

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

STATEMENT OF LUKE CAMERON WILSON

Date of document	20 November 2015	Telephone: +61 3 8684 0444
Filed on behalf of	The State of Victoria	Facsimile: + 61 3 8684 0449
Prepared by:		DX 300077 Melbourne
Victorian Government Solicitor		Ref: 1503689
Level 25		Attention: Andrew Suddick
121 Exhibition Street		
Melbourne VIC 3000		

TABLE OF CONTENTS

A. INTRODUCTION	2
My role, responsibilities and background	2
Board’s letter and the McGowan statement	2
B. OVERVIEW OF DEDJTR’S REFORM PROGRAMS.....	3
C. LEGISLATIVE FRAMEWORK AND REHABILITATION.....	3
DEDJTR and the mining industry	3
Licences	4
Work plans	4
Licences, Work Plans and Work Plan Variations for Latrobe Valley Mines	5
D. SECV AND PRIVATISATION.....	5
Establishment of the SECV	5
Privatisation	6
The State’s role in coal development since privatisation.....	7
E. THE TECHNICAL REVIEW BOARD AND THE GEOTECHNICAL AND HYDROGEOLOGICAL ENGINEERING RESEARCH GROUP (GHERG)	7
Technical Review Board.....	7
Geotechnical and Hydrogeological Engineering Research Group	9
F. APPROVAL OF REHABILITATION PLANS.....	10
The rehabilitation plans.....	10
G. BOND ASSESSMENTS.....	20
Regulatory framework.....	20
H. URS AND THE BOND REVIEW PROJECT	24
Overview	24
I. OTHER MATTERS.....	29
LIST OF ANNEXURES	32

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:

A. INTRODUCTION

My role, responsibilities and background

1. My full name is Luke Cameron Wilson.
2. I am the Lead Deputy Secretary, Agriculture, Energy and Resources, at DEDJTR.
3. I have been in this role since DEDJTR was established in January 2015. My primary responsibilities include:
 - 3.1 overseeing DEDJTR's energy and resources portfolio activities including renewable energy, energy efficiency, new energy technologies, national markets, mines regulation, and minerals and extractives strategy and policy; and
 - 3.2 overseeing DEDJTR's agriculture portfolio of research, extension, biosecurity, trade and policy.
4. My background is in utilities, infrastructure and natural resource economics and policies. I set out a summary of my qualifications and employment history at **Annexure 1**.

Board's letter and the McGowan statement

5. I make this statement pursuant to the request made by the Hazelwood Coal Mine Fire Board of Inquiry (**Board**) by letter of 9 November 2015 (**Board's letter**). The questions in the Board's letter are set out in the remainder of this statement together with my responses.
 - 5.1 Previously, the Board by letter of 14 October 2015 asked a number of other questions. These were addressed in a statement of Ross McGowan, Executive Director of Earth Resources Regulation (**ERR**) Branch of DEDJTR, dated 4 November 2015 (**McGowan statement**). My statement expands upon a number of matters in the McGowan statement. For convenience, I have endeavoured to include all of the information in the McGowan statement in this statement so that the Board and this Inquiry has one convenient source of the relevant information.
 - 5.2 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.

B. OVERVIEW OF DEDJTR'S REFORM PROGRAMS

6. The Government has expressed concerns regarding the performance of ERR, reflecting community and industry concerns around its performance, responsiveness and predictability. The Government also recognises the need for mine operators to have certainty about the rules governing their industry in order to develop projects in regional Victoria.
7. The Government initiated a reform process to develop a new approach to mining regulation and strengthen the performance of ERR. The reform program is delivering:
 - 7.1 a new operating model for ERR;
 - 7.2 a new risk and compliance approach to improve business processes;
 - 7.3 a stakeholder engagement approach to guide ERR's engagement with stakeholders; and
 - 7.4 a strategy that focuses on effective, structured engagement and consultation that is proactive on matters of concern to the community.
8. As an early component of the reform, ERR has acquired additional technical and legal capability, and reviewed processes to improve accuracy, timeliness and reliability of its advice to Government.
9. In addition to the ERR reform program, the Government is exploring opportunities to better integrate and coordinate the strategic management of coal resources, and related land use planning, in the Latrobe Valley. Alternative systems for achieving financial security for rehabilitation for the Latrobe Valley mines are also being investigated. These matters are discussed below in my response to question 35. Any reform of the rehabilitation bond system will be informed by the outcomes of the Inquiry Reports.

C. LEGISLATIVE FRAMEWORK AND REHABILITATION

DEDJTR and the mining industry

10. DEDJTR regulates the mining industry:
 - 10.1 pursuant to the *Mineral Resources (Sustainable Development) Act 1990 (MR(SD) Act)* and the *Mineral Resources (Sustainable Development) (Mineral Industries) Regulations 2013 (MR(SD) Regulations)*; and
 - 10.2 by establishing and then implementing programs and strategies to ensure that licensees and others who have an authority or approval under the MR(SD) Act and the MR(SD) Regulations (and its predecessor regulations) comply with their obligations under their authority and approval, and under law.

11. Pursuant to the MR(SD) Act and MR(SD) Regulations, mining in Victoria is controlled by mining licences and work plans. Licences allocate Crown rights to a resource to the licence holder, whereas work plans regulate particular aspects of the operation of a mine.

Licences

12. Pursuant to s 8(1)(a) of the MR(SD) Act, a person cannot carry out mining in Victoria without obtaining a mining licence from the Minister, that being the Minister for Energy and Resources (**Minister**).
13. An applicant for a mining licence must satisfy the Minister that the applicant can meet the requirements set out in s 15(6) of the MR(SD) Act, including that:
 - 13.1 the applicant is a fit and proper person to hold the licence;
 - 13.2 the applicant intends to comply with the MR(SD) Act;
 - 13.3 the applicant genuinely intends to do the mining work that is the subject of the licence;
 - 13.4 the applicant has an appropriate program of work; and
 - 13.5 the applicant is likely to be able to finance the proposed work and rehabilitation of land.
14. With respect to the requirement to be able to finance rehabilitation, pursuant to s 78(1) of the MR(SD) Act the holder of a mining licence must rehabilitate land in accordance with a rehabilitation plan approved by the Department Head (the Secretary of DEDJTR) and pursuant to s 81(1) of the MR(SD) Act must, as far as practicable, complete rehabilitation before the expiry of the mining licence.
15. The Minister has the power to impose conditions on a mining licence, including conditions as set out in s 26(2) of the MR(SD) Act. In particular, the Minister has power to impose licence conditions about rehabilitation of the land (s 26(2)(a)) and about entering into a rehabilitation bond (s 26(2)(g)).
16. The Minister is also empowered to vary licence conditions (s 34(1)). Pursuant to s 34(2)(a), the Minister may act at the request of the licensee, or pursuant to s 34(2)(b), the Minister may do so if the Minister decides it is necessary for rehabilitation or for stabilisation of the land to which the licence applies.

Work plans

17. Pursuant to s 39 of the MR(SD) Act, work can only be carried out in accordance with the licence and an approved work plan. Pursuant to s 40 of the MR(SD) Act, a licensee who proposes to do work under a licence must lodge a work plan with the Department Head. Pursuant to s 40(3) of the

MR(SD) Act, the work plan must include a rehabilitation plan, a community engagement plan and prescribed information. The Department Head has power under s 40A of the MR(SD) Act to approve or refuse a work plan, or may require changes to the work plan or rehabilitation plan prior to its approval.

18. Pursuant to s 79 of the MR(SD) Act, a rehabilitation plan must take into account: any special characteristics of the land; the surrounding environment; the need to stabilise the land; the desirability or otherwise of returning agricultural land to a state that is as close as is reasonably possible to its state before the mining licence or extractive industry work authority was granted; and any potential long term degradation of the environment.
19. Pursuant to r 32(1)(b) and Schedule 15 of the MR(SD) Regulations, the prescribed information for a work plan includes specification of the location and how mining work is to be carried out, requirements for an environmental management plan, content of a rehabilitation plan and content of a community engagement plan. Schedule 15, Part 1 (item 6) of the MR(SD) Regulations further provides that rehabilitation plans in a work plan must address concepts for the end utilisation of the site, include a proposal for the progressive rehabilitation and stabilisation of extraction areas, road cuttings and waste dumps, including revegetation species, and include proposals for the end rehabilitation of the site, including the final security of the site and the removal of plant and equipment.
20. Pursuant to s 40(3)(b) of the MR(SD) Act (and Part 2 of Schedule 15 of the MR(SD) Regulations), “declared mines” must also include prescribed mine stability requirements in their work plan. Each of the Latrobe Valley mines is a declared mine.

Licences, Work Plans and Work Plan Variations for Latrobe Valley Mines

21. A diagram that identifies the licences, work plans and work plan variations for the Latrobe Valley mines (including variations) has been prepared (**Annexure 2**).

D. SECV AND PRIVATISATION

Question 1:

Provide a background into the history of coal development in the Latrobe Valley mines, including the establishment of the SECV and the privatisation of the Latrobe Valley Mines.

Establishment of the SECV

22. The State Electricity Commission of Victoria (**SECV**) was established on 1 January 1921 to supply electricity to Victoria.
23. The SECV commenced overburden excavation at Yallourn open cut mine in 1921. Coal deliveries to the Yallourn Power Station commenced on an operational basis on 21 August 1924.

24. Site works in the Morwell Open Cut mine (now the Hazelwood coal mine) commenced on 11 April 1949. The first coal deliveries from Morwell Open Cut mine were made in 1955, with initial coal supply being to the Yallourn Power Station prior to the completion of the Hazelwood Power Station in 1964.
25. Overburden excavation commenced at Loy Yang open cut mine on 29 July 1982. The first coal deliveries to the Loy Yang Power Station took place on 6 July 1983.
26. Further, more detailed information on the establishment of the SECV is set out in a text titled '*Coal Mining Heritage Study in Victoria*' by Jack Vines (**Annexure 3**).

Privatisation

27. The Liberal National Coalition committed to implementing structural changes in the energy industry prior to the 1992 election. Following their election to office, the Government began pursuing an electricity industry reform program.
28. The electricity industry reform program initially involved a restructure of the Victorian electricity industry from a State-owned monopoly to a competitive structure mainly comprising electricity distribution businesses and generation companies. Subsequently, the program led to the progressive privatisation of the newly established distribution and generation businesses.
29. In October 1994, all power stations that were operated by the SECV were transferred to Generation Victoria.
30. In January 1995, the industry was further disaggregated through the formation of four new companies, namely, Yallourn Energy Ltd, Hazelwood Power Corporation Ltd, Loy Yang Power Ltd and Southern Hydro Ltd.
31. This is set out in the reports of the Auditor-General on the Statement of Financial Operations, 1995-96 at p28 (extract at **Annexure 4**), and the Statement of Financial Operations, 1996-97 at p34 (extract at **Annexure 5**).
32. Yallourn Energy Ltd, which owned and operated the Yallourn Power Station and the associated mine, was sold in March 1996 to the PowerGen consortium.
33. Hazelwood Power Corporation Ltd, which owned and operated the Hazelwood Power Station and the associated mine, was sold in August 1996 to the National Power consortium.
34. Loy Yang Power Ltd, which operated the Loy Yang A Power Station and the associated mine, was sold in April 1997 to CMS Energy Corporation.

The State's role in coal development since privatisation

35. Since privatisation the State has regulated the coal mining industry, reformed the applicable legislation and regulations, and implemented coal development programs, initiatives and activities, including:
- 35.1 Advanced Lignite Demonstration Program (2012);
 - 35.2 Brown Coal Innovation Australia (2009);
 - 35.3 CarbonNet (2009); and
 - 35.4 Brown Coal R&D Funding Program (2007).
36. Additional information about these initiatives can be provided to the Board upon request.

E. THE TECHNICAL REVIEW BOARD AND THE GEOTECHNICAL AND HYDROGEOLOGICAL ENGINEERING RESEARCH GROUP (GHERG)

Technical Review Board

Question 2:

Please indicate why the Technical Review Board's (TRB) terms of reference were amended to include rehabilitation?

37. The TRB was established in 2009 as an advisory panel under Part 4A of the MR(SD) Act.
38. The TRB is comprised of mining experts. The Terms of Reference for the TRB (**TRB Terms of Reference**) have a wide scope and call for advice to be provided to the Minister in four general areas:
- 38.1 strategy;
 - 38.2 mine and quarry stability;
 - 38.3 rehabilitation (as set out below, from July 2015); and
 - 38.4 other activities, including education, research and interaction with industry.
39. The overall aim of the TRB Terms of Reference is to improve geotechnical and hydrogeological performance and knowledge within the Victorian mining industry.
40. On 31 July 2015, the TRB Terms of Reference were amended and now read as follows:
- ‘The Board will report to the Minister on an annual basis. The Minister may subsequently release the Board’s report to [DEDJTR] and relevant industry stakeholders.

The Board will periodically provide advice on mine and quarry stability, to the Minister and [DEDJTR], in the following areas:

- (a) Strategy
 - written and/or verbal advice on the [DEDJTR]'s strategies and regulatory approach to mine and quarry stability and geotechnical issues.
 - written and/or verbal advice on new developments in technology and science relating to the understanding, monitoring or management of mine and quarry stability and related geotechnical and hydrogeological issues.
- (b) Stability reports
 - review mine and quarry stability reports including monitoring data that has been submitted to [DEDJTR] and provide written advice to the Minister.
- (c) Other Activities
 - advise the Minister in formulating appropriate response to significant events relating to mine and quarry stability, and related geotechnical and hydrogeological issues.
 - advise the Minister on appropriate guidelines and educational initiatives related to mine and quarry stability.
 - with the knowledge and agreement of the Minister, interact directly with industry on mine and quarry stability and related geotechnical and hydrogeological issues, including participation in site visits, presentations and dialogue, particularly with respect to communicating findings of reviews with relevant stakeholders.
 - in conjunction with [DEDJTR], interact directly with Federation University Australia in relation to the Research and Development program on brown coal geotechnical and hydrogeological issues.
- (d) Rehabilitation
 - provide written advice and guidance to [DEDJTR] on any issues related to rehabilitation, including progressive rehabilitation within the mines and quarries.'

41. Prior to July 2015, the TRB Terms of Reference did not include rehabilitation. The TRB Terms of Reference were amended following the 2014 Hazelwood Mine Fire Inquiry, where the level of rehabilitation of the Latrobe Valley mines was criticised. In response, the Government made an election commitment to expand the purpose and reporting requirements of the TRB to include progressive rehabilitation within its scope.

Question 3:

Provide details of any advice or guidance provided thus far to DEDJTR by the TRB on rehabilitation. Please attach copies of correspondence with the TRB regarding rehabilitation including any written advice so far provided such as that referred to in [39] of Mr McGowan's statement.

42. Prior to July 2015, the TRB Terms of Reference did not include specific advice or guidance on issues regarding rehabilitation, including progressive rehabilitation within mines and quarries.
43. However, prior to July 2015, the TRB provided some advice on rehabilitation:
 - 43.1 indirectly through its annual reports; and
 - 43.2 directly in other documents provided to DEDJTR.
44. The documents include the following:
 - 44.1 TRB annual reports for years ended: 30 June 2012 (**Annexure 6**); 30 June 2013 (**Annexure 7**); 30 June 2014 (**Annexure 8**) and 30 June 2015 (**Annexure 9 - Confidential Draft**); and
 - 44.2 other documents provided by the TRB as follows:
 - 2 February 2011: Maryvale Work Plan Variation (**Annexure 10**);
 - 25 May 2012: PSM Yallourn Report (Annexure 11);
 - 26 June 2012: PSM Hazelwood Northern Batter Movement Report (Annexure 12);
 - 3 April 2013: PSM Hazelwood Stability Report (Annexure 13);
 - 10 September 2015: Latrobe Planning Scheme Amendment C87 (Annexure 14); and
 - 12 October 2015: Loy Yang Work Plan Variation (Annexure 15).

Geotechnical and Hydrogeological Engineering Research Group

45. The TRB Terms of Reference refer to the TRB, in conjunction with DEDJTR, interacting directly with '*Federation University Australia in relation to the Research and Development program on brown coal geotechnical and hydrogeological issues*'.
46. In 2009, the Victorian Government established GHERG at the Monash University Gippsland campus.

47. DEDJTR currently provides annual funding to GHERG to support objectives which include providing geotechnical and hydrogeological research and development support to the Latrobe Valley coal mines and the TRB, particularly in the areas of mine stability, mine monitoring systems and interpretation, ground subsidence, effect on rigid structures such as infrastructure, ground and surface water control in mines, and evaluation of models used in practice.
48. GHERG transferred to Federation University Australia on 1 January 2014. GHERG's current Director Professor Rae MacKay is a member of the TRB.
49. Further information about GHERG may be provided to the Board upon request or alternatively found at: <http://federation.edu.au/research/research-areas/research-centres-and-networks/gherg/about-us>.

F. APPROVAL OF REHABILITATION PLANS

The rehabilitation plans

50. A table that refers to the relevant parts of the various documents (for example, work plans) that relate to final and progressive mine rehabilitation plans for each of the Latrobe Valley mines has been prepared and is set out at **Annexure 16**.

Question 4:

What are the criteria which have been applied by DEDJTR to determine whether or not to approve various rehabilitation plans submitted on behalf of the Yallourn, Hazelwood and Loy Yang mines (collectively referred to as the mins)?

51. The criteria that have been used to determine whether or not to approve rehabilitation plans submitted on behalf of the Latrobe Valley mines is set out in:
 - 51.1 s 79(a) of the MR(SD) Act; and
 - 51.2 Item 6, Part 1 of Schedule 15 of the MR(SD) Regulations.
52. As set out above, under s 79(a) of the MR(SD) Act, the content of a rehabilitation plan must take into account the following:
 - 52.1 any special characteristics of the land;
 - 52.2 the surrounding environment;
 - 52.3 the need to stabilise the land;
 - 52.4 the desirability or otherwise of returning agricultural land to a state that is as close as is reasonably possible to its state before the mining licence or extractive industry work authority was granted; and

- 52.5 any potential long-term degradation of the environment.
53. Item 6, Part 1 of Schedule 15 of the MR(SD) Regulations further provides that rehabilitation plans in a work plan must:
- 53.1 address concepts for the end utilisation of the site;
- 53.2 include a proposal for the progressive rehabilitation and stabilisation of extraction areas, road cuttings and waste dumps, including revegetation species; and
- 53.3 include proposals for the end rehabilitation of the site, including the final security of the site and the removal of plant and equipment.
54. Section 2A of the MR(SD) Act provides that it is the intention of Parliament that in the administration of the Act, regard should be given to the principles of sustainable development, which are set out in s 2A(2). Section 2A was inserted in 2006 by the *Mineral Resources Development (Sustainable Development) Act 2006* (Vic).
55. The ‘*Guidelines for Environmental Management in Exploration and Mining: Rehabilitation Plans and Other Environmental Aspects of Work Plans*’ (July 2004) (**Rehabilitation Guidelines**) (**Annexure 17**) have been developed as an advisory document for all mining licensees (that is, they are not limited to the three Latrobe Valley mines).
56. The Rehabilitation Guidelines provide guidance on matters that DEDJTR generally looks at in assessing rehabilitation plans. They do not set requirements for plans beyond the statutory requirements.
57. Rehabilitation plans are considered as part of the mine work plan. DEDJTR officers follow internal procedures in conducting their assessments. DEDJTR procedures set out the steps for considering a work plan or work plan variation, see ‘*MM-1-2 MIN, PL and WA Work Plan & Variation Assessment and Approval*’ (**Annexure 18**) and DEDJTR Procedure ‘*L-2 Transfer of EES outcomes to an approved work plan*’ (**Annexure 19**), where an Environment Effects Statement (**EES**) has been required under the *Environmental Effect Act 1974* (Vic) (**EE Act**).
58. Work Plans, rehabilitation plans and work plan variations are assessed by a DEDJTR inspector, who is employed under Part 9 of the MR(SD) Act.
59. To assess work plans, DEDJTR may utilise relevant internal and external experts to assist the inspector in undertaking the assessment.
60. The recent assessment of the Loy Yang Work Plan Variation illustrates DEDJTR’s approach to assessing work plan variation applications. DEDJTR has convened a team of experts from the Traralgon Regional DEDJTR Office, including geotechnical, environmental, mining engineering and hydrogeological experts, to consider the work proposed under the Work Plan Variation. The team of experts have considered four draft Work Plan Variations. The first submission was refused, with DEDJTR requesting

changes on the subsequent two drafts. The team is currently assessing the fourth submission, which was lodged on 5 October 2015. DEDJTR will provide a response to the operator of the Loy Yang mine upon completion of the assessment process.

Question 5:

Have any rehabilitation plans of the mines been refused by DEDJTR?

61. An application by AGL (Loy Yang) for a work plan variation was refused by the former Department of State Development, Business and Innovation (**DSDBI**) on 10 September 2014 (**Annexure 20**). The application included changes to the rehabilitation plan.
62. No other work plan variation applications have been refused by DEDJTR or any of its predecessors. Amendments have been sought to rehabilitation plans, which are further addressed in my answer to the next question below.

Question 6:

Have any changes ever been sought by DEDJTR for rehabilitation plans of the mines? If so, please detail.

63. A holder of a mining licence can only change a work plan, and therefore a rehabilitation plan, with the approval of the Secretary of DEDJTR. DEDJTR can request changes to an application to a work plan variation before it is approved by the Secretary of DEDJTR.
64. There have been numerous work plan variation applications from each of the Latrobe Valley mines, most of which did not deal with the rehabilitation plans. Several applications have dealt, directly or indirectly, with the rehabilitation plans. Examples of where DEDJTR has sought changes to rehabilitation plans within work plan variation applications are detailed below.

Yallourn

65. On 17 May 2011, the former Department of Primary Industries (**DPI**) approved the TRUenergy Yallourn work plan variation to undertake work in the Maryvale Field (**Annexure 21**), subject to a number of conditions:
 - 65.1 condition 1 required a review of the stability and deformation of the Morwell River Diversion be completed prior to work commencing;
 - 65.2 condition 3 required the licensee to submit a study of aquifer depressurisation to DPI;
 - 65.3 condition 4 provided that the mine batters of the Maryvale field must be designed, mined and maintained post mining so that they remain stable at all times;

- 65.4 condition 7 required the licensee to undertake a review of the Yallourn Rehabilitation Master Plan regarding the feasibility of the flooded mine scenario versus other alternatives within 12 months of the approval. Condition 7 required the review to address:
- long term water balance studies;
 - how to form safe and stable rehabilitated batters, including for the non-flooded mine scenario;
 - how to minimise floor heave in flooded and non-flooded mine scenarios;
 - strategic use of overburden in flooded and non-flooded mine scenarios; and
 - advantages and disadvantages of the flooded versus non-flooded mine scenarios regarding progressive rehabilitation opportunities.

Hazelwood

66. In 2008, Hazelwood made an application for a work plan variation to allow mining in the new Western field. A planning panel was commissioned to produce an EES. Hazelwood subsequently filed a rehabilitation plan, in accordance with the recommendations of the EES panel. DPI requested changes to the rehabilitation plan, to address concerns that the plan had overstated the capacity of the operator to fill the mine with water upon mine closure, and provided for insufficient rehabilitation of mine batters and the mine floor on a progressive basis. Hazelwood amended the rehabilitation plan to address DPI's concerns, and the work plan variation was approved in 2009.
67. In 2013, Hazelwood applied for a further work plan variation to modify the Western flank of the North Field boundary. DSDBI requested that the work plan variation be clarified and updated on several matters, including the implications of overburden going to floor, rather than batter, rehabilitation. The work plan variation was withdrawn on 25 May 2015.

Loy Yang

68. DPI provided comments to AGL (Loy Yang) in respect of its Rehabilitation Master Plan Final Draft – May 2011 on 15 March 2012. These comments identified several issues for further discussion, including:
- 68.1 the need to address the fire risk associated with the retention of exposed coal faces, batters and benches;
- 68.2 the need to provide additional support for retaining industrial areas, rather than returning land to agricultural use;

- 68.3 how the site will be secured for public safety; and
- 68.4 concerns about the availability of water in rehabilitation planning.
69. These issues were again identified in 2014 when the Rehabilitation Master Plan was resubmitted with an application for a work plan variation. DSDBI requested additional clarification and amendment on, among other things, the matters raised in respect of the Rehabilitation Master Plan in 2012.
70. The work plan variation was resubmitted by Loy Yang on 3 July 2014, but was refused by DSDBI on 10 September 2014 for failing to address in full the shortcomings of the original application.

Question 7:

What consideration has DEDJTR given to the objectives or features set out in Q4 of our letter dated 14 October 2015 (as opposed to what the mines' plans are)?

71. The objectives and features set out in Q4 of the Inquiry Board's letter dated 14 October 2015 included: mine stability; waste management; infrastructure removal; materials balance; water management; public safety; proposed timeframe for final and progressive rehabilitation; future beneficial land use; and long term management to prevent environment degradation and adverse impacts on public safety and public infrastructure.

Legislative requirements

72. The MR(SD) Act and MR(SD) Regulations require DEDJTR to assess whether rehabilitation plans address:
- 72.1 mine stability (s 79(a)(i), MR(SD) Act and Item 6(b), Part 1 of Schedule 15, MR(SD) Regulations);
- 72.2 waste management (Item 6(b), Part 1 of Schedule 15, MR(SD) Regulations);
- 72.3 infrastructure removal (Item 6(c), Part 1 of Schedule 15, MR(SD) Regulations);
- 72.4 water management (both surface and groundwater) (indirectly through subsection 79(a)(ii), MR(SD) Act);
- 72.5 future beneficial land use (indirectly through subsection 79(a)(iv), MR(SD) Act); and
- 72.6 long-term management (such as monitoring and maintenance) to prevent environmental degradation and adverse impacts on public safety and public infrastructure (subsection 79(a)(v), MR(SD) Act Item 6(c), Part 1 of Schedule 15, MR(SD) Regulations).

Rehabilitation Guidelines

73. DEDJTR's Rehabilitation Guidelines discuss 'general principles' for rehabilitation, which address the requirements of the MR(SD) Act and MR(SD) regulations. The 'general principles' are:
- 73.1 end use objectives and the final concept plan – establish expected end use/s of the site and its general characteristics at the completion of rehabilitation and a schematic plan showing salient features of the land following rehabilitation;
 - 73.2 progressive rehabilitation – detail on the proposed rehabilitation works, how they will be undertaken and their sequence and timing;
 - 73.3 landscaping and screening – minimising views of exposed faces, unvegetated waste heaps, stockpiles and plant;
 - 73.4 soil removal – location and depth of soil stripping;
 - 73.5 soil respreading – approximate depth of respread soil and its location ;
 - 73.6 soil stockpiling – locations and dimensions;
 - 73.7 seedbed preparation – proposed seedbed treatments and the reasons for their selection;
 - 73.8 revegetation – proposed revegetation method (seeding, tube stock, and natural regeneration) and the general mix of species;
 - 73.9 alternative revegetation methods – acceptable provided that the rehabilitation standards achieved are at least equal to those that would be expected using conventional methods;
 - 73.10 roads, tracks and other compacted areas – progressive rehabilitation, decommissioning and final rehabilitation of those tracks and roads not retained;
 - 73.11 run-off and erosion control – permanent control measures, such as drainage channels and dams, which are to be incorporated in the final land form;
 - 73.12 removal of plant, equipment and rubbish at completion of works;
 - 73.13 site safety and security – security of the site and public safety following cessation of operations; and
 - 73.14 maintenance and monitoring – proposed schedules.

Mine stability requirements and guidelines

74. DEDJTR also considers mine stability through administration of additional requirements for Declared Mines. These include that:
- 74.1 work plans must include prescribed mine stability requirements (s 40 (3)(b) of the MR(SD) Act and Part 2 of Schedule 15 of the MR(SD) Regulations);
 - 74.2 licensees must provide six-monthly reports on mine stability to the Department Head (s 41AB, MR(SD) Act and r 45, MR(SD) Regulations; and
 - 74.3 declared mine licensees must pay an annual mine stability levy (s 38AAA – 38AAE, MR(SD) Act and Schedule 29 of the MR(SD) Regulations).
75. Each of the Latrobe Valley coal mines is a Declared Mine.
76. DEDJTR has commissioned stability reviews for each of the Declared Mines and implemented TRB recommendations arising from the reviews. Documents relating to the stability reviews can be made available to the Board.
77. DEDJTR also commissioned the *Guideline for Managing Ground Control Risks in Victorian Brown Coal Mines (Ground Control Guidelines)(Annexure 22)*, in response to advice from the TRB.
78. According to the document, the Ground Control Guidelines aim to collate the current body of knowledge and experience and set out good practice for managing ground control risks associated with the design and operation of the Latrobe Valley brown coal mines. They are not a regulatory document.
79. The information in the Ground Control Guidelines will inform the content of further practical guidance materials being developed by DEDJTR in consultation with the TRB.

Risk-based work plans

80. In February 2014, the Government introduced risk-based work plan requirements into the MR(SD) Act. The requirements were originally scheduled to commence in December 2016.
81. In response to recommendation four of the 2014 Hazelwood Mine Fire Inquiry, risk based work plan requirements will commence in December 2015 as outlined in the Hazelwood Inquiry Implementation and Monitoring Plan, October 2014.
82. On 20 January 2015 the licence conditions of the Latrobe Valley coal mines were varied to require each licensee to assess risks to the environment and public safety from the work done and proposed to be done under their respective licences, including the prevention, mitigation and suppression of

fire, and submit a Risk Assessment and Management Plan (**RAMP**) (new condition 1A). The condition was included in the coal mining licence conditions to require each licensee to implement risk management ahead of the introduction of the requirement for risk based work plans.

83. The RAMPs provided by each of the three licensees are likely to result in changes to operations at the mines as well as the mine rehabilitation plans. Under changes made to Schedule 9 of the MR(SD) Act by s 15 of the *Resources Legislation Amendment Act 2015* (Vic), the Department Head may direct that a licensee develops and submits a work plan variation where the operation poses an unacceptable risk to the environment, to any member of the public, or to land, property or infrastructure in the vicinity of that work. Consequently, the Department Head may direct the licensee to submit a work plan variation taking into account the changed risks for the operation.
84. Work plan variations submitted after the commencement of the risk based work plan provisions (December 2015) will need to comply with the new risk based work plan requirements.

Summary of work plan variations

85. See **Annexure 23** for a timeline of work plan variations for each mine.

Question 8:

How has DEDJTR evaluated the accuracy and feasibility of each of these objectives or features of the rehabilitation plans prior to approving them?

86. Since 2010, rehabilitation plans (in both initial work plans and any subsequent variations) have been assessed according to either:
- 86.1 DEDJTR Procedure ‘MM-1-2 MIN, PL and WA Work Plan & Variation Assessment and Approval’ (**Annexure 18**); or
 - 86.2 DEDJTR Procedure ‘L-3 Transfer of EES outcomes to an approved work plan’ (**Annexure 19**) (where an EES has been required under the EE Act).
87. The Minister for Planning required an EES to be prepared for the Hazelwood 2009 work plan variation application and the Yallourn 2000 and 2011 work plan variation applications (under s 8B of the EE Act). In each case the EES was released for public comment and EES panels were convened to consider submissions and make recommendations. Following receipt of the EES panel reports, the Minister for Planning provided an assessment to DEDJTR.
88. The EES process is not an approval process, rather it informs statutory decision-makers about the environmental effects of a proposed project, to inform the decision about whether the project should proceed.
89. DEDJTR has considered the statutory requirements for rehabilitation plans when considering and approving work plans and work plan variations applications for each of the mines, and has required changes to rehabilitation

plans. Some changes were required by DEDJTR in response to rehabilitation issues identified during the ESS process (in particular, in relation to mine stability, fire prevention and mitigation, and water management). DEDJTR also considered mine stability and rehabilitation advice from the TRB, as set out in response to question 3 above. Changes to rehabilitation plans required by DEDJTR are detailed above in response to question 6.

90. DEDJTR imposed a condition of the 2011 Yallourn work plan variation that the licensee conduct a review of Yallourn Mine Rehabilitation Plan. The review was provided to DEDJTR in 2012.

Question 9:

Is inspection of the mines by officers of DEDJTR the only method by which progressive rehabilitation has been evaluated by DEDJTR?

91. Progressive rehabilitation has been evaluated by DEDJTR through:
- 91.1 annual reporting requirements;
 - 91.2 participating in Environmental Review Committee (**ERC**) meetings; and
 - 91.3 compliance audits.

Annual reporting

92. Under r 35 and Item 11 of Schedule 19 of the MR(SD) Regulations (and under the previous regulations), mining licensees must report annually on details of land disturbance and rehabilitation, including:
- ‘(c) the area rehabilitated over the last reporting period, and the proportion of that area that has been rehabilitated in relation to each of the following—
 - (i) pits;
 - (ii) overburden and waste rock dumps;
 - (iii) tailings storage facilities;
 - (iv) infrastructure;
 - (d) the percentage of area included in paragraph (c) that is revegetated with local native vegetation’.

ERC meetings

93. The approved work plan for each Latrobe Valley mine requires the establishment of an ERC. Each mine has established an ERC.
94. ERC meetings provide a forum to discuss any compliance issues and to monitor whether work at each mine – including rehabilitation work – is

proceeding in accordance with the relevant mining licence, work plan and rehabilitation plan. At least one officer from DEDJTR attends each ERC meeting.

Compliance audits

95. Regular compliance audits of the mines have been undertaken by DEDJTR (and its predecessors) in accordance with the DEDJTR procedure *MP-2-2 Audit Management - Mining and Extractive Sites* (**Annexure 24**). These audits have addressed a wide range of matters, including mine rehabilitation, and include inspection of the mines.
96. Further details of these audits may be provided to the Board upon request, including copies of the relevant audits.

Question 10:

How does DEDJTR's understanding of the progressive rehabilitation which has occurred compare with the rehabilitation plans? Are the mines complying with their rehabilitation plans in this regard?

97. Progressive rehabilitation is required as a condition under the Mine Licences.
98. At Hazelwood, approximately one third of the area where mining is completed is rehabilitated (which is about 10% of the total approved mine area for extraction), with an estimated:
- 98.1 45% of the mine area approved for extraction, mining is continuing;
- 98.2 25% mining is yet to commence;
- 98.3 30% of the mine area, mining is completed.
99. At Yallourn, approximately half of the area where mining is completed is rehabilitated (which is about 25% of the total approved mine area for extraction), with an estimated:
- 99.1 25% of the mine area approved for extraction, mining is continuing;
- 99.2 25% mining is yet to commence;
- 99.3 50% of the mine area, mining is completed.
100. At Loy Yang, approximately 5% of the area where mining is completed is rehabilitated (which is about 0.5% of the total approved mine area for extraction), with an estimated:
- 100.1 15% of the mine area approved for extraction, mining is continuing;
- 100.2 75% mining is yet to commence;
- 100.3 10% of the mine area, mining is completed.

101. Under the applicable Hazelwood work plan, the first progressive rehabilitation milestone will be triggered in 2019.
102. The Loy Yang and Yallourn rehabilitation plans do not contain specific progressive rehabilitation milestones.
103. Progressive rehabilitation is constrained by the current operational arrangements of the mines, and the current nature of the rehabilitation plan post mine closure, which presently includes filling, partially or fully, the mine voids with water.

G. BOND ASSESSMENTS

Regulatory framework

104. Pursuant to s 80(1) of the MR(SD) Act, a licensee must enter into a rehabilitation bond for an amount determined by the Minister.
105. Pursuant to s 80(4) of the MR(SD) Act, the Minister may, at any time after a rehabilitation bond is entered into and after consultation with the authority holder, require the authority holder to enter into a further rehabilitation bond for an amount determined by the Minister if he or she is of the opinion that the amount of the bond already entered into is insufficient.
106. Pursuant to s 82(1), the Minister must return the bond or bonds to the authority holder or former authority holder as soon as possible if the Minister is satisfied (a) that the land has been rehabilitated as required by s 78 or 78A (as the case may be); and (b) that the rehabilitation is likely to be successful.
107. Pursuant to s 83(1) of the MR(SD) Act, the Minister may take any necessary action to rehabilitate land if the Minister is:
 - 107.1 not satisfied that the land has been rehabilitated as required by s 78 or s 78A (as the case may be); or
 - 107.2 satisfied that further rehabilitation of the land is necessary; or
 - 107.3 requested to do so by the owner of the land.
108. Pursuant to s 83(4) the Minister may recover as a debt due to the Crown in a court of competent jurisdiction any amount by which the cost incurred under s 83(1) of the MR(SD) Act exceeds the amount of the bond or bonds.

Question 11:

Please provide details of how (and when) the initial bonds were assessed in relation to each of the mines. What criteria were applied by DEDJTR in that assessment?

109. The initial bonds for the Latrobe Valley mines were set by the former Department of Agriculture and Extractive Minerals (**DAEM**) at \$15M in 1995.

Yallourn

110. Yallourn provided information to DAEM prior to the setting of the \$15M bond. The DAEM calculation was based upon the forecast expenditure at end of mine life (\$7M), as assessed by Yallourn, and a portion of the forecast annual increment expenditure on progressive rehabilitation works (\$9.5M), as assessed by Yallourn, to mitigate the financial risk in case of the mine closing sooner than expected.
111. With allowance for inflation, the figure of \$15M was determined for the bond.

Hazelwood

112. DAEM set a \$15M bond as an “interim figure” (based upon the calculation for Yallourn) until such time as DAEM had assessed whatever additional information Hazelwood was able to provide. See the letter from DAEM to Hazelwood dated 10 July 1995 (**Annexure 25**). Hazelwood then provided further information by letters dated 9 August 1995 (\$9.88M costs based on “final rehabilitation”) and 10 October 1995 (\$11.7M costs based on “life of mine”) for the rehabilitation of land disturbed by mining to the end of mine life (**Annexure 26**).
113. DAEM estimated that the total current liability for the mine was thought to be in the vicinity of \$20M but that Hazelwood had a well-managed progressive rehabilitation program with annual expenditure of \$1M. On this basis, DAEM considered the information provided by Hazelwood was reasonable and the bond remained at \$15M.

Loy Yang

114. Similarly, the DAEM set a \$15M bond as an “interim figure” (based upon the calculation for Yallourn) until such time as DAEM had assessed whatever additional information Loy Yang was able to provide.

Question 12:

At any stage has DEDJTR or the Minister required any of the mines to enter into a further rehabilitation bond? Has consideration been given to doing so at any stage? Please provide details.

115. Only the Minister can require a mine to enter into a further rehabilitation bond. No Latrobe Valley mine has been required to enter into a further rehabilitation bond.
116. A bond review process was initiated for Yallourn in October 2002. Based on this review, on 30 July 2004 the bond was reduced by \$3,630,500 to \$11,460,500 (**Annexure 27**).

Question 13:

Prior to 2015, what processes have been applied by DEDJTR to evaluate the accuracy of the rehabilitation liability assessments submitted by each mine? What were the results of these evaluation processes? Please attach all relevant documents

117. Prior to 2015, rehabilitation liability assessments provided by the mines in annual activity and expenditure returns either reflected the amount of rehabilitation bond, or were not provided.
118. In November 2002, Yallourn Energy provided a rehabilitation liability assessment in response to a bond review process initiated by the former DPI. DPI was assisted in its evaluation of the rehabilitation liability assessment by a report from GHD Pty Ltd (**GHD**) titled '*Mining Licence Rehabilitation Bond "Close Now" Rehabilitation Costing*' (November 2002) (**Annexure 28**).
119. In response to the GHD report, in February 2003 DPI sought further information from Yallourn Energy in relation to a limited number of potential liabilities. As stated above, based on this review, on 30 July 2004 the bond was reduced by \$3,630,500 to \$11,460,500 (**Annexure 27**).
120. The outcome of the Yallourn bond review was completed prior to the finalisation of the DPI policy, '*Establishment and Management of Rehabilitation Bonds for the Mining and Extractive Industries*' (September 2010) (**Bond Policy**) (**Annexure 29**).

Question 14:

Has the Bond Calculator been used by DEDJTR to assess the accuracy of the rehabilitation liability assessments submitted by the mines? If so, provide details and documents detailing the calculations? If not, why not and what other tool was used?

121. The Bond Calculator was developed by DPI in 2006. The Bond Calculator was revised in 2010, following feedback from inspectors and industry.
122. In 2008, GHD was engaged by DPI to use the Bond Calculator to assess the rehabilitation liability at the Loy Yang mine and to comment on the suitability of rates within the Bond Calculator for use within the large-scale brown coal mines. The study aimed to compare changes in rehabilitation liability for actual mine situations in 1997 and 2008, and the predicted liability levels in 2018, as a means of determining if the Bond Calculator was an appropriate tool for estimating rehabilitation liability for large scale brown coal mines. The study was not designed to determine an appropriate Bond for the Loy Yang Mine.
123. GHD provided a report titled '*Review of Rehabilitation Bond Calculator Use for Brown Coal Mines Loy Yang Mine Example*' dated December 2008 (**Annexure 30**). While the study found that, among other things, the Bond Calculator was a sound way of estimating rehabilitation liability (although it found that it exaggerated the allowance made for project management costs),

it questioned whether it was appropriate to use this methodology for Bond determination for the large brown coal mines in Victoria.

124. Since 2006, the Bond Calculator has been utilised by DPI to periodically review the rehabilitation bonds of the mines as follows:
- 124.1 Yallourn in 2010; and
 - 124.2 Hazelwood in 2009 and 2011.
125. No review utilising the Bond Calculator has led to a change in the rehabilitation bonds levels for any of the Latrobe Valley mines. This is because in 2010 the Government commenced a review of rehabilitation bond policy.
126. Rehabilitation liability assessments were provided by the mines in April 2015 in each of their 2014 Annual Activity and Expenditure Returns, in response to a request from DEDJTR. Further rehabilitation liability assessments were provided in July 2015 as part of their 2015 Annual Activity and Expenditure Returns. DEDJTR did not use the Bond Calculator to assess the accuracy of these assessments because it had commenced the Bond Project to independently assess the rehabilitation liabilities of the mines based on the current approved work plans.

Question 15:

Please provide details regarding these periodic reviews [i.e bond reviews] and the results of them. Have any been done for the mines, if not, why not?

127. I refer to my answer to question 14 above.
128. There have been no other bond reviews.

Question 16:

Please provide details regarding these targeted audits and the results of them. Have any been done for the mines, if not, why not?

129. As discussed above in answer to question 13, self-assessments were not provided by the mines until April 2015.
130. No ‘targeted audits’ were undertaken following the self-assessments in 2015 because the Rehabilitation Bond Review Project (**Bond Project**) had commenced to independently assess the rehabilitation liabilities of the mines.

Question 17:

How have the rehabilitation liability assessment amounts for each mine altered over time? What steps has DEDJTR taken to review bonds as a result of any changes to the assessment amount?

131. The Latrobe Valley mine licensees are required to report annually on the current rehabilitation liability for each mine, incorporating both progressive rehabilitation and final rehabilitation.
132. In November 2002, GHD provided a study of the costs for rehabilitation of the Yallourn mine under a “close now” scenario based on the mine development as at 30 September 2002 (see **Annexure 30**). It included a cost estimate of \$12,803,885 for the “base cost” for rehabilitation under the “close now” scenario. It also noted other costs, including the Morwell River diversion, and put the total costs at \$14,550,385.
133. In April 2015 each of the licensees provided the current rehabilitation liability assessment for each mine as part of the 2014 Annual Activity and Expenditure Return as follows:
 - 133.1 Yallourn: \$46 to \$91 million;
 - 133.2 Hazelwood: \$73.4 million; and
 - 133.3 Loy Yang: \$53.7 million.
134. In June 2015 each of the licensees provided the current rehabilitation liability assessment for each mine as part of the 2015 Annual Activity and Expenditure Return as follows:
 - 134.1 Yallourn: \$46 million;
 - 134.2 Hazelwood: \$73.4 million; and
 - 134.3 Loy Yang: \$53.7 million.
135. By letters dated 3 June 2015, DEDJTR informed each of the Latrobe Valley mines that it intended to review their rehabilitation bonds, and that it had engaged URS Australia Pty Ltd to assess the rehabilitation liability of each mine. DEDJTR informed each of the Latrobe Valley mines that it wished to meet with them to discuss the matter (**Annexure 31**).
136. The Bond Project was initiated independently from the rehabilitation liability assessments provided by the mines. The origin of the Bond Project is discussed in response to question 24.

H. URS AND THE BOND REVIEW PROJECT

Overview

137. The final AECOM PTY Ltd (**AECOM**) (having completed its acquisition of URS Australia Pty Ltd on 17 October 2015) reports have now been received (**Annexures 32, 33 and 34**) with respect to the Bond Project. Parts of the reports have been redacted.

Question 18:

When was URS first engaged to provide an opinion on the rehabilitation liability costs for each of the mines?

138. On or about 15 April 2015, DEDJTR sent a letter of engagement to URS. A signed copy was returned to DEDJTR and received on or about 23 April 2015 (**Annexure 35**).

Question 19:

What timelines were given to URS to provide draft and final reports in respect of each mine?

139. Pursuant to the Bond Project plan (**Annexure 36**), the draft reports were due on 19 June 2015 and final reports were due on 15 July 2015.

Question 20:

What date were draft reports first provided by URS to the Victorian Government?

140. Draft reports were first provided on 9 June 2015.

Question 21:

When did the Victorian Government first receive information from URS regarding their opinion of the rehabilitation liability costs?

141. The draft reports provided on 9 June 2015 contained preliminary rehabilitation liability estimates.

Question 22:

What steps has the Victorian Government taken to determine a position in relation to the confidence levels set out in the URS reports?

142. There is no policy that dictates the confidence level that should be used in decisions of this nature. A position in relation to confidence levels is a matter of judgement and is considered on a case-by-case basis.
143. In this case, the State is considering confidence levels of P50, P80 and P95. Factors being considered to determine a position in relation to these confidence levels include the methodology and advice provided by URS as well as the level of risk to the State and cost implications for the licensee in relation to assets pledged in order to provide an unconditional bank guarantee.

Question 23:

When does the Victorian Government consider it will have a position in relation to those confidence intervals?

144. There has not yet been a position adopted in relation to the confidence levels set out in the URS reports. Adopting a position in relation to confidence

levels will form a part of the decision making process in finalising the rehabilitation liability assessments for each mine and in making a decision in relation to any further rehabilitation bond.

Question 24:

When was the Rehabilitation Bond Review Project (or the idea of rehabilitation bond reform) first considered?

145. Kylie White, then the Executive Director of ERR, provided information about this issue to this Inquiry in her witness statement of 22 May 2014. See at paragraphs [116] to [117]. In her witness statement, Ms White stated that the review of rehabilitation liabilities for all mines in Victoria commenced in 2010.

Question 25:

Why was the Project Plan: Rehabilitation Bond Reviews (“the project plan”) only approved on 3 July 2015?

146. Ms White also provided information partly about this issue to this Inquiry in her witness statement of 22 May 2014. See at paragraphs [116] to [117]. In her witness statement, Ms White stated that:

146.1 the review was suspended in 2012 in light of ERR’s efforts to respond to the movement in the northern batter at Hazelwood mine in 2011 and the collapse of the Morwell River diversion at Yallourn mine in 2012;

146.2 the review recommenced in late 2013.

147. Initial development of the Bond Project occurred on 24 October 2014 (**Annexure 37**).

148. A request for quotation for ‘*Estimation of rehabilitation costs for the three Latrobe Valley brown coal mines*’ was released on 19 January 2015 to three targeted suppliers.

149. The suppliers each submitted quotes by the due date of 28 January 2015. ERR evaluated the quotes against key selection criteria in the request for quotation. Two suppliers were short-listed and interviewed on 5 March 2015. Upon consideration of the proposals and the interviews, the evaluation panel recommended URS as the preferred supplier.

150. The Bond Project was then managed within the administrative structure of ERR. Governance structures for the project were in place, with the project managers responsible regularly reporting to the Executive Director in relation to progress of the project, including through weekly meetings.

151. In June 2015, a decision was made to finalise and formally endorse a plan for the Bond Project.

152. The Bond Project was then formally approved on 3 July 2015.

Question 26:

When was this project plan first drafted? (please provide a copy of any earlier drafts of the project plan).

153. As stated above, initial development of the Bond Project occurred on 24 October 2014 (see **Annexure 37**).

Question 27:

When were the mines first informed of the Bond Review Project? (please provide a copy of any correspondence with the mines in relation to the Bond Review Project).

154. The mines were informed about the Bond Project by letter from Mr McGowan, Executive Director of ERR, dated 3 June 2015 (see **Annexure 31**).

155. Mr McGowan stated, in part, in each of the letters that he would like to meet with the mine representatives in July 2015 to discuss the URS rehabilitation assessment and then, if required, to consider with them timing options to put in place appropriate financial cover for the rehabilitation of the relevant mine.

Question 28:

Please identify as against each of the milestones set out on pages 6-7 of the project plan the following:

- *has it been completed,*
- *when was it completed, and*
- *if it has not been completed, why it has not been completed and when it will be completed.*

156. The following table sets out these matters:

	Milestone	Projected completion date	Actual completion date
1	Inform mines about bond review project	5 June 2015	3 June 2015
2	Draft reports due	19 June 2015	9 June 2015 9 July 2015 19 August 2015 4 September 2015 (The Project Plan did not anticipate revisions of the draft reports.)

3	Discussions with mines	7 August 2015	13 and 14 October 2015
4	Final reports due	15 July 2015	13 November 2015
5	Develop bond level position	30 July 2015	18 November 2015
6	Determine bond levels, discuss with mines and finalise.	30 August 2015 30 September 2015 and 30 November 2015	Ongoing

Question 29:***Who is the Project Manager of the Bond Review Project?***

157. Due to staff changes, there have been three project managers for the Bond Project, each with different titles:
- 157.1 from the request for tender process until June 2015, the Project Manager was Andrew Radojkovic, Manager Sustainable Development;
 - 157.2 from the tender process until 31 July 2015, Sian Harris, Senior Project officer, Sustainable Development assisted with project management; and
 - 157.3 from 14 July 2015 to present, Duncan Pendrigh, Coordinator Hazelwood Inquiry has been the Project Manager.

Question 30:***How have the mines been involved in the Bond Review Project (as per pages 9-10 of the project plan)?***

158. By letter of 3 June 2015, ERR notified each of the mines about the Bond Project (see **Annexure 31**).
159. By letter of 18 June 2015, ERR sought information from each of the mines (see **Annexure 38**).
160. 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.
161. On 13 and 14 October 2015, meetings were held between ERR, URS and the Hazelwood and Loy Yang mines, and the Yallourn mine respectively to discuss methodology and preliminary liability estimates and what further information was required from the mines.
162. By email of 14 October 2015, ERR requested further information from the mines and provided them with the draft URS reports (**Annexure 39**).

163. Between 14 October 2015 and 9 November 2015, AECOM continued to work with mines to obtain information.

164. The mines each provided the requested data to AECOM by 9 November 2015.

Question 31:

When was the information from the mines referred to in [65] of Mr McGowan's statement first requested? Please provide details (including attaching correspondence) regarding what information has been requested.

165. By letters to each of the Latrobe Valley mines dated 18 June 2015, ERR first sought information from each of the mines to inform the assessment (see **Annexure 38**). The information requested was specific data required by URS for use in modelling rehabilitation liabilities.

Question 32:

Please expand on [66] of Mr McGowan's statement.

- *What was the additional work URS was required to undertake?*
- *When did it first become clear that this additional work was required?*
- *What were the complexities associated with refining the methodology and model?*
- *What was the significant work required to resolve these issues?*
- *When did it first become clear that this additional work was required?*

166. The Bond Project was delayed, in substantial part, because URS was required to undertake much more work than was expected in order to examine the costs of rehabilitation and to complete its report. There were also complexities associated with refining the methodology and model for the liability estimates. Significant work was required to resolve these issues.

167. The methodology and model for the project needed to be refined in order for the liability estimates to be finalised. In addition, the work plans for the three mines had significant gaps in some areas, including water management and earth movement. Further information was required from the mines to refine the liability estimates. As a result there were significant delays in refining the preliminary liability estimates and finalising the reports.

I. OTHER MATTERS

Question 33:

When does DEDJTR expect to consider how to implement the Loy Yang Complex Agreement? Why is it not viewed as relevant to consider it in 2015?

168. A redacted version of the Loy Yang Complex Agreement has previously been provided to the Board. Part 5 of that agreement concerns rehabilitation. Given the timing set out in that agreement, DEDJTR has not yet considered how it may implement it.

Question 34:

How ARE the “ten guiding principles” set out in the KPMG 2011 report applied to the current bond system?

169. The KPMG report was commissioned as part of the 2009 review of the MR(SD) Act. At that time, DPI (DEDJTR) recognised that bank guarantees were onerous, tied up capital, had high transaction costs, did not recognise the low failure rate and did not reward a history of good behaviour.
170. The intent of the KPMG report was to assess alternative, lower cost mechanisms for ensuring rehabilitation obligations were met. The KPMG guiding principles were developed for the purpose of assessing the advantages and disadvantages of these alternative mechanisms.
171. The KPMG principles were not developed as principles for applying to the current rehabilitation bond model but rather to assess alternative models.
172. Alternative bond models were assessed against the KPMG principles using a multi-criteria analysis. The assessment was made as part of a working group exercise that included industry and Government representatives, under the guidance of a consultant with expertise in financial assurance.

Question 35:

Is DEDJTR (or the Victorian Government) considering reforming the system to allow for modes of financial assurance other than bonds? If so, provide details.

173. There have been several reviews since 2000 that have examined options for reforming the bond system to allow other modes of financial assurance. These include the following documents, which have already been provided to the Inquiry:
- 173.1 the former Department of Natural Resources and Environment Discussion Paper, *Review of NRE’s Policy on the Determination and Application of Rehabilitation Bonds for Mining and Extractive Industries* (2002), which set out the aims of the rehabilitation bond policy review and sought feedback on options for reform. In 2004, DPI released the Position Paper *Rehabilitation Bonds for the Mining and Extractive Industries*, in which DPI concluded that it had not been able to identify any good working model for an industry based insurance or levy scheme at present;
- 173.2 the 2011 KPMG Report, commissioned by DPI to canvass options for the stage 2 review of the MR(SD) Act, which included options for bond reform. The KPMG Report explored six alternative models for the rehabilitation assurance system; and

- 173.3 the 2012 Parliamentary Inquiry into Greenfields mineral exploration and project development, which made a recommendation for the Government to review the current rehabilitation bond system in comparison with alternative existing mechanism for assuring rehabilitation at end-of-mine life.
174. The 2011 KMPG Report and the 2012 Parliamentary Inquiry informed a rehabilitation bond policy reform package, prepared by DEDJTR in 2014. This package expressly excludes high-risk sites, such as the Latrobe Valley coal mines.
175. To assist DEDJTR to be in a position to fully respond to the Inquiry's final report, in November 2015 DEDJTR commissioned NERA Economic Consulting to conduct a policy analysis of options for strategic management of the Latrobe Valley coal resource, and related land use planning.
176. This analysis is examining the range of approaches, governance options and policy, legislative or other instruments that could be applied by Government, industry or both to integrate and coordinate the strategic management of coal resources and related land use planning in the Latrobe Valley, particularly taking account of the potential interconnection of multiple mines within a common geological formation. The analysis will also consider the potential range of options to ensure that rehabilitation obligations are met by mine licensees.
177. A report is expected to be provided to DEDJTR on 16 December 2015 and can be provided to the Board at that time.
178. At this time, the Government has not committed to reforming the system to allow for modes of financial assurance other than bonds. The Government will await the outcome of the Inquiry before making further policy decisions regarding any reform of the rehabilitation bond system.

Dated: 20 November 2015

LIST OF ANNEXURES

ANNEXURE	DESCRIPTION OF THE ANNEXURE	DOCUMENT ID
Annexure 1	Luke Cameron Wilson Biography	DEDJTR.1022.001.0001
Annexure 2	Diagram of licences and work plans for the Latrobe Valley mines	DEDJTR.1020.001.0782
Annexure 3	Jack Vines, <i>Coal Mining Heritage Study in Victoria</i>	DEDJTR.1020.001.0048
Annexure 4	Report of the Auditor-General on the Statement of Financial Operations, 1995-96 (Extract)	DEDJTR.1020.001.0350
Annexure 5	Report of the Auditor-General on the Statement of Financial Operations, 1996-97 (Extract)	DEDJTR.1020.001.0958
Annexure 6	Technical Review Board Annual Report 2011 - 2012	DEDJTR.1020.001.0562
Annexure 7	Technical Review Board Annual Report 2012 - 2013	DEDJTR.1020.001.0586
Annexure 8	Technical Review Board Annual Report 2013 - 2014	DEDJTR.1020.001.0602
Annexure 9	Technical Review Board Annual Report 2014 – 2015 (Confidential)	DEDJTR.1020.001.1179
Annexure 10	2 February 2011: TRB Letter on Maryvale Work Plan Variation	DEDJTR.1020.001.0512
Annexure 11	25 May 2012: TRB Letter on PSM Yallourn Report	DEDJTR.1020.001.0524
Annexure 12	26 June 2012: TRB Letter on PSM Hazelwood Northern Batter Movement Report	DEDJTR.1020.001.0531
Annexure 13	3 April 2013: TRB Letter on PSM Hazelwood Stability Report	DEDJTR.1020.001.0547
Annexure 14	10 September 2015: TRB Letter on Latrobe Planning Scheme Amendment C87	DEDJTR.1020.001.0550

Annexure 15	12 October 2015: TRB Letter on Loy Yang Work Plan Variation	DEDJTR.1020.001.0560
Annexure 16	Table: Details of the final and progressive mine rehabilitation plans for each of the Latrobe Valley mines	DEDJTR.1020.001.0755
Annexure 17	DPI Policy, <i>Guidelines for Environmental Management in Exploration and Mining: Rehabilitation Plans and Other Environmental Aspects of Work Plans</i> (July 2004)	DEDJTR.1023.001.0001
Annexure 18	DEDJTR Procedure: MM-1-2 MIN, PL and WA Work Plan & Variation Assessment and Approval	DEDJTR.1020.001.0767
Annexure 19	DEDJTR Procedure: L-2 Transfer of EES outcomes to an approved work plan	DEDJTR.1020.001.0780
Annexure 20	10 September 2014: Mining Licence 5189 - Refusal of Work Plan Variation	DEDJTR.1020.001.0783
Annexure 21	MIN5003 Work Plan Variation Conditions (Final – 17/05/2011)	DEDJTR.1020.001.0785
Annexure 22	DEDJTR <i>Guideline for Managing Ground Control Risks in Victorian Brown Coal Mines</i> (2015)	DEDJTR.1022.001.0002
Annexure 23	Timeline of work plan variations for each mine	DEDJTR.1020.001.0788
Annexure 24	DEDJTR Procedure: <i>MP-2-2 Audit Management - Mining and Extractive Sites</i>	DEDJTR.1020.001.0789
Annexure 25	10 July 1995: Letter to Hazelwood Power Corporation – Work Plan and Rehabilitation Bond	DEDJTR.1020.001.0797
Annexure 26	9 August 1995 and 10 October 1995: Letters to DEAM – Hazelwood Power Corporation Mine Rehabilitation Cost Estimates	DEDJTR.1020.001.0798
Annexure 27	30 July 2004: Letter to Yallourn Energy re bond release	DEDJTR.1020.001.0811
Annexure 28	GHD Mining Licence Rehabilitation Bond "Close Now" Rehabilitation Costing (November 2002)	DEDJTR.1020.001.0814
Annexure 29	DPI Policy, <i>Establishment and Management of Rehabilitation Bonds for the Mining and Extractive Industries</i> (September 2010)	DEDJTR.1021.001.0001
Annexure 30	GHD <i>Review of Rehabilitation Bond Calculator Use for Brown Coal Mines Loy Yang Mine</i>	DEDJTR.1020.001.0877

	<i>Example</i> (December 2008)	
Annexure 31	3 June 2015: Letters from DEDJTR to each of the Latrobe Valley mines that informed each of the Latrobe Valley mines that it intended to review their rehabilitation bonds, and that it had engaged URS Australia Pty Ltd to assess the rehabilitation liability of each mine	DEDJTR.1020.001.0923 , DEDJTR.1020.001.0924 , DEDJTR.1020.001.0925
Annexure 32	URS Report for GDF Suez Hazelwood Mine (redacted)	DEDJTR.1019.001.0001
Annexure 33	URS Report for AGL Loy Yang Mine (redacted)	DEDJTR.1019.001.0046
Annexure 34	URS Report for Energy Australia Yallourn Mine (redacted)	DEDJTR.1019.001.0092
Annexure 35	15 April 2015: URS engagement letter	DEDJTR.1020.001.1207
Annexure 36	Rehabilitation Bond Review Project Plan	DEDJTR.1020.001.0932
Annexure 37	24 October 2014: Draft Bond Project Plan	DEDJTR.1020.001.0944
Annexure 38	18 June 2015: Letters from DEDJTR to each of the Latrobe Valley mines seeking information	DEDJTR.1020.001.0955 , DEDJTR.1020.001.0956 , DEDJTR.1020.001.0957
Annexure 39	Emails dated 14 October 2015 from the ERR to each of the mines requesting further information and providing draft URS reports	DEDJTR.1020.001.1201 , DEDJTR.1020.001.1203 , DEDJTR.1020.001.1205