

8 You are aware also of the location of the Morwell main
9 drain, the Princes Freeway in the same area?---Yes.

10 And then of the mine infrastructure, so things like the MWN 12.07PM
11 electrical substation, the RTL yard, the roads and
12 ramps, you're aware that there are other
13 things - - -?---I know it all. Apart from the fact
14 that I know it's there, I've seen it on Google Earth
15 and it's quite obvious to me what's there and to a 12.07PM
16 certain extent anyway what it's for, but I'm not
17 talking about rehabilitation as being the solution,
18 don't pin that one on me, I'm talking about either
19 wetting the coal or covering it.

20 Okay, I now want to take you to one aspect of the previous 12.08PM
21 work plan, previous iteration of the work plan that
22 some evidence has been given about and you've made
23 comment on. The 1996 work plan was an attachment to
24 Ms White's statement.

25 I've just had some trouble finding the number of 12.08PM
26 it because she issued supplementary attachments, but I
27 think we have finally found a version that can be shown
28 to you, and it seems it must be the version that you
29 were given. I wanted to go to page 63 of, as it then
30 was, the 1996 work plan which was tucked in a Victorian 12.08PM
31 Government gazette attached to Ms White' statement. I

1 just wanted to go to page 63 of it. I've been having
2 some discussions this morning about trying to locate a
3 copy and hopefully we've been able to do so. If we can
4 see all of Clause 7.7.

5 Mr Incoll, at 7.7, and you referred to this in 12.09PM
6 your report, you express the view that this statement
7 in the work plan, which refers to the Fire Protection
8 Policy, so it says, "Hazelwood adheres to the open cut
9 policy", et cetera and I won't bore you by reading all
10 of it. Then it says, "An extensive network of water 12.09PM
11 reticulation and sprays has been established."

12 You expressed the view that, in your opinion, if
13 there's any change to the network in the map which is
14 appended, that requires an application for a variation
15 to the mine licence, is that your view, or the work 12.09PM
16 plan?---I would have thought it would have been part of
17 the work plan.

18 Mr Incoll, looking at the way that's expressed, it's simply
19 stating that there's a policy that's to be adhered to,
20 and you've agreed with me that the 1994 policy admitted 12.10PM
21 of alternatives. So in terms of fire protection it
22 said you endeavour to cover water to a
23 particular degree; if not, 500 metre breaks; if not,
24 tanker fill points. There are the three alternatives,
25 aren't there?---Well, that's really for fire protection 12.10PM
26 within the mine.

27 Yes, well, that's all we're talking about. What I want to
28 suggest to you is that, given that the policy talks
29 about three ways of meeting its standards, the
30 reference there to the map or the picture of the 12.10PM
31 network is not elevated to something with some sort of

1 status that requires an application to vary, it's
2 merely narrative; it's saying, here's a picture of the
3 network as it appears.

4 The reason I'm putting that to you is, given the
5 whole policy allows three different ways of making the 12.10PM
6 grade, it couldn't be that the mine is frozen in time
7 as per one map network because it might have to
8 rehabilitate the area where the pipes are?---Quite so.

9 Do you accept then that it mustn't be the case that changing
10 your pipe network requires a formal delegation to go to 12.11PM
11 the Department and seek a variation of the
12 plan?---Well, I think the fact that that was done has
13 caused a hole in the protection network which is
14 significant, and if the current paperwork doesn't cover
15 it, then a new lot ought to be generated that does, 12.11PM
16 that's basically what I'm saying.

17 So, really you'd like to see the paperwork be different,
18 that's the first point. You can't actually sit there
19 and say definitively that a variation was required as a
20 matter of legal interpretation?---Well, that's your 12.11PM
21 interpretation, I hear what you say, but the thing that
22 concerns me is that it happened and it caused a big
23 hole in the protection that otherwise would have been
24 available, and it took a fair bit of extracting to find
25 out why that happened and we've heard it in detail, now 12.12PM
26 we know all about it, but the problem is that water
27 wasn't available there where, in the event of a future
28 fire, it ought to be, either that - - -

29 Two questions follow that. You say water wasn't there when
30 it ought to have been. I'm not a fan of the but for 12.12PM
31 analysis, but there was no power anyway, was

1 there?---Well, there was initially.
2 But there was no power for a significant period of time?---I
3 mean, that's another problem we've spoken about and
4 there's another solution to that, but it's not a reason
5 for not having the pipe work. 12.12PM
6 I understand what you want to say. The next is you say it
7 caused a gap. I just want to understand, the policy to
8 which the mine is being held through this work plan and
9 its subsequent iteration admits of three different ways
10 of achieving the standard, not just pipe work; you 12.12PM
11 accept that, don't you?---But as to whether they
12 complied with that or not's another question and
13 there's evidence in my report that they didn't comply
14 with it anyway.
15 You understand that the three work together; it's the 500 12.13PM
16 metre break or the coverage or the tanker fill
17 point?---Quite good for limited internal fires, but on
18 a fire of this scale they're quite ineffective.
19 Finally, one of the things you say in your report is at
20 paragraph 61 - sorry, I'll have to take you back to 12.13PM
21 that other document, back to your report. It's here
22 where you engage with your comments on the Mine
23 Regulator and say, "There's no indication that an audit
24 of effectiveness or other evaluation will follow" and,
25 as you expanded in your evidence, is ever done. 12.13PM
26 On the list of documents that it says you perused,
27 it says that you looked at the big submission that was
28 filed by the Victorian State Government; do you recall
29 reading that?---Yes, I looked at some of the documents
30 there, particularly the letter which explained the 12.14PM
31 regulatory basis; I thought that was very good. I

1 didn't go too far into the appendices because I didn't
2 have the time.

3 Nor have I. I got up to paragraph 4.6 where the State
4 submitted to the Inquiry that the mine is audited at
5 least annually and that the audits vary in nature, 12.14PM
6 including general compliance audits, issue risk
7 specific audits and management system audits. Having
8 looked further at it and at the evidence of some of the
9 Department witnesses, it appears that DSDBI have done
10 audits on topics like management of slope stability in 12.14PM
11 2008, environmental management system audit 2009, water
12 management mine stability audit 2010, water dams 2011,
13 environmental dust 2012, Morwell main drain completion
14 audit 2013. So it looks like the Department has done a
15 number of subject-specific audits?---Quite so, but I'm 12.15PM
16 specifically relating to fire in my comments, and I
17 don't think any of those really affect fire as I
18 understand it, and sure - I mean, that's their stock
19 and trade and I'm now aware that they've got
20 Inspectors, local Inspectors, which I wasn't at the 12.15PM
21 time. But that's their business and, I mean, as you've
22 clearly said, fire isn't necessarily their business.

23 Well, as Ms White's clearly said?---Yes.

24 I take it from what you said, you've heard some of the
25 evidence or read some of the evidence of VWA witnesses 12.15PM
26 as well and you understand that Inspector Hayes from
27 WorkSafe has visited the mine regularly as well?---Yes.

28 And there's evidence of the extent of whatever Improvement
29 Notice he's given and the response to them?---I think
30 that's been a very effective process, because it goes 12.15PM
31 to the matters that concern fire in many ways.

1 I have no further questions of Mr Incoll.

2 <RE-EXAMINED BY MS RICHARDS:

3 Just a few more questions for you, Mr Incoll. Dr Wilson put
4 to you that you would recognise that Kylie White is the
5 Regulator, the Mine Regulator and that you would defer 12.16PM
6 to her judgment or her opinion about mining regulation
7 in 2014, and you agreed with that?---Yes.

8 Does that affect in any way your opinion that the fire
9 protection requirements should be included in the
10 conditions of the mining licence?---No. I think it's a 12.16PM
11 very important part of the conditions to be allowed to
12 operate a mine of this nature. I mean, there's no
13 point in stating again the fire prone nature of the
14 enterprise, but I think it's fundamental that the
15 relevant precautions/policies be detailed and be signed 12.17PM
16 off on. I don't think it's good enough to have them
17 buried in part of the rehabilitation documentation as a
18 one-paged policy.

19 You were also asked by Dr Wilson some questions about s.43
20 of the Country Fire Authority Act?---Yes. 12.17PM

21 And you debated with him whether he was in fact talking
22 about 41 or 43 of that Act. Section 43(1) of the
23 Country Fire Authority Act provides that, "In the
24 country area of Victoria it is the duty of every
25 Municipal Council and public authority to take all 12.17PM
26 practicable steps, including burning, to prevent the
27 occurrence of fires on and minimise the danger and
28 spread of fires on and from any land vested in it or
29 under its control or management."

30 Is the point that you were making that that 12.17PM
31 provision used to apply to the Morwell Open Cut when it

1 was in public ownership?---Yes.

2 And since privatisation that provision no longer applies to
3 the owner of that land?---Exactly, it doesn't, because
4 it's not land owned or operated by the council or
5 within council control or they're not a public
6 authority. 12.18PM

7 Ms Doyle put to you that under the Mine Fire Service Policy
8 and Code of Practice since 1994 there have been three
9 alternatives for achieving compliance in the exposed
10 coalface in the worked out batters; there's been 12.18PM
11 wetting down of 50 per cent of the exposed coalface, or
12 there's been the segmenting of the exposed coalface
13 into 500 metre lengths, which we were told by
14 Mr Polmear yesterday was not practicable at Hazelwood,
15 and you've identified has not occurred; or the 12.18PM
16 replacement of tanker fill points no less than
17 5 minutes away. That of course is the minimum
18 requirement in the Code of Practice. What is your
19 opinion about the adequacy of those minimum
20 requirements for managing the risks that became real on 12.19PM
21 9 February?---They may well be adequate, I think
22 they're intended for internal protection of the mine
23 where you have limited fire and not under total fire
24 ban weather conditions, but they're not when you're
25 looking at widespread fires started by an ember shower. 12.19PM
26 It's my firm conviction, as I've said, it has to be
27 either covered with some sort of a blanket of earth or
28 another substance or covered by water to resist that
29 type of attack.

30 You also had a discussion with Ms Doyle about the adequacy 12.19PM
31 of the water supply system to achieve wetting down of

1 50 per cent as is the minimum requirement in the
2 policy. That can be done as a preventative measure
3 before there is fire in the mine, can it not?---That
4 was the whole thrust of my remarks, yes.

5 And if it is done as a preventive measure - - -?---As a 12.20PM
6 preventive measure.

7 - - - it is possible to manage the water supply so that
8 over the course of a morning the areas that need to be
9 wetted down are wetted down?---I believe that was done
10 in the past, that they'd wet an area and then move the 12.20PM
11 sprays onto another area so to manage the available
12 water supply; well, I've got no problems with that,
13 that's sensible, as long as the coal doesn't during the
14 peak of the fire danger, you know, you don't have large
15 areas of dry coal. I mean, that's what the Fire 12.20PM
16 Service was good at doing, was moving the water around
17 as I understand it.

18 Ms Doyle put to you that it wouldn't have been much help to
19 have the capacity to wet down that area because the
20 power went out in any event. It is the case, is it 12.21PM
21 not, that loss of power during a fire is a fairly
22 common event?---Well, it does happen, but I think any
23 risk manager says, if that's likely to happen what you
24 do is arrange for an alternative supply, as SP AusNet
25 well does in a real life situation out there. If they 12.21PM
26 get a lightning strike in a particular line that blows
27 a transformer, they can get power in from somewhere
28 else.

29 But the fact that that's something else that can go wrong
30 when a fire is burning, the loss of power, underscores 12.21PM
31 the importance of wetting down exposed coalfaces early

1 in the day before that risk becomes real?---It does,
2 and with a comprehensive risk assessment so you pick up
3 the fact that the power might go off and therefore the
4 water wouldn't be available, so how else can we get the
5 power in? 12.22PM

6 Mr Incoll, thank you very much for your evidence. Do
7 Members of the Board have any further evidence?

8 CHAIRMAN: No. Thank you again for your evidence. Thank
9 you.

10 <(THE WITNESS WITHDREW) 12.22PM

11 MS RICHARDS: The next witness is Romeo Prezioso from the
12 Hazelwood Mine. Mr Prezioso.

13 <ROMEO PREZIOSO, recalled:

14 MS RICHARDS: Welcome back, Mr Prezioso?---It's great to be
15 back. 12.23PM

16 This time you come with a statement?---Yes.
17 You have a statement that was provided to the Inquiry on, I
18 think, Wednesday?---That's right.
19 It was made fairly recently. Have you re-checked it since
20 you finalised it?---Yes, I had three hours to. 12.23PM

21 Is there anything in your statement that you wish to
22 change?---No.

23 Are the contents of your statement true and
24 correct?---Correct.

25 I tender that, Your Honour. 12.24PM

26

27 #EXHIBIT 93 - Further statement of Romeo Prezioso.

28

29 MS RICHARDS: Just to recap the last occasion on which you
30 gave evidence, it seems a long time ago?---It does. 12.24PM

31 You're employed by Hazelwood Power Corporation at the mine

1 as a Senior Mine Planner, and you've worked at the mine
2 in a range of different capacities for about
3 30 years?---That's correct.
4 Your employment at the mine predates privatisation?---Yes.
5 You were originally employed there by the SEC?---That's 12.24PM
6 right.
7 Between 2006-2008 you were the Fire Services Officer at the
8 mine?---That's right.
9 When in 2008 did you cease in that role?---Towards the end
10 of 2008. 12.24PM
11 So, November-December?---Yes, roughly, approximately.
12 Mr Prezioso, I'd love to go through your statement in detail
13 with you, but time constraints dictate otherwise. What
14 you've done in this statement is to take
15 recommendations made in two reports prepared by GHD in 12.25PM
16 relation to two fires, one in October 2006 and another
17 one in December 2008?---That's right.
18 You have provided a detailed account of what has been done
19 to implement those recommendations?---Yes.
20 Where in some instances the recommendations were not 12.25PM
21 implemented, you've provided a brief explanation as to
22 why that was the case. There is one recommendation
23 that I'd like to focus on with you particularly, and
24 you deal with this starting at page 8 of your report.
25 This was a recommendation that was made by GHD in its 12.26PM
26 report that reviewed the 2008 fire. That fire was
27 found to most likely have occurred because of a
28 flare-up of a pre-existing fire hole?---That's right.
29 In the worked out southern batters of the mine?---Yes,
30 southeast batters. 12.26PM
31 That occurred on a day of high fire danger, with a

1 hot - - -?---2008, no, it wasn't necessarily, no.
2 No?---I can remember that day. We had approximately 5-10 ml
3 of rain I think that morning.
4 There'd been rain in the morning, and nevertheless the fire
5 hole flared up and caused this fire that took some time 12.26PM
6 to get under control?---Yes.
7 One of the recommendations made by GHD in its report, and
8 it's Recommendation 6 in its final report, you set it
9 out there in paragraph 92, is that, "A risk assessment
10 should be undertaken on the non-operational areas to 12.26PM
11 determine if further prevention work is
12 required"?---That's right.
13 "The risk assessment should include a cost-benefit
14 analysis." We're agreed, I think, that there is no
15 formal risk assessment report that was produced in 12.27PM
16 implementing that recommendation?---That's right.
17 And certainly none's been provided to the Inquiry?---No.
18 You've also provided us with a draft of the GHD report which
19 you've attached as Annexure 3 but helpfully the
20 relevant part is set out at paragraph 96 of your 12.27PM
21 statement?---That's right.
22 In the draft the same recommendation appears, although it's
23 numbered 10?---Yes.
24 The note underneath it, or the explanation for the basis for
25 it is, "A critical element of the initial response and 12.27PM
26 the ongoing emergency response was the lack of fire
27 water supply to the non-operational areas and the
28 restrictions in access due to the conditions of the
29 roads, the accumulation of debris and that some batters
30 did not have road access." Then there's a suggestion 12.28PM
31 that the annual audit should include fire water supply

1 to non-operational areas, access and housekeeping, and
2 then there's an identification that there had been a
3 brainstorming session about ways to prevent hot
4 spots?---Prevention of hot spots.

5 And to detect them?---Correct.

12.28PM

6 Those first two paragraphs that identify lack of fire water
7 supply so the non-operational areas and access issues,
8 don't appear in the final version of your report; can
9 you explain why not?---I'm not sure to be honest with
10 you. It's six years ago so I can't be absolutely sure
11 why it didn't appear.

12.28PM

12 But you would agree that what appears in the draft report is
13 informative about what was in the mind of the reporter
14 as to the reason for Recommendation 6 as it
15 became?---Correct, and that's why I put it in there.

12.29PM

16 So it wasn't just about hot spot monitoring, was it?---No,
17 it was about access to the areas.

18 And it was about water supply to the non-operational
19 areas?---Yes.

20 There was a further recommendation made specifically in
21 relation to monitoring of hot spots which was
22 recommendation 10 in the final report?---Yes.

12.29PM

23 You were responsible for implementing that recommendation,
24 were you not. Go to page 3, paragraph 30?---Yes,
25 "Pre-Existing geological hot spots to be monitored", is
26 that right?---Is it 77?

12.29PM

27 Bear with me, I've lost my bearings. I think we see from -
28 page 77 I'm told. Recommendation 10 was, "Pre-Existing
29 geological hot spots need to be better
30 monitored"?---That's right.

12.30PM

31 Then you tell us at paragraph 78 you and another engineer

1 were responsible for implementing that?---That's right.
2 You've set out in your statement in some detail the various
3 steps you took to implement that recommendation?---Yes.
4 You weren't responsible, were you, for implementing
5 Recommendation 6?---Yes and no. 12.30PM
6 Yes and no. Well, if we have a look at the Paradigm II
7 printout that is Annexure 1 to your statement. I'm
8 afraid it has no page numbers, it will be difficult for
9 the operator to identify it, but we do see towards the
10 end of it that the action item was initially Bill 12.31PM
11 Walker's; is that correct?---I believe Bill, he looks
12 after the Paradigm document system. He's not
13 necessarily the action item.
14 He wasn't necessarily responsible for it?---No.
15 But we do see under "additional comments" some additional 12.31PM
16 comments by you that are not dated. Do you have any
17 memory of when you put those comments into
18 Paradigm II?---No, it would have been - with the
19 recommendations to, I like to give them a bit of time
20 to embed themselves into the process of what the 12.32PM
21 recommendations are. So, even though we act on it
22 initially, until I see evidence that this is working
23 well and consistent, I'll close the item off, the
24 recommendation off. So, I'm not sure what the date -
25 is 2010? Yes, 2010. 12.32PM
26 It doesn't say, I don't think. There's, "Additional
27 comments by Romeo." Do you take that date of 2010 from
28 the 18/02/2010 that appears on the previous page?---I'm
29 assuming you would. I'm a little confused now myself.
30 So you're the expert in operating Paradigm II?---No, 12.32PM
31 obviously not.

1 So it's identified as complete?---Yes.
2 18/03/2010?---2010.
3 There are some additional comments by you, it's possible
4 that you inserted those comments on 18 March
5 2010?---Yes, exactly. 12.32PM
6 So your view, at that time the recommendation had been
7 implemented?---Yes, and running smoothly.
8 The basis on which you formed that view was that an ongoing
9 assessment, and this is what you note on the following
10 page, "An ongoing assessment of non-operational phases 12.33PM
11 is conducted through the mine planning and engineering
12 section which is captured at six week intervals over
13 summer and 12 week intervals for remainder of year.
14 This inspection report lists action items required with
15 a subsequent cost-benefit analysis developed for any 12.33PM
16 required work." What you describe there is an
17 inspection and an assessment; it's not a risk
18 assessment, is it, Mr Prezioso?---No, definitely not.
19 Definitely not.
20 Mr Kemsley, Stan Kemsley, who's the Technical Compliance 12.33PM
21 Manager at the mine - - -?---That's right.
22 - - - conducted a review of the implementation of the
23 recommendations of the 2006 report, 2012 report and the
24 2008 report, and he did that in June 2012, did he
25 not?---I believe so. 12.34PM
26 You have provided us at Annexure 2 of your statement an
27 email from Stan Kemsley to Rino Marino dated 20 June
28 2012. Who's Rino Marino?---He works in the station.
29 Sorry, he works in?---He's with, I can't remember his title
30 now. 12.34PM
31 He's a mine employee?---No, Hazelwood - he works - he's a

1 GDF Suez employee, he works at the station.
2 At the station?---Yes.
3 Doug Day, what's his role?---Doug has since moved across -
4 at that particular point in time, I'm not sure what
5 Doug's role would have been. 12.35PM
6 In any event - - -?---I cannot recall sorry.
7 - - - you sent Mr Marino, with a copy to Mr Day, a report
8 on major incidents. That's the document attached. If
9 we go to the next page it's headed, "Review of specific
10 major incident recommendations." There's a summary of 12.35PM
11 findings at point (3) on that page where, in relation
12 to the 2008 mine fire he finds that, of the 38
13 recommendations, 28 had been addressed and 10 had not
14 been addressed. If we go two pages further on. It's
15 headed, "Mine fire - 14 and 22 September 2008", and we 12.35PM
16 see at Recommendation 6, "Addressed yes/no", and the
17 answer is "no". At then at Recommendation 10, which is
18 the one concerning the monitoring of hot spots, we see
19 that it has been both addressed and the
20 implementation's effective ?---Yes. 12.36PM
21 So that was Mr Kemsley's assessment as at the end of June
22 2012?---Yes.
23 Were you aware of his assessment at that time?---No.
24 Mr Kemsley presumably would have had available to him the
25 Paradigm document that we were just looking at?---Yes. 12.36PM
26 The Paradigm records as they stood at 2012?---Correct.
27 So, notwithstanding the fact that in March 2010 it appears
28 as completed?---Yes, it's been completed.
29 Mr Kemsley's opinion was that it had not been?---Well, yeah,
30 no. 12.36PM
31 You say in paragraph 94 that you have contacted the GHD

1 Incident Investigation Leader who was responsible for
2 the 2008 report?---That's right.

3 Simon Casey; when did you speak with him?---I spoke with
4 Simon two days ago.

5 Two days ago, on Wednesday?---Yes. 12.37PM

6 Had you spoken with him before about Recommendation 6 in the
7 2008 report?---Yes. Not - during - sorry, can you
8 repeat that question?

9 Had you spoken with him previously about Recommendation 6 in
10 the 2008 report?---Yes. 12.37PM

11 Yes, when?---During the process of the Inquiry, the
12 investigation.

13 During the process of the Inquiry, so this year?---No,
14 sorry, during - I'm a little confused now. Are you
15 asking if I spoke to him recently or? 12.37PM

16 You said you spoke to him on Wednesday?---Correct.

17 You were responsible for implementing that recommendation
18 you've told us?---Yes.

19 At any time between when the final report was provided to
20 GDF Suez and when you signed off that the 12.37PM
21 recommendation had been implemented - - -?---Not to my
22 recollection.

23 You hadn't spoken with Mr Casey?---No.

24 So you didn't seek clarification with him about what he
25 meant by "a risk assessment should be taken in the 12.38PM
26 non-operational areas to determine if further
27 prevention work is required"?---I'd spoken in depth
28 with Simon during the process in 2006 when he was
29 building the report, so I clearly knew back then what
30 his expectations were - - - 12.38PM

31 You mean 2008?---2008, sorry, in regards to

1 Recommendation 6. I spoke to him two days ago just to
2 clarify that and refresh my memory that what I
3 envisaged we did back then is the same as what he
4 viewed as well.

5 Your evidence is that, when you spoke with him two days ago 12.38PM
6 he indicated to you that he would not necessarily have
7 expected that the mine would obtain or produce a formal
8 risk assessment report in response to this
9 recommendation?---He did say that.

10 That is a discussion that you only had with him two days 12.39PM
11 ago?---Correct.

12 Now, he didn't say, did he, that he did not expect that the
13 mine would not conduct a risk assessment?---No, he
14 didn't.

15 In fact, no risk assessment was conducted, was it, 12.39PM
16 Mr Prezioso?---No, it wasn't.

17 I'd just like to ask you about a passage toward the end of
18 your statement that appears at page 10, starting at
19 paragraph 106, where you talk about audit of access and
20 water supply to worked out batters which is one of the 12.39PM
21 things that you did in response to
22 Recommendation 6?---Correct.

23 You make the point at paragraph 108 that now the annual fire
24 equipment audit extends to the southern, southeastern
25 and northern batters, and what that involves, which 12.40PM
26 wasn't the case in 2009-2010, was checking the northern
27 batter pipe lines, the southeast main pipeline and the
28 southern 300 millimetre pipeline?---That's right.

29 It doesn't involve an assessment of the overall coverage of
30 the pipeline network, it involves looking at whether 12.40PM
31 what's there is working?---Correct.

1 You tell us in paragraph 107 that, as a result of these
2 audits, various improvements have been made to the
3 water supply, including the repair of pipes et cetera,
4 which we would expect, or the installation of new
5 pipes. Could Mr Prezioso please be shown and can we 12.40PM
6 have on the screen Annexure 11 to Mr Dugan's statement.

7 Mr Prezioso, this, Mr Dugan tells us, is a diagram
8 of the Fire Services pipe network as at
9 9 February?---That's right.

10 Are you able to identify any pipes that were added to this 12.41PM
11 pipe network following Recommendation 6 in the 2008
12 report?---No.

13 So there were no additions to the Fire Services pipe
14 network?---Potentially replaced pipe where it was
15 required; a badly leaking pipe. 12.41PM

16 So replaced old pipe, but there was no extension of the Fire
17 Services pipe network following Recommendation 6?---No,
18 that wasn't the intention of the audit. The audit was
19 to assess what was on site was operational and
20 functional. 12.42PM

21 The recommendation was to conduct a risk assessment of the
22 non-operational batters, was it not?---That particular
23 recommendation was focused around the 2008 fire and
24 issues arising out of the 2008 fire and we addressed
25 those issues accordingly. 12.42PM

26 But no risk assessment was ever conducted?---No, as - - -
27 Thank you, I have no further questions.

28 <CROSS-EXAMINED BY MS DOYLE:

29 I just have couple of questions. This 2008 fire, it
30 happened in September of that year; is that 12.42PM
31 right?---Correct.

1 I couldn't quite hear the rest of your answer when you were
2 asked about it, I think you said it had rained that
3 morning or at some time?---That's right.

4 You've been asked some questions about things that were done
5 after the report was prepared by GHD, and you set those 12.42PM
6 out in your statement. I just want to ask you about a
7 timing of a couple of them. Can I take you to
8 paragraph 103 of your statement. Perhaps we'll start
9 with paragraph 101 which is on the same page, you refer
10 there to a job done originally by Mr Orr and then 12.43PM
11 Mr Chisholm preparing monthly hot spot inspection
12 reports, and you attach some of those, so that was a
13 task that was implemented in 2009 but carried through
14 to 2013. Is that right?---That's correct.

15 In paragraph 103 you refer to a thermal imaging camera being 12.43PM
16 trialled. Can you remember when that was
17 trialled?---Early stages. It was a hand-held thermal
18 imaging camera we were utilising to try to detect hot
19 spots.

20 When you say early stages, you mean?---Sorry, 2009. 12.43PM

21 The sensors that you refer to in paragraphs 104 and 105, so
22 the consideration of installing sensors, when did you
23 look at that possibility?---Around about the same time.

24 Jumping to paragraph 113. These RAG reports, there's been
25 some evidence from Mr Dugan about them, do these 12.44PM
26 reports continue to be produced on a monthly basis
27 after those inspections?---I believe they do.

28 You were asked some questions about Attachment 2 which is a
29 report prepared by Mr Kemsley in June 2012. I can't
30 tell from the face of the document, but do you know 12.44PM
31 whether Mr Kemsley has revisited his document or

1 whether anyone has revisited it after June 2012 on his
2 behalf?---No, I don't.

3 I have no further questions for Mr Prezioso.

4 <RE-EXAMINED BY MS RICHARDS:

5 Mr Kemsley still works at the mine, does he not?---He does. 12.44PM
6 He was here in the hearing room yesterday, was he
7 not?---I believe he was.

8 Are you aware of any reason why he couldn't give
9 evidence?---No, not that I'm aware of.

10 At paragraph 102 you refer to a number of hot spot 12.45PM
11 inspection reports that are - - -?---That's right.
12 They only go up to April 2013. Is there a reason why there
13 are no hot spot inspection reports provided after that
14 date?---I couldn't answer that question.

15 Did they stop being produced in that form?---I'm not in that 12.45PM
16 position any more so I really can't answer that
17 question.

18 Thank you, I have no further questions. May Mr Prezioso be
19 excused?

20 CHAIRMAN: Yes. Thank you, Mr Prezioso, you are excused. 12.45PM
21 <(THE WITNESS WITHDREW)

22 MR ROZEN: If the Board pleases, the next witness is
23 Mr Graham, the Asset Manager from GDF Suez. There's
24 been a discussion between Counsel Assisting and
25 Ms Doyle, senior counsel for GDF Suez, and by agreement 12.46PM
26 Ms Doyle will lead the evidence of Mr Graham, she has a
27 document outlining the evidence which has been
28 distributed to the parties, and then it's envisaged
29 that Counsel Assisting will then ask Mr Graham some
30 questions after Ms Doyle has concluded. 12.46PM
31 MS DOYLE: I have two hard copies of the document that

1 Mr Graham's going to speak to. I'll have my instructor
2 bring it to you.

3 <GEORGE GRAHAM, sworn and examined:

4 MS DOYLE: Thank you, Mr Graham. Can you confirm for the
5 transcript your full name?---George Graham. 12.47PM

6 You're the Asset Manager at Hazelwood?---I am.

7 For the tribunal's information, the Inquiry has very
8 recently overnight been provided with three documents,
9 a single page which sets out, in order to be efficient
10 today, Mr Graham's qualifications and experience, a 12.47PM
11 document in the form of a chart that Mr Graham will
12 speak to today, and a one-paged map that is relevant to
13 one row in that chart.

14 Mr Graham, do you have each of those three
15 documents with you?---I do. 12.48PM

16 I want to just talk to you first about your work at the mine
17 and some of your qualifications and experience before
18 taking you through some of the detail in the chart.

19 This little aide-memoire will help us with some of that
20 background. It sets out that you have qualifications 12.48PM
21 in mechanical and electrical engineering from the
22 United Kingdom. When did you start working first of
23 all in the power industry generally and then we'll turn
24 to talking about mines?---I started with the equivalent
25 of the SECV in the UK, the Central Electricity 12.48PM
26 Generating Board in 1969 as a student apprentice aged
27 16 years old.

28 That's the first position we'll see there under the heading,
29 "United Kingdom 1969-1995", and you've worked at a
30 number of stations which have very confusing names that 12.48PM
31 you've listed there. 1982-1995 you joined Drax, was

1 that still a state-owned supplier or is that a shift to
2 private enterprise?---No, the shift to private
3 enterprise was in 1991 when National Power was formed.
4 You held the roles set out there in the United Kingdom. You
5 then had a period of time in Asia and Pakistan; what 12.49PM
6 type of plants or stations were you working in in Asia
7 and Pakistan?---In Pakistan, residual fuel oil fired
8 power plants, and in the Middle East gas-fired power
9 plants.

10 In those roles you worked through Shift Manager, Production 12.49PM
11 Manager and engineering manager roles?---Yes.
12 Basically he my experience, I did 25 years on shift in
13 operational roles in the frontline, ie Shift Manager
14 type roles, which in terms of emergency responses, ie I
15 would be the Emergency Commander in those type of 12.49PM
16 situations. From the period in 2001 or 2002 I then
17 moved on to day work and into the higher management
18 positions, Production Manager, Engineering Manager,
19 then moving on through General Manager of the operating
20 maintenance company in the Middle East. 12.50PM

21 This is the position where you refer to Middle East, Oman,
22 2004-2005. By that stage you were holding the position
23 of General Manager?---Yes.

24 Again, that's in the gas industry?---No, it's a power plant,
25 it's a gas-fired, it just uses gas fuel. 12.50PM

26 Then you started your work at Hazelwood in September 2005.
27 Can you just explain what role you started in and we'll
28 work through them. The first position that you held
29 when you started at Hazelwood?---I came in September
30 2005 as what was termed then the Generation Director. 12.50PM
31 In easy speak, I guess, that's the power plant manager,

1 and I've been in that position from September 2005
2 through until 1 February 2014 when I was appointed the
3 Asset Manager.

4 For convenience the last part of this page describes your
5 seniority in the organisation and describes you as the 12.51PM
6 most senior manager at Hazelwood overseeing the station
7 and the mine?---Yes.

8 The title "Asset Manager" is not as familiar to us as some
9 of the more traditional descriptors in terms of the
10 management hierarchy. Is there something you would 12.51PM
11 equate it to or is there another analogy in more
12 familiar language. The term "Asset Manager" or
13 "Station Manager" is actually pretty common within our
14 industry in terms of a single power plant. If you have
15 a larger entity where we've got the power plant and 12.51PM
16 mine, which is actually unusual, there's not many
17 places that are like that, the structure would normally
18 be we would have a Chief Executive Officer and then
19 below them a manager for the power plant and a manager
20 for the mine. The Asset Manager is what would have 12.52PM
21 historically been known externally as the Chief
22 Executive Officer.

23 Reporting to you is the Mine Director, Gary
24 Wilkinson?---Yes.

25 We'll go to a chart if we need to but I think people have 12.52PM
26 become familiar with some of the roles. Can you just
27 explain a little about that top part of the hierarchy
28 or the tree? There's you as Asset Manager, Mr Gary
29 Wilkinson as the Mine Director. Who would be the
30 direct reports to him, the next layer down?---The major 12.52PM
31 direct reports to Gary Wilkinson would be the

1 Production Manager, Mr Robert Dugan, and the Technical
2 Services Manager, James Faithfull.

3 You have in front of you a document that doesn't look like
4 the other witness statements that have been prepared in
5 these proceedings, it's in the form of a chart. I'll 12.52PM
6 ask you to get that out. It's divided into columns and
7 it's in red and black text?---Yes.

8 Mr Graham, this is a document that you have prepared over
9 the last three or so days?---Yes.

10 Can you explain what you're intending to identify there with 12.53PM
11 the red text and the black text, what's the difference
12 between those two?---I would like to first say why I
13 did it, if you don't mind?

14 Sure?---I was conscious that there was a request from the
15 Board as part of this Inquiry that certain information 12.53PM
16 should be supplied, and part of that was seeking views
17 on improvements from myself. You know, I have heard
18 said about why I haven't appeared until this stage.
19 The view that we took was that, to meet the objectives
20 of the Board as we saw them, it would be beneficial to 12.53PM
21 have representatives that were closer to the action so
22 to speak, bearing in mind I took over the Asset Manager
23 position on 1 February, and I think that's actually
24 been very beneficial. So the part that hasn't been
25 covered by them is the potential for the 12.54PM
26 recommendations, so I was keen to be given the
27 opportunity to appear to try and address that part of
28 it.

29 So as you correctly say, the document actually
30 outlines two things. Basically, the black text is a 12.54PM
31 view of what would be proposed for external parties or

1 agencies to undertake, obviously it's just - well not
2 my view, our organisation's view of what might assist.
3 The red steps are the steps that we've taken a view
4 that Hazelwood would undertake.

5 When you say "Hazelwood would undertake", do you mean if 12.54PM
6 they're recommended by the tribunal or do you mean in
7 any event?---Look, what's in here is never going to be
8 exclusive, I'm sure the tribunal will recommend many
9 more things than are on here. We feel that the things
10 that we have mentioned in here add a lot of value. 12.55PM

11 Some of the red text for Hazelwood to undertake is
12 actually linked to the other parties taking some action
13 as well. If they don't take that action, then we'll be
14 a little bit stuck, but we would encourage them to do
15 that. But irrespective of whether the tribunal 12.55PM
16 recommended them, we think they add value and we would
17 wish to implement them.

18 MEMBER PETERING: Could I just ask you, Mr Graham, so you've
19 said that you've taken three days to prepare these
20 items. How widely populated have you discussed that 12.55PM
21 among your senior management team?---The basis of where
22 the information came from, certainly I've listened to
23 all of the evidence from my direct employees here in
24 the tribunal, I unfortunately haven't had time to
25 listen to all the other evidence, I've listened to 12.55PM
26 some. So, some of the suggestions are based around

27 what I've heard within these proceedings that I thought
28 would be very beneficial. Some of the suggestions come
29 more directly from asking the people that are very
30 experienced, and I'm sure during the course of this 12.56PM
31 event you would have noticed that, for their

1 suggestions. So, with all of the major players
2 involved in this tribunal and also some key individuals
3 that haven't been called. As an example, the
4 electrical engineers, you haven't spoken to them, but
5 that's a critical part of it, so that was a source of 12.56PM
6 it.

7 Just to clarify, how many direct reports do you have?---I've
8 actually got - things keep changing - I've got actually
9 six direct reports.

10 And have each of these seen this documents?---No. 12.56PM

11 So these represent your views or the views of the people you
12 have spoken to?---No, what I would say is, what you
13 have to remember is, because I'm the Asset Manager, of
14 the six direct reports, only one of those direct
15 reports has direct responsibility for the mine, that's 12.57PM
16 the Mine Director Gary Wilkinson, so all of this
17 collaboration has been with the Mining Director and his
18 direct reports and others within the mine, because they
19 were the appropriate personnel that had the expertise
20 to assist. 12.57PM

21 MS DOYLE: Two things arising from that, Mr Graham. You
22 mentioned electrical engineers. Is it the case that,
23 if you thought an idea was good but you wanted
24 technical advice about whether it was feasible from an
25 electrician's point of view, you contacted the people 12.57PM
26 at the mine to see whether it was feasible before
27 including it?---Yes, certainly, even without the idea
28 being my idea per se, there are questions about the
29 reliability of electrical system, so, without me
30 knowing what the answer would be, I approached the 12.58PM
31 electrical engineers to see what are the issues, what

1 can we do about it.

2 The second issue that might flow from some questions you
3 were just asked is this: In relation to the text in
4 red, do you have the authority and the capacity to
5 implement them at Hazelwood?---Yes, I do.

12.58PM

6 I want to ask you about each of these, and I may not ask for
7 as much detail in relation to all of them, some of them
8 you've spelt out in more detail than others.

9 If we start at the first page, you speak about
10 Phoenix modelling. Without reading the dot points in
11 black, I just want to ask you to tell us, why did you
12 think that the things in black, which would rest with
13 the CFA, but why did you think that the things in black
14 text would be useful to the mine in meeting another
15 fire like this?---Would you mind if I just describe a
16 little bit more about the document rather than the
17 individual points?

12.58PM

12.58PM

18 Certainly?---What we've actually tried to do here is
19 categorise things that would he could look at, so we've
20 actually split them into various sections,
21 ie responding to fire, training and firefighting
22 equipment, emergency response, power supply for
23 fighting fires, fire risk mitigation, planning and
24 communication in relation to fire, occupational health
25 and safety in. So they're the various categories there
26 so I didn't want people to think it was not linked to
27 some systematic approach, if you like, so apologies if
28 that's confused anything.

12.58PM

12.59PM

29 The item you're asking me about is the Phoenix
30 modelling. It was very enlightening for myself when I
31 attended the Inquiry in the first day, never heard of

12.59PM

1 Phoenix modelling, not aware of it. It appears to be a
2 fantastic tool, appears not to be utilised as well as
3 it could be from my interpretation of the information
4 that I saw here.

5 A lot of the text in the black area relates to the 01.00PM
6 people that have that information, normally the CFA,
7 ensuring that whenever the modelling does show a
8 reasonably high likelihood of external fire impacts on
9 the mine or other people's critical infrastructure,
10 taking into account the things they take into account, 01.00PM
11 the current or predicted weather conditions, that it
12 would immediately send the modelling to designated
13 contact people at Hazelwood and the other critical
14 infrastructure people of course. Then we would utilise
15 that information for what we've termed - and this is 01.00PM
16 our terminology which may not be the terminology the
17 CFA would use - extreme fire danger days which would
18 cause us, having got the information, to do certain
19 things.

20 You indicate in the red text that, in order to be able to 01.00PM
21 receive the benefits of this tool, Hazelwood will get
22 some staff or hope to have some staff trained up in
23 reading those maps?---Yes. We're also actually
24 suggesting that, even though the staff would be trained
25 up, that it would actually be beneficial that, when the 01.01PM
26 CFA should send the information, and we're suggesting
27 it would be directly to our people, not necessarily
28 through a third party, that there would potentially be
29 scope for them to actually put some information on
30 there about expectations of what we could do or should 01.01PM
31 do. That might relate to things like increased liaison

1 with them, attendance at Incident Control Centre, or
2 might be information relating to, this is the event
3 we're having and, by the way, we have all of these
4 other events going on that might limit our response
5 because we've heard said several times that the ability 01.01PM
6 of the CFA to assist may or may not be there on many
7 occasions. So that would be an opportunity at that
8 time when the information came to also potentially
9 caveat it with how much we're on our own or how much
10 we're not which would cause a different response, would 01.02PM
11 be my view.

12 We're at the end of a discrete topic, is now an appropriate
13 time to break for lunch?

14 CHAIRMAN: Yes, adjourn until 2.

15 <(THE WITNESS WITHDREW). 01.02PM

16 LUNCHEON ADJOURNMENT

17
18
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1 UPON RESUMING AT 2.00 P.M.:

2 <GEORGE GRAHAM, recalled:

3 MS DOYLE: As the tribunal pleases, I should have sought to
4 tender this bundle of three documents that Mr Graham is
5 giving evidence about. Can I tender that bundle of 02.02PM
6 three as one exhibit?
7

8 #EXHIBIT 94 - Bundle of three documents created by George
9 Graham.

10 MS DOYLE: Mr Graham, we were talking about the second 02.02PM
11 topic, training in firefighting and equipment, this is
12 at the top of page 2, you refer to a level of
13 appliances and the type of appliance. Just in brief,
14 can you say what led you to make that suggestion at the
15 top of page 2 and how will it improve things?---With 02.02PM
16 the construction of the mine, having very high batters
17 with access to various levels, the batter height is
18 still pretty immense, so to effectively fight a fire in
19 specific spots there, it's very useful to have what
20 would generally be described as an aerial appliance, so 02.03PM
21 they come in several forms, they come in telebooms,
22 aerial pumpers. I'm not fully across all of the
23 technical names but they fit into this category - that
24 is, long reach equipment that can give them access more
25 readily, would be the best way of describing it. 02.03PM

26 This is the type of equipment that, when it did arrive
27 during this fire, proved to assist with the fighting of
28 the fire?---Yes, absolutely. This is a defining
29 moment, if you like, when you get that type of
30 appliance on site. It's probably worth noting that, 02.03PM
31 when the fire was coming to an end and there was a

1 handover back to our own resources, that they kept an
2 aerial appliance at the Morwell Brigade for a period of
3 time after that, having recognised the view of it.

4 I put in the text there CAFS may be regarded in
5 that category but I would have to defer to whatever the 02.04PM
6 fire authority thought was the most appropriate thing
7 to have available.

8 Next you refer to fire-specific training or fire training
9 specific to the Hazelwood Mine. As I read the red
10 text, it's an offer that you will give some enhanced 02.04PM
11 training - your mine will provide training to the CFA.
12 What did you have in mind and how will that change
13 things as we saw them develop during this fire?---We've
14 had a relationship directly with the Morwell Group as
15 we would call it, consisting of the Morwell Brigade and 02.04PM
16 other smaller brigades within the area. In fact, the
17 last set of training we did with them was actually
18 in December, December 2013, and there's four more
19 training sessions already planned.

20 What became apparent was that in an event of this 02.05PM
21 scale you obviously get more than just the local
22 brigades in there, and obviously we can't cater for all
23 eventualities, but there did appear to be some gaps in
24 the training that we do with them as well, so we've
25 laid out here pretty extensive view of the types of 02.05PM
26 things it would cover around orientation, around
27 location of the infrastructure within the mine.

28 I think primarily at the moment it has been about
29 fighting fires in the mine as opposed to complete
30 knowledge of the mine locations, if you like; knowledge 02.05PM
31 of our emergency response procedures, more knowledge of

1 the command structure, about the communications, and
2 those types of things are mentioned there because, as
3 part of the evidence that came up, there was issues
4 across all of those areas to varying degrees throughout
5 the exercise.

02.06PM

6 The other thing that we're actually seeing in
7 there is obviously, subject to the view of the CFA of
8 what is appropriate or what's not appropriate, we would
9 be willing to interface and impart training on the
10 local issues with whatever amount of resource is viewed
11 to be do-able. We've put there 25 kilometre radius; I
12 don't know whether that's the right or wrong thing.
13 That effectively pulls in Traralgon, but again, it
14 would depend on what is said there and what we
15 currently do, not just limit it to the CFA. And we do
16 it now, we know have the SES, we have VicPol and those
17 things, so we're more than willing because we obviously
18 realise that all these people are here to help us so,
19 the more we can interface with them beforehand, the
20 better.

02.06PM

02.06PM

02.07PM

21 The next refers to the command structure and we've heard
22 evidence in the proceedings from Mr Dugan and others
23 about what the structure was on the day. What are you
24 suggesting here in terms of, what will be new and how
25 will it help?---Emergency response structures in power
26 plants throughout the world are very similar, and power
27 plants and mines from our perspective; it's based
28 around an Emergency Commander, although the name
29 differs in different parts of the world, so is a person
30 on shift, so the 24-hour coverage is there. They are
31 always the first line of defence in an incident, they

02.07PM

02.07PM

1 always take it up and then, depending on escalation and
2 timeframe, the responsibility is passed to someone
3 else, and that was what actually happened in this
4 event.

5 What we're now seeing in light of the extreme 02.07PM
6 conditions on the day, we're actually seeing that, with
7 the liaison that will go through from the Phoenix
8 modelling and the other interaction, we agree that
9 relying on the structure that is there in terms of the
10 personnel on the day, that maybe is not as appropriate 02.08PM
11 as it could be; because we could put a mechanism in
12 place that says we will nominate in advance what the
13 structure will be, we will accelerate it to the next
14 level as a minimum, so that on the notified extreme
15 fire danger days we will already have it in place and 02.08PM
16 we will already have the people on site.

17 I think you also make the point you'll notify the CFA of the
18 precise identity and contact details of those
19 people?---Yes.

20 Am I correct in understanding that rather than dealing the 02.08PM
21 CFA next week, when we have a fire we'll have an
22 Emergency Commander, you'll do that but, in addition,
23 when there is a threat of fire or a day of extreme fire
24 danger you will contact the CFA and say, tomorrow our
25 Commander is Mr X, the following day it's Mr Y, 02.08PM
26 et cetera, so that they have those details?---Yes,
27 absolutely, we want to set the liaison up as early as
28 possible.

29 Moving down to additional fire personnel, it's a row in red
30 that refers to, "On extreme fire days Hazelwood will 02.09PM
31 ensure more personnel are rostered." Explain what

1 additional suggestion you're making there and how you
2 regard it as addressing any shortcomings from the
3 past?---Again this is about, we have a dedicated Fire
4 Service team, and actually having looked historically
5 at what Fire Services teams consisted of in the past, 02.09PM
6 we've actually got more coverage today in the current
7 set up than we actually had 20 years ago within Fire
8 Services - different structure, but the actual
9 coverage, number of personnel available for those
10 duties engaged in those duties is actually more, better 02.09PM
11 coverage through longer in the day. However, what we
12 are also recognising is that when we have specified
13 events based on the information that is now becoming
14 available via the modelling, via the interaction, then
15 most certainly we'll arrange to increase that resource. 02.10PM
16 So we've suggested we can double that resource.

17 Part of the reasoning around that is, I think
18 we've touched on this before, is that we do understand
19 that the CFA may be committed at different times to
20 different events and more stretched than others. So we 02.10PM
21 would look to liaise there to what support was
22 available for them and that could influence the
23 outcome.

24 Can I ask by way of example, if during that liaison the CFA
25 told you we are fully stretched on the other side of 02.10PM
26 Traralgon, that might influence you to decide to crew
27 up to double the normal amount in light of that
28 indication?---Yes, absolutely. We would certainly
29 increase the number irrespective of whether they were
30 available or not. We can go to doubling the number, 02.11PM
31 that's not an issue. Depending on, if there was no

1 other issues in all of the other areas, we might choose
2 that some of the additional numbers might be more stand
3 by than physically there, but we would have them
4 available and in the event could get them there, but we
5 will double the number if there was any indication that 02.11PM
6 that was the correct thing to do. That's part of the
7 linkage to what I mentioned before, that when they send
8 the modelling, I would envisage that there would
9 potentially be room for comments there about, from the
10 CFA, that says what is expected of us, you know, they 02.11PM
11 could potentially give us some guidance to how things
12 might unfold.

13 The next point about signage is fairly self-explanatory,
14 probably fits in with the orientation training, you'll
15 upgrade the signage just to make some of those issues 02.11PM
16 easier for people who come for the first time, so let's
17 move to power supply.

18 CHAIRMAN: Can I interrupt to ask whether that might be
19 extended to include specifically firefighting maps? In
20 other words, to have a map that is geared for people 02.12PM
21 coming from outside, it won't be needed internally, but
22 those that are specifically firefighting facilities are
23 on a particular map that ties in with that
24 signage?---Because the maps will be available as part
25 of the orientation and the training, so it's a natural 02.12PM
26 extension that we could make them available, most
27 certainly.

28 MEMBER PETERING: Mr Graham, could I also ask, have you run
29 these issues and suggestions past anyone at the
30 CFA?---No, we have not, and that is why, I guess, 02.12PM
31 there's a caveat in the beginning that says, "These are

1 suggestions from ourselves that people may wish to take
2 up or not", but my view would be that, in terms of what
3 I've heard in the hearing - and I haven't heard it
4 all - was that there were things that have been talked
5 about as being viewed as being advantageous, but the 02.13PM
6 first time representatives for the CFA saw them was the
7 same as yourselves yesterday.

8 Have you explored these ideas more widely with the members
9 of other infrastructure, other mines in the Latrobe
10 Valley or other areas of large infrastructure?---No, I 02.13PM
11 have not.

12 MS DOYLE: The next topic doesn't relate to something that
13 Hazelwood can offer itself, it's a suggestion about
14 provision of power supply. Mr Graham, why do you make
15 this suggestion, accepting that it's not something you 02.13PM
16 do or you control, but why have you made this
17 suggestion?---I think we've heard on many occasions the
18 impact that that loss of supply had on the firefighting
19 activity, so it's obviously an area that we need to
20 focus on much more closely. Having focused on it and 02.14PM
21 given it a bit of thought, there are actually several
22 suggestions within the black text which relates to
23 SP AusNet and in the red text following relating to
24 ourselves that we feel can substantially increase the
25 redundancy within the system and markedly reduce the 02.14PM
26 likelihood of sustaining power failures anywhere near
27 the magnitude that we suffered on that particular day.

28 These two suggestions, redundancy and power supply, and in
29 the next row, enhanced redundancy of power supply, are
30 they both matters that you took some advice from the 02.14PM
31 mine's electrical engineers on?---Yes, most certainly,

1 because these were the guys that were involved on the
2 day with SP AusNet in trying to re-energise the
3 supplies. Part of the issue is that, basically you
4 have an overhead line that is supplying both to the
5 north of the mine, the MWN, and to the west of the 02.15PM
6 mine, the MWW. What actually happens is, there's a
7 line that's coming in - and forgive me for going back
8 to drama in school, I guess, but when the line comes in
9 it splits like this, so it goes off to the north and
10 off to the west and we have duplicated lines. So, if 02.15PM
11 this leg has a fault, it trips the supply to the whole
12 circuit coming from down in the floor here, so you lose
13 all the supply, you have to identify where the fault
14 is, you have to physically get up and disconnect
15 conductors to then put back in service the healthy 02.15PM
16 supply. This suggestion's very simple. This is
17 basically fitting off-load isolators, so where the line
18 comes in and splits into the two, you can get very
19 simple devices, like knife switches we call them, open
20 the pole so you can easily - if this is the side that 02.16PM
21 trip you, you can remotely, or SP AusNet, can remotely
22 drop this down. So it's very quick, you drop that
23 down, you re-energise to put the supply up this leg.
24 Within that system from the 66 kV there is
25 duplicate lines, so you've got it coming in and going 02.16PM
26 out two, in and out two again, so that's actually
27 almost, you could say that's four separate circuits.
28 If one trips you can get it quite quickly back on the
29 other one, and in the meanwhile you've still got two
30 supplies from the other parts. That's actually a very 02.16PM
31 major step forward to what we feel is not a whole lot

1 of work to do.

2 This is a matter that you'll have to take up initially with
3 SP AusNet?---Yes, certainly.

4 The next row where the topic changes is fire risk
5 mitigation, vegetation, and you refer to initiating a 02.17PM
6 program for reduction in the vegetation of the worked
7 out areas of the northern batters? Why do you suggest
8 that and what would that offer?---Sorry, could I just
9 bring you back to power supply?

10 Yes?---It's just we talked about the 66 kV which is the 02.17PM
11 SP AusNet part of things, but in the mine we've got the
12 66 kV, as I've said we can increase the redundancy on
13 that system there. But actually there are also two
14 other independent sources of supply that can be made
15 available to the mine. One is actually from a 22 kV 02.17PM
16 system, which we did use on the day after some work on
17 it, there is a temporary transformer there that we're
18 suggesting, which is fed by an underground cable, that
19 we're suggesting that SP AusNet should do a feasibility
20 study of looking to upgrade it from a temporary to a 02.18PM
21 permanent standard so that we could utilise that. If
22 it they did that, then we can couple in from this
23 transformer into our MWW system. So again, that would
24 be an enhancement from a 22 kV independent system.

25 Then finally there is actually also another supply 02.18PM
26 from an 11 kV system through MWE, again which has
27 capability of supplying the cleaned and dirty water
28 pump system to some degree.

29 So if all of these things were done, you would have a number
30 of layers of redundancy?---Yes, certainly, and the 02.18PM
31 beauty of it is, the 22 kV system doesn't hang off the

1 66 kV system, they come from separate independent
2 supplies, so a fault in a specific area external to the
3 power plant on a substation for example wouldn't take
4 everything out.

5 Moving to vegetation. Why do you propose the introduction 02.19PM
6 of that program and what will it offer?---Look, we
7 recognise that there's things been said about
8 vegetation and the obligations about vegetation
9 external to the mine, but recognise that the presence
10 of vegetation on those slopes is not desirable and 02.19PM
11 we've seen that it increases risk, so we would look to
12 be clearing the northeastern part of the northern
13 batters certainly before the fire season starts and put
14 in a program to then continue along the rest of the
15 northern batters and clear them of that vegetation. 02.19PM

16 Next there's a reference to pipe work. First of all you
17 talk about the new pipes that were put in during the
18 fire and then you go on to talk about additional pipes.
19 I think to understand this aspect we also need to bring
20 up the map which was attached or is now part of the 02.20PM
21 exhibit. Is it possible to bring up the one
22 page coloured map? If not, I know the tribunal members
23 have a hard copy of it. Here it is. Just explain what
24 you're suggesting by reference to that map, if you can,
25 Mr Graham?---You'll actually see on the map there, 02.20PM
26 that's the northeastern end of the northern batters.
27 What it's actually depicting there is, the green areas,
28 that's areas that have been previously rehabilitated.
29 The blue areas on here, the blue cross-hatched areas,
30 these are the areas that are scheduled to be 02.21PM
31 rehabilitated before the end of this year. The yellow

1 areas that are in there, they're actually depicting,
2 just for completeness, land that is virgin land, let's
3 say, it's undisturbed land so it's not core, it's
4 essentially where overburden would have been
5 previously.

02.21PM

6 What happened during the fire, all of the blue
7 pipe work there, we put that in to assist accelerating
8 the putting out of the fire, so we put a lot of pipe
9 work into that area. Now the pipe work's in that area
10 we would not wish to remove it, we would look to
11 utilise it and leave it there and maintain it for the
12 future.

02.21PM

13 Additionally to that, however, we've identified
14 that the system could be enhanced by including
15 additional pipe work which is actually the top dotted
16 line which is on Level 1.

02.22PM

17 So, the broken line, it's also in blue, but the broken line
18 is what you're saying in your red text, this is what we
19 will add?---Yes.

20 If we go back to your chart and look at page 5, you then say
21 this will have the effect that the area shown, and this
22 is the area shown in the map, is covered by those dot
23 points that are listed there?---Yes.

02.22PM

24 I want to ask you about the next two dot points. You say
25 we'll conduct a review and then we'll pass the outcome
26 of the review on. What will this review do, what will
27 it look at?---We are very much aware that there's been
28 a lot of options about rehabilitated areas or areas
29 sufficiently covered by water sprinkler systems. So in
30 the northern batters, concentrating on that initially,
31 we've put pipe work in, we will put more pipe work in

02.22PM

02.23PM

1 to enhance the system because that is the area that is
2 more vulnerable to impact on the local community of
3 Morwell, we concentrate on that first. However, it
4 would only be right that we need to conduct a review of
5 the rest of the firefighting system. We would use 02.23PM
6 external consultants to do that, to have a look at what
7 pipe work we've got there, what the condition of that
8 pipe work is and what the suitability of purpose it is.
9 Having done that, the outcome of the review, we would
10 make it known to DSDBI and Victoria WorkCover 02.23PM
11 Authority.

12 Next you refer to use of that system, "On extreme fire
13 danger days Hazelwood will instigate wetting down of
14 non-operational areas." So that is something that
15 previously was not the practice. Why are you 02.23PM
16 suggesting changing that?---Well, again, listening to
17 evidence from people from what happened before. You
18 know, sometimes you learn from the past, practices
19 happen for some reasons, they change, we shouldn't
20 ignore what was deemed to be effective previously. We 02.24PM
21 would look to do it because we need to move the focus
22 away through the events we've had from a very high
23 focus on the operational areas to a more global focus
24 on the risk to the whole mine.

25 Next you talk about planning and communication in relation 02.24PM
26 to fire. The first topic is Integrated Fire Management
27 Planning. I take it that these suggestions come from
28 hearing what representatives of the council have to
29 say, but what's your suggestion about improving
30 planning, working with the council?---Correct, it is 02.24PM
31 from hearing of the existence of - personally, I didn't

1 know this organisation or this municipal fire plan
2 existed and that we weren't engaging with it; certainly
3 we will re-establish engagement. But what we're also
4 seeing there of course, for something of this nature,
5 this is not just about how ourselves can benefit from 02.25PM
6 this organisation. Obviously we would suggest that any
7 essential infrastructure, any other areas of critical
8 infrastructure and any other stakeholder in these types
9 of issues should be involved as part of that, so
10 stretching from people like plantation owners to paper 02.25PM
11 mill, all of it, to - - -

12 And the other miners in the valley, I assume?---Oh,
13 certainly.

14 The next row you talk about communication and you talk about
15 people being at the ICC from your organisation. Why do 02.25PM
16 you suggest that the mine should have someone over at
17 the ICC?---The ICC, with it being the Incident Control
18 Centre, that's where the knowledge sits in terms of
19 what is going on in the locality, how stretched the
20 resources are. How I saw it was that, as part of the 02.26PM
21 initial interaction, right from the start of the
22 Phoenix mapping, the interaction may result in a call
23 to come to the ICC as an example. I'm not necessarily
24 suggesting on all extreme fire danger days we knock on
25 the door and we go in, it would be more an iterative 02.26PM
26 process about, I guess, what's applicable at the time.
27 We're not wishing to impose - you know, if the ICC has
28 got other issues, so the two things are linked together
29 I think, a lot of them are interlinked.

30 Community engagement you talk about next, and you suggest 02.26PM
31 that there be a review conducted, and then you point to

1 what Hazelwood's part in that would be. What is this
2 review aimed at generating? What improvements do you
3 want to see in community engagement?---Look, community
4 engagement's I guess an interesting area - in fact,
5 "interesting" is not the right word. If there's a one 02.27PM
6 regret I've got around this incident, it's about the
7 community engagement from GDF Suez's perspective.

8 Most certainly we've always acknowledged that the
9 Incident Controller is the one consistent voice that
10 would engage with the community and we would supply 02.27PM
11 information to them, most certainly through that
12 approach. I think it was the wrong outcome because it
13 portrayed that GDF Suez did not care about the
14 community; that's absolutely as far away from the truth
15 as you could actually get, because we understand that 02.28PM
16 the community actually is very close to us.

17 Part of the reason we want a sustainable business
18 at Hazelwood is because we know we're a big employer in
19 the community, we know that the community thrives on
20 Hazelwood being here, so the last thing we would want 02.28PM
21 to do is adversely impact the community, but it didn't
22 translate through that mechanism and that's a real
23 shame, that.

24 So in terms of, we would wish to put it right, we
25 still obviously need to defer to the fact that the 02.28PM
26 Incident Controller is the Incident Controller, he has
27 got a lot of say in what happens. All we're really
28 suggesting there is that, for this particular event and
29 the time the event went over - because from my personal
30 experience, if you work in power plants - I've been 02.29PM
31 involved in lots of big incidents, but normally it's a

1 big incident in a short timeframe. Normally it's
2 around hours of heartache; hardly ever days. This is
3 days, gone into weeks, which actually puts it in a
4 dimension that most certainly we were not prepared for
5 and, from what I've seen, other organisations weren't 02.29PM
6 quite as prepared for it either. So this would be an
7 attempt to say, it's obviously been proved this type of
8 thing can happen; we would hope we wouldn't get
9 anything like this happening again, but you know what
10 they say, you should plan for the worst to some degree. 02.29PM

11 This is all about, let's get our heads together
12 before then but recognising that the authorities,
13 whoever they are, or the Incident Controller, we feel
14 that it would be appropriate for them to run - to set
15 up how it would operate and we would participate in it 02.30PM
16 with a view to having things, like still ensuring the
17 consistency of message. The last thing we want to do
18 is confuse people over messaging.

19 I think we heard evidence from a community witness
20 yesterday praising Craig Lapsley there in terms of how 02.30PM
21 effective it was and precise it was, but we think more
22 can be done by involving more of the organisations
23 up-front in terms of establishing what the roles could
24 be.

25 So the first part of the writing in black there, 02.30PM
26 that's all about identifying what we could do or what
27 could be done. The red part, in terms of Hazelwood,
28 that's more about how were we going to do it.

29 The next topic is occupational health and safety, and have
30 you heard something during this Inquiry which has 02.30PM
31 prompted you to think that there's room to look at that

1 and work with the authorities differently on
2 that?---Personally I wasn't present for the evidence in
3 regard to this, but I am aware that, in terms of safety
4 management, major mining hazards, looking at them, and
5 the regulations that we're stating there, that there 02.31PM
6 are gaps in terms of what is being done, so the
7 suggestion is that, if the WorkCover Authority could
8 prepare some guidance material in relation to the
9 requirements, then we'd be more than happy to work with
10 them to get the conclusion that's required in light of 02.31PM
11 what they suggest.

12 The CO protocol, there was a lot of evidence about different
13 iterations of the protocol, different organisations
14 having different views about it. What are you
15 suggesting to bring that to a head and to improve 02.31PM
16 it?---Again, in the evidence there, there was - it's
17 not a new thing. Certainly there was protocol
18 movements, if you like, and it was suggested that some
19 of the things that were happening were done on the hop
20 and there were, as I believe it, outstanding actions 02.32PM
21 from previous events around having protocols set up in
22 advance for this, so it's saying, yes, there was
23 obviously some gaps in there. We certainly don't want
24 protocols to be different across organisations, let's
25 get together, develop a protocol and put it in so that, 02.32PM
26 when the event happens we've got it there, we're not
27 trying to make up what it should be.

28 Once you and the CFA do your own work, it seems from the
29 black text at the end that you're suggesting that you
30 then involve WorkSafe in assisting the two of you to 02.32PM
31 sort out whether it's up to scratch?---Yes, absolutely.

1 They've obviously got a responsibility in this area,
2 more than happy to be involved with them.

3 In the next item, rehabilitation, you talk about undertaking
4 the rehabilitation set out in Annexure 5, that's a map
5 with some coloured in bits that was attached to 02.33PM
6 Mr Faithfull's statement, so I think everyone
7 understands that. Can you explain what you're
8 proposing and what you suggest there about clarity in
9 terms of future rehabilitation?---I don't think we need
10 to go back to the diagram, but when I was discussing 02.33PM
11 the pipe work, when the map was up there on the
12 northern batters, the blue cross-hatched section was
13 the section that's related to Annexure 5, so that's the
14 area of rehabilitation there. It was actually news to
15 me about ambiguity in the current work plans in terms 02.33PM
16 of whether rehabilitation should be completed by or
17 commenced from.

18 Are you talking there about, Ms White expressed a certain
19 view and Mr Faithfull said that that hadn't been how
20 he'd understood it?---Yes. 02.34PM

21 What are you going to do to sort that out?---I mean, the
22 natural thing that actually happens in terms of
23 whenever you're putting a work plan variation in,
24 there's always iterations around that, around that
25 variation. Now it's come to light that there's a 02.34PM
26 difference potentially in what the requirement is, then
27 we'll have the discussions with the DSDBI, we'll have
28 them specify more clearly what the expectation is. We
29 would talk to them about it and, look, we understand
30 why they might say what they're saying. The discussion 02.34PM
31 would need to include things around, whilst there are

1 dates there, what the dates link to is normally
2 availability of suitable overburden to perform the
3 task. So all of these things, and of course things
4 like stability and geotechnical constraints in that
5 area, that dictates when we'll do any of the work. But 02.35PM
6 we'll go through the discussions. DSDBI is the
7 Regulator, we'll come to a conclusion and we'll agree
8 what requires doing and then we'll move on.

9 Mr Graham, that brings us to the end of your chart.

10 Thinking about each of those subject matters that 02.35PM
11 you've taken us to, is there anything that I haven't
12 invited you to speak to in terms of lessons learned or
13 improvements for the future that you wanted to tell the
14 Inquiry about?---I think they're all very valid points.
15 I don't expect that this is exclusively what requires 02.35PM
16 doing by any stretch of the imagination. I think it's
17 a good start as to what should be considered and, as I
18 mentioned before, in terms of the things in red that we
19 are able to do without the requirement for engagement
20 with other authorities, we will commit to do. 02.36PM

21 The only thing I would say is that throughout this
22 whole process, whilst there's actually been, I guess,
23 shortcomings in many, many areas across everything
24 where things haven't been as great as they could have
25 been, I think there was actually a fantastic effort put 02.36PM
26 in from many, many quarters, both from the combatant
27 authorities, the volunteers, and I really appreciate
28 it. My main regret, as I say, most certainly is the
29 impact that we had on the local community that we would
30 wish never to happen again because that's very 02.37PM
31 regrettable.

1 Thank you, Mr Graham. I'm not sure what order we're going
2 to adopt now, whether it will be Mr Rozen who will -
3 Mr Rozen will ask some questions.

4 MEMBER PETERING: I was just going to ask a couple too,
5 thank you, Mr Graham, it's very commendable that GDF 02.37PM
6 Suez and you have set out this list and as you say it's
7 a good start, so well done, and the purpose of the
8 Inquiry is to think about how we can prevent things in
9 the future.

10 I guess just a couple of things. As the CEO or 02.37PM
11 Asset Manager, how would you describe the culture at
12 GDF, and do you think that it's safety or production
13 that are the key message that are promoted from the
14 top?---In terms of, well most certainly safety, safety
15 first actually. The pillars, I guess, of a successful 02.37PM
16 organisation are the staff, so protection of the staff
17 is the most important, so one of the main pillars is
18 the health and safety, and actually that's one of the
19 things that we're very proud of.

20 In terms of the incident, for an incident of this 02.38PM
21 length of time, spanning the 45 days with an enormous
22 amount of staff involved in the process, for us to have
23 sustained one medical treatment injury which was
24 actually in the first day of it with a sprinkler
25 hitting one of our employees in the face, and I think 02.38PM
26 four or five first aid treatments, I think it's
27 testimony to the processes and procedures that we have
28 in place there. I think we've actually demonstrated
29 that we have a strong safety culture there, and whilst
30 we are not actually discussing it now, if you were to 02.39PM
31 actually look at statistically the performance in terms

1 of all injury frequency rate for Hazelwood over the
2 last 10 years, there's been a continual downward trend
3 in terms of injuries to our employees, so we do take
4 that very seriously.

5 Just to talk about, a lot has been said about risk 02.39PM
6 assessments over the past few days or weeks. How does
7 GDF go about conducting risk assessments?---There's
8 lots of - being an engineering organisation I guess,
9 there's lots of different types of risk assessments in
10 there. We have internally, I think most of them tend 02.39PM
11 to be around engineering, so we have internally things
12 in the past called HERA, Hazelwood Engineering Risk
13 Assessments, so we do actually assess risks in that
14 manner.

15 The company as a whole, in terms of previously in 02.40PM
16 the National Power ownership, or now GDF Suez
17 ownership, we have higher level risk assessments that
18 are undertaken throughout the organisation, OPERA,
19 Operational Planned Engineering Risk Assessments, so we
20 do them. 02.40PM

21 We also look in terms of the business. We
22 actually do an apprised risk management, so we actually
23 look at what enterprise risks the business has and what
24 mitigations we need to put in place to ensure that
25 these risks are reduced to an acceptable level. So 02.40PM
26 there are various layers of risk assessments and they
27 can take many forms, whether it's use of bow-tie or
28 whatever.

29 I think it was said before, one of the risk
30 assessments that were shown previously was one of the 02.41PM
31 ones in its infancy; there are lots and lots of

1 improvements being made in that area and we use risk
2 assessments almost on a daily basis within the power
3 station as well. You know, anything we've got a
4 potential issue with it, the first step straight away,
5 risk assessment, get the appropriate qualified people
6 to follow up that risk or that would be impacted by it,
7 stakeholders and do an assessment.

02.41PM

8 I guess the question we've have been asking is, was the risk
9 of fire in the worked out batters of the mine
10 adequately recognised by GDF?---You know, hindsight's a
11 great thing. In terms of when you actually look at the
12 major mining hazards, which is the area that that would
13 have been covered by, because the major mining hazard
14 is associated with the loss of one life or more, and
15 the fact that our enterprise risk management system
16 looks at costs to the business in terms of fire, what
17 we have in that area identified as a risk from fire to
18 do with call systems, if you like, is not indeed the
19 operating faces on the mine even; I realise your
20 question was on the worked out places, it's not even
21 the operating faces of the mine, it's actually what we
22 call the slot bunker which is the central point from
23 the coil delivery from the mine into the power plant;
24 the reason being, a fire there will put us out of
25 business.

02.42PM

02.42PM

02.43PM

26 So, in terms of our hierarchy of risk in terms of
27 impact on the business, then a fire in the worked out
28 batters does not fit in that category, and in terms of
29 business risk, obviously we've had a huge event which
30 is deeply regrettable and we will ensure we won't have
31 another event like that again.

02.43PM

1 We lost production for - well, we didn't lose
2 total production, we came down to probably 10 per cent
3 production for probably 24 hours. So, in terms of how
4 our business would look at that risk in the hierarchy
5 that was there, an event of fire in the worked out
6 batters of the mine doesn't fit in a high profile.

02.43PM

7 Following the events we've had now, the question
8 is, should it? And the answer is, yes, it should, and
9 it will, and that's part of the reason why we're making
10 these suggestions.

02.44PM

11 We could go on for lots more questions and ask you lots of
12 things, but I think it's important that you have
13 demonstrated that there are things that you will do
14 differently. You've got an opportunity, and there are
15 a number of people in this room, if you had one thing
16 to say to the community of the Latrobe Valley, what
17 would that be?---Well, I've actually said that in terms
18 of, I think me personally, my experience has been
19 around, certainly a lot of experience around
20 emergencies, around emergencies of a short-term
21 duration with a focus on getting the event over.

02.44PM

02.44PM

22 The fact that this event became prolonged, my
23 personal attention, I guess, was around my internal
24 workforce - and why I'm saying that is because we had a
25 lot of people employed in trying to tackle the event,
26 we had a lot of people worried about their livelihood
27 in terms of whether the business would continue, and
28 that aspect of it actually continues out into the
29 community as well because, as I said, if the business
30 didn't continue, then obviously it would be devastating
31 for the local area and the local people and nobody

02.45PM

02.45PM

1 wants that to occur.

2 Whilst my focus is there, it's absolutely
3 regrettable that we didn't acknowledge, in an earlier
4 fashion, the impact that we were having on the
5 community. In terms of when we say "not acknowledge", 02.45PM
6 we didn't publicly acknowledge, I accept that; what I
7 would say, however, is that I can guarantee that all of
8 the staff of GDF Suez and their contractors, as well as
9 the support from all of the agencies and volunteers,
10 our sole purpose was to get the fire out as soon as 02.46PM
11 possible. Actually, the hierarchy within that was also
12 utilising whatever techniques we could to abate the
13 situation regarding smoke into the community as early
14 as possible. You know, getting the fire out is one
15 thing, but trying to limit the amount of impact we were 02.46PM
16 having in that area, which is exactly why we put more
17 resources and we put a lot of pipe work into the
18 northern batters area, because that was the area that
19 was causing the most impact.

20 I feel that, in terms of the physical effort to do 02.46PM
21 our best for the situation and for the community, I
22 feel we did that; I feel we didn't portray that so that
23 people would realise that, I'm afraid.

24 MEMBER PETERING: Thank you.

25 <CROSS-EXAMINED BY MS NICHOLS: 02.47PM

26 Mr Graham, I appear for Environment Victoria?---Good
27 afternoon.

28 I just have a small number of questions about one area which
29 does not appear on your chart and I'd like to suggest
30 to you that it is an area that you can consider for 02.47PM
31 improvement, and that is about the rehabilitation bond

1 that your company has lodged with the Minister. You're
2 aware that the current rehabilitation bond is worth
3 \$15 million; is that right?---I am, yes.

4 It's correct, isn't it, that GDF Suez has not been asked by
5 the Minister at any stage to undertake an assessment of 02.47PM
6 the rehabilitation liability under s.79A of the Act,
7 have you?---Sorry, could you say it again?

8 GDF Suez has not been asked by the Minister to undertake an
9 assessment of its remediation liability under s.79A of
10 the Act?---Not that I'm aware of. 02.48PM

11 You have helpfully, in the chart that you've provided to the
12 Inquiry today, made an assessment of the costs to
13 rehabilitate the 9 hectares of land that are discussed
14 in Annexure 5 to Mr Faithfull's statement; that's
15 correct, isn't it?---Yes. 02.48PM

16 In your chart you said that the cost of rehabilitation of
17 the land set out in Annexure 5 is about
18 \$800,000?---Yes, actually \$995,000. It does say
19 \$800,000 there, though, I accept that. The money I've
20 got in the budget is \$995,000. 02.48PM

21 That land measures 9 hectares, and working on the maths that
22 appeared in your chart, according to my calculations
23 that's a hectare amount of \$88,000 per hectare on the
24 basis of an \$800,000 cost, and Ms Trewhella's just done
25 the maths for me. If you work on the cost you've just 02.49PM
26 given us, it's a hectare cost of \$110,555 per hectare.
27 That's obviously right, isn't it?---If you say the
28 maths is correct.

29 I say that because it's a 9 hectare area for rehabilitation
30 as is clear from the map attached to your document. Do 02.49PM
31 you follow me?---Yes, I understand the hectares, I

1 haven't done the math, but I'm listening.

2 Just while we're there, that hectarage, the 9 hectares, it's
3 correct that, as Mr Faithfull has said, that area of
4 the rehabilitation was identified in January 2014,
5 wasn't it?---I'm not aware when it was identified; I'm 02.50PM
6 only aware that we have a budgetry amount for this year
7 to do it and the work was planned for this year, that's
8 the extent of my knowledge.

9 I'll work with the maths that I have, I beg your pardon. If
10 we were to go with the amount of \$88,000 per hectare, 02.50PM
11 let's take, to get some sense of the magnitude of what
12 the rehabilitation costs might be for the rest of the
13 mine, your counsel put to Ms White when she was being
14 cross-examined earlier this week that there were about
15 1,500 hectares of land in the mine that would be 02.50PM
16 disturbed throughout the whole of the life of the mine.
17 Do you follow that?---Yes. I don't know whether the
18 number's correct but I follow.

19 We're not sure either whether it's correct but I'll take
20 Ms Doyle's as being correct. If that is understood, if 02.51PM
21 one removes from that the amount of rehabilitation
22 that's already been done, which is 431 hectares, I
23 think Mr Faithfull says, you're left with about 1,069
24 hectares of land that will need to be restored on
25 current plans. Follow?---Yes. 02.51PM

26 If you apply the earlier figure of \$88,000 per hectare to
27 the 1,069 hectares of land that will need to be
28 rehabilitated, the total cost of that rehabilitation is
29 \$94 million. Does that strike you as surprising?---Not
30 necessarily. What I can do is, I can tell you what I 02.51PM
31 think it is.

1 What do you think it is?---In terms of rehabilitation?
2 Well, what I would say, you're not potentially
3 comparing apples with apples of course when you say
4 cost per hectare to rehabilitate, because I think, as
5 Mr Faithfull said, it all depends around 02.52PM
6 infrastructure, stability, what you lay back, where you
7 get the material from - - - - -
8 Some areas might attract different costs?---Yes, certainly.
9 But what I can tell you, from privatisation in 1996
10 through to the end of last year, we spent in excess of 02.52PM
11 \$14 million on rehabilitation.
12 Would you accept though that, having regard to the numbers
13 that have just been discussed, understanding that not
14 every hectare of rehabilitation in the mine will cost
15 the same to rehabilitate, but having a look at that, 02.52PM
16 and Ms Trewhella's just done the maths for me on your
17 new figures and that would amount to a sum of
18 \$118 million, that the rehabilitation bond that has
19 been lodged in the sum of \$15 million is very obviously
20 grossly inadequate to cover the future costs of 02.53PM
21 rehabilitation, isn't it?---I don't believe that's the
22 purpose of the rehabilitation bond, to actually cover
23 the full cost of rehabilitation. I was present when
24 you put the argument around that before, and I did see
25 the excerpt from the document that you showed 02.53PM
26 Mr Faithfull in terms of saying it was a document
27 produced by ourselves that said it was there to not put
28 an impact on the taxpayer.
29 I've never seen that statement before, but my view
30 on reading that statement, I don't see it any 02.53PM
31 differently. If you require a person to perform a

1 service, it's not unusual that you would have some form
2 of retainer that says, if you do not perform that
3 service to our satisfaction you will forfeit that
4 retainer. That's how I see that rehabilitation bond.
5 I think that's a reasonable assumption and I think the 02.54PM
6 fact that the Regulator has not sought to change it in
7 that period - and bearing in mind, it's not just
8 related to Hazelwood I believe, hasn't been sought with
9 any of the other mines - then I believe that's a
10 reasonable assumption. But you are correct, the actual 02.54PM
11 cost of doing the rehabilitation in the numbers I've
12 seen are certainly not more than \$100 million but, you
13 know - - -

14 Not much less?---I think 81, something like that,
15 80-something. 02.54PM

16 So, you would accept, just simply on the issue of the
17 relationship between the amount of the bond and the
18 likely future costs of rehabilitation, that the bond is
19 out by a very significant amount, if that comparison is
20 drawn, isn't it?---I would say it's not fair to draw 02.55PM
21 that comparison, but \$15 million does not equate to
22 \$81 million, correct.

23 Do you say then that if at the end of the day, speaking
24 hypothetically of course, if GDF Suez has not by the
25 time of mine closure completed its rehabilitation, 02.55PM
26 should the State of Victoria and ultimately the
27 Victorian taxpayer foot the bill for the clean
28 up?---No, not at all, that won't happen. You know,
29 what I would actually say is that all of the processes
30 is a dynamic process in terms of life, the plans, the 02.55PM
31 plans change, the life changes. One of the things that

1 I would say, okay there's a name change, it's GDF Suez
2 now. In the Latrobe Valley the ownership of power
3 plants has changed several times since 1996, since
4 privatisation. We, through National Power,
5 International Power, and then GDF Suez taking over the
6 entity, we're actually the only organisation that's in
7 here for the long haul; we're not going anywhere.

02.56PM

8 So in terms of, even if there was a view that we
9 were going somewhere, then I'm sure there's legal
10 recourse to chase us for that money.

02.56PM

11 What you're suggesting is that, and we are speaking
12 hypothetically, you understand, because every
13 projection about the future must be hypothetical, if
14 GDF Suez and its related parent entities were to decide
15 to cease operations in the jurisdiction, say, at the
16 end of the mining licence and not have completely
17 rehabilitated the mine, the Victorian Government will
18 just have to chase it and sue it for recovery of the
19 money; is that the position you're putting?---Could you
20 please repeat the question?

02.56PM

02.57PM

21 If GDF Suez had not completed rehabilitation of the mine by
22 the end of the licence period and it decided to wind up
23 its operations in Australia or Victoria, that the
24 Victorian Government, rather than having the security
25 of a bond to cover the remaining clean up costs, should
26 just chase that money from it by suing it in the
27 courts?---I believe that GDF Suez would not allow that
28 to happen and we would fully meet the commitments that
29 are required of the organisation.

02.57PM

30 If that is the case, then why do you not accept that the
31 rehabilitation bond should be equivalent to the future

02.57PM

1 costs of clean up, particularly given that you have
2 already estimated them?---I think that's not actually a
3 question for me; I don't set the bond, we're not
4 involved in setting the bond, I think we should ask the
5 Regulator as to the principle behind the bond and
6 clarify it with them. 02.58PM

7 Yes, but the Minister is able under the Act to ask your
8 company to assess its liability and it sounds as though
9 it can readily do that. Accepting that, if the
10 Minister were to require GDF Suez to post a bond 02.58PM
11 equivalent to the costs for cleaning up the rest of the
12 mine, would you oppose that?---I think it would be
13 unlikely that that would happen, however whatever is
14 legislated, if it came to pass, then we would have to
15 comply. 02.58PM

16 Sorry, you are saying you would not oppose, if required by
17 the State of Victoria, to post a bond which was
18 equivalent to the amount of future clean up costs for
19 the mine?---What I said is, we would need clarification
20 on what the purpose of the bond was, and if it's 02.59PM
21 clarified that the purpose of the bond and the
22 requirement of the bond is to cover the full cost, and
23 it was legislated, we would comply with the
24 legislation.

25 If this Inquiry were to recommend that the amount of the 02.59PM
26 bond be reviewed by an independent reviewer, would you
27 oppose that recommendation?---Actually, I don't see the
28 relevance of the bond and the value of the bond in
29 relation to the current circumstances, but we would
30 need to considerate the position on it. 02.59PM

31 Can you say whether you would be opposed to it?---We would

1 need to consider our position on it.

2 So you don't have a position - you can't say that you
3 wouldn't oppose it?---I can't say we wouldn't oppose
4 it.

5 I understand you mentioned you'd never seen this document 03.00PM
6 before yesterday, but I'll just refer to it briefly.
7 In the 2008 progress report attached to the 2009
8 rehabilitation plan, the document contained this
9 statement, "The mining licence requires the posting of
10 a substantial bond to ensure that the mine closure and 03.00PM
11 final rehabilitation never becomes a burden on the
12 taxpayer." Do you agree that that statement is an
13 appropriate one in relation to the rehabilitation
14 bond?---I believe that \$15 million is a substantial
15 amount. I also believe that the interpretation that I 03.00PM
16 gave you before in terms of the purpose of a bond in
17 terms of a retainer to be forfeited for not completing
18 things to a satisfactory conclusion is still valid.

19 I have nothing further, thank you.

20 <CROSS-EXAMINED BY MR ROZEN: 03.01PM

21 Mr Graham, I think you were in the hearing room when
22 Mr Incoll was giving evidence this morning?---I didn't
23 actually hear very much of it at all. I heard some of
24 it at the end, so probably no more than 25 per cent of
25 it, but please go on, we'll soon see. 03.01PM

26 That's right. Probably doesn't matter whether you heard it
27 or not, this is what he said. He was asked a number of
28 questions about whether or not the circumstances on
29 9 February this year were the worst-case scenario in
30 terms of fire risk for the mine. He said they weren't 03.02PM
31 and he explained that the weather could have been

1 worse, fire conditions could have been worse, and that
2 the wind change that changed the direction of the
3 Hernes Oak Fire to the north when it arrived, that is
4 the southwesterly wind change, if it hadn't arrived
5 there was a risk that the front of that fire may have 03.02PM
6 come straight into the mine. That was the evidence
7 that he gave earlier. You accept that those two
8 scenarios may have potentially made the situation much
9 worse?---Potentially. Look, I didn't hear what he
10 said. Most certainly I couldn't question whether 03.02PM
11 things could get much worse, it didn't seem as if it
12 could have been much worse to me, being there on the
13 day.

14 I can understand that perspective. It is what he said after
15 that. What he said to the Inquiry was that, drawing on 03.02PM
16 all of his experience of fire related matters, he said,
17 there are worse days to come, and he then said, "Why
18 not prepare for them?" Rhetorical question he raised.
19 My question for you is, is GDF Suez prepared if there
20 are worse days to come?---I think that, in terms of - 03.03PM
21 you know, when you say worse days, one of the things
22 that I believe that we heard in evidence in the first
23 day was, not quite simultaneously because of the change
24 in wind conditions, but we were actually under attack
25 from two different areas in terms of embers, both the 03.03PM
26 Hernes Oak and the Driffield one. I guess to
27 some degree a sustained attack from one area to me
28 seems less than what was actually happening on the day.

29 However, irrespective of that, I think that the
30 measures that we're looking to put into place here will 03.04PM
31 certainly improve the position from where we were on

1 the day. Whether in fact that would ensure there's
2 absolutely no risk of being able to cope with something
3 of a greater intensity or a higher threat, I guess I
4 couldn't speculate on; all I can say is, we're moving
5 steps in what I would view to be in the right direction 03.04PM
6 to try and mitigate similar events or worse events to
7 that degree.

8 They're the steps that are set out in the document you have
9 provided which is exhibit 94?---They are, but as I said
10 before, we're not the fount of all knowledge by any 03.05PM
11 stretch of any imagination and we're obviously
12 receptive to other things.

13 MEMBER PETERING: Mr Graham, just on that point. I don't
14 know whether you were in the hearing room when
15 Professor Cliff spoke around international technologies 03.05PM
16 that are being used. I guess my point is around that
17 broader thought leadership and whether other industry
18 bodies, that whether GDF Suez participated in other
19 industry bodies and thought leadership on whether it's
20 the use of technologies or I guess how to embrace those 03.05PM
21 future thoughts or new technologies or newer ways of
22 doing things?---Is the question related to - is this to
23 do with the capping or is it to do with the monitoring
24 or what?

25 My question's more broad. I think your statement just now, 03.06PM
26 and I didn't write it down, was that you're not the
27 fount of all knowledge. That prompted me to recall,
28 when Professor Cliff was speaking yesterday in his
29 evidence he was talking about the use of technology, so
30 different types of technologies, and I guess my 03.06PM
31 question to you is, do you participate in that thought

1 leadership area or other leadership bodies about
2 different things you can do? Not necessarily about
3 capping specifically, but just the use of new
4 technologies and emerging technologies?---In terms of
5 at the local level here, there's not too much goes on 03.06PM
6 in this arena. Certainly other areas of GDF Suez do
7 more in the area but, I mean, I guess within our
8 organisation there are no other mines within GDF Suez,
9 and I'm not sure how many other power industries that
10 actually own mines either, but most certainly we do a 03.07PM
11 lot of other collaborations with other mines here, so
12 any access to technology that would be appropriate, we
13 could leverage off that forum.

14 MR ROZEN: One of the themes running through the evidence in
15 the Inquiry, Mr Graham, is this apparent tension 03.07PM
16 between an approach that's based on minimum
17 compliance - that is, compliance without an existing
18 code or standard on the one hand, and what Professor
19 Cliff talked about, which is continuous improvement or
20 best practice. I'll give you an example of what I'm 03.07PM
21 talking about.

22 Mr Polmear yesterday gave evidence about the
23 circumstances in which the pipes in that area where the
24 new pipes were installed were removed some 20 years ago
25 in the early 90s, he explained the background about 03.08PM
26 that, I don't need to go over it.

27 He was asked why weren't they replaced. I know
28 this was well before you had any responsibility for the
29 mine. If I can paraphrase, the answer was, well, we
30 didn't have to under the code that was in operation 03.08PM
31 from 1994 onwards.

1 It's the case, isn't it, that from 2005 onwards,
2 at least up until this year, a similar approach has
3 informed GDF Suez's attitude to pipe work for example,
4 that the attitude was we will comply in terms of pipe
5 work and in terms of fire protection in the worked out 03.08PM
6 parts of the mine with the requirements of the Fire
7 Services Code of Practice. Is that a fair
8 statement?---Yes. What I would say on that point, and
9 when you did raise it yesterday with Mr Polmear in
10 terms of compliance with the minimum requirements I did 03.08PM
11 actually feel at the time that, in that instance, in
12 terms of that area, you're absolutely correct, we
13 complied with the minimum requirements. In terms of
14 the mine overall, obviously we're not complying with
15 the minimum requirements in all of the areas, so I 03.09PM
16 would make the distinction about everything being to
17 the minimum requirement because I don't believe that to
18 be the case.

19 I accept that distinction?---And certainly in terms of
20 enhancements, be it enhancements to fire systems or be 03.09PM
21 it enhancements to processes, we have actually had lots
22 of enhancements to processes. Granted, a lot of the
23 enhancements have actually been fuelled by fires that
24 have started internal to the mine, ie fires associated
25 with machinery, which is where our main focus has been. 03.10PM
26 The enhancements I'm talking about here are things - I
27 think people mentioned it this morning about thermal
28 imaging as an example - we have X thousands of rollers
29 on the conveyors. Fires in the past have started from
30 combustion from a hot roller going onto the coal. We 03.10PM
31 routinely use thermal imaging to check conditions of

1 hot rollers.

2 So whilst it's moving off the point a little bit,
3 I'm trying to demonstrate to you that we do actually
4 look for continuous improvement, and whilst that one is
5 linked to response to an incident which you might say 03.10PM
6 that's not a great way of continuous improvement, you
7 should be continuously improving in the absence of
8 incidents, that's actually true as well.

9 Because in terms of how we perform, in the last
10 three years, not just in relation to fire, if you were 03.11PM
11 to look at our records in terms of - I was asked about
12 safety performance before because there's a linkage
13 here - in terms of the safety performance the number of
14 incidents have gone down. But if you were to look at
15 our stats around the reporting of near misses as an 03.11PM
16 example, or hazards, the reporting of that has gone up
17 tenfold, and that doesn't make me believe that we're
18 having tenfold the amount of incidents; what it's
19 telling me is, we're very much focused on trying to
20 learn from things before they become an incident, so I 03.11PM
21 think that would be my response.

22 The follow-up question is, if that's a correct
23 characterisation of the approach that's been taken in
24 relation to the worked out areas of the mine - I
25 understand you make the distinction from that area with 03.11PM
26 the operational areas - what would be the approach that
27 will inform your future attitude to safety in relation
28 to the worked out areas? Will it continue to be a
29 minimum compliance approach or do I understand you to
30 be telling the Inquiry that you're embracing a best 03.12PM
31 practice continuous improvement approach throughout the

1 mine including the worked out areas?---I think it would
2 be very naive of us to even suppose that we couldn't
3 continue in the manner that has happened thus far. You
4 cannot ignore - you know, a lot of the things around
5 risk assessment is based on evidence of what happened, 03.12PM
6 you have to take that into account, that has to
7 influence the way you will progress going forward.
8 Most certainly that's why, as part of the suggestions
9 of things that we will enact there, we're not actually
10 saying we will enact those things and we will do them 03.12PM
11 on our own. What we will do is, we will enact some
12 things, we will consult with the relevant people that
13 are stakeholders in that and have the knowledge and
14 make sure that he with get the correct outcome.

15 One of the commitments you have made in the red typed 03.13PM
16 section of your document exhibit 94, and this is on
17 page 5 if you want to look at it, you've committed to
18 conducting a review. This is the second main dot point
19 on page 5 in the top box, "Hazelwood will conduct a
20 review to be undertaken by external consultants working 03.13PM
21 with Hazelwood personnel of the current pipe work and
22 condition in the areas of the mine other than the
23 eastern section of the northern batters." The reason
24 you've excluded the eastern section of the northern
25 batters is because that's the area where the new pipe 03.13PM
26 work went in in February-March of this year?---And
27 we're going to enhance, yes.

28 And you're going to enhance it as you've explained. You use
29 the word "review", but you're essentially talking about
30 a risk assessment, are you not? That's the concept 03.14PM
31 that you're referring to there?---Yes, during the

1 explanation I was actually asked by the Board whether
2 that would extend to a risk assessment and I answered
3 in the affirmative.

4 You refer there to "external consultants", I know this is
5 only a three day old work-in-progress, but have you 03.14PM
6 given any thought to the type of external consultants
7 that you would be seeking to involve in that
8 process?---No, to be honest, I haven't, but obviously
9 it would be someone that was capable of performing it
10 to a satisfactory outcome, which in view of the fact 03.14PM
11 that a risk assessment's associated with it, then they
12 would obviously have to not just be pipe work experts,
13 they would have to be fire mitigation experts.

14 You're no doubt aware that there was a recommendation in a
15 review in 2008 that such a risk assessment take place 03.14PM
16 in relation to the worked out areas of the mine?---I
17 wasn't until - bearing in mind, whilst I've been - I
18 wasn't until this morning, bearing in mind whilst I've
19 been at Hazelwood since 2005 I took up the position - I
20 had no responsibility for the mine - I took up this 03.15PM
21 Asset Manager position nine days before the fire .

22 I understand that. Like Mr Shanahan, I think you had an
23 interesting first couple of weeks in the role?---That's
24 the way of it.

25 I understand that's your personal position, but what the 03.15PM
26 Inquiry's grappling with is how that recommendation was
27 not actioned. You understand - - -?---Yes.

28 - - - what I'm getting at, don't you?---Yes.

29 Because a lot of what you're saying to us is, well, I'm
30 going to drive this. As the Asset Manager I'm going to 03.15PM
31 drive this going forward and, as Ms Petering said, we

1 welcome that commitment, but we've also got to look at
2 the evidence of what's happened in the past, and
3 presumably whoever was in that position or equivalent
4 position as CEO back in 2008, and more concerningly in
5 2012 when Mr Kemsley did his audit, they didn't drive 03.16PM
6 this. It may be because they weren't informed or we
7 don't really know, but can you assist us to understand
8 that? Would that sort of review have got to the top in
9 the organisation in 2012?---Look, the answer is, I
10 don't know. In terms of the organisation now, the 03.16PM
11 organisation now is heavily focused on compliance with
12 the requirements, and things like audit action items
13 and where we sit with them; GDF Suez is an organisation
14 very, very strict on compliance with what we've said
15 will happen, and we have systems around things like 03.17PM
16 what we call one star, two star or three star items,
17 and if you have an item that is in the three star box,
18 which means this is got extreme importance, believe me
19 that goes off-site and goes directly to Paris.

20 So, in terms of going forward, obligations on me 03.17PM
21 as the Asset Manager will have full follow-up because,
22 irrespective of what has happened before for whatever
23 circumstances, I can assure you that in relation to
24 this it won't happen.

25 I'm going to ask you about some specific matters. Did GDF 03.17PM
26 Suez pay for the additional pipes that went in in
27 February and March of this year or did the Emergency
28 Services pay for them, they're the aquifer
29 pipes?---Yes. No, we did.

30 Can you tell us what the cost was?---\$2.5 million. 03.18PM
31 In addition to that, no doubt there are other costs

1 associated with the fire and its impact on production;
2 have you quantified those?---I understand the costs
3 that the fire has had an impact on Hazelwood, the
4 business with, yes.

5 Are you able to inform the Inquiry what those figures 03.18PM
6 are?---What I would say is, tens of millions of
7 dollars.

8 I don't expect you know, but tell us if you do, what the
9 costs of the Emergency Services were of the suppression
10 of the fire? Is that a figure you're aware of?---No, I 03.18PM
11 don't have any knowledge.

12 Has there been any contribution by GDF Suez to those
13 costs?---In terms of, I guess we pay actually a large
14 sum in terms of Fire Service levy on a regular basis of
15 course, which is a substantial sum. In terms of any 03.19PM
16 discussion about requirement for costs in relation to
17 this event, there has been no discussion.

18 If I can ask you some questions about your document, please,
19 exhibit 94. In the context both of the Phoenix
20 modelling and of relations going forward with the CFA, 03.19PM
21 I understood you to be saying that you wanted there to
22 be more direct communication between the mine and the
23 CFA rather than going through an intermediary such as
24 the Gippsland Essential Industries Group. Have I
25 understood you to be saying that?---Yes. 03.20PM

26 You know the evidence that was given in the Inquiry about
27 the provision of the Phoenix mapping to a
28 representative of that group?---Yes.

29 That's obviously something you would need to talk to the CFA
30 about because the evidence that they give in the 03.20PM
31 Inquiry is that that group has operated for many years

1 now as an entirely appropriate conduit for information
2 provision both ways between major industries and CFA.
3 Do you take issue with that? Do you think this event
4 indicates that it's problematic, the communication
5 going through a third party?---Whilst I am aware of the 03.20PM
6 Central Gippsland Essential Industries Group, I haven't
7 been au fait with, let's say, the terms of reference of
8 the group and the requirements on the group in terms of
9 passage of information. My understanding was that,
10 whilst it is a body that passes routine information to 03.21PM
11 members of the group and meets with other members of
12 the group, I wasn't aware that they were the source of
13 essential information that to me would seem - that's
14 potentially putting another layer in a system that
15 might not need to be there. But of course, that's my 03.21PM
16 view, you would have to discuss it with the authority.
17 You accept that, looking at it from the point of view of the
18 CFA on a day like 9 February this year, there were a
19 number of people they had to communicate with about the
20 risks, a number of essential industries in the vicinity 03.21PM
21 of Morwell as well as information to the community, and
22 there presumably are limits in terms of resources on
23 their ability to communicate individually with those
24 various organisations. Would you accept
25 that?---Potentially, and maybe I'm giving you the ideal 03.22PM
26 outcome, and, as we know, we can't always have the
27 ideal outcome; what I want is a workable outcome.
28 I understand?---And so, however it works; if it goes through
29 five people before it gets to be, and it works, so be
30 it. I'm very happy to have the - I'm only interested 03.22PM
31 in the outcome.

1 At the top of page 2 of your document there's a reference to
2 the acquisition of specialised mine firefighting
3 equipment and I think there was a general surprise
4 perhaps in the community that equipment had to be
5 brought from Interstate and so on, I won't go over the 03.22PM
6 details of the evidence. My question though is this:
7 Accepting the desirability of such equipment being
8 permanently located and available in the valley,
9 wouldn't it be appropriate for the mines and other
10 essential industries that might benefit from that 03.23PM
11 equipment being here to make a contribution to its
12 cost? I see you have it identified as a CFA cost;
13 should it not at least be a shared cost between the
14 State and those infrastructure entities?---Look, it
15 would depend on, I guess, deployment, likely usage. 03.23PM
16 You're correct, people that are benefitting - it
17 depends what your view is as to what responsibility
18 people have for providing an adequate service.
19 Certainly I'm not against the principle that says that,
20 if there is a service that is provided to you, why 03.23PM
21 wouldn't there be some view? Entities that benefit
22 from things there, then we should be able to talk about
23 what - you know, how that can happen. My starting
24 point would be, it would be good if it could happen.
25 You know it's about, we've identified the what, we've 03.24PM
26 yet to identify the how.

27 The how would be the subject of discussion?---Exactly.

28 I want to ask you a couple of questions about volunteers.

29 As you know, the Inquiry's heard some evidence from two
30 volunteers who attended, I'm sure you know generally 03.24PM
31 the evidence they gave. Both of them, Mr Lalor and

1 Mr Steley, came from brigades quite some distance from
2 Morwell due to the commitment of local brigades, and
3 this is something you referred to earlier. They came
4 from, in the case of Mr Steley, Heyfield, and in the
5 case Mr Lalor, Willow Grove. They're both outside your 03.24PM
6 25 kilometre zone, and so the question is, given that
7 it's entirely foreseeable that on another high fire day
8 you're going to have people coming from far and wide
9 potentially to assist, do you have any suggestions as
10 to how those people can be better equipped to 03.25PM
11 understand the matters that you've set out on page 2 of
12 your document?---I guess that's always a dilemma, and I
13 personally don't know how the CFA actually builds up
14 their strike teams, as I understand we call them; you
15 know, where normally they send a strike team that 03.25PM
16 I believe consists of five appliances.

17 In terms of people coming from outside, if the
18 strike team was assembled and came together, it seems
19 feasible that that part of the strike team might well
20 consist of members from areas that do fit within that, 03.25PM
21 but accepting it may or may not. What I would say is,
22 in terms of the familiarisation and even the discussion
23 on the increased signage, that does not take away our
24 intent to have escorts. We will still have in our
25 procedures that when these appliances come to the site 03.26PM
26 they will - the strike teams will be accompanied by
27 Hazelwood personnel.

28 I accept that the evidence said they were having
29 difficulty; I believe the difficulty they were having
30 was more around access to the site rather than movement 03.26PM
31 around the site, though I think in fairness it was

1 both. Mr Steley told us that no maps were available to
2 him when he arrived, which raises another question I
3 want to ask you about, and that is, part of the
4 explanation for that seemed to be that at that time
5 power was down, particularly power to the Control 03.26PM
6 Centre and so there was a problem with printing. It
7 raises the question of backup power at least for the
8 Control Centre which doesn't seem to be something you
9 deal with here, but surely, that's a pretty significant
10 learning, isn't it, from this event? You can't have a 03.27PM
11 Control Centre without power?---Yes, exactly, and the
12 whole thing about, I guess the Incident Control Centre
13 location, if you like. What we always have and we do
14 plan for is that we have a set of circumstances that
15 says that under a normal emergency or foreseeable 03.27PM
16 emergencies the Incident Control Centre will be set up
17 here. We also have provisions that say, in the event
18 that this Control Centre is not available, where we
19 will relocate to as the backup Control Centre. So that
20 in itself about the not working part is - I agree with 03.27PM
21 what you're saying, but it's never an exclusive Control
22 Centre.

23 On the situation regarding maps, the arrangement
24 that we actually have with the CFA at the Morwell Group
25 is that, because of their knowledge of the site and the 03.28PM
26 interactions that we have with them, they actually have
27 a swipe card for getting in through the rear gate.
28 Other people actually coming to the site for a
29 response, when we call for them, and obviously we need
30 to get the communications better on this is - what's 03.28PM
31 supposed to happen is, when we know they're coming we

1 tell them where to come, so we direct them to where to
2 come.

3 In terms of availability of maps for emergencies:
4 The gatehouse is at the main gate, there is no
5 gatehouse at the rear gate but there is a slide entry. 03.29PM
6 In line with most of the power plants I've worked at
7 throughout the world the procedure is, the main
8 gatehouses in a metal container, a big tube, essential
9 information for people entering the site which does
10 include maps. 03.29PM

11 If indeed we tidy up the communication in terms of
12 how and where to come, we wouldn't need necessarily -
13 it depends how many you want - to be producing maps on
14 a printer at that point in time, you know, we can have
15 them available and we do have available. Hand on 03.29PM
16 heart, whether they're in the form that would be useful
17 to a man coming in a mine, I acknowledge, but I'm just
18 outlining that the process, what is normal and what we
19 can ensure we do for the future.

20 Can we come back to backup power. There's just something 03.30PM
21 slightly disturbing about a power station producing
22 25 per cent of Victoria's power not having power to run
23 a Control Centre. Maybe it's just me, Mr Graham. What
24 about a backup generator such as we see in hospitals
25 and other essential infrastructure that can be used to 03.30PM
26 provide lights and basic electricity to the Control
27 Centre, is that something you've considered or will
28 consider?---Look, in terms of the main infrastructure,
29 we've discussed all of the backup supply options.
30 Because that was a high level view of the major issues 03.30PM
31 in terms of 66 versus 22 versus 11, you know, versus

1 redundancy, I think what we also did say in there is
2 that, whilst that's the initial view of it, we would
3 need to consult in more detail with our electrical
4 people to actually check, have we done everything that
5 we can do to ensure the types of things you've said
6 certainly.

03.31PM

7 Coming back to the CFA and volunteers in particular, the
8 evidence the Inquiry's heard, both directly from the
9 volunteers and today indirectly from Mr Incoll, is that
10 there's an attitude at least among some volunteers that
11 they don't want to attend fires at the mine. One
12 doesn't normally hear CFA volunteers not wanting to
13 attend fires. I've never heard it before, I have to
14 say, but we've heard it here. There is a real issue
15 there, isn't there, about a degree of resentment on the
16 part of some volunteers about having to regularly
17 attend fires at the mine and do what is dirty and
18 difficult work over long periods of time. Is that
19 something you're aware of, that that's an attitude that
20 exists?---I don't believe that they regularly attend
21 fires at the mine. Certainly there have been incidents
22 but I would hesitate to say "regularly attend".

03.31PM

03.31PM

03.31PM

23 My view on that would be, you're absolutely
24 correct, nobody wants to be fighting a fire in the
25 mine. Why? Because it's difficult to put out, you
26 know - - -

03.32PM

27 And you're exposed to carbon monoxide while you're doing it,
28 amongst other things?---Yes, certainly depending on the
29 conditions it can be very arduous conditions. The
30 majority of the experience from the CFA people and fire
31 authorities I guess in general is that they are

03.32PM

1 absolutely fantastic at tackling huge flames in a short
2 space of time, and they're very good at it and I would
3 like to just actually appreciate that. During that one
4 time during this mine fire incident, when the fire
5 jumped out of the mine and was threatening the power 03.32PM
6 plant, they did an absolutely fantastic job in
7 preventing that from happening. So they're really good
8 in that situation and the majority of their training
9 and response is in that. It's a bit like my experience
10 in power plants where you get an incident, a big 03.33PM
11 incident and it's over. Unfortunately, the nature of a
12 fire in the mine is, it drags, it absolutely drags
13 everybody down because you put it out and then you move
14 on to the next part and then you go back and you put it
15 out again, and then you go back and you put it out 03.33PM
16 again, so it would be absolutely draining for anybody
17 and I couldn't imagine why anybody would want to come
18 back repeatedly, sure.

19 But my question is, how is the mine or how will the mine
20 respond to that? That has implications, doesn't it, 03.33PM
21 for the future in terms of it needing to be more
22 self-reliant on putting out future fires if there are
23 any?---Yes, and look, the thing about the fires and how
24 long it takes to put the fires out is all about getting
25 on to it as soon as possible, and that's what a lot of 03.34PM
26 this is aimed at. So the things around reducing the
27 propensity of the fires in terms of things like, we've
28 said rehabilitation, we've said more pipe work, we've
29 actually said the routine wetting down in the
30 preparation in the non-operational areas that we didn't 03.34PM
31 do, the increasing resourcing which would make us able

1 to be able to get to the various areas and put it out
2 in a quicker manner, all of those things together puts
3 us in a much better position to prevent a prolonged
4 event.

5 I won't take you to the detail of this, but you've made a 03.34PM
6 commitment in relation to vegetation on page 4 of the
7 document and that's understood, and that's not
8 dependent on anyone else doing anything or
9 recommendations being made here?---Sure, yes.

10 Mr Incoll was asked about that earlier today and he said 03.35PM
11 that, not only should that be done, but it should form
12 part of the policy. He was surprised that it wasn't
13 part of the Fire Policy. You'd agree that it ought to
14 be, wouldn't you?---Look, most certainly, if we
15 recognise that we're going to clear it, then I would 03.35PM
16 say by implication, once we've cleared it, we would
17 keep it clear.

18 It raises a more fundamental problem, would you not agree,
19 Mr Graham; what you've got is a Fire Services policy
20 which is essentially based almost entirely on a 03.35PM
21 document that was created in 1984, the Latrobe Valley
22 Fire Prevention Policy. So 30 years later we've got a
23 document - there's some changes?---1994.

24 Well, 1994 is the Generation Victoria one and that in turn
25 was based on the 1984 one?---Okay. 03.35PM

26 I don't want it to be a history lesson?---No, no.

27 I think you know where I am going with this. That document
28 was prepared many years ago in a very different world
29 in a whole lot of respects, specifically it related to
30 three mines rather than just the Hazelwood one. It 03.36PM
31 related to a time when each of the mines was owned by a

1 public authority, now of course they're in private
2 hands. It's time, is it not, for Hazelwood to conduct
3 a fundamental review of that document in light of
4 everything you've learnt, particularly this year, and
5 the commitments you're making to see whether it's 03.36PM
6 suitable for the second decade of the 21st Century,
7 isn't it?---Yes. Look, sure, that's the way you
8 capture continuous improvement, you look at what it is
9 you're going to do and then you document, yes, this is
10 what we're going to do, and then you get somebody to 03.36PM
11 come later and then audit you on, did you do what you
12 said you were going to do. So I agree.

13 MEMBER PETERING: I'm glad you raised that point because I
14 think there would be lots of people in the community,
15 Mr Graham, that would say, these are great ideas, great 03.36PM
16 promises, but how do we know that you're going to
17 deliver on them?---Exactly, through the process that
18 I've just mentioned there. I'm not going anywhere, I'm
19 an Australian citizen now, I'm retiring here and I'm
20 going to be in the community. Certainly I don't want 03.37PM
21 to be in this position again. I don't want the
22 community to be in this position again.

23 Would you advocate independent regulation? Would that be
24 through DSDBI and/or Victorian WorkCover Authority, or
25 how would you show the community that these things have 03.37PM
26 been followed through on?---I think that, whilst I
27 would give a commitment that we would look to do that,
28 I think it falls within the Board's remit to decide
29 what mechanism is felt that needs to be put in place to
30 do it. Because this is actually not just about 03.37PM
31 Hazelwood, this is about overall risk, so a commitment

1 from me doesn't necessarily reduce potential impacts
2 for communities in the wider sense.

3 MR ROZEN: One final matter and it concerns community
4 engagement, and obviously the Inquiry's consulted very
5 widely with the community and we've had numerous 03.38PM
6 community witnesses. We've heard over and again what
7 you've already referred to earlier today, and that is,
8 where was the mine operator in all this, why weren't we
9 hearing from them and you know that. There's some
10 damage to be repaired, is there not, in that 03.38PM
11 relationship, Mr Graham?---Yes.

12 As I read page 6 of your document under the heading,
13 "Community engagement", there's a reference to review
14 meetings, and then third dot point participation by
15 Hazelwood in the review, and then a review of documents 03.38PM
16 within Hazelwood, communications protocols, and that's
17 all laudable, I'm not seeking to belittle that, but
18 it's a bit ephemeral, isn't it? What practically is
19 GDF Suez doing to repair the damage in its relationship
20 with the community of Morwell and what are the 03.39PM
21 practical plans?---I think you would have heard
22 Mr Harkins say the types of things that are happening
23 at the moment. I fully appreciate that what we would
24 call the social licence to operate has been compromised
25 through this process. 03.39PM

26 Certainly we have tried to, we have been trying
27 to, address some of the issues that impacted, as an
28 example, the retail sector in Morwell because we know,
29 obviously because of the conditions here, not only did
30 it impact on the people that were forced to live in the 03.40PM
31 community, it impacted on people coming from outside

1 the community which therefore impacted on the
2 businesses, so we have in some small way tried to
3 revive the Morwell community through a process that
4 you've heard about and I'm not looking to reiterate
5 what the process was.

03.40PM

6 In terms of in a broader sense, we've always
7 supported various aspects of the community in the past,
8 we will continue to support the community in the
9 future. Exactly what form it would take, I couldn't
10 say at this point in time. Yes, there's an intent here
11 and, as you say, what is it we're exactly going to do,
12 we need to do the work. But in some small way we've
13 tried to start with what we could in the timeframe.

03.40PM

14 Thank you, Mr Graham, they're the questions that I have for
15 Mr Graham. Do Members of the Board have any further
16 questions? I understand Ms Doyle has no
17 re-examination, so if Mr Graham could be excused,
18 please, and Ms Richards will take our last witness.

03.41PM

19 CHAIRMAN: Thank you, Mr Graham, you're excused.

20 <(THE WITNESS WITHDREW)

03.41PM

21 MS RICHARDS: Last, but by no means least, Mr Lapsley.

22 <CRAIG WILLIAM LAPSLEY, recalled:

23 MS RICHARDS: Welcome back, Mr Lapsley?---Thank you.

24 There were a couple of things that you were asked to

25 follow-up on on the last occasion that you were here,
26 I believe. One of those was to find, and have produced
27 to the Inquiry, the Incident Action Plans that were in
28 place at the Morwell Fire Station prior to 9 February.
29 That's been done and those documents have been provided
30 to the Inquiry under cover of a letter dated 12 June
31 from the VGSO. I'd like to tender that because I'll

03.42PM

03.42PM

1 take you to those action plans later on in your
2 evidence.

3 The other document that I should tender at this
4 stage is a diagram that Ms Petering's been asking for
5 for some weeks identifying the operational
6 communications structure for the Hazelwood Coal Mine
7 Fire at each of State, regional and incident level.
8 Could I tender both of those documents please
9 separately?

03.43PM

10 03.43PM

11 #EXHIBIT 95 - Incident Action Plans.

12 #EXHIBIT 96 - Diagram of operational communications
13 structure for the Hazelwood Coal Mine Fire.

14 MEMBER PETERING: My thanks.

15 MS RICHARDS: A good place to start, Mr Lapsley, might be by
16 asking you to just briefly explain this diagram of the
17 operational communications structure?---Yes, I can.
18 Obviously it's consistent with what we do in the State
19 of what we call the line of control to have incident,
20 region and state. So in the centre of that you'll see
21 from the bottom the Incident Control, coming up to the
22 Regional Controller, coming up to the State Controller.

03.43PM

03.44PM

23 Obviously for this fire we separated - we normally
24 have a Regional Controller in place and was in place
25 for Gippsland, and we separated that to have a Regional
26 Controller for Gippsland to manage the fires, the wild
27 fires that were running particularly in East Gippsland
28 and Central Gippsland. A second appointment was a
29 Regional Controller for the mines and we also called it
30 the HAZMAT fire and there's a reason for that.

03.44PM

03.44PM

31 So that was Mr Warrington?---Was initially, yes.

1 I thought Mr Warrington held that position throughout?---He
2 did - no, there was a roster system that saw a number
3 of other people come into that position.
4 But you would not normally have two Regional Controllers,
5 you would normally have one?---No, one. 03.44PM
6 But it's always the Incident Controller who manages the
7 incident?---Absolutely, yes.
8 And the other levels exist to support the Incident
9 Controller to ensure resources are available as
10 needed?---Yes. 03.45PM
11 And perhaps to relieve some of the immediate load of running
12 the incident?---And engage particularly with the
13 Regional Emergency Management Team, which is something
14 I can explain in detail.
15 Perhaps you could do that?---Okay. Adjoined to that is 03.45PM
16 something that in the last number of years we've made a
17 special effort to make sure that we're not just focused
18 on the incident - that is, the Incident Controller has
19 responsibility for the management of the incident. We
20 put in place what we call Emergency Management Teams 03.45PM
21 and they operate at incident level, operate at the
22 regional level and the State level and that is the
23 broader group of people.
24 For example, I Chair the State Emergency
25 Management Team and in that room we have all functional 03.45PM
26 responsibilities in there. When I say "functional",
27 it's not by department, it's by function. So, if it's
28 about roads, it'll be VicRoads; if it's about
29 agriculture, it will be the appropriate department head
30 for Agriculture and so on, including tourism for 03.46PM
31 Tourism Victoria and the like.

1 So there is a Regional Emergency Management Team,
2 and in this diagram it shows that the Regional
3 Emergency Management Team had functional
4 responsibilities for the plans that are in the diagram
5 underneath, which included end-to-end, including
6 community engagement, strategic planning, resources,
7 performance environment, infrastructure, relief and
8 recovery and the health incident management side of it.

03.46PM

9 So that's important that we actually operated that
10 from the region, and the reason we operated that from
11 the region was to ensure we got the appropriate
12 engagement and supported the Incident Controller with
13 those plans and that the Incident Controller could get
14 on with managing the incident.

03.46PM

15 Putting out the fire?---Putting out the fire.

03.46PM

16 We had some evidence last week about EMJPIC and there was
17 reference made by Ms Tabain to its regional equivalent
18 which she called REMJPIC. Where does that sit in this
19 structure?---I'll go back. EMJPIC is the Emergency
20 Management Joint Public Information Committee, so it's
21 about joint information and it sits in this one in the
22 community engagement and information functional
23 sub-plan.

03.47PM

24 It was put in there to ensure that appropriate
25 people were looking at engagement and information and,
26 being connected to the Regional Emergency Management
27 Team, it means it's got EPA, Health, Human Services
28 control, so Regional Control would be in there to lead
29 it. An example there, Education were part of that to
30 look at what was the communication and engagement
31 strategy.

03.47PM

1 For example, if we go a little bit further, EMJPIC
2 was also talking to the incident level to ensure that
3 the tactical communications was able to be communicated
4 effectively, and they provided that support, so in this
5 diagram here where you've got EMJPIC coming into the 03.47PM
6 regional plan and also a dotted line coming into the
7 incident level as well.

8 One more question about the structure. Where does the State
9 Crisis and Resilience Council sit in relation to this
10 structure?---I sit on the Resilience Council, it sits 03.48PM
11 above the State Emergency Management Team. So the
12 State Emergency Management Team is the team that's got
13 the daily responsibility, but daily looking at it at a
14 strategy sense, and obviously the Resilience Council is
15 about a whole-of-Government approach; that's a broader 03.48PM
16 issue and that's actually moved from what is probably
17 the emergency management issues to what is the crisis
18 or disaster management issues that would be across the
19 whole-of-Government and therefore the whole of
20 community. 03.48PM

21 The next issue I want to take you to is to pick up from
22 where you left off on the last occasion. You were
23 giving evidence when you were last here about
24 firefighter safety and, to get the terminology correct,
25 the Health Management and Decontamination Plan that was 03.48PM
26 adopted for the fire, which is Annexure 3 to your
27 second statement?---Yes.

28 Just to recapitulate, this was adopted at the end of the
29 first week of the fire?---Yes.

30 On the Friday. It was signed off by the Regional Controller 03.49PM
31 and by yourself on the 14th?---Yes.

1 It applied to those people fighting the fire in the
2 mine?---Correct.

3 It provided for people in high risk groups to be excluded
4 from the fire fight, so pregnant women, people with
5 respiratory problems. It also provided for checking 03.49PM
6 people's existing carbon monoxide levels when they
7 reported for work, and those with a reading of
8 5 per cent or over were retested in 15 minutes and, if
9 they were still too high, they were sent away. Those
10 people who got through that screening process were 03.49PM
11 working within the parameters that are set out on
12 page 17 of the document?---Yes.

13 That identifies four different zones. A cold zone was up to
14 9 ppm, warm or unrestricted was between that and 30 ppm
15 and, as the fire fight went on, up to that level people 03.50PM
16 were able to work on two hour rotations. Have I
17 understood that correctly?---That's correct.

18 Then between 30-50 to work at that level it was necessary to
19 have a self-contained breathing apparatus?---Yes, which
20 I can give clarity to in a moment, yes. 03.50PM

21 Then, over 50, nobody worked in those environments?---Yes.
22 In the evidence that I - - -
23 I haven't got to my question yet?---Sorry.

24 There we see "Cold Zone Community Health Limits. Government
25 of Australia Department of Environment and Heritage 03.51PM
26 recommend the ambient air CO level be kept below 9 ppm
27 and persons not exceed this level for more than 8 hours
28 in one year." That was the standard that the Fire
29 Services adopted for its own firefighters on
30 14 February?---Correct. 03.51PM

31 Last week Dr Lester gave evidence about Carbon Monoxide

1 Protocol that was adopted the following week end 15th
2 and 16th and I need to take you to that. It is
3 Annexure 8 to Dr Lester's statement. It was
4 Dr Lester's evidence that this was drafted by the
5 Department of Health staff who were here in the Latrobe 03.52PM
6 Valley on Sunday, 16 February.

7 If you turn to the second page of that document,
8 you'll see that there are levels of carbon monoxide
9 exposure that are taken, we were told, from an acute
10 exposure guide level that was developed by the 03.52PM
11 United States Environment Protection Authority or
12 Agency.

13 We see there that the levels that are set for
14 carbon monoxide, starting at 10 minutes exposure of 420
15 ppm, over 30 minutes it's 150 ppm, over 1-hour it's 03.52PM
16 83 ppm and so on. It was Dr Lester's evidence, and
17 this is borne out if you read down the document, that
18 the 83 ppm level was rounded down to 70 ppm over 1-hour
19 and from 16 February this was the protocol that was
20 applied to community exposure to carbon monoxide. 03.53PM

21 On the face of it, it would appear that this
22 protocol tolerates much higher levels of exposure for
23 the community than was being tolerated for firefighters
24 who had already been through two screening processes.
25 Can you explain that discrepancy?---Yes. First of all 03.53PM
26 I go back to the health management decontamination
27 plan, that's the one that's underpinned for the
28 firefighters, so the occupational health and safety
29 responsibility for the firefighters.

30 In my statement, if you go to the next tab of my 03.53PM
31 statement which is behind tab 4, and when we gave

1 evidence on two Fridays ago it was important that I
2 read part of this email, and I can revisit it if you
3 wish, but down underneath the dot points, so it's got
4 four dot points there, we took advice from the
5 scientific officer of MFB and the Deputy Chief Officer 03.54PM
6 from the South Australian Metropolitan Fire Service who
7 was here to provide this level of expertise that
8 firefighters would, in that scale that you put up
9 before, done breathing apparatus at 50 ppm, so it was
10 at the upper limit of that scale, not the bottom. 03.54PM

11 That was done and, as it's mentioned in here, it
12 was seen to be a conservative step but a safe
13 conservative step to do so. It also looked for
14 firefighters that are at 75 ppm, that they would then
15 not only - obviously, if it progressed up they would 03.54PM
16 have already breathing apparatus on, but if it got to
17 75 they would then depart the fire ground and seek
18 other testing of that part of the fire ground before
19 they re-entered. That's the OH&S responsibilities for
20 the firefighters. 03.55PM

21 You're right, when you actually then look at the
22 community paper that's from the Department of Health
23 and it goes through what is the dosage and the exposure
24 in that table, that was up about 27 ppm over 8 hours,
25 33 ppm over 4 hours. 03.55PM

26 The second part of that that's critical is then
27 taking that and putting it into the next part of that
28 document, which is, what does the Incident Controller
29 do or the public information officer with the warnings.

30 I'm actually not interested in that at the moment, I'm 03.55PM
31 interested in getting an explanation, because you'll

1 appreciate there's been a fair bit of attention to this
2 issue, about why it is that the community is not warned
3 at levels which would see a firefighter off the fire
4 ground?---That's why we need to step back a bit and
5 understand about the exposure.

03.56PM

6 I should also ask you about the monitoring equipment. The
7 monitoring for firefighters is done with one of these
8 personal canaries, as Mr Harkins called them, which
9 it's not state-of-the-art EPA ground monitoring
10 equipment, it's just a personal monitor, and that's the
11 same equipment that was doing the monitoring in and
12 around the community of Morwell I believe on 15 and
13 16 February, wasn't it?---In the initial stages, yes.

03.56PM

14 They were the same equipment?---Basically the same equipment
15 although - - -

03.56PM

16 Taking the same readings?---They take the same readings. So
17 from that you've got on the 15th, if I take you to the
18 15th, we had protocols in place about firefighters. We
19 didn't have the same, and that's why we sought Health's
20 advice on the 16th to say, we need this level of
21 information to advise Incident Controllers to issue
22 warnings. Now, when you look at it, you've got the
23 complexity of what is the difference between 30, 50 and
24 75 in a firefighter sense and then dosage and exposure
25 for community.

03.56PM

03.56PM

26 The other thing that it is also - and this can be
27 debated in quite a technical way - a firefighter is at
28 the coal front of where the carbon monoxide is
29 potentially being produced; that is, that it's being
30 produced due to incomplete combustion and therefore the
31 early warning of that and the conservative view of

03.57PM

1 picking it up was really important. Whereas when you
2 talk about the 27s, the 33s and the 83 ppm, it's
3 actually airborne and mixed fairly well with air is
4 normally the case; that is, the community is a further
5 distance away. You need to take other advice about,
6 technical advice, about the difference of the 27, 33
7 and 83 than I can give you in a technical sense and
8 whether Health or one of the experts have already
9 provided that.

03.57PM

10 One of the challenges we've just taken on as a
11 result of committing to re-issuing these plans in the
12 SOP is to get the connection now of exactly what you're
13 asking. So we've engaged, as late as yesterday, with
14 technical experts to say what's it mean for a breathing
15 apparatus, and what is the message that goes to the
16 community and are they consistent and what do we do?
17 So, in the review of these documents, we've actually
18 led ourselves to the same question as you've just asked
19 in, what is the connection?

03.57PM

03.58PM

20 It has to be consistent with the community and the
21 firefighters, does it not?---Yes.

03.58PM

22 And it was not?---Yes, that's fair.

23 And you're having trouble explaining why it was not, aren't
24 you?---That's fair, because they come from two
25 different standards. We've got inconsistent standards
26 of what is occupational health and safety and what is,
27 therefore, guiding from a health point of view the
28 community.

03.58PM

29 So it's no surprise that HAZMAT technicians who were tasked
30 to take these readings using personal monitors that
31 their colleagues were using in the mine and were

03.58PM

1 getting higher readings that they knew would see their
2 colleagues at least taking precautions, were very
3 disturbed that they were not able to warn the
4 community?---I'm not sure about "not able to warn the
5 community", there was warnings that went out; it was 03.58PM
6 about the advice we were seeking on the 15th is, what
7 is the warning? When you use shelter in place as a
8 term and you don't understand the building stock and
9 you've got other complexities, so I think it was more
10 of, what was the messaging? 03.59PM

11 The interesting thing on the 16th, it wasn't just
12 about building a protocol. The 16th brought, as a
13 result of the 15th, where there was a spike of a 54, I
14 think it was the highest spike for a very short period
15 of time in the southern part of Morwell, the 16th 03.59PM
16 brought the issue of, not only what the protocol needs
17 to be, what are the tools that the Incident Controller
18 needs to have to be able to give proper advice, what's
19 the clarity of networks of information and, although we
20 had calibrated equipment, it's also the inconsistency 03.59PM
21 of how you take those warnings.

22 If you were EPA, I'm sure they would have told
23 you, if they talked about their blanket network,
24 they'll talk about a consistent height of detectors
25 between distance between and it all gets calibrated; 03.59PM
26 when you're using vehicle based and mobile devices it
27 was not as comprehensive as it could have been on the
28 15th.

29 But they were the same devices that were available to the
30 firefighters fighting the fires in the mine?---Yes, 04.00PM
31 that's correct.

1 There was a warning that went out on the 15th and we
2 discussed that on the first occasion that you gave your
3 evidence. In the face of much higher readings in the
4 community on the 16th there was no warning issued and
5 you accept that that was the case?---Yes. 04.00PM

6 And that was as a direct result of the application of this
7 protocol?---This protocol. Yes, the Health protocol
8 which was being built on the 16th.

9 Yes. So, if we have one learning from this, it is that the
10 two should be consistent and should be easily 04.00PM
11 explicable to the community?---Yes, there's probably
12 more learnings than that, but that's simply to put it,
13 because it needs to be consistent across all activities
14 from the first entry into the mine, to the community
15 with appropriate messaging. I would suggest that even 04.00PM
16 some of the methods we've put in messaging now about
17 shelter in place we will challenge and ensure that the
18 right messaging and the behaviour, or the actions of
19 the community, will be more detailed.

20 So we can put carbon monoxide protocols aside for now and 04.01PM
21 move to a meeting that we understand took place here in
22 Morwell on 28 February attended by you, Dr Lester,
23 Chief Commissioner of Police Mr Lay, John Merritt of
24 the EPA and the CEO of the council. Did such a meeting
25 take place?---Yes, it did. 04.01PM

26 What was the purpose of the meeting?---There were a number
27 of meetings that day. It was actually to assist the
28 Chief Health Officer to give advice to the community
29 about what were the actions that she would actually
30 issue later that day and in regards to look at, what 04.01PM
31 did we have as information that would advise what

1 parts, was it partial Morwell or total Morwell or were
2 there other parts of the valley that needed to have
3 very detailed and direct messaging from the Chief
4 Health Officer.

5 Could Mr Lapsley please be shown exhibit 86. We'll get that 04.02PM
6 up on the screen soon, but while we're doing that could
7 you please have a look at those documents that are
8 exhibit 86 and that, we are told by the Victorian
9 Government Solicitor on instructions from Mr Merritt,
10 that they were the maps that were considered at that 04.02PM
11 meeting on 28 February for the purpose of deciding
12 which areas of Morwell should receive the highest
13 priority and the warning?---Yes, that's correct.

14 Are they the maps that you considered?---They are, obviously
15 in a single dimension; we saw them in a slightly 04.02PM
16 different way because it was a 3D model. So the
17 modelling - yes, that is the map, but you can actually
18 look at it quite differently from the top-down and
19 you'll see a different overlay of looking at Morwell
20 from that point, although it's the same product. 04.03PM

21 So, it's the same product, but not the map that you looked
22 at?---This was one of the maps. The one that advised
23 me better was, when you looked straight down on top of
24 it and you saw the red and the green areas and the blue
25 areas looking down from a helicopter straight down onto 04.03PM
26 an aerial photograph.

27 As we see, it's a three-dimensional view looking from the
28 northwestern side and there is another map that is
29 another three-dimensional view. It's your evidence,
30 you said, that there was a third map that was a 04.03PM
31 two-dimensional view looking from above?---Yes, I'd

1 seen - and it wasn't the first time I'd seen this on
2 the 28th of the month - I'd seen where you can actually
3 look down on top of it and it, to me, gives a clearer
4 view of where the red and the green is in as far as
5 streets and locations which was, I think, the defining 04.04PM
6 factor about what later on was seen as Morwell South.
7 Of course it is quite difficult, on that view, to identify
8 which areas?---Yes.

9 Could I ask that that map please be made available to the
10 Inquiry, the two-dimensional view?---So when you look 04.04PM
11 down on it you will see the railway line, Commercial
12 Road and it shows quite clearly south of the railway
13 line has significant red areas, and there's only a
14 small number of the red dots north of the railway line,
15 and that was the defining piece that said that Morwell 04.04PM
16 South was getting a different - or smoke across all of
17 Morwell, but certainly a more dense smoke in the
18 southern part, I'll say the southern part, or what they
19 called Morwell South at one point.

20 It's a very clear illustration, is it not, of the dispersion 04.05PM
21 of fine particulate matter throughout Morwell?---Yes, I
22 believe so.

23 There's no reason why it couldn't have been shared with the
24 community at the time the advice was given, is
25 there?---I think it's one of those that would have 04.05PM
26 helped, yes. If I'm right, and you may want to check
27 this, I think we took this to the community meeting at
28 Kernot Hall which was seen to be the protest meeting.

29 On the 18th?---On the 18th, I think it was one of the
30 earlier ones we actually had in a line, but it mightn't 04.05PM
31 have been as descriptive with all the bubbles that was

1 to come back on the final day of the hearings.

2 We've had a good deal of discussion in this room
3 over the last four days about risk assessments, and
4 part of any risk assessment is understanding the cost
5 of not putting controls in place. Recent experience is 04.07PM
6 going to give some guide to that.

7 We had evidence in the first week of the hearing
8 about the massive fire fight that took place
9 during February and March and it did appear that no
10 expense was being spared to put the fire out. How much 04.07PM
11 did that exercise cost?---I can give you my figures.
12 The latest figure that I've got from the Metropolitan
13 Fire Brigade, so MFB and the Country Fire Authority, is
14 \$32.5 million is the cost at this point.

15 That's the cost of the resources within Victoria, 04.07PM
16 the resources that were used from Air Services
17 Queensland, Tasmania, South Australia, Fire Rescue New
18 South Wales; I believe I've got all of them. It
19 includes the HR component, so the career, obviously
20 wage or salary components. 04.08PM

21 Was there a value put on the time of volunteer
22 firefighters?---No, that is not in there, and we're
23 very careful how we put a badge to the price of
24 volunteer labour, that has always been a huge issue.
25 So, the \$32.5 million is the costs that have been 04.08PM
26 incurred and been billed and that will be brought
27 together over the next number of weeks as a
28 consolidated figure.

29 Who bears that cost?---It's borne by the two authorities, so
30 both MFB and CFA, that's where it is at the moment. 04.08PM
31 CFA have taken on the responsibility to pay the bills

1 for the Interstate services. Obviously that will be
2 considered by the financial parts of CFA, and jointly
3 CFA and MFB will - it's not within their budget, so it
4 will be an issue for Government.

5 Separate to that under the CFA Regulations, so CFA 04.09PM
6 Regulation 97, there is the potential to recover costs
7 from the owner/operator of the mine. That's a
8 provision within the CFA regulations, so Regulation 97
9 of 2004 and that will be considered or is being
10 considered. It's very unlikely that that provision 04.09PM
11 provides total cost recovery and it would obviously be
12 a discussion between Suez led by the CFA.

13 So I haven't got to the regulations, I had got to s.87 of
14 the CFA Act and that provides - and now I defer to your
15 greater knowledge of the area - but s.87 provides only 04.09PM
16 for recovery of the costs of providing firefighting
17 services from a property owner who's uninsured?---That
18 will be the debate. If you go a little bit further it
19 goes into what is insured, what's the Fire Service Levy
20 contribution, so it comes into a negotiated discussion 04.10PM
21 and the application of what is the Act and the
22 regulation, and that will be obviously a point that CFA
23 will lead at some point in time with Suez.

24 That reference in s.87 to "uninsured" is a bit out of date
25 now, isn't it?---Yes. 04.10PM

26 The Fire Services Levy is no longer - - -?---Insurance
27 based.

28 - - - based on property insurance, it's collected through
29 rates?---Yes.

30 And that's a bit of tidying up that should be done, is it 04.10PM
31 not?---Yes, that's part of the process of moving in the

1 next piece of legislation or next pieces of
2 legislation, to tidy up from what was insurance levy
3 based to what is property based.

4 An extraordinary cost to put out a fire, and there's going
5 to be a very difficult discussion, I imagine, between 04.10PM
6 the CFA and the mine operator about how those costs are
7 shared?---It could be difficult. You'd suggest it
8 probably would be difficult, however the CFA position
9 would certainly be to look at the Act and the
10 regulations and, like I said, it's not written for 04.11PM
11 total cost recovery, it talks about - it's got a
12 formula within the regulation which I won't go to.

13 You were in room, I think, when Mr Graham gave his evidence
14 about costs incurred by the mine operator, and he said
15 that the cost of laying the new pipes at the eastern 04.11PM
16 end of the northern batters was \$2.5 million and that
17 cost had been borne by GDF Suez. Would you agree with
18 that evidence?---That's the first I've heard of those
19 costs, but I do know that obviously Suez took - that
20 wouldn't be the only cost they put in, there was 04.11PM
21 infrastructure to be put in in a number of places, and
22 certainly mine's resources, both physical and
23 infrastructure that was put in place in significant
24 areas of the mine.

25 So there's not been any question of GDF Suez looking to the 04.12PM
26 State for reimbursement for re-installing that pipe
27 work?---I'm not aware of that. However, there would be
28 some costs that the Incident Controller would have
29 signed off in regards to some of the infrastructure,
30 and that's why it'll be a discussion with Suez at some 04.12PM
31 point in time about what is the total cost, what is the

1 package, what is the application of regulation, and no
2 doubt Suez will have a position about their Fire
3 Service Levy contribution.

4 And that's a discussion that's yet to be had?---That's a
5 discussion that the CO of MFB will lead. Sorry, the
6 CFA I should say, the CO of CFA will lead.

04.12PM

7 The next area I would like to ask you about is an aspect of
8 fire prevention planning which is pre-incident planning
9 between the CFA and the mine operator. You've been
10 good enough to provide to us, via VGSO, two documents
11 as I understand it. One is a PDF copy of a
12 pre-incident plan which is a two-paged document. If we
13 could have a look at that, this is part of exhibit 95,
14 and it's the first two pages of the annexure.

04.13PM

15 I want to be sure that I've understood. That's
16 the first page, "Protected premises information,
17 Hazelwood Power Station." Then over the page,
18 "Protected premises information, Morwell Open Cut." Is
19 that the document that's referred to as the
20 pre-incident plan for 9 February?---That is, and when
21 you say for the 9th, it's a standing pre-incident plan
22 that sits there 365 days of the year.

04.13PM

23 So it was in place on 9 February. It's pretty basic though,
24 isn't it, Mr Lapsley?---It's basic for a reason.

25 Normally if you saw this for the Latrobe Valley
26 Hospital or a school facility, it would be more
27 comprehensive. The reason it's not is, the mine's
28 being declared essential services, all mines having
29 that overlay which is covered off with the Terrorism
30 Act, there's various sensitivities around the level of
31 information that sits outside the mine.

04.14PM

04.14PM

04.14PM

1 of all is the security overlay. The one that I've had
2 given to me here now has only got two maps; there's
3 actually four maps which I think are all there, so
4 there's the fourth.

5 We don't actually need to look at the maps of the power 04.17PM
6 station; that's a problem that we're not grappling with
7 at the moment?---No, no, no. I think though what I see
8 here - and this is something we will take away about
9 what Pre-Incident Plans lead to and how they interface
10 - the description of this for an officer riding on the 04.17PM
11 Morwell fire trucks is that this is information that is
12 safe to talk about and doesn't breach the security
13 issues of the site, and that's been a key issue. But
14 it also sets what is, for the career officers or the
15 responding officers of appliances, the base level for 04.17PM
16 them to assemble their plan once they get there.

17 So the Pre-Incident Plan is a Pre-Incident that
18 gets you onto site, then you need to do situational
19 awareness of, is the fire in the bunker, the pit, the
20 conveyor belt whatever. This is constructed by the 04.18PM
21 officers at Morwell and their explanation would be very
22 clear that this is the fundamentals to be able to build
23 the plan - that is, get to the gate, get in the place,
24 get the pilot, because it's critical to have the pilot
25 and be able to say - - - 04.18PM

26 Do you mean a guide around the mine?---A mine guide, so
27 they're connected to the internal communications of the
28 mine, and these are the elements to say we're going to
29 assemble at the pond or we're going to assemble at the
30 given assembly point or whatever. 04.18PM

31 Those second sets that shows, and I haven't got it

1 here, but it's got all the arrows pointing into the
2 power station, it tells you about the fundamentals of
3 the power station. It also tells you that there's a
4 great emphasis placed on the power station and a
5 structural risk and the need to not see power turned
6 off or restricted in its production. 04.18PM

7 I think it tells you in itself that maybe the
8 mine, the deep part of the mine, hasn't necessarily got
9 the same level but they build the plan or they build
10 their action plan as they see where the fire, the smoke 04.19PM
11 and the challenges that it does offer.

12 Not to beat around the bush, the sparseness of the
13 information provided on these maps is because of
14 security concerns because there is a perception that
15 the power station is a potential terrorist target;
16 that's correct?---That's one of the reasons, yes. 04.19PM

17 We also know, and we have known for many, many years, that
18 there is a very real risk of fire in the open cut mine.
19 You're not seriously suggesting that identifying water
20 points on a photograph or a map of the mine is going to
21 compromise the security of the power station?---No,
22 it's deficient in that part of the plan, would be a
23 fair observation.

24 A further deficiency, and I think you referred to this last
25 time, is that this is information that's quite closely
26 held, there's only a limited number of people who have
27 it and have success to it when an emergency
28 arises?---True, except that the maps are in fire
29 trucks, they're not secured in fire trucks. So someone
30 could - they could disappear or could be used by other
31 people from within the fire truck. 04.20PM

1 The worst that would happen, if we had the water points on
2 the mine zoned, is that people would know where to fill
3 up a fire truck should they need to be in a mine for
4 that purpose?---Or whatever with water, so you're dead
5 right, so that's a deficiency of this plan. 04.20PM

6 Another deficiency is that it doesn't have any after hours
7 phone numbers for the people who might need to be
8 contacted in the event of an emergency?---And I think
9 you'll find that all the numbers and names are out for
10 security reasons and then it goes to the - and it's 04.20PM
11 written in the procedure about it, it's probably
12 written in here, they go to Diamond Protection or
13 whoever it is as the single point of getting access to
14 all of the appropriate person.

15 So they'd go to the front gate, which is what they'd do in 04.20PM
16 any event, isn't it?---That's right. That's the first
17 responding place.

18 As things transpired on 9 February, and I think you were in
19 the room when Mr Incoll was giving his evidence this
20 morning, on a horrible day like 9 February quite often 04.21PM
21 it can happen that the Morwell Brigade is detained
22 elsewhere and all of that knowledge is with
23 them?---That's right.

24 And volunteers coming from Willow Grove or Heyfield don't
25 know it. There has to be a better way?---I think 04.21PM
26 there's two points here and without - you know, you can
27 go into a lot of detail about what is appropriate
28 planning; the fact there is an assembly point, that
29 straight away there will always be some local officer
30 left in Morwell, not everything goes away. It's about 04.21PM
31 getting the trucks to the assembly point where can they

1 be briefed and managed into the site appropriately.

2 That is there about the assembly points.

3 What isn't there though, and I think you raised it
4 before in a number of - to what I've heard is, how do
5 you get this when you're from the Sale Fire Brigade or 04.22PM
6 the Geelong Fire Brigade and you've been responded in,
7 what are you given as you go in? There's probably two
8 parts to that.

9 One is, if there's an incident controller well
10 established there would be an incident action plan that 04.22PM
11 then would be communicated, but in those first number
12 of hours for the first responding brigades in there,
13 there needs to be access to this basic information
14 coming in.

15 And the answer is that it should be pre-prepared and it 04.22PM
16 should be held at the mine at the gate?---That's right,
17 at the gate, and I think previous evidence might have
18 said there is something at the gate, but is it
19 comprehensive enough, do people know it's there, is it
20 used in an effective way? The answer is, I don't know, 04.22PM
21 but I'd suggest it's not there in that format.

22 MEMBER PETERING: Commissioner, who would be responsible for
23 preparing that, pre-preparing that information?---It's
24 the officer-in-charge of the Morwell Fire Brigade, so
25 it's from a CFA point of view, and that's obviously for 04.22PM
26 Hazelwood; if it was for Loy Yang, it would be the
27 Traralgon Fire Brigade, so it's the responsibility back
28 at the fire station level for these to be produced and
29 kept current.

30 MS RICHARDS: Mr Lapsley, we asked you in your first 04.23PM
31 statement to identify any of the plans that were in

1 place for mitigating the fire risk at the Hazelwood
2 Mine. You referred to two documents, one of which I'm
3 going to take you to which is the Gippsland Regional
4 Strategic Fire Management Plan that was referred to in
5 paragraph 210 of your statement I think. This is a
6 product of the Integrated Fire Management Planning;
7 have I understood that correctly?---That's correct.

04.23PM

8 This is the strategic plan for the Gippsland region. If we
9 can turn to page 27 of the document, there's a regional
10 register of assets at risk and this has been prepared
11 using the Victorian Fire Risk Register, has it
12 not?---Yes, the risk register underpins it.

04.24PM

13 Not surprisingly, we see that the top two assets that are
14 identified as at risk are, firstly, the power stations
15 and secondly the coal mines. I do apologise, it's very
16 difficult to read?---That's all right.

04.24PM

17 We've looked at this document a number of times this week,
18 but you would agree that the risk rating that's given
19 there is, there's a likelihood of the scenario, which
20 is fire in the mines occurring, is likely; the
21 consequence is catastrophic and hence the risk is rated
22 as extreme.

04.24PM

23 Then we get to the column that identifies existing
24 treatments. We've asked a number of witnesses about
25 this in the course of this week. The first one that's
26 mentioned is legislative controls, including MHF, which
27 we assume stands for major hazard facility. The
28 evidence of Mr Niest is that the mine is not a major
29 hazard facility?---That is correct.

04.25PM

30 And those provisions of the Occupational Health and Safety
31 Act do not apply to it?---It's not a major hazard

04.25PM

1 facility. I'd have to take advice of the provisions of
2 the 2007 OH&S Regulations; I thought they - - -
3 It's a prescribed mine?---Yes, so I would have thought those
4 would still have relevance, even though it's not a
5 major hazard facility. When I read that, and I didn't 04.25PM
6 have it with me, but I read that this morning and major
7 hazard facility is incorrect for that site.
8 It's a prescribed mine, it has its own occupational health
9 and safety controls, but it would be useful to at least
10 get that right, would it not?---Correct. 04.25PM
11 Then Emergency Management Plans, and we've had evidence
12 about the mine's Emergency Response Plan and how it was
13 implemented on the day, so there is a plan.
14 CFA Pre-Incident Plans, we've just been looking at
15 what there is, and we've agreed that there is 04.26PM
16 considerable room for improvement. On site
17 firefighting resources, we've covered off on that, and
18 then DPI regulatory planning.
19 The evidence of Ms White, from what is now known
20 as DSDBI, is that they play no role in mitigating fire 04.26PM
21 risk at the mine. Which leaves the existing treatments
22 looking pretty thin, does it not?---I think there's a
23 more of a fundamental problem here, it's about how that
24 plan's been developed. In the membership of the
25 committee, the regional committee, is not connected 04.26PM
26 into the industry nor the regulators. So someone's
27 done a fantastic job to have a crystal ball to get a
28 risk assessment done, but the description is incorrect
29 with the fact that it's got major hazard facility being
30 referenced. And obviously the treatments are a list of 04.26PM
31 treatments that are obvious treatments, but not engaged

1 treatments too see what are the appropriate treatments
2 and what are achievable treatments.

3 And, the ones that do exist, the Emergency Management Plans,
4 the CFO Pre-Incident Plans and on site firefighting
5 resources, are mitigative controls after the event 04.27PM
6 rather than preventative controls, are they
7 not?---That's correct, and obviously they're dealing
8 with risk and hazard, they're not dealing with
9 consequences, which is where we would like to go in the
10 future, which we may get the opportunity to talk today 04.27PM
11 about, that it's not just dealing with coal and the
12 potential of fire, it's actually dealing with coal, the
13 potential of fire and what it actually produces and
14 where it goes.

15 Can we talk now more generally about Integrated Fire 04.27PM
16 Management Planning. It's an idea that's been around I
17 think since 2003?---That's correct.

18 The brainchild of Bruce Esplin. And, it's a great idea, but
19 it's a bit of an orphan, is it not? It doesn't have a
20 home?---That's fair, that's fair to say in the sense 04.27PM
21 that it's living on old legislation; it lives
22 under - - -

23 It doesn't live on any legislation at all, does it?---Well,
24 it lives on what is the CFA Act of Regional Fire
25 Prevention Plans and Municipal Fire Prevention Plans. 04.28PM
26 So in s.52 to probably about 56 of the CFA Act it
27 describes what is Regional and Municipal Fire
28 Prevention Plans. In the right method of moving
29 forward, and why it was identified in the early 2000s
30 is, fire prevention was only one part of it, what is 04.28PM
31 fire management in a broader sense? That's been a

1 worthwhile exercise, but 10 years on there's still not
2 legislation that shows that it's about fire management
3 and not fire prevention.

4 I think you may be aware of the evidence of Lance King,
5 who's the Coordinator, Emergency Management here, who 04.28PM
6 described the development of the local Municipal Fire
7 Management Plan and identified some very real issues
8 with both engagement and resourcing of the planning
9 process and, more concerningly, authority to implement
10 the outcome of the planning process?---You're correct, 04.28PM
11 that lives as a frustration, particularly at municipal
12 level.

13 Since 2009 there's been significant resources put
14 in the back of this to ensure that every municipality
15 has a Municipal Fire Management Plan, known as a Fire 04.29PM
16 Management Plan but underpinned by the legislation,
17 which is fire prevention; and, likewise, each of the
18 eight regions, the whole-of-Government regions, have a
19 strategic plan similar to what you see here. That's
20 been achieved for the first time in the last 14 months. 04.29PM

21 That meant we had to put resources in to lift the
22 skills to be able to bring what is a broader than just
23 bushfire, so bring it to a fire - not all hazards - to
24 a fire broadness, so that includes structure and
25 others. That's why you'll see here, attempts are being 04.29PM
26 made, but the rigor is not behind it to deliver in a
27 way that's appropriate. That's the frustration
28 of - - -

29 What's the answer?---We need to modernise legislation for a
30 start. We need to acknowledge - - - 04.29PM

31 Are we going to see a set of provisions that might have been

1 in the Fire Services Commissioner Act?---No, it didn't
2 get up there. The next part though - - -
3 Will we see them in the Emergency Management Act 2013?---In
4 2013, you won't. There's four parts of legislation for
5 the Emergency Management Act to move it forward. The 04.30PM
6 first part has been in place, which is the governance
7 arrangements, which is the Emergency Management
8 Victoria, the Emergency Management Commissioner. The
9 second part is planning, that's the one that's on the
10 table at the moment. The third part is the control 04.30PM
11 mechanisms which is listed for 2015 and the final bit
12 is what I'll call the miscellaneous parts of
13 legislation, but it brings the 1986 Emergency
14 Management Act to basically be replaced by a
15 comprehensive Emergency Management Act of what will 04.30PM
16 then be 2015, so it's a four-step process to get
17 governance in.

18 The thing about it, it's frustrating, but we
19 almost need the new 1st of July to come so that we've
20 got the governance to be able to lead this to be in a 04.30PM
21 way that's got the planning and control mechanisms
22 appropriate. Obviously the opportunity here is that
23 the learnings out of this event will be key to put into
24 the planning and control of what is new legislation.
25 That's the opportunity. 04.31PM

26 The Integrated Fire Management Plan is more than 10 years
27 old now. Until the middle of last year it was
28 supported by a team that was auspiced by the CFA.
29 Mr King's evidence was that that team's now been
30 disbanded or defunded?---The team's still there, the 04.31PM
31 team is - - -

1 Where are they now?---They're about to go to Emergency
2 Management Victoria and they've just been reappointed a
3 new job, so the same number of people are there, but
4 we've got to take it from fire to be emergency. So
5 what has been fire dominated is now, the next iteration 04.31PM
6 is to take it to an emergency footprint.

7 The 11 funded positions that were in Integrated
8 Fire Management Planning have now been restructured to
9 become part of what will be Emergency Management
10 Planning, to be the broader piece, and take on what is 04.32PM
11 the new legislation about consequence.

12 I think you heard Mr Incoll this morning make the
13 observation that a plan is all very well but, unless it
14 actually translates into action, it's only a plan.

15 What legislative bite will be given to Integrated Fire 04.32PM
16 Management Planning or Emergency Management Planning to
17 actually implement the treatments that are identified
18 as appropriate?---Since, and I'll say 2010 - and I
19 think everyone appreciates the events of 2009 really
20 took another 12 months before we saw what the Royal 04.32PM
21 Commission was able to put on the table and the action
22 that occurred - so since 2010, like I side, we've
23 achieved each municipality with a plan, each region
24 with a plan.

25 In March 2014, only weeks ago, we approved the 04.32PM
26 State Fire Management Planning Committee, the
27 Evaluation Monitoring and Reporting; that's a policy
28 direction, not a legislative direction, of how we hold
29 accountability to agencies to deliver against the plan.

30 So it's a policy document not a legislative document, 04.33PM
31 and that's the start of saying, VicRoads you've got

1 this responsibility, or SP AusNet, or whoever these
2 partners are to actually be able to be evaluated,
3 monitored and reported against against achievement.
4 Quite often as you - - -

5 But that's really no more than a name and shame process, 04.33PM
6 isn't it? There's no ability to compel performance of
7 anything?---No, we haven't got legislation, so we're
8 using a policy goodwill compelling document and
9 reporting as a result of that up through the Resilience
10 Council to secretaries to say, we aren't getting, we 04.33PM
11 haven't achieved what would be statutory authority and
12 Government Department buy in and achievement and
13 implementation.

14 That's one thing in a public sector, but to be able to
15 implement this plan you will need co-operation and 04.33PM
16 action from a whole range of private sector agencies;
17 for example, the operator of the Hazelwood Mine. Which
18 brings me to another legislative question that was
19 highlighted in Mr Incoll's evidence this morning.

20 Section 43 of the CFA Act requires a certain 04.34PM
21 standard of fire management on publicly owned land, and
22 one of the side-effects of privatisation of the mines
23 is that that no longer applies to the mines. Has any
24 consideration been given to extending the reach of that
25 section?---I think they've defaulted back, and I may 04.34PM
26 have it wrong here, but I think s.41 is where they
27 default back to.

28 Well, That relies on the council?---On the municipality to
29 issue the direction.

30 Yes. Is that realistic?---Well, no, it's not - well, no - I 04.34PM
31 don't know whether it's realistic, but it's not common

1 practice for municipalities to go and do particularly
2 what are macro issues and takes quite a lot of
3 technical advice to do so.

4 Their focus is on fine fuel control, isn't it?---Fine fuel,
5 yes, and what is seen to be community amenity fine fuel 04.35PM
6 too, I'd add; that sometimes there's big parcels of
7 what is seen to be either private, public or a joint,
8 and where we get the interface is why the integrated
9 planning was actually put on the table to get these
10 interdependencies and these interfaces about where land 04.35PM
11 or hazard is to be dealt with better, and that is an
12 ongoing issue and relies on goodwill and not
13 legislation as we currently sit here.

14 So consideration could be given to extending the reach of
15 s.43 to what is identified as essential State 04.35PM
16 infrastructure, could it not?---Correct.

17 Again, not without discussion with those owners, but that's
18 probably a more realistic way than relying on Municipal
19 Fire Prevention Officers to serve Fire Prevention
20 Notices on multinational corporations who run essential 04.35PM
21 State infrastructure?---And you would also suggest and
22 challenge whether it should be in the CFA Act because
23 the CFA is dealing with the country area of Victoria,
24 and we have the issue where those municipalities that,
25 for example, could be partly in the Metropolitan Fire 04.36PM
26 District and Country area and those that are solely in
27 the Metropolitan Fire District. So we would say in an
28 ideal world that it's part of the new emergency
29 management legislation in regards to planning.

30 Was there any more that you wanted to say about the future 04.36PM
31 for Integrated Fire Management Planning and how it can

1 live up to its undoubted promise?---One, it's a
2 necessity. You can't - it's quite clear in the
3 landscape, you need to take a landscape view, not a
4 land tenure view and that's been one of the traditional
5 problems of our old legislation. The discussion 04.36PM
6 between public and private land has always been
7 inherent in our legislation, and that's why integrated
8 planning is important, but we've got to make sure it's
9 landscape focused. When I say "landscape", it deals
10 with the total landscape and doesn't come up to find we 04.37PM
11 run into other pieces of legislation about declared
12 essential services and therefore it stops, that's being
13 dealt with something else over there, so we do need to
14 make sure we get the landscape, the total landscape in
15 understanding planning. 04.37PM

16 The other thing that I don't believe has been
17 discussed, certainly hasn't been over my desk, is how
18 do we interface with land use planning and building
19 control?

20 Well, it's pretty much defeated us, that question. The 04.37PM
21 position that's put by Mr Incoll this morning was,
22 well, you have to accept the legacy of poor land use
23 planning decisions in the past, recognise the right of
24 people to use their land as they have used it and deal
25 with the risk that arises. But in terms of minimising, 04.37PM
26 for example new plantations going up, including on land
27 owned by the owner of the Yallourn Mine; is there
28 anything concrete under discussion at the moment?---No.
29 This is the new opportunity about where we take the
30 Emergency Management Act. We've got the will to take 04.38PM
31 it there, now we need the discussion to make sure it's

1 framed appropriately and that it has the right
2 interfaces.

3 The other thing, and I could be challenged quite
4 significantly by this, but if I have to lead Emergency
5 Management, Emergency Management's got to be put in the 04.38PM
6 discussion as the business of the business, not an
7 afterthought. I think that for many years we've left
8 this Emergency Management, this fire management thing
9 over here, dealt with the broad land use planning,
10 Board of Control and then added to it. It needs to be 04.38PM
11 front and centre to understand what and what we're
12 doing and, where we're allowing development, whatever
13 the development is to occur, what is the impacts and
14 therefore what's the consequence. That's why the
15 Emergency Management legislation - we've currently got 04.39PM
16 the first iteration of it that talks about consequence
17 management - is a very important fundamental step of
18 reform. It's significant reform.

19 I think you were here this morning when Mr Incoll gave his
20 evidence and outlined a number of measures that he 04.39PM
21 proposed having taken the landscape view of the fire
22 risk in the open cut mine and in particular the worked
23 out areas of the mine. If we can put it up on the
24 screen - - -?---I didn't hear all of Mr Incoll's, I've
25 heard part of it. 04.39PM

26 Have you been able to review his report before?---I have
27 read it, yes; it's quite comprehensive in detail.

28 CHAIRMAN: Could I interrupt to enquire whether there was
29 anything of the recommendations, for example, that you
30 reacted to as inappropriate?---I don't know whether it 04.39PM
31 was inappropriate, Your Honour, but I think some of the

1 concepts would need that practical lens of how you
2 would actually achieve it. When I say that, it's easy
3 for all of us to dream up the concepts, it's another
4 thing to have the pragmatic approach of how we get
5 collaboration, commitment and the accountability. I 04.40PM
6 use the word about accountability, whose accountability
7 is what?

8 I have the opinion that you may not need to see
9 major reform in the regulatory area, you may have a
10 different opinion from the evidence you've heard, but 04.40PM
11 there's gaps in alignment and gaps in collaboration and
12 how to get an outcome that's appropriate.

13 Obviously in a true risk hazard setting we're not
14 dealing with the consequence, so how do you actually
15 build that other element in that says, well, yes, we 04.40PM
16 can deal with the fire, but really it's not the fire
17 that we're dealing with, it's actually the smoke or the
18 ash. That's the classic of this, we're dealing with a
19 fire but the biggest issues as we all know was actually
20 the pollutant that was coming from it and the 04.41PM
21 management and the understanding of that pollutant and
22 the communication of it.

23 So, without trying to complicate it, I've got no
24 reason to not accept other peoples' evidence, but I
25 think it's the pragmatics of how you actually make it 04.41PM
26 work in a way that is not over-bureaucratic and in an
27 area where you've got corporatised and privatised
28 businesses of how you get true engagement without
29 becoming to the absolutely prescription of the old
30 regulation days. I don't think we need to go back to 04.41PM
31 prescription, but we need some solid guides and support

1 in our accountability model.

2 While I've got the microphone, I asked a question about
3 Mr Incoll's recommendations. You've also made
4 suggestions, if you like, as to recommendations in the
5 last three or four pages of your first statement. Is 04.41PM
6 there anything there that you feel obviously needs
7 modification or are they really more possible additions
8 or modifications?---I'd have to go back to my first
9 one.

10 MS RICHARDS: The Chair is stealing my thunder, because that 04.42PM
11 was the last question I was going to ask you, and we
12 might go to it now if you've said what you wanted to
13 say about Mr Incoll's recommendation?---Look, I've got
14 no reason to, but again, some of it's concepts and I
15 didn't hear the full understandings or description of 04.42PM
16 some things that were put there.

17 If I had to sum up what I think we've seen, one is
18 we've got to come back with the new guideline for - you
19 know, to have a 1994 Generation Victoria guideline that
20 I see in evidence from DSDBI to be the principal 04.42PM
21 document, and then all I can see from that, and I might
22 be proved wrong by the evidence, but is iterations by
23 mines. So, Hazelwood have their own version as a
24 number of iterations and Yallourn's probably got their
25 zones. Where's the principal document that sets the 04.42PM
26 direction about Fire Service Policy, if that's the
27 right term, because it might actually need to be a
28 little bit broader than what that actually means of the
29 1994 document.

30 That's a piece of work that we've had a look at 04.43PM
31 and I think the new practice guide is an absolutely

1 critical piece of work, and the question I've got is,
2 who owns it? Who should own that and ensure that it's
3 current and that it's audited and able to be
4 implemented?

5 What is the good practice guide?---I think it's the 04.43PM
6 replacement of the 1994 Fire Service Policy.

7 Which is based on a 1984 document?---That's right.

8 At a time when there were no worked out batters in
9 Hazelwood?---I haven't found the typewriter it's been
10 written on, I haven't found it on a computer yet, but 04.43PM
11 it's certainly got a bit of age in it. And I'm not
12 saying it's wrong, but to have a 1994 document as a
13 document we hold up in this hearing, I find that
14 amazing, is where I'll just leave it. We need to take
15 that as a priority to put it as the document that we 04.43PM
16 can actually manage the industry and work with the
17 industry in a collaborative way to get it somewhere.
18 That's got to be one.

19 So you're saying you'd like to see that happen across the
20 three mines?---It's broader than that. You've got a 04.44PM
21 mine at Anglesea. It's got to be broader than that to
22 make sure that the mines in the valley and the broader
23 mine, being the Anglesea Mine, is there and can operate
24 it successfully.

25 Then I think it goes to the integrate planning 04.44PM
26 that's landscape focused - - -

27 MEMBER PETERING: Just before you do that Mr Lapsley. Does
28 that good practice guide exist, does it, did you
29 say?---No, no. It's the guide that would have to be
30 produced to replace the 1994 document. 04.44PM

31 Okay, thanks?---So my understanding, on the evidence Kylie

1 White put forward, she referenced the 1994 Generation
2 Victoria document as the document.

3 MS RICHARDS: And you said that it has been reviewed from
4 time to time, but it's essentially the statement
5 document - - -?---It's the same document. 04.44PM

6 - - - now as it was in 1994, and that is essentially the
7 same document as in 1984.

8 CHAIRMAN: Is the, if you like, the implementation model
9 appropriate to get implementation of our
10 recommendations, or have we really gone beyond that 04.45PM
11 now? Do you have something else as being more
12 appropriate?---So, that's monitoring the implementation
13 of what you will recommend?

14 That's right, but that ties in to some extent about what
15 you're saying about the desirability of the matters 04.45PM
16 that you recommend being monitored, which ties in with
17 Mr Incoll saying that it's not just enough to have
18 something laid out as a general plan, but seeing that
19 something is done about it?---The model of having an
20 implementation monitor, which is Neil Comrie for the 04.45PM
21 bushfire and also Neil in the flood, does work. We
22 work very closely and in a fire sense it works.

23 What we have to do though is make sure that that
24 model then goes into a sustainable model, and by
25 legislation the new Inspector General of Emergency 04.45PM
26 Management would have that responsibility.

27 So I suppose the question I'd put back is, do we
28 need a Neil Comrie type implementation monitor or is
29 the new IJEM that's legislated able to do what Neil has
30 done? And it might be a bit of both that gives it 04.46PM
31 emphasis in the first 12-18 months and then gets handed

1 across in the sustainable system of what the Inspector
2 General of Emergency Management legislated to do, could
3 do. That's a discussion that you could have, but the
4 principle of having someone accountable to be the
5 oversight of implementation of major changes or reform 04.46PM
6 or improvement, whatever it is, is important. It is
7 important.

8 The other one, if I may, is where you've started
9 with integrated planning. Integrated planning is
10 absolutely critical. Integrated planning that's 04.46PM
11 landscape focussed that deals with land use planning,
12 building controls, all of those, cannot be
13 underestimated. And it needs to have strategy and it
14 needs to reach down - and I think I did hear Mr Incoll
15 talk about that, that's fantastic to talk about it at 04.46PM
16 the State level, but you've also got to have the action
17 at the bottom. That means that we've got to provide it
18 the rigor, the legislative underpinning and the
19 mechanisms to engage properly.

20 When I say that, there is a new model of 04.47PM
21 engagement, it's not an old bureaucratic model, it has
22 to be true engagement where it brings in relationships
23 but accountabilities. No longer can we rely that we've
24 got it where it's a bureaucratic model and doesn't
25 understand the corporate or the private businesses that 04.47PM
26 operate in the State. They are absolutely critical to
27 the way in which we do it.

28 Forgetting this incident, some of the things we
29 deal with within Emergency Management;
30 telecommunications, the telcos are absolutely critical 04.47PM
31 to the business we do. They cannot be held outside,

1 they have to be brought in and held and worked with to
2 have the accountabilities. Some of them are Government
3 Departments or behave like Government Departments,
4 other of them are multinationals, so the business side
5 of the way in which we deal with emergencies is 04.48PM
6 critical.

7 I say the three partners is, the agencies have
8 responsibilities and the departments, the community,
9 but the third one's got to be business sector. The
10 business sector here is the big part, that's the Suez's 04.48PM
11 of the world, the multinationals that actually have
12 expertise and are well respected and they are a
13 critical part of any community.

14 MS RICHARDS: And the benefits of good working relationships
15 and cooperation and collaboration are not to be 04.48PM
16 underestimated, but you do encounter varying degrees of
17 willingness to engage in that process?---Correct.

18 And it's useful to have that underpinned by a strong
19 legislative basis, is it not?---Yes, the regulation and
20 what I say is accountability, and people are clear what 04.48PM
21 they're accountable for.

22 And what will happen if they don't meet their
23 targets?---Yes, so that's got to be there. And I
24 suppose the other big one for me, which people probably
25 say is No.1 in the whole thing, is how we deal with 04.48PM
26 communities. People talk about, it's communications
27 it's about information; actually, it's not that. It's
28 actually our whole approach to deal with communities
29 and communications and information is a subset of how
30 we do that; our approach to it, the engagement before, 04.49PM
31 the during, the after.

1 One of the critical things that comes out I think
2 of this whole discussion is, when we walk out of here
3 today or next week, that there's still a Morwell
4 community out here that is deeply concerned about a
5 whole heap of things that they don't understand
6 necessarily, or they're finding they've got a whole
7 heap of other questions.

04.49PM

8 So, although the emergency's finished, the Inquiry
9 might be finishing soon and you'll hand a report down,
10 the commitment to work with the community, which I
11 think is the new model. If we show commitment to
12 Morwell and the Latrobe Valley after this event, and
13 show trusted networks and map it properly and
14 understand and respect groups of people that are well
15 lead and are leaders in their own community, that in
16 itself might be an input to how we actually build a new
17 model.

04.49PM

04.49PM

18 We might learn some things August, September,
19 October this year out of Morwell that actually helps us
20 billed the new model about what I call is the trusted
21 network model. That is, we know who they are, we know
22 the Rotary, the Lions, the Cubs, the Scouts. All of
23 those are as important - the schools, the principals,
24 who's the leaders in communities, who's the respected
25 leaders and who are the leaders that sometimes are the
26 formal leaders and other times the informal leaders?
27 That is easy for me to say, not easy to do, but it's
28 got to be an underpinning commitment of what this
29 shared responsibility and shared obligation profile is.

04.50PM

04.50PM

30 Mr Lapsley, I think that's a good place for me to

04.50PM

31 finish?---Does that mean I can go? Not unless

1 Mr Wilson has any questions for you, and he of course
2 wants to have the last word.

3 DR WILSON: That's so unkind.

4 <CROSS-EXAMINED BY DR WILSON:

5 Mr Lapsley, are there any costs yet to be brought to account 04.50PM
6 by which the \$32 million cost of the fire fight will be
7 increased?---I don't know the answer to that, but I
8 would suggest, if there are, it's not of major. We
9 won't see another \$10 million on top of that. We
10 believe that the 90 percentile or greater is in that 04.51PM
11 figure, but there certainly will be some minor issues
12 to put together, but I believe the quantum is close to
13 that figure.

14 That wasn't so bad, was it? Thank you.

15 MS RICHARDS: No further questions. May Mr Lapsley please 04.51PM
16 be excused?

17 CHAIRMAN: Yes. Thank you Commissioner Lapsley.

18 <(THE WITNESS WITHDREW)

19 MS RICHARDS: We have, just to finish, a few documents to
20 tender and then we'll be done. 04.51PM

21 MR ROZEN: It seems that I'm going to get the last word.
22 There's a handful of miscellaneous matters that just
23 have to be tidied up and I'll just go through them,
24 they're primarily involving tendering documents. There
25 have been a couple of situations that require a little 04.51PM
26 bit of explanation.

27 The first document is the Victorian WorkCover
28 Authority's guidance document about reasonably
29 practicable, a document referred to by my learned
30 friend Ms Nichols in questioning, I think, Mr Niest. I 04.52PM
31 seek to tender that document firstly.

1 #EXHIBIT 96 - Victorian WorkCover Authority's guidance
2 document about "reasonably practicable" .

3
4 The second document is the Safety Management
5 System Manual from GDF Suez which has been provided to 04.52PM
6 us and needs to be added to exhibit 89 which are the
7 other GDF Suez documents concerning its safety
8 management system.

9
10 #EXHIBIT 89 - (Addition) Safety Management System Manual 04.52PM
11 from GDF Suez.

12 The third matter requires a brief explanation. It
13 will be recalled, seems like quite a while ago, that
14 Mr Riordan, senior counsel for GDF Suez, made a call
15 for a log that may have been maintained by Mr McHugh. 04.52PM
16 Mr McHugh, it will be recalled, was working as part of
17 Mr Jeremiah's Incident Management Team at the Incident
18 Control Centre in Traralgon. It arose in the context
19 of questioning of Mr Jeremiah by Mr Riordan about the
20 contact between the mine, particularly Mr Roach, and 04.53PM
21 the Incident Control Centre.

22 Mr McHugh's log has been produced under cover of a
23 letter. The letter from VGSO explains that the log is
24 produced in a redacted form so as to protect the
25 privacy of individuals. Without going into that in any 04.53PM
26 detail at the moment, a course that's been agreed upon
27 with my learned friend, Dr Wilson, is as follows:

28 Firstly, I seek to tender the log in its redacted form.

29
30 #EXHIBIT 97 - Redacted log of Mr McHugh. 04.53PM

1 I can indicate, without causing any concerns about
2 questions of privacy, that the log has entries at
3 3.50 p.m. and 4.05 p.m. recording contact by telephone
4 between Mr Roach and Mr McHugh.

5 The next document that I would seek to tender is a 04.54PM
6 letter that has just arrived, and I don't think we've
7 got a hard copy of it, but it's a letter dated 13 June
8 2014 from the VGSO to the Inquiry. It concerns the
9 call that was made, I think by me, of Mr Pole for
10 information about the air monitoring results for the 04.54PM
11 air monitoring that the Department of Education
12 specifically conducted in schools.

13 I must confess, I haven't read that in any detail,
14 but a quick skim of it indicates that it contains that
15 air monitoring data. 04.54PM

16 CHAIRMAN: Is that of the protocol or just the data? I
17 thought there was a request for the protocol. It may
18 not matter enough.

19 MR ROZEN: I'm sure it matters, even at 5 to 5 on a Friday
20 afternoon. I'm looking hopefully at Ms Stansen. 04.55PM
21 There's a bit of uncertainty about whether the protocol
22 - it certainly includes the data. We'll pursue that
23 with our learned friends about the question of the
24 protocol, but I'll tender that letter. I think that's
25 already been done. 04.55PM

26
27 #EXHIBIT 98 - Letter from the VGSO dated 13 June 2014.
28

29 The next matter is a supplementary submission
30 provided to the Inquiry by the United Firefighters 04.56PM
31 Union and this is in the context of the Firefighter L

1 issue that has been referred to previously by Counsel
2 Assisting.

3 The further submission was provided to Ms Stansen
4 yesterday under cover of a letter which indicates that
5 Firefighter L is not intending to give evidence at the 04.56PM
6 Inquiry, but the supplementary submission does go into
7 some detail about that particular issue, so I'll tender
8 their submission. I think it could be part of
9 exhibit - the UFU submission is already in evidence.

10 CHAIRMAN: Yes, there's a submission, I've got it down as 04.56PM
11 exhibit 28.

12 MR ROZEN: I think perhaps if it could be added to
13 exhibit 28.

14

15 #EXHIBIT 28 - (Addition) Supplementary submission by the 04.57PM
16 United Firefighters Union.

17 DR WILSON: While that enquiry's being made, if I could
18 indicate for the record that we've not seen this
19 document. We'd be grateful for a copy.

20 MR ROZEN: It will be provided, I thought it had, and we 04.57PM
21 apologise for that and we'll certainly organise that.

22 There is one final document, which is the
23 Hazelwood Mine Fire infrared line scan from
24 11 February, 18 February, 28 February and 9 March at
25 particular identified times. I think that's the 04.57PM
26 document that we've probably all seen in the foyer of
27 this building on a number of occasions. I'll tender
28 that as well.

29

30 #EXHIBIT 99 - Hazelwood Mine Fire infrared line scan from 04.57PM
31 11 February, 18 February, 28 February and 9 March.

1 MR ROZEN: We're getting to exhibit 100 apparently, everyone
2 will be very pleased to know. A further email is
3 passing from my left to my right as we speak.
4 Technology in court, it's incredible.

5 This is a letter, I'm instructed, relating to a 04.58PM
6 call that was made of Mr Hall of DHS about relocation
7 assistance. Without even having read it, I will seek
8 to tender that and that, I think, gets us to around
9 exhibit 100.

10 CHAIRMAN: Yes. 04.58PM

11
12 #EXHIBIT 100 - Letter relating to a call made of Mr Hall of
13 DHS about relocation assistance.

14 MR ROZEN: On that note I think I can indicate that that's
15 the evidence that will be led in the Inquiry. 04.58PM

16 CHAIRMAN: There's nothing more to be said by you,
17 Ms Richards?

18 MR ROZEN: There always something more to say.

19 MS RICHARDS: I'm sure I can think of something more to say.
20 The plan is to resume back here on Tuesday for 04.58PM
21 submissions. I've communicated with the parties about
22 what's proposed for submissions.

23 At present the indications are that, in addition
24 to myself and Mr Rozen, Environment Victoria wants to
25 make submissions that will last about 45 minutes, GDF 04.59PM
26 Suez wants about two hours, as does the State, so we
27 should be able to finish comfortably by our end date or
28 end point of 3 o'clock on Wednesday.

29 CHAIRMAN: So that's 4 hours and 45 minutes and you're going
30 to fit within the six and a half? 04.59PM

31 MS RICHARDS: I think that we will take Tuesday morning,

1 between the two of us.

2 CHAIRMAN: That sounds like we will go into Wednesday
3 morning?

4 MS RICHARDS: We will go into Wednesday, but we will finish
5 by 3 p.m. on Wednesday. 04.59PM

6 CHAIRMAN: You don't want to say anything to the contrary?

7 DR WILSON: An expression of optimism, if the Board pleases.

8 CHAIRMAN: Okay, then we will resume at 10 a.m. on Tuesday
9 morning.

10 ADJOURNED UNTIL TUESDAY, 17 JUNE 2014 05.00PM

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