

**IN THE MATTER OF  
The Hazelwood Coal Mine Fire Inquiry**

**FURTHER (THIRD) STATEMENT OF LUKE CAMERON WILSON**

Date of document	7 December 2015	Telephone: +61 3 8684 0444
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I, LUKE CAMERON WILSON of Level 23, 1 Spring Street, Melbourne, Victoria, Lead Deputy Secretary, Agriculture, Energy and Resources, at the Department of Economic Development, Jobs, Transport and Resources (**DEDJTR**) can say as follows:

1. My full name is Luke Cameron Wilson.
2. I am the Lead Deputy Secretary, Agriculture, Energy and Resources, at DEDJTR.
3. My role and my background are summarised in my first statement of 20 November 2015.
4. I make this further (third) statement pursuant to the requests made by the Hazelwood Coal Mine Fire Board of Inquiry (**Board**) by letters of 1 December 2015, 2 December 2015 and 3 December 2015 (**Board's letters**). The questions in the Board's letters are set out in the remainder of this statement together with my responses.
5. The information contained in this statement is substantially derived from enquiries carried out by officers of DEDJTR and is accurate to the best of my knowledge, information and belief.

## BOARD'S LETTER OF 1 DECEMBER 2015 – MINE FIRES

***Question 1a. Please explain the intended role of the newly created Mine Fire Safety (MFS) Unit in the Earth Regulation Branch (ERR) of DEDJTR.***

6. The role of the MFS Unit is to lead regulatory, compliance and education activities related to fire safety and to provide advice to ERR staff, industry and the public. The MFS Unit will undertake four ongoing programs to perform its role as set out in response to Question 1b below.

***Question 1b. In general terms what will be the MFS Unit's work programme over the next three years?***

7. A draft MFS Unit Draft Structure and Work Plan (**Annexure 1**) is currently in development. It will be finalised when then MFS Unit commences in early 2016. It currently includes:
- 7.1 Regulatory Process and Compliance: The MFS Unit will develop and undertake a program of work to improve the processes undertaken to prevent, mitigate and suppress fires and other emergencies in Victoria's mines and other earth resource sites. The MFS Unit will:
- (a) Inspect and audit coal mine compliance with their approved fire management plans;
  - (b) Review current fire management plans and assess the effectiveness of the plans in addressing:
    - (i) The risk of fire ignition (including risks from internal and external sources);
    - (ii) Potential for spread of fire; and
    - (iii) Risk to neighbouring communities, infrastructure and environmental assets.
  - (c) Using DEDJTR's Quantitative Risk Assessment tool, assist in developing a set of measures to mitigate against identified risks, including measures that ERR will undertake to address fire risk;
  - (d) Develop and implement an annual framework for inspections of coal mines and other earth resources industry sites, to assess fire preparedness in each site, in liaison with Operations ERR and external agencies such as WorkSafe and CFA;
  - (e) Contribute to ERR's assessment of risk based work plans, particularly in the assessment of fire risk; and
  - (f) Monitor the performance of coal mines in relation to fire management, including annual reviews of the

implementation of licence conditions (e.g. including requirements from the CFA).

- 7.2 Continuous Improvement Program: The MFS Unit will undertake a program of work to improve DEDJTR processes and policies currently in place for the management of fire and other risks at earth resources sites in Victoria. The MFS Unit will:
- (a) Develop and implement a professional development program within the MFS Unit that builds on existing skills and expertise within the group and ensures required training is undertaken to ensure the MFS Unit has the appropriate Authorised Officer qualifications;
  - (b) Undertake a desktop assessment of international and national best practice approaches for the prevention, mitigation and suppression of fire in earth resources industry sites;
  - (c) Conduct an internal review and risk assessment in relation to Victoria's current management of fire prevention, mitigation and suppression in Victoria's coal sites;
  - (d) Develop and implement a program of reforms to improve ERR's approach to the prevention, mitigation and suppression of fire and other risks in Victoria's coal mines; and
  - (e) Share and apply the learnings from the program of reforms more generally to compliance and enforcement activities within ERR and DEDJTR.
- 7.3 Stakeholder engagement: The MFS Unit will lead efforts to improve DEDJTR's engagement with key stakeholders and community groups. The MFS Unit will:
- (a) Liaise with the DEDJTR Community Engagement team to improve engagement with stakeholders and community groups with regards to fire and other emergency management in mines and other earth resources sites; and
  - (b) Contribute to and assist the coordination of whole of government, industry and community plans and strategies for fire prevention, mitigation and suppression relevant to earth resources sites.
- 7.4 Central coordination of response to fire in Victoria's coal mines: The MFS Unit will provide a central point of coordination for ERR's response to fire in Victoria's coal mines. The MFS Unit will:
- (a) Develop protocols and procedures for responding and assessing fire preparedness by both operators and ERR;

- (b) Develop and implement policies and protocols with other regulators to clarify roles and responsibilities for emergency response across government and relevant agencies;
- (c) Lead ERRs emergency response in the case of fire at Victorian mines and earth resource sites; and
- (d) Contribute to cross-governmental and industry coordination in the event of fire and other emergencies at mines and earth resource sites, consistent with the State's emergency response arrangements

***Question 1c. What is the MFS Unit's budget? How many staff will work in it?***

8. The MFS Unit will have 6 staff and a budget of approximately \$1.3 million per annum.

***Question 1d. Has the position of General Manager been filled? If so, please advise the name of the incumbent and her or his professional background.***

9. No.

***Question 1e. If not, please advise when you expect the role to be filled.***

10. The position of General Manager was advertised on 26 September 2015 and applications closed on 18 October 2015. Applicants are currently being interviewed. DEDJTR expects the MFS Unit to be operational in early 2016.

***Question 1f. Have the other positions in the MFS Unit been filled? If so, please advise of the backgrounds of those appointed to the roles.***

11. No.

***Question 1g. If not, advise when you expect them to be filled.***

12. The other positions in the MFS Unit were advertised on 26 September 2015 and applications closed on 18 October 2015. Applicants are currently being interviewed. DEDJTR expects the MFS Unit to be operational in early 2016.

***Question 1h. What arrangements will be put in place to address the overlap between the role of the MFS Unit and that of WorkSafe in relation to regulating the risk of mine fires?***

13. The MFS Unit will assist DEDJTR to regulate mine fire risks and other risks to public safety and the environment from emergencies in accordance with the *Mineral Resources (Sustainable Development) Act 1990 (Vic) (MR(SD) Act)*.
14. Regulatory arrangements between WorkSafe and DEDJTR are set out in a Memorandum of Understanding dated 6 May 2015 (**Annexure 2**).

15. **Question 1i. Will it be part of the MFS Unit's role to assess the Risk Assessment and Management Plans referred to in paragraph 82 of the statement of Mr Wilson dated 20 November 2015?**
16. The Latrobe Valley coal mines have each provided Risk Assessment and Management Plans (**RAMPs**) according to the dates required under their licence conditions. The RAMPs are still being assessed by existing ERR Branch staff, assisted by advice from independent fire risk experts.
17. The current status of the RAMPs are as follows:
- 17.1 The second Hazelwood mine RAMP is currently being assessed;
  - 17.2 The second Yallourn mine RAMP is due by 28 December 2015; and
  - 17.3 The first Loy Yang mine RAMP is currently being assessed.
18. The MFS Unit's role will include contributing to ERR's assessment of risk based work plans, particularly in the assessment of fire risk, which is referred to in paragraph 83 of my statement of 20 November 2015.
19. If the mines' RAMPs are still being assessed when the MFS Unit begins operations, the MFS Unit will have a role in providing expert advice to ERR on the assessment of the RAMPs.

***Question 1j. Are there other aspects of the intended role of the MFS Unit that are relevant to term of reference 9(a) of the HMF1?***

20. The MFS Unit will include the following positions:
- 20.1 General Manager, Mine Fire Safety, Melbourne or Traralgon
  - 20.2 Manager, Mine Fire Prevention, Traralgon
  - 20.3 Manager, Mine Fire Risk Assessment, Traralgon
  - 20.4 Senior Mine Fire Inspectors - 2 positions, Traralgon and Ballarat.
  - 20.5 Mine Fire Inspector, Traralgon
21. Position descriptions are in **Annexure 3**.

***Question 1k. Please attach all relevant documents***

22. All relevant documents have been attached.

**BOARD'S LETTER OF 1 DECEMBER 2015 - INCOME FROM THE LATROBE VALLEY MINES**

***Question2a. Please provide the Board with an explanation of the various payments made by the open cut coal mines to the State of Victoria such as royalties, levies and rent.***

23. Three types of payments are made by the open cut coal mine operators to the State of Victoria:
- 23.1 Royalties: Royalties are paid after 30 June of each year, for the financial year in which production occurred;
  - 23.2 Rent: Prior to 1 January 2015, mining licence rent was paid half yearly. Legislative changes came into effect on 1 January 2015, requiring rent to be paid yearly. Annual rent payments will commence in this (2015-16) financial year; and
  - 23.3 Mine Stability Levy: As Declared Mines, the three Latrobe Valley open cut coal mine operators must pay a mine stability levy, payable after 30 June of each year for the financial year of operation.

***Question2b. What is the legal basis for each?***

*Royalties*

24. Section 12A of the MR(SD) Act requires mining licensees to pay royalties for lignite in accordance with the prescribed rate.
25. Regulation 10 of the *Mineral Resources (Sustainable Development) (Mineral Industries) Regulations 2013 (MR(SD) Regulations)* sets out the timing and manner for calculating the energy value of the lignite for the purposes of determining the royalty payable.

*Rent*

26. Section 26(4) of the MR(SD) Act states that it is a condition of the licence that the licensee pays rent in accordance with the rate prescribed. Regulation 37 of the MR(SD) Regulations refers the licensee to Part 2 of Schedule 28 for the fee units payable for rent.

*Mine Stability Levy*

27. Part 2, Division 9 of the MR(SD) Act sets out the requirements for the imposition of the mine stability levy and to whom it applies.
28. Regulation 47 of the MR(SD) Regulations prescribes the fee unit rate which each of the three open cut coal mine operators need to pay.

***Question 2c. Please advise of the amounts paid by each mine in the last 3 financial years: 2012/13; 2013/14; 2014/15.***

29. A table has been prepared that shows the amounts paid by each of the operators for the three payment types for the financial years 2012-13, 2013-14 and 2014-15 (**Annexure 4**).
30. Note that due to the machinery of Government changes in the 2012-13 financial year, financial information prior to 1 July 2013 is not immediately available to ERR. ERR was able to calculate what the rent figures for 1 July 2012 would have been, based on the rate at that time and the area of the licence, but these figures are estimates and have no supporting invoices.

***Question 2d. Please advise of what the amounts are used for, i.e. are they paid to consolidated revenue? Are they used to fund the TRB/GHERG?***

31. The amounts collected in rent and royalties are paid into consolidated revenue and are not available for direct use by DEDJTR (or ERR).
32. The mine stability levy payments are co-contributions to the Mine Stability 1 Initiative (referred to in paragraph 52.1 of my statement dated 30 November 2015). Mine Stability 1 Initiative funding supports TRB meetings and activities, GHERG research and development grants and has increased the capacity of DEDJTR to manage, respond and inspect mine stability issues across the State. The levy payments are, however, also paid into consolidated revenue and are in effect cost recovery for funds already provided to DEDJTR for the Mine Stability 1 Initiative through the budget process in each financial year.

**BOARD'S LETTER OF 2 DECEMBER 2015 - YALLOURN WORK PLAN VARIATION CONDITION 7**

***Question 1. Was the review required by condition 7 carried out?***

33. Yes.

***Question 2. If so, provide a copy of any relevant documents including correspondence between the department and Energy Australia concerning the review.***

34. The review is set out in the TRUenergy Yallourn Pty LTD document 'Review of Yallourn Mine Rehabilitation Master Plan: MIN 5003 Work Plan Variation Condition 7 (the Yallourn Review)', which I understand the Board has obtained from Energy Australia.
35. There is no correspondence between DEDJTR and Energy Australia (or TRUenergy) dealing with the content of the Yallourn Review.

***Question 3. If not, explain why it was not carried out.***

36. Not applicable.

***Documents relating to the matters raised in paragraph 21 of Mr Wilson's supplementary statement.***

37. Paragraph 18 of my statement of 30 November 2015 refers to the GHD report 'Mine Rehabilitation Options and Scenarios for the Latrobe Valley: Developing a Rehabilitation Framework' (the **final GHD report**) and indicates that this report informed the development of the Clean Coal Victoria (CCV) work program.
38. In August 2007, the then Department of Primary Industries (DPI) sought expressions of interest from five suitably qualified consultants to undertake a project to provide an analysis of the potential options for the rehabilitation of current and any future mines in the Latrobe Valley (**the rehabilitation options project**)(**Annexure 5**).
39. The rehabilitation options project was part of the 'Developing the Latrobe Valley Resources Future' (DLVRF) initiative under the 'Moving Forward' Provincial Victoria Statement (**Annexure 6**).
40. On 19 November 2007, DPI officials met with GHD. Minutes of the meeting show that discussions included the structure of the final report, stakeholder consultations associated with the rehabilitation options project and timeframes for delivery (**Annexure 7**). Following this meeting, GHD provided a document outlining the proposed structure of the report (**Annexure 8**).
41. On 30 November 2007 DPI appointed GHD to undertake the rehabilitation options project (**Annexure 9**).
42. A Departmental Project Control Group was established in DPI to manage the rehabilitation options project and a Technical Reference Group was established to provide specialist technical input into the project as required (**Annexure 10**).
43. On 19 March 2008, GHD convened a stakeholder workshop to provide an overview of the mine rehabilitation project (**Annexure 11**). Representatives from DPI, two of the Latrobe Valley's three mine operators, other relevant licence holders and the Minerals Council of Australia were in attendance at the workshop.
44. On 20 November 2008 a meeting of DPI representatives was convened to review the draft report provided by GHD (**Annexure 12**). Members of the Technical Reference Group were also invited to provide comments.
45. The final GHD report was provided to DPI in June 2009 (Annexure 4 to my previous statement of 30 November 2015).
46. The CCV Business Plan for 2009 – 2010 (as a Branch of the Earth Resources Division) identified 'strategic rehabilitation plan' as a major goal or key outcome, with indicators of success including 'define overarching aims of rehabilitation in a regional context' (**Annexure 13**).



47. In subsequent years:
- 47.1 2010 – 2011 CCV Business plan did not address mine rehabilitation (relevant extract from Earth Resources Division Plan at **Annexure 14**);
  - 47.2 2011 – 2012 CCV Business plan included an initiative to review and build the long-term strategic plan for the development of the state’s coal, particularly in the Gippsland region, and include mine development and rehabilitation plans through Clean Coal Victoria (**Annexure 15**);
  - 47.3 2012 – 2013 CCV Operational Plan included the milestone to commence rehabilitation discussions and study as part of the deliverable to develop a Strategic Plan for the Brown Coal Resources (**Annexure 16**); and
  - 47.4 2013 – 2014 CCV Draft Programs of Work included a Key Deliverable to complete the Coal Strategic Plan by end of 13/14 Year following input from specific projects of strategic importance (including Mine Rehabilitation) (**Annexure 17**).
48. As outlined in paragraph 21 of my previous statement of 30 November 2015, the CCV work program concluded in January 2014. The CCV document ‘Coal Planning Work: Processes and Outcomes Summary’ was provided as Annexure 5 to my previous statement of 30 November 2015.

#### **BOARD’S LETTER OF 3 DECEMBER 2015**

49. The Board’s letter of 3 December 2015 requests:
- 49.1 a copy of the annual return required by regulation 35 of the MR(SD) Regulations submitted by Energy Australia on 28/8/14 and any covering letter that came with it; and
  - 49.2 the letter from Mr McGowan to Energy Australia dated 16 March 2015 seeking an amended return.
50. These documents come within section 119 of the MR(SD) Act.

#### **CORRECTIONS AND CLARIFICATIONS TO MY PREVIOUS STATEMENTS**

##### *Statement dated 20 November 2015*

##### *Paragraph 160*

51. Paragraph 160 of my previous statement of 20 November states that the ‘mines did not provide the information requested from them, and my office has no record of a formal response from the mines in relation to this request.’

52. In fact, information was provided by GDF Suez by email on 26 June 2015. Energy Australia and AGL Loy Yang discussed the information request with ERR, but did not provide the information.

*Paragraph 174*

53. Paragraph 174 of my previous statement of 20 November refers to a 'rehabilitation bond reform package, prepared by DEDJTR in 2014' (the **bond reform package**). The bond reform package has not been approved by Government.
54. On 2 December 2015, the Minister for Energy and Resources announced a new cash rehabilitation bond scheme as an option for eligible mining and extractive operations (see media release at **Annexure 18**). The cash bond option provides an alternative to bank guarantees, which will continue to be accepted, for operations with an assessed rehabilitation liability of up to \$20,000.

*Paragraph 177*

55. Paragraph 177 of my previous statement of 20 November refers to the NERA Economic Consulting report on options for strategic management of the Latrobe Valley coal resource and related land use planning, which was due to be provided to DEDJTR on 16 December 2015.
56. As stated above, DEDJTR has provided NERA Economic Consulting with an extension, and the report will be provided to DEDJTR on 23 December 2015.

***Statement dated 30 November 2015***

*Paragraph 31.2*

57. Paragraph 31.2 of my previous statement of 30 November refers to commissioning a water balance study. A report was then received, being a GHD report titled 'Groundwater impacts and management of lignite mining in the Latrobe Valley' dated January 2014 (the **GHD water report**).
58. Replace paragraph 31.2 with: 'Commissioning GHD to provide a water balance study, titled 'Groundwater impacts and management of lignite mining in the Latrobe Valley'.
59. This is now provided at **Annexure 19** to this statement.

*Paragraph 33.2*

60. Replace paragraph 33.2 with: 'Section 7 of the GHD water report provided a preliminary review of the long term stability of the final mine voids relative to pre-mining aquifer pressures with the proposed overburden placement and considered rehabilitation options including developing pit lakes and additional overburden requirements to stabilise the mine floor'.

*Paragraph 43*

61. At paragraph 43 of my previous statement of 30 November, I again refer to the NERA Economic Consulting report, commissioned by DEDJTR, which was expected to be provided to DEDJTR on 16 December 2015.
62. As stated above, DEDJTR has provided NERA Economic Consulting with an extension, and the report will be provided to DEDJTR on 23 December 2015.

**Dated: 7 December 2015**

**LIST OF ANNEXURES**

<b>ANNEXURE</b>	<b>DESCRIPTION OF THE ANNEXURE</b>	<b>DOCUMENT ID</b>
<b>Annexure 1</b>	Mine Fire Safety Unit Draft Structure and Work Plan	DEDJTR.1033.001.0001
<b>Annexure 2</b>	Memorandum of Understanding between WorkSafe and DEDJTR	DEDJTR.1033.001.0008
<b>Annexure 3</b>	Position Descriptions for the MFS Unit positions	DEDJTR.1033.001.0026 DEDJTR.1033.001.0031 DEDJTR.1033.001.0037 DEDJTR.1033.001.0043 DEDJTR.1033.001.0048
<b>Annexure 4</b>	Table of Rent, Royalty and Levy Payments of the Latrobe Valley mines	DEDJTR.1033.001.0053
<b>Annexure 5</b>	DPI Expression of Interest letter to GHD	DEDJTR.1033.001.0054
<b>Annexure 6</b>	Developing the Latrobe Valley Resources Future presentation	DEDJTR.1033.001.0055
<b>Annexure 7</b>	Meeting minutes DPI and GHD	DEDJTR.1033.001.0063
<b>Annexure 8</b>	GHD report structure outline	DEDJTR.1033.001.0064
<b>Annexure 9</b>	Contract between GDH and DPI	DEDJTR.1033.001.0070
<b>Annexure 10</b>	Departmental Project Control Group and Technical Reference Group member overview	DEDJTR.1033.001.0096
<b>Annexure 11</b>	GHD presentation to stakeholder workshop	DEDJTR.1033.001.0097
<b>Annexure 12</b>	DPI meeting minutes 20 November 2008	DEDJTR.1033.001.0138
<b>Annexure 13</b>	CCV Business Plan 2009 – 2010	DEDJTR.1033.001.0139
<b>Annexure 14</b>	CCV Business Plan 2010 – 2011	DEDJTR.1033.001.0150
<b>Annexure 15</b>	CCV Business Plan 2011 – 2012	DEDJTR.1033.001.0186

<b>Annexure 16</b>	CCV Operational Plan 2012 – 2013	DEDJTR.1033.001.0231
<b>Annexure 17</b>	CCV Draft Program of Works 2013 – 2014	DEDJTR.1033.001.0238
<b>Annexure 18</b>	Media release on cash bonds dated 2 December 2015	DEDJTR.1033.001.0249
<b>Annexure 19</b>	GHD water report	DEDJTR.1033.001.0250