

**From:** Justine Stansen  
**To:** ["Robert Perry"](#)  
**Subject:** Hazelwood Mine Fire Inquiry  
**Date:** Thursday, 8 October 2015 3:21:00 PM  
**Attachments:** [Letter to Perry Maddocks Trollope Lawyers 8 10 15\(1\).pdf](#)  
[image001.jpg](#)

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Dear Mr Perry

Please see **attached** letter.

Kind regards

Justine Stansen  
**Principal Legal Advisor**  
**Hazelwood Mine Fire Inquiry**



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8 October 2015

By email: [REDACTED] u

Mr Robert Perry  
Perry Maddocks Trollope Lawyers

[REDACTED]

Dear Mr Perry

### **Hazelwood Mine Fire Inquiry**

I refer to your letters dated 6 October 2015 and 8 October 2015. In your letter dated 8 October 2015, you request an urgent response.

The Board has considered your letter dated 6 October 2015. It has not had an opportunity to consider your letter dated 8 October 2015.

The Board is required by Term of Reference 6 to have regard to “any relevant evidence”. The recent reports of Associate Professor Barnett are considered by the Board to be relevant evidence. As you note in your letter, an examination of daily death data may well be better than an examination of the monthly figures. Associate Professor Barnett was not provided with this data until 31 August 2015 when it became apparent to Inquiry staff that it had not been provided to him for the purpose of his earlier work.

Your suggestion that the reports should, in effect, have been ignored by the Board is unacceptable to the Board. This is particularly because the first Hazelwood Mine Fire Inquiry was unable to consider information provided to it by Voices of the Valley due to its late provision. The current Board wishes to explore all available evidence on this important question.

In these circumstances, the Board will proceed with the hearing on 15 October 2015. Given the Board’s reporting deadline of 1 December 2015, this is the latest date on which the hearing can be held. The Board considers that the period of 15 days between the date on which the new reports were served and the hearing date to be adequate under these circumstances.

The Board acknowledges your concerns in relation to Professor Gordon and Dr Flander. It has determined that it will only hear from Associate Professor Barnett and Professor Armstrong at the hearing. As you are aware, Professor Armstrong is the only expert who was retained by the Board. Further, he is aware of the new reports produced by Associate Professor Barnett. I have sought a supplementary report from Professor Armstrong which will be provided to you as soon as I receive it.

The decision of J Forrest J to which you refer concerns circumstances quite unlike the present ones. It concerned an application for evidence to be ruled inadmissible in a civil trial in circumstances where the evidence had already been taken into account by expert witnesses and where the solicitors for the party objecting to the evidence had sat on their hands. It is of little assistance.

[REDACTED]

The Board has considered your complaint of a lack of procedural fairness for your client inherent in the re-opening of the hearings. I note that the evidentiary basis for Counsel Assisting's submissions about adverse findings against your client is unlikely to be affected by any evidence that may be given on 15 October 2015. In any event, you will have the opportunity to make any further submissions to the Board you wish to make in light of that further evidence.

The Board notes your concerns about Dr Lester being overseas on 15 October 2015. I invite you to contact me urgently to discuss if arrangements can be made for your client to follow the proceedings via skype or by some other suitable means. I am happy to explore if similar arrangements can be made for Professor McNeil.

Please contact me by email at ju [REDACTED] or by phone on [REDACTED] if you have any questions.

Yours faithfully



**Justine Stansen**  
Principal Legal Advisor  
Hazelwood Mine Fire Inquiry

