

IN THE MATTER OF**The Hazelwood Coal Mine Fire Inquiry****SUPPLEMENTARY STATEMENT OF STEPHEN GERARD RIENIETS**

Date of Document: 4 December 2015

Filed on behalf of: AGL Loy Yang Pty Limited (ABN
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Attention: Sophie Osborn

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I, Stephen Gerard Rieniets, of AGL Loy Yang, Bartons Lane, Traralgon South, Victoria 3844, General Manager of AGL Loy Yang operations for AGL Loy Yang Pty Limited (**AGL Loy Yang**), say as follows:

A. INTRODUCTION

1. My full name is Stephen Gerard Rieniets. My date of birth is 1 March 1963.
2. I am the General Manager at AGL Loy Yang's operations located at Bartons Lane, Traralgon South, Victoria, 3844.
3. In this role, which I have held since 1 April 2015, I am responsible for the overall management of the power station and associated coal mine at AGL Loy Yang. I previously held the role of Head of Mining AGL Loy Yang from 22 June 2014 to 1 April 2015.
4. I have held various senior technical and management roles in the electricity industry in the Latrobe Valley over the last 30 years.
5. I hold the qualifications of a Bachelor of Civil Engineering from Monash University and a Master of Business Administration from Deakin University.
6. I refer to my witness statements dated 30 October 2015 and 3 December 2015.
7. This supplementary statement responds to the Accent report, the Jacobs Co-ordination report, the statement of Mr Webb dated 17 November 2015 and the statement of Mr Wilson dated 20 November 2015.

B. ABOUT AGL

8. AGL Energy Ltd (**AGL**) is one of Australia's leading integrated energy companies. It is taking action to responsibly reduce its greenhouse gas emissions while providing secure and affordable energy to its customers.
9. Drawing on over 175 years of experience, AGL serves its customers throughout eastern Australia with meeting their energy requirements, including gas, electricity, solar PV and related products and services.

10. AGL has a diverse power generation portfolio including base, peaking and intermediate generation plants, spread across traditional thermal generation as well as renewable sources including hydro, wind, solar, landfill gas and biomass.
11. AGL maintains a BBB (stable) investment grade credit rating from Standard & Poor's.

C. WHAT WE STAND FOR

12. AGL's number one priority is the safety of our employees and the local community. All AGL operations across Australia operate within this overarching principle.
13. At AGL we are very aware of our responsibility to the community and the environment as well as our customers and shareholders. "Actions, not words" sums up the way AGL does business with all its stakeholders.
14. This commitment springs from a set of wider values that work as an ethical compass guiding our people in their behaviour and decision-making processes.
15. AGL formal values system is critical to the way in which the company operates as a business. The values guide AGL in delivering strategies and ensure that we perform and deliver for our communities and stakeholders in a challenging environment. "Safe and Sustainable" is AGL's overarching value, and incorporates not only the safety of our employees but a strong commitment to the protection of our environment and the communities in which we operate.

D. SUSTAINABILITY

16. At AGL, sustainability means thinking about the responsibilities we have to all our stakeholders – our employees, our customers, our investors, the community and the environment. In addition to our economic performance, AGL recognises that our future success and reputational standing is also shaped and measured by the social and environmental consequences, which our decisions and actions have for all our stakeholders.
17. Rehabilitation of the AGL Loy Yang Mine (**AGL LY Mine**) is a fundamental part of AGL's commitment to sustainability and forms a critical part of the overall AGL Loy Yang Business Plan.

E. REHABILITATION FINANCIAL MECHANISMS

18. AGL acknowledges that an appropriate financial security should be in place to ensure that rehabilitation can be undertaken by the State should an operator be unable to meet its rehabilitation obligations. AGL supports a financial mechanism that is fair and equitable to all parties.
19. AGL Loy Yang believes that in assessing rehabilitation bond liabilities a holistic approach should be adopted, that considers all relevant factors. In the case of the AGL LY Mine relevant factors that should form a part of the assessment include:
 - > AGL LY Mine is Victoria's largest open-cut mine with an estimated market value in excess of \$2Bn.
 - > The operating life of AGL LY Mine is more than 60 years, with a remaining operating life in excess of 30 years.
 - > The AGL LY Mine is the energy source for AGL Loy Yang Power Station (**AGL LYA**) and Engie LYB (**LYB**) which supplies over 50% of Victoria's electricity demand.
 - > Electricity produced by AGL LYA is in the lowest quartile of electricity generators in the National Electricity Market from a merit order perspective.
20. AGL would be prepared to consider supplementing the existing Bank Guarantee with a Parent Company Guarantee (**PCG**).

F. REHABILITATION LIABILITY ASSESSMENTS

21. The bond for rehabilitation of the AGL LY Mine was set at \$15 million in 1996. This bond was agreed between government and the owners of the AGL LY Mine at the time of the SECV's dis-aggregation and privatisation.
22. In 2015, AGL Loy Yang assessed the rehabilitation liability for the AGL LY Mine Licence area based on WP 1997 commitments to be circa \$53.7M. This assessment was based on modelling undertaken in the *Loy Yang Power Mine Rehabilitation Whole of Life Cost Report – 2011 Update* undertaken by GHD.
23. Other costings for rehabilitation have been undertaken in 2015 including:
 - > AECOM [URS] (2015) – On behalf of the DEDJTR (Victorian Government).
 - > GHD LY Mine (2015) - Preliminary Rehabilitation Concept and Cost Model.
24. The Jacobs Report (*Review of Future Rehabilitation Options for Loy Yang, Hazelwood and Yallourn Coal Mines in the Latrobe Valley*) commissioned by the Board of Inquiry provided cost estimates for comparative purposes only.
25. The studies cited above in paragraph 23 are high level concept scoping studies based on varying assumptions that are yet to be validated in real world situations. The principle limitations with concept scoping studies are the quality and accuracy of assumptions made, which are very difficult to apply across the full extent of the AGL LY Mine.
26. The AECOM Report is based on the Work Plan 1997 (**WP 1997**) and not the approved Work Plan Variation of 2015 (**WPV 2015**). If and when AECOM is asked to prepare a report based on WPV 2015, AGL will need to review that report possibly with its consultants.
27. In 2015, AGL Loy Yang engaged GHD to undertake a Mine Rehabilitation Concept and Cost Model (**GHD Model**). The GHD Model was framed to provide indicative valuations reflecting the expected rehabilitation liability over the WOL of the AGL LY Mine operation. Key considerations of the model are as follows:
 - > Documentation and plans framed on Work Plan Variation undertaken in 2015 (**WPV 2015**) and current rehabilitation plan.
 - > Visual snapshot of the AGL LY Mine detailing key development, operational and rehabilitated areas.
 - > Visual representation of the typical batter concepts showing infrastructure for ongoing maintenance (transport corridors and key infrastructure - dewatering, drainage, electricity network, etc.).
 - > Costing based on ~100 m linear sections.
 - > Tabulation of the changes in liability from period to period including summary of works undertaken.
28. The GHD Model utilises data from AGL LY Mine CAD, GIS and Mine Planning systems, which is more accurate than approximations of volumes used in some other models. The GHD Model is framed on the revised base development concept which reflects the planned works described in WPV 2015; the GHD Model considers rehabilitation from 2015 through to closure of the mine.
29. All of the concept models have limitations based on the range of assumptions adopted, particularly those that are broadly applied across the mine.
30. AGL Loy Yang plans to undertake a more detailed technical review and assessment that will consider the treatment of individual batters. This will require more extensive and detailed modelling to be undertaken which will be based on actual geological models and refine the assumptions based on specific areas (clay capping, contouring, drainage, etc.).

31. The future technical review and assessment of the proposed rehabilitation plan associated with WPV 2015 will take into account the nature of available materials, as well as agreed end land-use to achieve a safe and stable landform. These works will result in a revised and more accurate cost estimate for AGL LY Mine rehabilitation across the planned operating life.
32. The GHD Model concluded that the indicative rehabilitation liability for the AGL LY Mine would be as follows, if operations were to cease at the following periods:
- > Stage B (circa 2015): Indicative rehabilitation liability ~\$112M;
 - > Stage D (circa 2031): Indicative rehabilitation liability ~\$66M; and
 - > Stage E- (circa 2048): Indicative rehabilitation liability ~\$66M.
- Full details of the GHD Model are provided in Stephen Gerard Rieniets Witness Statement of 30 Oct 2015 and in the Mine Rehabilitation Cost Model Presentation prepared by GHD and attached as **Annexure A** to this Supplementary Statement.

G. PROBABILISTIC DETERMINATION OF LIKELIHOOD OF CLOSURE

33. The likelihood of the total closure of AGL LY Mine in the next 10 years is extremely unlikely under any plausible scenario, which would therefore be considered a "Rare" event with a very low probability of occurring based on typical risk assessment principles. The following table summarises the indicative likelihood and probability of total closure of the AGL LY Mine taking into account the considerations outlined herein:

Period	Timing	Likelihood	Probability
2016 - 2025	1 - 10 Years	Rare	<5%
2026 - 2035	11 - 20 Years	Unlikely	5 - 30%
2036 - 2045	21 - 30 Years	Possible	30 - 65%
2046 - 2055	31 - 40 Years	Likely	65 - 95%
2056 - 2065	41 - 50 Years	Almost Certain	>95%

34. The risk rating is premised on the very low likelihood of closure of the entire generation fleet based at the Loy Yang Site prior to 2035 due to:
- > **Strong Business case** - The AGL Loy Yang assets were purchased in 2012 on a premised on a project operating life through to 2048. This has been confirmed by AGL as recently as 2015 in its public AGL Greenhouse Policy statement.
 - > **Victorian Reliance** - The AGL LY Mine supplies the energy source (in the form of brown coal) for over 50% of Victoria's electricity demand.
 - > **Renewable Energy** - Renewable energy investment will continue in the years ahead but is unlikely to displace coal fired power generation for many years.
 - > **Merit Order** - Electricity produced by AGL LYA is in the lowest quartile of electricity generators in the National Electricity Market from cost of generation perspective; other electricity generation projects would become commercially unviable prior to AGL LYA.
35. AGL Loy Yang acknowledges that there are many models that could be adopted to reflect the principles and risks to the State of default by an incumbent Mine operator. It is essential that any Bond or Guarantee should reflect both the quantum of the rehabilitation liability and risk exposure of the event occurring at any given point in time. Increasing the quantum of the bond provides limited additional assurance for the State given the extremely low risk of default.

36. Early closure of part of AGL LYA post Stage D (circa 2031) could be conceived under a high greenhouse gas pricing regime, however the AGL LY Mine would still need to continue to operate in order to supply any generating (AGL LYA and LYB) units that remain in service at the Loy Yang site.

H. REHABILITATION BOND CONSIDERATIONS

37. A Rehabilitation Bond in the form of an unconditional bank guarantee is a very secure mechanism to provide confidence to the State that rehabilitation obligations of mine operators will be met.
38. The legitimate concern of the State is to ensure that the risk of operator default on its rehabilitation obligations does not result in a the State incurring an unfunded liability. As such, in assessing the type of assurance to be provided by an operator it is appropriate to consider the financial strength of the operator, the value of the individual mine and remnant operating life, as these factors contribute to the State's ultimate risk position.
39. AGL Loy Yang agrees with the 10 principles for a "good security model" set out at section 2.3 of the KPMG Report (*Options for Financial Assurance for Rehabilitation of Mine and Quarry Sites in Victoria*) dated June 2011, namely:
1. The system should reflect the fact that a rehabilitation failure rate of 100% is unlikely;
 2. The system cannot be a "no assurance" system – this creates moral hazard;
 3. The system should reward past good behaviour;
 4. The system should also encourage future good behaviour and discourage future bad behaviour;
 5. The system should be based on risk management principles;
 6. The system should avoid cross-subsidies;
 7. The system should attempt to avoid large and uncertain increases in the amount of financial assurance;
 8. The Government will seek to manage its financial risks to minimise any budgetary impact;
 9. Any new model should, where possible, not materially increase the administrative burden; and
 10. Financial assurance should be readily converted into cash.
40. A substantial increase in the level of Rehabilitation Liability Bond and corresponding Bank Guarantee has deleterious implications for AGL:
- > There is a direct cost for the establishment and maintenance of a Bank Guarantee, which equates to ~1% of the value. This adds operational cost to the business, which could be better utilised as direct expenditure on rehabilitation.
 - > The Bank Guarantee reduces AGL's credit capacity, which reduces access to limited funds that could be deployed within the AGL portfolio for new project developments.
41. AGL Loy Yang has a strong record of performing progressive rehabilitation, which is currently funded from operating funds and provisions. AGL Loy Yang has included the continuing availability of funds to continue with this progressive rehabilitation in its forward planning. AGL has increased funding to the development of additional research into mine rehabilitation with partners Federation and Monash Universities.
42. The current rehabilitation liability for the AGL LY Mine reduces gradually over its life as progressive rehabilitation is performed. At mine closure, those areas that have not been progressively rehabilitated (generally because of the presence of infrastructure or other operational requirements) will be subject to rehabilitation.

I. AGL LOY YANG OTHER CONTRACTUAL OBLIGATIONS

43. AGL Loy Yang has contracts for the supply of coal and infrastructure services and a Loy Yang Complex Agreement which constitutes a range of obligations from a resource supply, service provision and development and rehabilitation perspective:
- > **Coal Procurement Agreement (CPA)** - sets out the requirement for the continuous supply, from the AGL LY Mine, of coal to LYB power station.
 - > **Infrastructure Supply Agreement (ISA)** - sets out the requirement for the supply of critical infrastructure to all power stations in the Latrobe Valley. This includes disposal of saline water, supply of raw water and the disposal of power station ash.
 - > **Loy Yang Complex Agreement (LYCA)** - is a tripartite agreement between the State Government, AGL LYA and LYB which sets out numerous arrangements for the current operations of AGL LYA and LYB and future development at the site and provides for the creation of a trust fund to fund mine rehabilitation from 2023 onwards.
44. The AGL LY Mine operates under its Mining Licence, which runs through to 2037. An extension of the Mining Licence may be sought to enable AGL LYA to operate through to its planned closure of 2048 in accordance with the AGL Greenhouse Policy. The obligation to continue the supply of coal to LYB under the CPA and supply of infrastructure services under the ISA may extend AGL LY Mine operations beyond 2048, as LYB has the option to continue power generation operations beyond the closure of AGL LYA. This would require AGL LY Mine and other infrastructure to continue operating, which will directly impact the scope and timing of final rehabilitation.
45. From 2023, AGL Loy Yang, and the owner of LYB will be required under the terms of the LYCA to contribute money into a trust account for the purposes of funding the rehabilitation of the AGL LY Mine. The LYCA requires the owners of the power stations (and the owners of any new projects at the Loy Yang Complex) to contribute 10% of the cost of the Loy Yang Site Rehabilitation Expenses into a trust fund on an annual basis for a 10 year period. The contributions to the LYCA Rehabilitation Trust Fund are in proportion to the coal usage by each party.
46. This LYCA Rehabilitation Trust contract obligation is unique amongst all other brown coal mines in Victoria and provides additional financial assurance for the State to ensure that rehabilitation is undertaken and/or a substantial pool of funds is available to undertake the required rehabilitation. The trust fund is accessible, with the approval of the parties, to undertake rehabilitation works at the AGL LY Mine from 2023 onwards.

J. REHABILITATION LIABILITY CONCEPTUAL MODEL

47. While AGL Loy Yang does not consider an increase in the bond is warranted, if a decision was made to increase the bond then a staged model would reflect an appropriately "risk weighted" approach.
48. AGL Loy Yang has prepared an indicative staged model that reflects how the rehabilitation bond increase could be staged over the life of the operation of the AGL LY Mine. The staged model demonstrates how a discount could be applied to reflect the likelihood of occurrence.
49. The staged model takes into consideration the likelihood and probability of closure, the increase in size and progressive rehabilitation undertaken at the AGL LY Mine; the worked example in Table 2 is populated with a range of general assumption to depict the principles. The numbers in Table 2 are conceptual only. Any model adopted would need to be dynamic and updated on a periodic basis (~5 Years), reflecting:
- > Best available information on the assessed rehabilitation liability;
 - > Progressive rehabilitation undertaken and other trust obligations;
 - > Changes to the probability of closure of the AGL LY Mine; and

> Any material changes to the AGL company structure or credit rating.

Table 2 - Risk Based Model Framework

Year	Rehabilitation Liability	Closure		Bank Guarantee			
		Likelihood	Probability	Discount	Calculation	Period Bond	
2015	\$112M	N/A	0.0%	86.5%	\$15.1M	\$15M	
2016	\$108M	RARE	0.1%	86.5%	\$14.7M	\$15M	
2017	\$105M		0.1%	86.4%	\$14.2M		
2018	\$101M		0.1%	86.4%	\$13.8M		
2019	\$98M		0.2%	86.3%	\$13.5M		
2020	\$95M		0.4%	86.1%	\$13.2M		
2021	\$92M		0.7%	85.8%	\$13.0M	\$15M	
2022	\$89M		1.1%	85.4%	\$13.0M		
2023	\$86M		1.8%	84.7%	\$13.2M		
2024	\$83M		3.0%	83.5%	\$13.8M		
2025	\$80M		5.0%	81.5%	\$14.9M		
2026	\$78M		UNLIKELY	6.0%	80.5%	\$15.2M	\$16M
2027	\$75M	7.2%		79.3%	\$15.6M		
2028	\$73M	8.6%		77.9%	\$16.1M		
2029	\$71M	10.2%		76.3%	\$16.7M		
2030	\$68M	12.2%		74.3%	\$17.6M		
2031	\$66M	14.7%		71.8%	\$18.6M	\$23M	
2032	\$66M	17.5%		69.0%	\$20.5M		
2033	\$66M	21.0%		65.5%	\$22.7M		
2034	\$66M	25.1%		61.4%	\$25.5M		
2035	\$66M	30.0%		56.5%	\$28.7M		
2036	\$66M	POSSIBLE		32.4%	54.1%	\$30.3M	\$34M
2037	\$66M		35.0%	51.5%	\$32.0M		
2038	\$66M		37.8%	48.7%	\$33.9M		
2039	\$66M		40.9%	45.6%	\$35.9M		
2040	\$66M		44.2%	42.3%	\$38.1M		
2041	\$66M		47.7%	38.8%	\$40.4M	\$46M	
2042	\$66M		51.6%	34.9%	\$42.9M		
2043	\$66M		55.7%	30.8%	\$45.7M		
2044	\$66M		60.2%	26.3%	\$48.6M		
2045	\$66M		65.0%	21.5%	\$51.8M		
2046	\$66M		LIKELY	67.5%	19.0%	\$53.5M	\$66M
2047	\$66M	70.0%		16.5%	\$55.2M		
2048	\$66M	72.9%		0.0%	\$66.0M		
2049	\$49M	75.7%		0.0%	\$49.5M	\$50M	
2050	\$37M	78.6%		0.0%	\$37.1M		
2051	\$28M	81.6%		0.0%	\$27.8M		
2052	\$21M	84.8%		0.0%	\$20.9M		
2053	\$16M	88.1%		0.0%	\$15.7M		
2054	\$12M	91.5%		0.0%	\$11.7M		
2055	\$9M	95.0%		0.0%	\$8.8M		

K. SUMMARY OF REHABILITATION BOND CONSIDERATIONS

50. The bond system is intended to manage the State's exposure to a rehabilitation liability, in the event that the holder of a mining licence does not meet its legal obligation to undertake rehabilitation. In this sense the bond system operates as a safety net to protect the State from default by the mining licensee.
51. Any increase in the AGL Loy Yang bond will result in the imposition of costs which is unwarranted having regard to the risks and would divert operating funds otherwise available for physical rehabilitation works. An increase in the bank guarantee will also reduce credit capacity that will impact future AGL investment strategies.
52. AGL is one of Australia's leading integrated energy companies, with over 175 years' experience meeting the energy requirements of around 3.5 million customers for gas, electricity, solar PV and related products and services. The strength of AGL is underpinned by its diverse power generation portfolio including base, peaking and intermediate generation plants, spread across traditional thermal generation as well as renewable sources including hydro, wind, solar, landfill gas and biomass.
53. AGL maintains a BBB (stable) investment grade credit rating from Standard & Poor's and would be prepared to consider implementing a PCG to strengthen the assurances to the State regarding company structures associated with the AGL Loy Yang operation.
54. Acknowledging that the mix of energy technologies is evolving, AGL considers that there is very low risk of unplanned closure of the AGL LY Mine or default by AGL Loy Yang prior to 2035, due to the following factors:
- > Electricity generation from AGL LYA and LYB fuelled by brown coal from the AGL LY Mine coal exceeds 50% of Victorian electricity demand, and is therefore considered as the provision of an essential service to the State.
 - > The cost of generation from AGL LYA and LYB sits in the lowest quartile of the NEM merit order.
 - > The gradual pace of investment in commercially viable renewable energy projects and associated capacity factor limitations.
 - > A fundamental requirement of evolving carbon regulatory frameworks is to provide for orderly change in the energy market.
 - > AGL's substantial customer base relies on power generation derived from the AGL LY Mine as part of its mix of technologies. The cost of production has very low variability and is not subject to market fluctuations experienced with other commodities.
55. AGL Loy Yang considers that:
- > There is insufficient evidence in front of the Board of Inquiry to adopt a specific recommendation in terms of an appropriate methodology or quantum of the Rehabilitation Liability and associated Bonds or Guarantees at this point in time.
 - > There is no basis for the Board or DEDJTR to conclude that an increase in the current bond provided by AGL is necessary to adequately protect the State's interest.
 - > The bond setting process should recognise the important differences between the Mines, and not adopt a "one size fits all" solution.
 - > Having regard to the significant differences between mining operations it is not appropriate to select one model of financial mechanism which should be used in all circumstances above the other models.
 - > The Bond Calculator developed by DEDJTR should only be used in circumstances where a more site specific model is not available.
56. The existence of the LYCA significantly alters the risk profile for the State in relation to the future rehabilitation of the AGL LY Mine, as it provides significant additional financial assurance beyond that provided by the current bond. AGL Loy Yang believes, in the case of the AGL LY Mine, the trust fund established under the LYCA is an effective addition to the

current statutory bond system and that these two mechanisms together serve as appropriate financial tools to cover rehabilitation costs for the AGL LY Mine.

57. The existing bond and LYCA Rehabilitation Trust Fund obligations provides a strong financial assurance to the State considering the contribution of AGL Loy Yang to Victoria's energy security. As Victoria's largest electricity generator and a facility of national significance, AGL Loy Yang, is extremely unlikely to default in this respect and AGL's balance sheet strength mean that an early and unfunded closure is highly improbable.
58. AGL is prepared to work with the Victorian Government (DEDJTR) with a view to adopting an appropriate financial mechanism tailored to the needs of the State and AGL Loy Yang.

L. BOND REVIEW PROJECT

59. AGL Loy Yang was notified of the Bond Project by the letter dated 3 June 2015 from Mr McGowan, Executive Director of ERR (see Annexure 31 to the Statement of Luke Wilson).
60. The letter stated that Mr McGowan would like to meet with AGL Loy Yang to discuss the URS rehabilitation liability assessment. However no meeting was held and no arrangements were made by Mr McGowan to meet with AGL Loy Yang.
61. AGL Loy Yang received a letter dated 18 June 2015 from Ms Anne Bignell, Manager Operations, Gippsland ERR requesting some specific data that would assist the rehabilitation liability assessment.
62. Following the receipt of the letter of 18 June 2015, Mr Paul Barrand of AGL Loy Yang verbally requested a meeting with DEDJTR and URS to better understand the substance and format of the information requested. AGL Loy Yang sought to clarify the information required in subsequent emails exchanged between Ms Bignell and Mr Barrand on 22 and 25 November 2015.
63. I understand that no clarification was provided by DEDJTR, and so AGL Loy Yang was not able to provide the information requested.
64. On 13 October 2015 a meeting was held between ERR, URS and AGL Loy Yang representatives at Loy Yang.
65. AGL Loy Yang received an email dated 14 October 2015 requesting information and clarifying the information sought.
66. AGL Loy Yang provided the requested data to AECOM on 5 November 2015.
67. Through this process, DEDJTR provided very little information about the background to their request. AGL Loy Yang was not provided with an overview of the Bond Review Project and has not been meaningfully consulted by DEDJTR in relation to the work it is undertaking.

M. COORDINATION ARRANGEMENTS

68. AGL Loy Yang supports the principle of establishing a coordination body or amending the charter of existing coordination body/s to deal with the matters identified in the Jacobs Co-ordination Report, namely:
- (a) material movement between mines;
 - (b) managing valuable water sources;
 - (c) planning for climate change;
 - (d) mine closure planning;
 - (e) community safety (SS Landforms);
 - (f) beneficial post mining land use;
 - (g) fostering community liveability; and
 - (h) continuing mine rehabilitation planning and execution.
69. AGL Loy Yang notes that there are a range of existing bodies that have functions that deal with coordination of some of these issues. These bodies include GHERG, Coal Resources Victoria (**CRV**), Southern Rural Water (**SRW**) and West Gippsland Catchment Management Authority (**CMA**).
70. Industry and Government currently fund GHERG to research hydrogeological and geotechnical issues that relate to mining and thus mine closure. Professor Rae Mackay is the director of GHERG, with respect to hydrogeological research and modelling. AGL Loy Yang is contributing additional funding to GHERG for research into rehabilitation to assist with mine closure planning;
71. The principal functions of CRV (previously Clean Coal Victoria) include Strategic Planning, Regional Environmental Planning, Research and Investigations and Engaging with Industry, the Community and other key Stakeholders. These functions are described on the website <http://www.energyandresources.vic.gov.au/earth-resources/victorias-earth-resources/coal/strategic-resource-planning> as:
- (a) **Strategic Planning** - Strategic planning for coal which addresses issues such as the next generation of coal mines, new technologies, water use and supply, future coal demands, carbon dioxide capture and storage needs and will support new infrastructure requirements;
 - (b) **Regional Environmental Planning** - CRV's regional environmental planning involves analysis and advice on environmental issues and requirements. Planning for long term mine rehabilitation, subsidence management and protection of ground water resources are also key responsibilities.
 - (c) **Research and Investigation** - CRV undertakes research and investigation to help define the quantity and quality of brown coal reserves to support resource planning and use. This is done using field activities such as drilling and sampling, other data acquisition techniques, and analysis to develop precise, detailed maps using the latest 3D technologies.
 - (d) **Engaging Industry, the community and other key stakeholders** - Industry, communities, local government, employee groups, research institutions, investors, environmental organisations and other key stakeholders are all engaged to provide feedback that helps inform coal development decisions. CRV also helps to reduce land-use conflicts and plays a key role in working with the community and industry to attract new investment to the region.

72. I note that the regional environmental planning function includes work on long term mine rehabilitation issues. AGL Loy Yang supports the coordination work of a coordination body such as CRV in relation to long term mine rehabilitation.
73. SRW and the CMA both have a role in managing water resources within the Latrobe Valley.
74. The CMA regulates and manages the water resources within the Latrobe Valley. Under the *Water Act 1989* the CMA has regional waterway, floodplain, drainage and environmental water reserve management powers in relation to the Latrobe Valley.
75. SRW is the manager of rural water for southern Victoria. Within this role SRW delivers water to irrigators, harvests bulk water for rural and urban use, and licenses and monitors extractions from surface and groundwater systems. SRW further licences the construction of farm dams and groundwater bores.
76. Given SRW's role in managing the bulk entitlements and the groundwater licences for the Latrobe Valley, AGL submits that SRW remains the appropriate body to undertake co-ordination of water arrangements.

N. EPA FINANCIAL ASSURANCE FOR LANDFILL

Current use of the AGL Loy Yang landfill for ash disposal

77. AGL Loy Yang currently transports ash slurry by pipeline from AGL LYA and accepts ash slurry from LYB into its ash ponds. Leached ash accumulates in the ash ponds and is periodically transported to the EPA licensed landfill areas.
78. The licensed landfill areas are located within the boundaries of the Mining Licence MIN5189, and are part of the overburden dump. The overburden dump contains clay materials, interseam materials and some waste coal that did not meet the quality specifications for use in power generation.
79. In the past AGL Loy Yang has run the two ash ponds so that one ash pond is receiving wet ash slurry and the other contains dried out leached ash that can be transported to the landfill by excavator and truck.
80. AGL undertook an EPA approved trial in November 2014 to transport wet dredged leached ash to a cell in the landfill. The trial was successful with positive results in a reduction in turbidity through the SWOP saline water system, a reduction in fugitive dust and reduced OH&S risk. AGL intends to engage further with the EPA regarding the potential for further wet dredging and disposal, given the positive results.

EPA Licence and the Mining Licence

81. AGL Loy Yang holds an EPA Licence (11149) with a general condition LI_G6 which requires it to maintain a financial assurance for the landfill area calculated in accordance with the EPA method.
82. Schedule 1B to the EPA Licence shows areas of leached ash dump sites and wet dredged leached ash dump sites. These licensed areas are located on the overburden dump.
83. AGL Loy Yang notes that a financial assurance is not required for landfills which receive only mine waste. The AGL licensed landfill area contains ash material from the power stations placed into cells in the overburden dump, and so the EPA may require it to hold a separate financial assurance for the licensed landfill areas.
84. The overburden dump is included in the approved rehabilitation plan under WPV 2015 and the Mining Licence. In general terms the rehabilitation plan for the overburden dump (including the licensed landfill areas) addresses capping, placement of topsoil, and revegetation.

85. The rehabilitation bond required under the MRSD Act secures the rehabilitation of the landfill areas as part of the Mining Licence area.

Type of financial assurance appropriate for the AGL Loy Yang landfill

86. AGL Loy Yang understands that the EPA determines the type of financial assurance appropriate for a licensed landfill by having regard to:
- (a) the financial standing of the operator;
 - (b) the level of certainty that the type of financial assurance will enable funds to be called on when required, including in an insolvency situation; and
 - (c) the feasibility of the type of financial assurance for the particular operator.
87. Given the differences in types of landfills that are encompassed by these provisions that there is no one size fits all solution and that in deciding the form of assurance the EPA should have regard to:
- (a) the balance sheet strength of AGL Loy Yang Pty Ltd and AGL Energy Ltd;
 - (b) the nature of the private landfill operation which does not depend on the payment of fees for disposal of third party waste for its financial viability, and is linked to the ongoing operation of LYA and LYB which provide an essential service and in combination generate 50% of Victoria's electricity; and
 - (c) the financial assurance that is given in relation to the Mining Licence (currently the rehabilitation bond) and the potential for duplication in the assurance given that the ash waste has been disposed of together with mining waste in the overburden dump.

Calculation of the financial assurance for the landfill

88. I understand from my inquiries that over the years AGL Loy Yang has had a series of discussions with the EPA regarding the calculation of the financial assurance for the landfill.
89. In 2012 AGL Loy Yang sought guidance from the EPA regarding the calculation of the financial assurance. AGL Loy Yang does not have records of the EPA responding to its request to meet about this issue.
90. AGL Loy Yang will participate in the discussions with the EPA in 2016 regarding the financial assurance for the landfill, as part of the review of financial assurances proposed in the Supplementary Statement of Christopher Webb at paragraph 34.
91. AGL Loy Yang understands that the EPA will provide further information to AGL regarding its financial assurance requirements as proposed in the Supplementary Statement of Christopher Webb at paragraph 35. AGL considers that a number of matters will require clarification with the EPA, including the calculation methodology.
92. The draft publication *1584 – Financial assurance calculation for landfills, prescribed industrial waste management (PIW), container washing and PIW composting* does not appear to contain matters relevant to the calculation of a financial assurance for the AGL LY Mine landfill which solely contains ash from AGL LYA and LYB. For example landfill gas risk, leachate extraction and collection, and illegal dumping are risks that are not relevant to a privately owned and controlled landfill that contains ash materials but not general waste.
93. In these circumstances it is likely that the EPA will need to determine the amount of financial assurance if any on a case-by-case basis by assessing the potential costs of clean up, remediation and aftercare associated with the activity.

Dated: 4 December 2015