



Victoria Government Gazette

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Inquiries Act 2014

APPOINTMENT OF A BOARD OF INQUIRY INTO THE HAZELWOOD COAL MINE FIRE

Order in Council

The Governor in Council, on the recommendation of the Premier under section 53(1) of the **Inquiries Act 2014**, appoints:

- the Honourable Bernard George Teague AO;
- Professor John Charles Catford; and
- Mrs Anita Michele Roper

to constitute a Board of Inquiry to inquire into and report on the terms of reference specified in paragraphs 6 to 11 of this Order.

The Honourable Bernard George Teague AO is appointed as Chairperson of the Inquiry.

This Order comes into effect on the date it is published in the Government Gazette.

BACKGROUND

1. In early February 2014 a fire ignited which, on or about 9 February 2014, took hold in the Hazelwood Coal Mine.
2. The Hazelwood Coal Mine Fire impacted the Latrobe Valley communities.
3. In March 2014, a Board of Inquiry was established to inquire into and report on the following specified matters:
 1. *The origin and circumstances of the fire, including how it spread into the Hazelwood Coal Mine.*
 2. *The adequacy and effectiveness of the measures taken by or on behalf of the owner, operator and licensee of the Hazelwood Coal Mine to prevent the outbreak of a fire, and to be prepared to respond to an outbreak of a fire including mitigating its spread and severity, in the Hazelwood Coal Mine, including whether the owner, operator and licensee of the Hazelwood Coal Mine, or any person or entity acting on behalf of any of them:*
 - i. *implemented the recommendations arising from reviews of previous events; and*
 - ii. *in the opinion of the Board, breached or did not comply with the requirements of (or under) any relevant statute or regulation, including any notification or directive given under such statute or regulation and any code of practice, management plan or similar scheme, developed and/or implemented due to such requirements.*
 3. *The adequacy and effectiveness of the application and administration of relevant regulatory regimes in relation to the risk of, and response to, fire at the Hazelwood Coal Mine.*
 4. *The adequacy and effectiveness of the response to the Hazelwood Coal Mine Fire by:*
 - i. *the owner, operator and licensee of the Hazelwood Coal Mine;*
 - ii. *the emergency services; and*
 - iii. *other relevant government agencies, including environmental and public health officials,**and in particular, the measures taken in respect of the health and well-being of the affected communities by:*

SPECIAL

- iv. *informing the affected communities of the Hazelwood Coal Mine Fire and about its known effects and risks; and*
 - v. *responding to those effects on, and risks to, the affected communities.*
5. *Any other matter reasonably incidental to the matters specified in paragraphs 1 to 4.*
 4. That Inquiry's report was tabled in the Victorian Parliament on 2 September 2014.
 5. Since that report was tabled, further concerns have been raised about the potential health impacts of the fire on the Latrobe Valley communities and future options for rehabilitating Victorian mines in the Latrobe Valley.

TERMS OF REFERENCE

You are required to inquire into and report on the following terms of reference:

6. Whether the Hazelwood Coal Mine Fire contributed to an increase in deaths, having regard to any relevant evidence for the period 2009 to 2014;
7. Short, medium and long term measures to improve the health of the Latrobe Valley communities having regard to any health impacts identified by the Board as being associated with the Hazelwood Coal Mine Fire;
8. Short, medium and long term options to rehabilitate:
 - (a) land on which work has been, is being or may lawfully be done in accordance with a Work Plan approved for the Hazelwood Mine, the Yallourn Mine, and the Loy Yang Mine; and
 - (b) land in relation to which an application for variation of the Work Plan is under consideration for the Hazelwood Mine, the Yallourn Mine, or the Loy Yang Mine;
9. For each rehabilitation option identified under paragraph 8:
 - (a) whether, and to what extent, the option would decrease the risk of a fire that could impact the mine and if so, the cost of the option relative to the cost of other fire prevention measures;
 - (b) whether, and to what extent, the option would affect the stability of the mine;
 - (c) whether, and to what extent, the option would create a stable landform and minimise long term environmental degradation;
 - (d) whether, and to what extent, the option would ensure that progressive rehabilitation is carried out as required under the **Mineral Resources (Sustainable Development) Act 1990**;
 - (e) the estimated timeframe for implementing the option;
 - (f) the option's viability, any associated limitations and its estimated cost;
 - (g) the impact of the option on any current rehabilitation plans for each mine;
 - (h) whether, and to what extent, the option would impact the future beneficial use of land areas impacted by the mines; and
 - (i) whether the option is otherwise sustainable, practicable and effective;
10. Having regard to the rehabilitation liability assessments that have been or will be reported in 2015 by the operators of each of the Hazelwood Mine, the Yallourn Mine, and the Loy Yang Mine, as required by the **Mineral Resources (Sustainable Development) Act 1990**, and to the outcome of the Rehabilitation Bond Review Project:
 - (a) whether the rehabilitation liability assessments referred to above are adequate;
 - (b) whether the current rehabilitation bond system, being one of the measures to provide for progressive rehabilitation by end of mine life as required under the **Mineral Resources (Sustainable Development) Act 1990**, is, or is likely to be, effective for the Hazelwood Mine, the Yallourn Mine, and the Loy Yang Mine; and

- (c) any practical, sustainable, efficient and effective alternative mechanisms to ensure rehabilitation of the mines as required by the **Mineral Resources (Sustainable Development) Act 1990**;
11. Sustainable, practical and effective options that could be undertaken by the mine operator to decrease the risk of fire arising from or impacting the Anglesea Mine for the 2015/2016 summer season, noting the impending closure of the mine on 31 August 2015; and
 12. Any other matter that is reasonably incidental to those set out in paragraphs 6 to 10.

REPORTING DATES

You must report your findings and any recommendations to the Governor as soon as possible, and not later than:

- (a) 31 August 2015, in respect of the Anglesea mine Term of Reference in paragraph 11 of this Order, and any reasonably incidental matters;
- (b) 2 December 2015, in respect of the Health Terms of Reference, and any reasonably incidental matters; and
- (c) 15 March 2016, in respect of the Mine Terms of Reference, and any reasonably incidental matters.

CONDUCTING THE INQUIRY

13. You may:
 - (a) conduct your inquiry as you consider appropriate, subject to the requirements of procedural fairness, including by adopting any informal and flexible procedures to: engage with the relevant local communities; ascertain the relevant facts as directly and effectively as possible; and avoid unnecessary cost or delay;
 - (b) have regard to any research, past inquiries, reports and evaluations that may inform your inquiry and avoid unnecessary duplication;
 - (c) have regard to any documents, things or evidence received by, and any matters submitted to, the Board of Inquiry referred to in paragraph 3 as if those documents, things or evidence had been received by you, or those matters had been submitted to you, as the case may be, for the purposes of your inquiry and any report or reports under this Order;
 - (d) consult with the relevant local communities; and
 - (e) consult with and engage experts (including Australian legal practitioners) as necessary to provide relevant advice and assistance.
14. You must conduct your inquiry in accordance with this Order, the **Inquiries Act 2014**, and all other relevant laws.
15. It is anticipated that in conducting your inquiry you will, to the extent you think it appropriate, work co-operatively with, and seek not to prejudice, any ongoing response or recovery activities or investigations into the Hazelwood Coal Mine Fire.
16. The powers of the Board of Inquiry, at the discretion of the Chairperson may, at any time, be exercised by one or more Inquiry members.

BUDGET

17. You may incur expenses and financial obligations to be met from the Consolidated Fund up to \$3.378 million in conducting this Inquiry.

DEFINITIONS

18. In this Order:

Anglesea Mine means the land the subject of the Mines Aluminium Agreement (Agreement 6829) as in force from time to time, which was ratified by the **Mines (Aluminium Agreement) Act 1961**;

Hazelwood Coal Mine Fire means the fire that took hold in the Hazelwood Mine on or about 9 February 2014;

Hazelwood Mine means the land the subject of Mining Licence Number 5004, as in force from time to time;

Health Terms of Reference means the terms of reference in paragraphs 6 and 7 of this Order;

Loy Yang Mine means the land the subject of Mining Licence Number 5189, as in force from time to time;

Mine Terms of Reference means the terms of reference in paragraphs 8, 9 and 10 of this Order;

Rehabilitation Bond Review Project means the current review into rehabilitation bonds and the methodology by which they are calculated, as referred to at page 1612, lines 7–8 of the transcript of the Hazelwood Mine Fire Inquiry dated 10 June 2014;

Work Plan means a work plan approved under the **Mineral Resources (Sustainable Development) Act 1990** or endorsed pursuant to clause 21A of the Agreement set out in Schedule 1 to the **Mines (Aluminium Agreement) Act 1961**, as amended by the Amendment Agreement set out in Schedule 2 to that Act, as the case may be;

Yallourn Mine means the land the subject of Mining Licence Number 5003, as in force from time to time.

Dated 26 May 2015

Responsible Minister:

THE HON DANIEL ANDREWS MP

Premier

YVETTE CARISBROOKE
Clerk of the Executive Council

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gazette@bluestargroup.com.au

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United Firefighters Union

Victorian Branch ABN 74 030 569 265

410 Brunswick Street
Fitzroy Victoria 3065
Australia
Email: officeadmin@ufuvic.asn.au
Phone: (03) 9419 8811

Website: www.ufuvic.asn.au
Fax: (03) 9419 9258

4.11 FIREFIGHTER "L"

1. I am an MFB operational staff member and I am a Leading Fire Fighter ('LFF') and I have 12 years of service in the MFB.
2. I was initially deployed for 6 days from 9th Feb to 15th Feb on night shift. I also went five other times which were individual night shifts.
3. I was initially deployed in the mine and on the perimeter of the mine to test CO levels and then I was directed to go into Morwell for CO monitoring.
4. I was initially working with the Time Weighted Average (TWA) of 30 ppm as a trigger point for initiating warning to the community as this is the industry standard and/or Safe Work Australia standard.
5. Soon afterwards the EPA and the Health Department got involved and this changed to 70 ppm before we can initiate a warning to the community. To the best of my knowledge it was argued by Commander O'Connell and CFA Scientist Warren Glover who questioned this limit with Health Department officials and the police as it exceeded what fire fighters were required to wear BA in yet the Health department were happy for the public to be exposed to those levels.
6. On a separate occasion the Hazmat technicians in a Hazmat debrief were told when we were in the township of Morwell, we were told not to discuss any limits or information what we were actually measuring. We were told not to give any recommendations or not to be in that environment or whether to leave or not. We were approached by the public who asked questions of us. We just said we are Hazmat technicians here to monitor the environment.
7. When the levels got dangerous we advised the public that perhaps it was not the best environment for them to be in and if they were able to seek

alternative accommodation. Although I was ordered not to discuss it with people I believe that the MFB's role is to protect life and property as per the MFB Act 1958 I should have been able to provide that information to protect the public's health and safety.

8. The EPA were testing for particulate matter PM2.5 and PM10 and those results were not disclosed to the Hazmat technicians working in that area. This placed myself and 8 other fire fighters at risk in terms of Particulate Matter exposure who were in my Hazmat team.
9. In the first 6 days our PPC was not decontaminated or taken away daily to be cleaned as these procedures had not been put in place at that time and we merely got into our hire cars and our contaminated clothing was taken back to the local accommodation at the University, into a supposedly clean environment.