

TRANSCRIPT OF PROCEEDINGS

CORONER'S COURT OF THE  
AUSTRALIAN CAPITAL TERRITORY

MRS M. DOOGAN, CORONER

CF No 154 of 2003

CANBERRA

INQUEST AND INQUIRY INTO  
THE DEATH OF DOROTHY MCGRATH,  
ALLISON MARY TENNER,  
PETER BROOKE, AND DOUGLAS JOHN FRASER  
AND THE FIRES OF JANUARY 2003

DAY 60

Monday, 24 May 2004

MS CRONAN: I call Jane Smyth.

5 <JANE NEWTON SMYTH, SWORN

<EXAMINATION-IN-CHIEF BY MS CRONAN

MS CRONAN: Q. Would you please tell the Court your full name and your current occupation?

10 A. Jane Newton Smyth. I'm a consultant.

Q. Where do you currently reside, Ms Smyth?

A. 35/10 Hopegood Place, Garran.

15 Q. Where were you residing prior to 18 January 2003?

A. 30 Chauvel Circle, Chapman.

Q. How long had you lived at 30 Chauvel Circle?

20 A. About 28 years.

Q. Who did you live there with?

A. I lived there with my husband and our youngest son who still had our address as his home address.  
25 He was in London at the time.

Q. You had been there during the December 2001 bushfires?

A. That's correct.  
30

Q. Were you concerned about any threat to your area during the 2001 fires?

A. Could you just repeat that, please.

35 Q. Were you concerned during the 2001 fires about any threat to the area that you lived in?

A. I was in Sydney on the day of the 2001 fires. But my husband was working in Curtin, and he let me know that there had been that panic in Curtin  
40 when the fire moved through there. Also he had been aware of the proximity of fires in Holder, I think it was, because he could see smoke from our house in Chapman.

45 Q. As a result of that experience, did you go about organising some preparation for some potential threat to your area from bushfire?

A. Yes, we did. On that Christmas Eve in 2001, my husband returned from work to Chapman and realised that there were no neighbours at home at the time. Most of them had left for Christmas to be with their families in other places. He was concerned that there was some risk, although it was minimal. But he said, "I think in future for the Christmas holiday period when we all leave, we should be giving our contact details to any neighbours who stay behind so that, if there were a threat, we could contact people who had left their homes and let them know." We thought a little bit about that and thought, "Well, if we are going to that trouble we should take it a step further. If we are going to be neighbourly, we should find where people have hoses and taps." We started to think along those lines a little.

Q. What did you actually do following those considerations in terms of organising the neighbourhood?

A. We thought the best way to go about it would be to collect the neighbours just informally and briefly to see if everybody agrees to our idea. We weren't bosses of the neighbourhood. We thought while we were doing that we might as well inform ourselves - I suppose it was sort of you know what to do until a fire service gets there - some information. We weren't doing proper fire training but we just thought there were things that we should know about protecting ourselves and our property in the event of fire.

Q. Did you contact somebody at ESB to organise that?

A. Yes, we did. I contacted Emergency Services Bureau and I was directed to Roberta Liddell. I think her role is community liaison or something like that. She gave me contact details for Simon Katz of the Rivers volunteer fire brigade, and I spoke to him.

Q. Did you understand from Ms Liddell that his brigade would be responsible for your area if there was a bushfire threat or was he just a contact you were given?

A. I understood from someone, I am not sure

whether it was Roberta Liddell or Simon himself, but we could almost see their position on the Cotter Road. We were aware of their proximity to us.

5

Q. So you contacted Simon Katz?

A. I did, and he agreed to come to a meeting at our home one Sunday afternoon. I asked him if he would think about talking to us about what to do to protect ourselves and property in the event of a fire. We set a time for the meeting, and I asked him if he would come a little earlier and just look at the lie of the land and where we were positioned, because some of us had anxieties about our accessibility for fire vehicles. We wanted him to look and tell us how they would approach, just what the routine would be for them. So he did all that.

20 Q. That was in approximately November of 2002?

A. That's correct.

Q. How many residents of Chauvel Circle attended that meeting?

25 A. I think about 17.

Q. What were you told at the meeting?

A. Simon prepared a really good little statement. I think he spoke to us for between 10 and 20 minutes. He talked about the nature of fire and how it moves. He talked about the fire services and their different roles, so we were aware there was an urban service and a bushfire service. And he talked to us about protection in the event of fire. The thing that interested a lot of us, I think, was that he talked about the course of a fire and how it would move and how we might respond to it at different times until the fire service arrived.

40

Q. What did he tell you about how to respond to the movement of the fire?

A. We had instructions which were to remain - I remember feeling very confident that we would remain until called to evacuate by the police, and that was the safest thing to do. To handle spot fires, if we could, or fires caused by embers.

But if a fire front came through, it was something that moved quite fast and that you could go into a house at that time, close the doors and windows, and you would have protection inside the house for  
5 some time.

And then after the fire front passed, you could go out of the house again and continue. I don't know whether the words "mopping up" was used or that is  
10 my imagination, but you could go back to the sort of activity you were doing before. I remember we were told, if we needed to do that, to take our hoses with us as we entered the house because they were at risk of being burnt if they were left  
15 outside.

Q. So at that meeting or following that meeting, did your neighbours all agree to swap contact details for the holiday season?

20 A. I think there was general agreement that we would do that. I must say it was a fairly informal meeting. I mean it had moments of light-heartedness because we had some - it wasn't just Simon and Rivers. I think there were some  
25 people who had from Parks and Conservation that Simon had invited to the meeting as a courtesy to them.

We were talking about how they would know there  
30 was a fire. This was our worry: if we have a little grass fire, who would pick it up. They reassured us about all that and spotting towers, and we were all feeling very confident.

35 Someone asked how quickly they would respond to fires and, with that, someone's telephone went off. They got up and left the lounge room really quickly. We all laughed and said, "Was this a set-up?" It was quite theatrical and  
40 orchestrated - almost on time. It was in that sort of light-hearted mood and we finished with coffee. It was coming up to Christmas, and I think we had Christmas cake because it was a neighbourly gathering. People started talking to  
45 their neighbours. Then they left. So there was no formal agreement made. It was just a general agreement that we would swap addresses and

details. And we certainly did that with our two nearest neighbours.

Q. But you yourself were remaining at home for the Christmas period or did you go away?  
5

A. No, we went away for Christmas and we also went away on holiday at the beginning of January.

Q. When did you return from that holiday?

10 A. It might have been about a week before the fires or 10 days. We would have holidayed in the first week of January.

Q. So around about the 8th of January you returned?  
15

A. Yes.

Q. When you returned, were you aware that fires had started in the Namadgi?

20 A. I was aware that fires had started. I remember hearing about the lightning strike and the fires that had begun.

Q. Did you follow the progress of the fires over the 10-day period from the 8th to the 18th?  
25

A. Yes, I did.

Q. What kind of media were you accessing over that period?

30 A. We are great newspaper readers, so certainly the 'Canberra Times' on a regular basis, and ABC radio and television.

Q. Were you regularly watching the television and listening to the ABC on a daily basis?  
35

A. Yes.

Q. As at the evening of 17 January, did you have any awareness that there was any level of threat to your area from an impact from the bushfires?  
40

A. Yes, I was anxious right from the beginning, I suppose, because it was such a hot, dry summer and it seemed to me to be even worse than the year before - to my amateur idea. But mid-week I had watched and I had sort of felt slightly reassured by something that had been said about the controlling the fires. Because I had such  
45

confidence in the services that they would protect us that the lack of information we were receiving seemed to have the effect on me that therefore it must be all right, which in retrospect was quite  
5 dangerous.

On about the Tuesday evening, I woke during the night and I smelt smoke. I was quite alarmed by that. But I remembered being in Sydney at my  
10 mother's home in Killara and smelling smoke when there were fires in the Blue Mountains. I knew that the smell of smoke would travel a long way. The next day that seemed to have cleared.

15 Yes, we were very conscious by the evening before the fires. My husband actually went up to the hill behind and photographed the most dramatic sunset. I didn't see those photos until after the  
20 fires actually and I wondered if I had seen them, if I would have been more alarmed. But the fires were still a great distance from us then, and we had had fires over in that vicinity before. We had once watched fires that had come nowhere near Canberra, nowhere near the urban fringe.

25 Q. Is it the case that, while you had the concerns over the whole period, at that point you didn't think that they were going to impact on your house?

30 A. I didn't think they would impact in that way. I thought they were getting pretty dangerous and I was pretty concerned that they were still out of control. My concern was heightened, because I  
35 think earlier we had heard there was a worry that there were two fire fronts and the danger would be if they joined. And that did happen. I thought this is getting pretty serious now. I think I was just optimistic that something would happen or they would be controlled.

40 Q. So when you got up on the morning of the 18th of January, had you over that period done anything extra to prepare your house for a possible impact?

45 A. Yes. We had cleared gutters and things but, of course, in the hot dry weather gutters were filling fairly quickly from winds and dry leaves. We had looked around the house and done basic

things. We had done a bit of clearing but we did have a bush garden which was pretty dry. We thought about what could we do. With hindsight, there is always more that you could have done.  
5 But we had done the basic things.

Q. What did you do on the morning of the 18th of January?

A. I was planning to go out. I was planning to go to the Fyshwick markets and I was also planning to meet a friend. I cancelled first one and then the other because it just looked so dangerous. It was quite eerie. I can't remember why. I don't think I can describe why.  
10  
15

I mean it was incredibly dry. I think the humidity was about 4 degrees on that day. It was as dry and still and ominous a day as I can remember. My husband was working on that day, and I decided that someone should be at the house so I stayed there. But I do remember at one stage walking out onto our northern deck, looking at the smoke haze and saying out loud to nobody in particular, "I cannot wait for summer to end".  
20  
25

Q. Did you receive a telephone call from one of your neighbours who was holidaying at the coast?

A. Yes, I did. I mentioned that in my submission but I would like to clarify that a little now. In the submission I stated it as simply as I could. I will just elaborate a little bit. Our immediate neighbour Ron Forester and his family were on holidays, and we had exchanged contact details.  
30

He rang me and said, "What are conditions like and should we return home?" He was at a jazz festival on the north coast at the end of their holiday and they were enjoying this jazz festival. We talked just a little about that. I said, "Look, conditions really couldn't be worse. I can't imagine anything more highly dangerous than the situation we're in now. But we have heard nothing. There have been no warnings. I have been listening really carefully all day - I had ABC 666 on from quite early - I can tell you, Ron, we are in no danger or we would have told. I have been listening to the radio all day. I haven't  
35  
40  
45

missed an announcement. So why not finish your jazz festival - he was due to finish in an hour or two - and then come straight home." That is why I am clarifying my submission. I think I said I  
5 told him to come home. I gave that sort of proviso but I did say to him, "We haven't been warned so we are not in any immediate danger."

So I hung up the phone and, as I did so, the wind  
10 outside picked up. I remember seeing the trees moving right over. I thought, "This is just terrible." I rang him straight back and I said, "Whether there are warnings or not, Ron, just come home. Just get here." Then I hung up the phone  
15 again from the second conversation with him and, as I did, I heard on 666, "Chapman and Duffy residents are advised to return to their homes".

Q. That was the first warning you had had that  
20 day?

A. That was the first warning I heard.

Q. Can you tell the Court approximately what time that was?

25 A. I wasn't conscious of the time but I have tried to put it together. I think it was around 2.30.

Q. The only thing you recall about that warning  
30 was that Chapman and Duffy residents were to return to their homes?

A. Yes.

Q. Was the siren going on that morning?

35 A. I don't remember.

Q. So you rang your husband after you heard the warning?

40 A. (witness nods).

Q. Whereabouts was he; what suburb?

A. Curtin.

Q. What did you say to your husband?

45 A. I spoke to his receptionist and said, "Please tell Rick to come straight home".

47

Q. Then you contacted some neighbours?

A. Yes, I just quickly rang the neighbours. I had all their numbers close and I just chose five of them strategically and rang them very quickly and said, "Will you make sure that the person on either side of you knows there has been this warning."

Q. Were you aware whether they had been aware of a warning?

A. Some were, but a couple had no idea.

Q. So after you contacted the neighbours, you also tried to find an elderly neighbour who didn't answer the phone?

A. Yes. I was really worried about him because he lives alone and he wasn't answering the phone. After I had finished calling the neighbours, I phoned him again. Every 5 or 10 minutes as I went past the phone, I would just try him again until he did finally answer.

Q. What did you say to him?

A. I said to him, "Did you know there is a warning?" And he did know. He had been shopping at Cooleman Court at Weston and he had been told there. So he had returned to his home. But I was concerned that he was not safe. I suggested - no, I was quite bossy really - "If you are by yourself, you must come and be with us and stay with us," because he is able to drive. I said, "I can't come and get you because it is getting too dangerous. You must get in your car and come here." But he did have family in Canberra. I think the proviso was if they can't get to you, come to us. I didn't hear any more from him.

Q. You then proceeded to follow the training that you had received?

A. Yes.

Q. Apart from the training from Mr Katz, had you received any advice in the 'Canberra Times' earlier that week?

A. Yes, there was a good article in the 'Canberra Times' earlier that week. My husband Rick had cut it out and put it on the kitchen table for us both

to read. I had read it earlier that morning. It did repeat much the same information that we had learned at the training session.

5 Q. Things like fill your gutters and fill your bathtub?

A. Yes, and appropriate clothing to wear.

Q. So what clothing did you put on?

10 A. Leather boots, wool socks. We were told to wear cotton or woollen trousers and cotton or woollen pullovers, skivvies preferably with high collars, woollen head covering, gloves. Simon Katz had stressed attention to eyes, nose and  
15 mouth. So I knew I needed wet towels or nappies or something, and some eye protection.

Q. Did you have all those things available?

A. I got those ready during the morning.

20

Q. Did you purchase appropriate equipment after your meeting with Mr Katz?

A. No, we didn't purchase any equipment. We already thought we had quite good hoses and  
25 nozzles. We did consider backpacks and tanks but we discussed them with Simon. They were quite expensive, and I wasn't sure if I was going to be able to manage one. I thought I would need to practice and train and I think it being Christmas  
30 we put that decision aside. I think we thought we might later.

Q. So you filled your bath and wet down towels?

A. Yes.

35

Q. What else did you do in order to prepare?

A. I made sure all doors and windows were closed but the doors were not locked so we could get in and out of the house. I quickly ran around the  
40 perimeter of the house and either pulled inside or threw away any cardboard boxes that were outside the laundry door. I pulled inside light wooden furniture, and that sort of thing.

45 Q. Could you see any flames at all at this stage?

A. No. It was getting pretty dark, I think.

47

Q. Did you look towards the west?

A. Yes.

Q. What could you see?

5 A. It was just dark.

Q. So your husband arrived home?

A. Yes, he did.

10 Q. What did he do when he got home?

A. I mean, I think he was quite startled. He had  
been working in a cool pale blue air-conditioned  
room all morning and had no sense of this  
15 approaching danger when he got the call to come  
home. So he raced in, and the first thing we knew  
to do is that he should dress appropriately, which  
he did.

We believed that we would get a call to evacuate  
20 from the police. He said, "I'll move my car and  
we'll get it ready to face down the driveway"  
because we lived high on Chauvel Circle. Because  
we thought the call would be imminent, he actually  
got the dog and put the dog in the car. We  
25 thought the call would come any minute and until  
such time we should stay there.

We didn't get a call to evacuate. As he was  
running to move the car, I said, "Why not grab  
30 some photo albums as you go out if you are running  
that way," so he took an armful of photo albums  
and put them in the car. We didn't get a call.  
The dog was in the car and the windows were open  
for him. I stood there for a minute and I  
35 thought, "We've had no call to evacuate. We might  
be here a bit longer. If the safest place for us  
is in the house, the safest place for the dog is  
too." So I brought him inside and put him in the  
laundry and said to Rick, "He's now in the house  
40 with us".

Q. What kind of dog did you have?

A. We still have him. He is being fostered - he  
is in foster care at the moment. A lovely black  
45 labrador.

Q. After you put the dog inside, what did you and

your husband do?

A. Spot fires were beginning. We were both outside and we were coping quite well. As embers came through they lit up agapantha plants in the garden and various other garden plants. We were  
5 able to control those quite well with our garden hoses.

But an area behind the house burnt. There was  
10 some grass up there. I don't know how important all the detail of this is, but TransAct had been through just before Christmas and put in cables and had made a huge mess of the grassland up there. There had been some controversy about  
15 that. As a result, Parks and Conservation had sowed sterile grass to hold the soil until they could plant native grass. That is my understanding.

20 The sterile grass had grown like straw. So when embers landed there it lit very, very quickly and the whole area was alight quickly. So Rick and neighbours had gone up there with sacks and bags - I think hoses probably didn't reach - to try and  
25 get that under control. I think Rick had been busy doing that and I had been busy doing spot fires around the house.

Then he joined me again and started doing the same  
30 sort of spot fire control. I said, "We've now got fire on four sides." Different things were happening, just low small fires, and I remember saying, "If you do those two sides of the house, I'll do these two sides" totally opposite. I  
35 thought I could manage that. We were coping reasonably well. In fact, I think we were coping very well. We even congratulated ourselves briefly at one point when we met, because I think the adrenaline were running and we were moving  
40 pretty fast for people our age. I was quite athletic.

Q. Did you actually see the fire front coming?

A. No, I don't think I did.  
45

Q. What happened?

A. I moved on to our front north-facing deck

because there was some vegetation just below it. By standing above it, I could work on it with the garden hose. The land falls away and below us along our neighbour's driveway there was an avenue  
5 of conifers. They must have been about 25 years old, so very mature conifers. People probably know that with conifers the growth inside is almost dead and the green is on the outside.

10 I heard a sound, it must be the same sound that people described as the 747 arriving, it was a great sort of "vroom" sound, and I think it was the fire front hitting that line of conifers. That's what it sounded like. Then they seemed to go up  
15 like a row of haystacks, and the wind blew all the sparks right over onto our place. It was just like a shower of fire.

Q. What was the wind velocity like at that stage?  
20 A. High.

Q. Where was your husband when that came through?  
A. He was fairly near me. When we heard this loud sound and there was this shower of sparks, I  
25 can actually remember seeing a tree that was on fire move across the sky in a sort of trajectory. Rick yelled "get inside". As I said, the doors were already open, so we backed into the house through a sliding door.

30 I remember the sparks all came in with us. We had redecorated the lounge room - it is funny when you think about these things - there was a wool carpet. The sparks came in onto the carpet, and I  
35 was busy stamping them out thinking, "damn, new carpet".

Q. You got all the sparks out inside the house?  
A. Yes, I got them out, closed the door and stood  
40 there quietly. The lights were on in the house. I had put them on earlier because it was so dark. I had seen a neighbour had lights on and I thought that was a good idea. There was this surreal situation.

45 I think I said in my submission that I had been so nervous in the morning I had spent it cleaning and

scrubbing the house, which is quite atypical for me. I am not a good cleaner at all. It was looking really nice. So we were standing there in this tidy, clean lounge room discussing what we  
5 would do.

Q. What was happening outside the house?

A. It was just raging. The fire was attaching itself to anything that would burn. Then I think  
10 I saw the window frames beginning to burn. We were just standing quietly because I think we were trying to remember how far it takes for a fire front to pass. We were saying, "Is it 5 minutes or 10 minutes; are you sure it is not 15?" We  
15 were having this very calm conversation and trying to remember what we should do then.

Then Rick said, "Jane, the glass is cracking. There are runs in the glass". I looked and all  
20 the windows were patterned with runs. I thought any minute that glass is going to break and fall in. I thought the fire might race into the house. Rick just said, "I don't think we've got a choice. I think we have got to go." We said "yes" and we  
25 moved really fast. He grabbed the dog. I think I yelled, "I've got wet towels in the bath. Grab them". He put one over the dog, one over himself and I grabbed one. We raced to get out because we weren't quite sure how much time we had. As it  
30 happened, I think we had longer than we thought.

Q. What did you go into when you went outside the house?

A. We tried to get out the kitchen door to cross  
35 a courtyard to where the car was, but there was a pergola there with a grapevine. It was dropping balls of fire. We weren't able to run through there in safety. So we went to the back of the house to the laundry. We could get out of that  
40 door but we couldn't run anywhere that was safe. That all seemed to be on fire too.

Either at the training session or in the 'Canberra Times' article or somewhere we had learned that  
45 you must run to where the fire has been. I think it was Rick who said, "Let's get to the front door because the fire has been there" because it had

come from that direction and had burnt there.

So we were able to get out the door. It was very dark and smoky. We didn't have a torch but we  
5 knew well enough. We had a bit of trouble getting out because it was very windy, and I had to hold the door open for Rick and the dog to help them out. I think for some reason I then went on ahead and I did hear Rick say, "The dog doesn't want to  
10 come". I went on and thought, "Well, I'll find the way out and he'll follow".

There was a gravel path beside the house so when embers land on the gravel there is nothing to  
15 burn. So through all of this sort of fairyland there was this dark black path I could follow, and I went up to the back of the house and waited there for Rick. That's where the grass had burnt earlier in the evening, the grass fire I had  
20 mentioned. And he didn't come. So I thought, "Now there's a problem. He's fallen" or "there is a problem with the dog." I waited and waited, and he didn't come. I thought, "I will now have to go back in and see what has happened."

25 I went down to go in but I was overcome by the smoke, and I couldn't get in. So I retreated again and I paused for a minute. I thought, "Well, I'll have to go." I just fixed up the nappy and everything again. I worked out what I  
30 was going to do when I got in. If he had collapsed from the smoke, I worked out I would have to get him under the shoulders and pull him down the steps and perhaps the dog would follow.  
35 But I wasn't too worried about the poor dog at that stage. He was just going to have to do as he was told.

I took this big breath and was just thinking, "I  
40 have got to race in and do it and get him out." As I went down to go into the front door, I saw this hooded figure in black coming up the path with the dog saying, "Where the bloody hell have you been!" We lost each other. That was the only  
45 really panicky part of it. So we were cross with each other for going in different directions. Then we were together with the dog and we went up

the back and sat there.

Q. What was the area where you sat like, was there flames or smoke?

5 A. No, there weren't flames. It was a grassed area that had burnt earlier. There was still a lot of sparks flying. You know, you were pulling sparks off your clothing, that sort of thing. There was still a bit of that. I remember we laid  
10 down for a few minutes. We didn't feel safe to sit up but I think we only laid down for 5 minutes or so. Then it must have died down a bit, we could sit up and have a look at what was happening.

15

Q. You still had your wet towels around you?

A. They were pretty dry by then, I think.

Q. So when you sat up --

20 A. We had water with us. We had learnt that and we had water bottles with us. I had grabbed those as I left the house. Simon had said a couple of times, "It is very thirsty business. You must have water." So I had filled water bottles as  
25 part of that early preparation.

Q. What you could see when you sat up?

A. Well, our house was burning quite slowly, which was a bit disturbing because we left it  
30 because we were in danger. It was certainly alright, but there was the terrible temptation to go back in because I had left my handbag with wallet and driver's licence and precious family photos and jewellery all ready to be evacuated in  
35 the house. We hadn't been able to get it. I hadn't had time to take it with me.

I remember Rick saying, "Do you think there is anything else we could do?" But the hoses, of  
40 course, had burnt by then because in racing into the house I hadn't been able to get my hose off the tap. We had no water. And it did seem dangerous. I think I said - I'm not sure, Rick is at the back of the court - "if you go back into  
45 that house, it is over between us" or something like that because I just thought, "We have got out. We are safe. Why go back."

We had had a conversation. Our youngest son who I mentioned had his home address at our place but was in England at the time. He had been home and had visited a friend in Melbourne who had been  
5 burnt in the Sari Club bombing in Bali. I had heard him have a conversation with Rick in the kitchen in about November when our early fire talk was happening - no, it must have been later than that - anyway I remember Rick saying, "Burns are  
10 really dangerous. They are painful and they are difficult to treat." And I remember thinking, "If I am faced with that, I am not going to be brave. If I am faced with burns, I'm running," which is what I did.

15 We weren't keen not to go back. It just meant we had to sit and watch the house burn rather slowly. It was a concrete slab construction and a metal frame and it had a metal roof. So our house was  
20 burning slowly but then other houses began to burn very quickly. We had to sit and we watched - I mean, it was surreal and we were part of it. We weren't scared because we had just survived.

25 I mean, we just talked really about what was happening. We would see ominous flames come out from under a roof of a house and then we would see that take hold of the house. Then after a while, the roof would fall in or there would be the  
30 explosion of a tank. It seemed, you know, first there was one house and then the other and then another. We were saying, "This is crazy. We are sitting here watching a spectacle." We were like spectators somewhere. The land sloped down, and  
35 we had dress circle seats. It was weird.

A neighbour appeared through the smoke. We had already spoken to them when we had got out of the house. She appeared through the smoke with a tray  
40 with smoked salmon sandwiches and long cool drinks. We sat up there and Rick said, "I think we are eating smoked salmon". We were just helpless. I would say, "There goes the so and so's house. Oh there's so and so's. Oh, no,  
45 that's so and so's." I remember turning to Rick and saying, "This is a disaster. This is not just us. This is a disaster."

Q. How long did you sit there for?

A. I don't know how long we stayed but I remember at one stage Rick said, "Do you know it is only 5 o'clock." We felt we had been up there for 5 hours. It was so black. It was like midnight. There was this tomato red moon it looked like in the sky, but of course it was the sun. We would have stayed after 5 o'clock. I do remember 5 o'clock.

10

Q. Did you see any other of your neighbours whilst you were there?

A. When we left the house we saw our neighbours Lib and Bob Allison. Their address is Monkman Street and they had been to our training session because their property backs onto the hill as ours does. They were very successfully coping with the fire. They were doing what they had learned in the training session, too. They had had to fight 20 their fire first on one front, and then another and then another. They had managed. They had some help from a cousin who had army service and experience.

25 They were doing really well. We said, "Hello" to them. I think we had hugged each other. Then we had said, "We'll sit over there on the hill. Please call us if we can help". But they had only limited resources too. There were no spare hoses 30 for us to do anything. And Rick's eyes were quite sore, so we just sat there. We couldn't go anywhere. It wasn't safe to leave.

Q. How did you eventually get out?

35 A. We had sat watching Rick's car, which he had moved so we could evacuate. We thought it was going to explode any minute because the windows were still open in it. We had had them open for the dog. There were so many sparks flying. We 40 thought any minute a spark is going to go in, ignite the interior and it will go up. We hadn't been keen to go near it in case that happened.

45 Rick had said while we were sitting up on the hill, "You will never believe this but I still have car keys in my pocket." Later he went down and had a look at the car and came back and said,

"I think the car is driveable. I think we might be able to get out." When it was safe. I don't know what time this was, but all the fire had died down. Everything was very hot, like hot coals and  
5 burning, but there weren't the flames there had been earlier. We just had to be careful because powerlines had fallen and there were wires everywhere. So we trod very carefully, got down to the car, and it started and we drove out.

10

Q. How did you drive out of Chauvel Circle; what route did you follow?

A. Chauvel Circle is a one-way circle, so we followed the traditional route. I think I had  
15 spoken to a few people beforehand. There were a few neighbours looking rather stunned and walking around. We checked on the elderly resident. I couldn't find him but I could see that he had had help. There were cars there with backpacks with  
20 water. His children live out of Canberra, and they have bushfire fighting experience. So I guess they had come to help and they had saved his house. I wasn't worried about him then. We drove around the circle and down into Monkman Street. I  
25 think I said in the submission that was the first time we saw any help. There were two policemen on the corner.

Q. You stopped and spoke to the policemen?

A. Yes. I just thought we better find out if  
30 there is anything we should do. When I saw the police I thought I suppose they have got to do a head count and work out who is here and who is not. We better be cooperative. So I stopped and  
35 said, "What should we do?" He said, "You are to go to Phillip College to an evacuation centre."

Q. And you drove then to Phillip College?

A. I asked the police how we should get there. I  
40 could see the fires were pretty extensive but I didn't know where they were. I said, "How should we get to Phillip College?" He said, "You can't go through Weston because Weston is on fire too." I thought, "That's really helpful. I won't go  
45 through Weston." So we said that we will go drive south as far as we can, thinking it would be safer there, and then we will go directly north across

to Phillip College. So we headed down through Waramanga.

5 Q. What was the traffic like on the route that you took?

A. There was no-one much about at all.

Q. This was some time after 5 o'clock?

10 A. Yes, it was probably - I can't even guess, but it was well after 5. It could have even been 7.

Q. When you arrived at Phillip College, what did you do in terms of registering?

15 A. When we arrived at Phillip College it was surrounded by buses, which I couldn't understand, but they were evacuating Phillip College because it was then in danger. We could look up the Lyons hill and see the fire up there moving down. We were met there by Rick's partner, Colin Rickard,  
20 who had been looking for us. We had someone to go with and somewhere to go.

It was a very chaotic scene. We didn't get too far inside the college because there was a  
25 first-aid team leaving. They were moving to Narrabundah College. A woman looked at Rick and at his eyes. She reached out her hand and said, "You're coming with me". She took him and gave him first-aid for his eyes. Then she did the same  
30 for me.

There didn't seem to be much point in going inside because people seemed to be leaving. We went to Colin Rickard's house. Then I think when we  
35 thought about it a bit, we thought we will have to register. So we went across to Narrabundah college and just gave our names and addresses.

Q. You stayed the night with your friend's?

40 A. With Colin Rickard, yes.

Q. Since that time, have you thought about whether or not you want to rebuild?

45 A. Initially we wanted to rebuild and we had already started thinking about the sort of house we would build. We were keen to return to the neighbourhood. Then as time went by, we thought

we have adult children living in Sydney; we have older family members living in Sydney; and we visit Sydney a lot. Our weekends would often be taken up with going to Sydney and we might not  
5 have the time or the energy, perhaps, to rebuild. So we have decided not to do that.

Q. How have you managed to recover since the 18th of January?

10 A. I think we've managed quite well. We've had enormous help from family and friends and the ACT Recovery Centre. We have just, I think, probably experienced the same pattern of trauma as other people, ups and downs, but we've had a lot of  
15 help.

Q. Are there any issues that you wish to raise in the coronial inquiry involving your experience on January the 18th?

20 A. I said in my submission that the thing that continues to disturb me is the lack of warning. Initially I just thought that this was, and I still do think that this was a disastrous fire and it was beyond the capabilities of all the fire  
25 services on the day and that no-one could have anticipated that it would be as great as it was.

But I do not understand why we were not given proper information in the week leading up to the  
30 fire. I cannot understand why we were not given warning. When we arrived at Phillip College evacuation centre on the night of the fire, I couldn't understand how an evacuation centre had been set up so quickly. Then a friend of mine  
35 told me she had been called at 9 o'clock on Saturday morning and asked to take part in manning an evacuation centre.

I was quite angry. I thought I would have liked to know that. I wanted information. The warning  
40 didn't have to tell me exactly what to do, but I would have liked to know that an evacuation centre was being set up. That would have given me the information I needed.

45

And also I heard later that someone had been called to the Emergency Services Bureau on Friday

the 17th to take part in phoning rural residents. I am not sure of the nature of that, but I think it was something to do with that they might need to evacuate. I would have liked that information  
5 too. It would have told me a lot.

I have had this conversation with Mr Castle and said that I think Canberra people have a high level of education. They can process information.  
10 Women took a huge role in those fires in defending their houses and making decisions, and we are quite capable of handling information too. It doesn't have to be technical fire type information.

15 I think we really have to look very carefully at what we can do in the future, perhaps with staged warnings. I was bold enough to do an amateur's job in my submission of suggesting what that might  
20 be - but it is only an amateur's job. I just thought if there were 5 levels of warning, we could have been on level 3 all week and gone to level 4 on Saturday morning. And by Saturday when the fire came through only able-bodied people  
25 ready to fight the fires should be in there.

Q. That ties in with your first suggestion on page 4 of your submission that you consider that you must all be involved in protecting yourselves  
30 and your property; and you would hope education and planning in residences, neighbourhood schools and workplaces, in order to be able to do that?

A. Yes. I must say that the information and help we had from Emergency Services Bureau in putting  
35 that little training session together was very good. They gave us very good printed information which we were able to use. But I thought when I rang them that other groups would be doing the same. I think there would be a lot of people  
40 wanting that information, but apparently that was not the case.

But that was useful. I can remember seeing Mr Castle after the event and telling him how  
45 useful that was. We have got to have community education. You just can't expect authorities on a day like that to be able to be - I mean, we saw no

fire service; we saw nothing until right after when the fire was over and a helicopter came over that was taking water to some houses up in another part of Chapman.

5

But I can understand how that happened. I'm still following the inquiry with interest about the movement of vehicles. But people in the community have to be informed. I think that is now happening. But we will still need staged warnings. It is not enough for just neighbourhood groups to learn what to do. We still need a community that is aware of warnings.

10 Q. Firstly, you need to educate your community to be prepared to be involved in protecting their property.

A. Mmm.

20 Q. And then you need to give staged warnings so they know it is time to do it?

A. Yes - and for those expectations to be clear.

25 Q. Are there any other issues that you wish to raise with her Worship?

A. No. I don't think it is perhaps for this inquiry but I do think the role of the ACT Recovery Service has been excellent. That has been a huge help to people.

30

MS CRONAN: Thank you. I have got no further questions.

35 THE CORONER: Q. Mrs Smyth, you lived in that house for 23 years in the Chapman area. Prior to you organising of your own volition the briefing by Mr Katz in November 2002, had you had any other briefings or warnings or information provided in all the years that you had lived there by  
40 Emergency Services or any other organisation?

A. I don't think so. I don't remember.

45 Q. What about the December 2001 fires, did you have any information provided to you that you were aware of prior to those fires or around that time?

A. I'm not aware of any.

47

THE CORONER: I will see if counsel have any questions for you, Mrs Smyth. Yes, Mr Archer?

MR ARCHER: Yes, I have a few.

5

**<CROSS-EXAMINATION BY MR ARCHER**

MR ARCHER: I represent the Australian Federal Police.

10 Q. Thank you for your statement. It is very thoughtfully prepared. Just a couple of questions about it. Do you have it in front of you there? On page 1 you refer to the group of people that got together that Sunday afternoon. You say there  
15 were 17 residents, is that 17 households or 17 people?

A. 17 residents.

Q. So 17 households, as it were, were  
20 represented?

A. No. In some cases two people came from a household; in some cases one.

Q. So how many households do you think were  
25 represented in that gathering?

A. Maybe 15.

Q. You just commented that you thought that other people might have been doing similar things but to  
30 your knowledge that hadn't been repeated in other parts of Chapman?

A. Or anywhere. Well I just assumed that - look, a couple of years ago, I think it must have been the gentleman from Tharwa whose name I can't  
35 remember --

Q. Val Jeffery?

A. Yes. He had written a letter to the 'Canberra Times' warning about the dangers of fire and how  
40 this could happen again. I remember reading that and thinking that this guy knows what he is talking about.

We had had a conversation with neighbours about  
45 the possible dangers of bushfire to Canberra generally. I don't think we thought we were in any particular danger but I can think of suburbs

5755

like Aranda and O'Connor. I just thought in the dry summer, "We are not the only people that would be wanting information, other people will be too." So I was a bit surprised. I think I might have  
5 asked Robert Liddell at Emergency Services Bureau if other groups were doing the same, and I think she indicated not. She was very encouraging to us to go ahead, very encouraging.

10 Q. Turning to page 2, you weren't walking around or running around in the afternoon looking at your watch, but I want to tie some events down to some particular time periods. You indicated earlier  
15 that the radio warning that you heard was at about 2.30?

A. Yes. I could be quite unreliable with times. I think it might have been about 2.30 because Rick's 2.30 patient was in the chair at the dental  
20 surgery, and he couldn't continue with that treatment. So he had to apologise and say he had to leave. So I must have rung him just after 2.30. That's as close as I can get.

Q. Going down to the last major paragraph on that  
25 page, you talk about your early efforts to fight the fire. Do you know when that was, when the ember attack sort of started? How long after 2.30 was that?

A. I can just guess. Rick was probably home  
30 between 3 and quarter past 3, and everything happened pretty quickly after that. It might have been half past 3. I'm pretty unreliable with that, I'm sorry.

35 Q. On the next page, you have given some quite graphic evidence in relation to it but you were sitting up in that elevated position with a great seat to watch was going on. You were watching  
40 what was happening with your own house and what was happening with other people's houses. Did you see many people apart from the Allisons out and about doing things?

A. No, we saw no-one. That was an aspect of it. It was a very lonely experience.  
45

Q. You said you saw the older gentleman that you were concerned about come out of the smoke as it

were at one stage?

A. No, I'm sorry, that was Rick coming out of the smoke.

5 Q. The older fellow that you referred to, did you see him at all?

A. No. No, we didn't.

10 Q. And the Allison's in their attempt to fight the fire, they had hoses available to them?

A. They did. Yes.

MR ARCHER: Yes, yes, thank you.

15 THE CORONER: Mr Lakatos?

MR LAKATOS: I have no questions, your Worship.

20 THE CORONER: Mr Pike?

MR PIKE: No, thank you, your Worship.

THE CORONER: Mr Coleman?

25 MR COLEMAN: No, thank you, your Worship.

THE CORONER: Mr Whybrow?

30 MR WHYBROW: No questions, your Worship.

THE CORONER: Mr Walker?

MR PHILIP WALKER: No questions, your Worship.

35 THE CORONER: Mr Watts?

MR WATTS: No questions.

40 THE CORONER: No re-examination?

MS CRONAN: No re-examination.

**<WITNESS EXCUSED**

45 MS CRONAN: I call Niki Van Buuren.

**<NIKI RHIANNON VAN BUUREN, SWORN**

**<EXAMINATION-IN-CHIEF BY MS CRONAN**

MS CRONAN: Q. Please tell the Court your full name?

A. Niki Rhiannon Van Buuren.

5

Q. Where do you currently live?

A. Number 1 Dalgarno Close, Oxley.

Q. Were you living there on the 18th of January last year?

A. Yes.

Q. You had a horse at that stage; is that right?

A. Yes.

15

Q. What was your horse's name?

A. True.

Q. Where did you keep your horse agisted?

A. At the Canberra Equestrian Centre at Kathner Street in Chapman.

20

Q. Prior to 18 January were you aware that there were some bushfires out at the west of Canberra in the national park?

25

A. Yes, in the national park. I remember seeing just after they started three separate plumes of smoke from my backyard. At that stage I didn't think they were too bad.

30

Q. Did you follow the progress of the firefighting over the 10 days?

A. Not really.

Q. Did you have any information about what was happening with the fires as at the morning of the 18th of January?

35

A. I knew they were getting closer, but that was more that I could see the smoke. Particularly the day beforehand I was at Pine Island. That was in the evening. I saw bits of burnt leaves and ash were falling through the sky.

40

Q. Did you have a conversation with your mother that morning or at any stage that day about whether or not the horses would be safe from the fires?

45

A. Not until after the lady that we shared the paddock with had called us.

Q. Can you recall about what time she called you?

5 A. Mid afternoon, some time after 12. I can't remember exactly.

Q. Is that Ms Oldigs?

10 A. Yes.

Q. Did you then decide to check with the equestrian centre to see if it was safe to go and check on your horses?

15 A. Yes, I called the owner. I can't tell you the approximate time. It might have been 1.30.

Q. Did she tell you whether or not it was safe to go?

20 A. She said that nobody had told her to evacuate. The horses were safest where they were, because the paddocks were all dirt.

Q. Had she had any contact with the fire brigade at that stage, do you know?

25 A. I can't recall. She may have.

Q. Did you talk to your mum then about whether or not you should go and check on the horses?

30 A. I told my mum that she had told us that there was no need to evacuate. I was a bit reassured by that.

Q. What did you do after she told you there was no need to evacuate them?

35 A. We left it at that until Ms Oldigs had called us again.

Q. Did your mum speak to Ms Oldigs on the second call?

40 A. Yes, I didn't speak to her either of the times.

Q. Did your mum tell you what she had said?

45 A. Yes that Marg was worried.

Q. Do you know approximately what time that happened?

A. No.

Q. Did you call the equestrian centre again at that stage?

5 A. No, I only called them once.

Q. So what did you do after Marg Oldigs called and said she was worried?

10 A. We decided to leave. We were going to pick Marg up, but she called us and said she had been told to return to her house on the radio.

Q. Do you know where she was living at that stage?

15 A. She lives in Kambah.

Q. So you decided not to pick her up because she was returning to her house?

20 A. Yes.

Q. Where were you going?

A. We were going straight to the paddocks in Chapman.

25 Q. You went with your mum in her car?

A. Yes.

Q. Could you see any fire about as you drove to the paddocks?

30 A. Not as we drove but, when we reached the office in the paddocks, I saw a small grass fire behind our particular private paddock. I felt that we needed to evacuate the horses at that stage so I called Marg on the mobile phone to ask  
35 her to come and hook up the float.

Q. Did you have a float as well as Marg or was it just hers?

40 A. No, it was just Marg's float.

Q. So you needed her to get there before you could evacuate?

A. Yes, our car didn't have a tow bar.

45 Q. Did you feed the horses whilst you waited?

A. Yes, we fed them. They were very calm. They weren't worried about a little grass fire or

anything. We took our cues from the animals.

Q. When you were driving to the equestrian centre, did you have the radio on in the car at all?  
5

A. Yes. We were listening to 106, I think.

Q. Did you hear any warnings about the fire?

A. Yes.  
10

Q. What did they tell you was happening?

A. They told the residents of the particular suburbs - I can't remember all of them, but certainly Chapman and Duffy and all the suburbs in Weston Creek, they were saying, "Return to your houses."  
15

Q. You were driving to Chapman?

A. We were driving to Chapman.  
20

Q. So what did you do whilst you were waiting for Marg to arrive?

A. We were hosing down areas, filling up buckets full of water, getting leaves out of the gutters of the shed. We fed the horses. Mum was packing feed into the back of the car. I was getting bits of wood away from the sheds.  
25

Q. Could you see any flame at that stage whilst you were doing --  
30

A. Just the small grass fire.

Q. What were you wearing at that stage?

A. I must have had some sort of unconscious premonition because I had changed out of my work clothes and put on my leather riding boots and a thick good pair of jeans. I was wearing a cotton T-shirt.  
35

Q. You were wearing that?  
40

A. Yes.

Q. When did you first realise that you were in danger?

A. When Cooleman Ridge in front of us went up in flames, and we were surrounded.  
45

47

Q. How far away from where you were in your agistment paddock was Cooleman Ridge?

A. A couple of hundred metres.

5 Q. You saw the flames up there. What did you do when you saw them?

A. We continued preparing the area. At that stage we had decided to leave the horses in the paddock. When the weather started to close in a  
10 little bit more, we put the halters on the horses and we were preparing to lead them up to the indoor arena.

Q. You were still with your mum at that stage?

15 A. Yes.

Q. It was just the two of you?

A. Yes.

20 Q. Did you actually start leading the horses up to the indoor arena?

A. Yes, but we never actually made it out of our paddock.

25 Q. What happened whilst you were in the paddock?

A. The wind came up very, very quickly. I was leading Marg's daughter's horse, Sunny, and my mum was behind me with my horse. The horses were panicking, so we had no choice but to let them go.  
30 And they ran straight into the fire, as far as I know.

Q. What did you feel after they ran away?

A. I was knocked over backwards by the wind.  
35

Q. Did you know where your mum was at that stage?

A. No.

Q. Did you see the fire coming?

40 A. Not to my recollection. It was very dark. I couldn't see more than a metre in front of me.

Q. So what do you recall happening?

A. I was on my back. I couldn't see and I  
45 remember thinking that I was going to die at that stage. And then something told me to get up and run. So I managed to get up and run into the

stable. That was where my mum was.

Q. And you found your mum in the stable?

A. Yes.

5

Q. How long did you stay in the stable for?

A. I didn't have any sense of time at that stage. It was very loud, like a jet engine.

10 Q. Could you see what was happening outside the stable?

A. Couldn't really see much at all, but I think I remember flames at that stage.

15 Q. Outside the stable?

A. Outside the stable. After a while the roof of the stable blew off and we could see flames on the other side.

20 Q. Through the roof area you could see flames?

A. Yes.

Q. What did you do after you saw the flames through the roof area?

25 A. We knew we weren't safe there. I vaguely remember my mum saying, "We are not safe. We have to run," and that was exactly what I did.

30 Q. What did you see when you ran out of the stable?

A. I could see burning trees everywhere, didn't have much sense of anything else but burning.

Q. Do you know where you ran to?

35 A. Yes. I was going to run to the car. Then I saw the car in front of me and it was in flames. So I had to roll under the fence and run up the laneway. The laneway was blocked by a burning tree. It had fallen over. I had to jump over the  
40 tree and then keep running.

Q. Where were you trying to get to, Niki?

A. I was trying to get to the indoor arena, anywhere that was safe.

45

Q. So you kept running towards the arena?

A. Yes.

Q. Did you make it?

A. No.

Q. What happened?

5 A. There were two cars parked on the laneway. The car that was furthest up closest to the arena had a float attached to it, and it was on fire. The grass on either side of the laneway was also on fire, and I couldn't get past. So I stopped by  
10 the bonnet of the second car. There were people in the second car, and they got out and grabbed me and pulled me in.

Q. Did you enter their car?

15 A. Yes.

Q. They pulled you into their car. What was happening when you and these two people were in the car?

20 A. The lady in the front kept making me talk. We were in there for maybe 10 minutes or so, and then my mum came past.

Q. Did they bring her into the car too?

25 A. Yes. She was with two other people under a horse blanket. I didn't know that at that stage. I found out afterwards. When she found out I was in the car, she wanted to stay with me.

30 Q. So she stayed in the car with you?

A. Yes.

Q. Was the fire still outside the vehicle whilst you were both in there?

35 A. Yes.

Q. Can you describe what was happening whilst you and the other two people were in the vehicle?

40 A. It was very surreal. The lady kept going out and getting water out of a water trough that miraculously still had water in it. She was pouring water all over us from the drink bottle and telling us not to drink it because the water had gone bad. The three of them, the lady and her  
45 husband and my mum, were all telling me to breathe slower and keep talking.

47

Q. Do you know how long you remained in that vehicle for?

A. No. Lost all sense of time.

5 Q. Did you eventually get to the hospital?

A. Yes. We had called Emergency Services two or three times and they had said they were sending out a helicopter. After a while we did hear a helicopter thinking it was SouthCare. We later  
10 found out it was actually the fire helicopter 'Elvis' - I think it was 'Elvis'.

When the fire had died down and it was safe to actually get out of the car, the lady went out to  
15 find somebody who had a car that was actually able to be driven. They came back with that particular car. The five of us, including the driver of this car, piled into the car and we left the equestrian centre.

20

Q. And you were driven to Canberra Hospital with your mum?

A. Yes, we went up Kathner Street. There were trees on the road and powerlines on the road, and  
25 at one stage we had to drive on the footpath. Halfway down Hindmarsh Drive we were stopped by the police. The driver said he had burns victims to go to the hospital. They told us to keep going.

30

Q. When you eventually got to the hospital, what injuries had you sustained?

A. Very extensive burns to just about every part of my body. I didn't realise how badly I had been  
35 burnt.

Q. You were a short while at Canberra Hospital; is that right?

A. Yes.  
40

Q. Then you were moved to another hospital?

A. Yes. Concord Hospital in the early hours of Sunday morning.

45 Q. How long did you have to stay at Concord hospital for?

A. 10 months.

Q. You are still undergoing some form of treatment?

A. Yes.

5 Q. What kind of treatment do you have to maintain?

A. At the moment I have physio two times a week. I go to Concord Hospital - it started off every fortnight, then every month, and we now don't have  
10 to go back until July because my wounds have nearly healed up. I've got a couple of bits on my back that are a bit resistant at the moment.

15 Q. Niki, are there any issues that you would like to raise in the coronial inquiry?

A. Just the lack of warning. We were up at the horse paddock because we thought it was safe to be up there. We didn't know that we had to evacuate. We were not told.

20

Also another thing that I would like to mention was the owner of the horse paddock, when I rang her, she said that she wasn't about to go ringing a hundred people to tell them to evacuate. That  
25 sticks in my mind very clearly.

Other than that, I can't really think of anything at the moment.

30 Q. Just the lack of warning?

A. The lack of warning, definitely. On our way up we did not see anyone from Emergency Services. There wasn't anybody at the gate telling us to go back. It wasn't until after fires had been  
35 through that we actually saw some police.

MS CRONAN: Thank you, Niki, I have no further questions.

40 THE CORONER: Q. Ms Van Buuren, when you heard the report on the radio that Duffy and Chapman residents were to return to their homes and you were driving towards Chapman at that stage --

A. Yes.

45

Q. -- how did that make you feel driving that way?

A. I felt very uneasy. I'm quite an intuitive person and I go on my gut feelings. It made me feel very uneasy. I wasn't sure about going in but I had to make sure that my horse was okay.

5

Q. Did you feel that the information had been wrong from what you were seeing and where you were travelling?

A. I can't recall. I thought maybe it was odd that they were being told to go back to their houses. When I could see the grass fire, I immediately thought that we needed to get everything out.

15 Q. The lady who helped you, that was Mrs Trish Thomas?

A. Yes.

Q. Did you know her before then?

20 A. I knew her husband Richard by sight because he was were a couple of paddocks up from us, and I often said hello to him as I was riding past. But Trish I had not actually met previously.

25 Q. Have you had an opportunity to read Mr Thomas's statement or speak with him since?

A. Not yet. I would like to but I haven't had the chance to yet.

30 THE CORONER: I will just see if counsel have any questions to ask you, Ms Van Buuren. Yes, Mr Archer?

MR ARCHER: No, thank you, your Worship.

35

THE CORONER: Mr Lakatos?

MR LAKATOS: No questions.

40 THE CORONER: Mr Pike?

MR PIKE: No questions.

THE CORONER: Mr Coleman?

45

MR COLEMAN: No questions.

47

THE CORONER: Mr Whybrow?

MR WHYBROW: No, your Worship.

5 THE CORONER: Mr Walker?

MR PHILIP WALKER: No questions.

THE CORONER: Mr Watts?

10

MR WATTS: No, your Worship. Thank you.

THE CORONER: Thank you, Ms Van Buuren. You are  
excused. You are free to leave. Thank you for  
15 your evidence.

THE WITNESS: Thank you, your Worship.

MS CRONAN: Is this an appropriate time?

20

THE CORONER: We might take the morning  
adjournment.

**SHORT ADJOURNMENT [11.15am]**

25

**RESUMED [11.42am]**

MS CRONAN: Your Worship, I call Michael Connell.

30

**<MICHAEL DAVID CONNELL, SWORN**

**<EXAMINATION-IN-CHIEF BY MS CRONAN**

MS CRONAN: Q. Sir, could you please tell the  
Court your full name and your current occupation?

35

A. My full name is Michael David Connell. I am a  
commissioned officer in the Royal Australian Navy.

Q. What is your current address, Mr Connell?

40

A. We are now living back at 11 Eppalock Street,  
Duffy. We moved in on the 12th of March, after it  
was rebuilt.

Q. You were living at 11 Eppalock Street, Duffy  
on January the 18th, 2003?

45

A. That's correct, yes.

Q. How long had you lived at that address for?

A. Approximately 10 years.

Q. On that day who were you living in that house with?

5 A. My wife, Valerie Connell.

Q. Were you in Canberra from the 8th to the 18th of January last year?

A. I was.

10 Q. Were you aware that there were fires burning out in the Namadgi to the west?

A. Yes.

15 Q. When did you become aware that the fires were burning?

A. When?

Q. When.

20 A. In relation to Duffy or Chapman or the general area?

Q. The general area. Were you aware, say as at 8 January, that there had been lightning strikes and the fires had lit?

25 A. Yes, I was, yes.

Q. Did you follow the progress of the fires or the firefighting over the 10-day period at all?

30 A. Yes, by the news. Yes.

Q. What kind of media were you accessing over that period? Do you normally get the papers?

A. Yes, we get the papers delivered. I mainly watch the news on TV rather than read the newspaper. My wife does that.

35 Q. Your wife was reading the 'Canberra Times'?

A. Sure was.

40 Q. You were watching the news every night?

A. Yes.

Q. Did you listen to the radio at all over that period?

45 A. No, I don't listen to the radio very much at all.

Q. As at the evening of the 17th of January, did you have any level of awareness that the area that you lived in might be under some sort of potential threat from the fires?

5 A. Not on the 17th. No. Although in the evening you could see the glow in the distance, that was quite obvious. But, no, I was sort of quite confident that we were okay. We had no warning. The previous year when there were fires in the  
10 Duffy area, we had plenty of warning. Police came around and told us to be prepared, "sprinkler your lawns", things like that. I would assume that sort of program would have taken place again if the authorities saw any imminent danger.

15

Q. You woke up on the morning of the 18th of January. What did you do throughout the morning?

A. It was quite hot and we decided to go down to Woden to the shopping centre there. That's where  
20 we were until 20 past 2 or something like that.

Q. At 20 past 2, did you arrive home at Duffy or did you leave the shopping centre?

A. I think we left at about half past 2. I only  
25 know that time because we still have a docket from Woolies with the time on it. Give us 10 minutes to get to the car and then left. Yes, we arrived home at 2.30, 2.40.

30 Q. Did you have the radio on in the car when you drove home?

A. No.

35 Q. What was the traffic like when you were driving home?

A. About normal for that time of the week.

40 Q. As you drove into your suburb, did you notice any activity happening around the streets, people preparing their homes?

A. No.

Q. Did it just seem to be a normal afternoon?

A. No. That is not strictly correct. When we  
45 got home, our next-door neighbour, Di Chivers, she was hosing down her house. That's when we asked her, "What's going on?" She said it was getting a

bit uncomfortable, which it obviously was. There was a strong wind blowing and a lot of smoke. She said she was trying to contact her husband. I thought it was a good idea. I put on some shorts and runners, put the ladder up and checked if the gutters were all right, which I had already cleaned out about two months beforehand.

5  
10 Q. As you drove in, did you see any Emergency personnel, Fire Brigade or police?

A. No. That's not correct. We did in actual fact. We got stopped by a policeman at the junction of Eucumbene and Renmark. We asked him what was going on. He said he didn't really know but that they were evacuating Mt Stromlo as a precaution and could we go home via the back streets, so to speak, because they were closing off Eucumbene. Yeah, I did see him.

15  
20 Q. So you put on shorts and some runners?

A. That's right.

Q. And went up and checked your gutters, which were fairly clean at that stage, were they?

25 A. Yes. I cleaned them about a month, two months beforehand. Unfortunately, we had a large gum in the back and it fills the gutters up. I was well aware we had to clean them up so I did that pretty regularly.

30 Q. Did you have any other knowledge or information about how to prepare your home for a potential threat from bushfire as at that stage?

A. No, not that I can recall.

35 Q. How did you know to clean your gutters and fill them with water?

A. To me it was just a sensible precaution. I mean, fire can strike from any direction anywhere. It doesn't necessarily have to be a bushfire. It can come from, say, a gas leak or something like that.

40  
45 Q. So whilst you were on the roof with the hose, do you know what your wife was doing?

A. I think she was doing much the same thing. Also she was trying to contact Di's husband who

was playing golf. I suppose that was the best place to be at the time. But, yes, she was sort of helping Di doing the front of the house.

5 Q. Could you see any flames around the area whilst you were on the roof?

A. Yeah, I did. We have got a reserve in front of us. I saw the flames and sort of a grass fire. Then I felt burning on my body because the embers were coming down. At which point I looked around behind me and saw my back fence was on fire.  
10 So --

Q. What was visibility like at that stage?

15 A. Not good. Smoky. A pretty strong wind too.

Q. Was it getting black in your area at that stage?

A. Yeah. You could honestly say that day was turning into night, that was for sure.  
20

Q. So you saw that your back fence was on fire?

A. Yeah. Then I got down and ran around the front and that's where I met my wife. We tried to - how would I say it? - the fire was coming towards us. I thought, we will wet down more the front to stop it catching fire. Whilst we were doing that, the water sort of went off, so that became a useless exercise. Then I told my wife to, you know, go and open up the garage. She came back and said the power was gone. Somehow or other, I don't know how, I sort of lost contact with her, then I suddenly realised the whole street was on fire. It obviously came down from the direction of Somerset area, Eucumbene Drive.  
25  
30  
35

Q. Were there embers in the area at this stage?

A. Di was. Di grabbed hold of Val and put her into her car, that is Di's car, and drove off. A young lad who I think was the nephew of other neighbours came and grabbed hold of me and said, "Listen, your wife and your neighbour has just disappeared. They told me to get you and grab your car and let's go." I said "okay". I went back into the house. Earlier on when we came home, our cat came whizzing in like you wouldn't believe. I grabbed her and threw her into a  
40  
45

travel box. I grabbed that and put her in the back of the car and we left.

5 Q. You left with your neighbour's nephew and the cat in your car?

A. That's right. Just up the road we got stopped by another neighbour, that was Raelene Boyle from number 3 and she asked if she could come with me. I said, "Silly question. Jump in".

10

Q. She hopped in too?

A. Yes.

Q. Was your house on fire by the time you left?

15 A. I couldn't say that for absolutely certain. What I can say is it was full of smoke. As I said, I did want to try and retrieve some documents and things like that but, no, I couldn't.

20

Q. It was filled with smoke when you tried to?

A. Yes. I can only assume, and this is only an assumption of mine, but because the house was built - not on a block but - you know, built with floorboards maybe fire was under the house at the time, because that would have been pretty logical, as next door was on fire.

25

Q. So what route did you take to evacuate Duffy at that stage?

30

A. I went up to the top of the street. That's when my next-door neighbour's nephew hopped out. He saw some of his mates and said he would go with them. I said, "fair enough". I went towards the Duffy shopping centre. I think the service station was on fire. The police turned us back from there.

35

So I headed towards Cooleman Court. I went down Dixon Drive then over to - I have forgotten the name of the street into Cooleman Court hoping to see my wife Val and the next-door neighbour. But they weren't there. I can't recall who told me, but somebody said there is an evacuation centre at Phillip College, "If you go there you might find your wife".

45

47

Q. Did you go to the Phillip College evacuation centre?

A. Yeah, I went to Phillip. I was given a paper to fill out and to register. I looked around for  
5 Val. But the only person that I saw that I recognised was the neighbour from behind and the gentleman who lived on my right-hand side.

Q. So how did you find your wife again?

10 A. Well, eventually I left - I realised not much could take place at the evacuation centre. The resources were probably better looking after people who needed a bit more help than I probably  
15 needed at that time. So I went down to my daughter's place in Oxley. My daughter was in contact by telephone with my wife at the time.

Q. Where had your wife gone?

20 A. I can't recall. I think she went to the centre, I believe, first of all and then she went to Di's relations, or somewhere. I'm not too sure where it was, Curtin or somewhere like that.

Q. Did you eventually meet up with her again?

25 A. My wife was talking to my daughter as I drove into my daughter's place.

Q. Where did you stay that night?

30 A. I stayed with my daughter.

Q. After that, where did you find a place to stay?

35 A. We stayed with my daughter for about two or three weeks and Defence Housing put me in a place at Monash, just round the corner from her in Clive Steele Avenue.

Q. You were able to stay there whilst you rebuilt?

40 A. Yes.

Q. Were you or your wife able to save any of your belongings when you evacuated that afternoon?

45 A. Nothing.

Q. Are there any issues that you would like to raise in the coronial inquiry in relation to your

experiences on the afternoon of the 18th of January?

A. Yes. It has been said beforehand. The lack of warning. When you compare it with the previous  
5 year when the fires were around that area, it was just so well done. We were kept informed by the police. They struck me as being well led. They knew exactly what they were doing. We had directions all the time. So you felt that that  
10 again was going to happen.

But I got the general impression that the police weren't even being led properly or even informed as to what was going on. It is just a general  
15 feeling, because there was no real direction from anybody in authority. So it really was left to you to sort out your own problems, which I suppose is fair enough sometimes.

20 How can one describe it? You just got the feeling that there was no planning, no nothing, which is strange when you know it had been going for approximately two weeks and everybody was aware of that. And I would be the last person to criticise  
25 the individual firemen or the police. I think individually they performed very, very well but I just think their leadership was appalling.

Q. Apart from the lack of warning or apparent  
30 lack of leadership, are there any other issues that you would like to raise?

A. When I walk out of here I could probably think of a few but not at the moment.

35 MS CRONAN: That pretty much covers what is in your submission. I have no further questions. Thank you.

THE CORONER: Q. Mr Connell, you said you had  
40 received warning in 2001?

A. Yes, ma'am.

Q. How was that made known to you? How were you warned?

45 A. The police came around. I think, if I recall rightly, it was by loud speakers and knocks on the door by individual officers saying, "We have a

large fire in the area," which was pretty obvious that we did have. They just said, "We suggest you start gathering stuff that you will need if you have to evacuate and maybe to assist put on your sprinklers," and things like this. It was very, very well done.

Q. Do you remember when that happened? How long before the Christmas Eve and Christmas Day in 2001?

A. I can't remember the exact time, ma'am. I remember that we came out of Cooleman Court at the time you could see the flames - not see the flames but you could see the smoke. We thought we better get home, which we did. It was soon after that the police came around and said there was no imminent danger but be prepared. Get your clothes ready and other things that you want to take with you. Put on sprinklers, it might just help to keep the fire under some sort of control. As I said, it didn't happen. Then they came around to us afterwards and said, "Everything is under control".

Q. Were you expecting something similar in 2003?  
A. I would have expected something similar, yes, one way or another.

See, we were in a big shopping centre, Woden. I am sure the management would have put it over their PA system had they been told. But nothing there. I have heard it mentioned that it was put over at Cooleman Court. But our neighbour, Diane Chivers, when she was in there nothing was put over. She came out; she saw the smoke and the flames. That's when she tried to get hold of her husband who was playing golf at Fairburn and started watering down the house. Really she sort of expressed that concern to us by pointing to the smoke over in the Eucumbene Drive area, which was in a westerly direction from where we were.

Q. When you were going back from Woden, did you have any sense or appreciation of what was happening? Did you have any idea as to what you were driving back into or what might happen?

A. No. It was just after we got back home that

you did become really aware that things weren't right. It was just that feeling. Also the sky crane whizzed past the house just once. I thought for it to be so close obviously the fire was  
5 close.

Q. Did you hear any radio broadcasts telling you to go back or to leave?

A. I didn't hear anything, no.  
10

Q. You moved back in March?

A. March the 12th, ma'am, yes.

Q. There were a number of houses destroyed around you as well?  
15

A. From number 1 to 11 on our side every house went. Next door the Chivers, oddly enough number 13 --

Q. Survived?  
20

A. Yeah, survived. So maybe number 13 is a lucky number. The next house after that survived and the others went. Down to the right three houses went. And behind us the two houses survived. I would say about half of our block/street went up in flames. Two houses in Tarago Place which was nearby and two houses from the Serpentine which was in our area, you might say.  
25

Q. Are people moving back in?  
30

A. The lady who jumped into my car, Raelene Boyle, she is back in. We are back in. The people on our right, that's Dennis and Pauline Kurnda, they are back in. That is about all, I think. Another house up on the left-hand side.  
35

Q. Others are rebuilding as far as you know?

A. Some are rebuilding; some are not; I think some have found it is too hard, elected to take the insurance money and have gone to buy elsewhere and sell the land.  
40

THE CORONER: Thank you, Mr Connell. I will see if counsel have any questions for you. Mr Archer?  
45

MR ARCHER: Just a couple of brief questions in relation to timing.

**<CROSS-EXAMINATION BY MR ARCHER**

MR ARCHER: Q. Mr Connell, I represent the Australian Federal Police. You indicated on your questionnaire and in evidence that you got home  
5 from shopping at about half past 2?

A. Half past 2, yes.

Q. When did the fire actually hit?

A. I would say it would be about 3 o'clock, give  
10 or take a few minutes.

Q. You indicated on your questionnaire that you lost power at about that time?

A. Yes.  
15

Q. At about 3 o'clock?

A. Yes.

Q. You have indicated in your evidence just now  
20 that you lost some water pressure. Water wasn't coming out of the hose at the same rate. What time was that?

A. It wouldn't be much after when the fire sort  
25 of hit us, again about 3 o'clock.

MR ARCHER: Yes, thank you.

THE CORONER: Mr Lakatos?

30 MR LAKATOS: No questions, your Worship.

THE CORONER: Mr Pike?

MR PIKE: Nothing, thank you.  
35

THE CORONER: Mr Coleman?

MR COLEMAN: Nothing, thank you, your Worship.

40 THE CORONER: Mr Whybrow?

MR WHYBROW: Nothing.

THE CORONER: Mr Walker?  
45

MR PHILIP WALKER: Nothing.  
47

THE CORONER: Mr Watts?

MR WATTS: Nothing, thank you, your Worship.

5 THE CORONER: Any questions in re-examination?

MS CRONAN: No re-examination, your Worship.

10 THE CORONER: Thank you, Mr Connell. You are excused. You are free to leave.

THE WITNESS: Thank you, your Worship.

**<THE WITNESS WITHDREW**

15 MS CRONAN: Your Worship, it is proposed to proceed to play tapes for the remainder of the day. There are no more witnesses. Whilst all my friends are here, could I raise one issue in relation to Wednesday. There are currently no  
20 witnesses scheduled to give evidence on Wednesday and it may be an appropriate time, if your Worship were willing to do so, to have a view of the ESB headquarters' physical layout.

25 THE CORONER: If that could be arranged, that appears to a suitable day.

MR LAKATOS: I will pass that message on. My friend was good enough to speak with me earlier.  
30 Whilst I have not got an answer, I don't anticipate problems. We will try to arrange for that to occur. I will liaise with Ms Cronan about that.

35 THE CORONER: Perhaps the morning, if that is suitable. I am flexible, either in the morning or in the afternoon. We can make some arrangements. We can play the tapes, but we mightn't start until  
40 2 o'clock.

MS CRONAN: Thank you, your Worship.

MR PIKE: Before we do, there is one issue I would like to raise. It really is a logistics one. It  
45 concerns the evidence of Mr Trevor Roach. I wasn't here when the issue of Mr Roach being retained was raised. I will just raise it on

transcript, because my understanding doesn't carry it any further than what Mr Lasry had told us earlier on. What he said is - pardon my bending down, your Worship, it is to read it:

5

"Mr Trevor Roach, the former chief officer of the Victorian Country Fire Authority - was to be called - on issues of systems of command, control and application in the ACT, the suppression effort and also community safety and education."

10

Your Worship, I am conscious of the fact that until we get some briefing document which outlines specifically what he has been retained to comment on, and given, in other proceedings a long time, but in the context in this inquiry a short time, between now and the end of the inquiry, it may be of some benefit if we were to have some information distributed to all of us as to precisely what he is being asked to look at and precisely what he has been given to look at so we can be in a better position when his report is before us to prepare for it.

20

25

Otherwise, I am terribly conscious of the fact that it may be necessary for us to retain some expert to comment on his comments. If he has had a look at a huge amount of material, the time available will just be grossly inadequate. I raise it now, your Worship, no doubt just for your Worship and those who assist you to note, because I think we will need it in a fairly short period of time from now.

35

MS CRONAN: I will make some inquiries in relation to that, your Worship.

40

THE CORONER: I think it was always the plan that Mr Roach's report be made available some time beforehand. But I understand what your concerns are.

45

MR PIKE: I think a little bit of pre-planning on our part might assist in shortening things.

THE CORONER: Thank you, Mr Pike. Inquiries will

be made.

MR PIKE: Thank you, your Worship.

5 THE CORONER: Yes, Mr Walker.

MR PHILIP WALKER: Your Worship, last Friday I  
mentioned there are a number of matters that I  
wish to raise. If it is convenient, I will do so  
10 now.

THE CORONER: Yes.

MR PHILIP WALKER: I have written out that which I  
15 intended to raise. I have provided some of these  
copies around to some people but not to everybody.  
There is also a copy for you.

20 THE CORONER: Yes, Mr Walker.

MR PHILIP WALKER: Your Worship, I deal with the  
first point to begin with. I understand there is  
a similar application of this kind that Mr Watts  
will make in relation to another person, so it may  
25 be convenient for you to hear both of these  
submissions one after the other.

Some weeks ago, your Worship, I rose and asked for  
some particularisation of the statement provided  
30 by Mr Kevin Cooper who, in a debrief report in  
particular, he collected together a number of  
criticisms about the Emergency Services Bureau and  
the conduct of the operations against the fire.  
On that occasion, though I asked the matter of  
35 you, Mr Lasry rose and said he did not intend to  
obtain any further evidence from Mr Cooper. The  
matter really did not go very much further than  
that.

40 I asked my instructing solicitor to write to  
Mr Lasry in terms of the letter dated 10th of May  
of which your Worship has a copy.

45 THE CORONER: Yes, I have read that, Mr Walker.

MR PHILIP WALKER: Your Worship, I take it you  
have also read Mr Lasry's reply dated 13th of May?

THE CORONER: I have, yes.

MR PHILIP WALKER: The reason I rise, as I stated  
some weeks ago, is that it is near on impossible,  
5 in my submission, to deal with some of the  
criticisms recorded in Mr Cooper's statement  
without some measure of particularisation.

At times there has been some suggestion that  
10 people take objection to various things because  
there is some attempt to shut out evidence. This  
is exactly the opposite. This is in an effort to  
have what the evidence and what the facts are  
actually clarified.

15 This gentleman has come to Canberra once already  
and has been asked to return. What I do not wish  
to be in the position of having to do is - if he  
comes on the next occasion and gives some facts  
20 behind some of the material in his statement - to  
either inadequately represent my own client  
because I cannot take proper instructions to  
cross-examine the gentleman; or to rise and ask  
your Worship that his evidence be adjourned yet  
25 again so that time might be provided so that I can  
get some instructions on what the actual facts are  
which lay behind some of the criticisms in his  
statement.

30 I do appreciate, as Mr Erskine said on the  
previous occasion, that not all of the criticisms  
are ones which personally come from Mr Cooper. He  
has, as one might expect, collected a number of  
criticisms from a range of people.

35 There has been many an example of evidence by way  
of hearsay provided in these proceedings. That is  
not of itself exceptional in an inquiry such as  
this. But it means not only might he put some  
40 facts behind his own recorded criticisms insofar  
as they are recorded here, but that he may also  
provide some basis for the criticisms recorded  
where they have been obtained from other people.

45 Your Worship, within the letter from Messrs Hill  
and Rummery, I specified a number of paragraphs in  
the debrief report. So you might see them, the

document is [NRF.AFP.0085.0227] and the relevant pages commence at 0229.

5 As on the last occasion, your Worship, I don't intend to labour each and every point. One can pick any number of them - for example "that ESB would at no time support any strategy that included back-burning" - for instance may indicate when there was a request for that to occur, or  
10 where, or who was available. Matters such as that might put that criticism in context.

There are others "ESB appearing to be overwhelmed", the second dot point in  
15 paragraph 2.5. Third dot point:

20 "Senior RFS personnel suggested strategic planning for the significant impact on the urban interface of Canberra, Friday the 17th, pm, and on each occasion were largely dismissed".

I don't know exactly what is being referred to there and I'm not in any particular position to  
25 properly deal with it.

Your Worship, one can go through the other enumerated paragraphs. If there were allegations of that kind in any ordinary civil litigation  
30 there would be no question, in my submission, that one would be entitled to some particulars. Given the criticisms that are made, at least come in a document at least signed, if not personally endorsed but possibly personally endorsed by a  
35 senior New South Wales Rural Fire Service officer, they are criticisms which deserve close attention, in my submission.

Turning to the document headed "directions", my  
40 first submission to you is that you request counsel assisting to obtain a statement of evidence from Mr Cooper. In the letter from Messrs Hill and Rummery, it focused on what, in my  
45 view, were the most poignant parts of the statement. In my submission, the better thing would be to obtain a proper statement in the manner which has been obtained from so many other

people.

5 However, if your Worship were against me on that,  
then I press that there be some particulars  
obtained in the areas mentioned in the letter.  
That should not, in my submission, be a difficult  
task. It really does not warrant very much more  
than somebody from the DPP or on the team  
10 assisting you ringing the gentleman up, perhaps  
for half an hour to an hour, and putting the key  
questions to him and simply recording the  
responses. That might be condensed into some  
statement so we know exactly what those points  
are.

15 Alternatively, your Worship, that it simply be  
indicated that, on the basis of the paragraphs  
mentioned, nobody will be the subject of adverse  
criticism or comment based on those paragraphs  
20 alone. The alternative, as I have said, is that  
we face the prospect that the gentleman may come  
here and provide detail to those allegations which  
may in turn provoke an application for an  
adjournment. Unfortunately, we won't know that  
25 until we hear it as the document currently stands.

Your Worship, the next matters I wish to raise, it  
is probably better if I deal with points 2 and 3  
together. Let me say in the first instance, I  
30 have since been able to locate the passage in the  
transcript which answers the question raised in  
paragraph 2A. I do understand that the whole of  
the brief is before you.

35 The question which I am left with in a paragraph  
which I must say I am not really proud of having  
written, it is rather long and somewhat  
convoluted, but what I would like some direction  
on is whether you regard it as being open for you  
40 to make some adverse comment on parts of the brief  
which, though technically before you, have not  
been the subject of any witness being called; or  
in those cases where counsel has said, for  
example, I think Mr Lines from the Australian  
45 Federal Police, where he said he would put the  
statement in, unless somebody wishes the gentleman  
called for cross-examination. Then some New South

Wales Rural Fire Service people were in the same category.

5 If a person is not called or that procedure is not  
being used, I would like to know in clear terms  
whether a person might be the subject of criticism  
as a result of other material contained within the  
brief of which no specific mention has been made.  
10 There has been an issue raised before you on  
previous occasions of the extent to which we are  
entitled to assume that if nothing has been put  
from the brief that no adverse comment might be  
made. But in my perusal of the earlier transcript  
15 Mr Lasry did quite preserve his position on issue  
which I would broadly call Browne v Dunn sort of  
issues. That is the first point.

It may be that the indication one might ordinarily  
20 expect to get from cross-examination may not  
necessarily be there. I understand that  
your Worship has also indicated in the transcript  
on a number of occasions that you have read a lot  
of statements. I don't know whether you mean  
25 simply the statements of people who have come  
before the Court or whether it was other  
statements contained within the brief. I make no  
criticism of your Worship: if the brief is  
formally before you, there is no reason why you  
30 shouldn't read anything.

30 THE CORONER: I should clarify that I did, at the  
outset, ask for persons to make submissions. What  
I was referring to was that I have read every  
single submission that has, over the last period  
35 of time since the 18th of January, come in to me  
that has been addressed to me. That is what I was  
referring to. All of the submissions. Every  
single submission that has arrived and has been  
sent in by people who were invited to make  
40 submissions and who of their own volition have  
made submissions, I have read those. That is what  
I was referring to.

45 I can tell you now, as far as I am aware - and  
Ms Cronan can correct me - they are not all part  
of the brief, or what I regard to be the brief,  
all of those submissions. That's my

understanding. But that's not to say that I will  
take account of submissions that are not part of  
the brief in any ultimate determination that I  
will make. They are separate issues, as I see  
5 them.

MR PHILIP WALKER: I wonder if it might be  
possible to at least get a list of what those  
documents are. I understand what your Worship  
10 says. I appreciate that in documentary matters  
that affidavits are often read to determine  
whether parts of them are admissible. It is not  
unusual for somebody to read a document and then  
not take it into account. But one does ordinarily  
15 get some indication of what the document is. I  
don't know if I have frankly got that --

MS CRONAN: Could I just clarify that at this  
point: all of the submissions that have been made  
20 to your Worship's inquiry are in fact part of the  
brief.

THE CORONER: Thank you.

MR PHILIP WALKER: Thank you, your Worship. The  
reason I suggested that point 3 be taken with  
point 2 is that, if it be the case that it is open  
for criticism to be made of a particular person by  
reference to material which has not either been  
30 dealt with in either of the two ways I have  
previously mentioned, then in my submission,  
your Worship, some indication should be made  
available to parties, at least represented  
parties, as to whether they will be the subject of  
35 some criticism, or the areas in which they are  
likely to be cross-examined before they are  
actually recalled so some sensible instructions  
can be taken before that actually occurs.

I have also, in that respect, asked that if  
parties are being recalled, where they are  
represented they be called by their own counsel so  
that the instructions can be brought out in a  
reasonably prepared manner. In my submission,  
45 that would overcome some of the problem. If 3B  
were implemented it would overcome some of the  
problem of the potential for parts of the brief

possibly forming the basis for adverse comment without anybody necessarily knowing of that fact until the submission comes in.

5 Because as I apprehend it, when counsel assisting's submissions are made to you, we are not going to go back into evidence after them. My understanding is it is only a submission. Now that can only take one so far if there is in fact  
10 evidence on a particular point that might be led. So what I am trying to do, your Worship, is get a bit of an indication of where this might ultimately be going before the recall evidence takes place so that matters of evidence can be  
15 properly dealt with.

In that respect, your Worship, I have given you a copy of the Szwarcbord and Grayson v Gallop decision of the Supreme Court. Paragraph 10  
20 refers specifically to the ability of parties before a board of inquiry, but not really dissimilar to the present circumstances, your Worship where Mr Justice Crispin says:

25 "Yet the rules of natural justice apply to such proceedings and any person whose reputation is likely to be damaged by findings is entitled to due procedural fairness. For the reasons given in the other  
30 proceedings."

There they are in current proceedings:

35 "I am satisfied that procedural fairness would have required that findings likely to damage the reputation of either of the plaintiffs not be made unless he or she had been given a fair opportunity of being heard in relation to them."

40

Importantly, however, your Worship, his Honour goes on to say:

45 "Such an opportunity would have required them to be alerted to the risk of such findings being made, informed at least in general terms of the evidence upon which the findings

might be based and given the opportunity to give evidence and/or have submissions made on their behalf in relation to the relevant issues."

5

Now, I am not suggesting that in every single case it would be the circumstance where evidence might have to be given. But in an inquiry as large and complicated as this, that has to be a real possibility.

Your Worship, the final matter I have raised is that I have applied for your Worship to go on a view both of the ESB centre in Curtin - I understood your Worship said that you would be disposed to accede to that request.

THE CORONER: I will do that.

MR PHILIP WALKER: The second part of that request, paragraphs A and C relate to the scene of the fires. Your Worship has indicated that you have already undertaken a view. You have kindly indicated to me where you went. But apparently, your Worship, there was some notes of what you were told about various things at various places. Your Worship, in my submission insofar as that conversation related to matters directly relevant - I assume you only took notes of things relevant --

THE CORONER: I didn't take any notes at all, Mr Walker. They weren't my notes.

MR PHILIP WALKER: I see. Your Worship, if that be the case, the application still lies that if your Worship is able to indicate in broad summary terms what you were told in the course of that view, I would respectfully request that your Worship make that known because it may be - I note Mr Cheney was on the view - that he says something about a particular area which might be disputed. I am not trying to pry or be unduly personal, but it is possible that a man such as Mr Cheney who has been called to give evidence may well have made statements to your Worship which are in fact material to the matters which are

before you. In my submission, insofar as your Worship is able, it would be appropriate, with respect, that that information be made available.

5

The final thing is, there are some areas of the scene of the fires which, in my submission, and I formally apply, that your Worship would in fact visit, which I do not understand from the notes that you have provided to me that you have visited. I mention a number of areas. My understanding is that the Bendora Break area, which is to the north of the ignition point of the Bendora fire and was the subject of considerable work to try and open it up and so forth, is not an area which your Worship has actually travelled. That is an area, in my submission, of some significance because, though it is able to be travelled, the extreme difficulty in doing so puts into relief, in my submission, the kind of circumstances in which some people were in fact trying to deal with the Bendora fire when it broke out.

25 There are some areas in which I understand dozers were required to work which were areas of particular difficulty. I understand your Worship did not visit the Stockyard Spur area. From having visited it myself, some indication of the difficulty of access to that particular point is material. Your Worship has clearly heard evidence about that. Further, the trail which was unable to be recognised on the first day of the outbreak but then subsequently was used is again, if I can perhaps understate it, quite an experience if you have actually got to try and travel it. For that matter, get supplies and personnel and all the rest to the Stockyard fire.

40 There is a further matter. There are some areas around Bendora Hut in which the bushland in the area wasn't burnt. It gives you some indication of the nature of the bushland of the kind that Odile Arman would have faced on the night that she first attended on the Bendora fire. It is not very far away but it gives some indication and perhaps would assist your Worship in determining

whether the view which she formed that there was a real safety issue if people were to be deployed in the dark into areas into the bush in the state which it was there would be a real safety risk.

5 Those areas, in my submission, your Worship would be assisted if you were to visit and were to see.

It occurs to me, and I mention this only as a suggestion, that if your Worship were inclined to visit - you said you will visit the building, that it might be conveniently arranged that that take place, for example, in the morning and then there be a continuation on from that building with the emergency service vehicles to some of these  
10  
15 locations.

I note that we presently have two days free this week. It might be possible, for example, on Wednesday, although there would be some people who might wish to be at such a view and I can't say immediately whether they would be available. Mr Craddock and Ms Arman, for example, would be the most obvious people. That is really a matter of logistics, your Worship. I don't press  
20  
25 anything in particular in relation to that beyond making the application that such a thing occur.

Those are my applications, your Worship. Unless there is anything further?  
30

THE CORONER: No. I will take them on board, Mr Walker, and give them some consideration. I will just hear from Mr Watts.

MR WATTS: Mine is certainly not on the same point but mine relates to a witness who it is proposed to call tomorrow. That is James Hoare. Your Worship will recall last week that one of the witnesses called last week made some comment  
35  
40 concerning land management, and I made an application at that time to your Worship. That was in the context of a witness who was giving a broad picture of that person's experience and then making some comments.

45 Your Worship, there are two matters from Mr Hoare. There is a questionnaire, which is

[AFP.AFP.0069.0407], and I have no problem with that. Then there is a submission by Mr Hoare, which is [DPP.DPP.0003.0086]. In my submission, this document is quite different to the documents  
5 which have been before your Worship so far, which are a narrative of the person's experience and really a comment about the sort of issues they think should be looked at.

10 Has your Worship had an opportunity to see that?

THE CORONER: I have seen the shorter document but not the longer one.

15 MR WATTS: I think it needs to be brought up.

THE CORONER: Having said that I --

MR WATTS: I am happy to do this tomorrow, but it  
20 is just that he will be here tomorrow and I thought if this could be dealt with today before he arrives it would be perhaps better.

THE CORONER: I don't recall it but I have seen  
25 it.

MR WATTS: He sets out on pages 1 and 2 his experience. Then on page 3, which ends with 0088, he then makes additional comments re fire  
30 management strategies to combat uncontrollable fires. From there on, on any view in my respectful submission, this purports to be an expert report on matters relating to fuel management. He deals with other matters which I  
35 am not concerned about. But he does purport to express significant opinions about the extent of fuel management over the year and what impact that had on the fires as they went into Duffy. If I can take your Worship perhaps to page 3 at about  
40 point 8. He says:

"However, fire management, is equally, if not more important than fire control in that it can reduce the intensity, rate of spread and  
45 environmental damage of bushfires burning under severe conditions."

47

On any view that is an opinion:

5 "Other benefits include increasing the probability of suppression, to reducing the spot fire potential."

10 Et cetera, et cetera. Again, that is clearly an opinion. Over the page, at about point 1, he says in the second paragraph:

15 "Had strategic prescribed burning been undertaken over the last 30 years in the forests west of Canberra, and then perhaps our firefighters might have had a chance."

Again that is an opinion. I will just perhaps highlight the matters which are opinion matters firstly. Next paragraph:

20 "I believe the principle cause of the fires that destroyed Duffy was the massed ignition of Stromlo pine forests by a rain of spot fires."

25 Et cetera, et cetera - again opinion. Further down at about point 7 the paragraph starting:

30 "However, whilst some individuals justify the failure to control the fire outbreaks that led up to the disaster of 18 January because of drought and unprecedented weather conditions, it can be argued that the lack of adequate fire management prior to the conflagration that was in fact the centre  
35 piece of the miscalculation."

40 When you go through this document not only does it express what amount to opinions about fire management but nowhere does he give details of precisely what he says was done, should have been done, no details at all. He says at the bottom of page 4:

45 "This follows a long period where no fire management took place at all."

With great respect, your Worship, that certainly

is not consistent with other evidence. But he doesn't give the basis for that opinion. Your Worship, whilst the rules of evidence of course don't apply in this inquiry, there must be  
5 some probative value in the documents before your Worship.

Could I hand to your Worship the Court of Appeal decision of Makita v Sprowles, which your Worship  
10 is probably familiar with, on expert evidence. Before I take your Worship to one part of that, the first thing of course, a person purporting to give expert evidence must have expertise in the area upon which they purport to comment. That can  
15 be either formal qualifications or of course training or experience. Now, nothing appears in this document from Mr Hoare as to what the basis of his expertise, if any, is.

20 At the end of his document he describes himself as an Australian public servant in sustainable natural resource management. He gives some other things, he has been a fire ecologist, fire behaviour experimental scientist with CSIRO. That  
25 doesn't say exactly what he has been doing, what his training is, what his qualifications are and so on. The first objection to his evidence is the fact that he doesn't, even on the face of it, have qualifications to express the opinions which he  
30 expresses.

When one looks at Makita v Sprowles, not only must he set out the area of expertise on which the opinion is to be based, an expert must be  
35 independent and unbiased. I am not for a moment suggesting he is unbiased, but of course his opinion, if he was called as an expert, one would question whether he was appropriate because of the experience he has had.

40 I am not suggesting that he has in any way purported to colour his comments. But, of course he has had the background of an unfortunate experience. An expert must state the facts and  
45 assumptions upon which the report is based and then set out the reasoning process by which the expert applies his or her expertise to the facts,

and there must be differentiation of course  
between the facts and the assumptions.

5 None of that appears in this material from this  
witness. In particular, I would invite  
your Worship to read paragraphs 64, 79 and 85 of  
the Court of Appeal decision, in particular the  
judgment of his Honour Mr Justice Haydon, and  
10 particularly paragraph 85 which encapsulates what  
I am saying, which is that this is clearly an  
expert report. It really fails on all tests which  
are laid down in that report.

15 The problem with it, of course, is that it ceases  
to have any real probative value. It makes it  
impossible to cross-examine on it. And in my  
submission, as I understand it, this is before  
your Worship, I would ask that your Worship not  
20 for the whole of his submission but only from  
where he talks about additional comments, from  
there on if that is before your Worship to reject  
it as part of the brief because of the reasons  
which I have identified. Those are my  
25 submissions, your Worship.

THE CORONER: Thank you, Mr Watts. I will just  
hear what Ms Cronan has to say about the proposed  
use of this statement.

30 MS CRONAN: Well, your Worship, it is proposed to  
call Mr Hoare tomorrow to give evidence of what he  
experienced and any issues that he has to raise  
with your Worship in exactly the same way that  
evidence has been led from a number of witnesses  
35 since last Wednesday. He is not being called in  
any attempt to qualify him as an expert to give  
any expert evidence tomorrow.

40 In terms of how his submission as opposed to his  
statement is to be dealt with by your Worship,  
that question falls into very much the issues  
raised by my friend Mr Walker.

45 Can I say, your Worship, that senior counsel  
assisting is not currently in Canberra. He is  
working from his chambers in Melbourne today. In  
relation to the matters my friend has raised, I

would seek an opportunity to advise him that they have been now formally raised with your Worship. I would ask you to defer making any rulings or directions in relation to Mr Walker's application  
5 until he has been consulted. It may be that senior counsel himself would like to come to Canberra and address you on those. I certainly would seek the opportunity to talk to him about it before you were addressed.

10

THE CORONER: I have indicated that to Mr Walker already. The only decision that I am prepared to say at this stage and the only comment that I will make is that I still do intend to visit the ESB  
15 headquarters. I think Wednesday sounds like a good plan, if that can be arranged. The other issue is that I would certainly be prepared to go and see other areas.

20 It was always the plan but I think that weather and timing and various other factors prevented that. It is not that some areas were chosen over other areas. It was just logistics. It was, I think, weather at that stage. There was some  
25 consideration of whether or not it was dangerous to go into some areas because there had been some - unlike now - wet patches or some rainfall.

I certainly intend to take all the matters that  
30 you have raised on board, Mr Walker and also you, Mr Watts. I think clearly in relation to Mr Hoare's evidence, it is not intended to lead that information as an expert opinion, Mr Watts. I don't know whether you can take any comfort at  
35 this stage from that, but certainly that would always be my understanding as well. That's the way that I would take any information provided by people such as that man.

40 MR WATTS: If I could invite your Worship to read that in detail, because it goes beyond that. It goes well beyond why didn't they do this and why didn't they do. It purports to express expert opinion. Therefore, in my submission it should be  
45 rejected and would have no probative value. If your Worship proposes to allow it in I would ask your Worship to give reasons.

THE CORONER: I will do.

MR PHILIP WALKER: There is one thing I simply forget to mention, that is the Szwarcbord and Grayson v Gallop decision. The last half of it  
5 deals with issues relating to views. I apprehend that your Worship is aware of that, but I just mention it.

10 MR LAKATOS: Before your Worship rises, perhaps I should say - I don't want to extend this - I join in Mr Watts' submission, also Mr Walker's in a general way. I would have anything to say. Really they have covered it.

15 MR PIKE: I do also, your Worship. I might say this, having spoken to Mr Craddock he wasn't au fait with the nature of the application made today, save that we had discussed a particular  
20 visit, or the wisdom of a particular visit by your Worship to the site of the initiation of the Bendora fire. I know he did wish to make an application in that regard. So I do, I think on his behalf, pass it on to the court.

25 THE CORONER: Thank you I will take that into account.

MR WHYBROW: Perhaps if I could just put on the record, your Worship, to the extent that my client's interests coincide with the matters Mr Walker has raised, I support those. In relation to the view issue, perhaps, I take some comfort from what your Worship said, Mr McNamara  
30 indeed in evidence at page 3822, who was obviously the person at the Stockyard fire, indicated to do it justice one really does need to visit that site. I take note of what your Worship said about not ruling such things out.

40 THE CORONER: Thank you. We will adjourn until 2 o'clock.

**LUNCHEON ADJOURNMENT** [12.48pm]

45 **RESUMED** [2.04pm]

47

THE CORONER: I will just indicate that we will only sit until 3.30pm.

5 MS DREW: We are starting with the last call on 11 January which is 19.53 and then moving on to calls from 12 January.

(Telephone conversations played)

10 THE CORONER: That is the end of the 13th. It is probably a good time to adjourn.

**THE MATTER ADJOURNED AT 3.30PM TO TUESDAY 25 MAY 2004.**

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TRANSCRIPT OF PROCEEDINGS

CORONER'S COURT OF THE  
AUSTRALIAN CAPITAL TERRITORY

MRS M. DOOGAN, CORONER

CF No 154 of 2003

CANBERRA

INQUEST AND INQUIRY INTO  
THE DEATH OF DOROTHY MCGRATH,  
ALLISON MARY TENNER,  
PETER BROOKE, AND DOUGLAS JOHN FRASER  
AND THE FIRES OF JANUARY 2003

DAY 61

Tuesday, 25 May 2004

[10.03am]

MR LAKATOS: Your Worship, it has been arranged  
for your Worship and the parties and the lawyers  
5 to attend the ESB centre tomorrow at 10, if that  
is a convenient time for the Court.

10 THE CORONER: Yes. Is that convenient with you,  
Ms Cronan?

MS CRONAN: Yes, your Worship.

15 THE CORONER: And other members who wish to  
attend?

MR LAKATOS: I anticipated there shouldn't be a  
problem from the Bar table. That is the  
arrangement if that suits the Court that can be  
locked in.

20 The second matter I wish to raise is the issue of  
the witnesses proposed to be called in relation to  
the fuel/land management issues and the timing of  
it. Clearly enough we are now getting on a fairly  
25 tight time frame in terms of the end of this  
inquiry. It would certainly benefit us to know.  
We have been asking for a while. We appreciate  
your Worship's team have had a big task, but I  
think the time is really coming for us that we  
30 would like to know if it is possible, who is going  
to be called and when so we can prepare for that  
stage of proceedings. I wonder whether that could  
be a question on notice for those assisting  
your Worship.

35 THE CORONER: Thank you, Mr Lakatos. I think that  
information is available, Ms Cronan, is it not?

MS CRONAN: We can get something to the parties in  
40 writing today about who will be called and  
potentially when.

MR LAKATOS: I am indebted, thank you.

45 MR PHILIP WALKER: Your Worship, while dealing  
with these matters: Mr Lasry did mention on the  
first day the telephone tapes were being played

that there was likely to be a transcription of those.

5 THE CORONER: That is still the plan, as I understand it.

10 MR PHILIP WALKER: If that is the case - I haven't been attending to listen to those because I understood there was a transcription.

THE CORONER: There will be a transcription of the tapes.

15 MR PHILIP WALKER: Thank you, your Worship.

MR WATTS: On the question of fuel management, Mr Bartlett is being called on Monday and Tuesday of next week. I take it that it is proposed - of course, he deals with both issues - that he will  
20 be called in relation to fuel management as well as the other matters he raises?

MS CRONAN: Yes, your Worship, that is the proposal.  
25

MR WATTS: That is as I understood it. I just wished to clarify. Thank you, your Worship.

30 THE CORONER: Yes, Ms Cronan.

MS CRONAN: I call Graham Franklin-Browne.

**<GRAHAM ARTHUR FRANKLIN-BROWNE, SWORN**

35 **<EXAMINATION-IN-CHIEF BY MS CRONAN**

35

MS CRONAN: Q. Would you please tell the court your full name and your current occupation?

40 A. Graham Arthur Franklin-Browne. I am a public servant, a project manager working for the census for the Australian Bureau of Statistics.

Q. Where are you currently living?

45 A. I am currently living in Weston Creek, Folingsby Street, about 3 kilometres away from where I used to live at Stromlo Forest.

Q. Prior to 18 January you lived at cottage 3,

RMB 113 Cotter Road?

A. That's correct.

Q. You are a tenant of the ACT Housing?

5 A. Yes.

Q. You had lived in that particular house I think since 1977?

10 A. Yeah, 26 years or something like that. Yes.

Q. As at 18 January, who were you living in the house with?

15 A. My son Elliott, who was 18 at the time, my wife and my mother-in-law Mary Stewart was visiting.

Q. Prior to 18 January, were you aware that there were fires burning in the Brindabellas?

20 A. Very aware. My office window faces west and, yeah, it was pretty obvious.

Q. Did you follow the progress of the fires from the 8th?

25 A. As much as possible. Having had some experience in fires, I felt that these were different. I went out of my way to take the long way home on several occasions after work and went around Uriarra on the way home and tried to find out what was happening at the road blocks and that  
30 sort of thing.

Q. Prior to the 18th what kind of media were you accessing for information or other avenues of information?

35 A. The newspapers, the television and CSIRO's website. I can't remember the name of it.

MR ARCHER: I am having a little bit of difficulty hearing the witness.

40

THE CORONER: You might have to keep your voice up, if you would please, Mr Franklin-Browne.

MS CRONAN: Q. Were you watching the news daily or listening to the radio?

45 A. Yeah, we were, yes.

47

Q. As at the evening of the 17th of January, did you have any awareness that the area that you lived in may be under threat or potential threat of impact from those fires?

5 A. Sorry, what time? What date?

Q. On the evening of the 17th, the Friday?

A. On the evening of the 17th, yes, I felt that certainly the danger had increased and we were  
10 more alert, yes.

Q. What information did you base that alertness on?

A. Trying to track the fire on the website, seeing where it had got to, just the general  
15 conditions of the wind and that sort of thing.

Q. On the morning of the 18th, what did you and your family do during the morning?

A. My wife went to a funeral, and I was over at Red Hill at my daughter's house. They are doing up a house, and I was doing some work for them. I came home around about lunch time, or thereabouts. As I was driving along back towards the Weston  
20 Creek area, I could see the fires had got a lot worse. Elliott came running out of the house to say that he had been looking at them on the Internet. I just told him to forget about that because they had certainly got a hell of a lot  
25 closer.  
30

Q. Who was present in the house at that stage?

A. My mother-in-law was there, Elliott's girlfriend was there, and Elliott's best friend  
35 had come up to help us prepare.

Q. Was your wife back from the funeral at that stage?

A. She arrived back a little bit later. We managed to get her on the mobile phone and tell her to come home.  
40

Q. Did you take any steps to prepare your home for a potential impact at that point?

A. Previous to that we had put soaker hoses in the hedge and put hoses around the yard strategically and buckets of water and cleaned out  
45

the leaves and done the normal sort of preparations as much as you can do.

5 Q. There was a New South Wales Rural Fire Service base camp where you live?

10 A. They were camped in a big area. There is a big area in the middle of the village. We used to call it the common, I don't know what anyone else called it. It was a big paddock. They had their tents set up there for quite some time prior to the fires. We felt quite secure earlier on.

Q. On the 17th, did you actually have a conversation with somebody from the base camp?

15 A. I went down to the depot and I spoke to a guy down there who was off-duty. I can't remember who it was. He showed me on the map where they thought the fires were and he said, "Look, you will be all right. We have got plenty of units here. You won't be in any danger," which was 20 comforting at the time.

Q. So were they still there on the 18th?

25 A. Yes.

Q. Those units?

30 A. Well, yeah, the camp was still there. I think there were still people on rest breaks and that sort of thing. They were still parked there.

Q. Did you see whether or not your neighbours were preparing their homes in a similar way to you?

35 A. Cheryl Gregory came up from the coast and arrived with her kids in their van. At that point the fire was getting pretty close. She wanted to know whether she should try to stay. I said, "I didn't think you should". Her house was like mine. There was a lot of vegetation around it. 40 She had the kids as well. So she collected her animals and a few things and left.

Q. Whilst you were preparing your home, did you feel or see embers starting to fall in the area of your home?

45 A. Yeah, there were burning embers and bark, candlesticks coming down and leaves. You could

hear the fire.

Q. Had you expected that to occur so soon?

5 A. No. No. I thought we would have had a bit more time. It did happen very quickly once it started to happen.

Q. Had you been listening to the radio whilst you were preparing your house?

10 A. No. No. I only found out after the fire that the ABC radio, I think on AM was broadcasting information about the fire. I don't listen to AM; I listen to FM. There was very little information on FM radio from the commercial stations or  
15 anywhere else.

Q. Can you recall, sir, approximately what time you noticed those embers starting to fall around you?

20 A. Oh, I first noticed the embers starting to fall when I was in Red Hill, so earlier on in the morning when I was working in Red Hill. The embers were coming over. They had gone clear across Canberra at that point.

25

Q. Could you tell us at what time you decided throughout your preparations that perhaps you and your family should leave?

30 A. It would have been around lunch. It is hard to say. 1.30, 2 o'clock, something like that.

Q. What was it that triggered your decision to leave and evacuate your family?

35 A. When I saw the fire jump the Cotter Road. Our road pointed north and you could see the fire in the pines across the Cotter Road. And then you could see it jumping. Then it got into the nursery which was to our west. There is an awful lot of stuff in that nursery, old machinery and  
40 piled up forestry stuff from years. I was pretty certain once it got in there that there would be no stopping it. In front of that there was a big belt of pine trees. They were fairly high. I thought, "It's time to go".  
45

Q. What preparations did you make in order to leave and evacuate your family?

A. We had - earlier on we had put our dogs and cats in the car. We put the cat in a pillow case and put my daughter's dog in my car and our dog in Barb's car. We managed to get a few things  
5 outside like pictures on the wall, some personal papers and a few business things, a few clothes. We parked the cars outside and then we just decided to go. We jumped in the cars and --

10 Q. Who went in which car?

A. Okay, my wife went first. She had Elliott and our dog and I think she may have had Nikki, Elliott's girlfriend. My mother-in-law went next. She had Ken, my son's friend. And then I came  
15 afterwards and I had my daughter's dog in the back.

Q. Had you, prior to leaving, had time to discuss an escape route and destination?

20 A. That was our escape route. We had talked about that for years. We knew the main danger living out there. In all the forestry settlements everyone knows where the danger comes from. We knew that the only way out was really down the  
25 back and out over the commons. But we didn't anticipate that the fire was going to be so quick. By the time it had crossed the Cotter Road and we jumped into our cars and then drove around the corner and down towards the commons area heading  
30 back towards Canberra, the fire had swept around and was already into the firies' camp, taking out the tents - yeah, it was very fast.

35 Q. What was visibility like when you started to leave?

A. At that point it was okay. We could drive. By the time we got down adjacent to the comms area, it had started to get really dark. Barb's car went first and the fire had got into the pines  
40 which brought it either side of the road on the exit. They were starting to crown and she actually had to drive through them, under them. So it was like she was just driving through a tunnel of fire. Then Mary went straight after  
45 her. Mary lost control. She slipped off the road. She had a culvert somewhere down by the last house. She overcorrected and started heading

straight towards the fires. She must have  
straightened up. Anyway, they all disappeared.  
They all went into the pines and disappeared.  
Then it went absolutely black. I have never seen  
5 it so black before.

Q. Were you able to follow them?

A. No, I couldn't drive; I couldn't go forward.

10 Q. What was preventing you?

A. Just I couldn't see. I couldn't see a thing.  
There was just black with streaks of red as embers  
were flying past. Huge amount of noise.

15 I knew that the ground to the left of me was clear  
ground so I just reversed onto it. I don't know  
why, but for some reason I thought the back of the  
car would be safer than the front of the car  
pointing towards the fire. No reason for it. I  
20 mean the petrol tank is in the back, who knows. I  
faced the back of the car into the fire and just  
kept backing the car forwards and backwards for  
about an hour. It seemed like longer; it seemed  
like two or three hours or something like that.  
25 But it wasn't; it was only for about an hour.

Q. Apart from that cleared area that you drove  
into, was there fire surrounding that clearing?

30 A. Yes. The last house was directly in front of  
me. That burnt down in about 15 minutes from the  
time the fires got into it until the walls started  
collapsing. I didn't realise that Dave Ferry was  
fighting his fire - protecting his house until  
nearly after that time. I could hear the firies'  
35 camp burning. I could see it away to my right.  
There were gas bottles exploding and great sheets  
of plastic flying around. I couldn't see my own  
house because we are sort of down the hill.  
Kangaroos coming out of the forest singed, burnt.  
40

Q. Did you see a man that you knew called Digger?

A. Yeah, yeah. He was sort of like in a similar  
situation.

45 Q. What was he doing?

A. He was sitting in his 4-wheel drive with a  
mate pretty much doing the same thing, I think.

They were just sheltering from the fire and not really going anywhere.

5 Q. Whilst you were in that position, did you know what had happened to your wife and family?

A. No, no.

Q. Were you able to contact them?

10 A. No. I was sitting there - I was sitting there - I was fairly convinced they were dead. Having seen the size of the flames and the tunnel of fire that they drove into, I couldn't see how they could have survived. So I was fairly certain that they were all dead.

15 I remember turning on the radio. I was listening to 106 or 104 to see if there is any news, anything that is happening. I hadn't really thought about it at the time but they were all  
20 pre-programmed. There was something about a party going on in the middle of Garema Place in Civic or one of their black thunder machines was handing out prizes somewhere. I don't know; I can't remember the details; but I can remember being  
25 furious, absolutely angry and just screaming at the radio, "They were people dying and the rest of Canberra was having a party." I was pretty irrational.

30 Q. Did you see any Fire Brigade units eventually?

A. Later. They came up and they sprayed some water on the car. Some of the guys brought me some bananas and gave me some water to drink. It was fairly hot in the car. The dog in the back  
35 was starting to get dehydrated.

Q. And they hosed down your car for you?

A. Yeah, yeah.

40 Q. Did they then lead you from that area?

A. Yeah. As the smoke cleared, they came up. The guy had driven up from the Cotter Road from Streeton Drive and he said he hadn't seen any burnt-out cars or wrecks on the way up, which was  
45 good news for me.

Q. That was comforting. So where did you go to

when you followed the Fire Brigade unit out?

5 A. I followed them down. The fire was still  
burning on either side down the Cotter Road. I  
went down to the corner of Streeton Drive and  
Cotter Road. There is a bit of a clear area  
there. I hung out there for a while.

10 We had made plans to meet up at a friend's place  
in Rivett, and that was where I was going to go.  
I had planned to go along Streeton Drive, but the  
fire had jumped Streeton Drive and got into the  
big shrubs in the middle of Streeton Drive and had  
jumped across into the lower part of Weston. So I  
couldn't go that way.

15 I just hung out for a little while and then drove  
in the direction of Civic. On Commonwealth Avenue  
I wasn't going anywhere, I was just - I don't  
know - just dazed. I ended up right outside the  
20 Lodge and I parked there. Turned the car around  
and had a look at the fire. I thought this is  
crazy. I have got to go somewhere.

25 My daughter called me. She was still over in Red  
Hill. She said to come over there. So I went  
across through Woden Valley. On the way I stopped  
at the centre that they had set up for refugees  
from the fire. I was pretty nervous about that,  
actually because the parking arrangements - I  
30 could see the fire at the back of Oakey Hill. The  
parking arrangements around there were fairly  
tight. I thought once I got in there I wouldn't  
be able to get out. So I quickly ran in and tried  
to check whether my family was there.

35 I was fairly confused but couldn't see them so I  
continued over to Red Hill and didn't see the rest  
of my family for about two days until we could get  
through the road blocks and check that everybody  
40 was all right.

Q. When did you find out that they were alive?

45 A. Somebody managed to get a phone call through  
about 8 hours later, I suppose. We just turned up  
at Alice's place, had something to eat and crashed  
on the floor. We woke up the next morning and  
found out that they were all right.

Q. Did you know where they went to?

A. Yeah, they went to a friend of ours in Rivett, Tony Thornton. So they were okay.

5 Q. On the 18th, apart from the Fire Brigade unit that you have told us about, did you have any other contact with any Emergency Services?

A. No. We weren't given any personal warnings or anything like that about what to expect or whether  
10 to evacuate or anything like that.

Q. Do you know your neighbour Dolly McGrath?

A. No, I didn't see her.

15 Q. You didn't see her at all on the 18th?

A. No. No. Actually when the fires jumped the road, Elliott was going to go down and warn the other houses but I told him not to. I kept him by  
me.

20

Q. When were you able to get back to your home?

A. I don't know. Three or four days later probably. Maybe longer. Maybe a week, yeah.

25 Q. What did you find when you got back?

A. Curious things. The caravan that we wanted to get rid of for ages and no-one would buy had survived the fire.

30 Q. So you still have that?

A. Yeah. Melted plastic picnic chairs had splattered all up against our terracotta pots which had survived. Nothing of the house. A freezer full of food going off. Some mangled,  
35 melted china. We had bought a new china cabinet. My wife collected china. She had had this stuff for years and never had anywhere to put it. We bought this china cabinet. Everything just melted all around it, so it was a mixture of glass and  
40 china. But nothing of much value. The trailer survived. My camera collection was melted into one molten aluminium mess. There wasn't much.

Q. How have you managed to recover from the fire?

45 A. We were insured for contents. We were underinsured. The assessor when he came out took one look over the gate and said, "You won't have a

problem. I can see at a glance that you are underinsured," and we didn't. They were very good. But in the process of finding somewhere else to live, we've used the contents insurance  
5 basically to fund the deposit on a house. So at 53 years old I have a brand new mortgage and am still coming to terms with that.

Q. Are there any issues that you would like to  
10 raise with the Coroner as a result of your experience on the 18th of January?

A. Just that it seemed to me at the time that nobody was talking to each other, your Worship, that they couldn't talk to each other. When I  
15 spoke to the police and asked them on the road where the fire was, they had no idea because they couldn't talk to the firies. They were not on the same frequencies. I know from personal experience that radio communication is incredibly difficult  
20 during bushfires. But, yeah, I didn't think the coordination was as good as it could have been.

Q. Is there anything else?

A. No. No. I have got no - I have got no blame  
25 to cast on the people that fought the fire or anything. I think they did a fantastic job. They really tried hard and they were thrown into it. They were green, a lot of them. To arrive out of state and receive a very short briefing about what  
30 was happening and then be thrown into the fire front, I don't know how anyone could do that.

I mean I know there are a lot of issues surrounding the fire and I know about the fuel  
35 management issues. I've seen them first hand. But I'm not technically qualified to make any judgments about that.

MS CRONAN: That is being looked at in a separate  
40 area of the inquiry.

Nothing further, your Worship.

THE CORONER: Q. Mr Franklin-Browne, apart from  
45 yourself, Mr Ferry and Digger, did you know of any other persons who stayed behind to fight or rather who didn't leave prior to the front arriving,

either then or since? Have you heard of others who stayed?

A. Certainly since, yes. I've heard horrible stories. Yeah. The people diagonally opposite  
5 Dolly's house were trapped in their house and called the Fire Brigade, and of course the Fire Brigade couldn't respond and told them so. I heard that they tried to take shelter in the bath and then realised that the bathroom was burning  
10 and then they ran out onto the road. For some reason some freak fire weather localised the currents. They were in some sort of whirlwind that protected them from the flames as they lay on the road.

15 I remember seeing Dave coming out from behind his house shortly after my stay on the commons. I was just amazed that he was still there. I think at that time the firies went over - or somebody went  
20 over to assist. But, no, I didn't see anybody else. I didn't see anybody from the top of the settlement where the firies' camp was. I didn't see anybody down the road.

25 I can remember as we were leaving seeing a line of fire trucks, maybe three or four fire trucks, heading west across the bottom of our road. I don't know where they were going. But, no, no. That's about it.

30 Q. You worked for Parks previously. Were you involved in much firefighting yourself?

A. I worked for Forest branch for a short time. For two years I was a ranger at Stromlo Forest.  
35 Prior to that I worked for what they call the assessment crew. We did the measurement and statistical modelling of the pine plantations.

40 Part of our summer duty was to go on standby and man light units and be part of the tanker crews of what was then the ACT Bushfire Council. So I have had experience fighting fires. I helped fight the fires at Namadgi in 1983, I think it was, when they burnt out 72,000 hectares down there.

45 Various grass fires, fires in the pine forest and I have had some experience doing back-burning and fuel reduction. That was a long time ago. It was

another life.

THE CORONER: I will see if counsel have any questions for you, Mr Franklin-Browne. Mr Archer?

5

MR ARCHER: No, thank you, your Worship.

THE CORONER: Mr Lakatos?

10 MR LAKATOS: No, thank you, your Worship.

THE CORONER: Mr Coleman?

MR COLEMAN: No, thank you, your Worship.

15

THE CORONER: Mr Walker?

MR PHILIP WALKER: No, thank you, your Worship.

20 THE CORONER: Mr Watts?

MR WATTS: No, thank you, your Worship.

THE CORONER: No re-examination?

25

MS CRONAN: No, your Worship.

THE CORONER: Thank you Mr Franklin-Browne. You are excused. You are free to leave.

30

**<JAMES ROY LEYDEN HOARE, SWORN**

**<EXAMINATION-IN-CHIEF BY MS CRONAN**

35 MR WATTS: Before he gives evidence, I would like to clarify the position concerning the matter I raised yesterday, your Worship.

40 MS CRONAN: As I said yesterday, it is proposed to treat this witness in exactly the same way as the other witnesses we have been calling since last Wednesday. I have had discussions with Mr Hoare about the issue of fuel management and I have advised him that that is being looked at in a discrete area of the inquiry. It will be the  
45 subject of expert evidence. I don't propose to lead evidence from Mr Hoare today on the issue of fuel loads and fuel reduction.

THE CORONER: Having said that, Mr Hoare, you should know that your submission is part of the evidence before this inquiry. I would like you please, Ms Cronan, to perhaps ask Mr Hoare about his qualifications and his expertise as well, just for the record.

MS CRONAN: Yes, your Worship.

THE CORONER: I know you make mention of it in your statement, Mr Hoare.

MS CRONAN: Q. Would you please tell the Court your full name and your current occupation?

A. James Roy Leyden Hoare. Public servant.

Q. Where do you currently work, Mr Hoare?

A. In the Edmund Barton Building with the Department of Agriculture, Fisheries and Forestry.

20

Q. Could you please give her Worship a brief outline of your professional experience?

A. Yes. I am a graduate in biology, zoology and botany. On completing my degree, I joined the Forest Research Institute as a fire ecologist working with Allan McArthur and Phil Cheney. My career extended over 25 years in which I undertook research into fire behaviour, fire ecology, fuel management over the Northern Territory, the mountains - the Brindabellas in the ACT and the South Coast. I've published a number of papers on fire ecology and fire management.

30

Since then, I have moved on to work with the Bureau of Rural Sciences in the Department of Agriculture, Fisheries and Forestry on regional forest agreements in which we established sustainable forest management policies and practices. And since then I have moved on to working on environmental management systems in agriculture.

40

Q. Sir, as at the 18th of January last year you owned two properties; is that right?

A. That's correct, yes.

45

Q. The first one I will ask you about was at 17

Eildon Place in Duffy?

A. That's correct.

Q. That was your main residential address?

5 A. That's correct.

Q. You also had a property at Tingaringa, being 952 Mountain Creek Road?

10 A. That's right.

Q. That was a 600-hectare rural property?

A. That's correct, yes.

15 Q. How did you manage that? What did you do on your property essentially?

A. I was a part-time primary producer. I grazed fat cattle and horses and managed the land essentially on weekends and during the week as time would allow. Being a professional public servant, there was a split between my activities and duties and the amount of time I had. But I effectively ran it as a primary production enterprise.

25 Q. Now you were aware, were you, that there were lightning strikes which ignited fires in the Brindabellas on the 8th of January?

A. That's correct, yes. I was at the South Coast when I heard the report and, from that time on, I followed the course of the progress of the fires and the suppression activities with great interest.

35 Q. Was it the case that, because of your own professional and personal experience, you were very aware over the next 10 days of the level of risk any of those fires might pose to your property in New South Wales?

A. That's correct. I had two primary interests. I had a vested interest in the risk that my property was exposed to as a result of the fires but I was also concerned about my long-term fire ecology plots that a massive amount of investment and research had gone into at Piccadilly Circus, and the risk of those being burnt out and the loss of all that information.

47

Q. So you were still working on those as at January 2003?

A. Those were still viable plots. I wasn't personally working on them because I had moved on  
5 in my career, but they were there as long-term reference plots. As an ecologist, I had an interest and commitment to the ongoing maintenance and protection of those.

10 Q. So you had a level of concern about those two pieces of property. What level of concern did you have over that 10-day period in relation to your house in Duffy?

A. My house in Duffy really didn't come into the  
15 equation until several days before the 18th. I watched the progress of the McIntyre's Hut fire, which was the one which was of the most concern to me because it exposed my rural property to potential fire. And also the fact that that fire  
20 was geographically adjacent to the southern suburbs of Canberra if we did get the inevitable or potential north-westerly blow-up conditions, which we know does occur in the Australian environment. So as regards the Duffy residence, I  
25 was reasonably comfortable that we were safe up until essentially the Friday evening of the 17th.

Q. On the Friday evening of the 17th you became concerned for your house in Duffy. What triggered  
30 that concern?

A. Well, I had been going out to the property periodically - I can't remember how often - during that 10-day period to assess the risk. I saw the  
35 progress of the fires from the McIntyre's Hut ignition in a north-easterly direction, which is taking it towards my property.

It wasn't until the Thursday or the Friday that I started to get concerned because the fire was  
40 breaking its containment lines and continued to move in this north-easterly direction towards Pig Hill. I was concerned as to what would happen when it got into country where there was no access for firefighting vehicles and therefore little  
45 chance of the fires being contained.

Q. So essentially the trigger for your concern

over Duffy was your own observations and your own experience?

5 A. Yes. It culminated at 6 o'clock on Friday evening of the 17th when I drove out to provide assistance to the Fairlight rural bushfire brigade of which I am a member. I am not all that active because of my other commitments but I had been a member of it for many years. I thought it was time that I went out there and made my  
10 contribution.

As I was driving out at about 5.30, 6, I could see that the fires had jumped Two Sticks Road and was heading down to Swamp Creek which is at the base  
15 of Pig Hill. The fires were on ridges immediately adjacent to cleared rural land next to Mountain Creek Road. In that case they had moved I would estimate 10 kilometres from their ignition source in that 8 to 9 days, thereby exposing rural  
20 properties of Brooklyn, Fairlight and potentially Tingaringa to damage if the fires jumped the road.

Q. On the 17th you were concerned for the Tingaringa property. What was it that triggered  
25 your concern also for the Duffy property?

A. The conditions at 8 o'clock the following morning. When I arrived at Fairlight on the Friday evening I realised that things were becoming critical or serious. So I rang - I tried  
30 to get in touch with Tim Webb, the bushfire captain. He wasn't available. I spoke to his mother. She said that the fire crews had withdrawn from their control lines and were regrouping at Allan Blundell's property, Brooklyn,  
35 I think on Friday evening and that the next step would be to see what could be done the following morning.

I went out there to again volunteer to help out  
40 but I was informed by a Fairlight bushfire brigade volunteer that the fires were out of control at that time and that we were to go on property protection. So I moved on up to Tingaringa. To get to your question, at 9.30 when the wind speed  
45 started to increase significantly and start to gust, I then realised that we were in trouble.

47

Q. At Duffy as well?

A. At Duffy, yes.

Q. Is that because of the velocity of the wind  
5 and the direction it was blowing from?

A. Absolutely - and the temperature at the time  
which was in the low- to mid-30s. I had a  
thermometer and a barometer out there and I  
10 measured 40 degrees at midday. I stuck up some  
tapes to assess the strength of the wind and they  
were being blown horizontal. It was very gusty to  
the point where you would lose your hat or get  
almost blown off balance. This started at 9.30  
15 and started to intensify at about 11 o'clock. So  
between that period, I was aware of the fact that  
things were going to get worse.

Q. So what did you do at your property throughout  
the morning of the 18th?

A. I raked leaves, cleared gutters. That  
20 previous evening, after I had gone out to  
volunteer to help and realised that we had to go  
back into property protection rather than try to  
contain and suppress the fires, I had a machinery  
25 shed, a cottage and a homestead that needed  
protection. So I put out hoses, knapsacks and did  
the general fire prevention activities that you  
would do.

Q. So your property, by the time the fires  
30 arrived, was essentially well prepared?

A. Yes, it was. Thanks to friends. But that's  
another story. I can tell you later. It took  
three days for the fire to threaten Tingaringa.

Q. Had you done any preparation to your home at  
35 Duffy before the 18th?

A. Yes. We were quite vigilant or diligent about  
having flammable material removed from around the  
40 house. Our house was a two-storey home built into  
the side of the hill, quite close to surrounding  
vegetation and fences. We had brush fencing, but  
there was no other loose flammable material. I  
was aware that, with the risk that was developing  
45 in the mid-morning, I had to get in touch with my  
family in town and let them know of the imminent  
danger.

Q. What time did you ring your family?

A. My most important phone call was at 1 o'clock when I realised that a firestorm had commenced in the mountains behind Pig Hill.

5

Q. When you say you realised a firestorm had commenced, what were you observing at that point in time?

A. A series of crown fire runs up the slopes of Pig Hill which were coalescing into a huge convection plume - I estimated it went to 10,000 feet in two hours - and the fact that the fire behaviour was the most violent I had ever seen. I was in a very good position to observe and photograph the behaviour of the fires on the mountain - it is called Pig Hill but in fact it is a mountain.

Q. Have you brought some of those to court with you today?

A. Yes.

Q. Perhaps if we could have them brought up on the screen and I will ask you to describe for the Coroner what each one depicts. Can you say where you were when you took that photo?

A. Yes. This photograph is taken of Pig Hill. You can see the trig point to the right centre of the screen. This photograph was taken at 10 past 1 from the lawns of my homestead. So I had a nice landscaped view, unfortunately, of what was happening.

I could have taken photographs all morning from about 11, watching the smoke come up, but I thought I won't do it until we can get a record of the major fire event. This is the commencement of the major fire event. As you can see, there are two billowing clouds of smoke representing two major fire runs. This was the beginning of the firestorm.

THE CORONER: Q. What time was that?

A. That was at 10 past 1.

45

MS CRONAN: Q. If we could go to the next photograph, please.

A. As you can see, these two crown fires  
coalesced and formed the beginnings of this  
massive convection plume. You can see the black  
carbon material in the smoke plume indicating  
5 partial combustion. The fires were just taking  
massive amounts of fuel and smoke up into this  
plume. This is 5 minutes later.

If you would like to go back to the previous one,  
10 and keep in mind the fire trail to the right, to  
the right of the trig which is clear, you can see  
a brown vertical slash to the right of the photo  
which is the fire trail. If you go to the next  
photo and keep in mind the trig point, that fire  
15 was moving extraordinarily fast.

The next one, please. This is 10 minutes after my  
first photograph. You can see that the fire has  
moved past the trig point and flanking crown fires  
20 are moving up the ridges. I didn't map or wasn't  
aware of the perimeter of the fire coming from Two  
Sticks Road. But quite clearly it had surrounded  
the south and the western parts of the lower  
slopes of Pig Hill and were running up the slopes  
25 under the influence of the strong north-westerly  
winds. So here we had another fire, a third major  
crown fire, again fuelling this convection plume.

Next, please.  
30

Q. And what time was this photograph taken?  
A. This is about 20 minutes later.

Q. So that is at 20 past 1?  
35 A. 1.30 - starting at 10 past 1.

Q. And that shows the same plume?  
A. Yes. In fact, what you have got now is all of  
these crown fires coalescing and contributing to  
40 this convection plume which is heading directly  
towards the southern suburbs of Canberra. Next.

Q. What time was this photograph taken?  
A. This was 5 minutes later at 1.35. It is more  
45 of the same. But it is just demonstrating the  
enormous energy that is being created by these  
coalescing crown fires.

As you can see the smoke colour has changed so the combustion is more complete and the fires are sort of stabilising, if you like. I would say the crowns had been taken out of the forest by this stage and the fires were now back burning the drought-stricken debris and contributing to the convection column - but not nearly as violently.

5  
10 Q. That is an assumption on your part at this stage; is it?

A. Yes. I am sure your expert witnesses would demonstrate that that would be fact.

15 Q. If we could go to the next photograph, please.  
A. So just a continuation of the building of the convection column. If you go to the next photo please - actually could you go two photos back. I have lost track. I wish I had these - one more back, please, and again, and one more.

20 Okay, could you continue back through them. What I was trying to find here was the development of the cloud formation on the top. If you go to the next one, next one please, next, and the next, this fire was developing its own - life of its own, if you like. If you continue on I can show you how the smoke then diminished as the crown fires settled back from the trees to the ground level.

30 Q. What time was this one taken?

A. I think I have lost track of my timing here. This is approximately 35 to 40 minutes later. Next please. Next. This is at the peak of the firestorm activity.

35 Q. On Pig Hill?

A. On Pig Hill. Next please. And this photograph shows that cloud formation that I was looking for over the top. That wasn't there originally. You can see to the left of the screen a distance of about 10 or 15 kilometres. The fire plume heading towards Canberra. Next.

40  
45 This is towards the end. As you can see, the colour of the smoke to the left of the screen would have been halfway towards Canberra. That

scene is about 10 or 15 kilometres away. The angle of the convection plume has swung over more at an angle which indicates the wind strength has increased, compared to the more vertical  
5 production of that convection plume in the earlier photographs.

I think the last one was 50 minutes later. You can see that the fires had come up over the top of  
10 the ridge and were burning down the slope. There are orangey coloured flecks at the top of the hill. This was 50 minutes later. Goodbye mountains, hello Canberra. This massive - what I would classify as a firestorm - took just 50  
15 minutes to develop and come to some kind of stable burning situation.

Q. Did you see if there were any spotting occurring at that stage?

20 A. No, I couldn't see. I was too far away, and the wind velocity was too strong for any lateral activity to occur. It was very much a highly directed path of fire from this particular source.

25 Q. Thank you, sir. So throughout the afternoon did you continue to look after your property at Tingaringa?

A. Well at 1 o'clock I rang my wife to say that the fire - I call it a fire storm - was heading  
30 towards Canberra. She was to take all precautions to make sure that the house was locked up, the gutters were filled with water and any flammable materials was disposed of - we actually put it in our downstairs garage, which is a double brick  
35 concrete garage with an aluminium door, so we presumed that that would be safe from ignition. And to lock the house up so that burning embers could not get in and light the interior. And they did that.

40

Q. Did she have any education or experience in relation to preparing for the impact of a bushfire before then?

A. Yes. Primarily her personal experience living  
45 with me as a professional fire ecologist and also experience involved with the rural property, obviously, where fire suppression and fire

prevention issues are very important. So, yes, she was aware of the need to take necessary precautions before the fire arrived.

5 Q. You say that you weren't personally threatened by fire that particular afternoon; is that right?

A. That's correct.

10 Q. But you were at some later stage, three days later?

A. Yes. As you can see --

Q. We don't need to go into that.

15 A. Those fires moved across progressively about a kilometre south from the property. Because the prevailing wind was north-west it was driving the fires away from Tingaringa. But in the late afternoon there was a south-easterly wind change which brought the fires up to the north. And  
20 eventually they got behind Tingaringa and, when the north-westerlies blew up in the afternoon, those properties on the eastern side of it were threatened, including mine.

25 Q. Did you have any further contact with your wife throughout the afternoon of the 18th?

30 A. Yes. Yes. I rang her on three occasions. I rang her at approximately 2.45 and said, "What's happening in Canberra?" She said it was getting darker. There wasn't any direct evidence at that time of the impending fire. She was outside with the portable phone looking at the conditions and telling me what the situation was. I said, "Well, just make sure that you look after the place" in  
35 terms of filling those gutters and closing up. Then I got back to my activities, and that was the last I heard from her until 8 o'clock that night.

40 Q. So your activities involved preparing your rural property for potential impact?

A. Yes.

Q. When did you first become aware that there had been an impact on Duffy?

45 A. Not until 8 o'clock that night when I spoke to my wife. She told me that, when my son was on the roof filling the gutters, he saw a wall of flame

at about quarter to 3, 10 to 3, coming through the pines adjacent to Eucumbene Drive. He got down from the roof and they went next door to be with their neighbours, having no forewarning of the event.

They were confused and uncertain as to what to do. They stayed in our neighbour's house until it became evident that fire was licking up against the windows and the doors of their place. So they then rushed back into our home, my wife and my son, to get their car keys and the cat, which they were very lucky to find at the back door otherwise I think it would have perished.

When they went inside to get the car keys, it was so dark that they couldn't find anything else. But because the car keys were located at a particular point, they were able to retrieve those. Such was the urgency of the situation that my wife left without her handbag and the next-door neighbours, who couldn't find the keys to their car, had come in and together they escaped - four people, a cat and a dog - just as the firestorm hit.

Q. How were you able to contact your wife at 8 o'clock that night?

A. Well, I was trying all afternoon of course but communications were down. I eventually got through on a mobile phone to where they had retired to their sister's house in Forrest. That's when I heard the terrible news.

Leading up to that my son, who was on the South Coast, noticed burning embers - not burning embers, black embers fall out from the fires falling at I think it was Batemans Bay and he realised there was something wrong. He returned to Canberra and was able to get to the house at around about 6 o'clock that night and relay back to Merylie that we had lost everything.

Q. He was also residing at the house at that time, was he?

A. Yes, yes.

47

Q. So he rang you and told you that you lost the house?

A. No, he spoke to Merylie. When I spoke to Merylie, she let me know. She actually was aware.  
5 Her sense was that the house was gone.

Q. When were you able to get back to your house in Duffy yourself?

A. Well, roads were closed for several days and  
10 also, having heard we had lost our house and there was not much one could do about it, I stayed with the property until two or three days later, until the danger had passed. Then I went back into town, and together we went and looked at the  
15 house.

Q. Were you able to retrieve or recover any of your possessions from your home in Duffy?

A. Nothing was intact. In fact, the intensity in  
20 the house was so hot that it melted aluminium and fused it with glass. There was some Lladro pottery, high temperature fired pottery, that was broken and identifiable. But basically there was 18 inches of rubble - absolutely nothing that you  
25 could identify other than the springs of the double bed and the frame of a fridge. All the copper pipe, all the infrastructure had just been incinerated.

30 An unusual thing happened: when we were walking out the front we were looking at the outdoor furniture area, and there was something quite strange we couldn't put our finger on. Then we realised that the outdoor teak setting with its  
35 six chairs had been completely volatilised. There was absolutely no evidence of it there. It was just bare pavers with something that was once there completely gone. So it burnt and was blown away. That was how intense the fire was.

40 Also the roof had been ripped off. It was a boxed-in flat roof home and it had been picked up by the wind and twisted at a 90-degree angle. This was a large 34 square house, which indicated  
45 the enormous force that was involved when the fire struck.

47

Q. Have you decided whether or not you are going to rebuild?

A. Well, we have made a decision and we have chosen not to rebuild. We have in fact sold our  
5 block. The main reason for it was we were underinsured. The insurance company wasn't able to cover the cost of replacing our home to a similar standard. We had invested over \$100,000 in renovations and unfortunately didn't factor  
10 that into our insurance, thinking we wouldn't lose the entire home. We were well insured but not enough to re-establish ourselves on that site.

Q. So you have relocated to another home now?

A. We have only just been able to do that. We  
15 have moved residences four times since the fire and just recently we have been able to purchase our own home.

Q. In that you lost everything from your Duffy home, is there an issue you would like to raise with the Coroner in relation to the evacuation?

A. I have lots of issues. The main ones are in  
20 relation to how the fires continued to burn for so long in the mountains without full force of fire suppression forces being brought to bear to contain them in the mountains.

Secondly - I've just got some notes here that I  
30 would like to refer to, if you don't mind. My wife informed me that there was no information or forewarning about the impending disaster. Therefore, why weren't Duffy residents given that warning both in terms of the days before the fire plotting the development to the extent that there  
35 was an imminent danger; and, secondly, in terms of hours leading up to the actual disaster, they had no time, not being aware of what was going to happen, to prepare an evacuation. That may have  
40 been naive or inexperience, but nevertheless the fact remains they weren't in a position to save any of our possessions, pack the car, get the cat under control and in a way have an organised evacuation. It was an evacuation that was driven  
45 by sheer need for survival.

Panic didn't set in. That was the remarkable

thing. Everybody made a reasonably orderly retreat, but in our particular case without any of our personal possessions which we find it very hard to come to terms with.

5

The other point I would like to raise: was there an emergency evacuation plan? If so, why wasn't it implemented? If not, why isn't there an emergency evacuation plan for the residents of these urban areas adjacent to rural lands?

Finally, on a personal issue, supported by some of our other residents who have lost their homes, we would like the ACT government to fully refund our stamp duty for those people who lost their homes and for one reason or another - either forced or by choice - had to purchase a new home. I don't believe that we should be penalised because of government agencies not getting it right. I suspect that that will be a finding in the inquiry, but I think it is something that we would like the government to review.

MS CRONAN: Thank you, sir. I have no further questions.

THE CORONER: Q. Mr Hoare, how long had you lived in Eildon Place?

A. Approximately 18 years.

30

Q. So it was fairly new when you moved in?

A. No. We were blow-ins.

Q. It would have been about '73 or so I guess it was established.

35

A. Our neighbours had been there for twice as long as ourselves. We actually bought two homes in Eildon Place. We bought in '88 and then in '99 - I think those were the years.

40

Q. You said you had one son at home and your other son. How have they managed to cope with the loss of their possessions - as well as your wife and yourself of course - but what about your sons?

45

A. It is hard to say. They haven't really expressed their reaction to events. My oldest son I think is managing better than my youngest son.

Q. Which one was at home?

A. Both were at home actually. I was talking about at the time of the fire. One was on holiday down at the coast. The other one was with Merylie  
5 in the house at the time.

Q. Which one stayed, the younger son?

A. Yes. I do believe that he has been personally affected by the fires. His situation is  
10 complicated - I think contributed to by the fires in terms of his personal life and development. The eldest son is managing better. But there is no evidence of their achievements or their activities --

15

Q. And their history --

A. Yes, they have basically lost their history. But 500 people have experienced that.

20 THE CORONER: I will see if counsel have any questions. Mr Archer?

MR ARCHER: No, thank you, your Worship.

25 THE CORONER: Mr Lakatos?

MR LAKATOS: No, thank you, your Worship.

THE CORONER: Mr Coleman?

30

MR COLEMAN: No, thank you, your Worship.

THE CORONER: Mr Walker?

35 MR PHILIP WALKER: A couple of questions.

**<CROSS-EXAMINATION BY MR PHILIP WALKER**

MR PHILIP WALKER: Q. You were asked when you contacted your home in Duffy, and I think you gave  
40 the answer that you considered your most important call had taken place at 1pm?

A. Mmm.

Q. When did you call your home throughout that  
45 Saturday?

A. I think I tried to call mid-morning and I am not sure whether I actually made contact. The

second call - the next most important call was at quarter to 3, when I rang to ask whether or not the fires that I had seen moving towards Canberra had actually arrived.

5

I remember two phone calls but I think three were made altogether during that afternoon. The second one would have been just "how are things going in Canberra?" The two important ones were at 10 1 o'clock and a quarter to 3.

Q. What did you say you said at 1 o'clock?

A. Yes.

15 Q. What was the content of that telephone call?

A. The fires were blowing up on Pig Hill and that Duffy would be in danger.

20 Q. Pig Hill is about 17 kilometres from Duffy; is that right?

A. By road 20.

Q. And as the crow flies?

25 A. Yeah, 15, 17.

Q. 17 or something like that. In fact, it is in New South Wales?

A. That's correct, yes. It is about 3 kilometres from the ACT border.

30

Q. Is it fair to suggest that, while you had some apprehension about Canberra, you did not realise that fire might reach Canberra with the speed that it did?

35 A. Sorry, could you repeat that?

Q. Is it fair to suggest that you did not realise the fire might reach Canberra as quickly as it did?

40 A. I did realise it.

Q. You anticipated that it would reach Duffy at 3 o'clock?

45 A. I suspected, given the extreme fire behaviour and the strength of the north-westerly winds at the time and my understanding of fire behaviour and the outcomes of previous fire inquiries, that

there was a very strong likelihood that that fire would spot into Canberra within a matter of a couple of hours.

5 Q. What was the content of your 2.45pm phone call?

A. I fully expected the fire to be there. I was just making sure that my wife was safe. I didn't take it upon myself to say, "evacuate", but I can  
10 assure you that it was at the forefront of my thoughts.

Q. That's the question I was going to ask you. At your 1pm call, did you say to your wife, "There  
15 will be fire in Canberra in two hours"?

A. No, I said, "There was a likelihood and that you need to take all the necessary precautions to make the house safe".

20 Q. But do I understand that you didn't say that there would be fire in Duffy in two hours?

A. No. No. I wasn't in a position to predict it then. I was observing the beginnings, as I showed in the photos, the commencement of serious fire  
25 behaviour. I didn't realise that it was going to develop into such extreme behaviour. I wasn't anticipating anything at that stage. I was just concerned that they were prepared in the event of fire going into Canberra.

30 Q. By 2.45, however, you think you had reached the point of view where you thought that there might have been fire in Canberra at that stage?

A. That intensity of fire and the firebrands that  
35 were in it had to go somewhere, and it was heading directly towards Canberra. So I think it is a fairly logical conclusion to expect some fall-out and impact from this fire in the southern suburbs. I didn't know where or when but I would have said  
40 it was inevitable.

MR PHILIP WALKER: Thank you, Mr Hoare.

45 THE CORONER: Thank you, Mr Walker. Mr Watts?

MR WATTS: Thank you, your Worship.  
47

**<CROSS-EXAMINATION BY MR WATTS**

MR WATTS: Mr Hoare, I represent from ACT Forests:  
Tony Bartlett, Neil Cooper, Andrew Winter, Hilton  
Taylor and Felicity Grant - your Worship, I don't  
5 think I have yet sought leave for Felicity Grant -  
and some other people who are probably not  
relevant for the purpose of my questions,  
Mr Hoare.

10 Q. Mr Hoare, do you have a copy of your  
submission with you there?

A. No. I have notes made on the basis of the  
submission.

15 Q. Yes, you made a submission dated  
14 October 2003?

A. Yes, that's right. I have a copy of it but  
not with me.

20 THE CORONER: I will pass on my copy.

MR WATTS: Thank you, your Worship.

Q. Mr Hoare, could I ask you to please turn to  
25 page 4 and just read, not out loud but to  
yourself, the last four paragraphs of that page  
beginning "however"; do you see that?

A. Yes.

30 Q. Am I correct in understanding your submission  
as being a particular criticism in relation to the  
eucalypt forests rather than the pine forests?

A. Yes. Whilst I didn't specify it here, I was  
referring to the native forests in the mountains  
35 to the west of Canberra in the Cotter Catchment  
and the now Brindabella National Park as well as  
Namadgi National Park.

MR WATTS: Yes, thank you, Mr Hoare.

40 THE CORONER: Yes. Any re-examination, Ms Cronan?

MS CRONAN: No, no re-examination, your Worship.

45 THE CORONER: Thank you, Mr Hoare. You are  
excused. You are free to leave. Thank you for  
sharing your photographs with us as well.

**<THE WITNESS WITHDREW**

MS CRONAN: Is that a convenient time,  
your Worship?

5

THE CORONER: Yes. We will take the morning  
adjournment.

**SHORT ADJOURNMENT**

**[11.20am]**

10

**RESUMED**

**[11.28am]**

MS CRONAN: I call Dave Ferry.

15

**<DAVID RONALD FERRY, AFFIRMED**

**<EXAMINATION-IN-CHIEF BY MS CRONAN**

MS CRONAN: Q. Please tell the Court your full  
name?

20

A. David Ronald Ferry.

Q. You are currently retired?

A. Retired now, yes.

25

Q. Having worked for ACT Forests for about 30  
years; is that right?

A. ACT Forests and Bushfire Council, yes.

Q. You retired in 2001?

30

A. Yes, after I was made redundant, yes.

Q. Where are you currently living?

A. Down in Stromlo.

35

Q. What was your address prior to the 18th of  
January?

A. RMB 113 Cotter Road, Stromlo Forest.

Q. How long had you been at that address for?

40

A. Since January 1972.

Q. In January 2003 you were there with your wife?

A. Correct.

45

Q. Was anybody else living with you at that  
point?

A. My daughter Janine.

5831

Q. You went away for the Christmas holidays before the fires started?

5 A. I took a short trip down the coast, took the little grandson down. We couldn't stay that long because we had to have him back here for his swimming classes.

Q. you came back on about 12 January?

10 A. 12 January.

Q. Were you aware when you came back that there were fires burning in the Brindabellas?

15 A. True. As we topped the hill coming into Canberra we could see - well, I could see there was a decent fire burning in several locations.

Q. Did you yourself follow the progress of the fires up to the 18th of January?

20 A. Only in the newspaper and on TV.

Q. Were you getting the newspapers every day?

A. Virtually, yes.

Q. Were you watching the news daily?

25 A. Of a night-time I always watched the WIN News, yes.

Q. Were you concerned up until the 18th that those fires might pose some threat to the area that you lived in?

30 A. A slight one, yes. We could see them building. We knew that they weren't contained when I thought they should have been contained. With the experience I had, from the first ignition  
35 of the lightning strikes, like before when I used to be with the Bushfire Council, whenever there was a lightning strike everything was thrown at it.

40 Q. Were you aware that there was a New South Wales Rural Fire Service base camp at Stromlo?

A. Certainly. It was only about 70 yards from my front door.

45 Q. Did that make you feel somewhat secure in terms of whether the fires were a threat to your area?

A. We did, yeah. Fire trucks would be coming and going all night, dropping people off and picking up fresh crews and going. There seemed to be ample activity there.

5

Q. But you yourself didn't have any interaction or discussions with people at the base camp, did you?

A. I did, yeah. My neighbour and myself, on the morning of the fires, well around about 9.30 that morning there was a chap from Uriarra, Phillip Whittaker. He pulled up. I went and I asked him, "Where's the fires out that way?" He said, "They're in Glovers" I said, "I think we are in trouble" because Glovers property adjoins the pines. He got a phone call to head straight back, the fire was closing in on Uriarra Settlement.

So a neighbour and myself, we went across to the Rural Fire Service and I asked them for a standpipe and some hoses, because we have a hydrant just outside our place and we would be able to protect the homes. He had a look around and he said, "No they are all in the trucks in the hills." But he said, "Don't worry, that's our job. That's what we are here for".

Q. Did you get any extra equipment apart from your garden hoses?

A. Nothing. We got nothing.

Q. Had you at that stage done anything to prepare your own home for the possible impact?

A. Yes. We went back. We started preparation on our own places. We filled up our gutters with water, and I drove in a steel picket and put a pulsating sprinkler on it. It wasn't high enough. I had to get another drop and tie to it to get it up high enough to go over the house. This time we just thought well, you know, just in case. Next thing we see the Rural Fire Service personnel rolling up their gear, threw it in the truck and they all left in a convoy down past our place. Never made eye contact, never said boo, just kept going. We knew we could be in trouble then.

Q. That was the first time you started preparing

your house was on the 18th; was it?

A. I virtually have got nothing in the yard.

Q. When you say, "We did all these things", who  
5 was with you?

A. Oh, my wife, my daughter. They were inside.  
They pulled all the curtains off the windows.  
They soaked towels in the bathtub and put them  
along the window sills, under the doors. At this  
10 stage it was coming over very, very dark. My  
daughter got on the phone. She rang Canberra  
Connect and they wanted to know our location.  
When they found out where we were, they said, "Oh,  
no, it is not coming towards you. You have got  
15 about an hour, hour and a half of preparation if  
it does come your way, but try again later". So  
later on she tried again and on the fourth attempt  
she got on to them. She said that they told her  
it was heading our way, "But you still have an  
20 hour".

Q. What was happening outside at that time when  
she rang them the second time?

A. I was still out there monitoring it. Because  
25 of the direction of the wind, where it was coming  
from, I knew we were going to cop it because we've  
always said that was our main fear - a fire coming  
from the north-west.

Q. Were you seeing any smoke or flames at that  
30 point in time?

A. Not quite then. Just a short time after I had  
seen pine trees blow up in Deeks Park. I raced in  
and I said to my daughter, "your car's packed.  
35 Load it. Get". she said, "We've got another  
hour". I've said, "We've got time. The bloody  
fire's here. Now, F off. Get out of here." So  
she did. She left crying.

40 There was a lone Rural Fire Service bloke, I  
think. He come past singing out, "Time to get  
out. Time to get out". And the last I seen of  
him he was going up the road. I don't know where  
he got or whether someone picked him up or what.

45 Then my wife, she came to the door and said she  
wanted to get out. I backed her car out and then

just then the sky was alight, going straight over  
the house. I just told her to get in and go. She  
took off. As she got 70 metres down the road,  
this fire ball came across the paddock below where  
5 the Rural Fire Service where and it was just  
pushed in like that. I would say it was about  
3 metres high and 50 metres long. It just went  
straight behind the wife's car. I thought it hit  
her. I thought I lost me wife. Everything blew  
10 up around me then and there was nothing I could  
do.

Only when the base camp all burnt, all the  
marquees went down. A strong wind picked all the  
15 bedding and clothing up and put it against my  
house and the neighbour's house. I had a pair of  
jeans, a pair of overalls, a sleeping bag, at  
least 5 pillows all up against the house. I  
noticed one went over the house. I chased it  
20 around the back to get it out. I come back and  
there was more up against the house. Then I  
noticed my neighbour's house on fire. With a  
garden hose, what could you do.

25 Q. What did you do in relation to your own house  
then?

A. I just kept going around and around and around  
putting out these material that was coming out of  
the base camp. Finally, I raced around and I had  
30 seen my back shed was on fire, but the front one  
looked all right. I went around to it to see what  
I could get out of that. As soon as I loosened  
the latch, the door just blew open and I got hit  
with flames. The eyes started to sting then.

35 When I got back around putting out more stuff  
virtually the fire had gone then. But the Rural  
Fire Service blokes, they turned up again after  
and one bloke came in and he said, "Look, mate,  
40 give us a hand here." I said, "I can't see. My  
eyes are closed. I can't see a thing." He said,  
"We'll get you off to hospital. You've done a  
great job here. We'll make sure the place is still  
standing when you get back." They loaded me into  
45 a vehicle, covered my face with ice and took me to  
hospital.

47

Q. Up until when you couldn't see, were you able to essentially put out spot fires around your house --

A. Oh, yes.

5

Q. -- as the fire went through?

A. Yeah. The back hose, I had it long enough so it could reach every corner of my yard.

10 Q. How long did you stay there putting out spot fires?

A. Well, when it come over very dark and my eyes closed, I wouldn't have a clue what time it was.

15 Q. Throughout this period did you see any emergency vehicles at all?

A. None at all.

20 Q. Were you or any members of your family contacted by anybody from any Emergency Services?

A. None at all, except for that lone rural bloke who came yelling "get out".

25 Q. Did you know whilst you were in the firestorm whether or not there was anybody else in the settlement apart from you?

A. Only my neighbour on the top side, a bloke called Digger - him and his friend.

30 Q. When did you realise Digger was there?

A. I could hear them. His friend - I think he panicked a fair bit. I didn't hear what he said. Digger told me after all he was doing was cooing out "I don't want to die. I don't want to die".

35 They got in a vehicle. They were going to leave.

I come back around from the back of the house around to the front as they were driving off and Digger said, "Look, if that old bugger can do it, so can we." So he jumped out and went back. The

40 whole wall of his house was on fire. But they got it out. Another 5 minutes he would have lost his house too.

Q. They got it out with a garden hose?

45 A. Yes, yes.

Q. When you got back to your house it was still

standing?

A. Still standing, yeah. Four days later - my eyes closed up for 4 days. I never came back for 5 days.

5

Q. Where did you stay for the 5 days?

A. My sister's down in Weston. Apparently the only one the hospital could contact. They had me in a wheelchair to start with and then on a bed. 10 And then because they needed the bed, they put me in a chair. Then they come and said, "Look, we're sorry, is there anyone we can contact to pick you up because we need the chair". They got in 15 contact with my sister. She came and picked me up. It wasn't until about 9 o'clock, 10 o'clock that night that I was reunited with my family.

Q. When did you first realise that your wife was still alive?

A. Oh, when I got back to my sister's place, she 20 contacted my daughter. My daughter said that they were all right. They were at a friend's place in Rivett.

25 Q. Sir, did you know Dolly McGrath?

A. I knew Dolly.

Q. Did you see Dolly at all that day?

A. Not that day, no. I worked with Dolly's 30 husband for 20-odd years.

Q. Do you have any issues, sir, that have 35 concerned you in relation to your experience on 18 January that you wish to raise with the coroner now?

A. I do have one, yes. It wasn't until I returned home from my sister's place five days later I seen, it was a very big shock - 40 devastation. And then to realise that like the biggest tanker that ACT Rural Fire Service owns was fully loaded, fully equipped parked in the shed at Stromlo Forest along with a couple of light units. Now, if I had known that I would have definitely had the equipment off it because 45 it is the same tank that I drove in Sydney in the '94 fires. So I'm fairly familiar with that tanker.

I could see it sitting there unused - it was devastating really.

Q. Anything further you wish to add?

5 A. Beg your pardon?

Q. Is there anything further that you wish to add?

10 A. Not really, no.

MS CRONAN: Thank you, sir. I have no further questions.

15 THE WITNESS: Thank you.

THE CORONER: Q. When did you find out the tanker was there?

20 A. A couple of days after I come home from hospital, I was talking to the chap that got it out. He was a forestry mechanic. By doing so he lost all of his own - he lost two of his own vehicles and all of his equipment. He said when he got it out the fires hit that hard, that fast, there was no stopping. He drove it out and drove  
25 it up Eucumbene Drive, and got out away from the settlement.

Q. So you didn't know that - was the tanker there at the time when the fire came through the  
30 settlement; is that what you are saying?

A. Yes, yes. It was used the night before for back-burning at Tharwa, I believe. When the chap brought it home, he put it in the shed and left it there. It was still there when the fires hit.  
35

Q. The New South Wales rural firefighters were there from about the Monday - were they from about Monday the 13th, they set up the camp there?

40 A. They were setting up - oh, the week before they were setting up. Monday, Tuesday, that's when they started bringing in all the big equipment.

Q. Did you talk to them? Did you go up and talk to them?  
45

A. I spoke to them. They reckoned - they thought they would be able to contain it first up. But

then later on they just - when the chips are down,  
they just left us.

5 Q. From the sound of it they must have left in a  
hurry, did they?

A. They did. They left in a hurry. As I was  
saying myself I said, "Look, there they go. They  
are running like rabbits. We are definitely in  
trouble." They must have got the call to get out,  
10 so why didn't we get the call?

Q. They didn't say anything to anybody on the way  
out?

A. Never said boo.  
15

Q. You were very close to them, from what you  
said?

A. We were standing at the gateway. Our road is  
2 metres from our gate. They drove straight past.  
20 Never even made eye contact with us.

Q. To the point that you think they left one of  
their own behind?

A. I'm not sure. I don't know where he came from  
25 or where he went.

Q. And the person who picked you up and took you  
to the hospital, was he a New South Wales or an  
ACT firefighter?

A. Yes, it was only New South Wales fellows that  
came back there to check out their base camp and  
help put out - my shed was still burning,  
apparently. When they finally got some hoses in  
they mopped up all around the yard, all around the  
35 houses and that.

Q. How have your eyes been since?

A. I've had my glasses changed twice. Now I  
can't read for too long because all the words sort  
40 of run into one another. I have to stop  
concentrating and look away and try and find the  
spot where I was up to.

Q. I think that is happening to all of us,  
45 Mr Ferry.

A. That is true. I think so too. I think age  
has got a bit to do with it now.

MS CRONAN: Could I just clarify one of my own questions before my friends ask questions?

THE CORONER: Yes.

5

MS CRONAN: Q. I asked you earlier if you had phone calls or contact from any of the Emergency Services people before the fire hit you that day. Did you have any contact, any telephone calls from ACT Housing or anybody from the Winchester Centre?  
A. No.

10

Q. No phone calls at all?  
A. None at all, no.

15

MS CRONAN: Thank you.

THE CORONER: Yes, Mr Archer?

20

MR ARCHER: Yes, just two questions.

**<CROSS-EXAMINATION BY MR ARCHER**

MR ARCHER: Mr Ferry, I act for the Australian Federal Police.

25

Q. You referred to two calls, I think, that your daughter made to Canberra Connect?  
A. Canberra Connect.

30

Q. Time probably was the last thing on your mind. Can you remember when it was that those two calls were made?  
A. One was --

35

Q. If you go to page 3 of your statement, it might assist you, if that is your statement that you have there.  
A. 1.15pm Janine rang Canberra Connect.

40

Q. That's the first call.  
A. Yes.

45

Q. Do you know when the next one was made?  
A. Between 2.15 and 2.30 attempted to ring Canberra Connect again. We received a constant engaged signal but we finally connected on our fourth attempt. We informed the operator at

Canberra Connect of our location. After bringing our location up on her computer screen, we were informed that the fire was heading directly towards us.

5

MR ARCHER: Yes, thank you.

THE CORONER: Mr Lakatos?

10 MR LAKATOS: I have nothing, thank you your Worship.

THE CORONER: Mr Coleman?

15 MR COLEMAN: No thank you, your Worship.

THE CORONER: Mr Walker?

MR PHILIP WALKER: Yes.

20

**<CROSS-EXAMINATION BY MR PHILIP WALKER**

MR PHILIP WALKER: Q. Mr Ferry, the departure of the New South Wales people, can you give us an approximate time when you saw that camp being evacuated?

25

A. I'd say roughly between 1.30, 2pm.

MR PHILIP WALKER: Thank you.

30 THE CORONER: Mr Watts?

MR WATTS: Nothing, thank you, your Worship.

THE CORONER: Anything arising Ms Cronan?

35

MS CRONAN: No, there isn't, your Worship.

THE CORONER: Thank you, Mr Ferry. You are excused. You are free to leave.

40

THE WITNESS: Thank you, your Worship.

**<THE WITNESS WITHDREW**

MR LASRY: Your Worship, I wasn't here yesterday when there were a few matters raised I think by Mr Walker and initially by Mr Pike, about which I should say something insofar as it will assist

45

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you.

5 Yesterday Mr Pike firstly raised the question of  
the evidence to be given by Mr Roach. Looking at  
the transcript of his remarks, I think what he was  
seeking, among other things, is what he described  
at page 5780 as "some kind of briefing document".  
I am in a position now to provide that. Indeed, I  
will tender as an exhibit the document which I  
10 think is properly described as the briefing  
document. I have some spare copies for my learned  
friends. I should explain briefly what the  
document is.

15 THE CORONER: It is described as a report --

MR LASRY: It might actually be described as the  
briefing document. This is a document that  
primarily I think Mr Woodward and I have  
20 prepared - actually Mr Woodward primarily with  
some assistance from me and of course with  
comments from Ms Cronan and others in the legal  
team. It is, in effect, Mr Roach's terms of  
reference.

25 You will see in the document that I think there  
are seven broad areas that we have asked him to  
examine. I won't go through the detail of it. It  
is important to be clear that what is presently  
30 occurring is that Mr Roach, as I understand it, is  
now formulating his report based on this document  
as the document which sets the criteria for his  
evidence.

35 THE CORONER: I will mark this as an exhibit,  
Mr Lasry. This document which is the structure of  
Mr Roach's report will become exhibit 0062.

40 **EXHIBIT #0062 - THE STRUCTURE OF MR ROACH'S REPORT  
TENDERED, ADMITTED WITHOUT OBJECTION**

MR LASRY: The obvious question to ask is: when  
will Mr Roach's material be ready? It is  
difficult to give any sort of definitive guarantee  
45 about that. Mr Roach has sat through the  
evidence. He has taken a large number of notes.  
He has been out to the scenes of the fires from

time to time. He has had obviously discussions with us, with Mr Cheney and various other people. There is obviously quite a bit of material to process.

5

We had hoped originally that his material would be in a position to be handed to the represented parties by the week before the 7th of June, that would be Friday the 4th, on the basis that we would anticipate that this court wouldn't sit probably in the week commencing the 7th, so that the parties would have the opportunity to read the material and obviously get instructions and also have access to the other expert material as well, which would include Mr Cheney and Mr Leonard.

Now, I think it is very likely that they will have Mr Cheney's material by then. I gather Mr Leonard's material is also well under way. I think Mr Roach's project is the largest and might be the last thing the represented parties get.

What I hope we will be able to do, at least if it is not complete, is provide it on a provisional or draft basis during that week commencing the 7th of June. Now, I can't be more definite than that. It really depends on how the process works.

The important thing about this process is that Mr Roach, to some extent, has to work alone. He primarily has to work alone for the purpose of forming his own opinions and formulating his expressions of opinion. We can assist to an extent by helping him to marshal the material, but we are anxious, as I am sure you would be, to ensure that the opinions Mr Roach expresses are his as opposed to those of the people with whom he has been discussing the matter or working.

So in the end, there is quite a bit of difficult writing work that Mr Roach has to do. He understands, as we do, the need to get the work done quickly. What I have just said as a suggested process is, unfortunately, the best that I can do at the moment.

But hopefully at least this document will give the

parties some indication as to what it is that we  
have asked Mr Roach to look at and therefore will  
give some indication of the sorts of areas where  
they might expect that he will express some kind  
5 of expert opinion on.

MR LAKATOS: Perhaps I might say that Mr Pike  
isn't here, as Mr Lasry astutely observed. He is  
in the back room doing something. I will pass  
10 this on to him. Of course it concerns us all as  
well.

My friend mentioned a report by Mr Leonard. I  
must say that went over my head. I am now not  
15 quite sure of having heard that before. I may be  
wrong about that. Perhaps my friend might  
enlighten me about that.

MR LASRY: We have mentioned it before, your  
20 Worship.

THE CORONER: In the really early stages.

MR LASRY: And again Mr Woodward, who is in  
25 Melbourne and working 23 and a half hours a day, I  
am sure on these matters - I say that because he  
will be reading it on the transcript as I am  
saying it - had a number of discussions with  
Mr Leonard from CSIRO who, in effect, after the  
30 fires, as I recall it, established a project by  
which he would study the area of Weston Creek and  
in particular study things like planning, house  
design, various other matters which it appeared to  
him contributed to the loss of some of the places  
35 that were destroyed. He has been conducting that  
research project for some time.

Your Worship might recall that last year one of  
the difficulties we encountered with Mr Leonard  
40 was that he was unable to get funding in order to  
complete his project.

THE CORONER: Yes.

MR LASRY: We raised it with you and asked you to  
45 express the view that this material would assist  
you, which you did. I am not sure that all the

funding has actually been provided. But he is determined to proceed and finish it anyway. He is also liaising with Mr Woodward directly and, as I understand what I was told yesterday, that material is making progress. So subject to all the obvious caveats, we hope to have that material available over the next couple of weeks.

Yesterday, Mr Walker again raised the issue of the evidence of Mr Kevin Cooper and I think he produced to your Worship a letter addressed to me and my response.

In the end, your Worship, it seems to me it is really a matter for you. In other words, if your Worship is of the view that you would be assisted by some brief process of further discussion with Mr Cooper along the lines that were sought by Mr Walker, then that is the end of the matter. If you will be assisted by it, then we will arrange for it to be done.

I might just observe that there are all told four documents of Mr Cooper's. There is his response to the request for information, his tape recorded record of conversation, which is very detailed, a document which is described as the overview, and on top of that there is the debrief. It seems to me, and the reason I took the position that I took originally was because I thought it was absolutely clear from viewing the material in totality what Mr Cooper had personal knowledge of and what his opinions were. I assumed that the debrief document would be looked at in that context.

That is to say, where opinions are expressed in that document and on many occasions I suspect those opinions coincide with Mr Cooper's own opinions because it is clear from the other material that he was in a position to form that view and he has offered particular views about the operation of the ACT ESB and the other documentation. But it has perhaps become a larger issue than it needs to be in the sense that it is obvious that if the debrief document contains information about which Mr Cooper has no knowledge, and the witness or the people at the

basis of the opinion expressed can't be identified, and evidence of that particular opinion can't be lead before you, then the opinion --

5

THE CORONER: It goes nowhere.

MR LASRY: -- is of no use to you, I would have thought.

10

Could I also add this, your Worship, I had arranged to speak with Mr Cooper I think next week, a day or so before he gives evidence. As I originally said when this issue was raised, I am content to ask him about that particular part of the debrief simply for the purpose of him telling me which of those opinions he is able to express from his own personal knowledge. I am content to pass that material on to Mr Walker and the other represented parties. But it just seems to me in view of the volume of material that Mr Cooper has been involved in and has provided that to now attempt to formulate yet another document in the form of a statement is in many regards a waste of time when you look at the material in totality.

15

But insofar as your Worship is of the view that you would be assisted by any clarification of that document, of course we will arrange for it to be done.

20

THE CORONER: If I can just indicate now that I don't require a further statement to be made by Mr Cooper. But I think probably what Mr Lasry has said, Mr Walker, might just allay some of the concerns that you had in relation to the use of the debrief document and what Mr Cooper could or could not say in relation to whether they were his opinions or whether they were opinions of others in the debrief document.

25

There is a substantial amount of information that Mr Cooper has provided. The only purpose that a statement would solve would be perhaps to somehow distil the information and put it into yet another document. That can be done by Mr Lasry leading the evidence from Mr Cooper and likewise by

30

counsel cross-examining Mr Cooper on information. I don't know that it is necessary, Mr Walker, to obtain another document for that purpose.

5 MR PHILIP WALKER: What Mr Lasry said addresses only a part of what I raised yesterday and is, frankly, a more minor part of the matter. I did not only just raise the issue of the extent to which Mr Cooper was personally aware of matters.

10

Although, pausing at that point, when I raised that issue it was because the inquiry has been one which has not simply rested upon those matters of which a witness can give personal knowledge but has often had evidence of hearsay material. So the mere fact that one can ascertain what Mr Cooper had personal knowledge of and what he did not does not end the matter at that point, because it is quite common for people to give evidence of what other people have told them.

20

But the more important point was some degree of particularisation of what those matters were. The notion that somehow this can be revealed by way of counsel leading the facts which underlie the opinions which have been recorded in the documents is the very problem which caused me to raise the issue in the first instance. That has not been attempted to be addressed at all by Mr Lasry.

25

30

It is not just a question of what does Mr Cooper personally know, it is what are the facts that lie behind some of these criticisms.

35 THE CORONER: Presumably what he knows comes from the facts, does it not?

MR PHILIP WALKER: I beg your pardon?

40 THE CORONER: Presumably what he knows and what he is able to give evidence on is based on fact.

MR PHILIP WALKER: Well presumably so. The problem is that I don't know what many of the facts are which underlie the opinions which are recorded in these documents. The problem I am presented with is if he is asked the question: now

45

what is the basis that this opinion was formed on?  
I may well be left completely unable to deal with  
the basis which he then reveals for the first time  
orally. That was the issue I raised,  
5 your Worship. It does not appear, in my  
respectful submission, to have been answered.

MR LASRY: Well, your Worship, by way of reply, I  
simply don't agree. My point at the outset was  
10 that you need to look at all of Mr Cooper's  
material in totality. Mr Cooper was the task  
force commander. He is being called to give  
evidence about what he observed, what he did and  
what he is able to say about what he observed in  
15 the period while he was in Canberra.

These documents, particularly including the tape  
recorded record of conversation, demonstrate his  
level of knowledge quite clearly. In my  
20 submission, the facts on which he would rely to  
express views that he proposes to express are  
apparent from the totality of that material. As I  
say, in my submission, that's an answer to the  
point that is being made. I don't have anything  
25 further to say to it.

The next issue that was raised was in the outline  
of directions and rulings was the clarification of  
the status of documents in the brief. I think I  
30 said very early in the proceedings that the whole  
point of the system which functions in this court  
is that what becomes courtbook, that is the  
computer database which everyone has access to,  
contains the material which we, as counsel  
35 assisting you, regard as the coronial brief.

The rest of it, in effect, is a matter of  
emphasis. The other substantial part of the  
evidentiary database is of course the evidence  
40 that has been given by the witnesses which will,  
save for the documents which are already obviously  
important, will become the primary source of  
evidence. But all of the material has always  
intended, once it is part of courtbook, to be  
45 regarded as part of the brief and therefore before  
you as part of this inquest.

47

I say this now with more hesitation in view of the last issue - it having been suggested that I wasn't dealing with the issue - in my submission the way in which this will work will clarify upon  
5 the production of our submissions to you at the end of the evidence. It is intended by us, and I think we have had this discussion before in court, that in effect our submissions will of course be detailed and will be referenced to the evidence.

10 And save for any particular circumstances where your Worship wished to look beyond our submissions, we intend that our submissions would be, as it were, the worst outcome possible for any  
15 of the represented parties. In other words, they could read our submissions and they could see if a case was to be put for an adverse comment or criticism of a represented party, it would be in those submission and the nature of the criticism  
20 would be articulated and the evidence on which we would rely, if we do, to urge you to make that criticism would also be articulated.

The intention on our part is that those  
25 submissions would effectively represent your Worship's compliance with section 55 of the Coroner's Act. That is the section that requires you to give notice of intended adverse comments or criticisms. I don't quote the section accurately,  
30 but that is what it does.

In a sense, there is no need to look at cases for example, dealing with boards of inquiry and things of that kind because, insofar as those rules apply  
35 to you, they are referred to in the Coroner's Act. As we understand it, your primary role is to comply with the Coroner's Act and in this particular case with section 55.

40 If it turned out that your Worship was minded to make a finding or criticism adverse to a represented party which was not something that we had submitted that you should make, and perhaps hadn't referred to, then in those circumstances  
45 your Worship would have to give separate notice of your intention to make such a finding according to the scheme under section 55. If that required

further submissions or it required the recall of a witness because in some way a party was taken by surprise, then that would have to be dealt with.

5 But by and large it is intended that our  
submissions would represent, in effect, the  
possible criticisms and adverse findings that any  
of the represented parties needed to meet. I say  
that in a longwinded way because it is intended  
10 that those submissions will demonstrate which  
parts of the courtbook database those submissions  
rely on. So what becomes important should be  
apparent from those submissions.

15 Frankly, in my submission, after three months of  
sitting here, what is important is already pretty  
much apparent; what the important documents are is  
pretty much apparent; which witnesses and which  
parts of their evidence are of particular  
20 significance would already be apparent. So that  
is the scheme by which we see this operating.

So the answer to question 2B in Mr Walker's  
submission is yes, it would be open to  
25 your Worship to make findings based on material  
that is in courtbook where a witness hasn't been  
called or hasn't been particularly referred to in  
the course of the proceedings.

30 I would have thought it is most unlikely that that  
would occur on anything contentious. There is, as  
your Worship well knows, a whole strata in this  
case of uncontentious material - factual narrative  
as it were, things that demonstrably are not in  
35 context, which are supported to some extent by  
some of the material in the courtbook database.  
But to apply the rule under section 55 if an  
adverse finding was to be sought, for example, in  
relation to a document which is in courtbook but  
40 had never been put to any witness, had not been  
the subject of any evidence at all and in respect  
of which a represented party, for example, had  
evidence that they thought would deal with that  
particular document, it may be, in those  
45 circumstances, that the possibility of re-opening  
the evidence would have to be considered.

47

But in my submission it is to some extent, I think, unlikely that the problem will arise because I am fairly confident that our submissions will be detailed enough to demonstrate the way in which the material has been used to reach the conclusions we would be urging you to reach. It will be almost certainly, I hope, based on the material which is well and truly before you, either in the oral evidence or in the documents which have been referred to.

Even if that is not the case, even if in our submissions we refer to some document or to some witness's evidence which hasn't been the subject of evidence actually from the witness box, by providing that information at that stage we would submit that section 55 has in effect been complied with. So that's the view that we take of that.

It was always intended, as far as we were concerned, your Worship, that courtbook would be made available to the parties so that the parties could prepare, as it were their own case. They would have all the documents we have, they could work their way through the database and find the documents that were particularly relevant to their interest.

Of course this isn't civil litigation. It is not an adversarial proceeding; it is an inquisitorial proceeding. Our role is to assist you. Our role and our submissions at the end is to make submissions as to conclusions that are open to you, not all of which of course would be critical of any of the parties, but some of them may be, so that you can reach the result that you are required to reach under the Act. We do not have a case to put. We are not a party who is, for example, under the Browne v Dunn rule, required to put a case to a particular represented party. We don't have a case to put and it would be improper for us to have a particular case to put.

What we have tried to do, and I should make this as clear as I can, during the course of the evidence, particularly with the witnesses from ESB but many others as well, I suspect, is to find

criticisms of their evidence by other witnesses and put those criticisms to them for the purpose of understanding what their response is. So we are approaching our task on that basis.

5

Perhaps I should finally say, the extent to which documents which haven't been seen or haven't attained any notoriety in this courtroom become the subject for submissions for adverse finding I suspect remains to be seen. It is perhaps too early to say whether there will be any. I would be surprised if it became a major issue. If it does become a significant issue upon delivery of our submissions we will have to deal with it. We will have to deal with the criticism that would obviously flow from it.

THE CORONER: There will always be a procedure and a provision to deal with that, if it does happen.

20

MR LASRY: Yes, that is right. The next matter that was raised was the subject of the recall of witnesses. I had intended to raise that with some of the parties this week but in any event, since it was raised yesterday, I will do it now.

25

Your Worship first of all will recall when Mr Lucas-Smith gave evidence as the first witness in phase 2, at the end of his evidence I think I made it clear - I haven't dug out the transcript but I am fairly confident I made it clear - that it would be intended that he would be recalled. The purpose of calling those witnesses that we did at the outset was to try to ensure that the issues in this inquest would be fairly clearly delineated. I think, with respect, that that has been successful.

30

35

It seemed to us, particularly in Mr Lucas-Smith's case and in Mr Castle's case, that they gave evidence without their counsel being present. In the case of Mr McRae and Mr Graham, I think in both cases their counsel were present but had had very brief time to become familiar with the material, and obviously were under some pressure. It seemed to us an appropriate position for us to take was to first of all indicate we would propose

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45

to recall Mr Lucas-Smith. And that if those other parties wished to give further evidence in response to the evidence which has been given since they gave evidence and given that they now  
5 have counsel here, that we would simply regard that as a continuation of their evidence. The procedure that I would envisage would be that they return to the witness box, be sworn and their counsel would then lead such evidence from them as  
10 they wish to lead. At the end of that either I or Mr Woodward or Ms Cronan would re-examine them. That is using that term broadly, because re-examination obviously may have the potential of being more in the nature of cross-examination on  
15 occasions in the sense of testing propositions that were put and so on.

So that's a procedure that we would envisage. But I would strongly resist, bearing in mind that the  
20 issues are apparent I would think from the last three months of evidence, that we would be required to give some written indication of the areas that we would examine any of those witnesses and a written indication - I presume this is  
25 intended to be in advance of that process - of areas where a witness could be subject to criticism. Your Worship, in our submission the areas where particular witnesses might be subject to criticism are, we would submit, already pretty  
30 obvious. But the rules don't require this to be done. Section 55 certainly doesn't require this to be done.

In my submission it is unnecessary and detracts to  
35 some extent in the value of the sort of examination that we have conducted in testing some of this evidence in its value to you. Much of this material has been tested to some extent without warning. It is said to be the benefit of  
40 cross-examining witnesses that versions are tested and the Tribunal of fact, which is you in this case, gained some benefit from that without notice having been given so that a witness can be ready  
45 for it.

I don't frankly believe there are any surprises. But there is a lot of evidence which has been

given. There is evidence that, for example, I would want to ask Mr Lucas-Smith about which has been given since he gave evidence. Without disclosing too much of the detail, an obvious  
5 example would be the functioning of the Incident Management Team and the Service Management Team and who actually carried which responsibility. That topic would be a good example, because it has arisen in some detail since he gave evidence.

10 And similar considerations would apply in the cases of other witnesses. I have named four. There may be other represented parties who wish to go back into the witness box as well.

15 If that is the case we would be anxious to know because there is a timetabling issue. We would envisage that the process that I have just described would occur some time in the week  
20 commencing the 21st of June. As I understand it we hopefully would have that week - or part of it - depending on the completion of the expert evidence, and then the first two days of the following week before your Worship goes away.

25 I don't envisage that any of those witnesses would spend the time in the witness box that they did last time. It would be a much more abbreviated process. There are some fundamental things that  
30 it seems to us you would be assisted by being put to them before the evidence concludes. It is appropriate probably that they be the last witnesses so that, at the time they do enter the witness box, all the evidence which might affect  
35 their position is in. So that is the process we would envisage in relation to the recall of witnesses.

40 THE CORONER: I think one issue that Mr Walker raised, and I think you have answered this, Mr Lasry, is that if witnesses are to be recalled and certainly in Mr Lucas-Smith's case then you would envisage that Mr Walker, for example in that case, would lead the evidence.

45 MR LASRY: Yes.

47

THE CORONER: I think that is an issue that you also had, that counsel could lead the witness through the evidence.

5 MR LASRY: Your Worship, perhaps to clarify: Our position at the outset was that only counsel assisting could call the witnesses. This is consistent with that. It would simply be a matter of the witness being recalled to the witness box  
10 and Mr Walker then being offered the opportunity, which in his case he hasn't had yet, to examine his own client. Other parties may wish also to ask Mr Lucas-Smith questions. At the end of that the usual process would apply that we would also  
15 ask some further questions. That is consistent with the procedure as it has been, and it seems in our submission to be an appropriate way to deal with it.

20 Your Worship, the other matter I should touch on briefly is the question of the view. In my submission, it is really entirely a matter for you. As the document which has been distributed to the parties indicates, I was on the view that  
25 took place in August of 2003 and, as in your Worship's case, I wasn't keeping notes either of the conversation. All I can say in relation to that, because you have informed the parties by that document as to where we went and what we saw,  
30 I think Mr Walker is asking if there has been conversation that it should also be provided.

My very broad recollection is that insofar as there was conversation of a more formal nature,  
35 that is a discussion about what we were doing, it was primarily about where we were and being pointed out to us where the fire was in particular places and so on. It was early in the process. It was pre-phase 1. It was clearly a view that  
40 was designed to enable you in particular to have a familiarisation with the area.

THE CORONER: To look at the area. I hadn't been in that part of the forest before, and that was  
45 the purpose of it.

MR LASRY: As it has turned out, there were some

other parts that we simply didn't have time to go to that particular day which may or may not be of assistance. In the end we would submit in considering whether to have another view or not,  
5 the usual question is whether you would be assisted by it as opposed to the evidence given by people expert in the fire suppression area who are able to look at the area and offer opinions about the difficulties in the area based on their  
10 expertise.

The fact that you or I or Mr Whybrow or Mr Craddock or somebody else found the going difficult mightn't be of all that much assistance  
15 to you. I am sure at my age and state of fitness, I would certainly find the going difficult. I am sure I am not arduously qualified.

THE CORONER: I am certainly not at the RAFT  
20 fitness level training either.

MR LASRY: Beyond that, if your Worship is of the view that it is appropriate to go back out there and have another look at the areas that we haven't  
25 already seen, then we don't otherwise have any submissions to make about that.

THE CORONER: I will do that. I will take the opportunity to do that, if there is indeed time to  
30 do that. And providing that we go to the places we haven't covered already, I am quite content to do that.

MR LASRY: Yes, as your Worship pleases.  
35

THE CORONER: As you say, it is from that point of view that you put that into perspective with the evidence that has already been given. I have already indicated that I will also undertake a  
40 view of the ESB building in Curtin, and Mr Lakatos has kindly arranged with people who are at that centre for that to occur tomorrow morning at 10 o'clock. I indicated early in the piece that I was prepared to do that. I will do that. I think  
45 that will be of assistance.

MR LASRY: If your Worship pleases.

THE CORONER: Thank you, Mr Lasry. Mr Walker,  
I hope that clarifies some of the issues you have  
raised. It may not clarify all of the issues. I  
must say a lot of the information Mr Lasry has  
5 provided is information that has been available,  
particularly in relation to how the brief was  
going to be handled and what was to happen to the  
evidence and the information in the brief, that  
was something that was made known to all the  
10 parties at the outset of this inquiry.

MR PHILIP WALKER: Well, your Worship, I have read  
what Mr Lasry said earlier on. Let me deal with  
one matter. I raised the question of whether we  
15 would call witnesses. Of course at least in part  
what Mr Lasry proposes certainly affords the  
opportunity to lead evidence which would be in the  
nature of calling a witness in chief. I accept  
that.

20  
The problem with what he presents is I gather he  
then says counsel assisting will re-examine.  
Re-examination in this inquiry has - at least in  
my view of it, I would respectfully submit - not  
25 taken the form of ordinary re-examination in that  
it doesn't seek merely just to clarify; it really  
amounts in many instances to further  
cross-examination. The problem with the course  
which is proposed is that the person representing  
30 that person does not effectively get the last word  
after re-examination which, as I said, often ends  
up to be cross-examination.

The purpose behind me requesting that counsel call  
35 their own witnesses is as much devoted to the idea  
that they be able to re-examine at the end of any  
cross-examination by counsel assisting. That's  
frankly what I would ask your Worship to consider.

40 I have heard what Mr Lasry has got to say. I  
would actually ask you to indicate whether you  
frankly agree with what Mr Lasry says or modify  
what Mr Lasry says, but in some way get some  
formal ruling from you on the points which have  
45 been raised. It may be that you simply adopt what  
Mr Lasry says. I would, with respect, ask that  
you formally rule on the matters including,

amongst others, the one that I most recently mentioned about the capacity to re-examine.

5 The other point that I picked up, I gather that Mr Lasry says - frankly I am not necessarily arguing with him on this point - it would be unlikely that there would be matters within the courtbook which he might raise in submissions which have not been actively ventilated before  
10 you. I am sure that is right for the vast majority of times. But I gather if in the event that that does happen, and it gives rise to a need to call evidence, there will be no entitlement. It will be a matter of an application to re-open  
15 the evidence in order to respond by way of evidence to reference to any such material in counsel's submissions.

20 THE CORONER: It will all depend on a matter of fairness. If there is critical information that hasn't been presented to the inquiry by evidence or by a particular document, then if it is contentious or a critical issue then in the interests of fairness and in the interests of  
25 justice and in the interests of natural justice, an application can be made. And I would be most willing to entertain any application to allow further evidence to be called, if that were to happen. That has always been my position as well,  
30 to be as fair and to afford as much fairness as I am required to do in the conduct of this inquiry.

35 But if you do wish me to make rulings on all of the points that you have made, I am quite prepared to do so. I can do so now, if you wish.

MR PHILIP WALKER: Yes, your Worship. I think it is probably best to get a formal position.

40 THE CORONER: I will do that then. Starting from the first point, you talk about providing a statement from Mr Cooper. I won't be assisted and I don't require any further statements to be provided by Mr Cooper. I think that probably  
45 answers 1B as well, "Provide particulars". Mr Lasry has said that he intends to have a conversation with Mr Cooper prior to calling

evidence. If there is some evidence that might assist you, then I am sure Mr Lasry will share that with you.

5 B, I am not prepared to rule or make any comment  
whether I will or will not make any adverse  
findings based on the letter of 10 May. We  
haven't concluded the evidence in this inquiry  
yet, Mr Walker. I am not prepared to make any  
10 guarantee or any ruling as to what will or will  
not be used ultimately at the end of all the  
evidence.

2A, well, that is fairly clear.

15

MR PHILIP WALKER: That is not an issue,  
your Worship. I mentioned that yesterday.

THE CORONER: Likewise 2B, I think we have  
20 discussed that as well, Mr Walker.

MR PHILIP WALKER: Yes.

THE CORONER: The issues in relation to recalling  
25 witnesses, I adopt what Mr Lasry has said. But I  
will say this to you, Mr Walker, if there is a  
situation where you feel that after re-examination  
by counsel assisting that there is an issue that  
has been left and that needs clarification, if you  
30 make an application I will be more than willing to  
listen to you, if you wish to ask further  
questions. I think rather than making a definite  
ruling one way or the other, I would rather have  
some flexibility in that and listen to what you  
35 have to say and indeed any other counsel at that  
particular time.

I think that is pretty much the way that we have  
been proceeding anyway. I would prefer to have it  
40 on that basis rather than to make a definite  
ruling. I will accommodate and I will always  
listen to you. I mightn't always agree with your  
request, Mr Walker, but I will always listen to  
what you have got to say.

45

In relation to ESB and the view, I have indicated  
that if we can, certainly ESB will be tomorrow

morning at 10 o'clock and a view of any further scenes, I am willing to undertake that, if that can be accommodated. I am sure that it can in some of the time that we have. I am willing to do  
5 that.

In relation to providing notes, I am mindful of the case that you handed up to me yesterday. I say to that, though, that case involved a board of  
10 inquiry. This is a coronial proceeding. One is perhaps a quasi judicial, if at best, maybe that is putting it too highly, this is a judicial proceeding.

Not that I have any, but I am not obliged to hand over any notes I have made. I can't be a witness in these proceedings. I am not prepared to do that. As I say, even if I had, I wouldn't do that. I am not required to do that. Likewise,  
20 any conversations that I have had with persons - and there have been many, as you can well imagine, in a private context - that is not evidence in these proceedings. I am not required to and I don't intend to make any reference or indeed  
25 inform myself officially of any of that information. I simply note that or make that comment in relation to the notes that you seem to think that there were other notes provided. I am not obliged to provide any information such as  
30 that, if it did exist.

Does that pretty much satisfy all --

MR PHILIP WALKER: I think that deals with the matters I raised, your Worship. Just on the issue of the view of ESB headquarters tomorrow, it is purely a logistical situation. It occurs to me and I think Mr Whybrow, who currently is not here, that Mr Castle might be somebody who might  
40 identify to you what particular rooms were used for at the relevant time. We do have a plan of the area on which we can mark rooms A, B and C and so forth and indicate what each were used for.

If you were inclined to do so, it occurred to me that if Mr Castle were to indicate "this is room B and it was used for a particular purpose", it

might be best if that were in fact recorded and can subsequently be transcribed so that there is a bit of a narrative of what you were told on the view about the use of each room. I don't know if  
5 that would suit your convenience. It seemed a possible way of explaining it so that, when we ultimately ended up back here, you would have some record of what you were shown and what it was said to be. I just advance that - I am not necessarily  
10 urging it. I am just offering it as a possible way of dealing with the matter because there are quite a number of different rooms of course in this building.

15 THE CORONER: I don't know that we necessarily need to record it. Perhaps we could have somebody to take notes.

MR PHILIP WALKER: It is a matter for  
20 your Worship. I was suggesting not so much a transcript of proceedings but more almost a dictaphone recording of what would effectively be notes of what the room was, not much more than that.

25 THE CORONER: If you wish to arrange something like that, Mr Walker, so be it. I don't intend to do that.

30 MR WATTS: If I can just raise one matter for clarification. It is on the question of recall of witnesses. Do I understand it to be that witnesses will only be recalled if they wish to be recalled to give further evidence or does counsel  
35 assisting intend to require certain people to be recalled? Certainly, acting as I do for numerous witnesses, I can't imagine they would want anything less, with great respect to your Worship, than to come back.

40 THE CORONER: We would not want that ourselves, Mr Watts. It is not necessary that that happen.

MR LASRY: Let me make it clear, the only witness  
45 that, if it were up to us, would be recalled would be Mr Lucas-Smith because his evidence was dealt with on the basis that he would be recalled.

Otherwise we would not require to recall any of the represented parties apart from him. So it was on the basis of Mr Walker's submission that if they wished to give further evidence. In view of  
5 the evidence which has been given since they gave theirs, a procedure needed to be settled upon for that process. If they don't wish to then the only represented party that I imagine being recalled would be Mr Lucas-Smith.

10

THE CORONER: If there are witnesses who do wish to be recalled or if counsel wants some witnesses to be recalled then perhaps to just notify you as soon as possible.

15

MR LASRY: Yes. They would need to let us know and why. Because ultimately whether we do that or not is a matter for us, as I understand it.

20

THE CORONER: Yes.

25

MR COLEMAN: Your Worship, I don't propose to go on tomorrow's view. I mean that as no discourtesy to the Court or to those who arranged it, if that is convenient to your Worship.

THE CORONER: Sorry, Mr Coleman.

30

MR COLEMAN: We don't propose to go to tomorrow's view.

THE CORONER: You are excused from tomorrow's view.

35

MR WATTS: Might I be excused?

40

THE CORONER: Yes, certainly, Mr Watts. Indeed any counsel who don't wish to participate in the view are excused. We might take the opportunity to listen to some tapes this afternoon.

MS CRONAN: Yes, your Worship.

45

THE CORONER: I will say not before half past 2.

47

**LUNCHEON ADJOURNMENT**

**[12.51pm]**

**RESUMED**

**[ 2.35pm ]**

THE CORONER: Yes, Ms Cronan.

5 MS CRONAN: I propose to start playing the tapes  
from 14 January at 02.23.20. Ms Drew has provided  
to you a copy of the transcript. She has had a  
look at them and there a couple missing. She will  
chase them up and the transcript will be placed in  
10 the system in due course.

THE CORONER: They will be distributed to counsel?

15 MS CRONAN: Yes, your Worship.

(Telephone conversations played)

MS CRONAN: We are about to embark on a fairly  
lengthy one, so is that a convenient time?

20

THE CORONER: That's perfect. We are up to 23:12  
on 15 January. We will adjourn until the  
excursion tomorrow.

25 **MATTER ADJOURNED AT 3.55PM UNTIL THURSDAY, 27 MAY  
2003.**

30

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TRANSCRIPT OF PROCEEDINGS

CORONER'S COURT OF THE  
AUSTRALIAN CAPITAL TERRITORY

MRS M. DOOGAN, CORONER

CF No 154 of 2003

CANBERRA

INQUEST AND INQUIRY INTO  
THE DEATH OF DOROTHY MCGRATH,  
ALLISON MARY TENNER,  
PETER BROOKE, AND DOUGLAS JOHN FRASER  
AND THE FIRES OF JANUARY 2003

DAY 62

Thursday, 27 May 2004

MS CRONAN: I call Michael James Anderson.

5 <MICHAEL JAMES ANDERSON, SWORN

<EXAMINATION-IN-CHIEF BY MS CRONAN

MS CRONAN: Q. Could you please tell the Court your full name and your current occupation?

10 A. Michael James Anderson. I am a carpenter.

Q. Where are you currently living, Mr Anderson?

A. 49 Bugden Avenue, Gowrie.

15 Q. As at 18 January 2003, where were you living then?

A. 5 Bradley Crescent, Uriarra Forestry Settlement.

20 Q. At that time how long had you been living at Bradley Crescent?

A. 38 years roughly.

Q. Who did you live at that house with?

25 A. With my father.

Q. Were you aware some time on or after 8 January last year that some fires had ignited in the Brindabella Ranges?

30 A. Yes, I was aware of that. We could see the smoke from where we were working when they started.

Q. Did you follow the progress of the fires over 35 the next 10 days?

A. Yes, I did.

Q. What kind of information were you accessing in order to follow the progress of the fires; were 40 you watching television or reading the papers?

A. We had quite a few helicopters at Uriarra Forest, and every afternoon after work I would go up there and ask people at the area how the fires were progressing and how they were going with 45 them.

Q. Were they ACT people or New South Wales people

you were talking to?

A. ACT people, I presume.

Q. You became concerned about the area that you  
5 lived in, being affected in some way around about  
the 15th of January; is that right?

A. Yes, that's correct.

Q. What made you concerned around about the 15th?

10 A. Just how close the smoke was getting, the  
smoke was getting thicker.

Q. Had you had any experience with bushfires  
yourself at that point in time?

15 A. As in fighting bushfires?

Q. Yes.

A. No, I hadn't.

20 Q. So what did you do when you became concerned  
on the 15th?

A. The actual person I work with was a New South  
Wales volunteer firefighter. He had spent a  
couple of days up in the McIntyre's Hut area and  
25 around there. And I spoke to him about it and  
asked him, "You know, is it getting out of hand?"  
He said it was pretty big. I suggested that I  
call in one of my mates and we do some - just put  
some fire breaks around the place. He sort of  
30 said, "Well, Uriarra would probably be the last  
line of defence." That was his opinion. Being  
expensive to hire a bulldozer, we sort of thought,  
"Oh, well, we'll wait and see what happens now."

35 Q. So you didn't put a dozer line in at that  
stage. Did you continue to be concerned?

A. Yes.

Q. Who did you speak to about your concerns?

40 A. Just people up at the oval - officer type  
people, hard to explain. There were a lot of  
people up there. I spoke to a lot of different  
people who had actually been at the fires and  
asked them how it was going. They all seemed to  
45 think it was all pretty well under control.

Q. So essentially you were concerned but you

thought it was being dealt with?

A. Yes.

5 Q. On Friday the 17th, you spent the night in  
Canberra and you weren't at home?

10 A. No. I wasn't at home. I went out to Uriarra  
that afternoon to have a look. I took a few odds  
and ends back to town with me. A car - I got a  
lift out there to drive a car back into town for  
the main reason that it was getting repaired on  
Saturday morning.

15 Q. You said you took a few odds, bits and pieces?

A. Yeah, a few odds, bits and pieces.

20 Q. What did you take with you?

A. A few tools, some clothes, stuff like that.

25 Q. Why did you take your things into town?

30 A. The main reason was to repair the car. We  
thought as a bit of a joke, we might need some  
clothes if it came through. That's the way we  
looked at it at the time.

35 Q. As at the morning of the 18th when you woke  
up, which suburb were you staying in?

A. Wanniassa.

40 Q. Were you aware on the morning of the 18th that  
there was some potential threat of impact on your  
residence from the fires that day?

A. Not in the morning when I woke up, no.

45 Q. So what did you do on the morning of the 18th?

A. I got in my car and drove it to Belconnen and  
left it at a muffler shop. I went and had a cup  
of coffee down the road.

50 Q. How did you find out that there might be some  
threat to your house?

55 A. The person I was staying with, my cousin. He  
drove a bread delivery van and knew where my car  
was and pulled in and said he heard on the radio  
that things were looking pretty grim out there,  
and I should get out there.

60 Q. Do you recall approximately what time that

was?

A. I think it was about 10.30, 11 o'clock, roughly.

5 Q. So what did you do after he told you to get out there?

A. Went and informed the people who were working on the car that I had to take it now. They took it off the hoist. I got in it and drove it to his  
10 house where we hooked up a trailer and got some more people to come and help and headed out to Uriarra.

Q. How many of you headed out to Uriarra?

15 A. I think there was five of us that went out there.

Q. About what time did you get to Uriarra?

A. Hard to say, about 11.30, 12 o'clock,  
20 something around there.

Q. Up to that point in time, had you done anything to prepare your house for a possible impact?

25 A. No, I hadn't.

Q. Did you see any of your neighbours doing any fire preparations?

A. When I got to home there was my next-door  
30 neighbour was starting to hose down around his house. I went up and seen the rest of the residents. They were a bit - I don't know how you would put it - worried about what they were going to do and what we were going to do and whether  
35 there was any help going to be there on the day.

Q. Were there any Emergency Services personnel at the settlement at that stage?

A. No, there wasn't.  
40

Q. Were there fire hydrants at the settlement?

A. Fire hydrants?

Q. Yes.

45 A. Yes.

Q. What condition were they in?

A. There were some bits and pieces missing from them that had gone missing during the past few days that the fire had been on. We managed to find a couple of odds and ends to get one fire  
5 hydrant near our place working. I think there was another one down the road that they got up and running as well.

Q. What did you do to prepare your house for a  
10 possible impact at that stage?

A. First thing I done is got what I could out of there. By this time the fire was getting very close.

Q. How did you know it was getting very close?  
15

A. You could see the flames coming down the hills.

Q. Were you listening to the radio at all?

A. We had the radio on from time to time. But  
20 didn't have time to listen to it really at this stage.

Q. You could see the flames at this stage and you  
25 got some things together?

A. Yeah, got what I could, got the people that come out to help me to leave because it had become a real threat by then.

Q. What were the conditions like? What was  
30 visibility like to start with at that stage?

A. It was fairly smoky. It wasn't dark. You could see a little bit. Visibility wasn't that  
35 good at that stage.

Q. Up until that point did you have some sort of  
plan in your mind about whether you would go or  
whether you would stay and try to protect your  
home?

A. No, I didn't.  
40

Q. So you told the people that you brought to  
leave. Where did you tell them to go to?

A. I told them to go home. They still had time  
45 to get home.

Q. Were they able to get home at that stage?

A. Yes. The last person that left said the fires were just behind him as he left the Cotter Road.

Q. After they left, what did you do?

5 A. I went up and seen my neighbours and said, "Well, what are we going to do?" I asked them, "What do you think we should do? Are we going to have any help here?" After that I think I went and rung 000.

10

Q. Up to that point in time had you received any telephone contact from ACT Housing or any Emergency Services personnel to advise you what was happening?

15 A. No. Nobody. No.

Q. What happened when you rang 000?

A. They were a bit confused on what I should do. They first suggested that I leave via the Cotter  
20 Road. By this time Mt McDonald was on fire. I knew the fire had crossed the road that - Mt McDonald Road, as I call it. I explained that to her. She said, "Well, try leaving by the Uriarra Crossing Road". I said, "be very sure of  
25 that because I am pretty sure that would be on fire, that would be engulfed in flames as well". She then put me on hold and went and spoke to someone else. She said, "The best thing for you to do would be to go down to the intersection of  
30 Uriarra Road and Brindabella Road."

Q. So what did you do after that conversation?

A. Went down and informed the other residents of what 000 had told me. Then remembered seeing a  
35 fire truck up near a place called Curlewis's, not far from Uriarra. Tried to get up there but the flames were across the road then. It was pretty well on fire. So I turned around and went back down to where the lady on 000 told me to go.

40

From there I walked across a paddock with another neighbour to talk to some people in a fire tanker. I told them of our situation, that there was about  
45 30 residents at Uriarra that were not knowing what to do or where to go and we need assistance. He then contacted whoever they do. He got on his radio. He was told to stay where he was. He

wasn't to leave. He tried this three or four times and got the same answer. By this time the firestorm had hit where we were.

5 Q. Could you describe what happened when the firestorm hit, where you were?

A. We were standing there talking to one of the fellows in the fire truck. He said, "Get in the cabin of the truck". So myself, another gentleman and two young kids climbed in the fire truck. The fires got pretty bad around that. He said, "Quick, run into the house". So he got us all out of there and put us in the house. We were in there for about 5 minutes, I suppose. He said, "youse better get out of the house and go sit back in the truck". And probably - it is hard to say, I think it was about 10, 15 minutes the firestorm had gone through.

20 I explained to him there were people in Uriarra, I didn't know whether they got out or not. He then rang through to his captain, whoever that was, and another gentleman come down and said, "I'll take you up to Uriarra to see what happened".

25 We got back down to the front of the intersection where we were told to wait. Most of the residents were there except I think there was six or seven still stuck. He said, "I'll take you up there to see if they are okay." When we got up there we couldn't get through for 10 or 15 minutes because of the smoke and the flames. He waited for a support vehicle, a fire tanker to turn up before he proceeded through.

35 Q. The people at the crossing, were they safe?

A. Yes, they were safe, yes. They had made it out.

40 Q. How many of you went up or tried to get up to the settlement to see if the other people were still safe?

A. Myself and one of the fire captains.

45 Q. How did you eventually get back to the settlement?

A. I drove my own car back because, fortunately

enough, it hadn't caught fire at this stage. I got the fire captain to drop me off. I took my car back down to the crossing and left it there.

5 Q. Sorry, I was asking how you got back to the settlement.

A. Oh, to the settlement, in a fire captain's Land Cruiser, he drove me up there. We went to the oval to see if the other fellows were all  
10 right, and they were.

Q. What did you find when you got back to the settlement?

A. When I first got back there, my house was on  
15 fire, a couple of garages and about three or four other houses, maybe more, on fire. Not every building was on fire, though.

Q. Did you find the rest of the settlement  
20 residents?

A. Yes.

Q. Were they safe?

A. Yeah, they were.  
25

Q. So what did you actually do after you got back to the settlement?

A. We spoke to the other residents and suggested that they should come down and wait down at the  
30 crossing, down at the intersection with us. A few of them decided they would. The rest decided they would stay and keep fighting.

Q. So did you go back down to the crossing as  
35 well?

A. I went back down there, yes, and returned a short time later to let the other residents know what had happened up there.

40 Q. When did you come back into Canberra?

A. Probably about 9, 9.30, something like that, Saturday night.

Q. What did you do up until 9 o'clock?

A. We went and put a couple of houses out and got  
45 another fire tanker that was driving around the settlement to put the old school building out and

went back down to the intersection and waited there until we figured out what we were going to do. Then we decided we would go to down.

5 Q. Where was your father throughout this?  
A. Beg yours?

Q. Where was your father?  
A. He was down the coast.

10

Q. Were you able to save any of your possessions?  
A. We saved some, yes. A few bits and pieces, a lot of the stuff out of the shed, a few tellies, cars, boats - just things that we could tow away.

15

Q. Where did you stay that night?  
A. At the Narrabundah College.

Q. How have you managed to recover from the loss  
20 of all of your possessions through the fire?

A. I don't think I've really recovered as yet. The house being missing - going home would be a full recovery, I think.

25 Q. Are there any issues that you would like to raise in the coronial inquiry as a result of the experience that you had on the 18th of January?

A. Yes, there is.

30 Q. What would you like to raise?

A. I just wondering when I went back down to Uriarra station, as it is called, there was fire tankers, light units and firemen standing guarding fences, cattle yards and sheep yards and I have  
35 still been wondering when did these become more important than human life.

Q. Is that the only issue that you wish to raise?

40  
A. Yes.

MS CRONAN: Thank you, sir, I have no further questions.

45 THE CORONER: Q. Mr Anderson, when did the firefighting crews leave the settlement? You said they were there for some time before but they left on the 18th. Do you know when they left, what

time it was?

A. I think they left about 10 or 11 that day, speaking to other residents.

5 Q. You didn't see them leave?

A. I think there was one or two still leaving as I got home.

Q. Did you have a chance to ask them why they  
10 were going and where they were going?

A. No, I didn't. No.

Q. Have you found out since from talking to other people who may have asked them?

15 A. The only thing I could figure out was when I was talking to the fire unit from Blair is that they were told to stay - they couldn't leave where they were. They had to stay where they were told. That's all.

20

Q. But the units that were at the settlement, are they the same units that you saw later at Hillesies place, the same crews?

25 A. I couldn't be sure of that, no. I couldn't be sure.

Q. What about this issue with the nozzles. You say there were nozzles missing?

30 A. Yes, there was. We're not sure who took them, whether they were fire units through the week that had lost bits and pieces from their crews or who it was that took them. We just don't know. But there was a lot missing. There was only like two or three hoses that could be used on the day due  
35 to lack of nozzles and other bits - fittings missing.

Q. Do you know whether or not those nozzles were there before the firefighting crews had arrived?

40 A. Most of them would have been there because the concerned residents had a look to check things out to see what they did and didn't have during the lead-up to the 18th.

45 Q. You rang, did you, and reported that the nozzles were missing, you rang the Fire Brigade and told them that the nozzles were missing?

A. I did ring.

Q. But this was some time before?

A. This was some time before.

5

Q. You had lived there pretty much all your life, hadn't you, at that settlement?

A. Yes, yes.

10 Q. Had you ever been through a fire there before or close by?

A. Not as close as that one was. Growing up my father and everybody else that used to live there were all firefighters. Every summer it was a tradition that they sit at home and couldn't go anywhere due to fire standby. And if a fire occurred you would hear the fire truck come down, ringing its bell and they would all leave and come home when it was out, whether it be two or three days later.

20

THE CORONER: Yes, thank you. I will see if counsel have any questions for you, Mr Anderson. Mr Archer?

25

MR ARCHER: No, I don't, thank you your Worship.

THE CORONER: Mr Lakatos.

30 MR LAKATOS: I have one brief area.

**<CROSS-EXAMINATION BY MR LAKATOS**

MR LAKATOS: Q. Mr Anderson, you say in your statement and you gave in your evidence that on Friday, the 17th of January, you went and stayed overnight in Canberra?

35

A. Yes, yes.

Q. Do you recall what time you left your home at Uriarra to go to Canberra on the Friday evening?

40

A. It was before dark.

Q. And approximately what time?

A. Probably 7, 7.30.

45

Q. You also said that your father, with whom you lived at Uriarra, spent the night of the 18th, I

believe, down the coast; is that correct?

A. Yes.

Q. Was he at home on the 17th?

5 A. No, he wasn't, no.

Q. Was there anybody at your house at Uriarra on the night of the 17th?

10 A. No, there wasn't.

Q. So your house was empty from basically before darkness through to 11.30 or 12 when you got back the following day?

15 A. Yes.

MR LAKATOS: Thank you.

THE CORONER: Mr Stitt?

20 MR STITT: No questions, thank you, your Worship.

THE CORONER: Mr Whybrow?

25 MR WHYBROW: No questions.

THE CORONER: Mr Walker?

MR PHILIP WALKER: No questions, your Worship.

30 THE CORONER: Mr Watts?

MR WATTS: No questions, your Worship.

35 THE CORONER: Ms Cronan, any re-examination?

MS CRONAN: No re-examination.

40 THE CORONER: Thank you, Mr Anderson. You are excused. You are free to leave if you wish.

**<THE WITNESS WITHDREW.**

MS CRONAN: I call Ms Judy Poulos.

45 **<JUDITH REGINA POULOS, SWORN**

**<EXAMINATION-IN-CHIEF BY MS CRONAN**

MS CRONAN: Q. Could you please tell the Court your full name and your current occupation?

A. Judith Regina Poulos. I am a research officer in Parliament House.

5

Q. Where do you currently live, Ms Poulos?

A. I live in unit 9 of 3 Ovens Street, Griffith.

Q. Where were you living as at 18 January 2003?

10 A. 9 Brewster Place, Duffy.

Q. You also had an investment property in Duffy at that time?

A. Yes, 29 Burrendong Street.

15

Q. Who were you living at 9 Brewster Place with?

A. My youngest daughter, Emily, and my second husband, Greg Newlyn.

20 Q. How old was Emily at that stage?

A. She is 23.

Q. Who was living in your investment property?

25 A. It was rented at the time by a couple - Chris Mills and Sue Farrelly.

Q. Ms Poulos, were you aware on or some time after 8 January that fires had ignited and were burning in the Brindabella Ranges?

30 A. After the 18th, did you say?

Q. After the 8th.

35 A. Look, I was away actually. I had come back - I had been overseas and I came back the weekend before the firestorm. I had gone back to work on the Monday but I hadn't had time to really sort the house out properly.

40 I was very struck by the smoke in Canberra all that week. I kept saying, "I've lived in Canberra all my life and I have never seen smoke like this". I watched the news of course and I read the newspapers to see if there was anything. Colleagues at work brushed it aside by saying,  
45 "oh, it is just smoke from the park fires. The wind will blow it in and the wind will blow it out. Don't worry".

I also had a false sense of confidence in the fact that the year before Weston Creek was under threat, and there was a lot of environment burnt, as you would all be aware. You only have to take  
5 a drive along Tuggeranong Expressway to see the damage that had been done.

In fact, my son-in-law, who lives in Mugga Way, Red Hill, was washing down his roof line at the  
10 time when the Spanish Embassy opposite caught fire. That was through embers in Mugga Way. He said there was bushfire tankers around at the time and so they came and put it out. The residents didn't even know. They were out partying. He  
15 said, when they arrived hours later they wondered what was happening.

That gave me a sense that all year whoever "they are" who look at these things would be taking, you  
20 know, clear note of all that and putting into place whatever precautions might be needed should we have a similar occurrence the following year.

Q. Whilst you were noticing the smoke, you still  
25 felt safe throughout the week leading up to the 18th?

A. I didn't feel terribly safe but I didn't really feel that my place - I didn't feel my home was under threat. No-one had ever mentioned it  
30 encroaching on the Canberra suburbs. I didn't feel that I was under personal threat. I was worried about the smoke and thought, "oh, we will probably be right. We would have heard something if it is" --

35 Q. That is how you were feeling when you woke up and went about your business on the 18th?

A. Yes. I can remember feeling so happy to be home actually on Saturday morning, looking after  
40 my daughter, she happened to be sick that day, and sorting out my bags and cleaning the house. I remember washing the suitcases and putting them in the hall cupboard and thinking, "Isn't it lovely to be home".

45 We had even lost our luggage actually to come back. That is the first time that ever happened.

It came back on the Friday before the bushfires. I had unpacked all that and washed them and put them away. I didn't know until my elder daughter rang me at 2 o'clock on the Saturday that I needed  
5 to turn the radio on and listen to an emergency message.

Q. Had you listened to the radio at all that morning before your daughter rang?

10 A. No, I hadn't. No.

Q. Did you read the 'Canberra Times' that morning?

15 A. No, I didn't, no.

Q. So after your daughter rang, did you turn the radio on?

A. I left it on, yes. My husband may have had it on. He is an Air Force officer from Richmond. He  
20 listens to everything. I can't speak for him at the moment. I just can't recall.

Q. When your daughter rang, your husband was just about to leave home to go shopping, was he?

25 A. Yes - no, he thought it was such a hot stuffy day that he was going to the movies. I didn't want to leave the house because I was worried about Emily not being very well. I didn't really feel like going anywhere, so I was staying anyway.

30 Q. Were you able to catch him before he left for Civic?

A. Yes. I ran out. He was just getting into his car. I think he would have heard it anyway  
35 because he is a person who always had the car radio on. I said "just listen, because this message is coming over. Tanya has just rung", and off he went. He came back later.

40 Q. What did the messages tell you to do when you listened to them?

A. The message to me was "don't panic" - really, that's what it said to me. Just do what you are told and you will probably be okay. It said  
45 things like "You are in no immediate danger. Stay with your property. Secure your property in these ways". Then it listed the ways we were to secure

our property, which I can't recall in detail now. I always had a note pad near the phone. I actually took down the points that it said to do. I tried to follow them through religiously. I  
5 spent most of my time outside putting things away, shutting things up in sheds. I rushed inside and filled the bath with water. I still don't know what that was for, but I did.

10 Then I remember at some stage the daughter of the couple next door to us who also lost their place, arrived in a great - she seemed to be in a great panic. She came to take her father. He had recently been ill and he was on his own. She  
15 said, "Go. There are houses on fire." This was the first I had heard of anything being on fire. The time frame after that I'm not very clear about. It seemed to me things happened pretty quickly after that. All of a sudden it seemed  
20 everything became very dark.

I remember my initial thought of her was maybe she is panicking. That's what I first thought. I thought if you are there and you can put out any  
25 embers that might fly across, you will probably be all right, you know.

I went inside at some stage, and of course all the electricity and everything had gone by then too so  
30 you couldn't hear any radio announcements. I don't know what things they were saying then. But my daughter was feeling as if she was going to suffocate from the smoke.

35 I remember looking around the house trying to find something. I had remembered, when I was cleaning up, I had even seen some of those masks that you put on when you are sometimes gardening or you are spraying somewhere, little disposable masks. I  
40 thought they were in the hall cupboard. I ran up to get them. I don't know if they would have helped. Your mind goes into a funny space, I think. I did that.

45 While I was up there fiddling around, my husband screamed at me literally and said, "Judy, get out of the house," and I went into - galvanised into

this action. I just went straight out downstairs.

I said to him, "Come on. Get into your car." He said, "pick the cat up." I put the cat in the box. We went out the back and got our German  
5 Shepherd dog. There was a terrible lot of noise. We were literally screaming at each other.

I said to him, "Where will I go?" He had his ear phones on. He had a little walkman that he always  
10 had. He must have heard that you go to Phillip College if you want to evacuate. He screamed to me "You go to Phillip College". I screamed at Emily, "This is where we are going," and we started to leave.

15

Q. Did your son-in-law arrive at about the time you left?

A. I don't know at what time he arrived. I believe he arrived before I left, he told me.  
20 Visibility was so bad I didn't even see him. That's when I actually became really frightened when I left, because there just seemed to be fire everywhere. There was absolutely no-one to reassure you that you weren't going further into  
25 the fire or away from it. I never saw anyone to tell us to evacuate at any time. I really thought our cars were going to be incinerated and we were going to burn in our car.

30 Q. Were you able to see your daughter's car as you drove away?

A. Pardon?

35 Q. Were you able to see your daughter's car as you drove away?

A. Yes. I actually drove - I said to her, "You stay right behind me." I drove mostly with my eye on the rear vision mirror. It is a wonder I didn't bump into someone. Emily said there were  
40 cars banging into each other everywhere. I didn't see that. I was too consumed with "Is she right behind me", and thinking "I didn't know what I will do if her car bursts into flames", because there just seemed to be fire everywhere to me,  
45 until I got out of Duffy.

Q. What route did you take?

A. I went down my usual route. I went down Brewster Place and turned left onto Tullaroop Street, went right on Wyangala Street and went on to Hindmarsh.

5

Q. What was the traffic like when you drove out; was there congestion on the road or was it free?

A. Yes, chock a block.

10 Q. How fast were you able to drive?

A. Pretty slowly, as I recall. I couldn't tell you exactly. You just had to sit and wait some of the time and then move on a bit.

15 Q. You got eventually past the Streeton Drive intersection?

A. Yes, where the lights are.

Q. And made your way to Phillip College?

20 A. Yes.

Q. What was happening at Phillip College when you arrived?

25 A. It was an absolute shemozzle. I found somewhere to park the car. I got the dog out for a while. I had to keep her on a chain. The cat was going berserk. I ended up putting the only jacket I had in the car right over her cage so she couldn't see, even though it was hot.

30

Then I tried to make phone calls. Everything was jammed. I remember waiting in a queue to use the only one phone that was available. It was one of those little blue phones that you have to put the right money in. Every time it got to my turn in the queue to make a call, I couldn't get through to anyone. That happened three times. The third time I thought I will try a different number. I will try my son. The money went through and it was the wrong number. That was it really. I didn't even try to ring again. We were there for about 2 and a half to 3 hours. No-one knew anything.

45 I kept turning the radio on in the car to try and hear what on earth was happening. I just seemed to get the same message, "You are in no immediate

danger. Stay with your property." I believe my home was well and truly burnt down by then. I kept turning it off in case I flattened the battery. I thought if we suddenly have to move  
5 from here, if the fire comes through, I don't want a flat battery. The people in the car next to me were thinking they might try to go to some friend's in Deakin. We were all a bit worried about moving because we didn't know whether it was  
10 going to be worse there or wherever.

In fact, some of the messages on the radio were really silly. It was like trying to entertain everyone. They were like, "If you are thinking of  
15 going sightseeing, we wouldn't advise it today", and all this business. It was just pathetic.

Anyway, we decided we would try to go to Deakin because I also had some friends in Deakin and it wasn't very far. We thought it is not that far to  
20 turn around and head straight back if it is not right when we get there. As it happened, we got through. I got to my friend's house in Stonehaven Street. She didn't know anything about it. She didn't know there had been any problem at all.  
25 That's when my husband later tracked me down. He had gone to Phillip College and couldn't find me. He thought I might have gone to my friend's place and he found me there.

30 Q. So that was the first time you were aware that your husband was safe?

A. Yes, yes. Because we tried mobiles, we couldn't get through or anything.

35 Q. You were with Emily when you went to your friend's house?

A. Sorry?

40 Q. Were you with Emily when you got to your friend's house?

A. Yes I took her. We followed each other again in tandem.

45 Q. What had your husband been doing since you last saw him?

A. Well he and Tom, apparently - I think the

fences could have been on fire when I left. It was so bad I couldn't tell you. But he said it wasn't long after that that there was some sort of explosion in the shed next door which cast fire straight onto the side of our place. We had a two-storey house. It started to go through the roof. Tom had hopped up to try and pull tiles off the roof. They must have been one each end or something. They were trying with a trickle - which is all you could get from our hose was a trickle - to put it out. It suddenly went "whoosh" straight through the whole level of the house. Everything went up like that (indicated). They said they didn't have a hope of getting near it. They just had to get out.

Tom actually had very damaged eyes for quite some time. They were both very red and dishevelled looking. My husband suffered from smoke inhalation. He was given extra time from work as well. I didn't mention that in my submission. That happened later. He went back to work. He was still unwell, and they sent him home again.

Q. Did you spend the night at your friend's place that night?

A. No, I spent that night with my son who had a small unit at James Court. It was pretty crowded because we arrived with our shepherd, the cat, my daughter, myself and my husband, and he had his wife and himself there. But we stayed there that night. The next day I went and stayed with a niece who had animals and had a bit of a backyard. I thought I could probably put the animals out there. But that didn't work because it just wasn't going to work.

Then I think Greg got emergency accommodation for two weeks at James Court. I left the dog with my eldest daughter. Took the cat and left the cat with my son for about six weeks until I got more permanent accommodation.

Q. When did you get back to see your house?

A. I went back in the next afternoon, Sunday afternoon.

47

Q. What did you find?

A. Oh, just total wreckage. It was unbelievable. It was like a bomb site everywhere in Duffy. Everyone was walking around in shock and I think  
5 in a dazed state. We hardly even spoke to each other. All the neighbours were staring at each other as if to say, "My God".

Q. Were you able to recover any of your  
10 possessions?

A. No, nothing. In fact I couldn't even recognise anything. I can remember going with the Bovis people when we were doing demolitions. He said to me, "Judy, did you have a piano?" I said,  
15 "Yes, I did. I had a Yamaha piano." He said, "Who played the piano?" I said, "Well, I did and my two daughters played". I said, "How can you tell I had a piano?" He said, "Oh, well, I can recognise that bit of iron" or something. "I  
20 realised it was a piano." He must be used to looking at wrecks. I still could not recognise it even when he pointed it out. I wouldn't have been able to tell you that that was a piano.

Q. Did you also visit your investment property that afternoon?

A. No, I didn't. I had been in touch with the - they got in touch with Greg, I think, because he and Chris knew each other. Chris is also an Air  
30 Force officer. When I first rented him the property, he got out and he was working as a manager of the Canberra Club and then decided he would go back in. They realised they knew each other. He got in touch with him and told him what  
35 had happened to them.

Q. You lost that property as well?

A. Yes, totally.

Q. How have you managed to recover from the events of the 18th of January?

A. Well, I thought I was going forward quite well, really. I just followed through with one thing at a time. The investment property added  
45 stress to working it all out. But I wasn't emotionally connected to that house. All the emotional pain was with my own home where I had

lived for 28 years.

I was trying to proceed all right. I worked through one demolition and then the other, worked  
5 with insurance companies and so on, and mortgages and banks and things and sorted all of that out. Then I decided - we were renting at Garran. I decided to buy this two bedroom unit in Griffith. That made me decide to sell my block in Duffy.  
10 Then the agent that handled that handled it so nicely, without any fuss and great sensitivity, we then thought we might sell the second one as well, because I couldn't see how I would build on that.

15 I would have taken out a second mortgage, which is what I had before. It would have put me back, I suppose, in a similar sort of position with that. But I would have to set it all up and it would be a long time before I could rent it and do the  
20 garden and so on. I thought, "I think I will sell that too". So just before Christmas I sold that block too. In fact, the Defence Housing people that I bought it from in the first place bought the block back. They wanted it back.

25 Anyway, around January/February I realised I really wasn't coping at all. I have been having counselling ever since. It's overcoming this grief and anger I think that I feel. That is  
30 helping me. But she explained to me "you will probably always have that. It is like any great grief in your life. You learn to live with it a bit". So I'm dealing with that at the moment.

35 Q. Are there any issues arising from your experiences on the 18th of January that you wish to raise in the coronial inquiry?

A. Yes. Look, I did jot down a few things because I might forget. Some of it I have  
40 probably mentioned. If you bear with me while I read through it.

I mentioned I am dealing with the anger and grief but it mainly centres on the fact that we weren't  
45 given any warning. No opportunity really to give some thought to having to evacuate and what we might do. It also focuses on the hopelessly

inadequate messages that I received. I don't know whether other people tuned into different channels and had different messages. But mine were totally inadequate. In fact, I feel it diverted me from  
5 using the very short time available to do something more meaningful for us.

In fact, I think the message should have told us outright, "You are out there on your own. We have  
10 no help for you. No assistance. There is not going to be anyone there to help you. If you have got your water you are lucky, but we can't give you water or protective clothing or anything". We were just left to manage. I just feel - that is  
15 what I am dealing with - I feel so angry about it all to think there wasn't any thought given to that. What were people supposed to do, burn in their houses, as some did, to say nothing of the dreadful loss of animal life. It is almost  
20 unspeakable to me the suffering of those animals. What upsets me, as I mentioned, that the year before we were already under threat. What was done in that year to look at this?

I have a friend who has been a bushfire  
25 photographer for 15 years. We have often talked about these things. He said, "They learn so much all the time. We have all these wonderful interstate conferences. They look at how fast  
30 fires travel and how wind changes and what damage it causes and what they can do about it. You know, they have learned a lot since the Ash Wednesday fires". That also instilled a false sense of confidence in me. I thought they would  
35 obviously be looking at all this.

The fact that I think they should have had practice runs at evacuating through the year. What they do. They should have looked at suburbs  
40 and thought, "What is the most dangerous thing that can happen here?" You know BP service station is an example. I was told by the owner of that himself if they hadn't switched something off in time, the whole suburb would have blown up and  
45 perhaps half of Holder as well. I don't know if that is true or not; I am not a technical person; but there would have been a huge loss of life.

All the petrol stations in all suburbs should have been looked at through the year and made to take certain precautions.

5 Mt Stromlo is unforgivable, that observatory. This is Australia, for heaven's sake! This is our national icon. It should have been protected. I have always identified with Mt Stromlo. I was born in Canberra. As a little girl I knew  
10 professors who worked there and it was always thought so highly of. In fact, I have been so distressed over it, I keep giving money to the funds to redevelop it.

15 It just seems that there wasn't proper planning or help. I mean, I'm not even a fire person but I know that if I got up in a helicopter and looked at those national park fires and the way they were heading, you would only have to look at the  
20 patterns of the land formation and the environment to see, "Well this could very quickly land in the ACT or somewhere else just as dangerous". Now the ACT is after all, if you look at a map, it is only a very small section of New South Wales.

25 I am not naming anyone as responsible. I believe that New South Wales failed us terribly in those fires overall. But I do believe that somewhere in the ACT we are also to blame. There was no real  
30 thought given to it or any proper care taken.

MS CRONAN: Thank you, Mrs Poulos.

35 THE CORONER: Q. Mrs Poulos, did you have any other points there?

A. I think I have probably covered it. Well, it was just another thought - which I suppose it might sound poor but I had to deal with - and I still deal with from time to time other Canberrans saying to me, "Oh, well we learned our lesson from  
40 you lot. We had our stuff all packed up, all our valuable things. I couldn't live without our photographs. I'd die", and all this business. Well, they had that warning. We had to pay the  
45 price for them to realise. We could have done the same thing had they said, "We are in an emergency state. We are going to have to prepare to

evacuate. You have to give thought to what need to take with you". That is the other point I wanted to raise

5 Q. You had lived in your place for 28 years. Did you build, because that would have probably been the start of the suburb?

A. Yes, it was. It was two years old when we bought it. It was built in '72 and we moved in in 10 '74. The children all went to school in Duffy and grew up there.

Q. So you knew the area very well obviously?

A. Yes. I loved the area, actually. 15

Q. What about your daughter Emily, how is she managing?

A. She is quite devastated. I know no-one can cover everyone, I know that; I don't think there 20 has been a lot of thought given to the adult children who are still very young really. Everything they own goes in this fire as well. All the presents that they valued from their 21st and the things that people have given them, stuff 25 that they have never really used, like beautiful luggage that her brother bought her for her 21st, all the photographs that she treasured from school, formals, functions - there are all those things; you lose your whole family history in one 30 fell swoop.

I did coin this phrase to make myself cope with it and I still basically live with this, I would rather have the children than the photographs 35 because I think there are people who have had to face the fact that they have lost a child. They have got all the photographs but they have lost the child. I think from that point of view I am still very fortunate. But Emily has had a very 40 hard time. She feels, whilst her friends have been - she feels that nobody really has any idea, so she just doesn't talk about it.

Q. Unless they had gone through it themselves 45 perhaps?

A. Yes. 47

THE CORONER: Thank you. I will just see if  
counsel have any questions. Mr Archer?

MR ARCHER: Yes, thank you, your Worship.

5

**<CROSS-EXAMINATION BY MR ARCHER**

MR ARCHER: I represent the Australian Federal  
Police.

10 Q. Do you have your statement with you in your  
folder?

A. Yes, I have a copy of it.

15 Q. I am referring to your submission to the  
coroner dated 28 March 2003. Is that the document  
you have got?

A. Yes.

20 Q. Just trying to put particular events to  
particular times. You note on page 1 of that  
document that until about 2 o'clock approximately  
you didn't have any warning of the encroachment of  
the fire. I take it that the warning on the radio  
was about 2 o'clock?

25 A. Yes, I think it was about 2.

Q. Your husband at that time was in the car on  
his way to Civic. He heard the same announcement  
and came back?

30 A. I don't know if he heard the same one. But he  
had gone out the front door and I wasn't quite  
sure whether he had gone or not. I started to  
hear it. I ran out.

35 Q. Going to the top of page 2, you say:

40 "My husband, having heard the radio  
announcement on his way into Civic, returned  
home. He attended to the roof and out the  
back of our home in accordance with  
advice" --

A. Mmm.

Q. What time was that, do you think?

45 A. I just realised I ran out to tell him while  
Tanya was still on the phone. Sorry. I then went  
back and had the radio on. He probably heard the

same message.

THE CORONER: Q. I think you said you first knew  
5 about it because you got a phone call from your  
daughter at about 2 o'clock.

A. That's when he had gone. I ran out. Sorry,  
what did you say about what time did he come back?

MR ARCHER: Q. That would have been very close to  
10 2 o'clock, would it?

A. He would have been back in about 20 minutes or  
so. So half past two. He got into Civic and  
parked the car. From memory he said he had a  
15 second thought - he is a very easy going 'don't  
panic' person. I think he thought, "oh, yes".  
Emergency messages weren't very clear as we  
discussed. Then he thought, "Maybe I better go  
home". It might be closer to 2.30.

20 Q. Going to paragraph 3 on the same page:

"At some point soon after this, the  
electricity and telephone lines were cut."

25 What time was that?

A. I have no idea.

Q. If you look at your statement further down,  
you have put the time of leaving the house at  
30 about 3.30. Does that help at all?

A. Yeah, I'm not sure. I think it was about  
3.30. I really don't know.

Q. So in relation to the --

35 A. The time is very - it seemed to be it went  
like that (clicks fingers).

Q. It was some time after 2.20 but before 3.30?

40 A. It wasn't black, I don't think, until closer  
to three, I think. This neighbour's daughter  
arrived somewhere between 2.30 and 3, I'd say. I  
could see her quite well.

MR ARCHER: Thank you very much.

45

THE CORONER: Yes, Mr Lakatos?

47

MR LAKATOS: I have no questions, your Worship.

THE CORONER: Mr Stitt?

5 MR STITT: No questions, thank you, your Worship.

THE CORONER: Mr Whybrow?

10 MR WHYBROW: Nothing, thank you, your Worship.

THE CORONER: Mr Walker?

MR PHILIP WALKER: No, thank you, your Worship.

15 THE CORONER: Mr Watts?

MR WATTS: No, thank you, your Worship.

20 THE CORONER: No re-examination, Ms Cronan?

MS CRONAN: No re-examination, your Worship.

25 THE CORONER: Thank you, Ms Poulos, you are excused. You are free to leave.

**<THE WITNESS WITHDREW.**

MS CRONAN: I call Mr Peter Bennetts.

30 MR WHITELAW: Before the witness is sworn, might I announce my appearance. I seek leave to represent David Prince in this inquiry. David Prince is not going to be called to give evidence today. I think it is 3 June. However, the evidence of this  
35 witness is of some interest to my client. I seek leave to represent him.

40 THE CORONER: That leave is granted to you, Mr Whitelaw.

MR WHITELAW: Thank you.

**<PETER RONALD BENNETTS, SWORN**

45 **<EXAMINATION-IN-CHIEF BY MS CRONAN**  
45

MS CRONAN: Q. Could you please tell the Court your full name and your current occupation?

A. Peter Ronald Bennetts, senior fire commander.

Q. What is your professional address,  
Mr Bennetts?

5 A. 11 Benham Street, Chisholm.

Q. Where are you currently employed?

A. Employed with Air Services Australia, airport  
services at the Brindabella Centre, which is  
10 Aviation Rescue and Firefighting Service  
Headquarters.

Q. As at the 18th of January, where were you  
employed?

15 A. At the Canberra Airport as fire station  
manager.

Q. How long had you been the fire station manager  
as at 18 January last year?

20 A. How long had I been there?

Q. Yes.

A. Since or prior, sorry?

25 Q. Prior to the 18th?

A. I came to Canberra in 1991.

Q. What did your duties involve at that time?

A. Managing the airport fire service.

30

Q. What units did the airport fire services have  
at that stage?

A. The Canberra - "units", you are talking about  
vehicles?

35

Q. Yes.

A. Vehicles, we had two large fire vehicles and  
an ultra large fire vehicle.

40 Q. What water capacity did those three vehicles  
have?

A. The large fire vehicles held 4,000 litres of  
water and the ultra large fire vehicle was 7,000.

45 Q. Did you have to have special stand-up  
arrangements in relation to those vehicles whilst  
the airport was open?

A. Well, yes, we supply category coverage to the regular flight and public aircraft and Canberra at that time was category 6, which meant we had to have 7,900 litres of water on the run. That was  
5 over two vehicles, and 250 kilos of dry chemical powder and foam compatible with the water. Crew of six.

Q. That had to be available at the airport on  
10 18 January?

A. They are available 7 days a week for category.

Q. If you are a category 6, then you have to have that at the airport?

15 A. Yes, that's correct. We often drop category.

Q. How do you drop category?

A. Well, sometimes vehicles may not be available on the day. There could be a breakdown or it  
20 could be through staff or through turnouts to locations. The category that we have at the time is what we can respond with with an immediate response to an aviation incident.

25 Q. Do you have a specific requirement in relation to what category you are at? Does someone tell you what category you should be?

A. Yes, we have. That is out of the civil aviation regulations and the CASA regulations  
30 139H, which is the methods of standards that tell us about how much water is required for the time. Also under the regulations it states that any airport that has 350,000 passengers passing  
35 through over the previous financial year requires aviation services.

Q. Prior to 18 January, had any of your vehicles participated in fighting fires outside the airport with the ACT units?

40 A. That's correct, we had.

Q. How did that come about?

A. The previous one would have been the Christmas Eve of 2000. We had a call for assistance from  
45 the ACT Fire Brigade to go to the Red Hill area where we operated under their directions. And on Christmas Day we had a call to go to the Oaks

Estate area. There was a fire burning. It was close to the fuel tanks to which we dispatched a truck with the ACT Fire Brigade in attendance as well.

5

Q. Firstly on Christmas Eve, what vehicles did you dispatch?

A. Initially, it was a large fire vehicle that went to the Red Hill area and then we called in another crew to man a spare vehicle that we have on the move there. Then we dispatched the ultra large vehicle which went straight up to the zoo, the national aquarium zoo area there, and worked in conjunction with the ACT Fire Brigade in both locations. By bringing a crew in to man the reserve vehicle at the time, that meant we reduced category at the airport from category 6 to category 4.

20 Q. That's while the airport was still open?

A. Correct.

Q. What vehicles did you dispatch on Christmas Day?

25 A. On Christmas Day there was an ultra large fire vehicle.

Q. Did you hear about the firestorm on the afternoon of the 18th of January?

30 A. I heard it on the radio, yes.

Q. You heard it en route. You weren't at work on that day?

A. No.

35

Q. What did you do after you heard about it on the radio?

A. Well, initially I didn't do anything. But I did make contact with the fire station and I spoke to the station officer in charge and he told me that the aircraft were still flying as normal. I said, "Have you had any calls for assistance from the ACT Fire Brigade?" He said, "Not at this time".

45

THE CORONER: Q. What time was this, Mr Bennetts?

A. Can I just refer to the time?

Q. Please do.

A. That was approximately 1700 hours.

Q. That's on the 18th?

5 A. That was on the 18th, yes, your Worship.

MS CRONAN: Q. Did you make a further phone call at 1721?

10 A. Yes, I did. Actually I went out to the fire station at 1700 and at 1721 I rang the ACT Fire Brigade operations manager, at the time a Mr Peter Newham, who I spoke to. He told me at that time to stay where we are because, if a fire erupted around the airport area or Oaks Estate, he had a  
15 crew standing by that could attend to it on their behalf.

Q. He had a crew or he wanted you to use your crews?

20 A. No, he would use our crews.

Q. Did you then inform your station officer of that?

25 A. I did.

Q. What vehicles and equipment did you have available to offer by way of assistance at that point in time?

30 A. At that point in time we had two large - sorry, we had 2 fire vehicles: one was an ultra large fire vehicle and one was a large fire vehicle. And we had one in the mechanic workshops which was having a general service, which we brought back in line later that day.

35 Q. Can I phrase the question slightly differently. What vehicles did you have available in excess of your mandatory category 6 requirement for the airport?

40 A. I had nothing at the station at that time. But I had a vehicle in the mechanical workshops that was over for a general service.

45 Q. What condition was that in? Was it able to be used?

A. Yes, it was. It was very short. It was a matter of putting the power back on to the

batteries and it was brought back to the fire station. It was given an inspection by the firefighting staff to make sure it was ready for immediate response, if needed.

5

Q. Did you make any arrangements or did the station officer make any arrangements to have that vehicle made operational at that point?

A. No.

10

Q. In relation to equipment other than the vehicles, did you have things like radios and breathing apparatus sets?

A. Yes. The station had a general use vehicle which was a Falcon ute. We loaded what equipment we could or thought of that could be needed in the event that we were called in the back of that vehicle, which was breathing apparatus, masks, hoses and branches. It was there. And it was a vehicle that I would drive as a command post in conjunction with the combating authorities for a communication link. We needed that type of vehicle because mainly we didn't have communications with the ACT Fire Brigade or Emergency Services. We only had our own comms.

Q. I am sorry, sir, I am unclear from your evidence and your statement: in relation to this time period, so 1721, forgetting the spare that is in the workshop - from the three fire vehicles that you had at --

A. Two at the station.

Q. Two at the station, where was the third one?

A. In the mechanical workshops.

Q. So that was the three all up?

A. That's correct.

Q. The two vehicles that were available at the airport, was that the 4,000 and 7,000?

A. Correct.

Q. Your requirements for category 6 was 7,000 litres?

A. 7,900 total.

47

Q. So you needed the smaller unit to remain at the airport at that point in time with the larger unit?

A. Full category, it's there.

5

Q. Sorry?

A. Full category you needed the smaller one, because the smaller units carry the requirement of dry chemical powder for category, which is 250  
10 kilos.

Q. At that point in time with the airport being open and a category 6 day, both of those vehicles needed to remain at the airport. But the spare  
15 vehicle would have been made available, is that the case?

A. The spare vehicle - put it this way, if we were called for assistance, we would have responded. We have done it in the past. We do  
20 what we normally do. We raise a NOTAM, which is a notice to airmen to say what category the fire service is at Canberra.

Q. I see. So you could have lowered the category  
25 yourself?

A. If requested. Under the memorandum of arrangements we have with the ACT Fire Brigade, we assist each other in major emergencies. We have used that in the past.

30

Q. So you could have responded your spare and one of the other vehicles at the airport; if requested?

A. If requested, the vehicles, we could have responded and the spare was brought in. I would get a crew for that. If we had of responded both vehicles on request, we would be category zero. By bringing the other spare on, we could be up to  
35 category 4.

40

Q. That could have been done?

A. It could have been done.

Q. At 1800 you got a call from your wife?

45 A. That's correct.

Q. You went home in response to that call?

A. Yes. I took the Falcon ute that we had loaded up back to my residence to reassure her what was going on. I stayed there and also advised the station officer that was in charge that, if they  
5 got a call for request, give me a call and I would meet them at the forward command post in the ute.

Q. Did you have a post in mind at that stage arranged to meet them?

10 A. No, it was wherever we were required to go.

Q. You arrived back at the station at 2030 hours?

A. That's correct.

15 Q. You advised that the aircraft were still flying as no assistance had been called for?

A. That's correct.

Q. At 2056 hours you rang the Fire Brigade operations again?

20 A. I did.

Q. Do you recall who you spoke to at that point?

25 A. I spoke to Peter Newham first up. He was very busy, which is understandable, and he put me on to the communications room and asked me to talk to a station officer by the name of Conrad Barr, which I did.

30 Q. In your statement you say:

"I gave him staff and vehicle availability."

What did you actually say to him was available?

35 A. Well, I said that we are still here and I said, "We've got two large fire vehicles that can be deployed on immediate response with a crew." And he took down the amount of water, foam, that these vehicles carry and he said he would pass it  
40 on to the appropriate authorities.

Q. What was the amount of water and foam those vehicles could carry?

45 A. Which was the LFV and the ultra large fire vehicle, which was a total of 11,000 on the run.

Q. Did you advise him what those vehicles were

suitable for doing?

A. I did. I did mention to him that they are not really cut out for chasing grass fires but they are good for structural and fuel fires.

5

Q. At 2130 hours your station officer also rang the Fire Brigade?

A. 2130 is our closing down time. He rang the Fire Brigade on our direct line and told him that the RPT flights had finished for the day, that our services were here and "where would you like us to go?" I didn't actually speak to the officer who received the call on the direct line. That was passed on to me by my station officer.

15

Q. What was he told?

A. Well, he was told that the fire situation had eased and our services weren't required for that evening and we ought to be stood down.

20

Q. In the event, your vehicles were not utilised at all that evening?

A. That's correct.

25 Q. Were any of your vehicles utilised in the days following the 18th of January outside your airport environment?

A. Yes. We were called to Molonglo shed and we spent three days there. I'm not quite sure of the dates off-hand - if I may, 25, 26 and 27th of January. We were in a staging area there working with other emergency services, and there was a number of teams from Queensland as well.

35 Also later in January or it may have been early February we went to Williamsdale. We had a request for assistance from the ACT Fire Brigade, could we have a crew up there because the fires were coming through and they needed to surround a garage that was on the Monaro Highway, which we did. We sent one crew up there and I went up in another vehicle as a forward command for communications.

45 Q. You say in your statement, which I suppose I should get on the record, though it is quite trite, that all your firefighters are well trained

professional firefighters trained to deal with emergency situations at airports?

5 A. That's correct. They are professionals. They go through a 90-day check on structural fires, aviation fires, rescue. They need these endorsements otherwise they lose their ratings.

10 MS CRONAN: Thank you, sir. I have no further questions.

THE CORONER: Q. Mr Bennetts, the vehicle that you had in the workshop, what was the capacity of that?

15 A. 4,000 litres.

Q. You mentioned something about a memorandum with the ACT Fire Brigade. Is that an official memorandum that you have, a memorandum of understanding with the Fire Brigade?

20 A. Yes, it is. It is an agreement between the two services. It is in conjunction with the Canberra Airport in the event that we have a major incident where the ACT Fire Brigade would assist us and also in the arrangement that, if they have a major incident, if we can assist them, we will assist them.

Q. Is there any firefighting capacity at the RAAF base?

30 A. No.

Q. So you look after that as well, obviously?

A. That's correct.

35 THE CORONER: Yes, thank you, Mr Bennetts. Mr Archer?

MR ARCHER: I have no questions, thank you.

40 THE CORONER: Mr Lakatos?

MR LAKATOS: I have no questions, your Worship.

THE CORONER: Mr Stitt?

45

MR STITT: No questions, your Worship.

47

THE CORONER: Mr Whitelaw?

MR WHITELAW: Might I defer my questions until the end?

5

THE CORONER: Yes, all right. Mr Whybrow?

**<CROSS-EXAMINATION BY MR WHYBROW**

MR WHYBROW: Q. What is the consequence to  
10 flights to the Canberra Airport being classified  
as category zero; is there any?

A. In flights?

Q. Does it mean that certain sized planes can't  
15 land or shouldn't land or should be diverted?

A. Category 6, the critical aircraft category 6  
is a 737. It works on the actual aircraft length.  
We have had category 9 aircraft come in there with  
category 6 coverage on emergency situations and  
20 also when we have had VIP visits.

Q. For example, Air Force 1 would have been a  
category 9 or above, probably?

A. Air Force 1, the US one - you are talking  
25 about the US president's plane?

Q. Yes.

A. We brought in an extra vehicle from Sydney for  
that particular one, because that was the  
30 agreement that our government had with the United  
States Government.

Q. If Canberra Airport for whatever reason fell  
35 to being category zero, what would that mean in  
terms of the types of planes that could land?

A. Well, we don't have fire coverage but they  
would land - correction, it would be up to the  
pilot to say whether he would come in or not.

Q. That would have been the situation on at least  
40 the earlier part of that evening if any of these  
resources were called?

A. Correct.

45 MR WHYBROW: Thank you.

THE CORONER: Mr Walker?

MR PHILIP WALKER: Nothing from me, your Worship.

THE CORONER: Mr Watts?

5 MR WATTS: Thank you, your Worship.

**<CROSS-EXAMINATION BY MR WATTS**

MR WATTS: Q. Mr Bennetts, I represent for the  
purpose of these questions Superintendent Newham  
10 of the Fire Brigade. I want to ask you some  
questions firstly about the line of authority with  
your fire brigade service. What was your position  
at the time in terms of the hierarchy of your fire  
brigade - if I could refer to your service as your  
15 fire brigade? What was your role in the  
hierarchy?

A. Well, if I can work from the top and work  
down.

20 Q. Yes.

A. We have a chief fire officer.

Q. Who was that?

A. Mr Craig Roberts.

25

Q. Yes.

A. I have an assistant chief officer on  
operations, which was Mr Rob Porter, and I  
assisted Mr Rob Porter.

30

Q. You were third down in the hierarchy?

A. Correct.

Q. Was there somebody with the initials KP that  
35 you know of in your service?

A. KP?

Q. KP?

A. No.

40

Q. In a fire brigade service, the line of  
authority is an important thing; isn't it?

A. Correct.

45 Q. Right down to the lowest fire brigade officer,  
it is important to have clear lines of authority?

A. Correct.

Q. In an emergency that's where the importance of a clear line of authority comes to the fore; is that so?

A. Correct.

5

Q. It is also important, is it not, to have in terms of an incident occurring good and clear lines of communication between those in the hierarchy?

10 A. Correct.

Q. Part of a fire brigade officer's training is to know to whom that person must answer?

A. Correct.

15

Q. And from whom that person must take orders, is that so?

A. That's correct.

20 Q. This is not simply so people do as they are told but, for purposes of safety, it is important that these hierarchies be observed. That's so, isn't it?

A. Correct.

25

Q. Do I take it you have worked outside of an airport context?

A. Yes.

30 Q. The same is true of an ordinary fire brigade service around Australia?

A. Right.

35 Q. People can only be used in a fire brigade when they are properly trained and properly integrated into the fire brigade service?

A. Correct.

40 Q. One of the very important things, particularly in a complex incident, is that there be good communications?

A. Correct.

45 Q. So that those who are actually doing the job can be directed where they have to go and what they have to do?

A. Correct.

Q. Without that good communication, again problems and in fact dangers can arise?

A. That is correct.

5 Q. When you made the telephone call to Mr Newham at 5.21 --

A. Yes.

10 Q. -- would I be correct in putting to you that you did not yourself have the authority - I am not suggesting you shouldn't have made the phone call - but you yourself did not have the authority to supply any vehicles without going to your superiors?

15 A. As the fire station manager, I would have to disagree with that because I am responsible for those vehicles.

20 Q. But if what you intend to do has the effect of reducing the capability of your service to the airport, it would be true that you would clear it with your superiors?

25 A. In the past when we have dispatched vehicles for assistance to the other brigade, I have not gone through my chief fire officer or ones above me. It is a call that is made under the memorandum of arrangements with both brigades.

30 Q. We will come to the memorandum of agreement in a moment. But at 5.21 if you had sent the two operational tankers, it would have reduced the airport to category zero?

A. That is correct. But I wouldn't have set them.

35

Q. But if you had done that, it would have reduced it to category zero?

A. Yes, on request. On request. If they were requested to go, that is correct.

40

Q. My learned friend asked some questions concerning the effect of that. The practical effect, I put to you, is that the airport would not operate if it was reduced to category zero?

45 A. It is up to the pilots that are actually coming in to deem whether they would come in under that situation.

Q. This is a hot, windy, dry day?

A. Yes.

Q. The practical effect, I put to you, would have  
5 been that the airport would have closed?

A. The airport remained open because it was clear  
at the airport - it was windy, smoke --

Q. Perhaps we are misunderstanding each other. I  
10 don't wish to - I think you misunderstood my  
question.

A. Sorry.

Q. Having regard to the day that existed, if in  
15 fact the airport had gone to category zero, the  
practical effect would have been that no aircraft  
would have landed except emergency aircraft?

A. Like I said, it is up to the pilot. He is  
given the NOTAM, which is the notice to airmen,  
20 obviously current situation for fire service at  
that location, and it is up to him whether he  
proceeds or not.

Q. I know that is what you have said, I think now  
25 twice, but the practical effect would have been  
that that wouldn't have happened; would it?

A. The practical effect is, if we were called, we  
would go.

Q. Mr Bennetts, I don't think you answered my  
30 question.

THE CORONER: Q. Mr Bennetts, has there been a  
situation where there has been a category zero and  
35 the airport has not closed, the airport has  
operated, as far as you are aware?

A. When I say CAT 0 - definitely CAT 4 I can  
remember a number of situations, which is a  
reduction in service but CAT 0, no.  
40

MR WATTS: Q. Of course, it is obvious, isn't it,  
that if aircraft land, pilot takes the decision to  
land an aircraft during category zero, the risk if  
there is a mishap is significantly raised?  
45

A. Yes.

Q. The danger to passengers is significantly

increased?

A. They pay for the service, the flying public, yes.

5 Q. The public expect to have a fire truck there if something goes wrong, don't they?

A. I agree with that, yes.

10 Q. You said when you spoke to Mr Newham at 5.21 and he said to you, "Stay there in case you are needed where you are"?

A. Correct.

15 Q. I suppose having regard to the day that existed, that made good sense to you at the time?

A. It did.

20 Q. I want to ask you about this memorandum of arrangement that you have told her Worship about. You were a signatory to that, were you not?

A. I am.

25 Q. You are familiar, are you not, with the regulations pursuant to which that was made?

A. Yes.

30 Q. Do you have a good knowledge of those regulations - under part 4 of the regulations?

A. Part 4, that's the assistance one?

Q. Yes, the part that relates to the provision of fire services?

A. Yes.

35 Q. You know, don't you, that regulation 4.02 relates to the functions of your rescue and firefighting service?

A. Right.

40 Q. It is true, is it not, that your functions relate in those regulations solely to the provisions of fire services where needed - I will rephrase it. I put it very badly, I am sorry. That regulation covers only a situation where a

45 fire results from an aircraft mishap; does it not?

A. I haven't got the regulation in front of me. I think it talks about buildings or the aerodrome

as well.

Q. Yes. But it is all to do with things either  
occurring at the airport or as a result of an  
5 aircraft mishap?

A. Yes.

Q. When you made the memorandum of understanding  
or memorandum of agreement, you were a party to  
10 it, the whole purpose of that was to make  
provision for you to call upon assistance of the  
Fire Brigade should there be an aircraft crash or  
something occurring at the airport?

A. Yes, and vice versa.  
15

Q. Well, it is not vice versa, is it? There is  
nothing in there that provides for you to provide  
services to fight a house fire in the suburbs of  
Canberra unconnected with an aircraft incident?

A. No, I think it states in there if assistance  
20 is called upon.

Q. Do you have a copy of the document with you?

A. No, I don't, sorry.  
25

Q. Perhaps if it could be brought up,  
your Worship. It is [ESB.AFP.0021.0282]. Is that  
the document, Mr Bennetts?

A. That's right.  
30

Q. That you have talked about?

A. Yes.

Q. Perhaps we could go to page 3 of that  
35 document - yes, that is it. That's the provision  
relating to the application of the arrangement, is  
it not?

A. Yes. It is further down --

Q. Are you talking about 4.3?  
40

A. No, I'm not.

Q. Where do you say --

A. Can you keep scrolling down, please?  
45

Q. Is it 4.5(ii)?

A. Yes, that is the one.

Q. Of course, that has got nothing to do with a house fire unless it's to do with an aircraft crash, has it, because the whole of clause 4 relates to operations?

5 A. That is correct.

Q. And operations are things to do with aircraft crashes?

10 A. It depends how you interpret that. The interpretation I have, and with the signing of this memorandum, is that if they require assistance we would have assisted them.

15 Q. Well, we won't debate the legal effect of it at length, Mr Bennetts, but I suggest to you that nothing in that agreement gives you the right to make offers to fight house fires unless connected with an aircraft crash. And at 5.21 when you rang Mr Newham, the only vehicle you had available to provide without reducing the category of the airport was a Falcon utility?

20 A. No, I didn't even - that wasn't brought in until later.

25 Q. Well, is it the fact that at 5.21 you had nothing to offer which would have had the effect of not reducing the category of the airport?

30 A. If we were to reduce category, we had two vehicles manned and ready; if we were not to reduce category at any stage, we had nothing.

Q. And it wasn't until 9.30, was it, that you were able to offer vehicles without reducing the category of the airport?

35 A. That is correct.

MR WATTS: Does your Worship wish to take the break?

40 THE CORONER: It depends on you. Are you going to be a little bit longer?

MR WATTS: Not much longer.

45 THE CORONER: Do you have any questions, do you think, Mr Whitelaw?

47

MR WHITELAW: Very few at this stage,  
your Worship.

5 THE CORONER: You might have a couple of  
questions.

MR WHITELAW: Perhaps.

10 THE CORONER: We might take the morning  
adjournment then and have a cup of coffee.

**SHORT ADJOURNMENT** [11.32am]

**RESUMED** [11.55am]

15

MR WATTS: Q. Mr Bennetts, in relation to your  
statement, at the time you prepared it, did you  
have any notes you made, which you used to assist  
your recollection of events?

20 A. I had the phone calls and I spoke to the  
station officer in charge at the time.

Q. I don't think the phone calls assist you other  
than to determine when the phone calls were made  
25 and the time they were made; is that right?

A. That's correct.

Q. In relation to the conversation that took  
place, you had no notes which you took at the time  
30 of those conversations about what was said?

A. No.

Q. Can I show you a document, please. Just have  
a look at that. Do you recognise the handwriting  
35 on that document?

A. No.

Q. Would it be Mr Porter's handwriting?

40 A. Unsure.

Q. Did you and Mr Porter at any stage prior to  
24 January have a meeting about what had happened?

A. I'm unsure. I don't recall.

45 Q. Did any of your superiors ask you to recall  
during that period of time what had happened on  
the 18th and thereafter?

A. Craig Roberts did talk to me. The contents of that was, if I recall, what happened on the night. I spoke to Craig, I think it was two days later, and he asked what had happened on the Sunday when we brought in an extra crew. That's about all.

Q. The 18th of January was of course, you know from your own knowledge, a very difficult day for both the Rural Fire Service and the Fire Brigade?  
A. Correct.

Q. In fact, I think you could describe it as an extraordinary day?  
A. Correct.

Q. In extraordinary days like that, it is again very important that order and the lines of communication be maintained?  
A. Correct.

Q. Of course, your fire appliances could not on their own communicate with the Fire Brigade?  
A. That is correct.

Q. That potentially could have created some difficulty in difficult circumstances?  
A. That is correct.

Q. Am I correct in understanding that the fire brigade units that you have are particularly designed for fighting large fuel fires?  
A. They are specially designed vehicles for aviation firefighting.

MR WATTS: Thank you, Mr Bennetts.

THE CORONER: Yes, Mr Whitelaw.

**<CROSS-EXAMINATION BY MR WHITELAW**

MR WHITELAW: Q. Mr Bennetts, on the 18th of January 2003 there were a number of commercial airline carriers operating in and out of Canberra International Airport; weren't there?  
A. That's correct.

Q. They would be Qantas, Rex and Virgin?  
A. Definitely Qantas. I don't know when Rex

started. It may have been a different name. I'm not sure about Virgin. But the 737s were operating RPT flights.

5 Q. You said earlier that you got to the airport at about 7 o'clock that evening?

A. 1700.

10 Q. Sorry, 5 o'clock, I beg your pardon. And you were there until about 9.30.

A. I did go home at one stage when I had a call from my wife who was home alone --

15 Q. Yes, correct.

A. And then went back to the station.

Q. Apart from that brief absence, you were at the airport for that duration?

20 A. Correct.

Q. Did you see or take note of the sort of air traffic that was coming into and out of Canberra Airport?

25 A. They were still flying, definitely still flying.

Q. What was the nature of the traffic in terms of it being light plane or commercial?

30 A. It was the regular public transports that were programmed for that day.

Q. Was there much light aircraft traffic?

A. Unsure.

35 Q. Are you aware of the policies that commercial airlines have in relation to whether or not a pilot should land if there are no firefighting facilities at the airport they are approaching?

40 A. No, I'm not.

45 Q. It wouldn't surprise you to learn, would it, that a commercial airline would be quite reluctant to have one of its aircraft full of passengers landing at a facility where there were no firefighting equipment or other personnel available?

A. I would find it very difficult for a company

to say, "No, you're not landing here," but it has happened in the past at other locations that I'm aware of.

5 Q. At 9.30 that evening, that is the evening of the 18th of January, did you stand down the crews, your personnel, at the airport?

A. No, I didn't.

10 Q. When the airport closes, do the crews normally go home or do you maintain a night watch?

A. No, they normally go home.

15 Q. So there is no other personnel over the night period before flights resume the next morning?

A. That's correct.

Q. But you say that you didn't stand down your crews. They stayed at the airport, did they?

20 A. No, that's incorrect. The station officer in charge stood down the crew.

25 Q. It was business as usual, in a sense, that once they were stood down everybody left the station at the airport?

A. That's correct.

30 Q. You said earlier, I think, that one of the reasons given for refusing the offer of the equipment was that it was preferred that you maintain the firefighting equipment out at the airport in case fires broke out around the airport or in the vicinity of the airport; is that right?

35 A. The information given to me on the first call from Pete Newham - and I think it was a good call at the time; no-one really knew what was going on; we didn't really know what was going on - was to stay where we are in case the fire erupted in the airport area or Oaks Estate and he knew he had a  
40 fire crew there to be called on.

45 Q. In the immediate vicinity of Canberra Airport there are a number of pine plantations - or at the time there were - is that right? For example, Kowen Forest between the airport and Queanbeyan?

A. That's correct.

47

Q. There are or were pine plantations along the eastern edge of the Mt Majura Ridge?

A. Yes.

5 Q. And there are eucalyptus forests around both Mt Majura and out towards the north-east of the airport?

A. I know there are trees and that out there. I am not quite sure of the content of them.

10

Q. It is quite heavily vegetated with trees?

A. Yes, it is.

15 Q. Given the circumstances prevailing in the afternoon and late evening of Saturday, the 18th of January, it was probably the right call since there was the potential for fires to break out in those regions around the airport?

A. That is correct.

20

Q. And I think from what you said earlier, you did not and would not disagree with Mr Newham's decision not to call up your services?

A. Initially, at that time, correct.

25

MR WHITELOW: Thank you. Nothing further, your Worship.

30 MS CRONAN: There is one matter I would like to clarify, Mr Bennetts.

**<RE-EXAMINATION BY MS CRONAN**

35 MS CRONAN: Q. You said in answer to a question from Mr Watts, sitting behind me, that if you were to reduce category, you had two vehicles manned and ready to go - this is at 1721 - and if you were not to reduce category, you had nothing. Is it the case that the ultra large tanker that you had and your lighter unit that were manned and ready to go adequately supplied your needs for category 6?

40

A. That's correct.

45 Q. In fact, the spare vehicle that you had in the workshop was surplus to your requirement?

A. That is correct.

47

Q. If it had been requested, did you actually have a crew that you could have called in to man that in addition to the two manned crews?

5 A. That is correct. We have call-out procedures where we call the officers and crew to man vehicles.

MS CRONAN: Thank you.

10 THE CORONER: Q. Mr Bennetts, your crews were called out on Christmas Eve and Christmas Day 2001 --

A. That's correct - 2000.

15 Q. 2000, right. And also subsequently in 2003 in I think you said late January or early February you were called out to Williamsdale?

A. That is correct, by the ACT Fire Brigade.

20 Q. When you say 2000, are you talking about the Christmas Eve and the Christmas Day fires in Canberra?

A. That is correct, Christmas Eve and Christmas Day.

25

Q. Apart from those occasions, in the time that you have been there do you know of other occasions where your crews have been called out to assist by the ACT Fire Brigade?

30 A. We had a fuel tanker in the Mitchell area that had turned on its side and, because we carry the quantities of foam and water for that, we were called to that one for which we reduced category.

35 A light aircraft crashed outside our area, which belonged to the ACT Fire Brigade. It was the day of the elections of Paul Keating - I can't remember what Saturday it was - and we assisted them on that day. They were the only two that I  
40 know that are outside the area, apart from the call on Christmas Day to the Oaks Estate, which is the fuel area that we had to protect from the grass fire.

45 THE CORONER: Thank you. Are there any questions arising from those? Thank you, Mr Bennetts, you are excused. You are free to leave, thank you.

**<THE WITNESS WITHDREW**

MS CRONAN: Your Worship, I tender the map that we  
looked at yesterday at the ESB Headquarters.  
Mr Lakatos has provided a copy of that which has  
5 been updated with key point numbers depicting  
firstly where the photographs were taken and,  
secondly, key points in the narrative that  
Mr Castle gave as he went through the building  
with your Worship.

10

I will tender those, the map and the bundle of  
19 photographs as one exhibit.

THE CORONER: That map of ESB and the photographs  
15 will become exhibit 0063.

**EXHIBIT #0063 - MAP AND BUNDLE OF 19 PHOTOGRAPHS  
OF ESB HEADQUARTERS TENDERED, ADMITTED WITHOUT  
OBJECTION**

20

MR LAKATOS: Those were supplied to me by  
Mr Castle. I was a mere conduit. As a matter of  
clarity, the photographs are numbered as a key as  
to what the photographs represent, and the letters  
25 are marked at where Mr Castle believes he made  
certain comments. They will be appended to a  
transcript of the notes later provided.

THE CORONER: Thank you for clarifying that,  
30 Mr Lakatos.

MS CRONAN: Finally your Worship, I believe that  
neglected to tender formally the photographs that  
Mr James Hoare went through in his evidence. So  
35 if I could tender those formally now.

THE CORONER: The photographs taken by Mr Hoare  
will become exhibit 0064.

40 **EXHIBIT #0064 - PHOTOGRAPHS TAKEN BY MR HOARE  
TENDERED, ADMITTED WITHOUT OBJECTION**

MS CRONAN: Your Worship, those are the witnesses  
available for this week. It is proposed, if  
45 your Worship is agreeable, to spend this afternoon  
completing the playing of the telephone tapes and  
to have a day out of court tomorrow. We can

recommence with the evidence of Mr Tony Bartlett on Monday.

THE CORONER: Thank you. Yes, Mr Walker?

5

MR PHILIP WALKER: Your Worship, after we adjourned on Tuesday I received an email from the DPP indicating that the only witnesses that counsel assisting proposed to call in relation to fuel management were Mr Bartlett and Mr Cheney; suggesting a number of other people who have made some comments on fuel management; and that, if any party wished them to be recalled, they would be made available.

15

I don't think frankly in my estimation of it that that witnesses' list is complete, because as it happened Mr Hoare, who had given evidence that very day, was a man who had made extended comments on fuel management and was a man with some experience in that very area. Yet his name is not on the list.

20

My point is that land management issues are a matter of considerable importance to Mr Lucas-Smith, the reason being is that if, as we believe to be the case, little or no action was taken to reduce the fuel contained on the forest floor, then the fire that Mr Lucas-Smith is then called upon to contain and if possible put out is that much larger and that much more intense. Not to examine those issues obviously leaves him - the focus being on his attempts to put the fire out rather than whether in fact there were some pre-emptive steps which might have been taken which might have made it a much easier task.

25

30

35

As it seems now that counsel assisting will call only two witnesses on this issue, I will have to undertake fairly extensive consideration of who I might wish to have called. It occurs to me that it would be appropriate that any witnesses as to fact be called prior to Mr Cheney giving his evidence. That may mean that they be called some time in the week we had planned having vacant, the week commencing 7 June, because I understand Mr Cheney is to start on the 14th, if my memory

40

45

serves me correctly.

We have not at this stage been given a copy of  
Mr Cheney's report, although I understand there is  
5 a draft to be made available next week. My  
reasons for rising, your Worship, is: firstly, to  
indicate my interest in possibly quite a number of  
these witnesses; secondly, the possibility that,  
if they are to be called, they may need to be  
10 called in that week; and, thirdly, that there be  
no requirement to indicate who is required by  
other parties until such times as at least a draft  
of what Mr Cheney's report is going to say has  
been made available. I mean, I could quite simply  
15 say that I want them all right now, but that does  
not appear to me to be a very responsible course.

THE CORONER: And it doesn't mean that you're  
going to get them either, Mr Walker. Anyway, I  
20 understand what you are saying.

MR PHILIP WALKER: It doesn't seem to be  
responsible. But it appears to me that nobody  
should be required to provide an answer to that  
25 question until at least Mr Cheney's report is  
received so that some responsible consideration  
can be given to who is required. It is possible  
that a number of these witnesses will be required  
on behalf of Mr Lucas-Smith. I simply wished to  
30 put that matter on the record.

THE CORONER: I understand and I appreciate that  
you have flagged the issue. Ms Cronan, you will  
discuss Mr Walker's concerns with Mr Lasry and  
35 give some consideration to that.

MS CRONAN: Yes, your Worship.

THE CORONER: Yes, thank you. Mr Watts?  
40

MR WATTS: I wanted to seek leave to appear for  
Felicity Grant who will be giving evidence next  
week on Tuesday after Mr Bartlett, for whom I also  
appear.  
45

THE CORONER: Yes, leave is granted, Mr Watts, for  
you to appear for Ms Grant.

I will adjourn until 2 o'clock or shortly thereafter. For those who won't be here for the listening of the tapes --

5 MR LAKATOS: If your Worship could excuse me. It is riveting stuff but if you could excuse me.

THE CORONER: Yes, certainly. You can all be excused until Monday. For the rest of you not staying to listen to the tapes, we will adjourn  
10 until Monday at 10 o'clock.

**LUNCHEON ADJOURNMENT [12.15pm]**

15 **RESUMED [2.05pm]**

THE CORONER: Yes, Ms Drew.

MS DREW: We will resume playing of the tapes on  
20 Channel 54 from 23.12.44 on 15 January.

(Taped telephone conversations played)

MS DREW: That completes the playing of the tapes  
25 on Channel 54, your Worship.

THE CORONER: Thank you, Ms Drew. We will adjourn now until 10.00am on Monday.

30 **MATTER ADJOURNED AT 3.32 PM UNTIL MONDAY, 31 MAY 2004**

35

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45

TRANSCRIPT OF PROCEEDINGS

CORONER'S COURT OF THE  
AUSTRALIAN CAPITAL TERRITORY

MRS M. DOOGAN, CORONER

CF No 154 of 2003

CANBERRA

INQUEST AND INQUIRY INTO  
THE DEATH OF DOROTHY MCGRATH,  
ALLISON MARY TENNER,  
PETER BROOKE, AND DOUGLAS JOHN FRASER  
AND THE FIRES OF JANUARY 2003

DAY 63

Monday, 31 May 2004

[10.10am]

MR LASRY: Your Worship, apparently some have  
encountered aviation difficulties and are not  
5 here, Mr Watts and Mr Lakatos and one or two  
others. I gather they are on a flight from Sydney  
at 10.30.

10 THE CORONER: 10.30 from Sydney?

MR LASRY: Yes. A realistic time to resume -  
assuming we are all entitled to berate them for  
not taking into account fog; I can say that in a  
self-satisfied way, as we were very lucky to get  
15 in this morning - is probably about 12.15.

We could perhaps start without Mr Lakatos,  
possibly, but Mr Watts is Mr Bartlett's counsel.  
So Mr Bartlett is reluctant to start without him  
20 being here. That is understandable.

THE CORONER: That is fair. What I should do is  
remind Mr Watts and Mr Lakatos that there was, as  
I understand it, a practice direction issued by  
25 Chief Justice Blackburn, at one stage, saying that  
there is absolutely no excuse for counsel to be  
late in Canberra. They should always take account  
of the fog and come the night before. Having said  
that, there is not much more we can do. I don't  
30 think it is appropriate to start without Mr Watts  
being here, for Mr Bartlett's sake.

MR LASRY: There is one other matter that  
Mr Woodward can deal with before we adjourn.  
35

MR WOODWARD: If I could respond briefly to some  
matters raised by Mr Walker, I think it was on  
Thursday, relating to the position of witnesses  
who were to give evidence on fuel management  
40 issues.

At page 5917 of the transcript, Mr Walker referred  
to the fact that he had received an email on  
Tuesday after court had adjourned giving a list of  
45 individuals who, he put it - there may be a bit of  
a misunderstanding - "as people who were able to  
comment on fuel management issues, the email

indicated that the only two people who would be called to give evidence on fuel management were Mr Cheney and Mr Bartlett". The email in fact indicated that the people listed were in fact  
5 people who had been the subject of a taped record of conversation with the police on exclusively fuel management issues. In other words, many of them had given evidence and other statements but they had been the subject of a taped record of  
10 conversation dealing exclusively with fuel management. That was the genesis of the list which was provided.

There are, no doubt, many other people. I think  
15 Mr Walker mentioned Mr Hoare, who may be in a position to give evidence about fuel management. The list that was sent had been derived from those who had provided those taped records of  
20 conversation. The position was, as the email indicated, namely that those taped records of conversation were considered, on reviewing them, to be sufficient in the evidence that they provide on behalf of those witnesses on fuel management  
25 matters.

From our perspective, there seemed to us to be no need to require them in chief to provide any further material other than what is in those taped records of conversation. So they then fell into a  
30 category, which I think everyone has become familiar with, of a witness who would be made available for cross-examination on that material, if that is required by any party. So those are the people who are listed. That is the position;  
35 namely, their taped records of conversation will become evidence before the inquiry. The parties should indicate if, based on those taped records of conversation, they require them for  
40 cross-examination.

Mr Walker also raised the timing, if you like. As I understand it, he was concerned that he was being put in a position where he was required to make a decision about that before he had a chance  
45 to review Mr Cheney's report. To some extent Mr Cheney's report - he certainly had that material available to him, that is, those taped

records of conversation. I am not able to say to what extent, if at all, he will be referring to it in his report.

5 As I think Mr Lasry indicated, we were hoping his report would be available this Friday. Having spoken to Mr Cheney, I think Monday is more likely. He is certainly endeavouring to have it ready.

10

It may assist the parties to indicate that, for the most part, Mr Cheney's report will be focusing on the current bushfire fuel management plan and what he considers are its deficiencies or in what way it could be improved for the future, rather than conducting a detailed historical perspective of the way in which fuel management has been handled in the past. So I suspect it may not be relevant because all of the evidence that is in those taped records of conversation is largely historical.

As your Worship may recall from the first phase of the inquest, there was a lot of material put before your Worship - documentary material about the way in which fuel management had been managed in the years leading up to 2003. There won't be - apart from that evidence that I have just referred to, being the taped records of conversation and the extent to which Mr Cheney comments on matters of historical significance - any further evidence led dealing with that history.

So, that's the position, your Worship. Those individuals whose names were referred to in that email will be made available, if required. If any party requires them, if they could let us know as soon as possible, we would appreciate that.

40 THE CORONER: Do you know, Mr Walker, as to whether or not you require any of these people at this stage?

45 MR PHILIP WALKER: I don't know immediately. I am, frankly, somewhat surprised by what I have just heard. If I interpret my learned friend correctly, Mr Cheney is going to comment not on

the state of fuel in the forest as at the time these fires occurred but will spend the majority of his efforts commenting on the fuel management plan which has been developed post-2003; do I  
5 understand that correctly? Is that right?

MR WOODWARD: Your Worship, Mr Cheney, as I understand it - I haven't seen his report or a draft of it yet - will be commenting on the  
10 position as at January 2003 but he won't be talking in detail about how that position was reached. As I understand it, his report will certainly acknowledge what the position was as at the time of the fires.

15 THE CORONER: 2003.

MR WOODWARD: But for the most part his report will be directed to assisting your Worship to come  
20 up with some recommendations about the future of a fuel management regime in the ACT. As I understand it, he will certainly deal with what the position was as at January 2003 but won't be raking over the way in which that position was  
25 reached. Almost all of that material is already before your Worship in the form of the various output reports and other documents. There is some controversy, as I understand it, about whether it was an appropriate position. The fact of the  
30 position doesn't seem to be greatly in dispute; that is, the level of fuel reduction that had occurred up to that point.

MR PIKE: It may be a convenient time if I raise  
35 this issue as well, now we are speaking of reports. I raised some weeks ago the issue of the other expert's report, Mr Roach; the parameters of it, when we would receive it and what kind of materials he would be looking at. I am just very  
40 conscious of the fact that we are now about four weeks before the end of the inquest. I do raise the issue that it is now a matter of some urgency to know about those things.

45 If it were to be the case that some of us wanted to lead evidence in reply from another expert, I would have to say right now that it would be

highly unlikely we would be in a position to do that prior to the end of June. Given what is likely to be the case that I am not going to receive the report today, it is going to be some  
5 time - the end of June is now relatively rapidly approaching. I just raise that because I did raise it a few weeks ago. My comments were taken on board and we haven't, as I understand it, heard anything further on that.

10

THE CORONER: I think there was an expected date of production of Mr Roach's report.

MR LASRY: There has obviously been some breakdown  
15 in the communication with Mr Pike. I came back to Canberra last Tuesday specifically to deal with, among other things, that very issue and distributed to the parties the briefing document - which was in part what I thought he had wanted -  
20 which had been given to Mr Roach, which would at least inform them as to the areas in which we were asking him to report.

Our estimation is that, save for any possibility  
25 of providing anything in preliminary form, the earliest date that we think we would be likely to have the completed document to the parties would be the 14th of June. We are conscious of the fact, as I think I said last week - if Mr Pike  
30 hasn't read the transcript, I urge him to read the transcript of the 25th of May, where I deal with it. If he doesn't have a copy of the terms of reference, as it were, of Mr Roach's report, then I will certainly get him a copy.

35

I think the only information I can really add is that the 14th of June would be probably the earliest date we could have that material to the  
parties.

40

MR PIKE: I am conscious of the fact that I wasn't here for a few days last week. I am grateful to my friend for bringing me up to speed as to what has happened. I does still raise the issue, which  
45 I can't take any further, as to if anything does need to be done in response to that, we may have a problem.

THE CORONER: I think that is just something we will have to deal with at the time.

MR McCARTHY: If I could raise a small matter. It  
5 would appear that the report from Mr Cheney  
regarding fuel management, I understand, might be  
available by Monday next week. There does raise a  
certain issue of a need for that report in order  
10 to ascertain what is being put and thus whether  
any of the other people who have put in  
transcribed records of conversation might or might  
not be required to give evidence perhaps in answer  
to what Mr Cheney said. I am only speculating.  
Perhaps if I could indicate that from the  
15 territory's point of view, it would be much more  
possible if we could indicate to counsel assisting  
about whether we require any of those witnesses  
subsequent to receiving Mr Cheney's report.

20 I do acknowledge the need to push this thing along  
so that it is not as though we would tarry once we  
have Mr Cheney's report. I feel it is important  
to note that it might be Tuesday or Wednesday of  
the following week before we could give a  
25 definitive answer about those witnesses that the  
territory might require. I apologise, there is a  
certain progress of matters to that, but I can't  
see a way out of it from the territory's point of  
view in order to know whether witnesses would be  
30 required or not.

MR PHILIP WALKER: Your Worship, I am in the same  
position, as I indicated last week, I would like  
to see what Mr Cheney has got to say first before  
35 indicating a position on that.

THE CORONER: You don't know at this stage,  
Mr Walker - and I appreciate that you probably  
hadn't finished before Mr Pike and Mr McCarthy's  
40 submissions - you are not in a position at this  
stage to indicate which of these witnesses you  
would require to be recalled in any event, and you  
are saying that you are not going to be able to do  
so before Mr Cheney's report.

45 MR PHILIP WALKER: No. It is possible, depending  
upon what Mr Cheney has to say, that the answer

may be none. As I said last week, I am not going to ask people to come along if there is no good purpose. I am a bit the same as Mr McCarthy, with what he just said, without knowing what Mr Cheney has got to say, it is a bit difficult to give an answer, really.

MR WOODWARD: Perhaps there may be a way of short-circuiting the process a little, at least. If the parties do have an opportunity to read - those that are interested in fuel management issues - the taped records of conversation of those individuals and at least, based on those documents, determine whether or not, putting aside Mr Cheney's report, they could be someone who is required for cross-examination; and then, once Mr Cheney's report is available, obviously they may need to reconsider their position. But presumably that would be in order for them to respond to something Mr Cheney may have said, rather than because there is something in their existing material. That would help us a little bit to work out --

THE CORONER: Yes. If there is anything now without Mr Cheney's report - Mr Walker, that was really what I was asking you to focus on; as to whether or not you needed any of these people at this stage.

MR PHILIP WALKER: I will see what I can do.

THE CORONER: This is without Mr Cheney's report. That adds another dimension to it, if that needs to happen, if any other witnesses need to be called after Mr Cheney's report.

So we will have an extended morning tea until the gentlemen arrive. Whenever the planes come in, please let me know and I will come back.

MR LASRY: If your Worship pleases.

**SHORT ADJOURNMENT** [10.23am]

**RESUMED** [2.00pm]

47

MR LAKATOS: I do apologise.

MR WATTS: Yes, I also apologise, your Worship.

5 THE CORONER: I am sure there is nothing I can say  
to you that you haven't probably said to  
yourselves. But you forget that there is always  
fog in Canberra on a Monday morning in the winter  
months. Anyway, we will now continue.

10

MR LASRY: I call Mr Bartlett, please.

THE CORONER: Make apologies to Mr Bartlett as  
well for having to wait around.

15

**<ANTHONY GREY BARTLETT, SWORN**

**<EXAMINATION-IN-CHIEF BY MR LASRY**

MR LASRY: Q. Mr Bartlett, is your full name  
20 Anthony Grey Bartlett?

A. That's correct.

Q. And are you a director of ACT Forests?

25

A. I am the Director of ACT Forests.

Q. Have you been in that position since October  
of 1999?

A. That's correct.

30

Q. We will come back to this in a moment, but you  
have a long experience over some 25 years or so in  
native forest management and also related fire  
suppression operations?

A. That's correct.

35

MR LASRY: Your Worship, the relevant documents as  
far as I can tell are - and I will go through them  
with Mr Bartlett.

40

Q. First of all, there is a statement that you  
made on 9 December 2003, which is  
[ESB.AFP.0001.1140]. Did you make a statement on  
9 December?

A. That's correct.

45

Q. There is also a tape-recorded record of  
conversation with some amendments. The record of

conversation is [DPP.DPP.0004.0023] and the amendments are [DPP.DPP.0007.0358]. There are also some map attachments to that record of conversation at [DPP.DPP.0004.0022] and at  
5 [DPP.DPP.0004.0024]. Now those maps, I think, were maps of the spread of the Bendora fire, among other things; is that correct, Mr Bartlett?  
A. That's correct, yes.

10 Q. And also for the purpose of that conversation, there are some notes and maps of fire development for that record of conversation on 17 December, which is [DUS.GSO.0003.0102]. There is also a  
15 further tape recorded conversation of the 12th of February 2004 with you, which I think principally concentrated on issues of fuel management; is that right?

A. That's correct.

20 Q. That document number is [DPP.DPP.0007.0281].

MR WATTS: Your Worship, I think that is 11 February, is that the same one?

25 MR LASRY: Sorry, 11 February, yes, it is the same one, as far as I know.

Q. And also in relation to the issue of fuel management, there is information which you  
30 provided separately from that conversation under the number [DUS.GSO.0003.0082]. Now as far as I can tell, that is the complete list of information. Have I left anything out as far as you are aware, Mr Bartlett?

35 A. No, that's correct.

Q. Insofar as all of those documents contain information which you have provided for the purpose of this inquest, to the best of your  
40 knowledge is that information true and correct?

A. Yes, it is. I do have three small amendments to make to my original statement, if I may.

Q. Yes, by all means.

45 A. They are quite small. But in paragraph 32 of my statement of - 9 December, was it?

47

Q. That's right.

A. At the very bottom of paragraph 32 on page 9, it says:

5 "We agreed for ACT Forests to source and transport a D5 bulldozer to work on control lines in the Flea Creek area."

That is attributed to the first day, 8 January.  
10 That statement actually should be moved to somewhere around the 9th of January. That didn't happen until the 9th of January. That is the first one.

15 The second one is in paragraph 40. Again, just a slight variation. The last part of paragraph 40 where it says:

20 "During the day ACT Forests arranged to supply two further bulldozers D6, D8 to the McIntyre fire."

It was actually two bulldozers, one to the McIntyre fire and one to the Bendora fire.

25 And the last one is in paragraph 157 where it started off at the front:

30 "At 1345 I observed the spot fire at grid reference 776765."

That should have been 776785 - so rather than 765, it should be 785.

35 MR WATTS: I think there seem to be two other documents as well. One is a document called "fire management in pine plantations", which is [DUS.GSO.0003.0072]. The other is a document entitled, "Case study of wildfire management in  
40 the Byadbo and Tingaringy wilderness," which is at page 1191 of the statement [ESB.AFP.0001.1140].

MR LASRY: Yes, I do have one of those; I am not sure about the other one. I should make it clear,  
45 your Worship - consistent perhaps with what was said earlier by Mr Woodward, and I have said this to the witness - in relation to issues of fuel

management I had at least at this stage intended that Mr Bartlett's material would speak for itself. I didn't propose to go into the detail of that in his oral evidence.

5

Q. Now, Mr Bartlett, as you said, you have had long experience in forestry and, apart from your experience, you have attained several qualifications in the area; is that right?

10 A. That's correct.

Q. As your statement sets out you have a bachelor of forest science in 1978 from Melbourne University?

15 A. Yes.

Q. And a masters in science (forestry) in 1985 from Oxford; is that right?

20 A. That's correct.

Q. You have your statement in front of you, haven't you?

A. Yes, I have.

25 Q. I just want to go ahead to paragraph 25. In that paragraph you set out - in addition to your experience and qualifications - that you have attended a number of formal fire training programs throughout your career including: basic fire  
30 control in 1981; air observer in 1983; fire management techniques in 1986; large fire organisation, 1987; fire line supervisor, 1988; Incident Management Team roles, 1989; fire weather, 1992; and the AIIMS incident control  
35 system in 1995. Those courses are conducted by various organisations?

40 A. They were primarily conducted by the Victorian department that I worked for, with the exception of the last one, the AIIMS incident control system.

Q. In relation to your fire experience you are, as you say in your statement, presently deputy fire control officer; is that right?

45 A. That's correct.

Q. From 1988 until mid-1990, you were the fire

protection officer with the Victorian Department of Conservation and going back in your statement to paragraph 8, as you refer, you were involved in fire management programs for something of the order of 1 million hectares; is that correct?

5 A. That's right when I was the fire protection officer in East Gippsland. I was responsible for one region of Victoria.

10 Q. Your statement also sets out in the following paragraphs your fire experience. I want to ask you a few questions about that. We start essentially, don't we, from paragraph 11 in your statement?

15 A. Yes.

Q. You describe being involved in fires in 1982, I assume not long before the Ash Wednesday fires of 1983; is that correct?

20 A. That's right. In that summer there were fires dating from about summer 1982.

Q. What roles were you performing in those fires?

25 A. Well, the system was different in those days. The names were different. In essence, I was on the fire line, managing fire crews on the fire line. So it was more like a divisional commander or even just a crew leader, depending on the fire.

30 Q. And likewise in the Ash Wednesday fires of 1983 in the Otway Ranges in Victoria, you were divisional commander and air observer?

A. That's correct.

35 Q. You also took part in a large fire in the vicinity of Cann River of I think something like 120,000 hectares. Was that in the same year as the Ash Wednesday fires?

40 A. That's right, that was the following month after Ash Wednesday.

Q. So in March of 1983?

A. That's correct.

45 Q. You note in paragraph 12 that some time after the Ash Wednesday fires an organisation called the large fire organisation was established. You make

the point that that was in effect a forerunner of the incident control system, is that right, the establishment of the in-depth control system?

5 A. It was a system called large fire organisation.

Q. How did that develop? How did that actually come about, what was it about those fires --

10 A. During the fires of 1982/83 there were a large number of problems that developed. The organisation I worked for conducted a review. The sorts of problems - for instance, we had firefighters who didn't get fed and a whole range of logistical and poor planning in those fires.  
15 Out of that, with some investigation of the way the Americans dealt with it, came the large fire organisation as a solution to try to overcome those problems.

20 Q. In 1986 you were involved in fires at Mt Darling near Traralgon; is that right?

A. That's correct.

Q. Something of the order of 500 hectares?

25 A. Yes.

Q. A place called Tubbut in 1988, a similar sized fire?

30 A. Yes, there were two fires at Tubbut. The first one was about a 500-hectare fire; the second one was much larger, 60,000-odd hectares.

Q. You describe one of those fires as being one at which the early use of the ICS was undertaken; is that right?

35 A. At a large fire, that's correct. Yes.

Q. Was it successful in those early days?

40 A. Absolutely.

Q. What was it that made it so successful?

A. Oh, very good planning and then linked closely to deployment from an operational point of view.

45 Q. In 1988 you were involved in a fire in the Kosciusko National Park of some 63,000 hectares; is that right?

A. Yes. That is the second one I was referring to.

5 Q. And in paragraph 17 you set out a number of lessons from that fire, which I just want to ask you some questions about. The first thing you note is that:

10 "Wildfires in 'remote' areas can spread more than 15 kilometres in one day, often a week to 10 days after the fire ignition and in doing so emerge from the wilderness area and burn private property assets;

15 Initial suppression operations on remote fires are usually very difficult especially under conditions of high fire danger and high fuels;

20 Fire bombing operations should commence within 1 hour of fire detection and turn around times should be less than 8 minutes for water bombing and up to 30 minutes for retardant bombing operations."

25 Just in relation to that, what was it about that fire and in relation to that particular point that you make in the lessons from that fire that led to the conclusion that fire bombing operations should  
30 commence within 1 hour of detection; why is that so important?

A. It is important in terms of the size of the fire when they actually commence the fire bombing operations. Obviously the smaller the fire, the  
35 more chance of containing it with fire bombing operations.

40 Q. Just in relation to that, does that take account of having people on the ground or not having people on the ground; in other words, is fire bombing a fire within 1 hour of detection a feasible first option if there are in fact no people on the ground to assist in either the guidance or coordination of the fire bombing?

45 A. Certainly in that case there was fire bombing conducted within 30 minutes. There were no people on the ground when the fire bombers originally

arrived.

Q. Was the fire bombing nevertheless effective?

5 A. Yes and no - sorry to be imprecise, but the fire actually was not able to be contained at direct attack size but it did give the ground firefighters the chance to get in and have a go at trying to contain it at direct attack.

10 Q. The next point that you make under paragraph 17 is:

15 "When a decision is made to adopt a large scale indirect suppression strategy, there is a need for thorough planning to ensure that adequate resources are available to complete the operations before the onset of severe fire weather."

20 Was there a particular lesson or a particular aspect of the 1988 fire that led to that lesson being clearly demonstrated; did something happen that led to that conclusion?

A. Yes.

25

Q. What happened?

A. That fire spread - it traversed both - it was in New South Wales and it was in Victoria. It was managed by two different regimes that had two different lots of resources available. So it was able to be demonstrated that in one situation where there was a very large planning team and then coupled with the acquisition of the resources that were calculated as needed to be there to control the fire, to put the breaks in and conduct the back-burning; versus on the other side of the border where there wasn't the same level of detailed planning and certainly not the same level of resources. The fire was contained on the Victorian side of the border with only minor spot fires over the containment lines, and it made a large run in New South Wales.

40 Q. The next point that you raise in that paragraph is:

"The use of airborne infra-red technology

greatly assists the provision of strategic information about fire development at large wildfires.

5 The successful implementation of 45km of back-burning operations in a two-day period required 13 bulldozers, more than 300 firefighters and six aircraft."

10 I take it that that is important in this sense: that if there is to be a large back-burn or a large indirect attack strategy to be followed, the critical thing to know when you determine that is the strategy is that you have got the resources to  
15 support the strategy; is that the importance of that point?

A. Well, that's correct. In this case, that had to be done in a two-day period. It always is very dependent on how many days you want to actually  
20 implement it in. The point I was trying to make was that the calculation was done by the planning people and then they got the right level of resources to match the time frame that was available to implement it before the onset of  
25 severe fire weather.

Q. Next:

30 "Following the implementation of back-burning along control line it is necessary to facilitate the planned burn out of forest within the containment lines using aerial ignition techniques."

35 Why is that important?

A. Well, otherwise even if you establish a back-burning operation if there are large areas of unburnt country between the wildfire and the back-burn, the fire under severe weather  
40 conditions will develop a run inside the control line and most probably spot right over the top of the control line.

Q. Finally:

45 "The existence of a strategic track network suitable for the implementation of large

scale back-burning operations and areas in which prescribed burning has recently been conducted greatly assists with the timely and successful implementation of indirect suppression operations."

That is perhaps obvious, I don't need to ask you any more about that, I don't think.

10 The next major fire you seem to have been involved in was the one that appears in the following paragraph, paragraph 18, in the Blue Mountains in January of 1994. As you say you led 120 firefighters from Victoria. You make the point in 15 that paragraph that I think that demonstrated, among other things, the value of the incident control system even in unknown territory?

A. That's correct.

20 Q. Just describe for us why that worked and why it worked well in that particular circumstance?

A. Well the incident control system, the AIIMS system, is a recipe for organised fire suppression operations. What it proved was that by bringing 25 people in who knew the individual roles and meshing it in with the local staff there, we could operate totally without knowledge of the local area and provide support to the local people.

30 Q. Did that meshing take place because the organisation between the two states was essentially the same?

A. Yes. But it also was quite fortunate in that one of the people in our team had already 35 established a relationship with some of the New South Wales firefighters by running a training course for them. So he had a rapport. When we arrived and said, "We are here to help," we had an open door, if you like, to set the system up.

40

Q. You say at the end of paragraph 18:

"In my view the significant contributing factors to the success of this operation were 45 the thorough planning of suppression strategies and resource deployments, precision implementation of large scale

back-burning operations under the control of experienced personnel and the significant level of aerial and ground firefighting services that were deployed to the fire.

5 I recall working alongside firefighters from New South Wales, Victoria, South Australia, Western Australia and Tasmania at the fire."

10 Just as to the thorough planning of suppression strategies, can you describe briefly how that worked in those particular circumstances?

A. We probably had about 20 people working in the planning unit who were calculating where the back-burning needed to be done, which parts needed  
15 new trails and which bits could be done off existing trails. In the case of the Blue Mountains, the elevation range from down near the river at Penrith right up to the top of the Blue  
20 Mountains is quite substantially different.

We had Weather Bureau people working with us telling us that during each of the hours of the night when we could successfully burn under various bits. So we had to have quite a precision  
25 operation to make sure that we had people in the right place at the right time, as well as having all the trails prepared in advance to implement the thing in a very planned and thorough manner.

30 Q. Where was that planning essentially being done?

A. That planning was done in the fire headquarters at Katoomba, where the Incident Management Team was operating.

35 Q. Was that the only planning that was being done or was that the only place where the planning was being done?

A. That's right. The whole fire was run from  
40 that fire headquarters.

Q. How did the system work so that the planning and the work that was being done in the planning section was disseminated to the incident  
45 controllers or divisional commanders in the field; how did that work?

A. In those days - this is 1994 so it was pre the

AIIMS forms, but we produced simple incident  
action plans, an earlier version of it, which  
basically said on each sector, "This is where the  
sectors are; these are the resources that you will  
5 be given; and these are the tasks to be done on  
that sector on that shift." Each of the crew  
leaders or the sector leaders came in, got a  
briefing from the team and were given a package of  
information - a map and some instructions, if you  
10 like - about what they were expected to do during  
the night or the day.

Q. Next was in 1998 - in paragraph 19 you refer  
to the Caledonia fire in the wilderness areas of  
15 the Alpine National Park in eastern Victoria,  
something in the order of 35,000 hectares. In  
that case I think the Incident Management Team was  
at a forward control point; is that right?

A. That's correct.

20

Q. Does that mean reasonably close to the fire  
front in this particular case?

A. Yes, it does. It meant within, you know,  
15 minutes drive from the edge of the fire.

25

Q. This fire was significant or it appears to be  
significant in your narrative because, unlike  
other large fires you had been involved in, the  
fire was actually suppressed by direct attack?

30 A. That's correct.

Q. Can you describe in a little bit more detail  
about how that was done in the terrain and in the  
circumstances in which the fire developed?

35 A. It was very remote country with a lot of very  
steep cliffs, no roads and tracks, and a lot of it  
is wilderness area. We did some thorough analysis  
in the planning unit, looking at both indirect  
suppression options and direct suppression  
40 operations. What we found was that we didn't have  
the resources to implement indirect attack with  
the number of other fires that were burning in the  
state at the same time.

45 And we were having reasonable success with direct  
attack. So what we were doing is each day we were  
putting firefighters, and at night-time, onto the

fire as close as we could to the existing edge of the fire, starting from the tail end of the fire, if you like, and gradually just keeping going. It was running each day, and we were going along  
5 either side of it until we got to the point where we could pinch it off at the front. We did that with a combination of small bulldozers, where we could get them in, and people with hand tools - supported, I might add, by a lot of aircraft.

10

Q. Yes. Was indirect attack the first preference if the resource had been available?

A. There was a lot of debate amongst the incident management team about what the best strategy was,  
15 because this was counter-intuitive to most people's experience. But the science showed that, if we had have lit a big back-burn with the resources that we had, there was very limited prospect of us keeping it under control.

20

Q. You make the point in paragraph 23:

"One of the key reasons I believe that we were successful in this large complex fire suppression operation was that we had a  
25 strong well resourced Incident Management Team that was located reasonably close to the fire. This enabled the operations officer to spend time on the fire and to participate in meetings of the Incident Management Team."

30

That was an important aspect?

A. I think that is a fundamental aspect of successful implementation of ICS.

35

Q. Going forward in your statement, I have already referred to the courses that you attended that were set out in paragraph 25 of your statement. In paragraph 26 you note that you  
40 completed the formal competency-based accreditation process for type 3 operations officer. You then state:

45

"In 1999 I completed the formal competency based accreditation process for a type 3 incident controller within the Victorian Department of Natural Resources and

Environment and was awarded a Statement of  
Attainment in competency 6.02 major  
operations management in accordance with the  
performance criteria under the Australian  
5 Fire Authorities Council's endorsed national  
fire training framework. This qualification  
means that I am nationally recognised as  
being competent to perform the role of  
incident controller under the incident  
10 control system at major wildfires. During  
2003 I completed the recognised prior  
learning process for the 7 modules of the  
ACT's competency based training for basic  
firefighters."

15  
You must hold every possible qualification to be  
incident controller at fires at just about any  
level; is that the position?

A. I am certainly qualified to manage as an  
20 incident controller any large fire in Australia.

Q. Can I then come to the 8th of January. I will  
just go through some of the issues raised in  
relation to the fires in January 2003. In  
25 paragraph 28 - sorry, some time before that - you  
refer to becoming aware of the fires and I think  
you describe in that paragraph being at a meeting  
which concluded at around 4 o'clock?

A. Yes.

30  
Q. You became aware of the fires and went  
straight to ESB. As you say in paragraph 28  
arriving at about 4.20pm. In paragraph 29 you  
say:

35  
"Being Deputy Chief Fire Control Officer, I  
went straight into the operations room to  
inquire as to what I could do. I was worried  
about the McIntyre's Hut fire and the  
40 potential threat it posed to our forest  
resources at Uriarra and Pierces Creek. I  
met Tony Graham and Peter Lucas-Smith and was  
advised that there was no role for me at that  
present time as they were still trying to  
45 confirm the number of fires and their  
specific locations."

47

Just pausing there, when you went to ESB to make that inquiry, did you have things in mind that you could have been doing based on what you had seen to that point?

5 A. Not specifically, other than being prepared to offer my services.

Q. In the conversation with Mr Graham and Mr Lucas-Smith, did you do any more than say, "I'm  
10 here and available. Is there anything you want me to do?"

A. I did make a particular comment to Tony Graham indicating that I felt - after he explained to me what resources had been deployed - based on the  
15 smoke columns I had seen as I was coming in that we needed to deploy more resources.

Q. You say in that paragraph exactly that:

20 "I indicated that from what I had seen on my way over to ESB that there was a need to deploy additional resources as quickly as possible. Tony Graham informed me that until he had received confirmation from the on  
25 ground incident controllers about resource requirements he was not willing to deploy additional resources to the fires."

What did you think about that position?

30 A. Well, I had offered my opinion. I'm not sure that I actually had a direct thought about his response. I told him that I felt more resources - based on my experience and what I had seen that we needed more resources. But it is not my role. My  
35 role under the Bushfire Service is to do whatever I am asked to do by the Bushfire Service.

Q. In his evidence, particularly at page 2710, Mr Graham made the point - I will put this part of  
40 his evidence in summary. I think the effect of his evidence was that it was difficult to deploy resources until they knew what fires they actually had. Is that not a fair enough position to take; in other words, as I understand his evidence,  
45 before we could deploy resources we really needed more information about how many fires there were, where they were and how big they were?

A. Well, I had a different opinion. I could see the three columns of smoke very clearly from the Tuggeranong Parkway. With my experience at fighting fires in remote mountain areas, I had an  
5 opinion that we needed to deploy more than just the standard weight of attack.

Q. So had you been making the decision, does that mean that at that point, 4.20 in the afternoon,  
10 you would have been sending resources in the directions of those columns of smoke and see what happened as they got closer?

A. That's been my experience in the past. From a number of fires, it's very nice when you actually  
15 arrive there and then find there are already other resources on their way. People can always be turned around and sent home when they are not needed. When you get there and there is a long lead time, it is always better to have resources  
20 rolling in my view.

Q. You had resources that were available as at that stage?

A. That's correct.  
25

Q. What did you have available at ACT Forests?

A. One of the ACT Forests fire units had been dispatched, and we had basically the rest of the ACT Forests resources. So there would have been  
30 another large tanker and some light units, but probably more importantly we had people who were available for remote area firefighting. We had about 19 people, I think from memory, who had passed the arduous fitness test. We had already  
35 established backpacks and things ready for those people to go, if needed.

Q. And that was done by 4.20pm?

A. They were permanently ready, basically, right  
40 through the fire season.

Q. You remained at ESB for an hour or so, as you say in paragraph 30, and you note that you expected it would become clearer that you would  
45 have a role in managing the initial response or resource allocation, mindful of the speed in which the fires of 24 December had developed. You go on

to say:

5           However, after about an hour, I assessed that  
I would not be required in the short term so  
I decided to return to ACT Forests  
headquarters at Stromlo to co-ordinate our  
response as required."

10       What transpired during the hour while you were  
there and what led you to the view that you were  
not going to be used?

15       A.    It is a little difficult to recall the  
specifics. I think I listened to some of the  
radio traffic, and it appeared to me that some of  
the crews were having difficulty finding the  
fires. And in terms of the advice I had been  
20       given that until somebody was on site no  
additional resources were going to be deployed,  
after a while I decided I might as well go back to  
my office just to check that all of my people were  
ready and available and those sorts of things. I  
guess I felt that there was nothing I could do in  
ESB at that point in time.

25       Q.    You had offered a view as to the deployment of  
additional resources, which I take it from your  
evidence was simply expressed in a conversation  
with Mr Graham?

30       A.    That's correct.

Q.    Is that right?

A.    Yes.

35       Q.    Were you asked for your opinions in relation  
to any other issues about the initial response to  
the fires; was there any kind of process of  
meeting or discussion while you were at ESB at  
that stage?

40       A.    No.

Q.    In which your views were sought?

A.    No.

45       Q.    You then went back to Stromlo depot. Sorry,  
there is another thing I need to ask you about. I  
think in paragraph 30 you refer to going outside  
and seeing the smoke and then having a

conversation with Mr Castle; is that right?

A. That's correct.

Q. What you say in that paragraph is:

5

"As I walked out the door at ESB, I observed the huge column of smoke blowing right across town from McIntyre's Hut fire, which caused immediate concern. I went back into ESB and spoke to Mike Castle, suggesting that he come outside and observe the same smoke plume for himself rather than rely on information coming from other sources before a response was initiated. After assessing this smoke for himself, he advised that he was going to communicate the significance to those responsible in the operations room and so I advised that I would be returning to ACT Forests to await further instructions. I had also been made aware that some of our ACT Forests staff members had been deployed to the Bendora fire, although I did not meet with any of those crew members on that day."

25 Can you recall what you actually said to Mr Castle when you got him outside?

A. No, only in the general terms that I expressed in my statement. I guess I had a feeling after walking out from the operations room, when you are inside that room it is difficult to see what is going on. Whereas when I went outside, with the amount of smoke I could see I was of the opinion that that should have generated follow-up on the action that I had proposed. Because if people haven't arrived at the fire and you are waiting for information, that is one thing. That is quite reasonable, actually in many cases, not to take action. However, if you can see from afar yourself these fires are quite significant, you may then decide to take action. That was the purpose of the conversation.

Q. In your tape recorded record of conversation of 17 December, I am not sure if you have that in front of you?

A. Yes, I do.

47

Q. If you could go to question 74 and 75, I think you expand a little on that.

A. Sorry, what paragraph?

5 Q. Questions 74 and 75.

A. Yes.

Q. In particular question 75, perhaps to start with, because you say:

10

"I don't know what was available and I didn't have that information. But I certainly would have thrown everything that was available at it initially. I wouldn't have - I think it should have been held - held it back because I have always worked on the principle that you fight the fire you have got. If you get another fire subsequent to that, you are better off sending people up the road and turn them around when someone else says, 'We have got around this fire, we don't need you,' than actually saying, 'Well, you are not needed' sort of thing."

15

20

25 I think the point you were making was that your opinion as at the afternoon of 8 January was that whatever was available to be sent to these fires should have been sent; is that essentially it?

A. That's correct.

30

Q. In the time that you were at ESB and for that hour or so on the afternoon of 8 January, was there a sense of urgency about the fires that had started as far as you could see?

35

A. They certainly recognised the importance of trying to suppress those fires.

Q. Did you have any impression though that there was a sense of urgency?

40

MR LAKATOS: I object to that. The witness has answered the question. I am not sure what that means, with respect. But we don't know how many people were at ESB. We don't know who the sense of urgency is supposed to be attributed to. The witness has done his best. In my submission, the sense of urgency question does not assist.

45

MR LASRY: I am not sure that the witness has answered the question I asked as opposed to the objection that is taken to the question. Perhaps I can ask it differently.

5

Q. Mr Bartlett, apart from the use of sending personnel on fire trucks and things of that kind, in forming your opinion that the appropriate approach was to throw everything that there was to be thrown at these fires as at the afternoon of 10 8 January, would that have included the deployment of bulldozers and other similar heavy machinery to start work on either containment lines or trails or whatever else?

15 A. I would have, first of all, deployed the RAFT crews and made some arrangements to see what the availability of bulldozers were. But generally in forest fire situations, particularly in dry summers, you usually put a trail around it 20 manually first and then follow that up with a bulldozer trail afterwards.

Q. Now, I think the next involvement that you had after you left ESB, gone back to Stromlo and so on 25 was your attendance at the Queanbeyan meeting that night; is that correct?

A. That's correct.

Q. You refer to that in paragraph 31 and 30 following of your statement, and particularly in paragraph 32. You say in that paragraph about point 7 or point 8 on the page that, once the initial strategies were settled on, you were satisfied with the initial strategies as outlined 35 by New South Wales given the available resources. Did you have a view based on the information that was available to you at that stage as to whether any form of direct attack was feasible on any aspect of the McIntyre's Hut fire, either the 40 McIntyre's Hut fire itself or the spot fire that was on the Baldy Track over to the east?

A. As I said in there, given the information they put before us, which was where the fire currently was and including the spot fires that were out in 45 front of that fire, coupled with the information they told us about the available resources at that point in time which was that night, if you like,

and in addition to that the fire behaviour that was reported back to myself and Neil Cooper by one of my own staff who I had confidence in, at that hour that we were there I was comfortable with the strategy that was being adopted.

Q. As far as the strategy itself was concerned, did you believe that it was a settled strategy or was it available to be varied depending on what was discovered over the next few hours or the next day, for example?

A. Well, all fire control strategies can be varied according to the circumstances. But when we left that meeting, I had a firm view in my mind that that was their plan and they were then going to resource it and implement it.

Q. The western control line based on that strategy was the Goodradigbee River?

A. That's correct.

Q. What was your view about using that as a western control line?

A. Again, I was following the advice from the local people. I didn't know the Goodradigbee River well myself. The area they were talking about is in New South Wales and I had never been along that river, so I had to accept their view. I had no other information to question that.

Q. You say in paragraph 32 a few lines down from the start:

"There was some discussion about the possibility of using Baldy track as a control line but the New South Wales officers felt that the spot fire on the Baldy Ridge might be difficult to contain but they did indicate that they would consider this option during daylight the next day."

The eastern containment line was perhaps open to be varied depending on what the following day revealed?

A. That's correct. They certainly recognised that, if they could round that fire up, the fire could be contained at a much smaller size.

Q. You were aware obviously on the night of the 8th of January - indeed at about the time this meeting was going on - a decision was made that the firefighters at the Bendora fire would be  
5 withdrawn for the night.

You have given some evidence about firefighting in some of your fire suppression history. In your answer to question 94 on the 17th of December tape recorded record of conversation you deal, in  
10 answer to what is described to be a hypothetical question, with overnight firefighting. The first thing to note, I suspect, is that you weren't involved in the decision to withdraw those  
15 firefighters on the night of 8th January; were you?

A. No, I wasn't.

Q. Were you aware at any stage on the night of the 8th that that decision had been made?  
20

A. Not that I recall although I may have been present in Peter Lucas-Smith's vehicle when a conversation was made. I can't recall the details of that.  
25

Q. You say halfway through the answer to question 94:

"I'm a strong believer that night  
30 firefighting situations in forest situations is a very valuable tool in the suppression tactics that we have got but always has to be tempered with the actual circumstances for those particular fires. So in relation to  
35 the three fires that were in the ACT, I wasn't involved in the decision-making and I haven't been to two of the sites on the ground, so it's very hard to say whether I would have put people - I certainly would  
40 have wanted to have a pretty close look at whether we could keep people in there overnight. So if I had have been deployed as incident controller, I would have at one point in time taken a bit of a flight there  
45 in a helicopter as well after I'd got things rolling and worked with whoever was appointed to each one of the fires and we would have

had a quick discussion about what could be achieved and what was safe and what were their concerns and so on and so on. So I can't be more specific than that."

5

Is a decision such as the decision that was made on the night of the 8th of January in relation to Bendora a decision that should always be regarded as an important decision; a decision whether to

10

fight the fire at night or not?  
A. It is a very important decision.

Q. Is that in part because, as a lot of other witnesses have said, the first night of the fire is often the best chance you have got to actually either suppress or control a fire in a forest like that?

15

A. That's correct, especially if you are trying to do it with ground firefighters. The smaller the fire, the more chance you have got of putting a line around it.

20

Q. So the information that could be available - obviously information first of all comes from the incident controller or the divisional commander or whatever that person is who is in charge and at the scene of the fire; is that right?

25

A. That's right.

Q. If the incident controller is back at the incident control headquarters or the control room and is taking part in the making of that decision, what information should that person have available to them in contributing to the making of that decision?

30

35

A. Well, for instance, questions could be asked about the steepness of the land, the amount of fuels on the ground, the height of the flames, whether there are cliffs or mine shafts present, whether the fire is active in the tops of the trees. There are a lot of things that you could ask: trying to understand what the current fire behaviour is, how much work needs to be done and trying to determine whether that can be safely done at night, bearing in mind that on most nights the fire behaviour cools down during the night-time.

40

45

Q. When you say in answer to question 94:

5 "I would have wanted to have a pretty close  
look at whether we could keep people in there  
overnight."

Then you go on to talk about perhaps having a look  
at it from the helicopter, does that mean looking  
at it from the helicopter at about the time the  
10 decision is being made?

A. Oh, probably in advance. That would have been  
one of the things to look at as an incident  
controller from the helicopter, including trying  
to get some idea about the likelihood of success  
15 with ground crews, whether you needed bulldozers  
the next day and all those sorts of things. It is  
just one of those things that needed to be looked  
at.

20 Q. Now, going then to 9 January and to paragraphs  
33 and 34 of your statement. You note in  
paragraph 33:

25 "On Thursday morning, 9 January, I first went  
over to my office before then heading back  
into ESB to get an update on the fires and to  
find out what role I would be given. Again,  
I was advised by Peter Lucas-Smith that there  
was no requirement for my services. I  
30 offered the services of some of my staff to  
support the planning unit, and Mr Lucas-Smith  
indicated that he would like two staff for  
these roles. I indicated that I would  
arrange for Hilton Taylor and Felicity Grant  
35 to make contact with Rick McRae about their  
involvement in the planning unit. I also  
advised the duty co-ordinator that we could  
source bulldozers if required and that we had  
also made this offer through Neil Cooper to  
40 the New South Wales Incident Management Team.  
At that point I knew that all of the ACT  
Forests firefighting crews were on standby  
but that none had been deployed. I then  
queried the expected requirement for those  
45 crews and was told that they were to remain  
on standby and that there was no immediate  
tasking. Surprised at this response, I

returned to my office and discussed the various possibilities with some of my senior managers."

5 At that stage, as at the morning of 9 January, the ACT Forests firefighting crews that were on standby were how many? Is it the same effectively the same crews that you referred to on the afternoon of the 8th of January?

10 A. That's correct.

Q. The same equipment?

A. That's correct.

15 Q. Were you given a reason as to why those crews were to remain on standby and there was no immediate tasking?

A. Well, that was just a standard approach that they weren't being deployed, but Emergency Services Bureau was saying they may need to deploy them. They were asking me to keep them on standby.

25 Q. The advice that you gave to the duty co-ordinator that "we could source bulldozers if required", which I have already read to you, when was that advice provided?

A. That would have been at the same time when I was over there.

30

Q. Sorry, some time after 9 o'clock, 9.30 something like that?

A. Oh, look I can't remember the exact time, probably around that time, early in the morning, I would have gone over there - as I said, I went to my office first; I used to go to my office at 7.30 in the morning; so it would have been some time before 9 o'clock, actually.

40 Q. Who was the duty co-ordinator that you spoke with on that morning?

A. I am reasonably certain that it was Tony Graham.

45 Q. You say, as I read earlier in that paragraph, that you were also advised by Mr Lucas-Smith that there was no requirement for your services.

Again, did you have a particular role for yourself in mind when you went there on the morning of 9 January that you expected that you might be able to fulfil?

5 A. Only in that I am a senior officer and normally under the operating procedures at some point in time they scale up and appoint senior officers to manage the fire incident. I was just wondering when that would occur. That was the  
10 point behind that comment.

Q. Did you get any information as to when that was likely to occur?

15 A. Not that I recall. But I'm just trying to think. I don't think we actually - I may not have asked that question. I probably just said, "Look, you know, am I going to be used today?" Something more along those lines.

20 Q. And were told no?

A. That's correct.

Q. That was the extent of the conversation. What I am trying to understand is whether there was  
25 some specific reason or some explanation for the fact that you weren't to be used that day?

30 A. Well, not that I recall, neither would I necessarily expect there to have been. These people, their task was to try to organise the suppression of the fire. I wasn't there to give them a headache, if you like. I was there to offer my services. If it wasn't required, then I went off and did other things.

35 Q. The next step for you was to go back to the protection of the plantations, as you describe in paragraph 34. And then in paragraph 35, you say that you and Mr Bretherton took a drive which enabled you to view the McIntyre's Hut fire from  
40 the Coree tower; is that right?

A. That's correct.

Q. At the end of paragraph 35, having seen what you saw from the tower, you say:

45

"I recall thinking that with this sort of fire behaviour the New South Wales fire team

would be able to review its strategies and attempt to control the fire at a smaller total area."

5 How did you think specifically that would work?

A. Well, what I could see was that the fire behaviour on the second morning of the fire was significantly different from what I understood it to have been the night before. There was  
10 certainly no large columns of smoke going in the sky the way we had seen it. So just again from my experience, generally an Incident Management Team, when there is changed circumstances in the weather, each morning they will review the  
15 incident action plan based on the current information. I thought that they may well have been doing that and may well have thought that now, for instance, if we did control we would have a reasonable prospect of controlling the Baldy  
20 spot fire and perhaps some of the other spot fires.

Q. Returning to Canberra after that you speak with Mr Cooper, and in paragraph 36 you note:  
25

"I told him what I had seen from Mt Coree. He advised me that he had been informed by the New South Wales planning team that they were not going to conduct any back-burning  
30 that night. I was a bit perturbed by that because it seemed they were wasting a good opportunity when the wind was blowing in the right direction and there was little danger of the fire escaping outside any control  
35 lines. I suggested to Neil that he continue to offer suggestions to the New South Wales team about strategies and the potential to use ACT resources to assist with the operations."

40

Now, in that first conversation with Mr Cooper, did he explain to you why it was that there was no back-burning that was going to be commenced that night?

A. I don't recall specifically but, as far as I am aware, it related to the fact that they hadn't yet got the control lines established

satisfactorily to enable them, in their view, to conduct back-burning operations.

5 Q. Why were you perturbed by that; was that a good reason for not commencing back-burning?

A. Yes. Again, based on my experience, once you make a decision about indirect strategy you need to be conducting back-burning basically every night until you get it done. So you always do the back-burning in the bit of the control line that you have got established; you don't wait until you have got the whole control line set up.

15 Q. In the course of her evidence, Julie Crawford particularly at page 4460 says in fact the concern was the southern containment line along the Powerline Trail, the serpentine Powerline Trail, and that particular section of it that had to be constructed down to the Goodradigbee River. It was that particular part of the containment line that was causing the delay. That's a reasonable reason, isn't it, to delay - if you are burning from the southern containment line - to not start it until you complete the southern containment line?

25 A. No, I wouldn't agree.

Q. Why not?

A. Because the southern control line extended all the way from the Goodradigbee River right across to the Baldy Range or to Dingo Dell. I can't recall exactly how many kilometres. That's probably 10 or more kilometres. Some of that control line, there were very good existing tracks that could have been burnt off without compromising, in my view, the last bit into the Goodradigbee River.

40 Q. She also says at 4528 that they wanted to finish the southern containment line because that was where they were commencing the burn from. That was because the fire itself was heading south and it was actually going to put that containment line under pressure.

45 A. Well, at the time the wind was blowing from the south-east so the fire at that time was not heading south. But obviously that control line

would come under pressure when the wind went around to the north-west. Perhaps she was referring to - they were expecting that is where the pressure point would be in the future which again, in my view, just heightens why you need to implement that works as quickly as you can.

Q. At the meeting on the night of the 8th of January in relation to this indirect strategy concerning this fire, are you able to recall was there discussion about resources and the availability of resources?

A. Not that I can recall in detail.

Q. Were you interested in that? Were you listening out for some discussion about whether they had the resources they needed to do such a large back-burn?

A. Well, not entirely. The reason for that is generally once the team actually starts to make its decisions, a lot of other things are put in place by a planning unit to source resources. What we were doing was saying, "Look, we have got resources in the ACT as well which haven't been deployed on to ACT fires." We were trying to offer some of our resources to assist with at least the early implementation of those works.

But in firefighting operations it is a bit of a chicken and egg thing. You generally make some decisions and start with whatever resources you have got available and then bring in more resources as you source them.

Q. Going to the 10th of January and in particular to paragraph 40 of your statement you commence that paragraph by saying:

"On Friday morning, 10th of January, I reported to ESB only to discover that once again there was no specific role allocated to me."

Pausing there, did you report to ESB in the same way that you did on the 8th or 9th; that is, to go down to generally inquire as to whether you could be of assistance or did you report for some more

specific reason than that?

5 A. I don't recall who I spoke to on that morning but I believe I would have done exactly what I had done on the previous days. Because of my role I have access to be able to go into the fire operations room and I probably went in and talked to the senior people.

10 Q. You go on to say in that paragraph:

15 "Neither was there any request to deploy ACT Forests resources to the ACT fires or the McIntyre fire. I was, however, given a good briefing on the development of the three fires in the ACT and shown the latest information for the New South Wales and the McIntyre fire."

20 Does that mean that, as at the morning of the 10th of January, the people who were effectively ready to go on the 8th and 9th of January were similarly ready to go on the 10th and were not to be deployed that day?

25 A. That's correct - from ACT Forests that is.

Q. From ACT Forests?

A. Yes, other than the people that I had made available to work in a planning unit.

30 Q. At around midday on that day, as appears in paragraph 41, you were informed by Mr Cooper that he had been informed or advised by the New South Wales incident controller that back-burning would not be undertaken that evening as he did not consider the control lines had been sufficiently prepared. You say:

40 "In my view the weather was perfect for back-burning on the southern control line as the wind was continuing to blow from an easterly direction."

45 In the following paragraph you make what appear to me to be at least two complaints: First of all that you were not being sufficiently utilised by ACT ESB; is that a fair statement of the position you felt as at 10 January?

A. I wouldn't say it was a complaint. I had concerns --

5 Q. Sorry, that is my word, not yours - all right concerns. One was the underutilisation of your services?

A. My services and the services of my staff, yes.

10 Q. By the 10th of January, did you have some level of expectation as to how, first of all, your services and, secondly, the services of your staff might have been utilised?

15 A. Well, in relation to myself, I think I already answered it before. As a senior officer in the Bushfire Service you don't necessarily get  
20 deployed every time a fire starts but, when there is difficulty controlling fires, then normally you would engage the services of more senior officers - not just me but there were a range of more senior officers, because effectively what  
25 that is saying it is a complex fire and it needs high level people to be involved.

30 Q. Had the situation been reached where you were explaining or saying to anyone in ESB, "I can be of particular assistance in this, that or the other area? I have staff available who are ready to take part in the attack of these fires"?

35 A. Well, only in so far each morning I went over there to offer the services of my staff and myself. But I didn't necessarily need to do that. We were permanently part of the Bushfire Service and in fact an integral part of the Bushfire Service. They would have known we were available for deployment.

40 Q. The appointment that you had with Mr Thompson, which was arranged for 2 o'clock on the afternoon of the 10th of January, which you describe as occurring in view of the frustration you felt, was that frustration to do primarily with the lack of action in New South Wales as you saw it or both of those factors?

45 A. It was primarily the New South Wales issue that I was concerned about. I wanted to draw to his attention the fact that, in my view, not enough action was happening to implement the

agreed strategy in New South Wales.

Q. You say in that paragraph:

5 "At the meeting with Alan Thompson I outlined  
my concern over the potential for the  
McIntyre's Hut fire to impact on our pine  
plantations and the fact that New South Wales  
10 didn't seem to be doing enough to suppress  
the fire. My view at that time was that we  
were going to suffer the consequences unless  
there was a significant escalation of the  
fire suppression effort. I expressed my  
15 frustration that despite the New South Wales  
agencies having agreed to implement an  
indirect suppression strategy on Wednesday  
night, it now appeared that no back-burning  
would be done until at least Saturday despite  
20 the existence of very favourable weather  
conditions."

You go on to describe showing Mr Thompson your  
report from the 1988 Byadbo fires. And it is said  
that you believe that both Uriarra/Pierces Creek  
25 plantations and the western suburbs of Canberra  
would come under threat when the next day of  
strong north-westerly winds occurred. Is that  
effectively what you said to Mr Thompson?

A. Absolutely. In fact, I showed him the map  
30 from that report that I had written which clearly  
showed that that fire as you had summarised  
earlier had moved 15 kilometres in one day under  
the influence of strong north-westerly winds. I  
showed him the map of that fire. I pulled out the  
35 map of Canberra. I showed him where the  
McIntyre's Hut fire was and how far away it was  
from Canberra.

Q. When you say in your statement that you told  
40 him on the 10th of January that the western  
suburbs of Canberra would come under threat when  
the next day of strong north-westerly winds  
occurred, what kind of threat did you have in  
mind; what were you describing?

A. I was describing the fact that the fire could  
45 run across that amount of distance and threaten  
the edge of the suburbs. I wasn't more specific

about which suburbs or how intense it would be.  
It was just that on my experience it could  
actually travel that distance in one day if  
serious action wasn't taken to control the fire.

5

Q. What did Mr Thompson say in response to that?  
A. He was concerned. When I put that before him  
he was immediately concerned.

10 Q. You asked him, as you say in that  
paragraph 43, top of page 13 that "we" as you put  
it:

15 "I expressed the view that we should consider  
asking the Chief Minister to contact the NSW  
Premier to express concern about the  
potential for the McIntyre fire to impact on  
ACT assets if more was not done to suppress  
it."

20

Now, apart from the discussion with Mr Thompson,  
had you expressed that view to anybody else prior  
to that?

A. I don't think so.

25

Q. You go on to say:

30 "I also expressed my concern to Mr Alan  
Thompson about not being deployed and the  
lack of progress with controlling the fires  
in the ACT, particularly the two southern  
fires being Mt Gingera and Stockyard Spur. I  
knew from an examination of the topographical  
35 maps that unless these fires were contained  
by direct attack, there was little prospect  
of establishing viable indirect suppression  
control lines and I believed that not enough  
resources were being deployed to contain  
these fires."

40

Does that include your concern about the lack of  
deployment of the resources that you had  
available?

A. That's correct.

45

Q. You describe being present while he rang  
Mr Castle and you were then later informed that

the matter had been taken up with Mr Gilligan; is that right?

A. That's correct.

5 Q. And would be taken up with Mr Koperberg?

A. Yes.

MR LASRY: I see it is 10 past 3. Is that a convenient time?

10

THE CORONER: We will take the short adjournment.

**SHORT ADJOURNMENT**

**[3.10pm]**

15

**RESUMED**

**[3.20pm]**

MR LASRY: Q. Mr Bartlett, when the conversation occurred between Mr Thompson and Mr Castle, is it the case that you were able to hear both sides of the conversation?

20

A. Yes. It was on speaker phone.

Q. Can you describe as best you can what Mr Thompson said to Mr Castle and what the responses were?

25

A. Well, as I recall, he just reiterated the discussion we had had that based on the advice I was giving him that it appeared that not enough action was being taken to implement the agreed strategies in New South Wales, and that it was the ACT assets which were ultimately under threat if those strategies weren't implemented, and therefore perhaps we needed to try and raise the issue at a higher political level, you know political in the broad sense, to try and bring some pressure to bear to get the required resources and the right sense of urgency.

30

35

Q. How did Mr Castle respond to that, as best as you can recall?

40

A. As I recall, he listened to what Mr Thompson said and he didn't disagree with any of the points that were raised.

45

Q. Did Mr Thompson's comments to Mr Castle include what you had told him, particularly by reference, as you said before the break, to the

demonstration based on the map that the Uriarra/Pierces Creek plantations and the western suburbs of Canberra would come under threat?

A. I think only in general terms --

5

MR WHYBROW: I object to this evidence. Perhaps it is convenient to deal with the rest at this stage, I assume it will be raised, of a similar conversation being expressed in paragraph 49. The first point is that this was never put to Mr Castle.

Sorry, it may be that Mr Bartlett should not be present while I raise these issues. I don't have any concerns of tailoring of his evidence, or anything of that nature, but it may be better if he is not present while I raise what may be some lengthy submissions about the appropriateness of this issue and indeed one that is coming up.

20

THE CORONER: Mr Bartlett, would you please wait outside for a period.

THE WITNESS: Yes.

25

(The witness left the hearing room)

MR WHYBROW: Your Worship, the issue is being raised as to a conversation and the specific question relates to a conversation alleged to have taken place between Mr Castle and Mr Thompson on the early afternoon of 10 January. I haven't actually confirmed this part, but my recollection of the evidence is that Mr Castle was never asked any questions about the subject of this question. He was put on notice effectively of somebody's opinion, here Mr Bartlett's, of a threat to urban Canberra as early as early afternoon of 10 January. My objection is basically one of procedural fairness at this point because it has never been suggested to Mr Castle. Indeed, the witness's statement doesn't suggest that this particular issue, urban, et cetera, was raised in that conversation either.

45

Indeed, the statement refers to wanting to crank up the level of effort by New South Wales in

effect, which was what was said before the last part of the evidence came out. That relates to this particular conversation in that it is a matter that presumably counsel assisting would or should have been aware of when Mr Castle was being questioned, because indeed much of the focus of his cross-examination for nigh on 6 or 7 days was his state of knowledge as to levels of threat/risk to Canberra, urban edge, urban area, suburbs and things of that nature. Indeed, as far as I can recall, the earliest suggestions that were seriously put by counsel assisting occur on about 15 and 16 January when the cabinet briefing is being prepared.

At paragraph 43 - I know this may be foreshadowing some evidence but we are on the day of 10 January - Mr Bartlett outlines attending a meeting at Queanbeyan that night, and in effect no doubt he will be indicating he directly puts to New South Wales his views about the level of resources they are putting into McIntyre's Hut and that the back-burning should take place, et cetera, et cetera.

At page 13 of his statement at about point 3 - I apologise it is paragraph 49, I am referring to - again, it is this meeting in Queanbeyan at about 6.30. He indicates he attended a meeting there with Mr Castle. Mr Castle was asked about this. Page 15, which for the record is [ESB.AFP.0001.1154], Mr Bartlett expresses in his statement:

"I expressed my concern about the potential for the fire to threaten the ACT's pine plantations and rural/urban assets if the necessary control works were not implemented quickly."

That is a significant statement, and one which I certainly would not be in a position to say your Worship should not take into account, except for the history leading up to this witness now coming to give this evidence on the basis of procedural fairness to Mr Castle. It may well affect other witnesses, your Worship.

That statement was prepared in December of 2003. There is a record of interview that accompanies that also in December 2003. Mr Castle was asked questions in March of this year. In relation to  
5 this meeting, the relevant part is at page 1398 of the transcript and following.

Mr Woodward, who was then examining Mr Castle, indicates with reference to paragraph 74 of  
10 Mr Castle's statement:

"In the evening, at approximately 6pm, Mr Lucas-Smith asked me to go to RFS control centre in Queanbeyan to convey to the New  
15 South Wales RFS that the maximum resources that the ACT could provide for assistance ... was four tankers and four light units."

There is a series of questions that then follow:  
20

"Q. You were accompanied by Mr Tony Bartlett?"  
"A. That's correct."

We are talking about a meeting on 10 January. At  
25 the bottom of 1399:

"Q. Are you able to say why Mr Tony Bartlett accompanied you on that? What was the purpose of his presence?"  
30

"A. I believe his concern about the McIntyre's Hut fire and the effort and the approach that New South Wales was taking in relation to the pines."  
35

That seems to be consistent with the concerns that Mr Bartlett has already expressed. Mr Woodward then asked:

"Q. Because he was obviously intensely concerned about the potential for the exposure to his asset, namely the Uriarra plantation; is that correct?"  
40

"A. Yes, that he is responsible for, yes."

Then he is asked questions in relation to back-burning and whether the back-burning was sufficient. I note - rather than read the whole  
45

transcript out - that there is no reference to  
suggestions that at that stage Mr Bartlett raised  
any issue as to concerns no matter how far down  
the track or contingent of concerns for the urban  
5 area.

I have just been advised, following a transcript  
search, that Mr Castle was not cross-examined with  
respect to paragraph 43 of Mr Bartlett's  
10 statement, which relates to the conversation with  
Mr Thompson, which was my earlier point.

Coming back to paragraph 49, Mr Woodward asks a  
number of questions on page 1400 and 1401 about  
15 this meeting on the night of 10 January in  
Queanbeyan and they focus on --

MR LASRY: I am sorry to interrupt my learned  
friend. Your Worship can proceed on the basis  
20 that we accept that this material has not been put  
to Mr Castle.

MR WHYBROW: If --

25 MR LASRY: And not deliberately avoided. There is  
no doubt that he has not been asked about it.

THE CORONER: About the threat to the urban area.

30 MR LASRY: About that part of the evidence given  
by Mr Bartlett that relates to or makes a  
reference to the threat to the urban part of  
Canberra, yes.

35 MR WHYBROW: I am grateful to my learned friend.  
I don't need to go through the rest of Mr Castle's  
evidence there. I can certainly understand,  
because I will be probably claiming the same  
defence myself in due course, that any failure to  
40 cross-examine on that is not necessarily to be  
taken as an indication that counsel assisting  
doesn't see it as a relevant issue. There is so  
much material that sometimes issues can slip by.

45 However, in this case not only was Mr Castle not  
asked about this issue on that night, two other  
witnesses have been and gone who were also present

at that meeting, Mr Peter Galvin, whose relevant evidence is at pages 4095 to 4097. I again indicate, without going through it, that he was not asked any questions about it.

5

I further can indicate that Mr Galvin has a statement, which is [ESB.AFP.0111.0163]. In paragraph 23 of his statement he indicates in effect he was present at this meeting and that he, paraphrasing it, had in his own mind some concerns that, should the fire get into the pine plantation, it could lead to some consequences for Canberra.

10  
15 He is asked some questions about that paragraph, not surprisingly, in a subsequent taped record of interview which is [DPP.DPP.0004.0026]. At page 9 going on to page 10, at questions 48, 49 and 50, he indicates at that meeting he did not express  
20 his opinion and that there was no discussion about the urban edge or danger to urban interface, et cetera - in effect, contrary to what is outlined in Mr Bartlett's statement. So Mr Galvin was not tested on that issue at that stage.

25 Again, given the breadth of material, perhaps it is explicable that those issues were not covered without there being any deliberate attempt to not cover it.

30 Finally, Mr Bruce Arthur, with whom this meeting is being held, gave evidence on the 4th of May. At pages 4596 onwards he was asked questions, and specifically paragraph 49 of Mr Bartlett's  
35 statement was read out to him - however, only the first part of that statement which relates to the appropriate volunteers doing back-burning. There was no suggestion to Mr Arthur - and unless anybody wants me to, I won't go through the extent of his cross-examination - that Mr Bartlett, whose  
40 statement was put to him, had suggested at that meeting that there was any issue or concerns he held for the urban area of Canberra.

Indeed, at page 4599 Mr Lasry indicated about the issue of back-burning and volunteers, and paragraph 49 in particular:

47

5 "Q. We will ask Mr Bartlett about that. The reason for asking you about this meeting was because his recollection is that, during the course of it, you left the meeting to talk to Mr Koperberg about getting resources."

10 Your Worship, one might have expected then that if this issue of Mr Bartlett's significant line in paragraph 49 of concerns he had and expressed apparently to people as early as the 10th of January was not put to Mr Castle, was not put to Mr Galvin, and when the very paragraph itself was brought to the attention of Mr Arthur, it was not put to him, your Worship, of course if there is  
15 nothing to be made of it, in the sense that counsel assisting will not be suggesting that Mr Castle positively became aware of some concerns on the 10th of January and failed to act, then much of what I said falls by the wayside.

20 The issue I raise now is one of procedural fairness. At this stage, when the only witness that I am aware of, in any of the material, who suggests at this meeting there is some suggestion of being raised amongst a group of a threat to  
25 Canberra, as in the sense of the urban area, is the first person to whom the questions are put, in my submission, it is not only perhaps put to Mr Castle but put to these other people, if there is any evidence that Mr Bartlett is going to give  
30 about this that is going to form the basis of some comment or criticism of, in my interests, Mr Castle, for perhaps failing to act or being on notice, then I rise at this stage because I am not  
35 aware as to whether or not counsel assisting intends to take this issue further with this witness. But if they do, in my submission, it is unfair to Mr Castle certainly in these circumstances that it is raised at this time in  
40 this manner.

THE CORONER: Thank you, Mr Whybrow. Yes, Mr Lasry?

45 MR LASRY: Your Worship, we would agree. Seeing Mr Woodward and I both shared the witnesses that my learned friend has referred to, we would agree

that ideally this specific matter should have been raised with those witnesses.

5 The first thing to be said though is that at this stage I don't know the answer to the question that I asked Mr Bartlett because he hasn't answered it. The question I asked him, which isn't set out in his statement, is whether in fact he heard Thompson repeat to Castle the assertion that he, 10 Bartlett, had made that the western suburbs of Canberra would come under threat. I asked him the question. My learned friend objected. I don't know what Mr Bartlett is going to say. I presume we are debating this on the basis that he will say 15 yes he did.

Likewise as to the passage in paragraph 49 which is perhaps, in a sense, less clear, because as it is written in paragraph 49 refers to rural/urban 20 assets, and there has been some difficulty of definition during the course of the evidence about this.

But, nonetheless, we accept that those matters 25 should have been put to Mr Castle and should have been raised with other witnesses. None of that makes this procedure unfair at this stage. If in fact Mr Bartlett gives evidence that the matters th the raised with Mr Thompson were in turn raised 30 with Mr Castle in this phone conversation and Mr Castle has some more evidence to give about that, then of course he can give that evidence. His instructions to his counsel of course can be put by way of cross-examination. 35

Had we - I know this is perhaps being a bit glib - but had we theoretically called, for example, this witness as an early witness, then at the time that he gave his evidence it may well have been that 40 none of the other witnesses affected by this evidence would have had that evidence yet put to them. It may be that if the evidence is of significance that, in fairness to Mr Castle, subject to what his recollection is of this 45 conversation, other witnesses may need to be recalled to obtain such evidence as they can obtain and then your Worship can make a finding of

it.

Certainly I would have thought that if the answer  
to the question I have asked is yes, the evidence  
5 that Mr Bartlett has raised with Mr Castle of a  
potential threat to the Canberra suburbs on  
10 January is a matter of some consequence and we  
would wish to pursue it. If the price of pursuing  
it is that Mr Castle has to be recalled,  
10 consistent with the discussion we had last week  
about the need for represented parties to give  
further evidence to respond to evidence which has  
been given since they themselves gave evidence,  
then of course that would need to occur.

15 If it transpires that other witnesses can say  
something relevant about it, which is either for  
or against a particular version of what happened  
at Queanbeyan on the night of the 10th of January,  
20 it may be that we will have to recall those  
witnesses as well.

So my submission is that none of what my learned  
friend says certainly doesn't make the evidence  
25 inadmissible. The usual process of procedural  
fairness being accorded to someone in Mr Castle's  
position is that, if there is a particular fact of  
significance about which they could give further  
evidence or make submissions or whatever is sought  
30 to be done, then that opportunity would need to be  
afforded, and it would be.

I might say, your Worship, as I think I said last  
week, there hasn't been any case where we have  
35 gone through the material in advance of calling  
Mr Lucas-Smith, Mr Castle, Mr Graham or Mr McRae  
and made a tactical selection. My learned friend  
is right, there are simply occasions when matters  
are either overlooked or perhaps the significance,  
40 although apparent now, is less clear at the time  
when the statement is first read or it is simply  
overlooked.

We did try in the course of examining those  
45 witnesses to put as much of the material that we  
thought those witnesses would take issue with to  
them as possible. Indeed, that did mean that the

examination of those witnesses was extended and probably could have gone for another two or three days and perhaps in the end we would have captured this particular piece of information.

5

I accept that it is regrettable that it wasn't put. By the same token, the opportunity still remains for it to be put and therefore the evidence ought to be permitted on that basis. It doesn't render the evidence inadmissible.

10

MR ERSKINE: May I make one submission?

THE CORONER: Yes, Mr Erskine.

15

MR ERSKINE: The matter raised by counsel for Mr Castle potentially affects at least two of the New South Wales witnesses; Mr Arthur at the meeting in Queanbeyan and possibly Mr Koperberg or other senior staff in Sydney being asked as to whether they were phoned or approached or anything of that kind, following this discussion where we have stopped the evidence for the moment.

20

Your Worship, may I rise simply to express some concern about the possibility that those two witnesses or others would have to be recalled to deal with issues of that kind. I am mindful of the fact, for example, that your Worship has been quite conscious - and with respect properly so - of the stress that many people involved in the inquest in giving evidence have been under, knowing that they may be called to give evidence and be cross-examined by the impressive phalanx of counsel that is in this room.

25

30

35

I can say for example in relation to Mr Arthur, he would be one of those people who have been stressed about it, as indeed was Mr Neil Cooper. When I asked your Worship if we could defer the cross-examination because I lost my voice, your Worship with respect quite properly said that Mr Cooper has been someone who has been under great stress and he shouldn't have to be put through too much of this kind of ordeal. We would say that the same consideration, with respect, must apply to other witnesses as well.

40

45

If it is now being suggested there may have to be wholesale recalls to deal with issues of this kind we would, with respect, voice some concern about that simply because of what it puts these  
5 witnesses through.

THE CORONER: I didn't take Mr Lasry to be suggesting that there was going to be wholesale recall of some witnesses.  
10

MR ERSKINE: That is my interpretation.

THE CORONER: That is your interpretation of it, I understand, Mr Erskine. What Mr Lasry has suggested - I suppose I shouldn't be interpreting what he said because you all heard it - if indeed there is an issue of procedural fairness, and particularly to Mr Castle in this regard, then it may be that he may need to be recalled to provide that opportunity to afford him that procedural fairness.  
15  
20

If something more is to be made of the evidence that potentially Mr Bartlett may or may not give, then that is a matter that should be considered after Mr Bartlett has given his evidence and consideration will be given to whether or not issues need to be clarified with other witnesses. You are not suggesting, are you, Mr Lasry, that we embark on a wholesale recall of various witnesses? It all depends on what Mr Bartlett is going to say.  
25  
30

MR LASRY: No, your Worship. It seems to me the way the situation will develop is this: First of all, when Mr Bartlett comes back in the witness box, will answer the question I asked him in a particular way. I don't know what the answer is, I must say. In any event, there is also paragraph 49 to be dealt with.  
35  
40

My learned friend Mr Whybrow no doubt has instructions from his client as to his account of these conversations and what he was aware of and what he wasn't. So a point will be reached where Mr Whybrow will or won't want his client to be recalled. If an issue of fact develops as between  
45

those two witnesses as to whether the suburbs of Canberra were referred to or not, as between Mr Bartlett and Mr Castle, and it is necessary in order to assist you to resolve that issue to in fact call other witnesses who were present, then we would presumably do that on the basis of calling them into the witness box and asking them questions about that one discrete issue. Stressful in all that it is, I wouldn't imagine it would take that long.

It would be unfortunate in the case of the New South Wales witnesses because they would have to travel from Sydney in order to do it at a time convenient to both us and them. But, it may be an issue of some importance that justifies that. There is nothing unusual about this process, your Worship.

As I endeavoured to point out last week, this is an inquisitorial process; this is not party/party litigation. What we are endeavouring to do is to get somewhere close to the truth of what happened. If from time to time witnesses have to be recalled in order to do that, then unfortunately that is part of the process.

With the exception of Mr Keady, really that has been remarkably infrequent, the number of witnesses who have had to be recalled. It is simply the way the evidence develops.

MR LAKATOS: May I add my support to Mr Whybrow's view. This is from the view of the territory, which has a number of witnesses under its umbrella. Today is the 63rd day of this hearing. It has been a complex hearing. There has been a great amount of preparation for it.

After the first two weeks where Mr Cheney and a couple of other experts gave evidence, my learned friends prepared an extensive list of issues. One of the issues was warnings. This, as I apprehend it, is a matter which goes to alleged failings in relation to warnings. This is not a new issue.

My learned friends advisedly chose the witnesses

that they wanted to lead off this particular second phase of the inquiry. It was done, as was raised at earlier stages, at a point of time when the primary facts had not been adduced in the way normally done in various inquiries, which is "let's work out what the facts are on the ground and then let's work out what the supervisors were doing"; it was done in a somewhat reverse order. That was a judgment made by my learned friends.

My learned friend talks about the usual procedure about witnesses being recalled. With the greatest of respect, that only happens if something slips under the radar. This was not an issue which slipped under the radar. This was one of the major issues that my friends have said at the very outset.

With respect, procedural fairness cuts both ways. Your Worship has to of course be fair and astute in finding out the facts. As your Worship has noted and my learned friend Mr Erskine has said, the fact that various people have given evidence has no doubt been a cause of considerable stress.

With respect, witnesses are entitled to expect, with a high-powered team of lawyers and the great many police investigating this, that when they are asked to give evidence they give evidence totally about what they know. And in particular Mr Castle gave evidence, as my learned friend Mr Whybrow said, over a period of five or six days or thereabouts. With the greatest of respect, my friend says if things happen, we can recall them. True it is that fixes up the fact-finding situation part of it, but it does not, with respect, fix up what effect it has on a witness who, in this kind of context, is entitled to expect that things occur according to the normal procedure; which is, when called to give evidence, he or she is asked about all of those matters which are said to be relevant.

Now, in my submission, it is a cause for concern because really what it means is this is but one issue which has arisen which perhaps underlines what may occur or what may not occur. If my friends scour through other statements and find

other matters which are pertinent to the issues that they wish to litigate here, we may be back in the same position. In my respectful submission, that is simply not a fair position to put  
5 witnesses such as Mr Castle - he is the only one at the moment in question - but as a general proposition other witnesses as well in that particular situation.

10 I would add my support to Mr Whybrow's objection that this is, with respect, not a proper way of conducting the inquiry in circumstances where there has been so much effort and analysis and in  
15 circumstances where these witnesses have been called in the order they have been for reasons no doubt, suiting my friends' way of conducting the proceedings. If that is the way they do it, then they should be stuck with the shortcomings; which is, if such an important issue was not put, well,  
20 with respect they lose the opportunity to do so.

THE CORONER: Mr Lakatos, I can't agree that if there is some omission on the part of counsel - and that goes not just for counsel assisting but  
25 for any counsel - then this inquiry should be stuck with the shortcomings of that, because any questions that are indeed significant that have to be resolved, every opportunity should be presented by all of you because in fact you are all in one  
30 way assisting this process, then those questions should be resolved.

I think it is at this stage a little bit premature to be concerned and to be arguing about which  
35 witnesses should or should not be recalled or the prospect of whether they should and will be recalled. Let us just wait and see what Mr Bartlett has to say, and then we can pick the matter up later. I can assure you that if there  
40 is any fairness to any witness, then that fairness will certainly be afforded. Likewise, if there is any issue that needs to be resolved, then every effort will be made in an attempt to resolve that, being mindful of witness's sensitivities and  
45 questions of fairness to that particular witness.

MR LAKATOS: At some point your Worship may have

to deal with the balance where those issues conflict. Certainly I agree with my learned friend Mr Lasry, it would be the best situation to say, "let's recall each of them that we need to".  
5 I know we are talking about one to resolve a particular factual issue.

Without a doubt, at some point there is going to be a clash between somebody who has given evidence  
10 two or three months ago, has thought that their position had been fixed, and a wish on behalf of counsel assisting to clarify an issue that he wishes to pursue for some reason. And in my submission they are very serious matters in the  
15 context of how this particular inquiry has unfolded.

MR WHYBROW: Before we go on, since it was my objection --  
20

THE CORONER: It has been somewhat over-run, Mr Whybrow.

MR WHYBROW: In the sense of how it may affect  
25 on-going issues, but in relation to this particular issue, I think I indicated in my initial objection that I accepted that the questions relating to this issue would in the normal course be relevant areas of investigation  
30 for this coronial inquiry. That is a matter that your Worship needs to weigh in terms of whether it should be allowed to be pursued. But in this particular case it is one of discretion obviously.

35 I am indicating to your Worship that, to the extent that it may be hypothetical, if this witness comes in and suggests that Mr Castle as far as he would say knew through Mr Thompson and knew at 6.30 that night at a meeting, then it is  
40 not a matter of just recalling Mr Castle; Mr Thompson will need to be called; Mr Arthur will need to be recalled; Mr Galvin will need to be recalled; and Mr Castle will need to be recalled, which may or may not be happening anyway. That is  
45 four witnesses on this one little issue. It is making allowance for the fact that there is so much material not being put to Mr Castle

initially. That can be understood I suggest. Not  
being put to Mr Galvin could be understood. But  
when Mr Arthur was here and the very paragraph in  
question was suggested to him; the issue was not  
5 raised.

My objection on this particular issue is that it  
should not be allowed to be pursued because, in an  
exercise of your discretion on the basis of  
10 unfairness, there is real unfairness that could  
flow to Mr Castle. I don't know what is going to  
be said either. There is real unfairness that  
could flow to Mr Castle, and to the extent that  
such knowledge being in Mr Arthur or Mr Thompson  
15 or Mr Galvin's minds some prejudice to them,  
notwithstanding the issue of them having to come  
back and give evidence, that in weighing those two  
competing interests, this small, narrow issue that  
is being raised on day 63 for the first time is  
20 one that your Worship, in the exercise of her  
discretion, should not allow to proceed on this  
particular point. I am not asking it as a general  
rule that counsel assisting can not pursue various  
rabbits that become of significance, but this is  
25 one where, in my submission, the exercise of your  
discretion on fairness is counsel assisting was  
well on notice of paragraph 49 to the extent that  
it was put to Mr Arthur.

30 If the issue is not raised with Mr Arthur then, as  
my learned friend Mr Lakatos has stated, this  
would be a situation where they should be stuck  
with that decision. It is not one where it has  
just slipped through, in my submission; it has  
35 been put to the witness and the rest of the  
relevant parts of the paragraph have not been put.

I would ask your Worship to rule that this small,  
narrow issue - perhaps three questions out of a  
40 40-odd page statement and several hundred  
questions in a record of interview - should not be  
allowed to be pursued because the downside, the  
unfairness so overweighs this particular point  
that your Worship should exercise your discretion  
45 in my favour. They are my submissions.

THE CORONER: I can't see that there is any

unfairness. I can see that it may be  
inconvenient, but I can't see that there is any  
unfairness. Mr Whybrow, I certainly can't ignore  
what is in Mr Bartlett's statement. It is a  
5 matter of seeing what evidence he will give on  
this and how we proceed further and what weight is  
to be given to Mr Bartlett's evidence on this  
point, if he is indeed at odds with what every  
other witnesses say. That is the way that I  
10 propose to proceed.

MR WHYBROW: I accept your ruling. For the  
purposes of putting the inquiry on notice, if the  
evidence goes that way, one can only, in my  
15 position, assume what the submissions will be made  
before they are made and ask for witnesses to give  
evidence - once submissions are made, evidence is  
closed, it is too late.

20 So, can I indicate that it is almost certain that  
I would be asking that Mr Thompson, Mr Galvin,  
Mr Arthur and indeed an application for my client  
to be recalled to give evidence on this issue, if  
it is to be pursued and evidence comes out which,  
25 to some extent, indicates some form of knowledge  
as at early of the 10th on the part of Mr Castle  
which may be the subject of comment by counsel  
assisting.

30 THE CORONER: Thank you, Mr Whybrow. I think  
counsel assisting is on notice of that and I am on  
notice for it as well. Yes, Mr Bartlett can be  
called.

35 (The witness returns to the hearing room)

MR LASRY: Q. Mr Bartlett, at the point when the  
objection was taken, I think you told us that you  
were present when Mr Thompson and Mr Castle spoke  
40 on the telephone and you could hear both sides of  
the conversation. As I recall your evidence  
before the break, you said that as far as you  
could recall Mr Thompson put to Mr Castle the  
matters that you had earlier put to Mr Thompson.

45 At the point when the objection was taken I had  
asked you the question whether what Mr Thompson

put to Mr Castle included your statements to Mr Thompson that both the Uriarra/Pierces Creek plantations and the western suburbs of Canberra would come under threat was part of what

5 Mr Thompson put to Mr Bartlett. Can you recall whether it was or it wasn't?

A. In a generalised sense he raised the same level of urgency that I had raised about the potential threats to ACT assets, both plantation  
10 and urban assets, if more work wasn't done on the McIntyre's Hut fire.

Q. Are you able to recall - I know you say in a general sense, but doing the best you can - what  
15 Mr Thompson actually said at that part of the conversation?

A. No, I'm not.

Q. Are you able to recall whether in that context  
20 of statements by Mr Thompson about potential threats to, as you say, plantations and urban assets, Mr Castle responded in any way?

A. I can't recall exactly what he said.

Q. It was agreed as a result of that  
25 conversation, as you say in paragraph 44, that you and Mr Castle would attend the New South Wales Incident Management Team planning meeting that night at Queanbeyan; is that right?

30 A. That's correct.

Q. You did that?

A. Yes, I did.

Q. In the meantime, before that meeting, you  
35 describe going back to ESB to get a further update on the development of the fires. You say in paragraph 45:

40 "I met Peter Lucas-Smith and we discussed the timing for the move from a direct attack to an indirect strategy for the Bendora fire, because clearly a direct strategy had not  
45 been successful at that stage. He advised that he wanted to appoint me as incident controller at the time they implemented the indirect suppression operations, but not

until then."

Did you at this stage understand when the indirect suppression operations were to commence?

5 A. No, I wasn't clear.

Q. But in fact they commenced the following morning; is that right?

10 A. No. They commenced the following evening.

Q. The following evening, yes. Mr Murphy, I think, had been the incident controller prior to you taking over; is that right?

15 A. That's correct.

Q. Then you describe the aerial reconnaissance that did you in paragraphs 46 and 47. Then you say in paragraph 48:

20 "Upon return to ESB I reported back to Mr Peter Lucas-Smith that I was confident that a bulldozer could establish a control line down the Flat Rock Spur and that the priority needed to be to complete that line  
25 of construction by Saturday evening to allow back-burning to commence that night."

You were then requested to meet with Mr Murphy. At the end of that paragraph you say you were reasonably comfortable with the proposed strategy; is that correct?

30 A. That's correct.

Q. At about 6.30 on 10 January you went to the New South Wales Incident Management Team with Mr Castle as arranged. In paragraph 49 you refer to some vigorous debate about the implementation of the previously agreed control strategy and in particular the commencement of the back-burning operations. Who were the debaters, as best as you can recall?

40 A. They were members of the New South Wales Rural Fire Service, various people - I don't know their names --

45

Q. Were they debating with each other or were they debating, for example, with yourself?

A. It was a fairly open meeting. They weren't debating with me. They were debating the implementation of the indirect suppression - that is, the back-burning operations - in the presence  
5 of Bruce Arthur, who was incident controller.

Q. Your position when you attended this meeting was that not enough had been done, that the burning should have already started well and  
10 truly; wasn't it?

A. That's correct.

Q. Were there other people in the meeting who took a similar position to you?

15 A. I don't recall anyone else speaking very strongly about the need to commence the work.

Q. In paragraph 49 you refer to them being particularly concerned or particularly worried, as  
20 you describe at the bottom of that page:

25 "... about the link from the TransGrid line to the Goodradigbee River and the potential for the back-burning along the southern control lines to burn to the north towards Doctors Flat where the control lines were very poor."

I should perhaps at least generally ask you about  
30 Mr Arthur's evidence and try to summarise as I understand the position that he took in relation to this, and in particular summarising some evidence he gave at 4573.

35 In effect Mr Arthur was accepting the proposition that the weather was in fact conducive to back-burning, but his evidence was that the ground situation wasn't conducive because the trails weren't ready. And in particular he said  
40 something to this effect, that there were risks with the Powerline Trail given its serpentine nature. Any fire above or below people working on that trail could be tantamount to a death sentence. His evidence was unless he had  
45 resources to back the men who were involved in that operation, he wasn't prepared to start burning along that trail. Do you have a view

about that evidence; and was that something that was discussed on 10 January?

MR ERSKINE: Your Worship, I rise at this point,  
5 having let some of the others go through to the  
keeper, because this issue is a somewhat complex  
one in the terms of the way the inquest may  
approach it, with respect. I recognise some of  
10 the previous ways in which my learned friend had  
cross-examined this witness there were a multitude  
of issues that directly affect, for example, the  
allocation of ACT resources to which it could have  
had some relevance.

15 In my submission, in the double-barrel question  
that has been asked, which is, does he have a view  
and does he remember anyone talking about that,  
there is now in my submission reaching the point  
on the first of those, where the issue that my  
20 learned senior counsel Mr Brett Walker raised with  
you back in December may start to raise its head;  
namely, the extent to which this inquest has a  
jurisdiction to do more than find out what  
happened at McIntyre's as opposed to comment or  
25 criticise.

In my submission the first half of the  
double-barrel question my friend has asked raises  
that concern; the second half does not. At this  
30 stage I would flag the objection. I recognise  
that if we were to pursue it in great detail we  
would probably distract this inquest for a full  
day of legal argument and it may not be therefore  
appropriate to schedule it right here and now.  
35 But lest the transcript suggest that we stayed  
dormant through this, I need to put it on the  
transcript at the very least that we take  
objection to that particular issue.

40 THE CORONER: Yes, thank you.

MR LASRY: Can I just say by way of response -  
perhaps this ought to be said in the absence of  
this witness as well. It may be that  
45 Mr Bartlett's reached a point where he can't help  
us any further today anyway. Perhaps he could be  
excused, and I can respond.

THE CORONER: Yes, you are excused for today,  
Mr Bartlett, thank you.

(The witness leaves the hearing room for the day)

5 MR LASRY: I may be missing something,  
your Worship - that wouldn't be surprising - but  
in the course of this evidence, in the totality of  
the evidence, there is now a significant amount of  
10 material which raises an issue about the response  
of the New South Wales Rural Fire Service to the  
McIntyre's Hut fire. The vast bulk of that  
evidence has been admitted and heard without  
objection. In the end, endeavouring to understand  
my learned friend, I don't think he was actually  
15 saying the evidence is inadmissible but he is  
simply flagging the objection.

I would have thought, and I would have to go back  
and look at the matters raised by Mr Brett Walker,  
20 but it seemed to us - I must say I had been  
working on the basis that the time for this debate  
is when my learned friends representing the New  
South Wales authorities see what it is we wish to  
say by way of submissions to assist you about that  
25 initial response, and then presumably they will  
take a view. I have a feeling as to the view they  
will take about how much of that in their opinion  
is permissible.

30 So I would have thought we were well and truly on  
notice that that is an issue. But it is an issue  
that goes to what you can do. At this stage it  
wouldn't, in my submission, prevent you from  
hearing the evidence, particularly, if I may say  
35 so, dealing with the initial response to the fire  
that caused the bulk of the damage to this city.

I am content to have the debate, as Mr Walker  
knows, whenever it is appropriate. It seems to me  
40 that the appropriate time to have the debate is at  
a point after we have served on the parties our  
submissions at the end of the evidence. I assume  
my learned friend accepts that. If there is some  
other point to be taken on an interim basis, then  
45 at some stage perhaps we need to deal with that as  
well.

47

To me it is inconceivable that you don't have a proper jurisdictional issue in the way in which a fire, which caused the damage it caused to this city, was responded to on the first night of the  
5 fire. What you make of that by way of comment, criticism or other finding is at this stage perhaps a matter to be determined as a matter of submission. I say that in a sense because I feel better for having said it. It really perhaps  
10 doesn't assist you much. That is our position.

I would submit that, insofar as I have raised with this witness his view as to whether or not Mr Arthur's reticence about commencing the  
15 burning, whether he agrees with that reasoning and whether he thinks it is appropriate reasoning, is a matter that you are entitled at this stage to be interested in. What we make of it is really a matter that follows.

20

THE CORONER: That is also my understanding of the way that the jurisdictional question Mr Walker raised in December was to be dealt with. Are you just objecting on the basis of noting this is an  
25 area of some sensitivity to the people whom you represent, Mr Erskine?

MR ERSKINE: There are a number of reasons for raising it, your Worship. May I say this: the  
30 issue in terms of how it arises in the evidence is a matter of some complication.

If I may give you two examples, in the evidence given by Mr Arthur and Ms Crawford in particular,  
35 we didn't object because your Worship is entitled, under our understanding of the law, to at least find out what happened as a question of fact. Part of that question of fact is to understand the strategies that were being adopted by New South  
40 Wales to fight the fire.

So to the extent that McIntyre's Hut fire was clearly of some relevance to this inquest and in terms of a narrative of how it progressed and then  
45 crossed the border we didn't object, because we took the view that what was being put to Mr Arthur and Ms Crawford in particular was really trying to

find out what they did and why. If that is all that is being done, one couldn't seriously object to this inquest at least finding out those basic facts.

5

The earlier part of Mr Bartlett's evidence raised an issue that seemed to be, on the one hand, this issue that I have now objected to, but it appeared to be tied up with an issue that is plainly  
10 relevant to the inquest, which is that Mr Bartlett believed that there was a need for more resources to be thrown at the fires - for example, McIntyre's - and he had resources available, he says.

15

So it is clearly a matter which your Worship can investigate and, as a necessary preliminary to understanding Mr Bartlett's concern about the fact that the resources he had available weren't being  
20 used, your Worship would need to know why he thought in his particular view that there were places where they could have been usefully employed.

25

So we didn't object at that point, because it raised an issue that is within the scope of the inquest. The reason I raised it where I did is that, in my submission, we are now heading towards that line because the only purpose, we would  
30 submit, that there can be for the first half of the double-barrel question is in order to put the inquest in a position where it could make comment and perhaps criticism about the way in which McIntyre's was fought with no other relevant issue  
35 that is indisputably relevant to the inquest such as the way in which the ACT authorises were making use of resources available to them, including for example offering them to New South Wales.

40

So I raised the issue where I did because it seemed to us, with respect, that we have now reached a point where there was no other relevant issue that would explain why that question is being asked other than the possibility down the  
45 track of comment.

Having raised it, I accept that were we to argue

the debate extensively now, it is going to occupy unquestionably the full day of legal argument and some time on your Worship's part and it would be inappropriate to take all that time out of the  
5 inquest to do it.

But it is necessary, lest there be a suggestion that we have stayed silent on this issue that I raise the issue in a context where it is relevant  
10 to do so, so that it is on the transcript that we took the point in a formal way. We accept that the best place to deal with it, subject to what evidence comes in later, is almost certainly in the context of submissions and it can be  
15 extensively be dealt with at that point. It was necessary at some point --

THE CORONER: You are flagging --

20 MR ERSKINE: -- to flag it so that we are not met with some kind of argument by somebody that says, "Well, you should have raise it earlier and you let it go by so your opportunity has passed."

25 THE CORONER: I understand that. I am also of the view that the proper time to debate and argue that issue is at the end of the evidence and not at this stage.

30 MR ERSKINE: Yes. May I say we were handed today by counsel assisting the brief, as it has been described, to Mr Roach. Certainly in two places there it would appear that Mr Roach is going to be asked straight into this area as well to comment  
35 upon the way in which McIntyre's was fought. It may be the issue is going to arise at that point. But of course we haven't seen Mr Roach's report, so I am doing no more than saying that there is one area where it might --  
40

THE CORONER: Yes, you are flagging that you are going to be flagging the problem when it arises.

45 MR ERSKINE: I am indicating that there are a couple of areas where, depending upon the significance of what comes up in evidence, it may be necessary to put a contrary view to

your Worship, which is we better have the argument earlier rather than later. Mr Roach may be one but, until we see his report, who knows. That is the main reason for rising now to make sure that  
5 our position is clearly recorded as to not to come back to bite us later on.

THE CORONER: I understand.

10 MR LASRY: Can I say something by way of response to that. It is not intended as a criticism. Your Worship will recall some time ago now some issue arising as to whether or not New South Wales would be represented in these proceedings. In the  
15 course of that one of the things that happened was that the material that Mr Cheney gave by way of evidence was provided, although my learned friend and his leader or instructing solicitor weren't here during Mr Cheney's evidence.

20 It is, in a sense, a bit late now to be saying they might want to have the debate in advance of the evidence of someone like Mr Roach, when Mr Cheney has given extensive evidence about the  
25 initial response to the McIntyre's Hut fire and his particular criticisms of that initial response.

30 Our position is that your Worship should hear all of the relevant evidence that deals with the fire that had this consequence for Canberra and deal with it as a matter of submission, as a matter of legal argument when submissions go in. But it really isn't appropriate to raise it now because  
35 of a particular piece of evidence arises, when so much other evidence has already gone in on that topic in such great detail.

40 Now I have taken the view ever since Mr Walker I think first revealed himself to this inquest that we were on notice. I understand it is an issue we have to deal with. The absolutely appropriate time to deal with it is not interrupting the evidence now, but at the end of evidence and  
45 during the course of submissions. We would strongly resist any suggestion that it should be done before that.

THE CORONER: That was the view I put to Mr Walker at the time when he rose. Having said that, apart from the fact that he did seek to represent certain witnesses being the New South Wales  
5 witnesses, I am not aware that either Mr Walker or you indeed, Mr Erskine, has sought leave to represent New South Wales in these proceedings.

MR ERSKINE: I think on a number of occasions my  
10 leader --

THE CORONER: I could be wrong in that.

MR ERSKINE: I certainly had the impression that  
15 on a number of occasions --

THE CORONER: You might wish to review that position.

MR ERSKINE: -- Mr Walker had used expressions to  
20 you such as "the interests whom I represent" and matters of that kind. I had certainly been of the understanding, and it may be that we all have been at cross-purposes, that he had sought leave to  
25 appear for New South Wales as well for limited purposes that had happened. That is probably a debate for another time as well.

THE CORONER: I must admit at this stage I am very  
30 strongly of the view that we should proceed on the basis that we are proceeding and then have this argument. We are all on notice about the argument, since Mr Walker raised it in December, have that at the appropriate time, which is at the  
35 end of the evidence. That was the position that I indicated to Mr Walker in December.

MR ERSKINE: That is right. Yes.

THE CORONER: You can just check perhaps as to  
40 whether or not you have been granted leave to appear, Mr Erskine, in the adjournment.

MR ERSKINE: I have been granted leave to appear  
45 on behalf of witness by your Worship but --

THE CORONER: I understand. We will adjourn now  
until tomorrow morning at 10 o'clock.

**MATTER ADJOURNED AT 4.17PM UNTIL TUESDAY**  
5 **1 JUNE 2004.**

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TRANSCRIPT OF PROCEEDINGS

CORONER'S COURT OF THE  
AUSTRALIAN CAPITAL TERRITORY

MRS M. DOOGAN, CORONER

CF No 154 of 2003

CANBERRA

INQUEST AND INQUIRY INTO  
THE DEATH OF DOROTHY MCGRATH,  
ALLISON MARY TENNER,  
PETER BROOKE, AND DOUGLAS JOHN FRASER  
AND THE FIRES OF JANUARY 2003

DAY 64

Tuesday, 1 June 2004

[10.06am]

MR LASRY: I recall Mr Bartlett.

5 <ANTHONY GREY BARTLETT, RESWORN

<EXAMINATION-IN-CHIEF BY MR LASRY CONTINUING

MR LASRY: Q. Mr Bartlett, I want to go back to  
somewhere close to where we were yesterday when  
10 you finished. If you could perhaps go to  
paragraph 49 of your statement. I think in fact  
at the time that we adjourned I was putting to you  
some evidence that Mr Arthur had given about the  
discussion, and in particular some concerns he had  
15 about completing the containment lines for  
McIntyre's Hut before the burning started. I just  
want to refer you to some evidence - I think I  
already referred you to it - at page 4573 where he  
says in relation to those concerns first of all  
20 the weather - line 23 on that page:

"The weather may have been conducive."

And I interrupt to say obviously to commencement  
25 of back-burning:

"But the ground situation wasn't ready."

I asked him:

30

"Q. In what sense?

"A. In the sense that the trails weren't  
ready for that. The primary concern, sir - I  
mentioned earlier I went to a meeting in  
35 Jindabyne on the morning of the 10th  
specifically to request aircraft - and I  
spoke to the Commissioner directly on that -  
the 07 Powerline trail was a high risk  
strategy. It always was. I stated it at  
40 that meeting and I stated it several times  
thereafter that, unless we had sufficient  
aircraft, we were placing a lot of people in  
jeopardy. We really had no option than to  
use that 07 access trail. But to place men  
45 along that trail, it is a serpentine trail on  
an extremely steep set of hills. Any fire  
above them or below them could have been

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tantamount to a death sentence to them.  
Unless I had the resources to support and  
back those men, I was not prepared to start  
any back-burning along that trail whatsoever.  
5 That was my responsibility, sir, not  
Mr Cooper's."

He says that because I had been putting to him the  
concerns that Mr Cooper was expressing, which of  
10 course he also expressed to you. The question I  
asked you yesterday, at the point where Mr Erskine  
took an objection, was first of all: do you recall  
Mr Arthur expressing those sentiments at the  
meeting on 10 January? Perhaps I will ask you  
15 that first.

A. There was some general discussion about those  
issues. I don't recall exactly the detail. I  
certainly don't recall them talking about going to  
a meeting in Jindabyne in that particular meeting.  
20 I do recall a discussion about the resource levels  
to conduct a large back-burning operation.

Q. Was there specifically concern expressed  
either by Mr Arthur or by anybody else because of  
25 the terrain or because of, as he says, the  
serpentine nature of the trail, that that was  
effectively a particularly dangerous containment  
line to use and, until it was completely  
satisfactory, it was inappropriate to commence  
30 burning?

A. Well, there was some discussion about it. The  
situation out there was that there is the high  
voltage power line. Underneath that power line  
there had been a lot of clearing undertaken during  
35 the year leading up to that fire, which made it on  
to the front page of newspapers. There were  
places where the power lines went high over gully  
systems, for instance, where the clearing hadn't  
been done down to it. The issue about this  
40 serpentine track was that, in places, the track  
needed to be used as the boundary; and in other  
places the power line easement, the clearing under  
the power line, could be used.

45 So, you know, there were certain issues that  
needed to be considered. However, the point I  
kept making was there were places along that

length of line, which went for some distance of 8  
or 10 kilometres, where there was already  
sufficient work that could be started. And the  
fire could have been lit under the influence of a  
5 south-easterly wind with very little danger of  
that fire escaping. It would be burning back into  
the wildfire. That was the point I kept making.

Q. Were you getting a specific response to that?

10 A. Initially, there were a lot of negative  
responses about the desirability of implementing  
the back-burn. As I indicated in my statement,  
after Mr Arthur went out and took a call, which I  
understand to have been either from Mr Koperberg  
15 or someone in a very high place, when he was  
assured that more resources would be available.  
He certainly then took a strong stand about  
implementing back-burning.

20 Q. You also in paragraph 49 at the top of page 15  
refer to a New South Wales Rural Fire Service  
officer arguing with the incident controller and  
saying he did not want to use volunteers to  
implement difficult back-burning operations deep  
25 in the forest. Can you recall in a little bit  
more detail how that discussion was conducted?  
First of all, do you recall who the officer was  
who expressed that view?

30 A. No, I don't know who the person was. He was  
never introduced in the meeting, so I don't know  
who he was. I didn't recognise him, but obviously  
other people there knew who he was.

This was in the lead-up about when to start this  
35 operation. The view was being expressed that it  
wasn't the role of volunteers to go a long way  
away from the private property edge to implement  
back-burning operations. That's the spirit of the  
discussion that was being had.

40

Q. You go on to say the issue discussed also  
included the lack of people experienced in  
implementing large-scale back-burning operations  
and also refer to the availability of heavy plant  
45 resources and progress with track preparation.  
Then you say:

47

"A strong view (which I disagreed with) was being expressed that no back-burning should commence until the whole perimeter control line was completed."

5

I take it that means the entire containment line around the entire area that was to be burnt; is that right?

A. That's correct.

10

Q. Was one of the pressures on that issue the question of when the weather will change to much less favourable weather?

A. No, it was more people were expressing a view that, if the line wasn't completed all the way around the fire, there was potential for the back-burn that was lit to progress towards the north-west, if you like, and then get to a point where there was no containment line.

20

Q. You didn't agree with that?

A. No.

Q. I take it that it was because, as you say in that paragraph, the mild weather and the favourable winds meant that that was unlikely?

A. That's correct, and there was still time to get the northern control lines constructed before any fire from a back-burn would get anywhere near it. We all knew that the weather pattern was going to continue so that the wind would be moving from the south-east around to the north-east and then to the north-west.

35 Q. You then say:

"I expressed my concern about the potential for the fire to threaten the ACT's pine plantations and rural/urban assets if the necessary control works were not implemented quickly."

40

Are you able to recall how you expressed that concern?

45 A. Not the specific words. However, the essence of what I was saying was it appeared to me, at least, that in their decisions about what was

under threat they were considering what was under threat in New South Wales. And I was making the strong point that there were significant assets, both plantations, urban and rural lands, that were directly downwind of that fire that didn't seem to be factoring high in any of the discussions that were being held.

Q. In expressing the concern that you expressed, did anyone take issue about the possible threat to particularly urban assets in the ACT?

A. No. No-one sort of said to me, "Well, that's not right".

Q. Did anyone accuse you of exaggerating the threat or saying, "That is a bit far-fetched"?

A. No.

Q. As you have already referred to a few minutes ago, it appeared during the course of the meeting that Mr Arthur was called out of the meeting and, as you understood it, spoke with the New South Wales Rural Fire Service Commissioner, Mr Koperberg, and the result appeared to be additional resources were going to be made available; is that right?

A. That's correct.

Q. When you say from that point on the meeting progressed in a more positive manner, did that mean that, because the resource situation had improved, progress could then be made; is that effectively why the tenor of the meeting improved?

A. That's right. The incident controller at the time then took a stronger position and said, "Well, I don't want any more debate about whether we are going to do this or not. We are going to do it".

Q. You say:

"The incident controller told the meeting that the back-burning operations would be done along the southern control lines on the following day and considerable discussion ensued about the linking of the control line from the last pylon to the Goodradigbee River

and the strategy for implementing the back-burning. I offered to send another large bulldozer D8 to finish the control line with it ready to start work at first light in the morning. The bulldozer was floated to Piccadilly Circus and walked 14 kilometres into the fire along Webbs Ridge that evening. During the meeting it was apparent that New South Wales resources for back-burning would not be in place until about midday the next day, which in my experience is not a good time to commence back-burning operations."

What's the problem with commencing back-burning at midday?

A. Well, you are heading into the period of the day when you have got highest fire danger. It is most difficult to control fires. However, I wasn't saying there that no back-burning operations should start, because obviously the wind was going to be pushing the fire back into the - inside the boundary. But normally, in all of the fires that I have been involved in, 90 per cent of the back-burning operations are done in the late part of the day, in the evening and overnight.

Q. You go on to say:

"I offered experienced ACT Forests crews to be in place early in the morning to commence the back-burning but the incident controller was not happy with this arrangement. He would only agree for the ACT Forests crews to work alongside the New South Wales crews under their control."

What was the problem as far as Mr Arthur was concerned?

A. Well, I didn't understand what the problem was. On the one hand they were saying that they didn't have enough experienced people, and we were offering people who I had a great deal of confidence had experience in conducting back-burning operations. It was not made clear in that meeting what the problem was, but I understood that he was the incident controller and

in the end it was his decision.

Q. And the people that were being offered, as far as you were concerned, were the same people that had been available since the 8th of January?

A. That's correct.

Q. So the same numbers of people to which you have already referred?

10 A. Yes.

Q. The same numbers of equipment and vehicles?

A. Well, in a relative sense other than what was being deployed on a day-to-day basis.

15

Q. In the ACT?

A. In the ACT, and at that point in time the ACT Forests people weren't deployed other than the ones working in the planning unit. I make no mention in there what the requirements were for the next day.

20

Q. So, in effect, the offer that you were making to Mr Arthur at that stage represented how many personnel and how much equipment?

25

A. Well, in the order of 20 firefighters would have been available, including two large tankers and three light units that were not deployed at that point in time.

30

Q. Were all of those firefighters experienced in this kind of back-burning operation?

35

A. Not every one of them. But there were a number of them amongst it that had experience. You don't need every person to be fully experienced. You need some crews to work with the experienced people.

35

Q. If I can go forward a little to Saturday, the 11th. In paragraphs 53 and following you set out your involvement in the Bendora fire from the 11th of January onwards as the incident controller once a decision was made to commence back-burning operations. I think, as you say later, the handover I think to you from Mr Murphy occurred at about 10 to 5 that afternoon; is that right?

40

45

A. That's correct.

Q. In paragraph 82, going forward quite some distance, to Sunday the 12th, you make the point in that paragraph that on the Sunday morning, 12 January:

5

"... as I was to be the incident controller on the Bendora fire that day, I headed up to Bulls Head around about 5.30 in time for the 6.30 morning briefing. However, I did not have any briefing material (including weather forecasts and updated fire map or an incident action plan) or information on what resources I had to utilise or what the task for the day was supposed to be. There was no planning section or other Service Management Team input into the strategies to be deployed on the Bendora fire that day."

I take it that, so far as you were concerned, that was a deficiency and an unusual procedure or deficiency in the ordinary course of dealing with a large fire like this; is that correct?

A. You have asked me two questions. Certainly I am expressing there that there wasn't any planning section or Service Management Team inputs. That was, in my view, an undesirable situation because it is important to have people who are sitting back a little bit from the fire having some input into what is happening on the fire.

30

And the second part of your question - sorry?

Q. Well, whether it was an unusual procedure. Perhaps I can abandon that part of the question because I think really you have dealt with it. The effect I think of parts of Mr McRae's evidence in the course of this inquest is that, to the extent that overnight planning needed to be undertaken, that was something that should have been carried out in the field. Do you agree with that?

40

A. No, I don't.

Q. In this particular case, in these particular circumstances, was it apparent to you what was being produced from the planning section at Curtin at the SMT?

45

A. Well, it wasn't totally apparent when I set off to go up there on that day, otherwise I probably would have taken some additional actions. But I guess I need to answer the question in terms  
5 of the fact that, normally under the incident control system, the planning unit, wherever it is located, is responsible for two key things: broad long-term strategic planning and also detailed planning developing incident action plans for the  
10 following shift.

Now in my view it doesn't matter where that is done, whether it is done in a headquarters or close to the fire - it would depend on the  
15 circumstance of the fire - but it has to be done. That's the point.

Q. It wasn't being done in this case at all; is that the position, as far as you could see?

20 A. I certainly wasn't given a package of information that made it clear what I was supposed to be doing on that particular day, what resources I had allocated, what the weather was and all of those sorts of things.

25 Q. In paragraph 87 you are referring, I think, to later in that morning briefing incoming crew leaders about the objectives and deployments as best you could with the information that Mr Cooper  
30 had provided you with. You then say:

"Unfortunately the failure to establish a forward control point impacted on crew deployment that morning, because there were  
35 delays and inefficiencies in determining deployments and providing crews with good information. In addition, several crews raised the issue of lack of maps throughout the whole fire event, which made crew  
40 briefings very difficult. As I had not been given a supply of maps all I could do was use my map to explain the current fire situation to the crew leaders. I was also able to pass op a couple of spare photocopied maps that  
45 Hilton Taylor had provided to me the previous afternoon that showed the tracks and the fire boundary 24 hours ago. Fortunately I kept my

own map the whole time, making appropriate marks as the situation unfolded."

5 The crews raising the issue of maps, they were raising that issue with you obviously?

A. That's correct.

Q. And asking you whether maps were going to be provided?

10 A. Yes, in those terms, yes.

Q. In the ordinary course of the system working efficiently, what would the maps that they were asking for normally show; what information would they contain?

15 A. My experience in the past is that, when copies of the incident action plan are prepared, it includes a map which shows the current fire behaviour, the break-up of the fire into sectors and, for instance, if a new track has got to be constructed somewhere - all those things are shown on the map that is given to the crews. You need multiple copies of the current fire situation on a map with all of the key features that are relevant to the suppression of that fire.

25 Q. You go on to say in paragraph 88:

30 "Crews moved into their allocated sectors at about 0800 hours. That meant that almost 90 minutes were lost in determining priorities and organising the crews into the fire line. Normally if the changeover has been well planned before the crews arrive, it should be possible to complete a changeover in about 30 minutes."

40 Are you saying in that paragraph that the changeover took in effect an hour and a half longer than it should have?

A. I am saying it took one hour longer than it should have.

45 Q. Now, according to paragraph 89, this lack of operational planning and support to which you have referred was raised with Mr Graham. You say in paragraph 89 that, in the discussion with him, you

argued that what was needed was a forward control point with some planning and logistical capability. What would that forward control point have looked like?

5 A. It would have been just a tent up at Bulls Head with some people in it and with a couple of boards to keep track of what vehicles were where - that sort of thing - and to help and assist the field incident management personnel to do the things that weren't being done by the people in Curtin.

Q. Mr Graham apparently, according to you, said or subsequently allocated some support staff to come to Bulls Head but indicated they would only be available to assist with crew changeovers and the main planning function would continue to be undertaken in Curtin. In the course of that conversation or at any other time around that time, did you raise with Mr Graham the problem of lack of information, lack of incident action plans and lack of maps coming from the planning section?

15 A. That was the spirit of why I raised the issue. There were two key things I was concerned about, not having a clear idea of what people and what resources were on the fire and being able to keep a track of that and, secondly, the whole issue about the operational planning. What was supposed to be done, where the fire was, the mapping and preparing the incident action plans. So I was asking for resources to do both those things. He agreed to provide me resources to keep track of people and vehicles on the fire but said they would continue to do the planning function at Curtin.

20 Q. Did you raise with him the problem that, whatever was being done within the planning section at Curtin, wasn't being, as far as you could see, disseminated to the people who needed the information?

25 A. I certainly made it very clear that I was unhappy with the current situation but then I got on with putting out the fire, if you like. I raised the issue.

30 Q. Did you have anything directly to do with

Mr McRae in relation to planning issues and the provision of this kind of information?

A. No, I didn't.

5 Q. Do you know Mr McRae?

A. Yes, I do.

Q. Did you have anything much to do with him during the course of this period between the 8th  
10 and, say, the 12th of January?

A. No, because I was reporting through Tony Graham as the operations officer in the Service Management Team. So that was the normal line of reporting.

15

Q. You had two people, I think Mr Taylor and Ms Grant, in the planning section?

A. Yes.

20 Q. Two of your people. While they were there, did you have any discussions with them about what was happening in the planning section?

A. No, not specifically. But when Hilton Taylor came up to Bulls Head, on both days I certainly  
25 let him know that I was unhappy about the quality of the maps and the information that we had.

Q. Mr Bartlett, I want to go to paragraph 116, if I might, of your statement. In that paragraph you  
30 say:

"I would like to make some comments about the implementation of the incident control system in the ACT based on the two days that I was  
35 involved as the incident controller on the Bendora fire, which at the time was a fire of less than 1,000 hectares. One of my fundamental concerns is the way the AIIMS incident control system has been implemented  
40 here in the ACT, a concern raised by me in written form to the ESB after the last fire in 2001. In my view proper implementation of AIIMS - ICS facilitates an efficient organised approach to fire suppression  
45 operations. On the basis of my experience, for ICS to be effective there is a strong need to have a close link between the

5 planning and operational sections. The  
senior field person (usually the operations  
officer) must have involvement in incidental  
management team meetings and in particular  
10 must have the capacity to contribute to the  
development of the incident action plan and  
its associated tactics and resourcing  
deployments. The planning section has to  
focus on the development of the incident  
15 action plan for the next shift as well as the  
longer term strategy for controlling the  
fire. However, this is not the way in which  
the incident control system currently  
operates in the ACT."

15 Now, I take it that one of the important parts of  
that is that, despite the strong need to have a  
close link between planning and operational  
sections, in this case - at least to your  
20 perception - there was anything but a close link  
between those sections; is that right?

A. That's correct.

25 Q. It may be that I should be aware of the  
document that was provided in written form to the  
ESB after the 2001 fire but just summarise, if you  
can, the concerns that were expressed in that  
document following the 2001 fires?

30 A. Well, after the 2001 fire I wrote quite a  
detailed report about the suppression of the 2001  
fire, which included identifying a number of  
issues that occurred on each day and made a series  
of recommendations at the end of that written  
report. I provided that report to the Chief Fire  
35 Control Officer.

Q. Did that report include a concern that there  
was an insufficiently close link between the  
planning and operational sections?

40 A. Yes, that was one the issues raised.

Q. What happened in the 2001 fires that led you  
to come to that conclusion?

45 A. In essence, a fairly similar situation where  
there wasn't there connection - well, we didn't  
have incident action plans prepared. There was no  
resources available to keep track of what was

happening on the fire ground or to develop those  
sort of incident action plans. So we had the same  
issue. There was work going on in the  
headquarters, but it wasn't necessarily connected  
5 to the work that was happening in relation to the  
on-ground fire suppression.

Q. Was that, as far as you were aware, the  
experience of others apart from yourself?

10 A. Sorry, could you clarify?

Q. As far as you were aware, were other people  
concerned about the lack of connection between the  
operational and planning sections?

15 A. In the debrief from the 2001 fires, there were  
certainly a number of people raising issues about  
various aspects of the implementation of the  
incident control system, including the ones I  
raised.

20

Q. Did you receive a response to the concerns you  
raised after those fires?

A. Not a specific response to the report I wrote,  
but certainly there was a debrief and then there  
25 were actions agreed after that debrief.

Q. Did those include some action which would  
improve this liaison or the dissemination of  
information from planning to operations?

30 A. There was a revision of the document which  
explained the role between the Service Management  
Team and the field incident management teams which  
was promulgated to all the fire control people  
before the lead-up to the 2002/3 fire season.  
35 That did attempt to clarify a number of the  
issues.

Q. But is your position that in fact what  
occurred in 2003 was no better than had occurred  
40 in 2001, as far as that link was concerned and the  
dissemination of information was concerned?

A. Some of the fundamental problems were still  
evident in the 2003 fires.

45 Q. In paragraph 120, dealing with what you  
describe as two other important aspects affecting  
the implementation of large-scale indirect

suppression strategies, you say:

5 "The first aspect is the availability of  
sufficient personnel who are experienced in  
lighting and controlling back-burning  
operations. This is a specialised and  
important skill. Most firefighters are very  
experienced at extinguishing fire, but have  
less experience in managing a prescribed  
10 burning operation. If a back-burn of 5 or  
6 kilometres has to be implemented  
successfully during a night, the crews need  
to have the confidence to light up about 1  
kilometre of fire along the control line each  
15 hour. There then needs to be adequate  
resources to maintain a vigilant patrol to  
ensure that the back-burn does not escape  
across the control line. Usually this will  
mean maintaining 2-4 units (mix of large  
20 tankers and light units) per kilometre ...  
for a couple of hours after the burn is lit.  
After that the number of units can be  
progressively reduced as the edge of the  
back-burn dies down. Taking these factors  
25 into account means that you need 10-15  
firefighting units available if you are going  
to successfully implement 5 or 6 kilometres  
of back-burning in one night."

30 Now, a lot of that is to do with resources that  
are required to conduct a successful back-burn.  
But the lack of sufficient personnel experienced  
in lighting and controlling back-burns, if that is  
the problem, how is it to be solved?

35 A. That is a good question. I think the point I  
am trying to make is that, to gain that  
experience, you gain some of it through wildfires  
but the rest of the experience that people gain  
about actually lighting and keeping fires under  
40 control comes through the implementation of  
prescribed burning operations. So if you have all  
your firefighters who are not through their normal  
operations through a year involved in prescribed  
burning operations, then they get a lot of skill  
45 at putting fires out but not much at lighting  
fires.

47

Q. Now, from the 13th to the 17th of January, I think you, as you say in paragraph 122, were redeployed in the role of managing aerial operations and particularly at the request of  
5 Mr Castle became a liaison officer with the navy contingent of helicopters. Do you recall how it came about that you were given that role?

A. Well, obviously after the fire broke the containment lines on the Sunday evening, the  
10 circumstances changed quite dramatically. You know, I went back and we had a discussion about how the situation had been changed and, in my view, it was not appropriate for me to be out on the fire line. There were other things that I  
15 could be involved in. So that was one of the factors that was --

Q. I am really simply asking you this question: was this role that you performed for those days  
20 between the 13th and the 17th, as far as you were concerned, an appropriate use of your expertise and experience?

A. Yes, it was.

25 Q. At paragraph 146 you refer to the planning meeting on the morning of the 18th of January. In particular at paragraph 148 you say:

"I recall expressing my views about the  
30 potential for fires to burn to the edge of Canberra during the day. I indicated that the McIntyre's fire could make a run to the urban interface from Weston Creek to Greenway and possibly even affect west and south  
35 Belconnen if the wind was more westerly than forecast. I also indicated that the fire in the Tidbinbilla Valley could impact on the Bullen Range and then the southern Tuggeranong suburbs. I then expressed a view  
40 that the southern-most fires could cross the Murrumbidgee River, impact on Williamsdale and continue into the New South Wales rural areas around Burra. I do not recall any  
45 discussion about communicating the situation to the Canberra community, but I do know that a senior officer from the police was present in the briefing as was the ESB media liaison

officer. I am unaware of any discussions that might have taken place about communications messages following the planning meeting."

5

One thing I want to ask you about that is whether or not, as you expressed those views, there was any dissent from the views that you were then expressing?

10 A. No, there wasn't.

Q. But I take it from what appears in that paragraph of your statement that there was also not any discussion about the means by which the Canberra community should be warned of this potential?

A. That's correct.

Q. At the end of your statement, Mr Bartlett, in the last paragraph you say:

"While I wore a vest saying 'Incident controller' on 18 January from the 9.30 briefing at ESB until 1600 hours, I do not believe that I was operating in the normal manner that an incident controller would operate under the AIIMS - ICS. In particular I had no control over any of the planning or logistics functions, did not participate in any Incident Management Team meetings, was not consulted on strategic decisions (such as the declaration of a state of emergency) and at times operational deployments were made by COMCEN without my involvement. I was probably operating as the operations officer (responsible for management of the firefighters in the rural areas) but even then I was not consulted about any decisions to deploy additional resources to various parts of the fire."

I take it from that paragraph that, as at the 18th of January, in the ordinary course you would have been expecting to have been consulted about those matters?

A. I think what I am saying there is that I was carrying out the role of incident controller the

way the ICS system is implemented in the ACT at that point in time, but not in accordance with what my previous experience had been.

5 Certainly the way I understand ICS to operate, I would expect to be consulted over some of those sorts of decisions if you were the incident controller. In fact, in many of those things you would be the person making the decision.

10

Q. Did you at that stage feel confident that the personnel who at ESB who were making those decisions were sufficiently experienced or sufficiently capable to make the decisions that they were making?

15

A. I don't believe I even gave it any thought at that time.

Q. Have you considered that issue since?

20

A. Well, in terms of writing your statement and thinking about what happened with the benefit of hindsight, you can certainly identify issues, including, as I have in my statement, some things that perhaps I could have done better. But certainly at the time I didn't see anything. That was the way the system was being operated. I was just simply making the point that I don't believe I was really operating as an incident controller on that day.

30

Q. Can I just go through a couple of issues about the resources available from ACT Forests. I think the original source for this was the ESB submission to the McLeod Inquiry. According to that submission, DUS had something like 120 staff available at the time of these fires. Would that first of all be correct --

35

A. It sounds in the right magnitude.

40

Q. How many of those staff are generally available for the effort in relation to these fires?

A. I think that was saying there were 120 staff available for fire suppression.

45

Q. Is that consistent with your understanding that there were 120 staff available?

A. Yes.

Q. I think I asked you about the resources that Forests had available on the 8th and the 9th, I think. Did the level of resourcing available continue at that same level - some of those resources were actually deployed of course?

A. That's correct. As the fire progressed, almost all - in fact I think all of the ACT Forests staff who were not on leave at the time were involved in the fire suppression operations.

Q. So far as volunteers were concerned, are you able to say how many volunteers were available, particularly for the initial response to the fires in the ACT?

A. I don't have that information.

Q. You don't know. I think I have asked you about the number of RAFT crews and I think you described the number of RAFT crews that were available on the 8th of January?

A. From ACT Forests, yes.

Q. How many, just remind me?

A. I said there were 19 people who were qualified to do that work, so we could have assembled three, 6-person RAFT crews.

Q. Eventually they were deployed from the period of 8 January onwards?

A. They were deployed in a range of roles not necessarily as RAFT crews.

MR LASRY: Thank you, Mr Bartlett, I have no further questions.

THE CORONER: Thank you, Mr Lasry. Mr Archer, do you have any questions?

40

MR ARCHER: Yes.

**<CROSS-EXAMINATION BY MR ARCHER**

MR ARCHER: Q. At the planning meeting of the 18th that you refer to in your statement, you refer there to Hilton Taylor giving some projections as to where it was possible that the

fire might be at a particular point of time. You indicated that your recollection was that he suggested that at 1700 hours the fire might be at Mt Stromlo. Is that still your recollection of what he said to the meeting on that day?

5 A. Yes. I don't have any reason to change that.

Q. Did you hear any dissent or differing view as to that projection given at the planning meeting that morning?

10 A. No, I didn't.

Q. In the time that you took then to speak to some people and I think go to the helicopter, did you receive any other briefing from anybody which suggested there was a revision of that timetable?

15 A. No, I didn't.

Q. On the morning and the early afternoon or indeed all day Saturday, you were in the helicopter flying over various areas within the ACT observing what was going on. Your statement records - the way you describe the progression of the fire is that its fire behaviour became - you use words like "dramatic". Could you perhaps elaborate further on what you were seeing so far as the behaviour of the fire was concerned that day?

20 A. Well, certainly before lunch - before midday, I should say - things were relatively under control, with the exception of the southern part of the fire down around Mt Tennant. It was burning reasonably actively. But then we started to see a number of small spot fires developing in the early part of the afternoon.

25 When I get to the bit that I am talking about "dramatic", I am saying some of the bits of fire behaviour that I saw at various parts throughout the afternoon, small areas at a time were what I would regard as very dramatic bits of fire behaviour. So that fire was very intense in places.

40 I should say that, even though I was in a helicopter, I only ever had the opportunity to see a small part of the fire at any point in time

because of the amount of smoke and the poor visibility. So I could see just immediately in the vicinity of wherever we were in the helicopter.

5

Q. So far as your communication to COMCEN was concerned, you were relaying what you could see back to COMCEN by way of where the fire was and how it was behaving?

10 A. Because there was a lot of radio traffic, I generally restricted much of my conversation to things that I considered were important bits of information that they needed to know; for example, where new spot fires were occurring and where  
15 there were dangerous situations. They were the critical things that I relayed back via radio to COMCEN.

Q. Did you get a sense on that day of listening  
20 to the radio traffic that what was being received by COMCEN was reflective of the reality that you saw from the air; were things keeping apace with what you were seeing from the air?

A. I was hearing also lots of other people  
25 providing information, both around the fire between themselves and back in many cases to COMCEN. So to answer your question, I got a sense that they were getting good intelligence back from a range of sources about what was happening with  
30 the fire development over the radio.

Q. And going back to the planning meeting that morning, did you stay for the whole of the meeting?

35 A. Yes, I did.

MR ARCHER: Yes, thank you.

THE CORONER: Mr Lakatos --

40

MR WATTS: Just before my learned friends cross-examine, I have some questions of the witness which are more in the nature of perhaps evidence-in-chief on which they may have some  
45 questions. They relate particularly to the question of fuel management. I am just wondering whether it might be more convenient if I led that

evidence from this witness just on this issue before the rest of my learned friends cross-examine.

5 THE CORONER: I don't see a difficulty.

MR LASRY: It sounds appropriate.

10 THE CORONER: That is fine. Do you wish to do that now, Mr Watts?

MR WATTS: Yes, thank you, your Worship.

**<CROSS-EXAMINATION BY MR WATTS**

15 MR WATTS: Q. When did you become the Director of ACT Forests?

A. In October 1999.

20 Q. There is a requirement that ACT Forests engage in a process of being part of the development of a bushfire fuel management campaign; is that so?

A. That's correct.

25 Q. Was there one under way at the time you became Director of ACT Forests?

A. There was an existing approved plan. The process for finalising the next version of the plan was almost completed when I became the Director of ACT Forests.

30

Q. Was that the one that came into existence and was known as the 2000/2002 plan?

A. That's correct.

35 Q. Did you personally have some input into that plan after you arrived in the ACT?

A. I had some input through the Fuel Management Committee to the finalisation of that plan.

40 Q. Does that plan specifically purport to give details of, for example, what ACT Forests need to do in that planned period?

A. It is supposed to, but I found it quite confusing.

45

Q. As you found it confusing, did you take some steps to ensure that ACT Forests took some other

steps over and above what was in that plan?

A. Yes, I did.

5 Q. Can you give the Court some examples of the things that were done over and above that plan by ACT Forests in terms of suppression of fuel loads?

A. Certainly. When I looked inside the fuel management plan, particularly for the parts of Stromlo Forest which are close to the urban areas, 10 I didn't see very many specific actions that were meant to be implemented. So I introduced a number of other actions to manage fuels in that area, including carrying out a low intensity prescribed burn in the area across the road from Eucumbene 15 Drive in 2001 and then a number of high intensity burns in 2002 in Stromlo Forest to reduce fuels. I also arranged to have some work done on altering track networks in 2002 to make them more appropriate from a fire suppression point of view.

20

Q. Have you prepared some photographs which are on a Powerpoint presentation specifically showing some of the work that was done?

A. Yes, I have.

25

Q. Might that be brought up, your Worship. It is on the system as [DUS.GSO.0003.0117]. Are these photographs of the particular tasks that were undertaken at your direction in terms of dealing 30 with fuel loads in that period of time?

A. Yes, they are.

Q. If you could perhaps briefly explain each of these as we go through it.

35 A. Yes. This first map indicates a range of hazard reduction works that were conducted by ACT Forests in the Stromlo plantation during the years of 2001 and 2002. So you can see seven works that were done. None of which were in the approved 40 fuel management plan.

Q. When you say works that were done, what do you mean?

A. The red spots on this map indicate prescribed 45 burns that were implemented in the Stromlo plantation area.

47

Q. The first map is 0118. The next slide please.  
What does it depict?

A. This is just a more specific map showing a  
prescribed burn area that was done near Lady  
5 Denman Drive in central Canberra.

Q. When was that done?

A. That was done in October 2002.

10 Q. Can you just explain the process of doing that  
kind of prescribed burn and the purpose of it?

A. Okay, the purpose of it, first of all, was to  
reduce a large amount of woody fuel debris that  
was left on the site following the clean-up  
15 operations after the 2001 fire. The process that  
was used was long and complex. Because of the  
location of where that burn is, there is a lot of  
interested players.

20 We started the process back in May 2002 consulting  
a whole range of stakeholders including police,  
Fire Brigade, the Governor General's office, the  
roads, the zoo, and so on. Over a series of  
meetings that ensued over the following months, we  
25 got to the point at about the start of September  
where we had an approved burn plan for that  
operation and then it took another 5 weeks of  
negotiations with people before we got the right  
sort of weather conditions to carry out that burn.

30

Q. Yes. Thank you. Next?

A. This is just an example. You can see the  
photo on the right shows the level of fuel that  
was on that site and gives an indication of why I  
35 might have been concerned about it. And the one  
on the left shows the actual location at the back  
of Black Mountain when the burn was being  
conducted.

40 Q. Yes, thank you. The next photograph please?

A. This is a map of what was called the  
crown-free fire zone which was part of the  
original fuel management plan in the ACT located  
just to the west of Eucumbene Drive in Duffy.

45

Q. What was done and when was that done?

A. In part of that area we conducted a low

intensity burn in, I think it was, March of 2001 to reduce the fuels on the ground in that area.

5 Q. Can you explain where that was in relation to Eucumbene Drive?

A. I think if you go to the next slide it may show that. This was the area that we treated in 2001. It was part of that overall zone.

10 Q. You say it was a low intensity burn?

A. Yes, it was.

15 Q. Can you explain the difference between a low intensity burn and a high intensity burn and the purpose of each?

A. Yes. I think the previous photographs of the burning operation was an example of a high intensity burn, so a large amount of fuel and quite significant flame heights. I think if you 20 go to the next slide, this is an example of low intensity burn. So it is burnt under very calm conditions and you only have very small flame heights in a low intensity burn.

25 MR PIKE: Before we go to the next question, it might be helpful for the transcript if as we go to each one it might be identified. It is very difficult to understand.

30 THE CORONER: Yes, Mr Watts, if you would do that please, just maybe the last four digits as an identification.

35 MR WATTS: Q. The one being spoken about at the moment is 0123. Perhaps if we go backwards: The map showing the location of the 2001 Narrabundah Hill burn is 0122; map 3 showing the location of the Narrabundah Hill crown fire free zone is 0121; two photographs depicting the burning at Lady 40 Denman Drive in October 2002 is 0120; the map showing the location of the Lady Denman Drive burn is 0119. Thank you.

45 Would you go to the next one, 0124 please. Again, is that just another photograph showing the Narrabundah Hill prescribed burn - no, it is not, is it?

A. Well, it does show the low intensity burn on the left-hand side. That is 0124. The right-hand side, as best as I could make it, was taken after the fire on the 18th of January 2003 in the same  
5 general area. You can see there is a dirt barrier if you like, a boom there. That shows up in both photos.

The point of showing this photo is that I believe  
10 at least in that area the fire didn't burn as a crown fire because the needles are still on the trees. That, in my view, is a reflection of the fact that we reduced the fuels in that area within the two years prior to the fire.

15

Q. Thank you. You have spoken about removing the crowns; is that so?

A. Yes.

20 Q. What is the process involved in that?

A. Pruning the branches on the trees. You will see in the photograph on the left-hand side the trees have no branches on them. They have been pruned over the years to a height of 6 metres from  
25 the ground. The purpose of that is to break the distribution of fuels between the ground and the crowns of the trees.

30 Q. In terms of carrying out the prescribed burn along Eucumbene Drive and on Narrabundah Hill, did you encounter any difficulty in seeking approval to do that work?

A. I recall that the process to get approval had some complexities associated with it, both in  
35 terms of discussions with the community and with Emergency Services, but we actually did get a burn permit to do the work. There was also a number of people that were quite concerned about the implementation of that burn on the day of the  
40 burn - I am speaking about residents - their complaint was they were experiencing smoke over their houses.

45 Although that photograph on the left very clearly shows that the smoke was going back up the hill away - the houses would be located on the right-hand side of the photograph. That

photograph shows that the smoke - we were burning under conditions when the smoke would blow away from the houses. Nevertheless we got a number of complaints about the burn.

5

Q. Apart from burning and pruning, what other steps can be taken in a pine forest like this to reduce the fuel load?

10 A. Well, pine trees are quite sensitive to fire, so this is quite an unusual operation to be conducted in pine plantations. The only other steps that could be taken would be physical removal of the fuels, a manual system to remove them, which is quite an expensive and difficult  
15 operation.

Q. What about poisoning of weeds, is that a method you could use?

20 A. Certainly control of grass and weeds, which is the under-storey fuels in a pine plantation, can be done by herbicide poisoning or grazing of stock. They are the two things that could be used.

25 Q. Did you intend at one point to do some spraying in the pine forests near Duffy?

A. Yes, we did.

30 Q. Did you encounter any difficulties in implementing that idea?

A. Yes, we did. There was strong opposition from the community to ACT Forests carrying out weed control operations in that particular plantation. The Commissioner for the Environment was brought  
35 in to conduct an investigation; and we were restricted in our ability to carry out those weed control operations.

40 Q. Did you attend from time to time the Weston Creek Community Council?

A. I attended on about three or four occasions.

45 Q. Were the sorts of concerns you spoke about - concerns about smoke, use of chemicals and those kinds of things - expressed to you strongly at those meetings?

A. We certainly expressed our strong views about

why they needed to be carried out; the community expressed strong views about why they didn't want them carried out.

5 Q. That was in the period of a couple of years prior to the 2003 fires?

A. That's correct.

Q. The next photograph, 0125.

10 A. This photograph just shows from a distance the Narrabundah Hill area after the 2003 fire. The area on the left-hand end of that photograph shows some of the area where we conducted the low intensity prescribed burn where the trees still  
15 have scorched needles on them. The right-hand end was where we weren't able to get the burn to go, and that area had crown fire which went right through it.

20 Q. Next, please. It is 0126.

A. This map just again shows the location of the fuel management works that we carried out and then also plots where houses were destroyed. I guess I was trying to make a point that, whilst the fuel  
25 management works had some impact on fire behaviour inside the plantation, it didn't necessarily stop houses being burnt across the road.

Q. This fire that came through to Duffy came  
30 through the crown fire; is that so?

A. In places it came as a crown fire; in places it came as a ground fire.

Q. What is the mechanism by which the houses  
35 caught fire; was it direct flame from the forest; was it radiant heat; or was it some other process?

A. My understanding was that there was no evidence anywhere of direct flame contact from the forest to houses. There was strong ember attack  
40 and that gardens and parts of the house structures caught fire from the embers.

Q. So even if you had the forest back, say, another 100 metres, was it your opinion that it  
45 wouldn't necessarily make any difference to the situation?

A. It may reduce the intensity of ember attack on

the houses. But you get ember attack even from grass paddocks as well. So it wouldn't preclude embers landing on the houses or gardens of those houses.

5

Q. In your documentation you refer to a comparison with the situation in Ballarat where you had some experience; is that so?

A. Yes.

10

Q. Can you just explain the point you are making with that material?

A. Yes. Would it be easier to have a look at one of the photographs or do you want me to answer?

15

Q. On this?

A. Yes.

Q. Which one?

20

A. If we can go forward to 0131. The first point I would make here is that last year I went to Ballarat to have a look at how pine plantations are managed in close proximity of the urban areas of Ballarat, a city in south-western Victoria.

25

This is an area where the fire climate is quite similar to the climate around the ACT. It is a drier part of Australia in terms of places where *pinus radiata* is grown.

30

The pine plantations exist right adjacent to the city of Ballarat and have been there for up to 100 years. Those photographs show what I would regard as normal plantation management techniques, thinning of plantations and re-establishment

35

following clear falling. The techniques that were used by the plantation manager close to Ballarat are almost identical to the ones that are used in the ACT.

40

You can see in the top left-hand photograph that the pine plantations are quite close to an urban area. And the one beneath that is an example of an area that has been clearfelled at the end of its rotation. The fuels have been treated by a technique which we call crusher rolling, where a

45

large drum is pulled behind a bulldozer to break the fuels and incorporate them partly into the

soil but not to remove them. The photograph on the right-hand side is after a thinning operation where you get quite a bit of fine fuel and branch material left lying on the ground after a thinning operation. That is just left to rot on the ground.

5  
10 Q. If we could go back please to where we were - 0127. That simply depicts, does it, the burn on Narrabundah Hill in - was that March 2002?

A. That's correct. That was the high intensity burn we did in the area that had been harvested and clearfelled the previous year.

15 Q. The next photograph please, 0128.

A. These are some photographs taken after the 2003 fire in the area where we had conducted the high intensity burn to remove all the remaining fuels. You can see, I think, by both of those photographs that the fire as it entered that part of Stromlo plantation entered actually as a grass fire from the grassland, and in fact not all of the young pine trees that had been planted there were even killed by the fire. If there was a large area of fuels there, you would have expected everything to have been consumed.

The photograph on the right, and I think the next ones following it, show that the fire entered the mature plantation again as a ground fire, because there are still green crowns in the trees.

30 Q. Next please, 0129.

A. 0129 shows the interface between the area on the right-hand side where we conducted the high intensity prescribed burning operation and the area on the left-hand side the remaining area of plantation. So the fire entered there as a ground fire and then became a crown fire within the plantation.

40 Q. Next, 0132. Is there anything you want to comment on that?

A. 0132 just shows, I guess - well it shows the location of these plantations on the western side of Ballarat in relation to houses. I would contend in fact that those plantations are located

closer to the western side of houses than the ones that were in the Duffy area.

5 Q. Is the point you are making there that, if they are appropriately managed and appropriate steps are taken, the pine forest can safely be adjacent to houses?

10 A. That's the point. This is accepted practice around Australia. I guess the 2003 fire showed us some things that we had never seen before. The point I guess I would like the inquiry to understand is that we weren't doing anything untoward before the 2003 fire.

15 Q. Next, 0133. Is there anything else you wish to comment on concerning Ballarat?

A. No. I think it is the same point that these plantations occur quite close to houses in other parts of Australia.

20

Q. I think that is the extent of the comments you wish to make on those photographs; is that so?

25 A. The last one, which is 0134, then shows the situation that existed in Eucumbene Drive and Warragamba Avenue. The photograph on the left is Warragamba Avenue, which you can see there was a power line easement, quite a wide break. And in some of the documentation that I provided, I actually had my staff measure the distances and they vary quite a bit. But I would have to find where it is exactly how many metres.

30

Q. When were those photographs taken?

35 A. They were taken after the 2003 fire but just by way of comparison with the sorts of distances that you could see in the photographs of the Ballarat plantations.

Q. Yes. Thank you.

40 A. The point I have been making is that, in my view, the setback distances here were greater in Canberra than they are in a number of other places around Australia, but in particular in Ballarat.

45 MR WATTS: Thank you for that. Just one further matter in terms of this.

47

Q. You said in your material that the value of the forests that were lost in the ACT was about \$56 million?

A. That's correct.

5

Q. How do you calculate that figure and what does that encompass?

A. There is a standard methodology which has been developed across Australia for valuing plantations when they are destroyed. In essence, every different age class of the plantation has a different value. You have to work out how many hectares of each age class have been destroyed and then apportion the particular value. So trees that are older are worth more because it relates to what products could have been obtained from those mature plantations, and the ones that are young really only have a replacement value.

20 Q. Apart from the value of the trees, the forests have other community values such as recreational use?

A. Yes, they do.

25 Q. They provide picnic sites and so on?

A. Yes.

Q. And roads for people to use for car rallies and things like that?

30 A. That's correct. Those community values that were also destroyed, they weren't taken into account in that \$56 million.

Q. They weren't included in that?

35 A. In that \$56 million, no.

Q. And there are a significant number of jobs which flow on from the forest industry in the ACT?

A. That's correct.

40

Q. In addition to that, the ACT Forests provides a significant number of skilled persons in terms of firefighting capability?

A. Yes.

45

MR WATTS: Thank you, your Worship. I have some further questions later, but that is the extent of

questions on this area.

THE CORONER: Q. Mr Bartlett, apart from Ballarat  
and Canberra, where else in Australia? I am  
5 conscious that there are some pines growing in the  
Lithgow area of New South Wales.

A. That is one other area, around Bathurst as  
well. Also in Western Australia they have pine  
plantations close to some of the suburbs of Perth  
10 and other regional towns as well. And in South  
Australia down around Mt Gambia in places.

Q. Commercial pine plantations?

A. That's correct, your Worship.  
15

THE CORONER: Mr Lakatos?

MR LAKATOS: Yes, thank you, your Worship.

20 **<CROSS-EXAMINATION BY MR LAKATOS**

20

MR LAKATOS: Q. Mr Bartlett, could you turn up  
your statement at page 37, paragraph 132. I want  
to confirm a number of matters that you have  
written there. Also, do you have your record of  
25 conversation which you made with a number of  
Australian Federal Police officers on the 17th  
December 2003. Your statement is document  
[ESB.AFP.0001.1140] and the record of conversation  
is [DPP.DPP.0004.0023]. If that is wrong, I blame  
30 Mr Lasry totally, because I took a note of the  
second one from him.

If you would turn for the purpose of this question  
to question 367 of the record of conversation.  
35 With those things in front of you, Mr Bartlett,  
you say in your record of conversation and in your  
statement that, on the morning of the 18th of  
January, you undertook a helicopter reconnaissance  
which commenced shortly after 6.30am of the  
40 various fires affecting the ACT?

A. That's correct.

Q. You did a sweep from the north to the south  
looking at the McIntyre's Hut fire first, the  
45 Bendora fire next and then Stockyard Fire; is that  
correct?

A. That's correct.

Q. You did that for the purposes of acquainting yourself with what the fires were doing and how you would then approach the task of being the incident controller for that huge complex of fires that particular day; is that so?

A. That and providing information back to the planning unit.

Q. At page 79, this is about two-thirds down the page, you record the summary of what you saw of the various fire behaviours:

"So from my perspective as a fire controller we have got three fires - this is your summary of your observations - one, two, and three, each of them uncontained but each of them sort of narrow, if you like. This fire was probably - I think that was a reference to McIntyre's Hut - not able to be precise, but it was probably about 5 kilometres wide burning with an uncontained" --

A. Sorry, can I interrupt you. When I was doing this I had a map in front of me, that is why it is not clear. The first one that says "this fire" actually refers to the southern-most fire around Mt Tennant.

Q. Well perhaps you can confirm, did you go in reverse order from the southern-most fire to the north?

A. No, I went from the north to the south.

Q. I mean when you were describing it in this particular answer?

A. Yes, here I am talking from the south to the north.

Q. Okay. So you identify that the southern-most fire had a front of about 5 kilometres wide?

A. That's correct.

Q. The Bendora fire had a front of about 4 kilometres wide?

A. Yes, but I think I say there it was largely contained.

47

Q. I understand that. And the northernmost fire, McIntyre's Hut, between 1.5 to 2 kilometres wide; that was your assessment at that time?

A. That's correct.

5

Q. You were asked across the page in the answer to question 368 what your view was projecting forward as to how these fires would develop. At about line 4 of the answer you said this:

10

"I wasn't envisaging sort of a mass growing coalescence of these fires. I was thinking three separate fires running as this one had done the previous day under sort of similar wind."

15

Do you recall which fire you were then referring to when you said "this one"?

A. I can't be precise. I think I was probably referring to the southern-most fire which had made the most distinct run or had advanced the greatest distance the day before but in a relatively narrow fire front.

Q. So your view was three separate fires converging on various parts of Canberra if the conditions were to continue?

A. That's correct.

Q. If we then go to your statement at paragraph 183 --

A. Sorry, I just want to clarify. I think I was saying I expected that two of those fires could impact on parts of Canberra, and the other one would also make a run but it would go to the southern part of the ACT and into New South Wales.

Q. Thank you. Going then to 183, page 50 of your statement, you there summarise what your impression was as to how these fires were going to develop or not at the beginning of the day of 18 January.

A. Paragraph 183, was it?

Q. Yes. You there say this:

"At the beginning of the day, I certainly

realised that the urban interface in Canberra would come under threat from wildfire during the day. However, I did not expect that the loss of the houses or plantation forests would be so extensive. I certainly did not expect the ACT Forests office to be destroyed by fire (or I would have removed some important items) or for that matter my vehicle to be threatened by fire while parked within the AFP complex at Weston Creek. It is important to understand that even for experienced firefighters it is very difficult to imagine the worst case scenario until it actually happens."

Now, that was a view that you held when you signed the statement in December of last year.

A. Yes.

Q. Does that still remain your view?

A. Yes, it does.

Q. Then you continue on by making a comparison between your experience in the 1983 Ash Wednesday fires and what happened in Canberra. If I can draw this to your attention, you write in paragraph 184:

"On reflection I believe that, although I experienced the devastation of the 1983 Ash Wednesday fire in the Otways, there were significant differences between that fire and the Canberra fire. In particular, the Otways fires was a single wind driven fire that originated from a point source and spread out after a wind change, but was generally contained in the grassland as it emerged from the forest. In contrast, the Canberra fire involved multiple fires that interacted with each other and which were unable to be contained in the grassland after they emerged from the forest."

Once again, that was a view you expressed in December 2003. Does that still remain your view?

A. Yes, it is.

47

Q. In the following paragraph you go on to praise the efforts of the ground firefighters with whom you dealt with. I take it that is a sentiment you would endorse today?

5 A. Absolutely.

Q. At the end of the paragraph you make a comment about the allocation of resources to protect rural assets as being, in your view, the correct call for that particular day?

10 A. Yes.

Q. May I take it that is also a view that you still hold today?

15 A. Yes.

MR LAKATOS: Yes, thank you, your Worship, I have nothing further.

20 THE CORONER: Thank you, Mr Lakatos. Yes, Mr Pike.

**<CROSS-EXAMINATION BY MR PIKE**

MR PIKE: Q. Mr Bartlett, do you still have your statement in front of you?

25 A. Yes, I do.

Q. Can I ask you to turn to paragraph 116 on page 32. You were asked some questions about this by Mr Lasry some time ago now. Do you have that?

30 A. Yes, I do.

Q. In particular you were asked questions about the third last line:

35

"On the basis of my experience, for ICS to be effective there is a strong need to have a close link between planning and operational sections."

40

Do you remember the questions you were asked about that and the answers you gave in that regard?

A. Yes.

45 Q. Would it be fair to say that, taking your evidence in totality on that point, what you were there commenting on was a communication problem or

perhaps perceived inadequacy between the planning section and people on the ground resulting, as you have said, in the lack of incident action plans and that sort of thing?

5 A. Part of it was communication adequacy.

Q. But resulting in that absence of incident action plan and that sort of thing?

A. Yes.

10

Q. That was what you were focusing on. If I could then take you back to paragraph 89 on page 25. As you recall, you were asked some questions about it, related to the conversation you had with Tony Graham. I think that is on the morning of the 12th of January. The discussion was in relation to the forward control point. Was it the case that the planning section and the planning task was to continue to take place at Curtin; is that right?

15

A. That's correct.

Q. But to the extent to which Mr Graham could assist you, he did in terms of providing you with some resources out in the field as you have described in that paragraph?

25

A. Yes. He sent a couple of people up to help us keep track of what resources were where and to help manage the changeover process when new vehicles were coming in.

30

Q. It would be consistent with your experience with Mr Graham, both with these fires and in fact previously, that when you requested assistance, resources and that sort of thing he did his best to respond to your requests?

35

A. That's correct.

Q. Taking you now back to page 23 at paragraph 80, you talked in that paragraph about another conversation you had with Mr Graham - I am conscious of the fact we are going back in time - this is now the late evening of the 11th; is that right?

40

A. Yes.

45

Q. You say in that paragraph that you handed over

to Neil Cooper at around 2000 hours, 8pm, and on the return journey this conversation with Tony Graham took place. Doing the best you can, do you have any recollection of how long after you handed  
5 over to Neil Cooper that conversation took place?  
A. No, not exactly, but I recall during the drive down from Piccadilly Circus to Canberra. So on the way down the mountain somewhere, I got him on the telephone. So it is probably half an hour or  
10 so after I handed over.

Q. So somewhere around 8.30, 9 o'clock perhaps?  
A. Probably, yes.

15 Q. You indicated clearly there that what Mr Graham told you then was that you would be given, amongst other things, 4 heavy tankers and 4 light units; and you indicated in your opinion that would be insufficient?  
20 A. Yes.

Q. Next morning, it turns out, as we know from your statement at paragraph 85 on page 24, that you received in fact seven heavy tankers. All the  
25 units commencing with the number 1, I take it, are heavy tankers?  
A. Yes.

Q. When you count up the numbers referred to in  
30 paragraph 85, I think you arrive at a total of seven heavy tankers?  
A. Yes.

Q. You make the point in the second last line of  
35 that paragraph that later on that day you also received a further heavy tanker, being Southern 11?  
A. That's correct.

Q. So it would appear to be the case that you  
40 have expressed a request to Mr Graham late in the evening of the 11th and, by first thing next morning, he has provided you with 60 per cent more in the way of resources in terms of heavy  
45 tankers --  
A. Yes.

47

Q. -- and a further 20 per cent, a further tanker, that day?

A. That's correct.

5 Q. You would say that is typical of the way in which Mr Graham certainly responded to your request; he would do his best to help you, and in this circumstance he gave you a good deal more than what was initially allowed?

10 A. That's correct.

MR PIKE: Yes, thank you, your Worship.

15 THE CORONER: Thank you, Mr Pike. Mr Erskine?

MR ERSKINE: There will be a few questions. I don't know whether it is a convenient time to take the morning break.

20 THE CORONER: Do you have many questions, Mr Erskine?

MR ERSKINE: I will have a few.

25 THE CORONER: We might take the morning adjournment.

MR LASRY: Before that happens, it may be apparent to the witness but, as counsel rise to cross-examine, I wonder if they would maintain the tradition of announcing for whom they appear.

30 THE CORONER: Yes, identify as to who they appear for.

35 MR PIKE: Just for my own sake, your Worship, so that Mr Bartlett is aware that I appear for Mr Graham as well as for Mr Ingram and for Mr Bennett.

40 THE WITNESS: Yes.

THE CORONER: We will take the morning adjournment.

45

**SHORT ADJOURNMENT**

**[11.23am]**

47

**RESUMED**

**[11.48am]**

MR LASRY: Just before we continue, the intention today was to call the witness Felicity Grant next, and she is here, and then after her Mr Gould from the CSIRO. I gather he is unwell and unavailable. So after Ms Grant there won't be any other evidence available. I would at this stage intend to call Mr Gould at 10 o'clock tomorrow before proceeding with Mr Cooper.

THE CORONER: Yes, thank you, Mr Lasry. Yes, Mr Erskine.

**<CROSS-EXAMINATION BY MR ERSKINE**

MR ERSKINE: I appear for the New South Wales personnel who are involved in the inquest. I also carry a brief for the State of New South Wales.

THE WITNESS: Sorry, I didn't quite hear that last comment.

MR ERSKINE: I also hold a brief for the State of New South Wales.

Q. You have described at being present at two meetings in Queanbeyan, one on the 8th and one on the 10th, at which strategies were discussed for how to deal with the McIntyre's fire?

A. Yes.

Q. I think --

MR WATTS: I wish to interrupt my learned friend. I rise to seek clarification as to what interest Mr Erskine is actually representing with this cross-examination. I notice what he said is that he holds a brief for the State of New South Wales. As I understand the situation, having spoken to some people, no leave has been sought to represent the State of New South Wales.

THE CORONER: That is my understanding too.

MR WATTS: Those of us who are cross-examining, acting for certain people are restricted, of course, to cross-examination in the interests of

the people for whom we act. If Mr Erskine is going to cross-examine in the interests of the State of New South Wales, he should seek leave to appear for the State of New South Wales.

5

THE CORONER: That's my understanding too. No leave has been granted for anyone to appear for the State of New South Wales. Certainly in relation to New South Wales witnesses leave was granted to represent the interests of those witnesses.

MR ERSKINE: I was being deliberately vague because I couldn't actually remember what had happened either. In terms of the questions I intend to ask, I think they are firmly anchored in acting in particular for Mr Arthur, Ms Crawford and the other New South Wales personnel who have given evidence about the meetings in Queanbeyan. It is really there that I will be stopping. From that point of view, I can confine my appearance to whatever the debate may be to the New South Wales personnel.

THE CORONER: To those New South Wales witnesses?

MR ERSKINE: To the New South Wales personnel. We can leave the question of the State of New South Wales for another occasion.

30

MR LASRY: I think the position has been, certainly when Mr Bret Walker was here - for example, during the week of evidence which included Ms Crawford, Mr Arthur and so on, he participated on the basis that he and Mr Erskine were acting on behalf of the New South Wales individuals. At the directions hearing before you on the 15th of December, Mr Bret Walker sought your indulgence to be heard on what was then described as the "constitutional jurisdictional submission" and, separate from that, indicated that, as individuals from New South Wales came to give evidence, he assumed they would be seeking leave to represent each of those.

45

I have taken it, at least at the present time, that Mr Bret Walker and Mr Erskine are acting on

behalf of the named individuals and not on behalf of the State of New South Wales as such.

5 THE CORONER: Yes, that is the way I understood it as well, Mr Erskine.

MR ERSKINE: That may well be right. But, as I say, for the purposes of the questions I am about to ask, I would be astonished if there was a  
10 problem.

Q. With that little exchange out of the way, Mr Bartlett, if you can accept for the purpose of questions I am about to ask you that I am acting  
15 for in particular Mr Arthur, Ms Crawford and do you know a Mr Robert Hunt?

A. Yes.

Q. And all of the New South Wales personnel who  
20 have given evidence to this inquest. Now, you have told us in your evidence and in your statements that you went I think to two meetings at Queanbeyan - one on the 8th and one on the 10th. Have I got all of them?

25 A. Yes.

Q. Otherwise you were involved with ACT meetings about which those for whom I act are not particularly directly concerned. At the 8th and  
30 10th you describe what took place at the meetings from your recollection, and on each occasion you describe debate taking place between all of those who were there, including yourself - you made contributions to the debate?

35 A. Yes.

Q. Do you recall that? From the point of view of working out a strategy to fight a fire as an incident controller, it would be a reasonable  
40 thing to do, would it not, to encourage those present at a meeting like that to express points of view along the way?

A. Yes. Most fires I have been at as an incident controller, there has always been some quite  
45 considerable discussion about the alternatives, and often there are different points of view.

47

Q. Indeed. And in the course of such debate and discussion, people make contributions based upon their own perspectives, their own experience, their own weighing up of risks and so forth?

5 A. Yes.

Q. And while differences will emerge in such debate and discussion, it really only highlights there was probably a range of what I might call

10 reasonable responses to the crisis of the fires?  
A. Yes.

Q. So that if you, for example, were the incident controller, you would hear a debate amongst those

15 who were present at such a meeting and you would not discard some of those points of view simply because they differed from your own but you may weigh things up differently from others?

A. That's correct.

20

Q. In the course of the debate on the 8th, in the evening, you record your points of view and you record the discussions elsewhere, but you then set out in paragraph 32 some of the criteria and the

25 strategy as ultimately adopted. That was a strategy you say you were happy with?

A. Yes, at the time.

Q. Then again on the 10th, this is around

30 paragraphs 49 and 50, you describe the meeting on that evening out at Queanbeyan. And indeed in the second sentence of paragraph 49 you say you recall some vigorous debate about the implementation of the strategy and the commencement of back-burning

35 operations. You record a number of the points of view that were being expressed there.

A. Yes.

Q. Once again, you would not say of the people

40 who put those points of view that they were wrong or anything of that kind; it is simply different perspectives on the same problem?

A. Yes.

45 Q. Based on their own experience?

A. Yes.

47

Q. And their own weighing up of many different factors?

A. Yes, that's correct.

5 Q. You have a particular point of view which you express and you say in the middle of paragraph 49:

10 "I remember interjecting many times because my own experience, I was quite passionate in my belief that things should have been happening."

A. Yes.

15 Q. But you accept, do you not, that in that debate that was taking place the incident controller had a number of quite difficult factors to weigh up; there was, for example, to start with, an incomplete control line running along Powerline Trail?

20 A. Yes.

Q. You were aware from what was being said that that control line was proving to be extremely difficult to put in place?

25 A. Yes.

Q. You were aware that it ran through, from what you were being told that night, some very difficult terrain?

30 A. Difficult terrain, yes.

Q. You would agree, I take it, with one of Mr Arthur's concerns was what he describes as a "serpentine trail". Do you understand what he is referring to there?

35 A. Yes, I understand what a serpentine trail is.

Q. That would present problems compared to perhaps a trail that was a bit straighter.

40 A. Yes.

Q. You would accept that that was something if it could be achieved - to straighten the trail - it would be desirable to do so?

45 A. Yes. Depending on weather again - a timing issue.

Q. I am trying to put some of the factors in the mix here. You accept that that was a factor that had to be weighed up?

5 A. I accept there were factors that needed to be considered in the final decision.

Q. Mr Lasry put to you that another factor was the absence of aircraft or aerial units until Mr Arthur was able to come back from the phone  
10 call in the meeting and say he was finally able to get hold of aerial units. So that was a factor?

A. Yes.

Q. Another factor perhaps less significant was  
15 the incomplete northern control line.

A. Yes.

Q. Although it was some distance away, it was something that would have to be noted?

20 A. Yes.

Q. Throughout all of this something that was perhaps unspoken but would always prey on the mind of the incident controller that you would not  
25 knowingly put firefighters in any serious risk of fire danger?

A. That's correct.

Q. Indeed, I think we have been told that, if the  
30 choice is protecting lives or protecting property, you naturally protect lives first?

A. Yes.

Q. All of these - and there are no doubt many  
35 others - were factors that had to be weighed up?

A. Yes. There is another at least one significantly important factor too.

Q. Well, there are a number of others. Weather  
40 obviously, weather predictions?

A. Well, the weather and the time required to implement the agreed strategy plan. In the end, as an incident controller you need to make a  
45 judgment. But if the judgment means that the fire is ultimately going to run out of control because you can't implement the strategy, that is a pretty serious issue as well.

Q. But you would accept, would you not, Mr Arthur was being presented with perhaps starkly two quite difficult choices here, on the night of the 10th: one is to proceed cautiously and methodically,  
5 which carries the risk that you just said that you might run out of time; the other is, as you were pressing him, to do part of the burn knowing that it might present some risk to the people trying to complete Powerline Trail?

10 A. Yes. However, the point of view I kept trying to put was based on my own experience at implementing large scale back-burning operations, I am yet to be convinced that there isn't  
15 somewhere on the control line that you can safely start within the first 24-hour period. Here we were three days into the fire. That's why I was so concerned about not being able to implement back-burning operations that evening.

20 Q. Have you looked at the map of particularly what has been called the "southern control line"?  
A. Yes, I have.

Q. Are you aware that something in the order of  
25 about 60 per cent of it as the crow flies is the Powerline Trail?  
A. Yes.

Q. And that certainly from looking at the maps  
30 that we have of it, Mr Arthur's description of it as "serpentine" would certainly be accurate?

A. No, I don't think that is entirely accurate, quite frankly. I think there are parts of that area where there is a road which was there to  
35 service that power line which goes in a serpentine-like manner beneath the power line along the way. There are other parts of it where the clearing under the power line - I recall seeing photographs of this at the time when there  
40 was a big issue about the TransGrid clearing. There was large long distances of cleared bare earth which, in my view, could have been used very effectively as a control line. That was the point I was trying to make throughout that meeting.  
45 Sure there were some areas where there were difficulties, where more work needed to be done, but in my view there were places where

back-burning could have been implemented.

Q. You saw those photographs of the clearing underneath the grid line at the time that there  
5 had been the controversy a year or two earlier?

A. That's right.

Q. So you hadn't --

A. No, it wasn't a year or two earlier; it was  
10 only a few months earlier.

Q. I thought it happened even earlier than that, Mr Bartlett?

A. I am fairly certain it was in the year prior  
15 to the 2003 fire. And I might add that I have had personal experience at lighting back-burns off power line easements where there have been limited clearing in previous years. So generally the  
20 fuels under a power line easement are much less than the fuels in a forest. If you have got the wind behind you it is very easy to light a back-burn off a power line easement.

Q. Returning to the debate on the 10th, you put  
25 your point of views you just expressed and you heard the other points of view. It was ultimately for the incident controller to make the call?

A. Yes.

Q. And you have no disagreement with the fact  
30 that he weighed up all matters in issue, including your own point of view?

A. That's right. I fully accept that an incident  
35 controller at the end of the day is the person who has to make the decision taking into account all facts. They also then have to be prepared to stand by their decisions.

Q. Indeed. He made the judgment that, let me put  
40 it loosely, it was better to be cautious and try to complete the control line first?

A. Yes, it would appear that that's what he decided.

Q. And that's not a judgment that was an  
45 unreasonable one at the time?

A. Well, it is as --

Q. Others could have been done?

A. As you pointed out, different people may make different judgments.

5 Q. Now, you record at the bottom of paragraph 50 that you offered ACT Forests crews to be in place early in the morning. You say that the incident controller wasn't happy with that arrangement. The proposal that you put forward, was it not, was  
10 that ACT crews would operate independently to start the back-burning operation?

A. Yes, if they couldn't provide any New South Wales resources on line in the morning, that's why I was saying we could provide some crews to start  
15 the work.

Q. Do you understand the concern that Mr Arthur had was that, if they acted independently, there would be some difficulty in co-ordinating the  
20 operation?

A. Well, they would have been coming under the command of the New South Wales people; they wouldn't be totally operating independently. All I was saying is we had people who could be out  
25 there at 6am to start. I was making them available for their disposal under their command. What I am not clear about: are you saying there was no command structure in place from 6am on that  
30 day?

Q. I put to you what appears on page 4600 of the transcript which is that Mr Arthur's concern was that the ACT firefighters would have been acting independently and that would have made operational  
35 problems until the New South Wales crews could arrive to liaise with them?

A. Well they would have been carrying out part of the agreed control plan. I don't know what you mean by "independently". If there were no New  
40 South Wales people on site, they would have been the only crews there. They wouldn't have been carrying out a plan that wasn't part of the agreed New South Wales fire control plan.

45 MR ERSKINE: Thank you, Mr Arthur.

THE CORONER: Thank you, Mr Erskine. Yes,

Mr Whybrow.

**<CROSS-EXAMINATION BY MR WHYBROW**

MR WHYBROW: I appear for Mike Castle. I also  
5 appear for firefighters Vivien Raffaele, Brian  
Murphy and Rick Hayes.

Q. Perhaps going backwards and starting on the  
18th, you spent much of that day monitoring fires  
10 from a helicopter with Matt O'Brien?

A. Yes.

Q. You were in 'Firebird 7'

A. Yes.

15

Q. In some senses, although your visibility from  
time to time would have been severely restricted  
because of smoke, would you agree that you had a  
fairly good holistic perspective as to where fires  
20 were at particular times, certainly more so than  
people on the ground in Curtin?

A. Absolutely I would agree with that. I was in  
a better position to understand what was happening  
between the three fires, as much as you could,  
25 given that you couldn't be at both ends at once.

Q. Indeed, that's why somebody of your seniority  
was up there, in a sense to be able to co-ordinate  
information getting back to people on the ground  
30 so resources could be allocated to the areas where  
they were needed?

A. That's correct.

Q. If I could take you to your statement, sir,  
35 commencing from about paragraph 151, which is  
page 1181 on the system. After the briefings and  
related discussions you parked your car in the  
upper bitumen carpark at the AFP Weston Creek  
complex where the helicopter was and commenced  
40 aerial operations with Matt O'Brien?

A. Yes.

Q. You, Mr O'Brien and a penciller were the  
persons in the helicopter from then on?

45 A. That's correct.

Q. Were you familiar with Mr O'Brien?

A. Yes, I had flown with him on previous occasions.

5 Q. He had been a specialist helicopter pilot in relation to firefighting activities for some time to your knowledge?

A. Yes.

10 Q. You were able to speak to each other during the course of the helicopter trips?

A. Yes.

Q. And you discussed various things to each other and made calls back and things of that nature?

15 A. Yes.

Q. If I can take you through to paragraph 153 on the following page, starting from about 12.11 you indicated in the paragraph above that you were in the Tidbinbilla visitors' centre and had discussions with Peter Galvin who was in charge of that sector of the fire?

A. Yes.

25 Q. In paragraph 153 you then departed Tidbinbilla at 1211 to continue with aerial reconnaissance. Do you see that?

A. Yes.

30 Q. You then over the next several paragraphs refer to a number of grid references where you either radioed in and/or made notations of various spot fires or fire fronts?

A. Yes.

35

Q. You see there is a standard topographical map of the Australian Capital Territory on the board next to you?

A. Yes.

40

Q. I have made some inquiries over morning tea to find one on the system that could be most useful.

45 MR WHYBROW: It would appear this is the most convenient way to proceed, with your Worship's leave.

47

Q. What I would like you to do as we go through those paragraphs, sir, is by reference to that map and the grid references place some post-it note tabs in those areas so we get an idea of the areas  
5 where you flew and where the fire was at times?

A. Are you asking me to note every one of those spot fires on that map?

10 Q. We will go through them one at a time.

THE CORONER: Q. Are you able to do that from these grid references and that map, Mr Bartlett.

15 A. I should do, hopefully - otherwise I might fail my mapping test next year.

MR WHYBROW: Q. Hopefully I accurately and in some chronological order from your statement indicate the correct map reference numbers. The first one you indicate in your statement is:

20 "At 1235 I detected a spot fire at grid reference 797767 just north of Paddys River."

25 A. Yes.

Q. Hopefully the first tag I have provided you with says 797767. Can you place that on the map?

30 A. Can I just ask: do you want me to leave the witness box and stay over there to place all of these things?

Q. To the extent that we can get you to do this without affecting the microphone.

35 THE CORONER: There is a microphone on the large screen. It might be difficult. There is also a roving microphone.

40 THE WITNESS: Actually I might even need my glasses to read the small numbers. (the witness complies and places the post-it tag on the map). I hope there is no timing on me.

45 MR WATTS: Your Worship, these grid references are already marked on maps that are on the system. In fact, in document [DUS.GSO.0003.0102] this exercise has already been done and they are on the

system already. We can bring it up on the screen.  
It would save a lot of time.

5 THE CORONER: You were aware of that, Mr Whybrow?

MR WHYBROW: I wasn't, your Worship. I have not  
yet seen a map that can be brought up on the  
screen and easily be seen in the pictorial sense.  
In any event, I would seek to conduct the  
10 cross-examination in a linear fashion which sets  
out where the pilot flew and the notations that  
were made.

15 THE CORONER: Would it be useful to have the map  
brought up?

MR WHYBROW: I have no objection to that being  
done.

20 MR WATTS: It may save time if it would assist the  
witness in locating it.

25 THE WITNESS: Unfortunately - I think they will be  
helpful, but the other maps are not exactly the  
same grid scale as this one.

MR WHYBROW: Q. The first reference that you have  
placed on there is 797767. Does that appear to be  
next to a notation on the map of Paddys River or  
30 very close to it a homestead or a property?

A. It would appear to the north-west of that  
spot, yes.

Q. Within --

35 A. Within 1 kilometre of it.

Q. That is the reference you have noted at 12.35.  
You said it was about 10 metres by 50 metres wide  
with no downward flames. The upwind flames were  
40 less than 0.5 metres high. This information was  
conveyed to Peter Galvin (Oscar 8) and COMCEN?

A. That is correct. That was the first spot fire  
I detected outside any of the control line.

45 Q. That was at 12.35?

A. Yes. I presume that's what I had - yes,  
12.35.

Q. Each of those grid squares on that scale map represent about 1 kilometre?

A. 1 kilometre by 1 kilometre.

5 Q. In a due east position from that spot outside the containment lines, it would be about 7 kilometres to the Murrumbidgee River to the east and another kilometre to the urban edge of Bonython and Gordon; is that correct?

10 A. Yes, that's correct, due east. Yes.

Q. And the forecast winds at that stage from the north-west, if the fire travelled in a south-easterly direction it might, although  
15 missing the urban edge, go through an area where there are a number of rural properties, hobby farms and things of that nature?

A. That's correct. Depending on the direction of the wind and if the fire continued to develop, it  
20 would continue towards the southern part of Tuggeranong or miss the urban area and affect the rural properties to the south of the urban area of Canberra.

25 Q. Moving on then, sir, a couple of minutes later you said:

"We detected another spot fire at grid references 800733, south of Paddys River."

30 Can you place that on the map? I think I noted it at 12.38, a couple of minutes later.

A. Something appears incorrect with that one. I would suggest that as I found when I was going  
35 back in my preparation over the weekend, I found one error in the transcript. That is certainly not the location. If I had access to the map that I had in the helicopter, I could find the spot. But that is --

40 Q. 800733 does not properly represent the point at this stage where you saw the spot fire?

A. That's correct.

45 Q. Are you able to, with reference to that map, and --

A. All of the spot fires that I first detected in

that general area were between - they were on the eastern side of the Paddys River Road somewhere between Paddys River Road and the Bullen Range and were in the area generally south of the  
5 Tidbinbilla tracking station, although I did record one at some point of time just to the west of the tracking station. They were in that clear land in that area. So that grid reference, the way it is plotted, is back in the forested area  
10 and is certainly not the correct grid reference.

Q. You indicate the description of that grid reference as south of Paddys River. Are you able to place that second tag in a more proximate  
15 position of your actual recollection of where that spot fire was?

A. Not without the actual map I had, I wouldn't want to be more precise.

20 Q. Perhaps if you remove that one. You have already indicated where it was in relation to the first. You have then indicated --

A. I might just add that it was generally in that same area. There were a number of spot fires  
25 quite close together.

Q. Again you reported that back to COMCEN.

A. Yes.

30 Q. Continuing --

A. Can I just add that actual grid reference could be checked quite easily from the map I had or the radio transcript of that conversation I had with COMCEN. When you proofread these statements,  
35 you generally look for errors in words. It is easy for numbers to be wrong.

Q. You won't get any criticism from me. You say:

40 "Continuing northwards we then observed another smaller spot fire at 12.45 hours, burning around a tree at grid reference 776785, west of Paddys River and south of the tracking station road."  
45

A. Yes. I have that one on the map.  
47

Q. This information was conveyed to Oscar 8,  
Peter Galvin?

A. Yes.

5 Q. And COMCEN?

A. Yes.

Q. You go on:

10 "The significance of these spot fires was  
that the Bendora fire had commenced active  
movement outside of the control lines and had  
crossed the Paddy's River Road and was in  
effect heading for Canberra."

15

That's what you have indicated in your statement?

A. Yes.

Q. You go on in paragraph 154:

20

"At about 12.50 we were conducting  
reconnaissance near Tharwa. By the time I  
got down there, the fire was running all over  
the place and we could see spot fires already  
25 over the Murrumbidgee River with the southern  
end of the Ingledene pine plantation already  
on fire."

30 Just to put it in the picture for everyone here,  
can you point to where the Ingledene pines are in  
relation to Canberra?

A. The Ingledene pines are about 5 or  
6 kilometres due south of the southern-most  
suburbs of Canberra. In this area (indicated).

35

Q. You say you detected a spot fire of the east  
of the Murrumbidgee River at grid reference 919648  
on the ridge just west of Guises Flat?

A. Yes.

40

Q. Is there a tag with that number on it?

A. Yes, there is.

45 MR PIKE: I hesitate to interrupt my friend but I  
have just checked the radio logs. At 12:40 what  
follows is a message:

47

"Pass message Oscar 5 - I believe this witness is Oscar 5 - the response is.

Yeah copy.

5

800733."

If that assists.

10 THE CORONER: Yes, thank you.

MR WHYBROW: It doesn't, actually.

15 THE CORONER: Thank you for trying, Mr Pike.

15

MR WHYBROW: I think we have got the evidence that whatever is written down there or reported wasn't exactly accurate. Certainly within a short distance of the spot that Mr Bartlett has referred to.

20

THE WITNESS: I have put that one to the west of Guises Creek on the map.

25 MR WHYBROW: Q. You indicated you conveyed this information to COMCEN as well?

A. Yes.

30 Q. Presumably also that the fire was running all over the place?

A. Yes. That was quite significant because that was east of the Murrumbidgee River and in close proximity of the Monaro Highway. That was a significant development in the fire.

35

Q. That is shortly before 1pm?

A. If that is what I have said, yes.

40 Q. As far as you are aware, is that the first --

A. I heard no radio traffic in the time I was flying around of anyone reporting the fire to be that far out of the known control lines or the known position of the fire earlier in the morning.

45 Q. Is it the first reference that you have become aware of of any fire to the east of the Murrumbidgee?

A. Yes.

Q. You indicate that it was about half a hectare in size and building rapidly. You then say:

5

"We then observed a new spot fire in the northern end of the Ingledene plantation at grid reference 995638."

10 If you could put that one on as well.

A. I have one extra tag here.

Q. 895638, yes.

15 A. You have confused me a bit by having the arrows in different parts.

Q. I was trying not to let them overlap. You have placed that one on there, sir?

A. Yes, I have.

20

Q. At paragraph 155 you indicate you gathered what information you could on the spot fires and you landed in the Namadgi visitors' centre at about 1.15 to refuel?

25 A. Yes.

Q. I note that Mr O'Brien in his statement indicates at paragraph 19, the document is [AFP.AFP.0001.0556] at 559 he indicates:

30

"About 1300 we flew back to Weston Creek police station and landed. Tony Bartlett received a couple of phone calls and we were only on the ground for about 15 minutes and then were airborne again. We were tasked to come back down to the south and report back on the fire that was now burning around Mt Tennant and Tharwa areas."

35

40 A. Sorry, did he say we went back to Weston Creek?

Q. Yes.

45 A. I don't have any recollection at that time of the day of going to Weston Creek.

Q. There were facilities to refuel out --

A. At the Namadgi visitors' centre there was fuel there. I am reasonably confident of my times because I checked it against all the radio logs when I was actually reconstructing where I was at various times.  
5

Q. Your recollection is that the refuelling took place at Namadgi?

A. Yes, certainly. Normally if we were to land on the ground, the pilot would also call COMCEN to indicate that we were landing.  
10

Q. Leaving aside the place where Mr O'Brien indicates you landed, perhaps having flown for 10 days he has got that confused. He goes on to say:  
15

"Tony Bartlett received a couple of phone calls and we were only on the ground for about 15 minutes and we were airborne again."  
20

A. I actually made the phone calls, I think, rather than received them.

Q. And you were then tasked to come back down to the south, continue to the south, and report back on the fire that was now burning around the Mt Tennant and Tharwa area?  
25

A. Yes, at that time, yes.  
30

Q. He indicates:

"We were reporting back in as to how far the fire had extended and we were reporting directly to group captains on the ground all spot fires that we sighted."  
35

A. Yes. I was doing my best to convey the information to the people there on the ground that needed to know what was happening. It wasn't easy because of the difficulty of communicating with the New South Wales units.  
40

Q. You have indicated, going back to your statement at paragraph 155 - perhaps this is one of the calls you made - that you spoke with Tony Graham by mobile phone and informed him of the  
45

potential threat to the Monaro Highway?

A. Yes.

5 Q. Do you recall doing that during this refuelling?

A. Yes, while I was on the ground, yes.

Q. You go on:

10 "However, over the mobile phone I was able to inform Tony Graham of my concerns that the fire was active over quite a wide front with a number of spot fires beyond what was a fairly significant control line, being the  
15 river."

A. Yes.

20 Q. So at this stage, about 1.15, you were indicating your serious concerns for that area of the Australian Capital Territory?

A. That's correct.

25 Q. You then go on:

"We also really did not have the resources to deploy easily to the spot fires burning up on Clear Range."

30 A. That's correct.

Q. Where is Clear Range?

35 A. Clear Range is to the east of the Murrumbidgee River. It is a mountain range between the Murrumbidgee River and the Monaro Highway. So all of the firefighting resources at that point were located to the west of the Murrumbidgee River. And the access across that river at that place - it is not direct access.

40 Q. So the fact that the fire spotting to that point - are you able to just for the purposes of the transcript give an approximate grid reference to Clear Range with reference to that map?

45 A. Okay. Now I have to read the numbers. Well, actually it is the same grid reference to where the spot fire was. It was in that part of the lower part of the Clear Range.

Q. That grid reference being?

A. 919648.

Q. Which is very proximate to the river itself?

5 A. No. Well, it is about a kilometre or a kilometre and a half away from the river. From the river, the terrain goes uphill quite dramatically.

10 Q. So that was a matter of concern to you from your observations?

A. Yes, it was.

Q. You say:

15

"From the ground there appeared to be a second fire east of the Murrumbidgee at approx grid reference 895667."

20 A. Sorry, I'm not sure what you are asking me.

Q. I was asking you to place that next tag on the map.

A. I think my statement clearly indicates I took  
25 an observation on where I thought there was a fire when I was on the ground and then, because we had been tasked or requested to go back towards Tidbinbilla, we didn't actually get a chance to fly over that. When we got airborne I could see  
30 it wasn't in the place where I thought it was from the ground but I had no capacity to actually accurately map that fire.

Q. On that map, along the eastern border of the  
35 Australian Capital Territory that border effectively runs along the top of Clear Range; does it not?

A. Sorry, you have to be more precise. I'm not  
40 sure where you are talking about.

Q. I've got hopefully a similar map. If I can direct you here, Mr Bartlett, there is the Monaro Highway running down the outside of the territory?

A. Yes.

45

Q. Due west of that is a wiggly border being the Australian Capital Territory border?

A. Yes.

Q. I suggest that that falls along what seems to be typed in along there "Clear Range" running some  
5 20 or so kilometres along north-south?

A. Yes. I can see that now, yes.

Q. What you were referring to earlier was the northern tip of Clear Range - well, is it?

10 A. It is either the northern tip of Clear Range or the southern part of Rob Roy Range. The map is not very clear in that area as to what the name of the actual feature is. The grid reference is the important point.

15

Q. In paragraph 156 you say:

"There was a radio request from COMCEN at  
20 1325 hours for me to send resources down towards the Naas Valley, although we could not see anything in that direction because of thick black smoke."

A. Yes.

25 Q. At paragraph 157 you say:

"At 1345 I observed a spot fire at grid reference 776765."

A. That's the grid reference that I corrected to  
30 785 --

THE CORONER: It is now 776785, I think.

MR WHYBROW: Q. That is in the Tidbinbilla  
35 Valley?

A. Yes.

Q. In the grasslands area or out of the ranges?

40 A. Yes.

Q. You observed that one that you noted before had grown considerably and was uncontained?

A. Yes.

45 Q. A couple of minutes after that --

A. With no resources working on it.

47

Q. At 1.47 you recorded another spot fire at grid reference 773774?

A. Yes.

5 Q. And another at about 790780. Do you have tags for those two?

A. Yes. I will see if I can find them again. What is the first one?

10 Q. 773774?

A. Somehow I must have messed these up.

THE CORONER: What about 776785?

15 MR WHYBROW: That has already been placed on the map, I think. That is the spot fire noted at 12.45, your Worship.

THE WITNESS: I can't readily find the little tag.  
20 Okay, I have found the tag. Yes, I have placed that one on the map.

MR WHYBROW: Q. The next one you noted was 790780 heading towards where Arthur Sayer was working on  
25 the ground.

A. Yes, I have a tag for that one. This one doesn't have an arrow on it. But they are all in the same general location.

30 Q. You indicate then that you recall putting down to Mr Sayer to advise him of another spot fire in his location. He informed you that he was aware of it but was out of water at this time?

A. Yes.

35

Q. This was at about 1.47?

A. Yes. The reason we put down is that he was not in a vehicle with a radio. The fire was moving towards him, and I wanted to make sure he  
40 knew it was coming.

Q. Would it be fair to say at this time you had significant concerns as to the fires that were in this area and the level of resources that were  
45 there?

A. Yes.

47

Q. Indeed those concerns extended that resources needed to be placed in this area because there were assets under immediate threat?

5 A. That's correct. I conveyed that to Peter Galvin when I first defected some of those spot fires.

Q. Perhaps for a moment you can take a seat. You have indicated in your record of interview towards 10 the end, it must have been a fairly exhausting experience, at question 390 --

A. Sorry, in the recording with the AFP?

Q. Yes, at page 85, sir. Have you got that?

15 A. Yes.

Q. You were asked a question referring you to paragraph 185 and the police quote this part of that paragraph:

20

"I believe the decision to allocate resources to protect rural assets on the morning of the 18th was the correct decision. Rather than retaining these resources in Canberra to defend the urban interface."

25

And Mr Lakatos asked about that a few moments ago.

A. Yes.

30 Q. You were asked:

"Q. Has that been I guess - that decision, was it in sort of - is there something --

35 You then answered the police:

"A. No, I just recall it is in the media, um, after the fire where people were saying they don't understand why all the fire trucks weren't lined up along Eucumbene Drive and so on and so on."

40

A. Yes.

Q. You continue:

45

"So that's merely reflecting that it was never really decided at the start that that's

what our priority should be, we just sort of sit there and wait for the fire. It was very clear that we would actively try to protect the assets as the fire moved."

5 A. Yes.

Q. It goes on:

10 "So get out there, close as possible to where the existing boundary is. As the fire starts to move, let's see if we can protect the assets as they come under threat."

A. Yes.

15 Q. It goes on:

"And it, you know - in between all those paragraphs what's clear is that the fire overruns the firefighters and so the fire beats the firefighters to the urban edge."

A. That's correct.

Q. Now at that stage in your answer are you reflecting that, as you envisaged the situation from the air from noon until about quarter to 2, there were serious concerns and assets under immediate threat in the south of Canberra and that resources should be deployed there to deal with the assets that the fire was immediately threatening?

30

A. Sorry, I am a little confused. When you say in the south of Canberra, are you referring to the urban edge or in the rural areas?

35 Q. Yes, indeed. In the urban areas where you had been flying around and putting tags on the map.

A. The rural areas.

Q. The rural - they were areas that you were concerned about?

40

A. Absolutely. There were significant private assets at threat in the rural areas.

Q. And in your opinion at immediate threat?

45 A. Yes, absolutely. I was trying to convey that information to the ground firefighters and make sure that where possible - and, you know, they had

difficult circumstances as well - they were actually deploying to the areas of highest priority.

5 Q. Coming back to your reconnaissance from about 1.30 you set down next to Mr Sayer and warned him of fire approaching. Was it at about that time Mr O'Brien was tasked to head towards the north?

10 A. That's correct. I can't recall which paragraph I say it in, but we did receive a radio message asking us to proceed towards Mt Stromlo because there had been a report of fire in the Stromlo plantation and we were asked to investigate whether that was the case.

15 At that point in time, given that I was observing spot fires in the Tidbinbilla area without resources on it, I actually wanted to land and have a discussion with Peter Galvin. We attempted  
20 to do that but then we were overrun by fire. That's an important point. You are gathering information about what is going on and it is difficult - you can't always have a good two-way discussion on the radio about some of these things  
25 with the amount of traffic that is on the radio.

Q. Perhaps it also conveys the seriousness of the fire situation down to the south where you were.

30 A. Absolutely. While we were in that area we saw very severe fire behaviour in the vicinity of the Tidbinbilla visitors' centre.

Q. Mr Bartlett, in putting together your statement and in order to be as accurate as possible about these times, I think as you have already indicated; you have gone through the logs to check transmissions?

A. Yes.

40 Q. And in that sense you would be reasonably confident of your times?

A. I'm very confident of the times. Obviously now I am less confident of at least one grid reference.

45

Q. You have got that in a general area as to --

A. Yeah, I know roughly. If we could locate the

actual map which was handed over to the AFP, the map I had in the helicopter has the spot marked on the map very clearly.

5 Q. In relation to when you were tasked to go north, was that after you had spoken to Mr Sayer on the ground?

A. I just need to check my statement.

10 THE CORONER: At about paragraph 158.

MR WATTS: That map is [DPP.DPP.0004.0024], the actual helicopter map.

15 THE WITNESS: Yes, so the answer to your question was yes, it was after I had spoken to Arthur Sayer. I mean, we literally landed on the ground; I jumped out and spoke to him for one or two minutes; jumped back in the helicopter; and we  
20 went again.

MR WHYBROW: Q. Again, if I can read out you to some of the evidence of Mr O'Brien from this point. It is at [AFP.AFP.0001.0556] at 0559,  
25 paragraph 20 he indicates:

"About 1330 I received a phone call on the helicopter's mobile from Peter Lucas-Smith who is the head of the ACT Bushfire and  
30 Emergency Services. Peter told me to head towards the Uriarra Mt McDonald area and stay in that area and report back as to what is happening with the fire front."

35 Does that appear to be the call to go north that you have referred to?

A. I am fairly certain there is a radio call also from COMCEN at 1338. The only way I could have been as precise as that is off the radio  
40 transcripts.

Q. Certainly we have got the time down then as to when you and Mr O'Brien were heading north?

A. That's correct.

45

Q. Mr O'Brien indicates:

47

5 "We flew from Tharwa straight down the western side of Uriarra. We arrived at the Uriarra Forestry area about 1345 and at this stage the fire was still in the hills to the west and it didn't appear to be making its way into the Mt McDonald pine forest."

10 Leaving aside the time plus or minus a few minutes, was that your observation that, when you arrived at the forestry area, the fire was still in the hills to the west and didn't appear to be making its way into the Mt McDonald pine forest?  
A. No. My recollection is that, when we arrived there, there was fire already in the Mt McDonald  
15 pine plantation. I refer to that in paragraph 160 of my statement.

Q. Okay --  
A. In fact, I recall very vividly we could see  
20 there was already fire in the Mt McDonald pine plantation long before we got there as a very large column of smoke, which would have prompted the calls to Curtin and which then prompted the discussion for us to go and have a look in that  
25 direction.

Q. That's the pines to the west of Uriarra Forestry settlement, is it?  
A. Mt McDonald plantation --

30 Q. It seems to run around from the west to the south and to the east?  
A. I need to look exactly on the map which direction. (Witness looks at map). No, the area  
35 where the fire was at Mt McDonald is to the south-east of Uriarra Forestry Settlement, it is not to the west.

Q. Sorry, at paragraph 160 in your statement, you  
40 indicate:

"We continued on towards the Uriarra Settlement. I could see there was no fire in the Stromlo pine plantation at that time,  
45 advising COMCEN accordingly at 1357."

A. That's correct.  
47

Q. You go on:

5 "The Mt McDonald pine plantation to the immediate west of the Uriarra Settlement was already well on fire."

A. Okay, there is an error in mine. It should be south-east not immediate west.

Q. So that statement is wrong then?

10 A. Maybe I was referring to the pine plantation behind Uriarra Settlement to the west of Uriarra Settlement. There was certainly in my recollection no fire just to the west of Uriarra Settlement at that point in time. But the  
15 Mt McDonald part of that plantation, which are pretty well interconnected was already on fire. There was a spot fire, if you like, in the Mt McDonald pine plantation or in the Uriarra plantation at Mt McDonald. Perhaps it is not  
20 clear enough in my statement.

Q. That is at 2 o'clock. Depending on exactly where this observation was made, do you agree that is in a direct line about 8 kilometres from the  
25 edge of Duffy?

A. You want me to check that on the map?

Q. If you need to.

30 A. Just with my knowledge of that area, that is approximately the distance it would have been away, yes.

Q. Mr O'Brien indicates, having got up there - I am going to ask you if this was your observation -  
35 there was a lot of helicopter traffic in the area; a number of choppers were water bombing.

A. Yes, I recall other helicopters in the general area.

40 Q. All the New South Wales water bombing helicopters and air attack helicopters were based at the Uriarra Forestry settlement and were operating and refuelling from this location?

45 A. That's not correct. At that point in time they were not operating out of Uriarra Settlement.

Q. At that point in time?

A. That's correct. They had been in the previous days but not at that point in time.

Q. But at that point in time there were a number  
5 of helicopters water bombing in the area?

A. That's correct.

Q. Mr O'Brien indicates:

10 "I was wondering why we were here because it  
didn't seem like a danger area."

Compared to what you had observed in the south of  
Canberra - was that your feeling as well?

15 A. No. The fact that there was fire advancing  
from, if you like, the McIntyre's Hut fire, spot  
fires moving towards Canberra, that was also a  
very dangerous situation. So I was quite  
comfortable that we were investigating that. In  
20 fact, in terms of the relative threat, I would say  
that the threat was greater - even though the fire  
was small, there were less spot fires - in the  
Mt McDonald area than it was in the south. So it  
was a totally appropriate call to ask us to go  
25 there.

Q. Oh, no, I am not questioning that call. I was  
putting to you Mr O'Brien's statement that he was  
wondering why you were there because it didn't  
30 seem like a danger area - not the correctness of  
the call but his belief at that stage perhaps just  
having come from the south?

A. Well, I think what he is highlighting is the  
difficulty we faced on that day that there was a  
35 need for people to be giving advice at all parts  
of the fire from north to south. And it becomes a  
relative judgment. You can only be in one spot at  
one point in time as to where the most important  
part is.

40

Q. At paragraph 161 you say you flew up to the  
junction of Brindabella Road and Uriarra Road  
noting a police road block and a New South Wales  
fire tanker at that location.

45 A. Yes.

Q. There was a 10-hectare spot fire around

Uriarra Creek at grid reference 755967?

A. That's correct.

5 Q. There should be another set of tags in red. I ask you to put that one on.

A. I can find this one.

Q. That is at approximately 2pm that you make that observation?

10 A. Yes. That would appear to be right because the previous paragraph I talk about at 1357 so somewhere between 1357 and 1406.

15 Q. From the corner of Eucumbene Drive and Warragamba Avenue in Duffy, that position that you have just plotted is almost perfectly north-west of that corner of the urban edge?

A. That's correct.

20 Q. I suggest that in terms of straight line distance, it is just on 11 kilometres from that point to the corner?

A. Yes, that would be about right.

25 Q. Whilst you were there, sir --

A. It might be slightly less. It is somewhere in the order of 10 kilometres.

30 Q. In the fires of 2001 can you just, perhaps use your finger, outline generally where the pine forests that burned in that fire in relation to the urban edge of Canberra were?

A. Sorry, you are asking me to indicate the 2001 fire?

35

Q. Yes.

40 A. They were located just to the west of Coppins Crossing Road and also to the east of the Molonglo River; so, if you like, to the north of the Weston Creek suburbs.

Q. And abutting the Tuggeranong Parkway area?

45 A. The fire crossed the Tuggeranong Parkway, both sides of the parkway.

Q. Are you aware that warnings and an emergency warning was issued to residents in those areas

during those fires?

A. During the 2001 fires?

Q. Yes.

5 A. I believe so.

Q. Those fires at those points when the warnings were issued, I suggest, were about 2 kilometres and less from the urban interface?

10 A. That's correct, burning under different circumstances.

Q. Yes, they were in the forests at times there?

15 A. And under very different weather circumstances.

Q. Let me ask you this question: you are aware that - obviously not at the time but subsequently - the emergency warning in relation to the January 2003 fires was being prepared at 2pm and subsequently was issued shortly after that?

A. I have no knowledge of that.

25 Q. At 2pm, based on the observation that you made though, that particular point that you plotted is some 5 times further than the urban edge than the fires in 2001 were burning?

30 A. That was one point. I would have said though the more significant fire at that point in time was the fire in Mt McDonald plantation which was much closer than 10 or 11 kilometres.

35 Q. That was about 8 kilometres, as we have already indicated?

A. I would be surprised if it was that far. Without a ruler I can't check, but it looks to me to be somewhere in the order of 5, maybe 6 at the maximum.

40

Q. Are you going from whereabouts in Mt McDonald?

45 A. Even if you take the trig point where it says "Mt McDonald", because there was certainly fire just underneath that trig point, from there directly to the corner of Eucumbene Drive and Warragamba Drive. It is not far off the north-west south-east direction.

Q. I suggest to you it is almost exactly 8 kilometres. I can provide you with a ruler if you would like to check?

A. If you have measured, I believe you.

5

Q. Moving on, you then remain in this area and make a number of other observations including at paragraph 162 of some cars travelling along Brindabella Road.

10 A. Yes.

Q. And going over the page, paragraph 163:

15 "We then flew down around the bottom of Uriarra Road towards the Murrumbidgee River trying to gain information on the fire's progress. I recorded a fire north-west of Huntly at 788945."

A. Yes.

20

Q. If you could plot that on the map. It is out of the ranges then, is it not?

A. Sorry?

25 Q. That is out of the ranges and into what is being called the "grasslands"?

A. That's correct. Would you like me to put this one on the map?

30 Q. Yes, please, sir.

A. I have done that.

Q. What time would this observation have been, the best that you can recall?

35 A. I need to look at my statement.

Q. Certainly. It seems to be somewhere between 2.13 and 2.22.

40 A. Yes, I suggest it is probably in the order of 1415 approximately, remembering where we flew in the helicopter at that time.

Q. You then indicate:

45 "At that time, the fire was right down into the grassland at the bottom of Mt McDonald down near the Murrumbidgee River and it

wasn't going to be long before it was going to be spotting across into the Stromlo pine plantation."

A. Yes.

5

Q. When you say "near the Murrumbidgee River", was that on the east or western side at that stage?

A. At that point in time it was on the western side.

10

Q. A couple of minutes later you say:

"At 1422 I advised COMCEN that the fire was burning in grassland (east of the Murrumbidgee River) and just about to enter the western portion of the Mt Stromlo plantation."

15

A. Yes, that's correct.

20

Q. So your observation is, in effect, that certainly from where you were the fire crossed the Murrumbidgee River at about 2.20, plus or minus a few minutes?

A. That's correct. We were flying in the general area so we had a pretty good view. As soon as that spot fire occurred on the eastern side, we saw it. So I would have taken - you know, as you have seen - a few moments to plot it on the map and then I would have called COMCEN as soon as the air radio frequencies were free. So it would have been at roughly 1420 that the fire occurred on the eastern side of the Murrumbidgee River.

25

30

Q. You say with confidence that it is within a couple of minutes of being accurate?

A. Yes, because of being able to track back the time of the actual radio call.

35

Q. At paragraph 164 you overhear a conversation between COMCEN and Mr Galvin for deploying resources to the Congwarra homestead?

A. Yes.

40

Q. That is down in the Tidbinbilla Valley area, is it?

A. Yes.

45

Q. You then say:

5 "We had flown back over towards the  
Tidbinbilla Tracking Station and I could see  
extreme fire behaviour in the vicinity."

A. Yes. What I meant there is at one point in  
time while we were kind of flying around in the  
Mt McDonald area, I said to the pilot, "let's see"  
10 because remember when we left Tidbinbilla, there  
were a lot of active spot fires happening and I  
was particularly interested to know whether the  
fire had made it into the Bullen Range. I said,  
15 "Let's see if we can track back that way a little  
bit to see what was going on." There was a lot of  
smoke. That is what I was saying. We would track  
back in that direction trying to see what was  
happening toward Tidbinbilla. I could see a lot  
20 of fire behaviour, although we didn't get close  
enough. I presume that was the fire starting to  
run up into the Bullen Range.

Q. Paragraph 165 you say:

25 "The fire behaviour by this time had become  
dramatic and having just advised that it had  
reached the Stromlo plantation, I could also  
see that parts of the Bullen Range were now  
burning, although the smoke was too severe  
30 around the Stromlo area to get a clear view."

A. That's correct.

Q. The Bullen Range is further south and just on  
the western side of the Murrumbidgee River; is  
35 that correct?

A. I don't know what you mean by "further south".

Q. Perhaps it extends up the Murrumbidgee  
corridor?

40 A. That's correct.

Q. Is the Bullen Range to the immediate west of  
the Murrumbidgee River?

A. Yes.

45

Q. You then say:

47

5 "We flew up over Mt Stromlo, as I wanted to make sure that the property evacuation procedures had been put in place because up until now I had not had any feedback about what was happening on the ground."

A. Yes. It was obvious to me that the fire was going to burn up Mt Stromlo, and I wanted to be sure that there weren't tourists or whatever caught on that road.

10

Q. You indicated at that time - that time being somewhere between 2.30 and 2.39; would that be correct?

A. Yes.

15

Q. It goes on:

20 "At that time it was obvious that the public had evacuated from Mt Stromlo and that staff were preparing to defend the assets from approaching fire."

A. Yes, we could see that from the air.

25 Q. In paragraph 166 you indicate you can see the fire advancing towards the summit of Mt Stromlo and record the main fire was at 815896.

A. Yes.

30 Q. That is at 2.39?

A. Yes.

Q. If you could plot that point on the map, please, sir.

A. Yes, I have done that.

35

40 Q. You radioed COMCEN and indicated that you thought they ought to get in touch with people on Mt Stromlo as the road access was going to come under threat and, if anyone needed to leave, they needed to do it quickly or lose their opportunity.

45 A. What I was concerned about there was that point that I have just plotted was, I guess, to the south-east of the Mt Stromlo Observatory. So the people on top of the hill might have at some point in time got a feeling that the fire was now threatening them. I have seen in other fires how people tend to panic. If they tried to leave,

they were going to run straight into the path of that fire by going down the only access road.

5 Q. Is it fair to say that your observations at that time was that the fire was moving at a ferociously fast speed?

A. It was moving quickly through the plantations. I don't know how you define "ferociously fast". In my statement I have calculated from the time it  
10 entered the most western part of the Stromlo plantation to the time it got to the Duffy interface it was travelling somewhere in the order of 6 kilometres per hour through that plantation up and down over the mountain. That is quite  
15 quick for a fire in a pine plantation. Not the fastest time or the spread rate ever recorded in plantations but nevertheless faster than the 2001 fire.

20 Q. And there was, between it crossing the river and the Stromlo plantation, some barer areas; it wasn't all pine plantation through?

A. Before it got into the plantation, that's correct, yes.

25 Q. You then indicate not long after that but before it reached the top of Mt Stromlo there was a spot fire in Deek's Forest at grid reference 846890.

30 A. Yes. Would you like me to plot that one?

Q. Yes, sir.

A. I have done that.

35 Q. That is within a few hundred metres of the urban interface at that stage, isn't it?

A. Yes, less than 500 metres, I would suggest.

40 Q. I am not doubting your observation at all but your observation is that the fire crossed the Murrumbidgee River at 2.20?

A. Yes.

45 Q. It is within a couple hundred metres of the urban interface at 2.39?

A. Yes. Spot fire. It wasn't continuous fire in there. I am making the point the main advance of

the fire was still on the western side of the summit of Mt Stromlo when I detected that spot fire.

5 Q. The one in Deek's Forest?

A. Yes.

Q. This is the point where you indicate that the fire was developing rapidly and heading towards  
10 the ACT Forests office?

A. Yes.

Q. Was this the first time you had concerns for your forestry office?

15 A. Yes.

Q. Not long after that your depot was destroyed by fire?

20 A. That's correct.

Q. You can have a seat, Mr Bartlett. Just finishing on this area, can you recall approximately how many helicopters you could see working on these fires as they were approaching?

25 A. If you want me to give a number, that's very difficult. There were a large number. The number was I guess somewhere in the order of - we saw different helicopters at different times. There would have been probably about 10 different  
30 helicopters flying around. I don't know exactly how many.

Q. As far as you could see, they were, when they were dropping water it was on this fire front  
35 approaching from the north-west towards Canberra?

A. No, they weren't dropping water on the fire front. I didn't see them doing that at any point in time. I saw them working. As an example, in  
40 the Huntly area I saw helicopters working to support some ground firefighters trying to, in particular, with asset protection, trying to stop parts of the fire front and spot fires that were immediately threatening significant assets.

45 But the helicopters at that stage could never have hoped to put out an advancing fire front. All they could do was work in specific areas.

Q. And perhaps try and slow the approach of the fire.

A. Well, only marginally in specific areas, yes.

5 MR WHYBROW: Might that be an appropriate time, your Worship?

THE CORONER: Yes, we will take the luncheon adjournment.

10

**LUNCHEON ADJOURNMENT**

**[1.03pm]**

**RESUMED**

**[2.02pm]**

15 MR LASRY: Your Worship, before whatever is going to happen next happens, your Worship might recall that I asked this witness about some recommendations he made following the  
20 December 2001 fire, and he said he had provided a number of recommendations. We have located a copy of a report dated 19 February 2002, signed by Mr Bartlett, which I gather is the document to which he was referring.

25 We have had copies made and distributed. I will now tender the document as an exhibit, if I may. I will ask him some questions about it at the end when my turn comes again.

30 THE CORONER: The document prepared by Mr Bartlett dated 19 February 2002, entitled "report prepared by Tony Bartlett incident controller" will become exhibit 0065.

35 **EXHIBIT #0065 - REPORT PREPARED BY TONY BARTLETT INCIDENT CONTROLLER DATED 19/02/02 TENDERED, ADMITTED WITHOUT OBJECTION**

40 MR PHILIP WALKER: On that, while I haven't objected to the tender of the document, it is unlikely to be successful, but I haven't had an opportunity to look through it even, let alone talk to Mr Lucas-Smith about it.

45 THE CORONER: Yes, I understand, Mr Walker.

MR WATTS: While we are tendering things, that

Powerpoint presentation that was shown this morning, there are black and white copies of that on the system. I would ask that the coloured ones, if they are not on there - I would tender the Powerpoint presentation that is now on the system, if that be necessary.

THE CORONER: I think if it is in the system it is probably there.

MR WATTS: I think it is only in the system because I handed up a CDROM.

THE CORONER: I think the rule is you shouldn't put anything into the system unless it is tendered.

MR WATTS: I put it in the machine so that it could be shown on the screen. If it be necessary, I should probably tender it.

THE CORONER: We should tender it them.

MR LASRY: If all we have on courtbook at the moment is the black and white version, that will have a number because it is in our database. If what is being sought to be added is the colour version, then we would accept that, because obviously the colour version is a better version than the black and white version. It may be appropriate to give the CD which has been given to the court operator an exhibit number. Ultimately that will find its way onto the system, I suspect.

COURT OPERATOR: It has a document number.

MR LASRY: It has been referred to and it is now obvious to everybody that it forms part of the brief.

THE CORONER: Yes, thank you. Mr Whybrow.

MR WHYBROW: Thank you, your Worship.

Q. Mr Bartlett, you will be pleased to know I have finished with the map. If I can take you back to the evidence you gave about your concerns

that you had for the assets being your pine forests earlier on in the incident from about the 10th of January that you gave evidence of having a conversation with Mr Thompson.

5 A. That wasn't my only concern, but certainly the pine plantations was one of the things I was concerned about.

10 Q. Well, in particular in relation to Mr Thompson you were expressing concerns to him that fires that may impact on those be resourced adequately, that they were an important asset that needs to be considered in any firefight?

15 A. Yes, but I didn't distinguish between the plantations, the rural assets and the urban assets. I certainly mentioned all three of them to Mr Thompson.

20 Q. At this stage the fires had been burning for just under 48 hours?

A. Yes, approximately, yes.

25 Q. You went and saw the head of your department?

A. Yes.

30 Q. You indicated I think yesterday in relation to serious concerns you had about New South Wales not putting enough resources into McIntyre's Hut fire?

A. Yes.

35 Q. That you had an asset which was very close to that fire and could be destroyed by that fire if it was not contained?

A. That's correct.

40 Q. I take it that was the main purpose of you contacting the head of your department to express to him your grave concerns that not enough was being done to contain that fire and the consequence that our asset might be destroyed?

45 A. That wasn't the main purpose; that was one of the purposes. I was very clear in that meeting that I was equally concerned about the potential for that fire to threaten Canberra if the actions that had been agreed at the meeting on the first night weren't implemented. I certainly didn't go in there and just talk about the threat to the

pine plantation.

Q. This is the conversation you were having with Mr Thompson?

5 A. That's correct, yes.

Q. In any event, there is then a phone call placed by Mr Thompson to Mr Castle?

A. Yes.

10

Q. You have a clear recollection that it was on speaker phone?

A. Yes.

15 Q. I think you have given evidence also that, at the end of that conversation, you have a clear recollection that it was decided that Mr Castle would go to Queanbeyan with you?

A. Actually, I do need to clarify there because  
20 there was one other thing which I believe was decided, there was no need for us to have that sort of meeting to get me to go to Queanbeyan - we had been doing that already. The point was I thought it was agreed that it would be taken up in  
25 high places and that Mr Castle would take the issue up with someone high in the Rural Fire Service that we were unhappy with the level of resources and action on the New South Wales fire.

30 And we would go to Queanbeyan that night to see how they were responding to any phone calls that were put through to people in high places. So when it was discussed yesterday about my proposal to involve politicians, that is kind of a last  
35 resort if you can't get senior people in fire organisations to say that not enough is being done and we are going to do something more.

Q. Let me ask you the question again: is it your  
40 evidence that, at the conclusion of that conversation that you were not a party to but you say you overheard, it was agreed that Mr Castle would attend the New South Wales Incident Management Team planning meeting that night at  
45 Queanbeyan?

A. I can't be absolutely sure that that was agreed. I think it was but I can't be absolutely

sure. Some time during the afternoon that was agreed. It may well have been on that telephone conversation or it might have been later in the afternoon.

5

Q. At page 5978, I am afraid to say, of the transcript of this inquest, you were asked by Mr Lasry yesterday.

10 "Q. It was agreed as a result of that conversation, as you say in paragraph 44, that you and Mr Castle would attend the New South Wales Incident Management Team planning meeting that night at Queanbeyan; is that  
15 right?

"A. That's correct."

A. Well, all I am doing is clarifying that. I didn't say in that initial response whether that  
20 happened at that time we were having the telephone or the teleconference, if you like, it may well have. It certainly was an outcome. That would not have happened if I hadn't had that meeting with Mr Thompson and subsequent phone call with Mr Castle. Before I went to that meeting with  
25 Mr Thompson, I wasn't going to Queanbeyan that night.

Q. I am talking about Mr Castle going to Queanbeyan that night. Are you saying as a result  
30 of this conversation you understand that Mr Castle went to Queanbeyan?

A. Yes. But - sorry, I think you need to give me time to think about the answer to that.

35 Q. Sorry.

A. I don't honestly recall that Mr Thompson and Mr Castle agreed on that phone call that that  
40 would be the outcome. Because, as I said, what we were trying to do is to say in high places not just at the Incident Management Team meeting in Queanbeyan - that this issue needed to be taken up in high places. That was the purpose of me going to see Mr Thompson in the first place.

45 Q. In fairness to your position, this is a short conversation to which you were not a direct party to; is that right?

A. That's right. The conversation was between Mr Thompson and Mr Castle.

5 Q. You don't have any notes of it so that you have been able to refresh your memory of the contents of it?

A. I had some notes which I took afterwards, but those notes were destroyed in my office on the 18th of January.

10

Q. Did you attempt to reconstruct this conversation shortly after those notes were destroyed?

15 A. Only insofar as it appears in the documents, both my statement and the other documents which have been tendered, in the weeks after the fire I actually tried to reconstruct as much as I could from memory. Those documents were submitted to the police as well.

20

Q. These were handwritten notes of your reconstruction?

A. They were typed notes, but yes.

25 Q. You understand that those typed notes which formed the basis of your statement are with this inquiry and are on the record?

A. They certainly have been given to the AFP, yes.

30

Q. There is a difference between those two. They may well be there. Could I ask whether or not they are, if anybody knows.

35 MR WATTS: Your Worship, I have a copy. I don't think they are in fact on the system. I can provide my learned friend with a copy of those. Perhaps if I might show them to the witness to confirm these are the notes.

40

THE CORONER: They don't have a number on the bottom, Mr Watts?

MR WATTS: No.

45

THE WITNESS: Yes, they are the notes.

47

MR WATTS: Sorry, Mr Bartlett, could you just look at each page to confirm I haven't stapled other things to the back?

5 THE WITNESS: All that is stapled to the back, I think, is my CV. There were two sets of notes: one which I made for every other day other than the 18th. So from the 8th of January to the 16th of January. I got a JP to witness my signature of  
10 that on 10 February.

There was another set of notes which just related to the 18th of January, which I also got a JP to sign, and that was on 3 February.

15

MR WATTS: Your CV wasn't part of your notes?

THE WITNESS: No.

20 MR WATTS: It was just something I attached.

MR ERSKINE: Which year were they signed - 2003 or 2004?

25 THE WITNESS: Straight after the fire, 2003. As quickly as I could after the fire I tried to at least write down - because I was in a difficult position. All my written notes were destroyed. I knew there would be an inquiry. I wanted to write  
30 as much as I could before I got access to all of the radio logs.

MR WHYBROW: I am anxious not to ask to stop for that purpose. Mr Watts is going to have a quick  
35 look for me in relation to the issues that I have.

Q. Mr Bartlett, in relation to your recollection, I think you have indicated there was a short conversation to which you were not a party  
40 directly --

A. Well, it was on speaker phone. I may well have made some comments as well during the conversation.

45 Q. I suggest to you that you did not. I suggest to you that you did not make any comments such that Mr Castle heard them?

A. Okay, well, if that is his recollection, I'm not going to challenge that.

5 Q. I suggest to you the conversation with respect to Mr Castle was directed towards ensuring that the pine plantations, which represented a significant asset to you and Mr Thompson's department, were given the same level of resourcing and emphasis as other assets including  
10 Cotter Catchment, environmental concerns and Namadgi National Park. I suggest to you that the emphasis of the conversation between Mr Thompson and Mr Castle was bringing to the attention of Mr Castle the pine assets needed to be properly  
15 resourced to the same level as conservation assets?

A. I don't agree with that.

20 Q. You have already indicated that you don't recall exactly what was said during this conversation. What you are doing is giving your best recollection of the gist of it.

A. I do recollect that both - well, the three  
25 assets at risk were given equal prominence in the discussions.

Q. You also recollect, as best you can, that it was as a result of this conversation that led to Mr Castle attending Queanbeyan that night?

30 A. That was one of the outcomes, yes. But what I don't know, because no-one has ever told me, is whether there was a telephone call or some contact at high places. I infer in my statement that I  
35 heard from the ACT person in charge of National Parks that there was some discussion with her counterpart, but I don't know whether there was ever any discussion with someone high up in the Rural Fire Service. That was what I was asking  
40 for.

Q. You attended this meeting that eventuated on the 10th with Mr Castle?

A. Yes.

45 Q. It was directed to the actual operational fight of McIntyre's Hut fire; was it not?

A. Could you just elaborate a little bit about

what you mean?

Q. Well, you have been asked a number of questions about whether back-burning should start, whether it shouldn't start, different views people had about where it should go, the level of resources in terms of where containment lines should be put, when back-burning should be commenced, things of that nature?

5  
10 A. There wasn't really discussion about where the containment line should be. It was about when they were going to implement the strategies that they had already agreed to. If you want to say that that is operational firefighting, then yes, but it was strategic. It was about implementing an agreed strategy to control that fire.

Q. Based on being experienced firefighters yourself, the New South Wales people and discussing the various options and putting forward different points of view?

20  
A. I don't believe at that meeting we discussed different options. They weren't trying to vary the strategy. It was about when the strategy would be implemented.

Q. Discussion of that subject is one that is of an operational nature; is it not?

30 A. Yes, if you are talking about what time do we light the back-burn. That is operational, yes. It is also a strategic decision.

Q. Mr Castle was not somebody who was qualified to be involved in those sorts of decisions, was he?

35 A. Well, I don't think I can comment on that. That's not for me to say.

Q. He wasn't a firefighter, to your knowledge?

40 A. He went as the - I think I recall hearing in early evidence here in this court that he went as the representative of the Chief Fire Control Officer.

45 Q. Well, I can suggest to you that the reason he went is because Mr Lucas-Smith asked him to go at about 6 o'clock at the last minute, because

something had come up and he wanted Mr Castle to fill his place and to pass a message over as to the level of resources Mr Lucas-Smith could provide to New South Wales?

5 A. That may be the case.

Q. If that is the case, then Mr Castle's attendance that evening had absolutely nothing to do with the conversation with Mr Thompson at 2.30, I suggest?

10 A. I don't understand.

Q. Well, you have asserted the reason Mr Castle went to Queanbeyan that night was as a consequence of this conversation with Mr Thompson at about 2 o'clock in the afternoon?

15 A. No. I'm saying that that was one of the outcomes that we went to Queanbeyan. The ACT was present with high level officers at Queanbeyan that night to find out whether or not New South Wales had agreed to increase the level of resourcing to implement the agreed strategies. If I haven't said that in those exact words, that's what I have meant to be conveying.

25 Q. I am suggesting to you that it was nothing to do with the conversation between Mr Thompson and Mr Castle that led to Mr Castle going to Queanbeyan that night?

30 A. Well, if that is what you are contending - I don't understand - well why did I go?

Q. I am not asking you that question; I am asking about Mr Castle's interest. Mr Watts might ask you that. Do you accept or are you open to the suggestion that the reason Mr Castle went was as a result of a last-minute request of Mr Lucas-Smith?

35 A. Well, if that is what you are suggesting, I am not going to deny it.

40

Q. Well, I will put it in context. At page 927 on the 17th of February, Mr Lasry asked Mr Lucas-Smith about this issue. What he asked was:

45

"Q. On 10 January at about 6pm there was a meeting at Queanbeyan which I think by

Mr Castle and Mr Bartlett which is described as being for the purpose of discussing ACT concerns in relation to the McIntyre's Hut fire."

5

Just stopping there. You had concerns about the McIntyre's Hut fire; did you not?

A. Yes.

10 Q. You discussed those concerns when you got to Queanbeyan; did you not?

A. Yes.

15 Q. The question continues:

"As I follow it, Mr Graham didn't attend the meeting and neither did you?

"A. That's correct.

20 "Q. Does that make sense to you?

"A. Yes.

"Q. You are aware of the meeting?

25 "A. Yes. It was my intention to go. At the last minute, because of other pressures, I in fact asked Mr Castle to go on my behalf."

And Mr Lucas-Smith then goes on in relation to that. If I can take you to evidence of Mr Castle. In paragraph 74 of his statement at page 1398 of the transcript, Mr Castle indicates:

35 "In the evening, at approximately 6pm, Mr Lucas-Smith asked me to go to RFS control centre in Queanbeyan to convey to New South Wales that the maximum resources that ACT could provide for assistance for proposed back-burning off the Powerlines Road was four tankers and four light units."

40

That was, I suggest to you, the reason that Mr Castle was there that night.

A. I don't agree.

45 Q. I suggest to you that is the information he conveyed to New South Wales that that was the level of resources that the ACT could spare and

provide to New South Wales at that stage.

5 A. I am not disagreeing that he didn't convey  
that information. But I don't understand what was  
the purpose of the telephone call between  
Mr Thompson and Mr Castle if it wasn't to make  
sure that somebody in a high place from the ACT  
went to that meeting to actually raise our  
concerns and to follow up any telephone calls that  
might have been made to the Rural Fire Service  
10 during the afternoon.

Q. This was an operational meeting as to the  
strategies that were going to be employed on that  
fire by the fire controller, Mr Arthur?

15 A. But it was our only capacity to find out what  
was happening from a strategic point of view.

Q. Perhaps that is the reason why you went?

A. No, when I went - no, I don't think so.  
20 That's not right.

Q. I suggest to you the only reason Mr Castle  
went was to convey that message, which he did, and  
he did not participate in the other discussions  
25 about operational, strategic firefighting?

A. Well, can I put it you to then --

Q. No, do you accept that or not, first?

A. Repeat the question, please.  
30

Q. I suggest to you that Mr Castle attended that  
meeting to convey that message, which he did?

A. I agree he conveyed that message.

35 Q. And then did not take part in other  
discussions about operational, strategic  
firefighting of which he was not qualified to  
participate in.

A. Well, he certainly sat through those meetings.  
40 I know that he had a one-on-one meeting with  
Mr Arthur at the end of the meeting. I'm not sure  
what happened in there, whether that was about  
strategic or operational issues.

45 Q. You don't know what that was about?

A. I don't know; I wasn't present.  
47

Q. Did you go in the same car?

A. Yes, we did.

5 Q. There was much discussion at that meeting  
about whether or not Mr Neil Cooper, a very  
capable and qualified firefighter, could, in  
effect, take over the back-burning operations of  
New South Wales; was there not?

10 A. That's right.

Q. There was concern expressed by New South Wales  
that, being a fire in New South Wales, the  
incident controller or something like that needed  
to be a member of the Rural Fire Service?

15 A. I'm not sure that we were asking for him to be  
the incident controller.

Q. Or a person in charge of a significant  
back-burn or any back-burn like that in New South  
20 Wales, New South Wales's view was it had to be one  
of their people?

A. That's what they were saying, yes.

Q. I suggest to you that that's what Mr Castle  
25 discussed with Mr Arthur and then conveyed that to  
you?

A. That may well have been. He certainly told me  
at the end of the meeting that Mr Arthur had some  
concerns about whether we could legally put an ACT  
30 person in charge of a burning operation in New  
South Wales.

Q. Mr Peter Galvin was there at that meeting as  
well, I suggest?

35 A. I don't recall that.

Q. Up until the afternoon of the 10th, Neil  
Cooper had been in Queanbeyan as the liaison  
officer for the ACT Bushfire Service?

40 A. Yes.

Q. On that afternoon he stood down and Mr Galvin  
took his place and was at that meeting, I suggest?

45 A. Well, if he was, I don't recall having any  
discussions with Mr Galvin during or at that  
meeting.

47

Q. Mr Galvin was asked in a record of interview with police - the reference is [DPP.DPP.0004.0026] - between Detective Cox and Peter Galvin.

5 A. Would it be possible to bring that up on the screen, please?

Q. I think it will come up. Just so you know where it is, in his statement Mr Galvin refers to, in passing, this meeting on the 10th at Queanbeyan.

A. Yes.

Q. He is asked in question 48, page 10:

15 "Q. You talk about - you realised containment of the fires would take a lot of work, and if they didn't contain them, then the pine forest and the urban edge of Canberra would be under threat. Or you stated the pine forests would be under threat -- "

Referring to his statement:

25 "Did you discuss this opinion at that meeting?"

A. That is going too fast for me. Can I ask you: this is Mr Galvin saying this?

Q. This is Mr Galvin being asked questions about this meeting relating to his statement where he had indicated that he had concerns similar to yours that the pine forests needed to be protected and if they were not urban Canberra eventually may come under threat.

35 A. Yes.

Q. He is asked about that in his record of interview where he said in his statement:

40 "You stated the pine forest would be under threat and if that was then Canberra would be after that. Did you discuss this opinion at that meeting?"

45 A. Can I ask you please to go back - the person controlling this - I would like to see which meeting he is referring to. I am not absolutely

sure it is the same meeting I was at.

Q. We can go back one page. You see the bottom of page 9.

5 A. It says there "you attended a briefing at 1100 hours on what was the 9th". That was not the same meeting I am talking about. The meeting we went to was in the evening.

10 Q. Yes, if I can go back to my questioning, Mr Bartlett. On page 10, I have read question 48 to you. He indicated in relation to his thoughts:

15 "Did you discuss this opinion at that meeting?"

Now, further on he is asked the context of that meeting. He has indicated "Tony Bartlett over in Queanbeyan".

20

THE CORONER: Where is that?

MR WHYBROW: Question 50 on the same page.

25 THE CORONER: I will just tell you, I don't know if anybody else has made this notation, at the answer at question 50 "pretty sure it was Tony Bartlett" I have got Bartlett crossed out and "Graham" written in instead. I suspect that was  
30 might have been an amendment that Mr Galvin made. I would not have made that without Mr Galvin seeking to amend that.

35 MR WHYBROW: I see the series, 48, 49 and 50 in that context seems to be relating to this meeting in Queanbeyan, especially when Mr Galvin was apparently there that night. If that is the case, I withdraw the question.

40 MR WATTS: I object to it.

MR WHYBROW: I cannot put with certainty that that is the same meeting.

45 THE CORONER: I just say to you that in that answer to question 50 "Bartlett" was replaced with "Graham" by Mr Galvin.

MR WHYBROW: Q. At that meeting, again I suggest to you that you were expressing quite strongly your concerns that your forests needed to be protected and, as a consequence, this fire needed to be fought more vigorously than New South Wales was doing?

5  
A. I would have expressed the view that the plantations were under threat as I would have continued to hold and express the view about the threat to the rural assets of the ACT and the urban assets.

Q. That's why I am asking you - you just used the phrase "I would have"?

15 A. I did.

Q. Can I suggest to you it may have been something you were thinking of but not something that was expressed to the persons at that meeting?

20 A. I would ask you to tender evidence of exactly what I said that confines it to plantation assets, because certainly I have a very, very strong recollection that I first went to see Mr Thompson because of my concern about all of the things. In fact, I showed him a map - I have indicated that - that showed clearly that the fire could move 15 kilometres in one day. I remember distinctly showing him with a map of Canberra that would take it to the urban edge.

30

Q. I am talking about the evening with Mr Arthur?

A. It is about the same issue. Why would I have at one point in time said I was concerned about not only the pine plantations but the rural assets and potentially the urban part of Canberra and then in the middle of the afternoon changed my mind and said I was only worried about the pine plantation. I wasn't deployed. At that point in time I had no operational role in the firefighting effort.

40

Q. Your evidence is because you raised it with Mr Thompson in the afternoon, it would have been raised with Mr Castle and it would have been raised with Mr Arthur?

45

A. It was my view at that point in time. I was able to, because I wasn't involved in the

operational effort, sit back and reflect, on the basis of my experience, what was at threat here.

5 MR WHYBROW: Your Worship, I am not in a position to finish my cross-examination. Mr Bartlett himself said I should tender any documents that contain his words. I don't know what his words are. The only words we have are in those notes and I have not seen them yet. Until I have had a  
10 chance to look at those, I seek to defer the conclusion of my cross-examination of Mr Bartlett, unless Mr Watts can indicate to me that it doesn't contain any reference to these conversations, in which case I have no further questions.

15 THE WITNESS: Can I talk to my counsel for a minute, please?

20 THE CORONER: Yes, I think that is appropriate.

MR WATTS: I have the notes.

25 THE CORONER: Have you had an opportunity yet, Mr Watts, to go through those notes?

MR WATTS: Yes, I have to some extent. There is certainly a reference --

30 THE CORONER: Do you wish some time to speak with Mr Bartlett, Mr Watts?

THE WITNESS: Just a moment, please.

35 MR WATTS: Well, Mr Bartlett requests that he speak to me.

THE CORONER: Yes, well, I will take a brief adjournment.

40 **SHORT ADJOURNMENT** [2.30pm]

**RESUMED** [2.40pm]

45 MR LASRY: Your Worship, the notes that Mr Bartlett prepared, as far as we can tell, are nowhere on our system. I suspect that the key to that is the heading at the top of them is

January 2002. I don't know whether that is the reason but I think that is likely to be the explanation for that. Otherwise, if they had been provided in the ordinary course, as they were, they certainly would have gone onto the police database and then onto our system as well. I suspect that is the reason.

10 THE CORONER: Is it intended to tender them?

MR WATTS: I certainly propose to.

MR LASRY: They should be tendered.

15 THE WITNESS: And to make an amendment it should be January 2003. The date I signed it should be 10 February 03 rather than 02. I was not able to foresee all of that amount of detail the year before.

20 THE CORONER: The notes made by Mr Bartlett will become exhibit 0066.

25 **EXHIBIT #0066 - NOTES MADE BY MR BARTLETT DATED 10/02/03 TENDERED, ADMITTED WITHOUT OBJECTION**

THE CORONER: Mr Whybrow, do you have those notes now?

30 MR WHYBROW: I can understand how they were not in the system. It is not the first time we have had a witness in cross-examination when we have first become aware of their notes. I note the difficulty I have in trying to cross-examine in a coherent fashion in those circumstances.

THE CORONER: Do you wish some extra time? I will see what questions other counsel have. I will give you some time to look at those notes.

40 MR WHYBROW: Could I just have a look at the notes and come back to this issue?

45 MR PIKE: While my friend is doing that, it is probably unlikely that there will be a problem, but there may be things in them that all of us need to have regard to prior to relinquishing any

further right to examine this witness. I know that means possibly Mr Bartlett coming back tomorrow. At least for my sake and probably for others, I would ask that we get copies this  
5 afternoon and be given the opportunity to look at it overnight.

THE CORONER: Copies will be made available this afternoon. If anyone does wish, then I will  
10 consider your position.

MR ERSKINE: I was about to say the same thing. Mr Pike has stolen my words.

15 THE CORONER: Mr Walker?

MR PHILIP WALKER: I am in a similar sort of position. In addition, there are some aspects of the 2001 report which Mr Bartlett has prepared  
20 which deal directly with the ICS issue which I would like the opportunity to talk to Mr Lucas-Smith about. Not having seen the notes - I dare not have looked at them during the break without losing my right arm being taken off by  
25 Mr Whybrow - I wonder if it would be possible in fact to defer cross-examination of Mr Bartlett and to have an opportunity to have a look at both of those things.

30 THE CORONER: Mr Watts, what do you say?

MR WATTS: I think that is to be a fair thing. We have only just got these documents.

35 THE CORONER: I think it is fair to Mr Bartlett as well to give him an opportunity to perhaps answer any questions in this document that has just come to light and likewise in the notes.

40 MR WATTS: What I was going to suggest, your Worship - it is not for me - that counsel assisting call Felicity Grant who is waiting here. I anticipate she will be short. And Mr Bartlett can come back in the morning.

45 THE CORONER: Yes.  
47

MR WHYBROW: Before that happens, if I could raise a couple of issues. I understand to the extent that perhaps counsel assisting or Mr Watts wanted to raise any issues of fuel management with  
5 Mr Bartlett, that that has now been done. That is the extent of his fuel management role in these proceedings, if I understand that correctly.

10 MR PHILIP WALKER: I have a few questions on that.

MR WHYBROW: I am not sure of everyone's attitude to that but I was under the understanding that Mr Bartlett was going to come back, like some others, may be coming back in the fuel management  
15 section after Dr Cheney's report has been provided.

THE CORONER: What you are suggesting is that it may be an appropriate time --  
20

MR WHYBROW: The reason I suggest that is, for example, I don't wish to cross-examine Mr Bartlett about issues that it may be - if counsel assisting intend to make something of the meeting of  
25 8 January, then obviously Mr Thompson needs to provide a statement. That statement will obviously deal with not only the phone call with Mr Castle but this meeting that proceeded it. It may be consistent with these notes; it may be  
30 inconsistent. If it is consistent, I wouldn't have any basis to cross-examine Mr Bartlett about that because I can't have instructions about what happened in that room between Mr Thompson - and indeed, there is a suggestion that Neil Cooper was  
35 at this meeting as well, according to these notes.

I can't fairly cross-examine or test this evidence without knowing, for example, what Mr Thompson's evidence, if there is any, on this issue is. If  
40 it is not to be pursued, then I don't need to pursue it. If Mr Thompson gives a statement that he doesn't recall anything, then again I might not need to pursue it.

45 If Mr Bartlett is to come back even potentially for fuel management, subject to whatever people might need him for after Dr Cheney's report,

rather than standing him down this afternoon, I won't be in a position to know the nature of my cross-examination today and I am, as most counsel here, are acutely aware of the difficulties that  
5 arise for witnesses having to come back again. But given that Mr Bartlett may well be coming back anyway, my application would be that he be stood down until then.

10 These are not an insignificant quantity of notes. I am the only person who seems to have a copy at the moment. They are wide ranging and may be of relevance to other counsel as may be this Stromlo  
15 plantation fire summary that was provided after morning tea. So my application would be for Mr Bartlett, subject to any other people being able to ask questions now, be stood down and recalled after Mr Cheney has given his fuel  
20 management evidence.

MR ERSKINE: Your Worship, may I just add one matter in relation to that. It has got nothing to do with what my learned friend just said directly. But as I understand from counsel assisting, we are  
25 heading towards Mr Cooper giving evidence tomorrow. Mr Cooper comes from interstate. He is actually coming up this afternoon. In terms of practically disposing with an interstate witness, we would ask, if it is at all possible, that  
30 Mr Cooper's evidence be able to be completed in the time allotted, which is tomorrow and I understand the possibly of a spill over to Thursday. Otherwise bringing him back has some practical difficulties. If it is added into the  
35 equation that your Worship is now going to have to deal with, we somehow have to make sure we finish Mr Cooper in the allotted span tomorrow and Thursday, then I was just, with respect, reminding your Worship of that issue.

40 THE CORONER: We also have Mr Gould tomorrow morning as well.

MR LASRY: It is not intended to recall  
45 Mr Bartlett in relation to the fuel management issue. We regard his fuel management evidence as in, in the written material. In my submission,

the appropriate thing to be done is for some time to be provided so that notes and this document in relation to the Stromlo plantation fire be read overnight. I had originally proposed - I am happy  
5 to do it at everyone else's convenience - to ask some questions now about this document. I flagged some pages that seemed to me to be relevant based on the evidence he has given, and that he come  
10 back tomorrow, probably after Mr Cooper has given his evidence, bearing in mind that he is coming from Sydney, and complete his evidence.

There is absolutely no basis for him to be pushed off into the never never so that Mr Whybrow can  
15 see what evidence Mr Thompson or Mr Arthur can give. Mr Whybrow presumably has instructions in relation to the meeting about which this witness gives evidence. He has tested him and may test him further in relation to that.

20 We have made arrangements to obtain a statement from Mr Thompson, which we will obtain. As soon as we have obtained it and as soon as it is convenient to everybody, we will call Mr Thompson  
25 and we will make some inquiries about Mr Arthur. At the end of that process, your Worship will have this witness's evidence, the evidence of those two witnesses plus any evidence that Mr Castle gives, if he is recalled in relation to that. You can  
30 make such findings as are necessary based on that.

It is not appropriate to now be re-adjusting the order of witnesses simply because it would now  
35 suit Mr Whybrow to cross-examine everybody else and then have a final go at Mr Bartlett. We would resist that. We will make the material available. Mr Bartlett is here. He has given the bulk of his evidence and his evidence should be completed as soon as possible. In our submission, the  
40 appropriate time to do that is tomorrow.

THE CORONER: But after Mr Cooper?

MR LASRY: I have spoken to my learned friend  
45 about Mr Cooper. I agree that we should try to accommodate him. He is being recalled. He has been recalled effectively because of, effectively,

my fault. So I think we should accommodate him as much as we can.

5 But subject to that, I would anticipate Mr Kevin Cooper's evidence to finish within the day tomorrow and, if Mr Bartlett's evidence is outstanding, to then complete that. And then assuming Mr Gould has recovered, we will call him then or on Thursday.

10

MR WHYBROW: Your Worship, I have heard Mr Lasry's submissions. I maintain my objection to being required to cross-examine this witness about a meeting that he himself today has said was the genesis of it being raised with Mr Castle and with Mr Arthur. This is a meeting to which I cannot take instructions because it is a meeting that this witness indicates he had with Mr Thompson that predicated the phone call. I don't know, apart from what Mr Bartlett says here, took place there.

25 This is a significant issue it would appear that counsel assisting now wishes to pursue. One wonders rhetorically why it is only the convenience of Mr Castle or Mr Lucas-Smith that doesn't seem to count at all in counsel assisting's mind, but every other witness has some latitude given to them. This is not an issue of me not wanting to put it off until it is convenient. I cannot properly test this evidence until I know what the evidence on this issue is.

35 THE CORONER: How can you obtain instructions from your client about a meeting that Mr Bartlett had with Mr Thompson?

40 MR WHYBROW: I will see what the material from other participants at that meeting is, your Worship. For example, I can't ask questions as to what occurred in this earlier meeting with Mr Thompson because I am not in a position to put anything to Mr Bartlett.

45 THE CORONER: Why would you want to do that in relation to your client?

47

MR WHYBROW: Because perhaps Mr Thompson might make a statement that "I don't remember any of this" or "none of this was said".

5 THE CORONER: Then you would have the benefit of that, and Mr Bartlett's evidence is still Mr Bartlett's evidence on this point.

MR WHYBROW: He hasn't been examined on it. It  
10 would be unfair to Mr Bartlett then. This is a simple issue of fairness in pursuing this issue that a witness of significance I am being asked by counsel assisting to conduct cross-examination on  
15 in the dark, not knowing what other parties to this conversation, which are apparently not only Mr Thompson but Mr Neil Cooper, said in relation to this issue.

Your Worship, I can't do it in fairness, and my  
20 application is that, Mr Bartlett's convenience notwithstanding, he be recalled after I have been provided with any statement from Mr Thompson on this issue. That's my application.

25 THE CORONER: When is this statement from Mr Thompson likely to be available, Mr Lasry?

MR LASRY: My impression, your Worship, is that  
30 some appointment has been made to see Mr Thompson - I think it is tomorrow but I am unsure about that. Certainly in the next day or two. How long the statement takes, I suppose, will depend on what he says.

35 But, your Worship, the point about this is that, if the principles that my learned friend suggest applied were applied throughout the inquest, we would simply never finish, because every time a witness who gave evidence on a contentious point  
40 gave that evidence and that point was going to arise again in the future, then there would be this constant opening for recalling witnesses.

The appropriate thing to do is to recall or to  
45 bring Mr Bartlett back tomorrow to suit the problems created by today's documents and to complete his evidence; obtain Mr Thompson's

statement, obtain his evidence. If it then  
becomes apparent that there is some issue that  
can't be resolved without the recall of  
Mr Bartlett, then perhaps that can be given some  
5 consideration.

Every effort ought to be made, for all the reasons  
that my learned friends significantly raise about  
the stress of giving evidence, as recently as  
10 yesterday, every effort ought to be made to  
complete this witness's evidence as soon as  
possible. It applies to all the witnesses.

THE CORONER: What do you say, Mr Watts?  
15

MR WATTS: I strongly support counsel assisting in  
this matter, your Worship, that Mr Bartlett should  
not be just put into limbo. He can come back  
tomorrow and be cross-examined. The document can  
20 be certainly absorbed overnight and be the subject  
of cross-examination.

Mr Whybrow, of course, can take instructions from  
his client as to his version of events in which  
25 his client was involved. And it really would have  
us going around in circles forever if the policy  
suggested to be adopted by Mr Whybrow was adopted.  
In the interests of Mr Bartlett, I would ask that  
he come back tomorrow.

30 THE CORONER: And complete his evidence after  
Mr Cooper's evidence?

MR LASRY: Yes, your Worship.  
35

THE CORONER: That is the decision that I will  
make, Mr Whybrow, that Mr Bartlett be recalled, if  
you are available, Mr Bartlett. It depends on  
your availability as well, of course.

40 THE WITNESS: Yes, I am available, your Worship.

THE CORONER: To come back perhaps tomorrow  
afternoon. If something does arise from any  
45 statements that Mr Thompson may put in, then that  
is another issue that we will have to deal with.  
I will consider any submission you want to make at

that time in relation to Mr Thompson's statement.

MR WHYBROW: As your Worship pleases.

5 THE CORONER: But on these two exhibits being 65  
and 66, you can certainly ask some further  
questions if you need to tomorrow, Mr Whybrow, and  
likewise Mr Walker.

10 THE WITNESS: Your Worship, can I make one  
clarifying point, please. I wanted to make the  
point that these notes which were provided to the  
AFP were to replace diary notes that I lost. They  
weren't necessarily - the statement is the bit  
15 that stands. I note that because I didn't  
actually put the same amount of proofreading into  
this as I did into the statement.

The business that is being talked about whether  
20 Mr Cooper was present at this meeting, that  
sentence doesn't actually make sense the way it is  
written. It says, "I meet with Alan Thompson and  
Neil Cooper at 1400". It was meant to say, "I  
would meet with Alan Thompson and Neil Cooper at  
25 1400." In actual fact, Neil Cooper was the  
liaison officer over in Queanbeyan and he wasn't  
able to attend. It was only myself and  
Mr Thompson who were present at that meeting.

30 MR LASRY: In order to perhaps accelerate the  
process a little, would it assist if I took the  
witness now on a very, very quick run through this  
exhibit 65 to those parts that seem to me to be  
relevant and perhaps invite the witness to point  
35 out any other parts that are relevant on the topic  
of the relationship between the operations section  
and the planning section; would that be  
convenient? That might assist.

40 THE CORONER: Yes. It might shorten --

THE WITNESS: I don't have a copy of that full  
report.

45 MR LASRY: I was going to ask if the witness could  
be handed exhibit 65.

47

THE WITNESS: Thank you.

**<FURTHER EVIDENCE-IN-CHIEF BY MR LASRY**

MR LASRY: Q. Mr Bartlett, in some evidence you  
5 gave earlier today in answer to me, I think in  
relation to some criticisms you made of the  
relationship between the planning section and the  
operations section in the 2003 fires you referred  
to some recommendations you made after the 2001  
10 fires. I should formally ask you whether the  
document you now have in front of you, which is  
exhibit 65, is in fact the document in which those  
recommendations arose?

A. That's correct.  
15

Q. The document essentially seems to work its way  
through day by day for the number of days of the  
fire, is that correct, with commentary for each  
day?

A. That's correct.  
20

Q. I would ask you to pick up any areas that I  
miss and to concentrate on the issues of  
operations and planning. Could I ask you to go to  
25 page 9. In the middle of the page there is a  
heading that says "issues from day 1" and you run  
through a number of particular issues. One I had  
in mind to ask you about is right down the bottom.  
I see there is another one the third dot point:

30 "The roles of planning and logistics sections  
of the Incident Management Team were partly  
performed at Curtin and partly at Stromlo  
Control which made the management by the  
35 incident controller difficult".

Just in relation to that, without going into too  
much of the detail of the fire itself, are you  
saying in that dot point that in fact there was a  
40 problem created by the division of the one  
function into two physical locations?

A. That's correct.

Q. So that wouldn't be something that you would  
45 recommend as something of an expert in the field,  
I take it?

A. That's right.

Q. Does it mean that, particularly in campaign fires of the kind that occurred in January 2003, planning and logistics should either be at the operational headquarters or they should be at a forward control point but not both?

A. That's right. The planning and logistics needed to support the operations of the management of that incident needs to be located in a position as close as possible to the fire, where the Incident Management Team is.

Q. The dot point at the bottom of the page says--  
A. I wanted to clarify my last comment, if I could.

Q. Certainly.

A. I believe in a number of cases in the ACT that could be in Curtin. It is not so much the location that is an issue; it is the management responsibility for those sections.

Q. Can I take it, perhaps to follow on a little from the questions I was asking you this morning, that if it were considered appropriate for all planning to be done at Curtin, there is not a problem with that provided that the product of that planning, the information which is being disseminated, is being disseminated effectively to the controllers or the commanders in the field; is that right?

A. That's right. That is important and also the input from the field people into the planning as well. It is a two-way process.

Q. At the dot point at bottom of the page you say:

"Without an adequately staffed planning section, it was impossible to effectively monitor resource deployment, monitor fire behaviour and weather conditions, undertake incident action planning, as the fire was moving quickly and resources were constantly being reallocated."

Do I take it that a criticism or an issue from the first day was that the planning section was in

fact inadequately resourced on that first day?

5 A. Yes. What I am referring to there, I attempted to set up one under my control at Stromlo and had limited resources, and with one or two people from memory working in that area, it wasn't enough to keep track of the larger number of resources that were on that fire and do all those tasks that were in that list.

10 Q. The next point I wanted to take you to was on page 15, and it is also the last dot point on that page. There are a number of dot point issues arising from day 2 and the last one on the page says:

15 "There was considerable confusion regarding the changeover to the night shift with many crews reporting to ESB Headquarters and waiting for up to two hours to be assigned to sectors on the Stromlo fire."  
20

Now, in your evidence in relation to the 2003 fires, particularly where you had been the incident controller for a couple of days at Bendora, you also talked about time involved in changeovers and, as I understood your evidence, that was primarily because a lack of incident action plans and other information meant that the changeover took longer than it otherwise really  
25 needed to?  
30

A. Yes.

Q. Is the problem you are describing in this dot point on page 15 of this report similar or  
35 different from that issue?

A. It is quite similar in that there was no clear plan for deploying the resources. That's why people were sitting around, until it was worked out as to where they were going to go.  
40

Q. Was there a similar difficulty in these fires with a lack of incident action plans and maps and the kinds of things that you have already given evidence about?

45 A. There were similar problems.

Q. Can we define "similar problems" a little bit

more in the sense of a similar lack of that information; is that what you are referring to?

5 A. Well, yes. There was no routine incident action planning process which this issue was quite well discussed in the 2001 coronial inquiry.

10 Q. Finally, on page 21 under the heading "recommendations" you make a number of recommendations in relation to the incident control system. In the first point you say:

15 "Implementation of the incident control system in the ACT needs to be significantly enhanced to improve the efficiency of fire suppression operations and reduce the risk of injury to firefighters who are not operating under the direction of the incident controller."

20 Just explain if you would, please, the kind of enhancements that you are there referring to.

25 A. Well, I was referring to trying to reach agreement about how the incident control system would operate in the ACT in line with the nationally agreed system. I was talking about making sure that people received the right level of training in how the system is meant to work and how to perform various roles. They were the first two bits that spring to mind most of all in terms of enhancements to the efficiency.

35 The last part of the sentence, in a number of places in this report I was quite concerned that people that had been assigned under my command that I didn't even know were there and were doing things that I didn't know about. I found that personally a very difficult situation to be put in - in case someone got seriously injured, I would have been the person responsible but I didn't even know they were working under my command.

45 Q. The second point is perhaps for the purpose of the topic we were discussing this morning the most relevant, you say that the planning and logistic sections at the control headquarters must be adequately staffed on a two-shift basis. I take

it the two-shift basis simply means a day shift and a night shift?

5 A. That's correct. In order to develop the plans to deploy the people for the day shift, you have to have someone working during the night; and conversely the other way. The people on the day shift work during the day, and then the last task they do is hand over the plans for the night shift. So it needs to be a 24 hours a day  
10 operation.

Q. To go back to 2003 for a moment, when a fire first starts, as you have given evidence, you became aware of these fires in the later part of  
15 the afternoon of 8 January?

A. Yes.

Q. Is there a point reached where it becomes obvious that there is an immediate need for, for  
20 example, an overnight planning section to be operating?

A. Yes, but it varies from fire to fire.

Q. So what criteria do you apply to make a  
25 judgement as to whether that is necessary?

A. If the fire is likely to continue beyond the first 24-hour period. I mean, if people are going to be working on the second day then someone needs to plan during the first night what they are going  
30 to be doing.

Q. And on 8 January 2003, was it obvious to you that people would be working on the second day?

A. I had a fairly strong conviction that the  
35 fires weren't going to be put out on the first day.

Q. The balance of the recommendations in relation to the incident control system - apart from those  
40 which later on deal with evacuation, logs of radio transmissions and shift changeovers - seem to deal essentially with resources. Perhaps can I to some extent put the onus on you and ask whether there is anything else in this document that you are  
45 aware of at the moment that is either in the form of a comment or a recommendation by you which particularly affects the operation of planning and

the dissemination of planning information to the operational area. If you want to take that question on notice, Mr Bartlett, and perhaps tell us tomorrow --

5 A. I think I will do that. I didn't actually re-read this document over the weekend. I concentrated on the ones for the 2003 fire.

THE CORONER: Q. What did you do with this document, Mr Bartlett, after you prepared it? How did you disseminate it?

10 A. I submitted it to the Chief Fire Control Officer. Subsequently during the 2001 coronial inquiry, some witnesses asked for copies of this document so it was formally tendered in the 2001  
15 coronial inquiry.

THE CORONER: Yes, thank you. I will stand you down until tomorrow, Mr Bartlett - probably in the afternoon, I would think. I am sure counsel will  
20 be in touch with you about time.

**<WITNESS STOOD DOWN.**

25 MR LASRY: Does your Worship wish to take a short break before we start the next witness?

THE CORONER: Yes, and then Ms Grant.

30 MR WHYBROW: Your Worship, just before that break occurs, if Mr Thompson is being spoken to tomorrow, I would be grateful if even a precis of what he may say about this could be provided. Your Worship raised the possibility of me making  
35 an application in due course, if I need to. Well I might not need to if I have some idea of what Mr Thompson is going to say. It would only take about 15 minutes, I would have thought, for junior counsel assisting to speak to Mr Thompson and pass  
40 that information on.

MR LASRY: The arrangement is, I think, that the statement will be obtained at about quarter to two, so as soon as I get some information as to  
45 what Mr Thompson has said, I am happy to tell my learned friend. It is obviously likely to be a little while after that.

THE CORONER: We will take the brief adjournment.

**SHORT ADJOURNMENT** [3.08pm]

5 **RESUMED** [3.20pm]

MR LASRY: Would you call Felicity Grant, please.

**<FELICITY JEAN GRANT, AFFIRMED**

10

**<EXAMINATION-IN-CHIEF BY MR LASRY**

MR LASRY: Q. Ms Grant, is your full name Felicity Jean Grant?

A. Yes, it is.

15

Q. Are you, as you described your occupation at the time of your statement, a GIS officer?

A. Actually my correct title and role with ACT Forests is as GIS manager.

20

Q. And you are employed by ACT Forests?

A. That's correct.

Q. You were similarly employed by ACT Forests in January 2003?

25

A. That's correct.

Q. Just tell us what a GIS manager does; what is the role that you have within ACT Forests?

30

A. GIS manager stands for geographical information systems manager. As part of my role at ACT Forests, I spend a large part of my time giving direction and support to GIS users, the other staff at ACT Forests. I organise aerial photography acquisition and I do a lot of data integrity checking for other staff that put input into databases.

35

Q. You have provided quite a comprehensive - it is a curriculum vitae in effect - and I perhaps should refer to your description in that document of your present role.

40

MR LASRY: Your Worship, perhaps I should tender it first and I will refer to it after I have done that. It may be described as personnel details, which is the heading at the top, or curriculum

45

vitae - whichever is a more elegant description - of Felicity Grant. I have distributed copies to my friends.

5 THE CORONER: The personal details of Felicity Grant will become exhibit 0067.

**EXHIBIT #0067 - PERSONAL DETAILS OF FELICITY GRANT  
TENDERED, ADMITTED WITHOUT OBJECTION**

10

MR LASRY: Q. You have a copy of that?

A. Yes, I do.

15 Q. In that document referring to your employment history on page 3 you say you are employed as GIS manager within harvesting and strategic planning department, and then a number of dot points which read:

20 "Transition of data from AutoCAD system into ArcGIS operating system; develop protocols and systematic usage of GIS within a small organisation; data verification and integrity checks; training of organisation staff in the  
25 role and capabilities of GPS and GIS; and bushfire fighting duties."

Is that still an appropriate statement of your duties now?

30 A. Yes, I believe so.

Q. Was it an appropriate statement of your duties as at January 2003?

A. That's correct.

35

Q. Now insofar as bushfire fighting duties are concerned, as at January 2003 what would that have included?

40 A. That would have included being a member of a crew for any perhaps prescribed burning that ACT Forests had conducted and also being a member of the ACT bushfire brigade and doing general stand-up duties and taking any call-outs.

45 Q. The document otherwise sets out your employment history and your qualifications from Charles Sturt University in the Riverina at which

you completed a Bachelor of Science (environmental science), is that right, in 1995?

A. That's correct.

5 Q. At the Canberra Institute of Technology in 1999, you completed certificate IV asset management (GIS practices)?

A. Correct.

10 Q. You commenced an advanced diploma of spatial information services and completed some subjects. Do I take it that you didn't complete that advanced diploma?

15 A. Some of those subjects were accredited into the final certificate awarded for the certificate IV asset management.

Q. And then in 2004 you completed, is that right, a graduate diploma in geographic information systems and remote sensing --

20 A. No, I am currently studying.

Q. And you have several other skills which you have set out in that document. The first contact that you had with these fires was effectively on the 9th of January 2003; is that correct?

A. I was at work on the 8th and so knew of the ignitions, et cetera.

30 Q. Before I ask you about that, I should specifically ask you whether it is right that you prepared a statement for the purpose of this inquest of the 18th of August of last year which you have signed?

35 A. I did.

MR LASRY: Your Worship, the document is [ESB.AFP.0108.0251].

40 Q. As far as you are aware, Ms Grant, is the statement true and correct?

A. It is correct, except up the top it says as occupation "GIS officer" and it should read "manager".

45

Q. In paragraph 8 of that statement you describe being at work on the 9th of January, and at

approximately 2 o'clock informed by Mr Hilton Taylor that you were to meet him at ESB to assist in duties at the planning office. As you describe, you and he went to ESB independently; is that right?

5 A. That's correct.

Q. You say in paragraph 8:

10 "When I arrived at ESB Rick McRae met Hilton and I at the front door and gave us a general guided tour in which we were briefly shown into the COMCEN room and directed to the planning office. The planning office where  
15 we were to be situated was adjacent to the logistics room and basically opposite the door into the COMCEN hallway. Other people were already in the planning room, including headquarters volunteers and staff. I do not  
20 remember any names of the people who were in the room. Hilton and I remained in the makeshift planning office when Rick McRae left. He did not tell us what tasks or duties to perform."

25 Had you been involved in this kind of activity in any bushfire effort before?

A. No, I had not.

30 Q. This was the first time you had been involved in a planning section?

A. That's correct.

Q. And asked to undertake planning duties?

35 A. That's correct.

Q. Do you know whether Mr McRae was aware of that; for example, did you tell him that?

A. I did not tell him that.

40 Q. Would Mr Taylor have been aware of that or did you discuss that with him?

A. I didn't discuss it with Hilton.

45 Q. I take it you had some expectation that you would be given some idea as to what you were then required to do?

A. Yes. I expected to be given duties and tasks.

Q. Not having been given that information, what did you then do? What was the next thing you did  
5 after Mr McRae left the room?

A. I think, as I go on in my statement, paragraph 9, we started sourcing some maps and trying to organise the room as best we could.

10 Q. In paragraph 12 you describe:

"Mr Geoff Death from Environment ACT came into the planning office. He said he had been told to come in as the ACT media liaison  
15 but I remember him being extremely confused as to his role, lacking adequate training for the task and what appeared to be a general ignorance of the structure of the ICS system."  
20

Just in relation to what you say there, what are you able to recall about what occurred when Mr Death arrived that led you to the view that he was confused about his role and that he  
25 demonstrated a lack of adequate training for it?

A. I think because he wasn't aware of the ICS system at all and how it should function. He was confused about who he should be reporting to, perhaps what his duties should even be or would  
30 even entail. He was standing around looking confused and befuddled and not finding anybody who could offer him any suggestions as to how he should proceed.

35 Q. Did he actually say he was confused or unaware as to what he should be doing?

A. No. I don't believe - I don't recall that he said those exact words.

40 Q. Or something to that effect?

A. His actions indicated that to me.

Q. In paragraph 14 you describe returning to ESB on the 10th of January at 7.30am and you refer to  
45 a number of people being present in the planning office. You say:  
47

5 "I also recall that there were a number of  
INTACT personnel present that morning who  
were setting up communications equipment such  
as fax machines, telephones and computers. I  
entered the COMCEN room at approximately 8am  
that morning to get the grid references for  
the fire size."

10 Which fire was that in relation to - or was it all  
of the fires?

A. I don't recall. It would have been all of the  
fires, I imagine.

15 Q. You go on to say "so I could plot them on the  
map," so it sounds like you are referring to more  
than one fire?

A. Yes.

20 Q. It goes on:

"While I was in there, the helicopters  
radioed in the GPS reference points  
identifying the fire front and our maps were  
extended accordingly."

25 Does that mean that, by the morning of the 10th of  
January, you were working on the preparation of  
maps which were intended to identify the  
boundaries of the fires as they were that day?

30 A. That's correct.

Q. You say:

35 "I remember thinking that Bendora, Stockyard  
Spur and Gingera fires had not grown  
significantly overnight."

Is that right?

40 A. I don't recall that now. That's what I  
recalled when I wrote my statement.

45 Q. Earlier this afternoon I was told there are a  
bundle of maps which I think are in fact not on  
the system - or at least some of them are not on  
the system - but do I understand correctly that  
those are maps in that particular bundle, which I  
will show you in a moment, which are maps that you

contributed to in some way during the time that you were in the planning section?

A. They are some of the maps, yes.

5 Q. Perhaps I will show you in a moment. You make the point again in paragraph 15 that you had no specific job description and you were sometimes at a loss as to what to do. Insofar as a lack of job description was causing difficulty for you, were  
10 you taking that issue up with anybody?

A. Only inasmuch that I was indicating to people that I had no specific role to perform and was therefore offering my services to see if they needed help with anything.

15

Q. Who were you offering that assistance to?

A. I remember helping both Nick Lhuede and Hilton Taylor on various jobs, Geoff Webb - several other people were in there that I helped.

20

Q. Did you take up with Mr Mr McRae the fact that you didn't appear to have a specific job description and you were at least at times floundering as to what you should be doing?

25 A. No, I did not.

Q. Why not? Why didn't you take that up with him?

30 A. I think being a less important officer in the room, I assumed that it was not my role to actually go and seek from him what it was that he wanted me to do.

35 Q. Was he working in the same room as you, Mr Lhuede and Mr Taylor?

A. No, he was not.

Q. Where was he located in relation to where you sat?

40 A. He was located in his office within the ESB complex at Curtin, which was perhaps 20, 30 metres away from where the planning room was.

Q. Did he visit the room from time to time?

45 A. From time to time.

Q. On the days that you were there, how often?

A. I guess it would vary, but anywhere from 5 to 10 times, 15 times.

Q. So a number of times?

5 A. A number of times.

Q. In paragraph 17 you say:

10 "By Saturday 11 January - which was then the  
third day that you had been involved in the  
planning section - informal verbal messages  
were coming back from work colleagues on the  
fire ground. I cannot remember precisely who  
15 passed the message, but they were saying they  
needed good, clear and logical maps. These  
messages were not reaching the planning  
office through the more formal channels of  
communication. It was only then that it  
20 occurred to me that crews didn't have  
topographic maps of the areas they were  
working, although I expected they should have  
been able to get them upon request from their  
staging area manager. I went back to my  
25 office in ACT Forests to attempt to locate  
any maps in my possession that I could filter  
out."

You then go on to describe that some of the maps  
normally stored in your office were removed and  
30 you found some maps. So far as maps were  
concerned, as at Saturday the 11th of January,  
what work was being done in the planning section  
to generate the sort of maps that were being  
referred to in these informal messages that  
35 adequate maps weren't available?

A. In these informal messages that I was  
receiving, they were requests for topographic  
maps. But now that I have read through what I  
have written in my statement where they are saying  
40 clear, logical maps, I believe the people were  
actually looking for operational maps. In terms  
of us preparing operational maps in the planning  
office, the site analysis forms were being filled  
out and maps drawn on those, so they were being  
45 prepared.

Q. What was happening to that information, do you

know, once it had been prepared in your office?

A. That information went to the twice daily planning meetings with --

5 Q. And then what happened to them?

A. I don't know.

Q. Did you understand the system that existed by which information, which was being generated by you or anybody else in the planning section, was finding its way to the fire ground; did you understand how that worked?

10 A. No, I did not.

15 Q. Did you --

A. That is to say other than I assumed once that information went with whatever personnel from the planning office was going to the planning meeting, that that information went from there on.

20

Q. Did you, in the days that you were in the planning section, have a belief or an understanding as to whether or not planning - dealing with strategies, tactics, logistics and all the rest of it - was being done in the field as well as in your office?

25

A. I don't believe that was being carried out in the field.

30 Q. Did you at any stage - were you involved in the preparation or contribute to the preparation of incident action plans while you were in the planning section?

35 A. I have seen one incident action plan that I did contribute to and prepare.

Q. Do you have that in front of you?

A. I do. I have the front page, a summary sheet.

40 Q. May I see that for a minute. I think it probably has our number on it.

MR LASRY: Your Worship, I am not sure whether this document is on our system or not. There is a number on this but it is the ACT government solicitor's number, I think, rather than our number. The document is an incident action plan

45

type 3 summary sheet prepared at 1730 on  
January 2003. I might hand the document back to  
the witness and ask her to just explain how the  
document came into existence and then I will see  
5 if we can locate it on our system.

Q. First of all, is that as far as you are aware  
the only incident action plan that you  
participated in the preparation of?

10 A. That's correct.

Q. Just describe the process by which that  
document was created, Ms Grant, please.

A. I have started this record at 1600 - actually  
15 sorry, no, I started this record at 1730 in  
preparation for a planning meeting to be held on  
the 11/1. This information I would have pulled  
together in conjunction with working with Hilton  
Taylor on that particular day, because he was  
20 focusing on Bendora. I imagine that I have helped  
him to prepare this because of the impending time  
frame of the other meeting that was coming up.  
The information here would have been written down  
in conjunction with him and would have been a  
25 record of what we thought was appropriate from  
what was happening at that time.

MR LASRY: Your Worship, the document is on our  
system [ESB.AFP.0006.0172], but it is on casebook  
30 rather than on courtbook. It is a document that  
we will have to move across and we will do so. I  
think the Court operator might be able to bring it  
up on the screen so at least everybody can see it.

35 Q. Perhaps while that is coming up, I will ask  
some other questions about it. Apart from the  
summary sheet to which you have referred, what  
else is included in the incident action plan?

A. To that I cannot answer. I don't know the  
40 answer to that. I have got some other sheets that  
I have prepared here at the same time. Whether  
together they make an incident action plan or not,  
I'm not sure.

45 MR LASRY: We might have to look to see if we have  
those other sheets as well.

47

Q. I will put that to one side for a moment. I wonder if you can show me the other documents that you have got there, Ms Grant, apart from the one you have already shown me.

5

MR LASRY: I will identify what these other documents are and see whether we have equivalent copies. I have already referred to the incident action plan type 3 summary sheet.

10

The next page is "incident objective and strategies for the Bendora fire 11 January" at 1540 hours. It is said to be for the operational period from 1500 until midnight. It reads:

15

"General control objective: back-burn operation, bulldozer and grader containment lines.

20

General control strategies: put in place wider grade lines as per map. Dozer worked from Flat Rock Spur to south and Gravel Road, Moonlight Hollow Road.

25

Back-burning operations with 6 tankers and 6 light units and three officers is planned to start at about 1730 hours.

30

Projected shift change time 1900.

Incident Management Team date 2000 - I think that should be the time and the time is given as 11/1/03.

35

Operations crews 1900 hours on the 11th January 2003.

Safety considerations: person's safety.

40

Weather forecast: 20 degrees, 38 per cent relative humidity, 12 kilometres an hour wind from the west - I think that is the west - perhaps west south-west at 120 degrees next six hours ... with winds continuing in the same direction."

45

The document is said to be prepared by Felicity

Grant, and the time looks like 045. Does that mean midnight quarter to 1 in the morning or does it mean something else?

A. Can I see that?

5

Q. Certainly. At the bottom of the page --

A. Up the top --

Q. The time prepared is 1540. I wondered what the 045 - I am sorry, that is rate of spread - my apologies.

10 A. Rate of spread.

Q. And then attached to that document, the other significant document is a map showing I think the Bendora fire at 9am on 12 January at 590 hectares. Does that appear to you to be correct? Perhaps I will show you those two documents again.

15 A. That is a different day, was it, the 12th?

20

Q. The following day.

A. So that is not part of that document.

Q. There is also another map which is dated 9 January. So that is not part of that either?

25 A. That is not part of that either.

Q. So does it mean in the end that, as far as you can tell, the incident action plan is the summary sheet plus the document I have read out?

30 A. Correct.

Q. That is the only one of those documents that, as far as you are aware, you participated in the preparation?

35 A. That's correct.

Q. In paragraph 19 of your statement you say:

40 "On Sunday 12th January I noticed that the information we were receiving from helicopters, in terms of grid references, was fine but provided but only very irregularly. Usually, these references were only supplied first thing in the morning after the first observation flight."

47

The grid references you are referring to, I take it, are grid references to enable the boundary of the fire to be mapped; is that correct?

A. That's correct.

5

Q. You go on to say:

"I recall we requested, several times during Sunday, additional references so we could mark the fire boundaries. However often these requests were declined by Tony Graham (operations officer), as there was a reluctance to remove the helicopters from water bombing tasks. We were always informed in a timely manner if our requests had been denied."

10

15

Is that right?

A. That's correct.

20

Q. Now, the last day I think that you spent in the planning office was Monday, the 13th?

A. That's correct.

25

Q. So your time there was from the morning of the 9th of January until the evening of the Monday, the 13th?

A. The afternoon of the 9th.

30

Q. Correct, sorry, yes - until the end of work on the 13th?

A. That's correct.

35

Q. In relation to that time that you spent there, in paragraph 33 you raise issues under the heading "planning office issues" and say:

"I knew from my ICS training that Rick McRae would act as the planning officer."

40

Just in relation to your ICS training, how long prior to January of 2003 had you undergone ICS training?

45

A. I believe, and I will just check that, that it was October 2002 - 4th of October 2002.

Q. And was part of that training training in the

operations or the function of the planning section?

A. That's correct.

5 Q. Did Mr McRae take that particular part of the training course or was that the whole of the training course?

A. It was a three-day course. He took the whole three-day course.

10

Q. You go on in paragraph 33 to say:

15 "I was under the impression that the role of the planning officer was to co-ordinate the activities and strategies of the planning office for the benefit of both logistical and operational tactics. At my time in the planning office, Rick gave me minimal direction."

20

Just pausing there, apart from the initial tour of the office when you first got there on the 9th, did Mr McRae actually give you any other direction that you can now recall?

25 A. Not direct as such. He may have asked me to complete tasks on an occasional basis, but not directions.

30 Q. You go on in that paragraph to say:

"If anything, his actions at this time confused the situation within the planning office."

35 In relation to that, are you able to be specific about particular actions which first of all you observed and, secondly, had a confusing effect; what are you referring to there?

40 A. I can perhaps give one or two examples. On one particular occasion one morning, I had collected the grid reference information from the operations room in the usual way by walking down to the operations room and collecting that piece of paper with the co-ordinates written on it.

45 Then I started to plot that on the map, as I had been for the last couple of days or so. One of those grid references, when I plotted it on the

map, gave a reference that the fire had gone across Mt Franklin Road and that would have been, if that was the case, had quite severe implications.

5

I then took this piece of paper to try and locate Mr McRae. Using the chain of command I wanted to ask him if he could clarify this issue with the operations people. I couldn't locate Mr McRae so I went myself then to talk with Tony Graham. He had actually been in the helicopter when those grid references were taken and was able to quickly just show me on a map and explain to me that, with drift and everything from a helicopter, grid references are not always 100 per cent correct. So he showed me where the correct co-ordinate was supposed to be.

And then about an hour later I came across Mr McRae and Mr Graham talking in the corridor about that exact issue. I remember that they then went in to look at the map that was in the planning room, and Tony explained to him the same thing that he had explained to me. I wasn't privy to that conversation but I could hear what was going on. I wasn't included in the conversation.

Rick then called me over and said, "There is a problem with these co-ordinates. Here's an issue. You need to fix it". It was a couple of minutes, with me explaining to him that I had already done that and that I had been unable to locate him in order to let him know that this was perhaps going to be an issue - well, something that needed to be clarified, and therefore I had resolved that issue. He had taken more time from Tony Graham away from the operations room. I couldn't understand why - if he had assumed - well, if he had wanted me there in that mapping capacity, why he hadn't asked me whether I fixed this issue in the first place instead of going across to operations.

Q. You said there were a couple of examples.  
A. Okay. Another example that I can think of is that on several occasions Mr McRae would walk in to the planning room and hand me a document such

as a linescan. By the time that I realised it was  
a linescan and that it was extremely valuable  
information, if I could use it correctly, I was  
going to have to require further information to  
5 incorporate with that document, such as a grid  
reference or a scale or something like that.

I would then go and try and locate him, again to  
find out if I could get that information. When he  
10 wasn't able to be located, I couldn't use that  
document in effect for any useful purpose in a  
planning way for the office.

Q. From those two examples, you sound as though  
15 you are complaining about access to Mr McRae; is  
that a more accurate way of describing the  
problem? Time passed and he was difficult to  
locate, and therefore problems were on occasions  
difficult to solve because you didn't have access  
20 to him.

A. And perhaps they went unsolved for that  
reason.

Q. You also say:  
25

"By the end of my stay in the planning office  
during the January fires I had learnt that if  
I wanted timely direction or advice, I asked  
either Rod Hillman or Hilton Taylor."  
30

I take it both of those people were present in the  
planning office most of the time?

A. That's correct.

Q. You had ready access to them?  
35

A. I did.

Q. Going on in that paragraph:

"Another issue that came to my notice at this  
40 time was the fact that all electronic maps  
were stored only on his computer - that is  
Mr McRae's computer - that was kept locked at  
all times. I was not given access to either  
45 the computer or to the plotter (large printer  
used for the production of maps). If I  
requested a map I might receive it many hours

later. I frequently had to remind him of my requests."

5 Would it have been of assistance to you to have access to whatever electronic maps were stored on that computer and the ability to use the computer to produce up-to-date maps?

A. Greatly so.

10 Q. Do you know why the arrangements as you describe them in paragraph 33 were as they were; in other words, do you know why you didn't have access to that technology and to those maps?

A. I wasn't granted access to that computer.

15

Q. Did you ask for it?

A. I don't recall.

20 Q. Do you know whether Mr Taylor or Mr Hillman had access to that technology or that information?

A. I don't, for the same reason I don't believe that they would have.

25 Q. In paragraph 34 you say:

25

"On reflection, I do not believe my time in the planning office was well spent and I felt that there was a lack of leadership and clear direction in terms of the objectives of the office."

30

35 Stopping there for a minute. Did you understand what the objectives of the planning section were, what the plan was for the planning section, what strategy or what set of objectives you were working to?

40 A. On a day-to-day basis in terms of predicting the rate of spread for the fire and preparing that information for that to be forwarded up to the planning office. In that respect, that's all I understood the role to be.

45 Q. Where you criticise a lack of clear direction in terms of the objectives of the office, what are you there referring to?

A. I am referring to the overall effect that I didn't understand where that information was going

and whether we were even doing the right - because there was no feedback, I suppose - whether the information that we were giving, whether that was correct, sufficient.

5

Q. After you left the office on the 13th of January, was that the end of your relationship with the planning section?

A. Yes.

10

Q. Did you go back to ESB or did you have occasion to go back to ESB at all after you completed your tour of duty on 13 January?

A. I did pop into ESB at Curtin on the Thursday.

15

I'm not sure what the date would have been.

Q. The 16th was the Thursday, was it?

A. It was the Thursday.

20

Q. Did that have anything to do with your earlier connection with the planning office? Did you go there --

A. Not specifically, no.

25

Q. Why did you go there?

A. To see what was going on in there, to get a general feel for what action was happening now at that time, I suppose.

30

Q. Did you get such a feel or an impression or information?

A. I got a feeling that it was very busy and overcrowded.

35

Q. Did you go to the planning office itself?

A. I don't think I actually went into it; I might have stood at the doorway.

40

Q. Did you speak with Mr Taylor or Mr Hillman or anybody else within that section?

A. I spoke to Graham Hirth and Bill Woodruff.

Q. Did you speak to Mr McRae?

A. No, I did not.

45

Q. Have you at any stage taken up with Mr McRae the criticisms that you raise in this statement -

either at the time or since?

A. No, I have not. I have been involved in a general ACT government sense in developing the fire map book since.

5

Q. Just finally, the maps that were in that bundle which are now on the floor, am I right in saying they represent, at least in part, some of the maps to which you contributed in the time that you were in the planning section?

10

A. That's correct.

Q. If we looked through those maps map by map, would you be able to identify parts of those maps where you endeavour to translate information that was available to you onto those maps for the purpose of updating information?

15

A. Yes.

20

Q. Does that accurately describe, broadly at least, the nature of the activity that you were involved in?

A. Yes, that was the role that I was conducting.

25

MR LASRY: Your Worship, unless it becomes obviously necessary from the questioning of my learned friends, I don't think there is much to be gained by taking this witness through these maps. They are available; if anyone wants to look at them, they can. It is, of course, the earlier period of the time we are looking at. I don't propose to go in detail through those documents at this stage. On that note, your Worship, I don't have any further questions.

30

35

THE CORONER: Q. You say on page 5 of your statement, Ms Grant, that you ordered some maps through logistics from Sydney; is that right?

A. Sorry, was that page 5 or paragraph 5?

40

Q. Yes, page 5, paragraph 17. The last sentence.

A. Yes, I helped the logistics department in ordering those maps from Sydney.

45

Q. Did you ever receive those prior to --

A. Not in the time frame that I was --

47

Q. That you were there?

A. That's right.

THE CORONER: Thank you. I will see if counsel  
5 have questions for you. Mr Lakatos?

MR LAKATOS: Yes, thank you, your Worship.

**<CROSS-EXAMINATION BY MR LAKATOS**

10 MR LAKATOS: Q. Ms Grant, can I just ask you one  
question about the fire map book that you gave in  
one of your last answers. You said that you were  
involved in the general ACT government sense. Can  
you tell me what you mean by "a general ACT  
15 government sense"?

A. Just as a representative from ACT Forests.  
There were other representatives from other  
government departments there.

20 Q. The fire map book, what was that document or  
book? Can you describe that for us please?

A. It is a collection of maps covering all of the  
ACT put together for distribution within the Fire  
Brigades.

25 Q. So this is an element of pre-suppression  
planning for future fires, as it were; is that  
correct?

30 A. Not in terms of pre-suppression. I think it  
is more of a book to help firefighters get to a  
fire.

Q. Has that task now been completed - or at least  
your part in it?

35 A. My part in it has. I'm not sure whether it is  
complete or not.

Q. Have you seen the completed product of the  
fire map book?

40 A. I believe it might be available but I'm not  
100 per cent sure about that.

Q. Do you understand it is now being used or  
disseminated to the various interested  
45 firefighters or you don't know?

A. I don't know about that.

47

Q. When did you complete your contribution to that task?

A. Perhaps about September, August/September last year.

5

Q. When do you understand the fire map book was actually completed in total; was that also in September last year or at a later time?

A. No, that was later.

10

Q. Approximately when?

A. Approximately two months.

Q. About November/December of last year?

15 A. About December, the beginning of December, something like that.

Q. Do you know who organised that project, the preparation of the fire map book?

20 A. I believe that it was part of Mr McRae's new role after the McLeod report. It was in conjunction with the RFS GIS officer from Sydney that he worked --

25 Q. I rather lost the last part of that answer. It was in conjunction with whom did you say?

A. He is a Rural Fire Service person. I am not sure of his name.

30 Q. But a GIS officer in the Rural Fire Service?

A. Correct.

MR LAKATOS: Thank you very much.

35 **<CROSS-EXAMINATION BY MR PIKE**

35

MR PIKE: Ms Grant, I appear for Mr Bennett, Dave Ingram and Mr Tony Graham.

40 Q. In paragraph 17 of your statement you talk about the maps issue and there is a reference in that paragraph to messages concerning maps. What was your understanding at that time, that time being the 11th of January, as to what messages were being sent and who were they being sent to?

45 A. From people in the field.

Q. To whom?

6120

A. Any officer in the field would have been asking their section leader up through to the incident controller to make that request.

5 Q. That is your understanding, that there would have been requests made to the various relevant people on the field for those maps?

A. That's right.

10 Q. And you of course not being on the field at that time didn't know what was then being done with those requests?

A. That's right.

15 Q. I think you told us about some of the requests that were being made - when I say "requests", some of the communications you were receiving through your mobile phone from some of your own colleagues on the field talking about that sort of issue?

20 A. That's right.

Q. I think you have already said earlier in your evidence the query being made then was in relation to operational maps?

25 A. I realised later when they were asking for clear, logistical maps that that is what they would have been asking for.

MR PIKE: Yes, thank you.

30

THE CORONER: Yes, Mr Walker?

MR PHILIP WALKER: Just a few questions.

35 **<CROSS-EXAMINATION BY MR PHILIP WALKER**

35

MR PHILIP WALKER: Q. When you went to ESB, I gather that was the first time you had been to the ESB office; is that right?

40 A. I had been in to Rick McRae's office. I had never been into the COMCEN room or to where the planning office was located.

45 Q. I see. So you needed a bit of a familiarisation with the building there when you first arrived?

A. That's correct.

47

Q. You said Mr McRae wasn't in quite the same area as you were and I think you said he regularly came into the room in which you worked?

A. That's correct.

5

Q. Was his office in the same corridor or was it somewhere else?

A. No. To be specific, it is out the door where the planning room was, left down the corridor, then left down another corridor, right down another corridor and then left into his office. So perhaps when I said 20 metres before, it could even be further.

10 Q. It sounds like you almost needed a guided tour to get from the planning room to his office?

A. If you hadn't been there before and didn't know where his office was, it's not easy to locate.

20

Q. And do you think that location contributed to your inability at times to get hold of Mr McRae and ask him questions or vice versa?

A. I do.

25

Q. Where was Mr Graham by comparison with where you were located?

A. The operations room where Mr Graham was located was directly opposite the planning room.

30

Q. Did you find he was available most times you endeavoured to get him?

A. Yes.

35 Q. Did you find any other difficulties just simply locating people because of the nature of the building in which you were located?

A. No. The logistics room was also located very close to where the planning room was. The majority of people were located in that central area.

40

Q. You mention you were unable to get access to Mr McRae's computer for the purposes of producing maps. Do you know whether there were any other computers which you could have used or not?

45

A. As far as I was aware, at the time Rick

McRae's computer was the only computer within ESB with the GIS.

5 Q. Do I gather that the facilities which were available for your use at ESB were not quite up to the standard of facilities that you were used to using, say, for example when you worked in the Australian Bureau of Statistics?

10 A. I would disagree with that. The resources are a computer, a keyboard and a printer. It is fairly basic resources.

Q. The office layout, I dare say, was somewhat different to what you had been used to in the ABS?

15 A. It was different even as opposed to the layout that was at Stromlo depot for the ACT Forests.

MR PHILIP WALKER: I have no further questions.

20 THE CORONER: Thank you, Mr Walker. Mr Archer?

MR ARCHER: No, thank you, your Worship.

25 THE CORONER: Mr Watts?

MR WATTS: Nothing, thank you, your Worship.

THE CORONER: Any re-examination?

30 MR LASRY: No re-examination, thank you, your Worship.

35 THE CORONER: Thank you, Ms Grant. You are excused. You are free to leave if you want to.

**<THE WITNESS WITHDREW**

40 THE CORONER: We will adjourn - would it be helpful if we started at 9.30 tomorrow morning? It is probably going to confuse the issue if Mr Cooper is ready to come at 10, and I know counsel like that extra time in the morning to perhaps do meaningful things like proof witnesses. We will start at the normal time then. We will adjourn --

45 MR PHILIP WALKER: Just before you go, your Worship, are some steps being taken to

preserve Mr Bartlett's --

5 THE CORONER: I was going to ask Mr Whybrow what  
was the point of that exercise and whether or not  
he wanted to tender the map. It will not be  
touched; it will just stay the way it is here. I  
don't know what purpose Mr Whybrow had to ask  
Mr Bartlett to do that but I propose to ask him  
tomorrow before whatever happens to that map.  
10 Nothing will be touched on it. It will stay the  
way it is.

15 MR LASRY: It is not the only source of  
information. It is something that can easily be  
re-created in any event from simply reading  
Mr Bartlett's statement.

20 THE CORONER: That's right. But it seemed to me  
though that from the cross-examination Mr Whybrow  
had some point in asking Mr Bartlett to do that.

25 MR PHILIP WALKER: I will leave that for  
Mr Whybrow to say, but it just occurred to me that  
it is possible that somewhere along the line  
somebody might in some way move things or damage  
things or even just knock things off if it is not  
protected in some way.

30 MR LASRY: It will be preserved.

THE CORONER: We will adjourn until tomorrow  
morning.

35 **MATTER ADJOURNED AT 4.08PM UNTIL WEDNESDAY,  
2 JUNE 2004**

40

45

TRANSCRIPT OF PROCEEDINGS

CORONER'S COURT OF THE  
AUSTRALIAN CAPITAL TERRITORY

MRS M. DOOGAN, CORONER

CF No 154 of 2003

CANBERRA

INQUEST AND INQUIRY INTO  
THE DEATH OF DOROTHY MCGRATH,  
ALLISON MARY TENNER,  
PETER BROOKE, AND DOUGLAS JOHN FRASER  
AND THE FIRES OF JANUARY 2003

DAY 65

Wednesday, 2 June 2004

6125

MR LASRY: Your Worship, could I recall Kevin Cooper, please.

5

<KEVIN COOPER, RESWORN

<EXAMINATION-IN-CHIEF BY MR LASRY

MR LASRY: Q. Mr Cooper, when you get yourself  
10 settled I wonder if I could ask you to pull out  
document [NRF.AFP.0085.0106], which I will treat  
as your statement. I think the document is  
actually headed "Response to request for  
information by ACT coronial investigation". I  
15 think it is a document signed by you on 7 July of  
last year; is that right?

A. I don't know the exact date I sent it in, but,  
yes.

20 Q. The version I have got, Mr Cooper, actually  
has your signature and initials on it; what you  
have retained is simply a file copy.

A. Is a copy, yes.

25 Q. Can I ask you to go, bearing in mind you have  
already given some evidence, to page 4, according  
to the way the document is numbered by you. This  
is dealing with operational support activities for  
Friday the 17th of January commencing at the  
30 bottom of page 3 and over onto page 4. In that  
section of your report or statement you are  
dealing, among other things, with the events, I  
think of the morning first of all of the Friday,  
the 17th of January; is that correct?

35 A. That's correct.

Q. In particular at the top of page 4 you refer  
to the fact that the night shift from Thursday the  
16th returned and had breakfast, and soon after  
40 crews advised in relation to some air-conditioning  
problem in the motel and various other things.  
Then in the second main dot point on that page you  
say:

45 "Night crews informally debriefed over  
breakfast - strategic radio comms were  
inadequate, no maps made it difficult."

I think you gave evidence on the last occasion you were here about both of those things. I wonder if I could just ask you to explain first of all those two things for our benefit: strategic radio comms  
5 to remind us what that refers to and why they were inadequate; and also describe the difficulties that were created by the lack of maps?

A. We had four task forces, and each of those task forces could communicate easily within each  
10 other. So the mid-north coast units could all talk to each other very easily. Similarly the Hunter crews or the Great Lakes crews. But the strategic radio comms is a network that would allow the commanders of each of those task forces  
15 to talk to each other across and also to division commander - in ACT language an incident controller - and potentially back to the control centre.

20 So in this case we had been allocated a government radio network channel, a GRN channel, by state operations which on arrival was found not to be operational. The footprint wasn't in place over the ACT. So that basically meant that our crews  
25 fell back to mobile phones, which worked remarkably well to achieve that strategic communication, I guess, to do that.

As I mentioned last time, the fix-it at the time  
30 was to allocate an ACT unit to each of the task forces. By doing that we had their radio frequency to communicate between the task forces back to ESB and also the incident command system.

35 Q. In relation to maps, that refers to what the night shift crews on the Thursday night did not have; is that right?

A. That's correct. The night shift crews, bearing in mind they had come a long way from -  
40 ACT was very foreign to them. They were being put into remote or rugged country. Maps allow them to see where they are going as well as where they need to go if they need to get out in a hurry. Topographic maps - in this case no maps - and in  
45 the end we resorted to using tourist maps.

Q. You refer to tourist maps that were available

at the motels where the members of the task force were staying?

A. We not only cleaned them out. The managers of both hotels were very good at basically getting  
5 hold of any map that might assist us. On the morning of the 18th we tore out the UBDs out of the telephone directories so the crews would have them later on during the day.

10 Q. Some time after that you went to ESB and you describe it as mid to late morning; is that right?

A. That's correct. There were a number of logistic issues with the crews, vehicle damage, air-conditioning. They headed off to ESB at about  
15 10.30, somewhere in that ballpark.

Q. In the dot point in the middle of the page you say:

20 "I spent time appreciating the overall situation, and seeing where the task forces taskings fitted in the overall picture. I sought information on issues such as special weather forecast, IMT organisational chart  
25 (who was in what role), telephone directory, overall plan, ESB catering, and working with logistics to get ice, cool room etc to field crews. Most of the information sought did not seem readily available. Local issues  
30 such as getting access through a security door to the OPS room (no card issued) did disrupt continuity of operations."

35 Putting aside perhaps those local issues, in the process of seeking information on the things that you wanted information about, who were you seeking the information from; how did you go about trying to appreciate the overall situation?

A. Well, when I initially arrived, to some extent  
40 I felt as though people felt a little surprised that I was there. There was no process to bring me into the structure and brief and get me up to speed as it were. So given that the crew, the task forces that were working, were under  
45 operations control normally in the structure, I initially went to operations and asked them to give me an update in terms of where things were

at, what was happening in the field, what the task forces were expected to do and how they would be supported. And I also went around to planning and sought information from them, such as an  
5 organisational chart about who was in what role.

Q. Just dealing with operations for a moment, do you recall now who you were seeking the information from?

10 A. Tony Graham.

Q. And what response were you getting from him as you sought the information that you were seeking?

15 A. I guess inadequate information from my perspective.

Q. In what respect?

20 A. Well, it certainly didn't feel there was confidence in terms of telling me what these crews were expected to do, where they were going to be, not only in the short term but in the long term where their tactical activities that were about to commence fitted into an overall strategy, and where they were going to go.

25 Information such as special fire weather forecast, the sort of information we would normally expect, given that that Friday the general forecast was for bad weather. I guess I was very conscious  
30 that I had four task forces that were a long way into the bush and we needed to know the weather first hand - as did the people in the field, I guess, in terms of doing that. So there was -  
35 yeah, I guess, a general lack of detailed information. There were some generalities but not specifics.

40 Q. In the terms in which you would describe it, was there an overall strategy that was explained to you or briefed to you on that morning at ESB?

45 A. I had no sense of overall strategy. Bearing in mind overall strategy here, I am talking about Stockyard as well as Bredon. Our crews were currently working on Stockyard. Through operations and planning, I perceived no sense that there was a strategic view as to where we were going to be in 24, 36, 72 hours.

Q. Who did you speak to in the planning section?

A. Initially Rick McRae. I spoke to him.

Q. What information did you seek from him?

5 A. Again, I was particularly interested in terms  
of where our current activities of the task force  
were involved, the back-burn that was planned,  
where that fitted in with the larger picture. And  
then subsequently also what, if you like, was the  
10 redundancy, what were the fallback plans, what was  
the greater picture.

So currently the task forces were engaged with an  
up close and personal. But given the predicted  
15 weather and also during the season you have a  
three- to five-day cycle, from my perspective it  
is important to see where you are going to be  
three days out or five days out.

20 Q. In the case of the planning section and in  
your discussion with Rick McRae, were you given  
any information by him about what the strategic  
plan or the overall plan was?

A. Not at all. I mean most of what was  
25 referenced in terms of any information of what was  
happening was referenced back to the people in the  
field. They were basically indicating the IMT in  
the field would have that sort of detail.

30 Q. Would have the sort of detail necessary to  
provide you with information about an overall  
strategy?

A. No, the indication was that the people in the  
field were to have where their current activities  
35 would fit in, but not an overall strategy. I  
didn't get any sense from anyone about an overall  
strategy. I mean the sort of cliché, the big  
picture, about you may say in some cases the worst  
case scenario.

40

Q. You say in the next dot point:

"I sought some feedback from OPS & Planning  
on potential night shift tasking (given there  
45 had been no incident action plan for the  
first two Rural Fire Service shifts Thursday  
night and Friday day shifts) and no apparent

overall plan."

Again, was that part of the conversation that you have just been describing both with Mr Graham and Mr McRae; or was it a conversation with somebody else?

5 A. That was initially with Mr Graham. That was a later conversation. That wasn't part of the same one. Task forces, they are a big group of people, and you can't decide late in the afternoon what a night shift is going to do. You need to have some vision, some plan, because their task force leaders will be looking for that. So what I was looking for was what they were actually going to do, you know, early afternoon; so we could start, if you like, getting them prepared. I mean, the crews would be getting out of bed mid-afternoon ready to go to the field.

10 Q. Just to make sure the earlier conversation that you described were conversations which occurred not long after you arrived at ESB, I take it, so some time in the late morning; is that correct?

15 A. That's correct.

20 Q. These later conversations in relation to night shift tasking were some time after that. Can you tell us when?

25 A. Approaching midday, between half past 11 and one o'clock. In terms of discussions, you also need to understand that the information that was available to me visibly didn't, I guess, reinforce the fact that what I was being told was consistent with what I could see. Information was out of date.

30 Q. We will come to that in a moment. But specifically in relation to the potential night shift tasking, what was the response that you received either from Mr Graham or Mr McRae in relation to what plans they were making for that or what the procedure would be to --

35 A. They had no plans. There was no task at that time.

40 Q. As far as you were aware, was there any

intention to develop one in the early afternoon on Friday?

A. There was no indication that that was the case.

5

Q. So does it follow that, in relation to your inquiries, you didn't receive any satisfactory information?

A. No, not at this stage.

10

Q. You then refer to Mr Wilcox, who is from the Rural Fire Service at Ballina, and you say in that dot point that he was in the IMT planning at ESB. Does that mean on the morning of Friday, the 17th?

15 A. Yes. Bob was part of the planning group in the control centre with ESB.

Q. And you go on to say:

20

"In the ACT system, there is also field planning in each field IMT. He gave me an overview of the current situation as he understood it."

25 Mr Wilcox is providing you with an overview based on information that came from where?

30 A. Given that he was part of the planning in the ESB and he had been there longer than I had, he had more information than what I had and what I had accessed.

35 Q. Does it follow as the next event in sequence that you asked him for some feedback, as you describe it in the following dot point, as to any plans that your own task forces would be implementing?

40 A. That's correct. I mean, it was consistent with my earlier discussions. You need to bear in mind now that the four task forces had been withdrawn from our original tasking because of severe fire weather. They were back in the staging area and subsequently pulled back to a place called Glendale or something like that. So this was early afternoon. Those crews had now  
45 been - I mean, in the end they would be located there for a couple of hours. So the field crews were obviously getting fairly anxious about what

they were going to do for the rest of the day and the night crews would be in the same position. I was trying to get from Bob, really, what night crews were going to be doing.

5

Q. You say in that point to which I have been referring, at the end of it, referring to him as Bob:

10 "Bob appeared frustrated with lack of commitment to producing an IAP within an overall plan."

What did he say to you about it?

15 A. Well, basically that's a summary. I mean, Bob was saying that they essentially wanted to produce a plan, as we would normally produce, and put it out. So at the start of a shift you would have an incident action plan. But there was no real  
20 commitment to actually doing that, to documenting and making one available. Part of that process was that they weren't really, I guess, committed to the full situation analysis appreciation process.

25

I mean you would probably have to explore the detail with Bob about why he was fully frustrated.

30 Q. I think the second last dot point on that page you refer to the different operating environment than you usually worked with. In particular you note:

35 "Independently, and collectively the senior RFS managers started to realise that the ACT IMT structure is different to that of New South Wales (and AIIMS). It was now apparent that we were operating in an environment that had structural differences to that we usually  
40 worked in."

Was that a realisation which was accompanied with a problem, as far as you were concerned; in other words, did a difference in the organisation which  
45 I take it was, among other things, the existence of the Service Management Team and the slightly different decision-making process as between the

operational centre and the field incident controllers - did that create a problem for you?

5 A. I guess the initial problem was to realise there was a difference. Once we understood that there was a difference, that was something you could work in. I mean, in a lot of ways there was a bit of a name difference. There were some role and structural differences, particularly at the field end where you essentially had an incident controller with planning and logistics support. They tended to be a mobile group of people or structure; whereas we tended to put those in one place.

15 So the problem was really saying it is different. Once we understood there was a difference and we spoke to the IC in the field in particular for where we were working, we were able to unravel the challenges that came with that and go forward.

20 Q. Well, in the points that you set out on that page you refer from time to time to the difficulties and understanding and overall strategic plan and whether there was one and associated difficulties with getting information from the planning generally. Did you have an understanding as to where the planning for these fires in the ACT was actually being done?

25 A. Well, I mean, certainly structurally the tactical planning was being done in the field at the IMT level, and that's appropriate. I mean, in our world that would be divisional command. And it appeared that that was being delivered, although there were some frustrations: it was a bit slow; it tended to be people-based rather than systems-based, so that sometimes leads to weaknesses. But in the control centre I personally had no confidence that there was any significant strategic planning being done.

30 40 Q. In relation to that overall plan, you say at the bottom of page 4 that:

45 "During a quiet moment I raised with the ESB IMT OPS officer."

I presume it is Mr Graham you are referring to

there?

A. That's correct.

Q. You go on:

5

"... what plans were in place/being developed for the impact of significant fire activity on western fringe of Canberra - staging areas, utilities shut down, community awareness et cetera. Based on the information available to me there appeared to be a need for such a plan - at this time it may need to be a fallback position, but a necessity given the unfolding field situation. I discussed with him the need to plan for a real possibility for the Bredon."

10

15

Do you mean Bendora when you say "Bredon"?

A. Yes.

20

Q. It goes on "and/or Stockyard fires reaching the urban fringe." Before we go on with that, I take it that after midday on Friday after you were having these discussions, the prospect of the fire reaching the Canberra suburbs was apparent to you?

25

A. This conversation occurred at 1430. I remember it very clearly. I was in the OPS room. And by then I mean, as I had indicated earlier, our crews had been withdrawn from the field. It was clear that the Stockyard fire was now travelling great distances. And the fact that I had no sense of operational control from the overall operation, not just the field IMT but the Senior Management Team or Service Management Team, I really couldn't see that if this did encroach on Canberra, and increasingly my feeling was it was going to reach Canberra, situation analysis, rapid appreciation, did a risk assessment, even if we said the likelihood of it reaching Canberra was low, the consequence of reaching Canberra was always going to be high; therefore you needed management intervention. So hence, I spoke to Tony - I guess in my language I stood beside him and I said, "Do you have a plan? Is there a plan?"

30

35

40

45

Q. I was going to ask you if you have a clear

recollection of the conversation, as best you can recount the conversation, including his side of it as well as your side of it.

A. I certainly can't remember the exact words.  
5 But my approach was, when there was a quiet moment in the OPS room, to actually stand beside him, look at the map on the wall in the OPS room and what I outlined was from my perspective what happens if this fire reaches Canberra. And  
10 subsequently when it reaches Canberra outlined my finger down the western edge, particularly at the southern end, south-western side of Canberra, what sort of plans were in place or being developed to actually cope with that. And initially Tony said,  
15 "Well, the urban fire service will look after that". I said, "Well are they capable of developing an overall plan for staging water supplies, shut off gas, community education, those sorts of things?"

20

Q. What did he say in response to that?

A. I was reminded again that it was an urban fire service responsibility when the fire reached the urban interface.

25

Q. So as part of that discussion were you saying at this stage at 2.30 on Friday afternoon there is a need for an overall strategic plan to cope with the possibility that the fires would hit the  
30 Canberra suburbs?

30

A. That was my feeling, yes. As I said, I mean, my sense of what was happening around me and the information that was not only coming from my crews in the field but even back into operations was  
35 that operational control wasn't in place. This fire had the potential, even if it was two or three days' time was going to reach Canberra. The weather predictions were for severe and it was going to reach Canberra.

40

Q. Was there any dissent from Mr Graham about the need to have an overall strategic plan?

A. No, there was no dissent. I mean, he replied to say that it was an urban fire service  
45 responsibility. We would focus our efforts in the rural, the rural areas. I certainly, I mean there was no - yes, there was no dissent about it. It

was just an exchange of information.

Q. You say in that dot point at the top of page 5:

5

"My thoughts were dismissed, and advised that if there was fire at the urban interface it became the responsibility for urban fire service."

10

What are you intending to convey with the description "your thoughts were dismissed"; what part of the conversation does that refer to?

A. His response towards the end of the conversation was that it wasn't my responsibility.

15

Q. Wasn't your responsibility?

A. That's correct. That is consistent with the structure and the role. We were there to provide a resource to the ESB.

20

Q. You then describe discussing the same matter with the planning officer. I assume that was a conversation with Mr McRae; was it?

A. It was a much shorter conversation.

25

Q. Did it follow straight after this?

A. It would have been about an hour or so later - three-quarters of an hour. I don't remember.

30

Q. Were you speaking to him because it had been suggested, for example by Mr Graham, that you speak to him; or were you speaking to him independently of the conversation with Mr Graham?

A. Completely independent of the conversation with the OPS officer. I mean the planning function belongs to planning. I spoke to the OPS officer initially because as a resource we report to the operations officer, so we take direction from the OPS officer. I guess I went and spoke to planning, because my concerns remained live and valid. You have got to remember I am responsible for all the personnel under my control in the field; so I was becoming increasingly concerned for their welfare.

35

40

45

Q. The discussion was with Mr McRae?

A. Yes. It was very brief.

Q. Describe how the conversation --

A. It wouldn't have been 10 minutes.

5

Q. Just describe how that conversation went.

A. It was in the middle of the OPS room.

Basically I just said to him, "In the unravelling of the situation at the moment, do you have a plan for when the fire reaching the urban interface of Canberra?"

10

Q. What did he say in response to that?

A. It was a pretty short conversation to say, "We don't at the moment".

15

Q. "We don't at the moment"?

A. That's correct.

Q. Did you ask him when such a plan was to be developed?

20

A. No, I didn't. You have got to remember the role we were there. So really I shouldn't have been pushing buttons. That wasn't our

responsibility. I guess part of what I was trying to do was potentially sow a few seeds that might have facilitated something happening.

25

Q. Did you get an acknowledgment from Mr McRae in some form or another that there was such a need for a plan?

30

A. No. But I didn't ask for it. I asked if there was a plan. As I said, it was more about sowing a seed rather than actually pursuing it.

35

Q. The next point I want to ask you about is your attendance at the planning meeting at 6pm on Friday the 17th - or the briefing as you describe it:

40

"At the briefing, a fire behaviour specialist presented information on the predicted rate of spread et cetera, of the fires to the west of Canberra. He showed a map that indicated that each of the three fires to the west of Canberra could reach the urban fringe in three to four hours under the predicted

45

conditions (different for each fire). His predictions were consistent with the interpretations of the senior rural fire personnel. Dennis" - referring to Dennis?

5 A. McTaggart.

Q. Guy is?

A. Duckworth.

10 Q. And yourself. It goes on:

"We had a growing concern of the developing situation.

15 During the above meeting I briefly raised the matter of preparing for property protection. For example, use of plant such as rubber  
20 tyred machines and graders to prepare around properties. There was some minor discussions in regard to the properties in the rural areas, but there was no discussion about the urban fringe preparations. The absence of  
25 commitment may have reflected that this meeting was the first attended by the Rural Fire Service."

I just wonder what you mean first of all by that last sentence?

A. You mean about the attendance?

30

Q. Yes.

A. This was the first meeting that we had attended representing the four task forces. Again bear in mind that we came under operations, but  
35 this was the first time I mean that - obviously there had been interaction between Yarrowlumla and ESB in the week or so leading up, this was the first time that someone, if you like, responsible for the four task forces under ESB control  
40 attended such a meeting. I think the meeting was close to 1830 rather than 1800 but it was called the 1800 briefing.

Q. It was a large meeting?

45 A. It was a very full meeting. A lot of people in the room. I actually sat right down one end of the table, a long way down.

Q. You go on to say:

5 "Other topics covered at the meeting included  
predicted fire weather (extreme fire  
conditions), information provided to the  
community for example Canberra Connect, what  
would happen when the fire got into the 'old'  
60-year pine plantations south of Cotter.  
(No-one would work in these forests)."

10

Now to your recollection, particularly in relation  
to the topic of information provided to the  
community, you refer to Canberra Connect by way of  
example. Can you recall how that discussion was  
15 conducted and whether there was a discussion about  
a plan to notify the community about this risk?

A. There was a group of people at the other end  
of the table. I mean, given that I had only been  
in this building six hours, there were media  
20 people, senior management people talking about  
what information would be provided to the  
community and in particular through Canberra  
Connect. I don't recall the exact details of what  
was mentioned there. But it was certainly in a  
25 positive sense of what information would be given  
to the community. It wasn't what we won't give to  
the community; it was matter of what will be  
provided to the community.

30 Q. Was there an acceptance at this meeting that  
there was a risk, significant risk, a realistic  
risk - however you might like to describe it -  
that the suburbs would be affected by some or all  
of these fires burning to the west of Canberra?

35 A. There was no specific discussion about the  
fires reaching the urban edge - the western urban  
edge, the interface of Canberra. In terms of fire  
activity, the discussion was focused on more if  
the fire reached the pine plantations what  
40 wouldn't happen. So basically we wouldn't work in  
the pine plantations. There was very brief  
discussion about if the fire reached the  
grasslands.

45 But the take-home message for me was that we were  
to focus our efforts in the rural areas,  
particularly around Tidbinbilla, Tharwa and Naas.

And hence, I guess, my proposal that we be provided with some plan to assist in preparation around some of those properties, which is standard practice for us.

5

Q. I just wanted to refer to at least part of the description you gave of this meeting during the course of your record of conversation, Mr Cooper. If you want to refer to that in particular, it is the document [NRF.AFP.0085.0001], in the vicinity of question 103. As the document is numbered, it is on page 31.

I think you are there referring to the briefing that was given to that meeting in fact by Hilton Taylor; is that your understanding?

A. Hilton Taylor and Nic Gellie both gave a briefing. It was very comprehensive and very thorough in terms of rate of spread of fire, particularly McIntyre but the other two were also included.

Q. You make the point in the answer to question 103 that you had worked with Nic Gellie before. You go on to describe what they were saying. You say:

"I mean, if you had taken the three or four hours, you know what I mean, that time was on from - they had lines drawn for the McIntyre's Hut fire - it should obviously read the Bendora fire - or the Stockyard one, you know, and they had shown on our runs for the Friday as well - and they were pretty crude lines but I mean they would have taken them off their computer program that showed the impact time, you know. And I think if I look back through my notes I think if someone said, you know, worst case scenario it would reach Canberra, you know, late Saturday afternoon. The key thing out of the whole - from my perspective was that they were all saying this - these fires were going to reach Canberra some time on Saturday, whether it was midday or 6 o'clock didn't make a lot of difference, you know. But the meeting never seemed to produce - well what are we going to

do about it. I can still remember the IC saying, and was very insistent, spent a lot of time talking about when it gets into the pine forest we are not going to do anything.  
5 Well, what happens after it gets in there? You know, when it comes out of the pine forest on the other side? They talked about the fact that one was 60 years old and they hadn't been maintained. Well, that's fine  
10 but, you know, and that's when I started talking about preparing properties. That's when I said, "Well, can you get some bladed type machines, or can we get graders, we want to put them around the property."

15 You go on to describe the rest of the meeting. You appear to be describing there the key point in answer to that question - there was a discussion about the possibility of the fires reaching the  
20 Canberra suburbs but no discussion about how that possibility would be coped with; is that correct?  
A. That's correct. There was a large map put on the wall with concentric circles in decreasing sizes backing onto the urban interface of  
25 Canberra. As I mentioned there, their predictions said it was going to reach Canberra. It was just a matter of when it was going to reach Canberra. Even if, as I said there, whether it was midday or  
30 6 o'clock, our feeling, my feeling was that we needed a plan to deal with that. And that plan could have been worked up.

Q. Going back to your dot points, you refer to at the invitation of the incident controller after  
35 the meeting:

"... I spoke to the incident controller with some ideas in regard to the preparation for property protection. He agreed the proposed  
40 actions were worth while. Later he spoke to me and referred me to ESB IMT planning and operations."

This is a conversation with Mr Lucas-Smith; is  
45 that who you are describing as the incident controller at that stage?

A. That's correct. I came down the steps out of

the meeting room and not too far away from the room. We spoke to each other.

5 Q. So he suggested to you that your proposed actions were worth while and referred you to planning?

A. That's correct.

Q. This is now at about what time, Mr Cooper?

10 A. Oh, between 1900 and 2000 hours, somewhere around there. It was after the meeting finished, probably three-quarters of an hour approaching 2000 hours.

15 Q. Some time before 8 o'clock?

A. I subsequently went to the field. When I went to the field, it had just gone dark.

Q. You then go on to say:

20

"There was no night planning team so it would wait till the 18th."

25 Where was that information coming from that there was no night planning team?

A. I went to night planning and there was - I mean, there was no night planning. There were no people - there was a very small number of people left there. And then when we came back from the field, there was one person in planning. I guess I could say I wandered around the building looking for others. At this stage we were all sent back to an operations officer in the OPS room.

35 Q. You spoke to him and raised the matter with him?

A. This is the matter about acquiring plant?

Q. I am following on your dot point. You say - perhaps I should read the whole thing in context. You have the conversation with Mr Lucas-Smith about preparation for property protection. He agreed. He refers you then to planning. You then discover there is no night planning team. So it was going to have to wait until the 18th. You then raise that same issue, I gather from the dot point, with the operations officer?

A. That's correct.

Q. You say:

5 "... who gave you a similar reply to that I  
had received in the afternoon - we would  
focus our activities in the rural area west  
of the river, from Tharwa to the pine  
plantation south of the Cotter. I also  
10 inquired about back-burning along the Tharwa  
to Cotter Road west side as this seemed an  
option to break up the likely fire fronts  
coming in from the west."

15 So at what step in the process or at what time  
were you having that conversation with the  
operations officer?

A. Within half an hour of leaving for the field.  
So 8.30 or thereabouts, 2030 hours, somewhere  
20 around there.

Q. You went to Tidbinbilla. What time did you  
leave for Tidbinbilla?

A. As I said, it was just after dark. I went out  
25 with Brian Murphy in his vehicle and certainly by  
the time we had entered the road into Cotter  
proper, it was dark.

Q. If you would go over to page 6. You had been  
30 to Tidbinbilla, a plan had been developed in  
relation to the protection of the Tidbinbilla and  
Naas Valleys as well as Tharwa; is that right?

A. When I initially arrived at Tidbinbilla, which  
is what I was sent out there to do - I guess you  
35 could say there had been a bit of a disagreement  
between a couple of the task forces and some of  
the ACT people about how to deal with the spot  
fires that had landed in the Tidbinbilla Nature  
Reserve. That was worked through very well,  
40 particularly with Brian Murphy working with us.

So after we did that - and on the way out to  
Tidbinbilla, I talked to Brian about the same  
option I had talked to the OPS officer about,  
45 whether it was worth while putting a back-burn in  
from Tharwa through to the Cotter. We worked  
through that pretty thoroughly with people like

Dennis McTaggart. What we were now more focused on was coming up with a plan for the next day. We did that on the bonnet of Dennis's Commodore with a tourist map. What we did was, we basically put  
5 divisions in place, identified four sectors, identified a comms plan. We now had agreement from Arthur Sayer that the task forces could operate through their own divisional command back to him the next day. So that would also make  
10 communication a lot easier and a lot more straightforward in terms of command and control.

But what we were really aiming at from start of business the next day was a plan to roll out in  
15 terms of what would happen based on the weather. So we had this plan in terms of task forces going into sectors and then we also built into that a trigger point - triggers in terms of once the fire had crossed the road between the Tharwa/Cotter  
20 Road and the Murrumbidgee River essentially. The properties were now safe or had been burnt around we would look to move back to Canberra. We had good agreement from the ACT people who were in the field with that approach.

25  
Q. The development of that plan and the detail of it was referred to at the bottom of page 5 and the top of page 6. You describe on page 6 a number of phone calls with state operations in relation to  
30 concerns and the support that was needed. Then you go on to say:

"Once we were okay with the night shift being at work, Dennis drove me back to ESB. En  
35 route we had a telephone hook up with state operations. Advice included: predicted severe fire activity."

That perhaps doesn't require any further  
40 explanation:

"The scale of operations was not being matched by management and resources (small  
45 fire approach)."

What does that mean?

A. Well, essentially we were now dealing - they

had been dealing with a campaign fire for more than a week which required significant management infrastructure as well as resources on the ground, not just firefighting resources and systems in  
5 place. My observation was that we were still operating in an environment that was really geared around a small overnight one-off approach, which I think I said last time I was here would typically be dealt with by a district or with adjoining  
10 district support. So we hadn't gone into a mature operation that would have had significant commitment by management in terms of resources there, infrastructure, command and control right across the board.

15

Q. You have given some evidence earlier this morning about planning and, to some extent, some evidence about the deficiency as you observed it particularly in the absence of an overall  
20 strategic plan. Had you by Friday night, and if not by Friday night then by some later time, had an opportunity to understand both the way in which information that was coming from the planning section at Curtin was disseminated to personnel in  
25 the field? And also the reverse of that: had you had an opportunity to see the way in which intelligence from the field was being fed back into Curtin in order to assist in the development of a strategic plan?

30 A. One of the things I do when I go to a control centre to have a look at it is basically does the operation know what they know. So is the information, whether it is in the field or in the control centre, readily available; is it being  
35 transferred; are they making decisions based on good, reliable, validated information?

From the brief time I had in the control centre that afternoon and it was even more confirmed when  
40 I went to the field, I didn't have any sense that there was a good handle on information handling, information transfer from within the control centre. And in the field it was built around people rather than around systems.

45

In the control centre that was pretty much the same. There was some small use of things like

message forms and radio logs being used, but event logs weren't common practice on people's desks. As I said earlier, maps and other visual information typically was dated. We actually  
5 brought in one of the field commanders to provide straight-up information to the planning group because they said they hadn't been getting it from operations. And yet we had been feeding it to operations during the day, things like the weather  
10 and activities that were going on.

So I am not saying there was nothing in place, but it certainly wasn't consistent with a large mature operation. It was still really that which you  
15 would expect from a fairly short-term quick response. A reactive mode response rather than a planned response.

Q. When you say the process was built around  
20 people rather than systems, what specifically is the distinction you are drawing there? Does it mean in effect the information flow was dependent on person-to-person verbal communication rather than anything else?

25 A. Very much so.

Q. Rather than the system of information flowing according to an appropriate stage?

A. That's correct. Very much so built around  
30 individuals talking to each other either face-to-face or via radios or telephones, but then those conversations and information being captured and fed into a system.

35 Q. The next of those subpoints that you apparently raised with state operations was the different IMT structure in the ACT. Does that dot point designate any more than you were advising state operations of the difference?

40 A. That's correct. They had sent down some personnel. Guy Duckworth was dispatched to ESB as planning officer and, much to his surprise, when he turned up he was told he would be a field  
45 person. In fact he was asked where his yellows were. We were advising state OPS on the basis that when they were selecting people for these roles they needed to understand they weren't just

going to be in the control centre; they were going to be in the field. So that wasn't a criticism. It was just a transfer of information to say that they have a different structure down here and they  
5 needed to understand that, if people were coming for planning or operations, they could well be in the field and not just in the control centre.

10 Q. In the next point you noted:

"We had yet to receive a plan."

15 Are you there referring to the kind of plan that you had earlier described; that is, the sort of overall strategic plan that you had raised the existence of with Mr Graham and Mr McRae? Is that what you there refer to?

20 A. In fact the initial part of this conversation was about an incident action plan rather than a strategic plan. But we did go on to say that there was no plan in place for the urban interface.

25 Q. You describe brief highlights of the briefing earlier that night. You refer to radio communications, the need for more IMT personnel for RFS and that Canberra would be impacted by fire on the Saturday. Was that information communicated based on what you had both observed  
30 and what you had heard at the 6.30 briefing; is that correct?

35 A. I guess that was an outcome of my observations and I suppose you could say my technical observations but also my gut feeling from about midday on Friday that more and more Canberra was going to be burnt. And once I had gone to the field and stood at Tidbinbilla and watched a fire coming down the slopes in the dark by 9, 9.30 that  
40 night, you could see how close that was to Canberra. And with the weather conditions that were predicted the next day, my gut - I mean apart from everything that told me technically, my gut feeling was that Canberra was going to be burnt the next day.

45

I had been through two severe fire seasons and in an afternoon and seen fires travel over much

greater distances in much lighter fuels. So, you know everything told me, and also people like Dennis, that we should have been looking at what was going to happen to Canberra at the western urban interface.

Q. What you are describing there is a conversation you had with state operations in the car on the way back to ESB after you had been out and developed the plan at Tidbinbilla. You then, a little bit further down that page refer to being back at ESB. You say:

"At the ESB I put to the night operations officer --

Who was that, do you recall?

A. I don't recall. A short person who was actually wearing shorts - I still remember that. But I don't recall who it was.

Q. You go on to say:

"I put to the night operations officer our plan for (a) back-burn along the Tharwa/Cotter Road and (b) our plan for the task forces the next day. I was acknowledged but no commitment to either was given."

What kind of commitment at that stage were you looking for in relation to the plans that you were outlining?

A. I guess the ultimate commitment would have been to say, "Yes, go ahead". I didn't expect a commitment to go ahead with the back-burning. I mean, there had been the exchange between the ACT service and our guys at Tidbinbilla in the afternoon that had been over back-burning. We wanted to back-burn and they were dead against it. There was a feeling amongst us that back-burning wasn't going to be supported along Tharwa/Cotter Road. We had to put that forward as an option. It was a management intervention for what was going to happen.

The next day, given that we hadn't had any plans up until now and I had a day shift that I was

about to put in the field, we wanted some commitment to say, "Yes, this is the plan. We are happy with what was going to roll out the next day".

5

Q. You got no commitment or effectively no response other than an acknowledgment of your proposal?

10 A. Yes. He acknowledged it. This is a personal observation, but I don't think he actually felt he had the authority to make that commitment. That's probably reasonable in the circumstances.

15 MR LAKATOS: May I object, your Worship. I have been sitting here. With respect, the witness is being asked to say whether there was a commitment. He then gave an answer and then proceeded to tell us what his gut feeling or his feeling was. I wonder if my learned friend who is directing the  
20 questions might actually ask the witness to respond to the question and perhaps leave his feelings for another time. If they are relevant they will be asked more specifically.

25 MR PIKE: While we are on the subject of objections, can I also ask that the witness not speculate as to what other people might be feeling. If he is going to make reference to the opinions of others, as he apparently did in the  
30 previous answer concerning Dennis - I take it is Dennis McTaggart - then either he be prevented from doing that if he is merely speculating or, if it is important to Mr Lasry, then the material be  
35 elicited in the proper way, finding out the basis of his belief of the other person's state of mind in that regard.

THE CORONER: Yes, Mr Lasry, you heard the objections.

40

MR LASRY: I have heard the objections.

THE CORONER: I am not too concerned about the evidence that Mr Cooper is giving, I must admit.

45

MR LASRY: Your Worship, they are appropriate objections in a different forum. As everyone

understands, the rules of evidence essentially don't apply in this process because of the nature of the process.

5 Now, if I can obtain from the witness the more direct information, I will endeavour to do so. But if I could say, with respect, that particularly a witness like this witness, with his expertise and his experience, his impressions,  
10 even if they are not called impressions but called "gut reactions" to the circumstances in which he was in at particular times are not without some value. Now, in the end, what is to be made of it is perhaps a matter of weight.

15 THE CORONER: That is the way I am taking the evidence as well.

MR PIKE: That is all very fine, but it doesn't  
20 begin to deal with my objection.

This witness may or may not have expertise in a certain area. He certainly, as I understand it, hasn't got expertise into looking into somebody  
25 else's mind which is what he claims he did in relation to the night operations officer where he says "I think he thought this".

30 THE CORONER: I accept that.

MR LASRY: Q. Let me be more specific, Mr Cooper. I will endeavour to be, as I can be, in the conversation with the, at least at this stage, unidentified night operations officer, was there  
35 any discussion between you as to whether or not he had the authority to make a commitment to the plan that you were proposing?

A. No, not at all. I mean, I put the plans to him. He acknowledged them. That was as far as it  
40 went.

Q. Did you ask him to in some way take another step or to give approval or for other assistance as to how those plans might then be the subject of  
45 some commitment?

A. I asked him if I could go and talk to planning about them.

Q. You did that?

A. I did that.

Q. He agreed obviously?

5 A. Yes.

Q. At that stage your intention was to speak to anybody who was in the planning section?

10 A. I was looking for someone in a senior planning role to outline what we had proposed, what had been worked up.

Q. And when you went looking for someone in a senior role that you could do that with, who could you find?

15 A. The planning room was empty except for two people right down the back, who indicated that they had no ability or no authority to talk - there was no point in me talking to them about it.  
20 It was pretty late by now.

Q. How late was it?

25 A. Oh, probably 10.30, 11 o'clock, because I was back at Narrabundah by 11.30.

Q. And was information made available to you as to how you might speak with someone at a senior level about the plans that you had developed for the following day?

30 A. No. There was no - I mean, at this stage I was acting on what I knew our command and control structure ICS should work.

Q. What do you mean by that?

35 A. I mean the planning officer has responsibility for not only working up plans but approving plans. Certainly the operation officer implements those plans. So therefore I didn't expect the operations officer to say, "Yes, go ahead". But  
40 at least what we were doing was flagging what we intended to do the next day if we didn't get any clear direction.

Q. When did your activities for that Friday  
45 actually come to an end; at about what time? What did you do after you attempted to speak to someone in authority in the planning section?

A. I left the building. I looked around the building but I didn't poke into any small offices. I looked around the building where I knew I could go and I should go but then left, as I said,  
5 between 11 and 11.30 and went back to the hotel. Met with Dennis and Guy. We worked on firming up our plan. We actually sat around the map on the table to firm that up.

10 I also followed up on the forward control because we had been advised that state operations had sourced a forward control and it was at Warringah but we had to go and pick it up. I didn't think it was a very good idea. I rang the fire control  
15 officer and asked him if he could arrange for it to be delivered, which he did. I spoke to a number of the volunteers who had worked in the field around the pool. I suspect I probably crashed, went to bed a bit after midnight,  
20 approaching 1 o'clock.

Q. Just go over to page 8 of that document, please, Mr Cooper, dealing with Saturday the 18th. You describe in that document, I take it first  
25 thing Saturday, a combined briefing/breakfast with the day crews, that was to be the day shift for the 18th?

A. That's correct.

30 Q. So this combined briefing/breakfast would have been at about what time?

A. About 5.30. It was full crews, task force leaders, crew leaders, all the crews while they were having breakfast. It was always a convenient  
35 and easy way of doing it.

Q. And then at some stage after that - shortly after that, I suspect - did you then go into ESB?

A. That's correct. I dealt with some of their  
40 usual minor logistics issues that you have in the morning, changeover crews, in terms of where they are at, what they are doing and briefed John Kennedy to follow up on what he was doing. Then I went into ESB.

45

Q. Just describe who John Kennedy is?

A. John Kennedy is a fire control officer from

Coonamble. He was dispatched to ESB originally as an operations officer. But on arrival his assessment was, in terms of welfare of the task forces was more important and he was tasked to  
5 that role.

Q. What was the status of the plans that you had sought to have confirmed or sought a commitment to from the night before as at the time of this  
10 briefing on Saturday morning?

A. We, I guess you could say we didn't have any approval for those plans. We worked the plans up; we were going forward on that. They were  
15 consistent with the directions that we were given that our responsibility would be in Tidbinbilla, Tharwa, Naas and Smith Road; and the plans were built around that. The sectors were actually  
20 named after those locations, and two division commanders were briefed. They had gone to the field. John Ryan, who is a group officer and was a task force leader from the Hunter task force, was identified as a runner between the division  
commanders.

25 So we rolled that plan out. It was consistent with the overall direction we had been given. It was consistent with the endorsement of the incident controller from the day shift the  
30 previous day in the carpark in Tidbinbilla. So they agreed to it. He was expecting and he was advised that he would be back there the next day; and he was back there the next morning.

Q. A bit further down, two dot points on, you  
35 describe:

"Toward mid morning operations introduces fields IMT incident controller (Forestry head)" --

40

Was that Mr Bartlett?

A. It was Tony Bartlett, yes.

Q. You then say:  
45

"-- who explains his approach - re-organisation of field IMT, different

people into different roles (move between Bendora and Stockyard). I asked to leave RFS as is - the task forces were in place preparing properties for fire and getting to know their areas of operation."

Does this designate some variation on the arrangements that you proposed to establish for that morning?

A. The meeting with Tony Bartlett, Tony Graham and Peter Lucas-Smith at this stage was initially to introduce me to Tony Bartlett. Then he outlined basically what he was proposing to do in the area where we were operating. And whilst the objective was still consistent with us protecting property, there was a significant re-organisation of both structure and resources in terms of what was going to happen in the field. And so to actually change this midstream - we are now looking at 10.30, 11 o'clock - that would have meant a change in communications platforms, those sorts of things. There would have been a significant overhaul. So we were concerned about that.

Q. How did that resolve in the end? Were the changes made or not?

A. The resolution was Tony went to the field in a helicopter, which we were a bit concerned about having an incident controller --

MR WATTS: I object to that, your Worship. Just a statement like that "I was a bit concerned about that" carries no weight at all, with respect. Perhaps if he can give some particular details about some particular problem. Simply saying, "I was concerned about that" is not a proper way of giving this evidence, with respect.

THE CORONER: I think you might have jumped in a bit early, Mr Watts.

MR WATTS: I may have, but having regard to the way he has been giving evidence, your Worship, I was --

MR LASRY: I was going to ask him what he was

concerned about.

THE CORONER: I think that is probably the next question.

5

MR LASRY: Q. You heard that brief but pithy exchange. What was it that was concerning you about that particular event?

10 A. Given he was an incident controller - in our language that would be a division commander - we expected a division commander for a campaign operation to be accessible by both phone, radio, comms, pretty much at a command post or a staging area. Something as such. So readily accessible.  
15 Sector leaders, task force leaders would normally be supported by a forward command post, for instance, so there would be a fair bit of infrastructure around. Quite clearly on this day they were going to be making fairly hot tactical  
20 decisions and therefore had to be readily contactable and readily available.

Q. You describe a couple of points further down that page the arrival of Assistant Commissioner  
25 Crowweller into the ACT. You note that he raised the issue of planning for fire impact on Canberra's western urban fringe with the ESB operations officer pre-midday on the 18th. Was that a conversation at which you were present?

30 A. I briefed Mark on arrival - midday is not correct. I would imagine it is closer to 1300.

Q. If anything post midday?

35 A. It is post midday. It would be around 1300. I briefed Mark on his arrival. It still rings in my ears his summary - that was 30Ks of fire impacting on 25Ks of urban interface. After the briefing with me, he proceeded to discuss options, planning with the operations officer. Now, I was  
40 in attendance but not part of that conversation.

Q. Do you recall what was raised by him with the operations officer and how that conversation developed?

45 A. Not specifically. As I said, I was in attendance. His main thrust was: fires are going to reach the urban interface and what plan, what

arrangements have you got in place? How are you going to deal with that? He pursued that in great detail. As I said, I was in attendance but not part of the conversation.

5

Q. When you raised that issue with Mr Graham on a previous day, a previous night, he informed you that essentially part of the response to that would be that the matter would be dealt with by the urban Fire Brigade?

10

A. That's correct.

Q. Can you recall what response he was providing to Mr Crossweller in this conversation as to what the plan was and how it would be dealt with?

15

A. No. As I said, I was in attendance but not part of the conversation.

Q. You don't recall what he said?

20

A. No, I don't.

Q. Down near the bottom of the page, the second last dot point, you refer to the ESB operations officer changed during a busy period and a new operations officer. Just describe what you saw about the way in which that changeover occurred?

25

A. Well, as you can imagine at this stage of the afternoon things were more than busy, they were extremely busy. I was pretty much hanging off the OPS officer's every word. Bearing in mind to talk to our task forces I was relying on phones, both mobile and land line, so I couldn't always be with the OPS officer.

30

I guess I was very surprised to see Tony Graham lift the bib off, drop it onto the new OPS officer and say, "You've got the job" and walk out of the room. So it struck me that this new OPS officer who I can't identify essentially got a change of baton like a relay.

35

40

MR PIKE: I object to this evidence, unless this witness is in a position to know what other conversations there may have been between that new person and Mr Graham. To proffer throw-away comments like that, until it is at least better informed by some basis of the evidence, is

45

ill-informed and not helpful.

THE CORONER: He is simply giving his observation and his impression of what happened.

5

MR PIKE: Yes. But it is contaminated by this reference to "passing on the baton" without him saying whether or not he has any knowledge of this person having been forewarned, fore-informed at any point. It is particularly unhelpful.

10

MR LASRY: Your Worship, I am simply asking the witness to describe what he saw. As I said earlier in my submission, impressions as well as other circumstances that he observed may be of some value in the observation of this witness. Let me go back to the topic.

15

Q. Were you present and did you hear any detail of the changeover between Mr Graham and the new operations officer; for example, as to briefing or explanation for the changeover or anything else that you were able to hear or take part in?

20

A. The gentleman who took the job arrived in the room three to five minutes before. As was indicated, he could have been briefed elsewhere or up to speed in terms of where it was at. Certainly the changeover, as I have described, occurred very quickly. Within minutes of that changeover the person who was now the operations officer actually asked me where our units, where our task forces were now deployed. And that information was provided and it was already available on a whiteboard in the OPS room. So that was reinforcing.

25

30

35

MR LASRY: I wonder if that is a convenient time. I would say it is for me, if it would be for the Court, to take the morning adjournment.

40

THE CORONER: Yes, all right. We will take the morning adjournment.

**SHORT ADJOURNMENT**

[11.13am]

45

**RESUMED**

[11.37am]

47

MR LASRY: Q. Mr Cooper, just a few more matters I want to ask you. If I could ask you to go to page 9 of your response to the request for information. We are now dealing with operational activities during the day on Saturday. The sixth dot point on that page simply says:

10 "Assistant Commissioner Mark Crossweller worked with ESB to develop operational plans for subsequent days."

The question really I want to ask you arising from that is that you have given evidence about the planning as you observed it, and critically you said there was a lack of what you would have regarded as appropriate level of planning, particularly at an overall strategic level. As from the 18th of January, did that situation change and to your observation improve; and, if so, when?

20 A. In terms of on the field or in the field tactical planning, we didn't notice any change and we didn't actually get an incident action plan until the Tuesday morning, which would be an indication of some larger higher level planning in terms of what was going on.

30 Most of the planning from the Saturday night, through the Sunday and the Saturday, in terms of what the task forces did was done in consultation with the operations officer. Typically they were written out on an A4 page and given to the crews in the field.

35 Q. So was the actual planning being done within the New South Wales task forces or was it being done from ESB or in consultation with ESB?

40 A. We tended to work up what we believed we could do and then I would talk to the operations officer and he would finetune it, if necessary, and then give us the go ahead to do what we were going to do. On a number of those shifts, on the night shift, for instance, when the ACT units were stood down, we were the only units in the field. So it was relatively straightforward to do that.

45 We had a significant planning meeting which

involved RFS from Yarrowlumla, ESB and myself. Mark Crossweller chaired that meeting, I guess you could say, on the Monday night, I believe, ready for Tuesday. And that lasted for nearly three  
5 hours in terms of planning what would happen.

But to my surprise, when we got the IAP the next morning, what was in that plan in terms of where our resources were going to be was inconsistent  
10 with what had been agreed to the night before. Basically our units were being put back into ground, whereas the night before the exposure was recognised as the north-west side of Canberra, and that's where the units would be deployed. Bear in  
15 mind now that we were working with eight task forces and no longer the four, so a significant resource in terms of property protection.

Q. The other matter that I want to ask you about in relation to the 18th, you have set out in this document and other documents in significant detail in relation to what occurred on the 18th. I want to ask you about page 10 and in particular the dot points about seven or eight up from the bottom.  
20 The first one being:  
25

"Operations sought advice on task forces available to go to Duffy et cetera. I advised they would go when it was safe - 45 minutes travel time at least."  
30

Now, are you able to recall about what time it was that the advice was sought on the task forces available to go to Duffy on Saturday, the 18th?  
35 A. It would be around 1500, 1530. It was in that sort of ballpark.

Q. And at that stage --  
A. It might have been a smidge earlier. It wouldn't have been significantly earlier. It would be somewhere within that hour's time frame. I volunteered to Tony that the task forces in terms of the area that they were given responsibility - so Tidbinbilla, Naas and Tharwa -  
45 had largely been burnt and our trigger point had then passed. I was now saying, "Do you want to put them back into town," which was consistent

with what we had wanted to do.

We also had the group officer who had brought the forward control down, now contacting saying that  
5 there was fire in Duffy. In fact, he said his vehicle had sustained damage during that. Tony agreed and said, "If you have got the task forces, then move them." I also had the Commissioner being pretty clear about what I should be doing  
10 with the task forces at this stage as well.

Q. Was that moving them to the western suburbs?

A. He very quickly turned around to me and said,  
15 "Where are the task forces now? Can we get them into the urban interface?"

Q. Where were they at this stage?

A. At this stage they were still on the western side of the Tharwa Bridge. Two of the task forces  
20 had gone through, I guess, overrun in broad terms, they were in refuge areas. They hadn't sustained any damage. I had been talking to both division commanders, and all units and all personnel were intact and --

25

Q. Overrun, does that mean that they actually had the fire burn over them?

A. Yes. We had identified refuge areas, which meant there would be a significant radiation zone  
30 between the units and the fire. One of those was the carpark at the National Parks offices, so the units had parked in there. We also had them at the fire station at Tharwa. That's fairly traumatic for crews, but the crews had indicated  
35 through their division commanders that they were ready to go.

And bear in mind this was consistent with the brief they had been given at 5.30 that morning,  
40 which was we expected some time during the day that they would have to come back to Canberra.

Q. Did a number of units go to Duffy and that area?

A. I issued the instruction, after Tony Graham agreed to it, to Dennis McTaggart and said, "I  
45 wanted two task forces to go to Weston or Duffy,

one to Pearce and one to Kambah. Get them on the road as soon as it was safe."

Q. What time was that instruction issued?

5 A. It was pretty shortly after talking to Tony, so probably around 1530-1600, somewhere in that ballpark. They did move pretty well straight away. I had indications they were on the road. Clearly the task forces that were at Tharwa were  
10 able to be mobilised quickly. You have got to bear in mind they were still potentially at risk because they were driving through past the fire that had gone through there.

15 Q. Did they arrive as a group at first of all Duffy?

A. They were moved, those task forces. The task force commander takes his task force and so they were deployed into those areas. We had people  
20 like the division commanders plus the group officer from Warringah who were feeding specific intelligence as to where they were to go. But the role they were given was property protection and basically to defend properties that were  
25 defendable.

I had a number of contacts with the task force leaders over a couple of hours that clearly indicated they were there and doing that. You  
30 know the Great Lakes task force commander, Lorraine Bruce, rang me at one stage. She was in Pearce and she was seeking that the gas be turned off. Other task force commanders rang up about minor logistics issues. One of the trucks was  
35 running out of fuel. But they were there. I didn't need to know which street they were in. I needed to know that the task force was in a suburb. Where they were working specifically was up to the division commanders and the task force  
40 leaders.

Q. As you understand it, what time was it that the task forces reached the designated areas they were to go to?

45 A. The indications were back from the field. I spoke to John Ryan who went to Bonython, Tuggeranong, something like that, and he was

certainly in place between 1600 and 1700 -  
somewhere in the middle area he called me up and  
said that they had grabbed a couple of bits of  
plant, a back hoe and a grader to break down a  
5 gate that they couldn't get through. It was in  
that time frame.

Q. Were there New South Wales units in the Weston  
Creek, Duffy, Chapman areas?

10 A. Yes, there were two task forces sent there. I  
can't tell you what streets they were working in.

Q. They were in the area?

15 A. They were certainly working in the area.

Q. By what time would you understand?

20 A. Again, somewhere around that sort of 1530  
through to 1630 ballpark. I don't know exactly  
what time they got there. What I needed to know  
was they had left Tharwa and they were arriving in  
the area.

You have got to bear in mind that at this stage I  
was now dealing with more task forces incoming  
25 from Sydney. I was trying to organise to get  
those task forces into the best location, based on  
what operations were telling me in the ESB and  
what I was getting from the field. So that in  
itself was a fairly significant exercise to locate  
30 the Sydney task forces on the road, find those  
that were closest to Canberra and get them pointed  
into a given street - or into a given suburb,  
sorry.

35 Q. I want to ask you a more general question.  
You have given evidence to the effect that  
certainly from Friday lunchtime or Friday  
afternoon onwards, you were inquiring at ESB of  
both operations and planning as to what strategic  
40 plan existed to cope with the eventuality of fire  
affecting the Canberra suburbs. That having  
happened as it did on the 18th of January,  
thereafter, particularly over the day or two  
after, was a broad strategic plan for the next day  
45 or two then being developed in response to what  
had happened on Saturday, the 18th?

A. When the military arrived, they certainly

brought a more strategic perspective to it,  
particularly areas that they had direct control  
over. So things like plant, they were clearly  
committed and worked. We provided resources that  
5 indicated where to put grader lines in, and those  
sorts of things.

The control centre had become more alert to the  
fact that the fire to the north-west of Canberra,  
10 north-west of Belconnen could still run in. So  
now there was a commitment to actually do  
something up and around that part of Canberra as  
well as trying to recover from the impact on the  
edge.

15 So that was being slowly worked through. It was a  
bit of stop-start. I mean, the military put the  
grader lines in around Belconnen. We were eight  
task forces were ready to commence the back-burn  
20 around Belconnen. At night, which was again - it  
had been agreed to by ESB during the day, they  
were keen for it to happen but 15 minutes before  
it was due to happen, I got told we were not going  
to do it and pulled the pin on it.

25 Q. Was that on the night of Sunday, the 19th?  
A. The 19th - it could have been the 20th. It  
was certainly - we had spent all day preparing the  
properties in terms of putting units in to  
30 properties and around the outside assisting  
residents, advising residents to actually prepare  
for the back-burn but also should the fire take a  
run - I mean, we now had a mineral earth line  
around the properties to the north-west, which was  
35 a real bonus as well as the residents being  
prepared. So we spent a lot of effort in terms  
of - again in close operation with ESB, they had  
been keen that this be carried out and the  
operations people were very supportive. We were  
40 now running --

Q. Why was that burn cancelled?

A. The advice I was given at the time --

45 Q. By whom?

A. Well, Peter Lucas-Smith personally said to me,  
"We didn't want to alarm the residents".

Q. That was the reason for the burn being cancelled?

A. That was why - I mean that's what I was told at the time, at about quarter to 6, which was 15  
5 minutes before the shift was due to start.

Q. Mr Cooper, I want to ask you not in detail about the document, but one of the documents that you provided is a document which is described as  
10 "Debrief report for operational RFS task forces under ESB control Canberra, 16-22 January", which is [NRF.AFP.0085.0227]. First of all, is it a document that you prepared?

A. That's correct. I did prepare it.  
15

Q. Was it prepared after I think three debriefing sessions which appear at the bottom of page 1 at particular locations; debriefing sessions for particular task forces who took part in this  
20 effort; is that right?

A. These were the task forces that were there for the first three days, so therefore the 16th through to the 19th - not the personnel that came later. The debriefs were facilitated and  
25 supported by state operations.

Q. Is it correct to say that what appears in the document in point form under various headings is a summary of the material which was provided to you  
30 in the course of those three separate debriefs?

A. The debriefs were conducted according to the protocol of the Rural Fire Service and, in gathering the information, I had a responsibility to record that. Once it was recorded, a draft was  
35 sent back to the personnel who attended the debrief for any comment or changes. What you see there is the final outcome of that process.

Q. So does it mean that a lot of the material that is in this document summarises perhaps what  
40 can be described as a consensus view from a large number of people who participated in the effort?

A. Very much a consensus view. There are some items in there that you will see might be recorded  
45 as a particular aspect or an opinion or an issue that may have related to one particular group of people. I mean, I guess just as an example of

that, one of the task forces had a number of  
Aboriginals in it, and they raised an issue of  
working in and around sacred grounds. So that was  
an issue clearly only relevant to that group of  
5 people.

Q. Looking in particular - I don't want to go  
through these - at paragraphs 2.5 on page 3, 2.6  
and 2.7 on page 4 and 2.8 on page 5, do those dot  
10 points set out in that part of the debrief  
represent a summary of the feedback that you  
received during the course of the debrief?

A. Absolutely. That's why we do this.

15 Q. And looking through it with this question in  
mind: do they also represent views that you agreed  
with based on your own experience during that --

MR PHILIP WALKER: I object. To deal with that  
20 many different views in that many different ways  
in that rolled-up fashion, your Worship, cannot  
assist you. If this man is to give evidence, it  
ought to bear at least some relationship to fact  
so that you can work out what his evidence is and  
25 what it is not. And not some aggregation of three  
meetings where a great range of people have put  
together views and be asked a question in that  
rolled-up fashion.

30 THE CORONER: You might ask a general question  
first and then see what the response is, perhaps.

MR LASRY: I will, your Worship, but that  
shouldn't be taken as an acceptance of the  
35 objection that has been made.

Q. You were at all three debriefs?

A. I was at all three debriefs.

40 Q. This document was developed by you - perhaps I  
can ask this question - taking into account  
information that you obtained during the course of  
those debriefs?

A. Absolutely.

45

Q. Does it also contain information which is a  
product of your own experience during the period

you were in Canberra?

5 A. I was part of the people around Canberra and I was part of the debrief. Therefore, it does include activities, issues and information that I was directly involved in.

10 Q. Have you looked through this document for the purpose of determining whether what is set out in the dot points in the paragraphs to which I have referred not only incorporates information which was fed back to you during the debriefs but also reflects both your experience and your opinions from your own time spent in ESB and around Canberra during the period from the 16th to the 15 22nd of January?

A. You are referring to dot points 2.5 through to 2.8 inclusive?

20 Q. Correct.

A. For the most part, yes. There is one exception in there that I did not have personal first-hand experience with.

25 Q. Which one was that?

A. Under --

Q. Is it on page 5?

30 A. Dot point 2.7, page 5 the dot point that starts:

"The appointment of ACT personnel to a field IMT seemed to relate to their everyday jobs."

35 That was information that was provided to me. I have no first-hand knowledge or experience in relation to that.

40 MR LASRY: Yes, thank you, your Worship. I have no further questions.

THE CORONER: Q. Just following on, Mr Cooper, is that the only area? Is that the only dot point in those comments?

45 A. In 2.5 to 2.8, that is correct. I have actually marked up my own copy.

THE CORONER: Thank you. Mr Archer, do you have

any questions?

MR ARCHER: Yes, I do. Thank you, your Worship.

5 <CROSS-EXAMINATION BY MR ARCHER

5

MR ARCHER: Mr Cooper, I represent the Australian Federal Police and have a limited interest in what you have had to say today.

10 Q. If I could just take you to the briefing  
session that you were at on the Friday night, the  
17th. Could I draw your attention to what has  
been described as your statement which is  
[NRF.AFP.0085.0106] at 0111. Could I just draw  
15 your attention to the fourth dot point which  
starts with the words:

"At the briefing, a fire behaviour specialist  
presented information on the predicted rate  
20 of spread et cetera of the fires to the west  
of Canberra."

Do you have that?

A. Sorry, I am on the wrong document. What page  
25 in that document?

Q. It is numbered 0111, page 5. Do you have that  
now?

A. Page 5? The dot point how far down the page?  
30

Q. The 4th point starting "at the briefing"?

A. Yes, "at the briefing a fire behaviour  
specialist".

35 Q. Do you recall who that was?

A. As mentioned earlier, Hilton Taylor and Nic  
Gellie were both in attendance.

Q. It is plural fire behaviour specialists, were  
40 they contributing --

A. I don't know whether Hilton is a specialist.  
I have worked previously with Nic Gellie; I would  
call him a specialist.

45 Q. There you might have been referring to Nic  
Gellie?

A. That's correct.

Q. This is what you say. It was read to you previously but I will read it you to again:

5 "He showed a map that indicated each of the three fires to the west of Canberra could reach the urban fringe in 3 to 4 hours under the predicted conditions."

Three to four hours from what?

10 A. That was from the time the conditions actually came in place. So the worst case scenario conditions, once they developed, it would take that long to run. It is not from a particular time on a clock as it were. So once those  
15 conditions kicked in that were predicted for the Saturday, it would take that time to run.

Q. Could this document be brought up [ESB.AFP.0110.0865] I will just tell you,  
20 Mr Cooper, as it is coming up that these are the minutes of that meeting, which may assist. If you could go to 0866 please. Could you just read the top paragraph there under "planning" to yourself.

A. Yes.

25 Q. That is apparently how that particular discussion was minuted. It is attributed to Rick McRae rather than Nic. But leaving that aside for the moment, is that your recollection as to where  
30 the discussion reached on that day in relation to predicted fire spreads?

A. The discussion at the meeting certainly mentioned Uriarra and Cotter. Whether it mentioned the pub or the reserve, I do not recall.  
35 And in terms of reaching Stromlo and Narrabundah, again, that was talked about, if you like, in a broad or a general sense in terms of it reaching it. My recollection was reaching the western edge of Canberra in that sense.

40 What I am reflecting here with the three or four hours is different, if you like. It is not contradictory to what is given there. What it is saying is the concentric circles that were  
45 presented on the map reflected that rate of spread towards Canberra.

47

Q. So your way of formulation might produce the same result but a different way of saying it?

5 A. Yes. That's not inconsistent. This has just got time lines on it against the clock as opposed to putting it against, if you like, the weather conditions when they developed. You have got to remember the fire behaviour people will be working with those sorts of conditions for predictions.

10 Q. So far as that discussion was concerned, leaving aside your gut reactions to what was being said but as to what was actually said and the focus of what was said, is it fair to say - this seems to be what you were saying this morning but  
15 I want to clarify this is the case - the focus of that meeting was on rural areas, even though this prediction had been given, the focus was on rural areas and property protection?

20 A. Focus was very much on rural areas, and the other key taken from that message was when it got into the pine forests we weren't going to do anything. But certainly in terms of property protection, fire, task forces, resources, they would be working in rural areas. There was no  
25 mention of any activities associated with the urban interface as such.

Q. At that meeting there were a large number of people?

30 A. Yes. You have got to remember it was the first meeting I had gone to. I am not going to recall all the people that were there.

Q. There were a large number of people?

35 A. It was a very full room. It started with the weather being given, then the predictions. Yes, a large number of people were in the room.

40 Q. So far as your disquiet, as it were, about what was being said at the meeting or your reservations about what was being said so far as a planning outcome was concerned, did you actually verbalise that at that meeting?

45 A. I guess by disquiet you mean my concern that I had that there was no planning?

Q. Yes.

A. I guess my approach to that was to not stand up and say, "Why don't we have planning in terms of urban interface?" What I tried to do was seek some resources such as machinery to assist with that. You have got to remember this was the first meeting we attended, so it wasn't appropriate for us to stand up. We were nominally operating under operations' instructions so we were part of the operations group. It was part of respect of the operation that we were working in. It wasn't appropriate for me to stand up and, if you like, in a larger audience, in a larger forum, raise those issues that I had been raising with other people during the afternoon on the quiet.

15

Q. With due respect, the answer then is no?

A. No.

Q. Did you go to the planning meeting the following morning?

20

A. No.

MR ARCHER: Yes, thank you.

25 THE CORONER: Mr Lakatos?

MR LAKATOS: Yes, thank you, your Worship.

**<CROSS-EXAMINATION BY MR LAKATOS**

30 MR LAKATOS: I appear for the Australian Capital Territory.

Q. Last time you were here there was produced a bundle of notes. I wonder if you would look at these and tell me whether they are the notes that you had access to, wrote in the collective during the course of your time in Canberra between the 16th and the 22nd of January; they are the correct dates, are they not?

35

40 A. That's correct, yes. You want me to look through all of these?

Q. I wonder if they are the notes that you supplied to the Australian Federal Police - a copy of them I should say?

45

A. Well, there is certainly nothing in there - I mean after a quick flick through - that wasn't

provided to the Australian Federal Police.

Q. The question was: were they the notes - not  
were they not the notes - are they a copy of the  
5 notes that you provided to the Australian Federal  
Police when you were interviewed by them at some  
stage?

A. I'm still not - I mean, if you are asking me  
should I go through each of these and see whether  
10 each one of them was what was provided - I mean I  
could go through each one of the pages and say  
yes. A lot of them have got my handwriting on  
them. All I am saying is there is nothing in  
there that we didn't provide to the Australian  
15 Federal Police.

Q. Can you tell us what your handwriting is or  
identify one page with your handwriting on it?

A. Any of the pages that have got a stenographer  
20 pad spiral across the top of them would be my  
handwriting.

Q. Might those be returned. May we take it that  
the handwriting on the spiral pad which is  
25 recorded there represents the notes you took in  
the course of your attendance in Canberra between  
16 and 22 January?

A. Not all the notes, but some of the notes, yes.

30 Q. Are there any more which relate to that  
period?

A. No, not that I'm aware of. There might have  
been, like when I did briefings in the morning, I  
may have issued some written instructions to the  
35 task force leaders, those sorts of things. But  
those notes essentially represent what I needed to  
record to get a job done as I was going along.  
But they are not by all means comprehensive of  
what I was doing or where I was at the time.

40

Q. Did you make any other record of what you were  
doing, where you were at the time, apart from the  
writing on this pad?

A. No. What you have there is what I did at the  
45 time.

Q. When you came to prepare your first document

which I think is titled "an overview" and it appears to be dated 27 January 2003, what documents did you have recourse to in order to prepare your contribution to that document?

5 A. Obviously my field notes and one of the tourist maps that we had available. That was the extent of the documents.

Q. Just so I understand, the spiral notebook is  
10 your field notes or you are referring to something else?

A. Yes, that is correct. That is my field notes.

Q. When did you commence to prepare the overview?

15 A. The 27th. After I left Canberra on the 22nd, I was deployed to the Brindabella Valley until Australia Day. I was released from the Brindabella Valley on Australia Day, when it was considered to be safe, and returned home. The  
20 overview of the RFS in the ACT was prepared for the RFS in terms of them having a record of, I guess, an overview of what actually happened in the ACT at that time.

Q. So may we take it the first time  
25 metaphorically speaking that you put pen to paper in terms of recording your experiences in Canberra was something in the order of eight or nine days after the 18th of January?

30 A. Yes.

Q. With recourse to your field notebook?

A. That was available to me, obviously, yes.

35 Q. And your memory?

A. And my memory, yes.

Q. I take it that when you prepared these  
40 respective documents commencing with the overview, then going to the response in July of 2003 and then the debrief document, that what you had in mind was to prepare a document of constructive criticisms of things which had fallen down, as it were, on the job in the course of your experience  
45 in Canberra?

A. No. It wasn't to prepare constructive criticism at all. It was to record what actually

happened and what the observations were. That first document in fact that you referred to, the overview, after I drafted it, it had been circulated to the two division commanders as a check in terms of what had been incorporated in that. It is the product of three people rather than just myself. So it was a validation process.

Q. Sorry, "a validation process", what does that mean?

A. In terms of what I had recorded and what was in there, it was consistent with what they knew. But it certainly - we - it wasn't that I had set out in terms of producing constructive criticism.

Q. When you came to give your response dated July of 2003 and you were asked about various matters which affected the performance of your task forces, was your purpose in identifying shortcomings, at least in part, with a view to giving constructive criticisms of the deficiencies?

A. Some of the questions the Federal Police put to us were just that, in my language, what were some of the strengths and weaknesses.

Q. When you came down to Canberra on I think the night of the 15th or was it the 16th - did you come on the night of the 15th?

A. We arrived on the 16th. And we --

Q. Remind me: what time did you arrive in Canberra?

A. 1735 with much chorus. We were met by the director of ESB at the Majura Road intersection and the police escorted us to Narrabundah and a number of the media were present. If memory serves me correct, the front page of the paper the next day had one of our firefighters holding a pillow under his arm.

Q. You arrived at 1735?

A. We arrived at Narrabundah at 1735.

Q. I take it at that stage your knowledge of what had occurred in Canberra was that fires had started on about 8th January and therefore had

been burning for something over a week; you were aware of that, were you not?

A. Yes.

5 Q. At that stage you would have known they were campaign fires?

A. Yes.

10 Q. I take it you would have been aware that those officers at the ESB that you met had, as you would believe it or take it, been working on these fires for a period in excess of a week?

A. Yes.

15 Q. I take it you had a fairly good grasp of the proposition that the ACT fire services were a considerably smaller organisation than was your home body of the New South Wales Rural Fire Service?

20 A. Most definitely. That became clearer on the 17th.

Q. Did you also know that the number of permanent employees at Emergency Services Bureau where you did some of your work during that time were about four?

25 A. I was aware of the ESB structure and arrangements through my career job because I had been working with them to develop a MOU for  
30 dealing with emergency animal diseases.

Q. Did you know that the number of permanent employees at ESB were about four?

A. No.

35

Q. And in your helpful overview you were asked a number of questions which you provided answers to. One of which was, at paragraph 2.6, [NRF.AFP.0085.0121] is the precise page, page 16  
40 of your response document. Do you have that page?

A. The dot point is "how and when you were made aware of state of emergency?" Is that it?

45 Q. No. I am looking at the document - I may have misled you.

A. You said page 16.

47

Q. My apologies, I have misled you. In fact, it is the response to request for information of July 2003, page 16.

A. Page 16?

5

Q. Yes.

A. Dot point?

Q. There is a heading at the bottom of the page, "Did you experience any logistical et cetera" hindrances. Do you see that?

A. Yes. "Were there any issues regarding compatibility of resources with organisations"?

15 Q. At the bottom you say:

"Within the ESB, there appeared to be a range of inadequacies in regard to resources, ranging from too few people and too few roles".

20

Do you see that sentence?

A. That's correct.

25 Q. Bearing in mind that you had some grasp of the fact that ESB was a considerably small organisation, did it come as a great shock to you that there might be too few people?

30 A. No. It doesn't come as a great shock because during emergencies --

Q. Thank you.

A. --you can scale up or scale down.

35 Q. I understand that. If you want to give a reason and somebody wants to know, they will ask about it. You make complaint about the inadequacy of phones and the insufficiency of whiteboards on the following page. I take it those were matters which were preying on your mind at that stage; were they?

40

A. I don't make complaint about it. It was just a straight-out observation about the adequacy of resources for those people to do their job.

45

Q. Even simple things on reading such as labels on each IMT section would have made it easier?

A. That's correct.

Q. I see. That was a matter preying on your mind at that stage, was it?

5 A. It wasn't preying on my mind. Would you like me to add a bit more to that?

Q. No doubt Mr Lasry will ask about that.

10 MR LASRY: Your Worship, my learned friend cross-examines by leave and part of that leave is designed to assist you. So if it will assist you to hear the explanation, then your Worship will hear it, in my submission.

15 THE CORONER: I think that is right, Mr Lakatos.

MR LAKATOS: With respect, I asked a question and I got a response. My learned friend Mr Lasry over  
20 preceding days, may I say, has done a better job of what I am trying to do than what I am doing now in a way very similar. He has said if somebody wants to adduce additional evidence they can do so. Well, with respect, that course of action is  
25 open to him if he chooses to do so. I asked a specific question; I am entitled to a specific answer; I did not ask for a reason.

Q. You then further down make an observation, do  
30 you, about the suitability of the office space that you were allocated; do you see that?

A. Again, I don't believe I'm complaining. That is just a straight-out observation of what actually happened and where we were located.

35 Q. What about the comment:

"Again this seemed to reflect a lack of understanding" --

40 That was an assumption that you made, was it?

A. Again, it is an observation in terms of task force support of what is required to support a large number of people and resources in the field.

45 Q. Well, with respect, it is your impression not an observation; isn't that correct?

A. It is an observation in terms of what you need to support that sort of resource to do the job.

5 Q. That was something that was preying on your mind, was it, when you arrived at ESB on the 16th, that lack of suitable office space?

A. No.

10 Q. You have given a lot of evidence today about various impressions, feelings and gut reactions that you arrived at in the course of your stay in Canberra fighting these fires. Do you agree?

A. Those impressions, gut feeling --

15 Q. Do you agree that you have given evidence about gut feelings, impressions and so on in the course of your evidence?

A. In support of the technical information being assessed, yes.

20

Q. May we take it that the factual foundation of your gut feelings, impressions and so on are contained in the written material before this court and in the evidence you have given to date?

25

A. No.

30 Q. So the underlying facts for your various impressions and so on have not been set out in the documents and in your evidence. There are additional underlying facts; are there?

35 A. The information that is provided there were observations on what happened at the time. They don't actually include my interpretation or, as you put it, gut feeling. There is no mention of gut feeling in there. That is not borne out.

40 Q. May I go back a step: We may be at cross-purposes. In the evidence you have given today, you have given evidence of your various impressions, feelings and so on as to events which you were witnessing in the ESB and elsewhere in Canberra. You agree that you have given evidence of those impressions and gut feelings?

45 A. That evidence in terms of gut feelings and impressions is supporting, if you like, the formal technical assessment. That's what I do. That's my core business. So if you like --

Q. So you have given evidence from impressions and gut feelings. That was the question I asked. Have you done so; do you agree?

5 A. You have recorded that part of what I have said is some of it is based on gut feeling.

Q. Thank you, all right. The question I am putting to you is this - if you don't understand it please tell me --

10 A. That's fine.

Q. Are any factual foundations for such impressions and gut feelings represented in the documents which are before this court that have come from you and the evidence that you have given; do you understand the question?

15 A. I think I partly understand the question. What you are saying is are there any facts or evidence to support the impressions or the gut feeling that is included in the document.

Q. The question in fact is: are the facts which support those impressions before this court either in the documentation or in the evidence that you have given?

25 A. To the best of my knowledge, yes.

Q. Can I ask you this question finally: did you attend a conference with the lawyers for this coronial inquest?

30 A. Yes.

Q. Can you tell us who was present at that conference, please?

35 A. Lex Lasry, Trevor Roach and the RFS representation.

MR LAKATOS: Thank you, your Worship, I have nothing further.

40

THE CORONER: Thank you, Mr Lakatos. Mr Pike?

MR PIKE: I seek to go after Mr Watts, your Worship.

45

THE CORONER: Mr Whybrow?

47

MR WHYBROW: I don't have any questions at this stage.

THE CORONER: Mr Walker?

5

MR PHILIP WALKER: Yes, I do. Thank you, your Worship.

**<CROSS-EXAMINATION BY MR PHILIP WALKER**

10 MR PHILIP WALKER: Q. Mr Cooper --

THE CORONER: Just mention who you represent, please.

15 MR PHILIP WALKER: I represent Mr Lucas-Smith.

Q. Mr Cooper, picking up on point that Mr Lakatos has just raised, how many permanent employees are there in the New South Wales Rural Fire Service?

20 A. That's clearly not a question I can answer straight off the top of my head.

Q. Can you give us your estimate?

25 A. If you are asking specific figures, no, but I could say hundreds. I mean that's as close as I am prepared to put a mark on at the moment.

30 Q. How many permanent employees are based in your head office at - I think it is at Rosehill; isn't it?

A. That's correct. Again, you have got to remember that I am a volunteer so that's not the information I deal with every day.

35 Q. We understand that, and nobody is going to hold you to precise numbers. But are you in a position to give some indication of how many people are there? Do they occupy a whole building, floors of buildings?

40 A. I don't know specifics. Those people who work on policy and standards know. Again, I don't know the specifics. If I picked a figure it would be worse than me picking the lottery winning number. I am not going to know specifics.

45

Q. Any more than 50?

A. Yes.

Q. Would it be more than 100?

A. Yes.

Q. Would it be more than 200?

5 A. I don't know.

Q. At least a hundred people in your head office. Do you know in your experience - first of all, do you recognise the term "campaign fire"?

10 A. Absolutely.

Q. And what do you understand that term to mean?

A. Campaign fires are either a complex of fires or a complex for protracted duration measured in starting to push into weeks or even a week, significant coordination of resources, planning required to do the job.

Q. It is a fire which, for example, would require multiple shift changes?

A. Absolutely.

Q. And obviously the marshalling of a significant number of resources?

25 A. Resources, both management and field, yes.

Q. And equipment as well?

A. Yes.

30 Q. I dare say a fire of that magnitude would ordinarily require people to be called from outside the particular local fire district; is that right?

A. Typically, yes.

35

Q. Are you able to give us some indication of how many campaign fires might have been fought by the New South Wales Rural Fire Service in, say, the last 10 years?

40 A. Am I?

Q. Yes. Nobody is going to hold you to precise numbers, Mr Cooper, but I dare say you follow what the Rural Fire Service is doing if it has got a large fire on, I assume?

A. Yes, only because I am likely to be deployed. But I mean if you wanted a round figure, it is

certainly going to be large; it is going to be a hundred. Most of you would have been aware of the number of section 44 emergency declarations in New South Wales over the last - the two severe fire seasons. So obviously it is a large number measured - over a hundred - but I couldn't tell you the specific figure.

Q. Just again to get some idea of the background from which you come, I have asked this question of others: how many volunteers would be in the New South Wales Rural Fire Service; do you know the answer to that?

A. Currently they list 64,000.

Q. I suppose you would have no idea of the amounts of equipment that are deployed to the New South Wales Rural Fire Service. For example, helicopters, do you simply call them in as and when required; or do you have a number of permanent helicopters?

A. No, I don't have a specific handle on helicopters. What I do know is that if I am in an operation and we request one, they will allocate it subject to its availability - typically they are all contract aircraft.

Q. There is virtually no person in Australia who doesn't know the large skycrane helicopter 'Elvis' by one name, and I think there are others. Does the New South Wales Rural Fire Service have that sort of equipment on standby each bushfire season?

A. My understanding is on in the last couple of busy seasons it has been contracted to be available on an as-needs basis. So it is on standby, yes.

Q. Is there only one or is there more than one that is contracted?

A. Again, you would have to ask the aviation group in terms of what they have on standby.

Q. But at least one?

A. Well, I know they make contract arrangements for aircraft to be available during the fire season and the heavy lift - I mean the skycranes you are talking about - are part of that

contractual arrangement.

Q. You don't happen to know, do you, the budget for the Rural Fire Service in New South Wales?

5 A. No.

Q. If you don't know, that is fine.

A. They don't pay me enough.

10 Q. Volunteers have to have broad shoulders, Mr Cooper.

A. Volunteers, by the nature of it, it is a full range of the socio-economic spectrum of the community. But that is part of the attraction of  
15 the organisation. Yes, you have to take the strengths and the weaknesses of the organisation.

Q. You are familiar with the ACT fires at Bendora and Stockyard and you may be aware that there was  
20 a Gingera fire which ultimately combined with Stockyard. You are aware of the complex which constituted the fires, are you not?

A. Yes, I am. As I indicated, I went from here to Brindabella Valley, so when I got to  
25 Yarrawlumba I was given a fairly strategic briefing about the whole complex of fires - Gingera and Broken Cart - in terms of where they fitted in. Whilst I don't have specific knowledge, I certainly understand, you know, that  
30 they were there, if you know what I mean.

Q. If a similar fire were to occur in New South Wales and it was entirely under the jurisdiction of the New South Wales Rural Fire Service, what  
35 sort of equipment and operational arrangements would be made to combat it? Would you call in volunteers from other districts in New South Wales?

A. As I indicated last time when I gave evidence,  
40 once you reach a class 3 fire, which a campaign fire is going to be, one of the criteria for a class 3 fire is that all local resources are exhausted and resources from adjoining districts are exhausted. When that happens and a  
45 declaration is made, additional resources including management resources are requested through state operations.

Q. Let's just take that last point first. What sort of management resources, if this were, I don't know - pick me a part of New South Wales, Mr Cooper, where one could reasonably expect a complex of fires like the ACT - down the Kosciusko area or somewhere up in the ranges in the north?

5  
A. Most people tend to choose the Blue Mountains but you could choose a much smaller patch of ground like the Great Lakes which are at Tuncurry-Foster, and they grappled with fires for nine weeks.

Q. What sort of management resources might be called in from head office if you were facing a similar sized fire which occurred in one of those areas?

A. Management resources we are talking about?

Q. Yes.

20  
A. The Incident Management Team in a control centre: obviously controller, deputy controller or similar, planning team - at least six potentially up to 12 if you have got a complex of fires. This is in a single shift. Operations: if you have got aircraft operations, again deputy OPS officer and the support that goes with them - you are probably looking at a minimum of six, again up to 10.

30  
In logistics: bearing in mind that mostly they are resources from outside, so welfare support by way of accommodation, fuel, transport - again at least a dozen people. Then you add registry clerks in terms of records management, there is a couple of people in there. In control centre terms, you could get away with 30, that is probably reasonable, but you potentially could be looking at 45 to 50 people for a significant campaign operation in a per shift basis.

40  
Q. 12 planners and I think you said - was it 10 logistics?

A. Yes, in planning typically - you have got to remember with planning, planning manager, planning officer, situation officer, PR and media are in planning, information officer. So if you fill those roles alone and you have only got one, but once you are running a complex of fires you will

actually have a situation officer. So in the case of Canberra you would have had a situation officer for both or all three of the fires that you were dealing with.

5

Q. This would be arranged through your head offices, is that what I understand, to call in management resources?

A. What happens is the district will have a bushfire management plan. Part of that plan is worked up before the event. That will identify what roles can be resourced locally. And if additional requirements are required, they will initially tap into a region. The region will liaise with state operations if the region can't resource it.

Q. Is there equipment that is capable of being moved into the area - just dealing with that managerial function, for example, is there a truck with map printers and plotters and that sort of thing ready to go?

A. People may or may not recall but there were three blue boxes delivered into ESB on Sunday, the 19th. So for instance that is the first - that is what is referred to as "an office in a box". That brings a whole range of systems with it. The other sorts of resources - if you are talking about GIS support, again, that can be mobilised if required.

If you are talking about hardware acquisitions such as a map plotter, to use your example, that can be acquired initially by the district through a local supplier but brought in from elsewhere. Photocopiers typically, particularly colour ones, are added to support a campaign operation so that field crews get colour maps.

Q. Are these all sourced typically from your head office in Sydney?

A. No, a district will source those sorts of resources.

Q. Well, maybe I have used the wrong term. When you say, "District sources", do you mean the district arranges for them to be called in; does

that --

A. If it is something like a colour photocopier, they can acquire them locally. In the first instance, the Rural Fire Service will attempt  
5 acquisition. If they are able to acquire them, they can approach the local or the district emergency management committee in the New South Wales arrangements, and those people then have the opportunity to acquire them. State OPS typically  
10 focuses on firefighting resources and management support as it relates to firefighting resources.

Q. Do you have any idea how many large tankers the ACT actually owns?

15 A. Specifically?

Q. Yes, the Bushfire Service.

A. The Bushfire Service, no. I mean during the operation I was advised they had 27 appliances.  
20 What they add up to in small and large, I don't know. That's what I was advised on the Friday, the 17th.

Q. Do you have any idea how many volunteers are  
25 in the ACT Bushfire Service?

A. No, not at all.

Q. I dare say if you don't know your own budget, you have got no idea of the budget of the Bushfire  
30 Service in the ACT?

A. No. I can't imagine why I would know.

Q. Of course. If I said to you that there were  
35 500 volunteers approximately in the Bushfire Service here, about 22 tankers and it operates on a million dollars worth budget, we are talking absolutely chalk and cheese between the Bushfire Service here and the sort of operation that the New South Wales Rural Fire Service is able to pull  
40 together if it has got to; aren't we?

A. You are making a comparison with across the services being in fact --

Q. At the moment I understand that. But at the  
45 moment across the service, we are talking absolutely chalk and cheese?

A. The comparison with a district would make it

roughly equate as opposed to a service.

Q. I understand that. I will come to the question of a district. We are talking about  
5 completely different worlds, aren't we, by comparison between the two services?

A. For the whole services.

THE CORONER: But you are also comparing the whole  
10 of New South Wales region to the ACT.

THE WITNESS: That is my point.

MR PHILIP WALKER: I was about to come to that.  
15

Q. The management teams that you are capable of pulling in can be pulled from areas all around the state, is that right, the 45 or so people that you mentioned?

20 A. That's correct. They can be drawn not only from the Rural Fire Service but from other agencies in the same way that, in my career job, we draw people into those roles from other agencies.

25 Q. So whilst your service obviously has a vastly larger area of cover, it can pull in a concentration of resources from all over the state and regularly does so?

30 A. Subject to demands of what is happening across the state, yes.

Q. Of course, if they are not required elsewhere --

35 A. But those resources also move across borders as well.

Q. You mentioned 45 people that might be pulled in by way of a management team and you gave the  
40 break-up helpfully --

A. That is a big team. This is a big operation, that sort of, if you like, worst case scenario.

45 Q. Yes, I accept the parameters. These 45 people, are they people who are permanently employed typically or does that also include some volunteers; is it a mixture?

A. Typically these days it is a mixture. Some shifts will be all volunteers; sometimes they are salary people; but it is according to the demand. For instance, if it is in a district and they have  
5 adequate resources like Warringah or Blue Mountains, they may well resource - the majority of those people may well be volunteers. You have got to remember most districts don't have more than 6 to 12 salaried people anyway. It is the  
10 volunteers who provide the resource there again.

Q. I gather, using the example that I gave you of a fire of the same size occurring somewhere in New South Wales, the 45 that you mention, you would  
15 typically expect a number of permanently employed people within each of the categories?

A. Personally, not necessarily - whether that's the view of the service. But I recently worked in an operation where there was only one salaried  
20 person in a large operation. All the senior management people - almost all of them were volunteers.

Q. Would that be the same if a fire of this size had gone on for something like eight days?  
25

A. Absolutely. In 2001 through to the 2003 fire season, I worked in a number of control centres across New South Wales and frequently side by side with volunteers.  
30

Q. Is it the case that some of the people who might be pulled in in some of those management teams are capable of getting fairly regular experience in, for example, the planning and  
35 logistics roles?

A. They need to be trained and competent and then get exposed to experience, yes.

Q. And is there a tendency to try and allocate people who have experience to these sorts of campaign fires we have been discussing?  
40

A. That will vary according to the district availability of people. But obviously if it is a high risk operation, the service responsibly would  
45 allocate its best people to the job.

Q. Would that tend to be the case in fires of

this size which had been burning for something like eight days?

A. Again, it would depend on exposure and risk. I mean, some fires can burn for weeks. The  
5 Wollondilly complex in 97/98 burnt for six weeks in a remote area. It was a campaign job but --

Q. As closely as you can consider New South Wales dealing with the same sorts of circumstances as  
10 the ACT was, would you expect permanent people and the best that New South Wales has to offer to be rushed in to deal with that fire?

A. No, I don't expect the salaried people to be rushed in. They would be volunteers if they are  
15 the best people to do the job.

Q. Did you have any idea how many campaign fires the ACT has been involved in for the last 25 years?

20 A. No, not specifically.

Q. If I suggested the fires that the ACT has fought in its own territory and where it has been dispatched off, if there was something like six,  
25 would that have some effect on the views that you formed about the ACT?

A. There are two parts to that question: One is my knowledge of how those six might relate; the other one is suggesting that I might have a view  
30 of the ACT. I don't actually have a view of the ACT and its ability to deal with fires. If it has got six campaign fires in whatever period of time, obviously risk assessment and planning for that needs to be appropriate. But that wouldn't  
35 indicate my view. I mean, I don't have a view on the ACT as such.

Q. It would have this effect, wouldn't it? There would not be the same capacity to build up  
40 experience with regular, large campaign fires in the way New South Wales does; isn't that a fair comment?

A. That's option one. Option two is for those people who need experience to go elsewhere and  
45 build up the experience either across Australia or even offshore.

47

Q. I take it you have no idea the largest fire the ACT has fought within its own borders prior to the 2003 fire?

5 A. No, not at all. I saw the black patches of ground from the previous couple of years from the 2001 fires. I wouldn't even know what size they were.

Q. If I said it was about 35,000 hectares, then again it is quite different to the fire that occurred in 2003, correct?

A. That's correct.

Q. You mention fighting fires at the district level. You have undoubtedly gone to many other districts throughout New South Wales - am I using the right term talking about districts?

15 A. That's correct. New South Wales districts are based on local government areas. Since 1997, a lot of those districts have been combined into what is called zones, so they have a management structure which supports the independent districts in terms of identity. Administratively a number of districts may work as a single zone but they are still built on local government areas which are districts.

Q. Can you just give us some idea of the range of size between these zones, which I gather is the more relevant category?

30 A. No, district is more relevant to the ACT if you --

Q. If a fire breaks out in an area, is it managed by the whole zone or by a district?

A. The district is the lowest common denominator.

Q. And when you get a type 3 fire?

40 A. Definitely not. I mean, the bushfire plan scales it up. Automatically the zones are involved. But for a class 3, that means that the Commissioner has had to consider or has had to put in place a section 44.

45 Q. All right. Can you give us some indication of the different sizes of the zones throughout New South Wales in terms of personnel?

5 A. Well, if you worked on districts - I guess I could choose my own. I am a district, the city of Campbelltown: we have six brigades and we have around 200 volunteers. But if you went to  
10 somewhere like the Blue Mountains, they have just over 2 dozen brigades and their membership is well over 1,000. In fact, it is closer to 2,000, I believe. The districts will vary, according to numbers of brigades and personnel.

15 So if you went to the Great Lakes - I spent six weeks there over one of the recent fire seasons. They are a very big geographic area, again with just short of a couple dozen brigades and around  
20 1,000 people roughly. So they vary according to, if you like, the population density and the risk that is in that area.

25 If you go west, they are big districts with a long way between stations or brigades. There is roughly 2,400 brigades in the state, so they are not evenly distributed across the state.

30 Q. Can I suggest to you that some of the criticisms which you have made of the ACT or recorded are, at least in part, their origins from the fact that you are used to the capacity of a fire service which can marshal a great deal of equipment, a large number of people and large  
35 number of skilled people if it needs to; surely that must have coloured your view in some respects?

40 A. As I said earlier, I don't believe that the comments I've made are criticisms. They are not intended as criticisms; they are observations of what occurred at the time. The ACT's ability to mobilise and adequately resource certainly doesn't influence those observations and what actually occurred at the time.

45 Q. If we go to page 14 of the document that you produced for the coroner, you mention at the bottom of that page --

47 THE CORONER: I don't think it was a document produced for the coroner.

MR PHILIP WALKER: It is a document produced in response to request for information by the coronial investigation [NRF.AFP.0085.0106] and I am referring to 0119.

5 A. That is not that document. (indicating). That document on the screen is not the one you are referring to. "The response to the request for information by the ACT coroner" is not the one that's on the screen at the moment.

10

MR PHILIP WALKER: If you give me a moment, I will make sure that I have it right.

15 MR LASRY: Your Worship, I think with respect to the witness, he might be wrong about that. It is certainly on the screens that are in front of us --

20 THE WITNESS: That one is now. The one that was up there wasn't.

MR PHILIP WALKER: That was previously --

25 THE WITNESS: The document that is on the screen; now is the right one.

THE CORONER: What page, Mr Walker?

30 MR PHILIP WALKER: The very bottom paragraph on page 14, 0119. Can you read that paragraph at the bottom and then we need to go over to the top of the next page. Have you read the comment that you have written at the bottom of that page, Mr Cooper?

35 A. Yes. It starts "the overall approach to management"?

Q. Yes, and it goes over to the top of the next page. Have you read that?

40 A. Yes.

Q. I suggest to you that, in making your comment, you have been influenced by the size and resources of the fire service of which you were a part and what it can commit when you made the comment that you made about the ACT?

A. No. In fact --

THE CORONER: Q. What were you going to add, Mr Cooper?

A. You need to remember that the Rural Fire Service is only part of what I am doing in terms  
5 of management terms. In my career role where I am responsible for developing preparedness for New South Wales, that is emergency management. We actually draw resources including humans and  
10 people from right across both government and non-government organisations and the private sector. And this approach is beyond local government boundaries, beyond state boundaries, so we actually draw them nationally. So in terms of providing an adequate resource, I certainly don't  
15 see the boundaries of an organisation as being the boundaries that should determine where you draw your resources from. And that's related to preparedness.

20 MR PHILIP WALKER: Q. That's in part why they requested the assistance of the New South Wales Rural Fire Service?

A. Why the ESB did?

25 Q. Yes.

A. Well I guess I wasn't part of that request. If that's the case - I don't know.

Q. Do you know how many actual personnel came  
30 when you arrived on the 16th of January?

A. In the four task forces?

Q. Yes. How many bodies, people?

A. Specifically I don't recall. I could estimate  
35 it for you.

Q. Approximately 132?

A. It would be in that. I mean two shifts - it would be in that sort of area. That's correct.  
40

Q. Were you speaking to your Queanbeyan colleagues about the prognosis for the fires in the ACT and the impact of the fires in the ACT?

A. First time --  
45

MR ERSKINE: When?  
47

MR PHILIP WALKER: Q. At any time - Mr Erskine says "when" - between the 16th and the morning of the 18th had you spoken to your colleagues in Queanbeyan about the prognosis for fires in the  
5 ACT?

A. No.

Q. Out of interest, why not?

A. Because we were a resource available to ESB.  
10 We were acting under operations in ESB. And our relationship with the Rural Fire Service, if you like, was cut once we became a resource responsible to the ESB. We are a resource under their control. I don't have any line of authority  
15 to Yarrawlumla at Queanbeyan.

The first time I spoke to Queanbeyan was late Saturday night to discuss locating a task force and also a tanker that was reported missing. But  
20 at no stage did I talk to ESB - I know that Assistant Commissioner Mark Crossweller went over there on the Saturday afternoon. But, as I said, we were a resource operating under ESB control.

25 Q. You have given some evidence about your concern that Canberra was going to be burnt - indeed on Friday, the 17th?

A. That's correct.

30 Q. Which of the various fires burning did you understand presented the largest threat to Canberra?

A. Obviously where I was working with ESB, I only had information, and the management that I talked  
35 about related to the two fires under ESB. I have no knowledge of the fire to the north-west. That was under New South Wales control. So my concern related to both fires to the south - the fire to the south-west and the fire to the west of  
40 Canberra.

Q. You knew the McIntyre's Hut fire was there?

A. I was aware it was there. Part of the reason I was aware was some of the local volunteers and  
45 crew had been working down there and they had come back and talked about what they were doing on the fire line. But in terms of specifics or where it

was, where its lines on the map were, I had none of that information.

5 Q. Your comments I gather therefore about Canberra being burnt do not relate to McIntyre's Hut; is that correct?

A. Only in terms of the Friday evening briefing that was discussed earlier, the 1800 briefing. The information that was provided at that briefing  
10 was the first, if you like, concrete information that I had seen on McIntyre's Hut. But other than that, I knew it was roughly where it was in a general sense. But nothing more.

15 Q. You have already given some evidence about that that indicated some threat clearly to the Canberra area. Is that right, that was the view you formed at the information you were given?

A. Definitely.

20

Q. You didn't contact your Queanbeyan people at that stage?

A. No. As I said, I had no authority to contact the Queanbeyan people. That's not a line of  
25 command. I didn't have that authority to do that. My responsibility was to ESB at Curtin.

Q. Did you actually need authority to ring up the Queanbeyan people and say, "Look I've just been to  
30 this briefing and I have come away with the feeling that McIntyre's Hut is going to be a big problem for this jurisdiction tomorrow. What is your view?" Did you need authority to do that?

A. I needed authority. But as was mentioned  
35 earlier, the concern was relayed to state OPS, which I do have direct line of communication with, not with Queanbeyan or Yarrawluma. So that information was relayed to state OPS later that evening.

40

Q. Did you give any thought to saying to Assistant Commissioner Crowweller, "You better get down here tonight"?

A. I didn't actually talk to Assistant  
45 Commissioner Crowweller on the Friday night.

Q. I appreciate that you didn't, but did you give

any thought about ringing him and saying, "Look, this is a problem"?

A. We rang state operations, and the initial contact that we spoke to there was the region east operations officer, Nick Feltham. The information that we had available to us was passed on to him. In response to that, additional senior people in the OPS centre, including the state operations manager, came into the conversation and an outcome of that conversation was that Mark Crossweller turned up the next day.

Q. At 1.30 in the afternoon?

A. Thereabouts, somewhere around there.

Q. Driving down leaving at about 9 o'clock; is that right?

A. As I said and in my statement, I didn't actually know he was coming. In fact, when I saw him driving into the carpark, my initial response was, "I haven't seen that car before" and I went out to speak to him. But I've got to tell you it was reassuring to see him there.

Q. Did you know that there were additional resources mustering around Campbelltown?

A. The Saturday was a severe weather warning in terms of fire anyway. One of the things a Rural Fire Service does is stage task forces strategically, particularly around Sydney but it can also be the Hunter and Wollongong. So I didn't know there were task forces there.

But in my knowledge of how the service works, I assumed that they would have had task forces available somewhere around the greater metropolitan area. They are used as strike teams rather than task forces so they provide additional support to the districts in terms of keeping a small fire small - hit it hard, hit it fast.

Q. You assumed; you didn't make any inquiry?

A. No. We had spoken to state OPS in the morning, both one of the division commanders, Dennis McTaggart, and myself on the Saturday morning continuing to basically bring them up to speed with what was unfolding locally, basically

letting them know the task forces were in place,  
our task forces, where they were up to. But at no  
stage did we say to them, "We need more  
resources". I mean, we were giving them  
5 sufficient information for them to make a  
determination as to whether they should mobilise  
more resources to us.

Q. I will just conclude on this: your proposition  
10 is that you gave them the information so somebody  
in Rosehill could work out whether more equipment  
should be sent to you in Canberra; you didn't  
actually make the request for the equipment from  
Canberra yourself?

15 A. We didn't specifically ask for equipment,  
because that is again not within my authority. We  
are reporting to ESB. ESB need to make that  
request. It had been relayed to the OPS officer  
on the Saturday morning that, if they wanted more  
20 resources, they should ask for them.

Q. Was it relayed on Friday?

A. Sorry?

25 Q. Did you relay it on Friday to the ESB people?

A. Late Friday afternoon around --

Q. Did you say, "I can get you more material if  
you want it"?

30 A. No, I didn't say I could get it. I said, "If  
you need additional resources you need to go  
through - right - through state operations to  
request additional resources."

35 MR PHILIP WALKER: Your Worship, perhaps that is a  
convenient time.

THE CORONER: We will take the luncheon  
adjournment.

40

**LUNCHEON ADJOURNMENT**

**[1.03pm]**

**RESUMED**

**[2.00pm]**

45 Q. Mr Cooper, you said that you were concerned  
for the suburbs of Canberra prior to the planning  
meeting on the 17th at 6 o'clock in the evening;

is that right?

A. That's correct.

5 Q. And yet I understand you were not aware of the  
circumstances surrounding the McIntyre's Hut fire  
prior to that time?

A. That's correct.

10 Q. Did you understand that the wind was forecast  
on Saturday to come from the north-west?

A. On the Friday?

Q. Yes.

15 A. Yes, we received a weather forecast I got from  
operations late Friday morning or early Friday  
afternoon which indicated the prevailing weather  
conditions - or the predicted weather conditions,  
sorry, for the rest of Friday and also Saturday.

20 Q. From that did you understand the forecast was  
that the wind would come from the north-west?

A. It indicated that the wind would be  
predominantly north-west. That was part of the  
prediction; that's correct.

25

Q. Your concern about suburbs I gather then  
related to the Bendora fire and the Stockyard  
fire; is that right?

A. That's correct, yes.

30

Q. Which suburbs did you have in mind were at  
risk from those fires given those wind  
predictions?

35 A. If you like, the southern half of the western  
side of Canberra, which is what I outlined to Tony  
Graham when we looked at the map.

Q. You are not sufficiently familiar with  
Canberra to indicate what suburbs you had in mind?

40 A. Well, as I indicated to him at the time, I ran  
my fingers down that western edge of Canberra --

MR PIKE: I object to this, your Worship,  
extraordinarily unresponsive to the question.

45

THE CORONER: I don't agree, Mr Pike.

47

MR PIKE: Can I just be heard on that?

THE CORONER: Yes, you can.

5 MR PIKE: The question is:

"You are not sufficiently familiar with  
Canberra to indicate what suburbs you had in  
mind."

10

He is being asked about his familiarity in  
Canberra with a view to naming suburbs. It can be  
answered yes or no and it can be answered by an  
explanation as to what suburbs he had in mind.

15 The answer he gave, in my respectful submission,  
is wholly unresponsive.

THE CORONER: Just continue, Mr Cooper. Yes,  
Mr Walker.

20

MR PHILIP WALKER: Perhaps Mr Cooper could use the  
map behind him.

THE CORONER: Why don't we provide Mr Cooper with  
25 a map and he can then perhaps, if he doesn't know  
the suburbs by name, he can refer to a map.

Q. Would you be assisted, Mr Cooper, if we  
provided you with a map of the Canberra suburbs?

30 A. I can use the map but I am one of these people  
who travels through Canberra not regularly but I  
also bushwalk and rock climb out in Namadgi  
sometimes so I know that the southern suburbs in a  
broad sense come under Tuggeranong, which I refer  
35 to as that patch of ground (indicated), and then  
north up to around Duffy, Weston. I guess I draw  
the line somewhere around the road that runs out  
to Cotter. So from the road down to the Cotter  
down to the road at Tharwa was the area that I was  
40 concerned about.

MR PHILIP WALKER: Q. That is what you indicated  
to Mr Graham, is it?

A. That's correct.

45

Q. Mr Cooper, do you know enough of the map  
behind you to spot the location of Bendora fire?

A. I guess I can't put my finger right on it. It would sort of be --

5 Q. Bendora Hut I think is marked on that map, I looked at it myself just before we resumed.

A. Yeah, okay. I have got Bendora Road. It is in that general area - yes.

10 Q. How does the Bendora fire get under the influence of a north-west wind as far north as anything like the Cotter Road?

A. How?

Q. Yes.

15 A. You've got to - I mean the wind direction --

Q. Have a look at the map, sir, if you wish.

A. Yes, that's fine. The map is there. What you are saying is if the predicted wind were --

20

Q. Do you know where Duffy is?

A. Yes, right there.

25 Q. How did we get that far from the Bendora fire into Duffy under a north-west wind?

A. Other features such as topography and rate of spread.

30 Q. You suggest that under the wind conditions that were forecast for that Saturday, which were fairly strong winds from the north-west, that that would in fact head slightly north of east?

A. If that's what you are saying. But what I am saying is based on --

35

Q. Based on what you were pointing, I think. If you take a line from Bendora to where you pointed, it is north of the location you put the Bendora fire in?

40 A. That's what I am saying - that's what you are saying. But don't forget on the Friday the same wind predictions were predicted. But both Stockyard and Bendora didn't go, if you like, due south-east with the north-westerly under them.

45

Q. Is there any suggestion that the winds were going to come from south-west; in any weather

report that you saw on Friday at any time?

A. No.

5 Q. In fact, under even a west wind, Bendora would  
in fact go into the Tuggeranong suburbs and not  
Weston Creek; would it not?

10 A. That's correct. That's consistent with what  
we were saying, which was that area south of  
Cotter Road was at risk. And Tuggeranong is at  
the southern end of that.

15 Q. So I take it you are not suggesting it pointed  
to the north end of Cotter Road just north of  
Weston Creek?

20 A. No. What we were concerned about was that  
western interface at the southern end of Canberra.  
I mean the specific suburbs - at no stage did any  
of my discussions with the people single out  
specific suburbs.

25 Q. So am I correct in the interpretation of your  
evidence that you were making the most general of  
points to Mr Graham at the time that you made  
reference to the map?

30 A. If "general" means that what I was saying was  
"what are we going to do if and when the fire  
reaches that western end of Canberra, particularly  
towards the southern end?" That's general. I  
mean, I was describing the fire reaching that  
urban interface.

35 Q. It wasn't the sort of conversation that either  
was or would have appeared to be, given the  
circumstances, the product of considered opinion  
as to where this fire might travel to, was it?

A. Are you asking had I considered where the fire  
might travel to?

40 Q. I will take it piece by piece. Had you given  
detailed considered opinion of where that fire  
might track on Saturday before you spoke to  
Mr Graham?

A. Yes.

45 Q. Yet you put it anywhere from Tuggeranong to  
Weston Creek.

A. That's correct. Consistent with strategic

planning, which is what we were trying to get at -  
stand back and have a look at the big picture: at  
the possible worst risk, worst case exposure, that  
whole side of Canberra at that southern end was an  
5 exposure. If you narrow it down to only a  
north-westerly, that north-westerly could be a  
westerly; it could be a west north-westerly; and  
again when it hits --

10 Q. Or even if it is assessed as slightly south of  
west?

A. All I am saying is that all of those  
variations, particularly in the previous two fire  
seasons in areas that I operated in, told me that  
15 just because it was a north-west maybe the head of  
the fire will run but it doesn't mean the flanks  
and other heads won't run into other exposures.  
That's what we were concerned about. It was this  
strategic outlook that we were looking at.

20

Q. Where did the Bendora go on Saturday?

A. Do you mean how far did it go on Saturday?

Q. Where did it actually travel to?

25 A. I can't tell you where it actually went to. I  
mean I've seen satellite photos after the event  
but even now I couldn't draw those lines on a map.  
I mean Stockyard and Bendora and ultimately  
McIntyre did turn into a complex, but how and when  
30 they actually joined and what their boundaries  
were at the time, I can't comment. That's not  
consistent with the job I had at the time.

Q. Did you raise when you were discussing with  
35 Mr Graham anything to do with your expectations  
for McIntyre's Hut?

A. No, not at all.

Q. Did you understand at the time that McIntyre's  
40 Hut was a much larger fire than Bendora?

A. No.

Q. Did you make any inquiry about the McIntyre's  
Hut fire from Mr Graham?

45 A. Neither from Mr Graham or from Mr McRae, and  
even people like Bob Wilcox. I mean, I looked at  
the maps trying to get an indication but I hadn't

specifically explored any issues associated with McIntyre's Hut.

5 Q. Were you contemplating deploying your troops anywhere from Tuggeranong up to Weston Creek on Saturday?

A. Saturday?

Q. Yes.

10 A. On the Friday night, as I have indicated --

Q. Were you contemplating on Friday that your troops might be deployed anywhere from Tuggeranong up to Weston Creek?

15 A. As was indicated we developed a plan in the Tidbinbilla carpark with the IC and our people in terms of dividing that western side of the river, Tharwa through to Tidbinbilla, Naas and Smith Road. And once that area was safe and the fire  
20 was on its way to the river, our resources were available to come back into Canberra. There was nothing more specific other than they would come back to the urban interface.

25 Q. Did that include as far north as Weston Creek?

A. We were certainly considering - in terms of geographic terms, you have got to remember we were talking to people who weren't familiar with the area. We were using the road ran out to the  
30 Cotter as a mark on a tourist map that they could find.

Q. I am asking you, sir, whether in your discussion on Friday, did it include the prospect  
35 that your firefighters could be deployed as far north as Weston Creek?

A. Yes.

Q. You didn't make any inquiry, even from the point of view of safety of your own troops, about  
40 where McIntyre's Hut might possibly travel?

A. No. We worked very hard with our crews to ensure that where they were going to operate was safe, refuge areas were identified, the command  
45 control structure was rigid. We had worked as well with the IC that was available out at Tidbinbilla to ensure that would happen.

Q. You identified safe refuge areas but never actually made any inquiry about the fire which, under the weather conditions forecast, might be the very fire that could head in the direction in which you considered your troops might be  
5 deployed; is that right?

A. That's correct. I did not ask about McIntyre.

Q. Tell me, Mr Cooper, you have made a number of  
10 critical comments on the subject of planning?

A. That's correct.

Q. How do you rate your own planning for the disposition of your troops, if they could be in an area which could be subject to fire from the McIntyre's Hut area and you have made no inquiry  
15 about that fire under the very wind conditions which were predicted?

A. That's correct.

20

Q. Well, how do you rate your own planning in those circumstances, sir?

A. We plan for the area of responsibility we were given and jurisdiction --

25

Q. And --

MR LASRY: Just a minute. He has asked the question. He really must put up with the answer.

30

THE CORONER: Let Mr Cooper finish.

MR PHILIP WALKER: I will do that.

35 Q. Continue, Mr Cooper.

A. What I am saying in the area of authority that we were operating in under ESB, all right, the two fires we were dealing with and where we were likely to be deployed was what we planned for.

40 Any additional information that we were given that might have meant that we planned beyond that, you've got to remember we were planning within the scope of what we knew and where we were working.

45 Q. How much more important to your planning is it to know whether a fire might come through the area you were contemplating putting your firefighters?

What could be more important than that?

A. That is critical. But what I am saying is our people --

5 Q. Well then, why didn't you --

THE CORONER: No. Please, Mr Walker. Let him continue.

10 THE WITNESS: I am saying our people in terms of where they were at, the area they were going to operate in, we had planned for. All right. I guess the proof of the pudding is at the end of the day we finished up with no fire-related  
15 injuries, no damage to hardware. They were all ready and the shift change was effected. Now the end outcome of the planning was that was achieved.

MR PHILIP WALKER: Q. How --

20 A. Even though they did work in Duffy.

Q. How do you plan for an area when you have made no inquiries about the prospect of it being hit by a fire?

25 A. A fire that we don't have information about. We planned tactically for what we knew and what we had available. You have got to remember we were planning within a limited resource of what was available to us.

30

Q. But that doesn't include the rather large fire to your north-west. That is not part of the plan; is that right?

35 A. What you are describing as a large fire, to me that was a fire. I had no other information on that fire. Our people were tasked to Stockyard and Bendora. That's where they worked. That's what we planned around. That's all the information --

40

Q. They were tasked to Stockyard and Bendora, sir, but you indicated you contemplated their deployment as far north as Weston Creek?

A. That's correct.

45

Q. Weston Creek could potentially be the subject of fire - as I gather you have understood on

Friday night as a result of the 1800 planning meeting - from McIntyre's Hut?

A. That's correct.

5 Q. And you made no further inquiries?

A. No, I didn't. We had already planned in terms of Weston Creek for the Stockyard and Bendora. The units allowed for that.

10 Q. What precise allowance did they make in relation to McIntyre's Hut if they were deployed to Weston Creek? What exactly did you plan for your troops if they were deployed to Weston Creek relating to the McIntyre's Hut fire?

15 A. None.

Q. Then I ask you the question I asked 5 minutes ago, how do you rate your own planning capabilities in those circumstances?

20 A. Successful given that what we did plan for with Bendora and Stockyard meant that the outcome was achieved. Our units were available. They worked effectively. Command and control was maintained. We had no injuries. All units were  
25 intact at effective changeover of shift.

Q. Yes, sir, but planning is not evaluated ex post. How do you evaluate your planning before you know what happened, when you tell us that you  
30 made no planning for the effect of McIntyre's Hut on your troops who could have been in Weston Creek. How do you evaluate your own planning then?

A. What I am saying is that Weston Creek,  
35 regardless of where the fire came from, we had planning around that. Our people were able to cope with that. Whether it came from Bendora or McIntyre wasn't going to make any difference.

40 A really small part of planning for that was that crews were directed to take pages out of the UBD telephone directory for Canberra that morning so they could find their way around Canberra. That was the very reason they were given that  
45 information.

Q. Did you tell them which roads could be cut off

if the fire came from a particular direction?

A. We were going to rely on the Federal Police for that. They were actually very good at passing that information.

5

Q. So your reliance on somebody else's planning?

A. No, somebody else's responsive planning. I am not sure anyone on the Friday afternoon would have anticipated any roads being closed on the

10

Saturday.  
Q. Do you have the bundle of notes there, Mr Cooper? I have a bundle which regrettably is not paginated. I would have to ask you to go on

15

to the 4th page of the bundle. Do you have those notes?  
A. No, I don't, sorry.

20

Q. Is it possible that Mr Cooper can be provided with a copy of these notes.

MR LASRY: Your Worship, the witness can have mine. It is more important that you see them.

25

MR PHILIP WALKER: I don't know if there is a number on them. I got them when they were originally distributed. Obviously Mr Lasry could have it back if I could call it up by the usual means, if somebody could tell me what the number

30

is.  
MR LASRY: Mine doesn't have a number on them. I think I tendered them as an exhibit when they were produced.

35

THE CORONER: They were tendered as an exhibit. If you say the fourth page, perhaps you could describe it.

40

MR PHILIP WALKER: Q. It is of a stenographer's note pad. I take it is your note, Mr Cooper. On the top half of the stenographer's note pad it has got "Saturday 18th" and it has an arrow pointing down. The most prominent word on the next page is

45

"Naas" circled.  
A. That's correct. I have that page.

47

Q. Firstly, is that your note?

A. Sure is.

Q. When was it made?

5 A. Probably Friday afternoon some time. Late Friday afternoon, Friday evening.

Q. What are the words just below "Saturday 18th"?

A. "sector/division".

10

Q. Do I interpret the arrow correctly as meaning that the page with the word "Naas" on it is somehow related to Saturday, the 18th?

15 A. Looking at what is there, that is certainly possible. I can't guarantee that. But it is highly likely.

Q. What is recorded on the bottom half of the two pages there? I don't mean just the words - we can

20

read them - but what is this meant to represent?  
A. This was in the stage where we were working up our plan in terms of sectors and divisions for the area that we were given to be responsible for on the Saturday.

25

Q. "12 UBD" is that a UBD map reference?

30 A. What we wanted was 12 UBDs. We needed street directories, which I would suggest is completely unrelated to the dot points below, no relationship between 12 UBDs. As I said, logistics at ESB got us as many maps as they could, and we got them from state OPS. In the end we got the UBDs out of the telephone directories in the motels.

35 Q. Was this made before or after you formulated this plan which might have had people as far north as Weston Creek?

40 A. This was made after we were advised that we would be responsible for providing the task forces or putting the task forces in to the western side of the river in the Tidbinbilla, Tharwa, Naas and Smith Road area. And the spin-off out of that was after we planned that, in terms of when the fire hit, the fire would run through that area and to  
45 the river or in that area, as was indicated this morning, our trigger point and, subject to approval from operations, would allow those crews

to then come back into Canberra and be available to be used along the urban interface.

5 Q. Could you go over to another 16 pages to what is I think page 20 of the whole of the bundle to another stenographer's note pad. It is best identified by the word "John Kennedy" and a mobile phone number just below the spiral part of the note pad.

10 A. Yes.

Q. This note, am I correct in assuming that the words "1800 Friday" are notes that you took from the 1800 planning meeting on Friday?

15 A. I would be pretty sure that would be the case, yes. This should have been at the back of the original book.

20 Q. I think there is a lot of them mixed up, Mr Cooper.

A. I am just saying originally it was towards the back of the book.

25 Q. Yes. "Saturday slightly worse weather", is that what you understood from the meeting?

A. What I was translating, I was recording what I was given in shorthand that would allow me to I guess brief the crews.

30 Q. "Bendora, Brindabella Road" you mention it there and you have got "McIntyre fire spotting?" Were you in fact making an inquiry about McIntyre's Hut - I withdraw that, and let me ask the question open-ended. What was that note  
35 intended to record; anything more than what it says?

40 A. Nothing more than what it says. That was the information that was being given to us. So I mean what I potentially recorded there is someone saying that they may have said there was spotting but it was unknown and it was unconfirmed. All I have done is record it as that.

45 Q. Would you just go a little further down. You have got under the heading "Stockyard - Glendale, Tidbinbilla Valley, Paddy's River" and then my copy is not the best copy, you might just read the

next line if you can?

A. It is "fire in animal enclosure contained" and "Three spot fires in the NR" - nature reserve - "contained".

5

Q. If you go over the page you mention "2000 hours tomorrow get at Mt Stromlo"; do you see that?

A. "2000 tomorrow night at Mt Stromlo".

10

Q. Indeed, "tomorrow night", I am sorry --

A. Which is consistent with the transcript that was put up earlier of the minutes of that meeting. Someone had reported that it was going to reach Mt Stromlo.

15

Q. I was just wondering, I think you at various stages contemplated fire into the suburbs as early as almost midday; am I that right?

20

A. Midday, what I was contemplating was I couldn't see there was operational control. By 1400, once I had more information on - I guess what I could see with the fire developing, that's when I became concerned that if the fire took a run at the suburbs, combined with, I guess, the need for more operational control and coordination. So it was a combination of factors, not just about fire behaviour.

25

30 Q. What fire do you say that note was referring to there?

A. Which one, sorry?

Q. The 2000 hours.

35

A. I don't know. I now know where Mt Stromlo is, all right, I didn't at the time. I do now. So I assume that was made in the context of McIntyre's Hut, giving what I now know unfolded subsequently but I didn't at the time.

40

Q. Was that 2000 hours the worst case scenario for the fire without any action taken against it?

A. I don't know. I don't recall.

45

Q. I want to go to the debrief report, Mr Cooper. You mentioned it was conducted over three sessions; is that right?

A. That's correct, yes.

Q. How long was each session?

5 A. The first session in the northern part of the state was probably a couple of hours. I think we started at about 9ish and we had lunch.

Q. Where was that first session?

10 A. Evans Head. That was to pick up the task forces that had come from northern New South Wales. And then with Guy Duckworth I travelled to Coffs Harbour, and we conducted the debrief of the mid-north coast task force. That occurred that evening, that afternoon. Then the next - the  
15 Great Lakes and the Hunter crews were done at Raymond Terrace on the following afternoon, and again that lasted two or three hours - probably two-and-a-half hours - and they were all cross because it poured rain as we finished.

20

Q. Can you tell us how many people attended these meetings - Evans Head, for example?

A. Specifically?

25 Q. As best as you are able to on your oath. If you have some record of it, please examine your record.

A. I certainly don't have the records with me. I mean the notes that were taken at each of those  
30 sessions - if I recall correctly, the report that I submitted to state OPS to say we had actually done the debriefs, typically at each of the debriefs, with the exception of the mid-north coast one, we had more than 60 per cent of the  
35 people who were part of task forces. In terms of debrief terms, they were well attended. The Evans Head one was a full room.

Q. How many people are we talking about?

40 A. Two dozen in that case. It was a significant number of people.

Q. In Coffs Harbour I think you said, did you not?

45 A. We only had the task force leaders and some of the crew leaders there. They had been asked to debrief their people.

Q. How many people were at Coffs Harbour?

A. 10 or 12, somewhere around there.

Q. At Raymond Terrace?

5 A. Raymond terrace was a very large audience, some 50, 60 people, a very big group of people.

Q. You said you took notes of this meeting. Where are they?

10 A. I'd actually have to think about that. I'm not sure. They are in another one of those little pads.

Q. Were they submitted along with the debrief report itself?

15 A. No, they weren't.

Q. You don't have them with you?

20 A. No, I don't.

Q. I think you mentioned something like a standard operating procedure or something like that when you first turned to discuss this in response to questions from Mr Lasry. I probably used the wrong term, but I gather there is something that suggests that this is a regular event after large fires in New South Wales; is that right?

25 A. Yes, the operation manual has a set out list - and in an order - of the topics that are to be raised at a debrief. If I can make a comment: the one deviation from it, normally it is one patch of ground, one area; whereas in this case quite clearly we had the ACT and New South Wales. That's the only deviation from it.

Q. What is the purpose of the debrief report - for the benefit of the Rural Fire Service, I assume, so someone picks up the odd lesson to be learned?

40 A. Lessons learned are really critical. The other aspect of the debrief here was the defusing of the people who had worked on these fires. The crews that were on the first three days had actually left Canberra with neither acknowledgment or thanks. So a lot of them were carrying significant trauma injury, if you know what I

mean. So they had gone home carrying some of that  
baggage. So there are the lessons learned for  
both the service and other stakeholders but also  
the district managers right through. But also in  
5 this case it was about making sure people had an  
opportunity to have some say. Move on, I suppose,  
is the way to put it.

10 Q. So it had a very significant - for want of a  
better term - psychological objective that it was  
supposed to play; is that right?

A. I'm not sure whether I would call it  
significant; I am not qualified to say that. But  
certainly --

15 Q. Psychological objective, drop the adjective.

A. As I say, it is about allowing people to move  
on. We had had the critical incident stress  
people involved on the Sunday morning at  
20 breakfast. There were pretty clear indications  
afterwards that people were still carrying some  
emotional baggage as a result of what they saw on  
the Saturday.

25 There were pretty simple things. The guys at  
Tidbinbilla saw a whole lot of birds falling out  
of the sky, and for some of them that was a  
lasting impression. For someone like me who has  
killed more than 3.7 million animals, I have no  
30 trouble coping with dead birds, but for these  
people that was significant. That was terribly  
significant, and you need to let them talk that  
through.

35 Some of them were just minor district issues. I  
recall there is an item in there about flash  
hoods, which were really critical when these crews  
were being overrun. It turns out that the flash  
hoods for that district are issued to the truck  
40 and not to the person. So for them it is an  
issue, "Where is the flash hood, do I get it?"  
Whereas for most districts a flash hood is in your  
right-hand pocket and, when it gets hot, that  
flash hood goes on. So for that group of people  
45 that was pretty important, and it was important to  
talk that through.

47

So there was the personal element of the debrief, as well as the service, the district - and I would hope for the ACT. I mean that is just as important, isn't it, to develop the sharing from a fairly small group of people that were involved in your operation?

Q. For some people that would enable them to, if they felt the need, to let off some steam, to use a colloquial term?

A. I'm sure that was the case. You have to balance that as part of the whole debrief process.

Q. Consistent with that objective, I take it there was nobody there who - somebody put up his hand and said, "This went wrong" or "we didn't get told this", for instance, but there was nobody there who said, "No, wait a minute, that is wrong. Yes, we were." There was no controverter, if you like.

A. Certainly there was, as there always is in debriefs. In fact a whole range of people said, "This had happened" and someone else would say, "No, no, that didn't happen". I mean, that is part of the debrief process. It is not a single - if you like, the way you are portraying it as a single view. The objective is to come up with a balanced view.

Q. When these people indicated what went wrong, was that written down on all occasions?

A. No. What was written down was an outcome of that discussion - the balance, if you like, the view.

Q. Who is it who picked what represented the balanced view of anything up to 60 people; I take it you didn't vote on it?

A. Oh, well, pretty close to it. I mean, if you are chairing that session you actually ask them what they want recorded in the debrief, which is what we were doing.

Q. So amongst the various things which had been recorded here, if somebody said something went wrong and somebody else said, "No, that's not right", what do you do? Do you simply omit it,

call for a show of hands, record it because somebody has got strong feelings about it or what do you do?

5 A. You record the information that is actually given rather than the interpretation.

Q. That would mean if someone said, "We were not informed of where we were to go at a particular point in time", you would record that information, perhaps notwithstanding somebody else said, "That's not the case".

10 A. If the group felt that was the outcome that was achieved, particularly you have got to remember the draft document was circulated after the meetings for them to say, "Yes, this is consistent with what we said."

Q. The group is not at every individual instance recorded, is it, Mr Cooper? Some things would relate to a discrete subset of that group, wouldn't it?

A. That's entirely possible.

Q. Now, in the instance where somebody said, "We weren't informed of the following sorts of information," that could well be recorded notwithstanding somebody else said, "Oh, yes, we were"?

25 A. That's possible. You have got to keep in mind the objective of the document. It is about lessons learned.

Q. Absolutely and, as you said, a psychological consequence?

35 A. There is a human aspect of it which has got to carry through.

Q. In that consequence that would include if somebody had very strong feelings about that, that you wouldn't say, "I'm sorry but you're wrong", because it may in fact undermine the very purpose for which this letting off steam process is undertaken; is that right?

40 A. You certainly wouldn't come straight out and say, "I'm sorry. You are wrong". What you do is you work with them to reach a reasonable conclusion. If you just hit them blunt in the

face - you are right, you won't achieve what you want to do. But you need to walk them through the issues so they actually leave at the end of the day comfortable it has been looked after and, as I  
5 guess we are alluding to, they have been heard.

Q. You mention that there was not a bushfire plan. What did you actually mean by that?

A. You mean the document mentions there was not a  
10 bushfire plan?

Q. Yes.

A. I guess what people were looking for I guess is --  
15

Q. I won't interrupt you, I will let you finish. But what is recorded there is somebody else's view, not necessarily your own; is that right?

A. Yes but in this case I would agree - I can  
20 answer that in first person, if you like.

Q. I would like to know what you meant by it.

A. What I mean in the districts we expect a bushfire plan - each district in New South Wales  
25 is expected to produce a bushfire plan in advance that is signed off by the stakeholders in that district, which will be a multi agency sign-off.

If memory serves me correct, it doesn't say the  
30 ACT didn't have one, it just said we didn't actually get to see one. So it was a question of - in some ways that demonstrates your point. I actually remember the person that raised that quite emotionally saying, "Why the bloody hell  
35 didn't they have a plan?" By the time we had finished, people were comfortable with "Yes, we will record it and ask the question".

Q. Mr Cooper, what I actually wanted to know was  
40 the content of such a plan. What are they supposed to contain?

A. They contain both the preparedness activities in terms of what a district or a mitigation - how you might mitigate the likelihood of fire. So,  
45 for instance, fuel hazard reductions and those sorts of things. But also in essence the response, how everyone comes together and delivers

what is going to happen when the fires are on the run, so to speak. So it will talk about potentially who the controller might be.

5 Q. I assume about 9 or 10 days into a fire you are working out how you are going to respond from what the facts are on the ground rather than a plan before a fire is even started; is that not right?

10 A. That plan still has operational relevance in terms of if we are talking about the urban interface, that plan should allude to the sorts of actions that might apply at that time.

15 Q. Would that include, for example, the Bushfire Service will do what they can to protect property in rural areas and the urban Fire Brigade will as best they can protect property in the urban areas?

20 A. That will be the leading statement, but it will no doubt talk about how those agencies work together along with Forests, Parks and others in terms of asset protection.

25 Q. Including that they should meet and keep each other briefed?

30 A. They are required to meet on a regular basis. I mean it is eight years since I have sat on a committee in my career job. I am not sure what the frequency is now, but they are required to meet. If my memory serves me correctly, the Commissioner or someone very senior has to sign off on those plans for each district.

35 Q. 2.2 on page 2 of this document says:

40 "If there was an emergency declaration made during the specified period, no Rural Fire Service personnel were made aware of it. What were the possible implications if they had been advised? (different from those in New South Wales?)"

Weren't you at the head office when the state of emergency declaration was made?

45 A. Was I at Curtin at the time - ESB?

Q. Yes.

A. Yes, I was, but to this day no-one has actually told me there was a declaration. We were not told, I was not told and the crews were not told. I don't know whether that is a requirement  
5 in the ACT. But in New South Wales, as soon as a declared bushfire emergency is made, there is an announcement to all the personnel that that declaration has been made.

10 Q. Where were you in the building at a quarter to 3 on the Saturday afternoon, do you know?

A. Well, I spent all afternoon between what I now know as Dave Prince's office and operations. And as I indicated earlier, I was actually probably in  
15 the OPS room when the operations officer and the new operations officer received the tabard. So it was in that vicinity. I mean, I hadn't strayed from that part of the building all afternoon.

20 Q. At 2.4 you refer to an issue about an absence of maps. Do you know actually how many printer plotters they have got in ESB? Did you ever in your course of your days find out?

A. I didn't ask. There was an expectation, as I  
25 indicated, that maps are available.

Q. Was any such equipment in your blue boxes that you mentioned you brought?

A. Yes.  
30

Q. When did they arrive, by the way?

A. I asked for them on Saturday - sorry, on Sunday morning and they were delivered, along with all the replacement PPE, by mid-late afternoon on  
35 the Sunday.

Q. When you had difficulty with maps - that is under a heading "Thursday 16th pm and Friday 17th am", did you tell anybody that you had problems  
40 with maps?

A. Absolutely.

Q. Did you suggest that maybe you could get some printer plotters down in your blue boxes?

A. No. What we did was initially - as I have  
45 indicated in one of my items, we spoke to the field IMT and they said they didn't deal with

maps. We spoke to logistics who did resource some maps, but they were the wrong scale and the wrong type. But in terms of accessing them, for instance, I mean you are talking about preparing maps - I guess if I had been in that role, I would have gone to the nearest camping shop, as we have done in other operations.

Q. Well, hang on. You knew Mr McRae was responsible for producing maps, didn't you?

A. In the normal structure it is, but you have to remember I didn't get into the IMT - into the ESB until Friday morning.

Q. Did you make any inquiry of Mr McRae, the planning officer, about maps?

A. I did. I was referred to logistics. As I said earlier, logistics did an exceptional job of resourcing me within their capabilities and capacity, and state operations supplemented that. But it was just unfortunate they weren't topographical maps. In the end, that probably didn't make a lot of difference on the Saturday anyway.

Q. Did you make any offer to Mr McRae to bring down some printer plotters?

A. No. I'm not sure why I would have, but anyway.

Q. They are used by planners, aren't they?

A. It is an option that is available to produce maps. A simpler option is to go and buy a colour photocopier or hire a colour photocopier, which is what I do in my normal operation, rather than plot and print new maps. Black and white photocopied maps would have done the job.

Q. You say a perfectly acceptable alternative would be black and white photocopied maps; is that right?

A. They are a much better alternative to nothing. If you look at the terrain that they were working in, the contours were one of the key aspects and roads and intersections in terms of moving around. They weren't as critical in terms of they didn't need to have structures and information on them at

that time. So a black and white map - I think I would have, as I have in the past, welcomed a black and white map in the absence of anything else.

5

Q. If you go to 2.5 of your document maybe we are at variance as to terms. It is recorded there:

10 "The initial ESB tasking of the task forces (Thursday 16 January night shift) was not presented with an overall strategy."

15 Weren't New South Wales firefighters deployed to intended back-burning of the Stockyard fire on Thursday?

A. That's correct. That was a tactic.

20 Q. We have got to draw a distinction between the two. They certainly weren't sitting around idle; they were put to use to do back-burning on the Stockyard Spur fire Thursday night?

25 A. That's right. They had the tactical information but they didn't know the broad battle plan of where that fitted in. They only had small pieces of the puzzle in terms of where they fitted in in the overall picture, which is the strategy - what is the strategic approach to what is being done here. So they only got the tactical information --

30

Q. Were they going to undertake the Stockyard fire back-burn under ACT control?

A. That's correct.

35 Q. So the most important person to know what the full strategy was was of course the ACT incident controller; correct?

40 A. The most important person but, if you want the troops on the ground to do what you want them to do, they need to have a very good understanding of where you are going strategically. They will get you there.

45 Q. Fundamentally, if someone is going to do a back-burn on Thursday night they are told, "Here is the fire. This is where the trail is going to be and there is where there should be back-burn."

A. It is still a tactical point of the equation.

Q. My point is so what - does it make any difference in terms of getting the back-burn done?

5 A. It does. Absolutely critical.

Q. How is that? Somebody with a drip torch?

A. I think you are belittling what is a very significant task.

10

Q. I don't mean to. Let's take a person on the ground. That sort of person, it is not critical, is it?

A. It is critical. It is critical. That group of people, that amount of resource, that task force are engaged. If they are only aware of the small section they are working on and not the broad overall fire situation and where they fit into that, you are not going to achieve what you want to achieve in the long run. It is a bit like saying, "Just do your little bit and go home".

20

Q. Every person with a drip torch is supposed to be made aware of that; is that right?

25 A. There is an expectation of crews on the ground and, if I was the incident controller, those crews would be broadly briefed in the strategic approach of what is trying to be achieved.

30 Q. When did these crews arrive on Thursday?

A. As I said earlier, 1735 at Narrabundah.

Q. The back-burning was to be done that night; is that right?

35 A. As I indicated I think the last time I was here, I think the planning officer was anxious to get them into the field.

Q. Obviously there was a need for a little bit of rest and refreshments and so forth, I dare say, when your crews arrived?

A. No, the night crew actually slept on the coaches on the way down. Subject to getting them organised in and out of trucks, they left Narrabundah at about 1830, or very close to it, under police escort.

47

Q. So if there was a sacrifice of each person with a drip torch knowing the broad overall strategy, it was made to get them out to a back-burn to take place that night as quickly as possible?  
5

A. A sacrifice?

Q. If there was a sacrifice of each person with a drip torch knowing what the broad strategy was, it was made in order to get people to a back-burn that had to take place that night as quickly as possible; is that the case?  
10

A. No. We actually asked for a broad strategy and were told they didn't have that information. As you have said, their job was a tactical back-burn.  
15

MR PHILIP WALKER: Your Worship, I note it is about that time.  
20

THE CORONER: We will take the brief adjournment.

MR LASRY: Before we do that, I think there have been two developments with other witnesses. Mr Bartlett I know was feeling unwell and I think left and then came back and I think may have left again.  
25

MR WATTS: He was here half an hour ago, your Worship. He was still not feeling 100 per cent.  
30

THE CORONER: He could probably be excused if he is still here.  
35

MR LASRY: The other question was whether or not there was a prospect of completing Mr Gould's evidence this afternoon. I ask that at the risk of angering Mr Cooper but I know Mr Cooper had budgeted for being here today and tomorrow. I don't know whether he has since revised that plan. Indeed, still with Mr Pike to come --  
40

THE CORONER: And Mr Watts.  
45

MR LASRY: And Mr Watts - it may that be Mr Cooper won't finish in any event. I wondered whether it

was possible, subject to that, to perhaps  
interpose Mr Gould after the break so his  
evidence, which will be a lot quicker, can be  
completed, and then if necessary - well obviously  
5 it will be necessary to go back to Mr Cooper's  
evidence. I raise that as an issue.

THE CORONER: I will let you think about that  
during the break. But importantly: Mr Cooper, are  
10 you able to stay until tomorrow?

THE WITNESS: My diary shows me here tomorrow.

THE CORONER: I am certainly agreeable to that  
15 course, if it is suitable to counsel.

MR LASRY: If your Worship pleases.

**SHORT ADJOURNMENT** [3.04pm]  
20

**RESUMED** [3.12pm]

MR LASRY: We have revised the plan. The  
consensus is to keep going with Mr Cooper, if that  
25 is convenient.

THE CORONER: Yes. Thank you, Mr Cooper.

MR PHILIP WALKER: Q. Were you or your troops  
30 briefed by Mr Sayer on Thursday afternoon or  
evening?

A. The person that I spoke to initially briefing  
the crews was introduced as planning for the field  
IMT was Tony, I thought it was Corcoran.  
35

Q. Corrigan?

A. I thought it was CORCORAN, something like  
that. I still can remember seeing him. He had  
his green National Parks pants and just had the  
40 yellow jacket on. The yellow jacket was very new.  
I don't think it had seen too much black.

Q. Do you know whether there was a brief  
conducted by Mr --  
45

MR WATTS: Could I have that last answer struck  
out, please. That last answer "I don't think it

had seen too much black". It is a flippant off-hand comment of which this witness cannot comment on.

5 THE CORONER: Your objection to that is noted, Mr Watts.

MR WATTS: I ask that it be struck out.

10 MR LASRY: I never understood - unlike in the American system where people seem to ask for things to be struck out all the time - that something can be struck out. It is now part of the transcript. It may be objectionable, but I  
15 think it is perhaps ultra vires to be suggesting that it can be somehow struck out.

MR WATTS: I would ask that your Worship direct the witness to simply answer the questions and not  
20 make flippant off-hand comments like that.

THE CORONER: I am sure it was not made in any offensive way or in any flippant way.

25 MR WATTS: Well, Mr Corrigan may take offence at it.

THE CORONER: We are not even sure whether it was Mr Corrigan, Mr Watts. It might have been just  
30 somebody with a new jacket because the previous one had seen a lot of action. Yes, Mr Walker.

MR PHILIP WALKER: Q. Do you know whether New South Wales Rural Fire Service firefighters were  
35 briefed by Mr Sayer?

A. No, I don't know whether he briefed them specifically. What I do know is that the crews, when they were debriefed, expressed a concern that they weren't getting a broad strategic overview.  
40 I don't know whether Mr Sayer spoke to them in the field on the Friday night. He certainly spoke to them on the Saturday when they were around at Tidbinbilla Nature Reserve.

45 Q. You don't know which of the three groups that comment came from?

A. That was essentially a consistent theme from

the task force that they needed more strategic information about the overall battle plan.

5 Q. Do you know which of the three debriefed groups this particular comment --

A. What I am saying is each of the three groups would have raised that as an issue.

10 Q. If we go to the third dot point under 2.5:

"Senior Rural Fire Service personnel suggested strategic planning for the significant impact on the urban interface of Canberra."

15 Do you know who the senior Rural Fire Service personnel was or were; or was it you?

20 A. It was myself, Dennis McTaggart and Guy Duckworth had also raised it in the field, in the incident control.

Q. Were you present while either of the other two gentlemen raised the issue of strategic planning?

25 A. No. But they had raised it with me as well.

Q. Can I take it insofar as the comment refers to you, it is a comment we have already touched upon in relation to the possible impact on the urban area from Weston Creek south; is that right?

30 A. Sorry, there was a noise there. I missed part of it.

35 Q. Insofar as this comment of senior Rural Fire Service person suggested strategic planning for the impact on the urban area was raised by you, that is referring to what we have already canvassed of you raising the impact from Weston Creek through to the southern part of the urban area; is that right?

40 A. In the context of myself, yes.

45 Q. Something I didn't ask you at the time, Mr Cooper. You mentioned from Weston Creek - just remind me again what was the southern-most point that you pointed out from Weston Creek down to where?

A. To the end of where - the tail as it were.

Q. Was that Tharwa?

A. The urban interface doesn't run all the way out to Tharwa. I think there is a house there called Linden that had art stored in it.

5

Q. Lanyon?

A. Lanyon, there you go. I wasn't quite right but close. It is the sort of tail end. The residential area finishes a bit north of there. I guess what we were concerned about, or I was concerned in this case, was fire coming in and around there along that western edge and even potentially running up into the south-western corner. But I couldn't tell you the names of the suburbs.

15

Q. To deal with that, you were looking at dealing with it some distance from the urban edge itself, were you not?

A. I mean what you are suggesting here is that I was actually doing tactical planning. All we planned for was if the fire got across - if you like, across the river or across the road, our resources would then be available --

25

Q. Mr Cooper, I am not actually suggesting anything. I am asking you the question that if you were going to deal with that, would you be dealing with the potential impact on that area some distance from the urban edge itself; some distance to the west?

30

A. Are you asking me about suppression activities?

Q. Well, I will ask the question this way: what was it that you were suggesting should be done?

A. I think that's been outlined in a number of documents. What we were suggesting was that you would pre-prepare for property protection along that urban interface. There is a whole range of activities that would be undertaken to prepare that fire to impact in that area. I mean as it was indicated - whether it was staging areas, whether you were having the gas shut down, water supplies, increasing capacity in the water system so you can actually isolate it elsewhere --

45  
47

Q. Did you say any of this?

A. Did I say any of this?

Q. Yes.

5 A. Absolutely.

Q. Were you suggesting this related to rural properties?

10 A. No, urban interface. My discussion with the urban properties was during the 1830 debrief where I sought some plan to prepare those properties where we were going to be tasked to work.

15 Q. Do you know how long the line that you pointed out to, I think it was Mr Graham, was actually supposed to be that you suggested some protection be undertaken?

A. Do I know how long it is exactly or roughly?

20 Q. Roughly.

A. I know roughly the urban edge we looked at was roughly 25 grid squares in a 1:25,000 map. So that whole of that western edge, remember we were strategically planning not tactically, all right, 25 was 25Ks. The area we are talking about is roughly half of that. It might be a little bit more.

Q. What area is roughly half that?

30 A. From Cotter Road south. So we are probably talking about 12 or 15Ks. It could be a bit less, a bit more. In terms of planning it is not going to make a difference if it is 10Ks or 20Ks or even 30Ks, it is still a large patch of ground that you 35 have to plan for.

Q. What do you suggest should have been done on Friday night?

A. Plan for that.

40

Q. By doing what?

A. By the planning team - come up with a plan, mobilise the resources, put them on the ground just as we would do. If you want a specific 45 example, it was done in the Blue Mountains several times over. And even hot planning in terms of the fires coming right now, and planning how we are

going to deal with that, engaging different agencies - like Sydney Water in our case and I think yours was ACTEW that was responsible for water supply. So they were able to actually  
5 increase water pressure to areas where we were going to work. Those sorts of decisions are made in terms of planning.

Q. If that can't happen, in the ACT we can  
10 scratch increase water pressure, can we not?

A. Well, not - that is just a specific example.

Q. As far as getting troops on the ground, which was what you said, when this ultimately hit on  
15 Saturday, do you know of any other people the ACT could have had - at least from its resources?

A. From the ACT or from New South Wales?

Q. From the ACT to begin with.

20 A. Well, clearly as far as I knew, the ACT had all resources on the ground. Planning, if it had been done on Friday afternoon or Friday night, would have said "we need more resources" and they would have been there at dawn or thereabouts on  
25 the Saturday morning.

Q. The ACT itself had everything it could possibly throw at this fire on the ground on Saturday, didn't it, as far as you know?

30 A. Absolutely. I am sure they had more than what they could put on the ground. But the resources shouldn't be just limited to what the ACT has got. That's what planning should alert you to, that your existing resource isn't adequate to do the  
35 job.

Q. In fact, when the fire came through on Saturday, if they had had twice as many New South Wales Rural Fire Service firefighters, it still  
40 wouldn't have stopped an impact on the suburbs; would it?

A. While we are talking about planning, it isn't stopping and impact. It is minimising the effect of the impact.

45

Q. I asked you about stopping an impact.

A. What I am saying is it was never intended to

stop.

Q. You mention some reluctance about  
back-burning. There was back-burning going on all  
5 around Tharwa on Friday night; was there not?

A. That's correct. We were heavily involved in  
making that work. I think I gave evidence earlier  
that Brian Murphy was involved with that and some  
of the other locals, and demonstrated good  
10 co-operation with the locals on the ground and the  
tasks forces that were available.

Q. Going back - in this document at point 3 under  
2.5 you talk about pre-emptive shut down of gas  
15 and electricity. Were you talking about shutting  
down gas and electricity on Friday night?

A. You need the authorities to tell you when you  
need to shut down to provide what sort of outcome  
you want in those suburbs when the fire impacts.  
20 So if it meant shutting the gas down on the Friday  
night, you could do that. Clearly with  
electricity, you can turn that off closer to the  
event. So if you indicated to the agencies and  
they had the people on deck, they would feed you  
25 that information in terms of when you could do  
that.

Q. Coming back to the second last dot point:

30 "The ESB at no time would support any  
strategy that included back-burning - either  
targeted e.g. Tidbinbilla Nature Reserve, or  
broad e.g. western side of Tharwa to Cotter  
Road."

35 How does that sit with the back-burning that went  
on around Tharwa on Friday night?

A. As I said earlier, the back-burning around  
Tharwa was a real positive. People on the ground  
40 were committed and keen to do it. In terms of  
other back-burning - I mean the initial reason I  
went to the field was because there was a  
disagreement over whether back-burning should be  
used at Tidbinbilla, and subsequently the plan to  
45 back-burn from Tharwa to Cotter was knocked on the  
head. So there is a balance to it.

47

Q. Address yourself, if you would, to the words:

5 "The ESB at no time would support any strategy that included back-burning - either targeted e.g. Tidbinbilla Nature Reserve, or broad eg western side of Tharwa to Cotter Road."

10 We know that extensive back-burning went on around Tharwa on Friday night. That statement is wrong, isn't it?

A. It says "ESB" there; it doesn't say the people in the field at Tharwa on Friday night.

15 Q. Do you understand that Mr Graham actually approved the back-burning around Tharwa on Friday night?

A. I'm hopeful that he did. We encourage the people in the field to get that approval.

20

Q. Do you know?

A. Do I know? No, I wasn't in the field; I wasn't part of that operation.

25 Q. So if it proved to be the case that Mr Graham had authorised back-burning and further, whether authorised or not, an extensive amount of back-burning had gone on around Tharwa on Friday night, that comment is not worth the paper it is written on; is it?

30

A. I don't think that is true. What you are saying is it completely knocks out the equation altogether. What the people in the debrief said there were a number of occasions when they wanted to do back-burning and there was no support for it.

35

Q. That is not what the sentence said, it said:

40

"ESB at no time."

It is wrong, isn't it?

A. If you want to put a twist on that, that is fine.

45

Q. What is the twist about that, Mr Cooper?

A. What I am saying is, they did not support the

initial deployment into Tidbinbilla Nature Reserve with task forces where the containment was to use back-burn.

5 Q. I suggest to you, sir, the only person putting a twist on those plain words is you. It says "at no time". Why won't you say it is wrong?

A. I'm not saying it is completely wrong.

10 Q. Just a little bit wrong?

A. If that's how you want to paint it, that's fine. What I am saying is the people that were debriefed felt that they didn't have support to do back-burning operations.

15

Q. Does this go down as one of those comments where somebody let off a bit of steam?

A. No, it doesn't go down as one of those comments where people let off a bit of steam.

20

Q. Well, how do you explain the fact that it is not accurate?

MR ERSKINE: I object to that question. I object for this reason: I understand we are working off the debrief paper. Mr Cooper has explained it in great detail in response to questions from my learned friend as to how the debrief came about. The question has been asked.

30

With great respect, Mr Walker confuses two quite different things, which is first of all: what does Mr Cooper know and what is his opinion and what would be his belief; as opposed to what did a lot of people say at the various debrief sessions. Mr Cooper has told us the purpose of the document being referred to was to record the views of the people in the debrief.

40 Mr Cooper can tell the Court what his view is about the accuracy or otherwise of that statement but, with respect, he can't answer the question as being put to him which really asks him to speak for, by my tally, something close to 100 or more  
45 firefighters.

MR PHILIP WALKER: Your Worship, I won't press the

question.

Q. I will put it this way: irrespective of what  
its origins were, it is a statement which is not  
5 accurate; is that correct?

A. With the information I have got available to  
me, I would agree with you.

Q. That is information which you had at the time  
10 you conducted the debriefing session, is it? You  
knew there were back-burns around Tharwa?

A. Yes, absolutely. Yes.

Q. Why didn't somebody say, "Look, I'm not  
15 recording this in the debrief, 'The ESB at no time  
would support any strategy,' because it is  
factually wrong; it is just nonsense"?

A. I guess ultimately if I wrote the document,  
I have to accept responsibility for that.

20

Q. Maybe you do. But why didn't you say, "Look",  
whoever it was, "I'm sorry, you are wrong, we are  
not going to list this. You are wrong"?

A. I'm saying that would have been said, all  
25 right. As you have indicated, Tony Graham in ESB  
had approved it. None of these people, including  
myself, were aware of that approval. The  
back-burning that was supported around Tharwa was  
seen to be a decision that was made in the field  
30 by the field IMT which they were operating to.  
The comment here relates largely to the ESB  
support for a proposed back-burn.

Q. Do you know the origins of the comment that  
35 was made at the first dot point under 2.6:

"Information in the centre was typically out  
of date (up to 3 days)."

40 Where did that come from?

A. The large part of that would have been formed  
by the small group of people like myself and Bob  
Wilcox who had been in and out and operating in  
the control centre.

45

Q. Can you give me an example that you know of  
that information was out of date by three days?

A. Yes. On the floor inside when you came in through the front door, you went through two doors. You walked towards what was the mustering room where the military finished up. On the  
5 right-hand side down the bottom, there was a smallish notice board, a white one which had the first tree on the top of who was in what role. It was dated the 15th.

10 Inside when you went into the control centre, on the left-hand side which would have been essentially the northern wall, the maps were put up there and they were all dated the 15th. The map in the larger room, which I guess would have  
15 been the gym originally, was also dated the 15th.

Q. Mr Cooper, firstly you refer to a note on a notice board --

A. No. This was a purpose board that had  
20 incident controller, operations, planning - and these were not only the roles but who was in them. It was a small whiteboard sitting on the floor.

Q. It would have been as plain as a pikestaff, I  
25 suggest, that that information was information that had been used some days ago otherwise you wouldn't have known, would you, plainly labelled the 15th?

A. That's why I went asking for an organisational  
30 chart to find out what the current situation was.

Q. I take it you are prepared to endorse something that says:

35 "Information presented in the centre was typically out of date (up to three days)."

And you refer to some documents which I dare say you could find in any headquarters that had become  
40 superseded?

A. I would be extremely disappointed if any of those large visual displays in any control centre had a correct as at date which was three days old. That means you were dealing with very old  
45 intelligence.

Q. Was there more recent intelligence you were

able to obtain?

A. More recent intelligence was being fed in, but it wasn't being updated; it wasn't being promulgated.

5

Q. As far as you could see.

A. Even when we asked for information, we weren't getting it.

10 Q. The maps you were referring to, Mr Cooper, I suggest to you, were actually base maps that had been produced on that day and that all the maps actually had that as the date they were produced and material was added on to them each time; it  
15 was just the date that the actual map was produced.

A. The information on those maps was clearly not a current field situation in terms of where the fire was at.

20

Q. When was it at - that information?

A. I wasn't there before the 16th so I can't tell you what date it was. What I can tell you is on  
25 the 17th that was not consistent with what was being reported from the field, both from the ACT and from New South Wales.

Q. So let me just understand this: as far as you were aware, when you saw the information on the  
30 maps on the 16th, it could have been produced an hour before you arrived?

A. It could well have been. What I am saying is it is not good practice to have a time on it, which is not the time when it was last updated.  
35 That's part of a systems approach: as you change something, it should be dated "correct as at", so you know how new the information is you are dealing with.

40 Q. The reality is you don't actually know whether the information was out of date or not?

A. What I do know is after we arrived the information --

45 Q. Is that correct, do you know or not?

A. At that time I did not know it was out of date. I do know it was not correct afterwards.

Q. You mentioned a gentleman - I think it was Mr Duckworth; I am sorry I don't have a note of it - who you said arrived and he was asked where was his yellows?

5 A. That's correct, Guy Duckworth. He was sent in response to a request from ESB, so Rural Fire Service sent him down.

Q. His particular role was to assist in planning; is that right; do I recall that correctly?

10 A. Operations/planning, yes.

Q. Sorry, which or both; which one was it?

15 A. I think originally he rocked up to the operations.

Q. Your expectation was that he would be in central offices, an operations office?

20 A. That wasn't my expectation. That was his and the expectation of state operations.

Q. Is it a general practice in the New South Wales Rural Fire Service that an operations officer will be in a central office such as ESB or whatever its equivalents are in the district where the fire is taking place?

25 A. Most definitely. As indicated earlier, the IMT structure is essentially in a control centre and divisional command is in the field. At this stage locally and also state operations, they weren't aware that the ACT had a different structure. So that's how that, if you like, interaction came about. But it wasn't, as I said earlier, something that was going to cause a problem. We got over it and we moved on. Collectively both sides work really well.

Q. The IMT structure in New South Wales, I take it that - I don't take it; I will ask you. Operations officers are expected to be in a central office; is that right?

40 A. In a control centre. "Central" is not a good choice of words.

45 Q. I am sorry that is a bad choice of words in the circumstances. In a control centre?

A. Yes.

Q. And planning officers?

A. Same place, very close. Should be a fairly intimate relationship between operations and planning as per AIIMS or ICS structure.

5

Q. The logistics officers?

A. Same deal. Under the same roof, so to speak.

Q. And the control centre, under IMT New South  
10 Wales, if you have a fire some distance from the  
metropolitan area, so perhaps in the north of the  
state or something like that, I take it this  
control centre is located in what a town hall or  
15 school house or something like that; is that  
right?

A. Initially most of the districts will seek to  
use their Fire Control Centre or under the state  
emergency arrangements a district or a local  
Emergency Operations Centre. They are identified  
20 across the state. There are 18 or 19 district  
EOCs which are able to fulfil that role so they  
kick into gear pretty quickly.

Q. These control centres, I suppose depending  
25 upon where the fire is, can be reasonably close to  
it or they might sometimes be some distance; is  
that correct?

A. There is no criteria that says they have to be  
close or far away.

30

Q. Just to get some gauge of this, there is  
obviously a sensible limit as to how far such a  
centre might be from a fire, I assume?

A. No. What you do is, if you are talking about  
35 travel times for feed of information becomes an  
issue over distance or time, that's where you  
finish up with your division commands, with your  
forward command posts, and they process and  
deliver what the IMT is looking for from the  
40 control centre.

Q. What is a realistic distance before you have  
got a forward command post between your control  
centre and the fire front?

A. It may not be distance; it may be travel time;  
45 it may be nature of the task.

47

Q. Fair point. Let's say travel time then.

A. What I am saying, they are not factors that will determine how far from either time in distance; there isn't a fixed trigger to say where  
5 you will have your control centre relative to the fire.

Q. Using the example that we had here, could one expect to find at times in New South Wales a  
10 control centre established in roughly equivalent distances, both in geography and in time from the fires here?

A. Quite normal, quite usual. There is no problem. I mean what happened here could be found  
15 anywhere in the state.

Q. Are you able to give any example of which you were aware on page 5 where the chief fire officer overrode the actions or recommendations of the ESB  
20 IMT controller?

A. Specific examples?

Q. Yes. Do you know personally of any incident?

A. Well, the back-burn that I alluded to that we  
25 were going to put around Belconnen, it was actually Peter Lucas-Smith that told me that was not going ahead. Yet that had been planned for by operations and planning during the day, and they encouraged us to go ahead.

30

Q. Can you think of any example up to and including the 18th?

A. Bob Wilcox, planning officer, had reported --

35 Q. You first of all personally.

A. No, I am saying saying other than the example I have given you.

Q. Other than the one you have given, I see. At  
40 page 7 at 2.12 there is a suggestion there was a reluctance to use plant in and around buildings. Can you tell us what that is supposed to refer to?

A. Sorry, on page 7?

45 Q. Page 7, 2.12 the first dot point. Do you know what that refers to?

A. Yes. The reluctance there - the discussions

with operations that afternoon that I put to Tony Graham we were looking for --

Q. Sorry, which afternoon?

5 A. The afternoon of the 17th. In my discussions with planning, plant came up there. And then subsequently at the 1830 briefing I actually asked for plant - rubber tyred machines were specifically mentioned because they move over the  
10 ground quicker, to access those so that they would assist with preparation and also defend buildings under impact with fire.

Q. I don't understand what the reluctance was  
15 supposed to be to use them in and around buildings?

A. What I am saying is there was no support provided to us specifically to do that, to go  
20 ahead.

Q. Because the machinery was not there or --

A. You have to ask someone else that.

Q. You don't know?

25 A. As I have mentioned earlier and it is in my other transcripts, that was put to planning and operations about providing us with machinery in the rural areas in particular to prepare around buildings.

30

Q. So we understand the comment correctly: it is not that there was some sort of in-principle view that a grader must not come within 50 metres of a house. That is not the right way of interpreting  
35 what has been written?

A. I don't think that is what has been said; is it?

Q. "There appeared to be a reluctance to use  
40 plant in and around buildings." I am not sure; I am asking you.

A. I mean, I guess if you are looking for other words - were not supported, were not endorsed, were not approved. Plant was not made available.  
45

Q. You weren't able to get the plant to use rather than --

A. No, no.

Q. -- it was an in-principle objection?

5 A. There was no objection. There was actually no support to actually say, "Get the plant and do it." We were keen to use that plant on the western side of the river, as we would normally do to prepare properties particularly.

10 Q. You indicated you were present at a conference I think involving ^ spelling Mr Roach; is that right?

A. A conference?

15 Q. Some meeting involving Mr Roach; is that right?

A. I was at the international wild land fire conference last year in Sydney. I met Trevor Roach there along with a couple of hundred people  
20 there. Is that the conference you are referring to?

MR LASRY: I think he is referring to another conference comprising of four people of which I  
25 was one.

MR PHILIP WALKER: Q. I was going to say I thought there was a mention of a conference at which Mr Lasry was in attendance.

30 A. That was a meeting I was asked about by one of the gentlemen at the front here, who asked a question this morning. Yes, Lex, Trevor, Chris and myself, that's correct.

35 Q. Where did that take place?

A. The building over the road.

Q. When?

40 A. I arrived there last night at about 12 minutes to 6, phoned Lex and said, "Can you let me in". I met Chris out the front and we were let in.

Q. How long did it go on for?

45 A. I was back in my motel room at about probably 8 o'clock - no, it would have been closer to 8 o'clock, quarter past 8, somewhere around there.

47

Q. A bit over an hour and a half?

A. Potentially up to 2 hours, in that vicinity. I must admit it wasn't something that I  
5 consciously took note of. There were no pressing  
time lines. Chris was concerned that I hadn't had  
dinner and hadn't had lunch since 6 so --

Q. What role did you play in that meeting last  
night, Mr Cooper?

10 A. In what sense? Sorry.

Q. Were you asked to contribute some information?

A. No. The documents that you have got in front  
of you, they were on the table, so to speak, and I  
15 guess you could say we worked through the  
documents as they relate to those issues. But I'm  
not - what I was doing was relaying, really what  
is written in here was information that is  
available to all of you. I mean, it is really  
20 exactly what is written in there to the best of my  
knowledge at the time.

Q. You were giving some further information and  
detail about what was in those documents, were  
25 you?

A. I don't think I was giving further  
information. I'm not sure I've got much more  
information. I mean --

30 Q. You were expanding upon the points?

A. I suppose that's possible. But I'm not sure I  
was - maybe I was putting them in context rather  
than necessarily expanding.

35 Q. But you obviously didn't sit there mute, you  
had some contribution and you went through each --

A. I think it would fair to say I spent most of  
the time talking.

40 Q. So of the two hours you spent about -  
three-quarters of the time you did the talking?

A. I wouldn't guess. I know I was talking for a  
fair bit of the time. As you can imagine if you  
are sitting on my side in that environment, time  
45 passes pretty quickly. I was being asked  
questions and I was providing information.

47

MR PHILIP WALKER: Yes. Your Worship, you might be pleased to hear, that is the end of my questioning.

5 THE CORONER: Thank you, Mr Walker. Yes, Mr Watts.

MR WATTS: I would prefer, having regard to the time, to start tomorrow if that is suitable;  
10 otherwise I will have to start and restart in the morning.

THE CORONER: You wanted to go after Mr Watts, Mr Pike; is that right?

15 MR PIKE: Yes.

THE CORONER: You don't want to fill in the 10 minutes that we have?

20 MR PIKE: I don't actually. I think that it may be that Mr Watts may very expeditiously cover some of the things, otherwise I might need to.

25 THE CORONER: We will stop. So it is the plan that Mr Cooper just resume tomorrow morning?

MR LASRY: Yes, your Worship, followed by Mr Gould. We now have a statement from  
30 Mr Thompson - signed indeed. I will distribute that without further comment. I understand that, subject to anything that counsel for the ACT wants to say about this, he is willing to make himself available tomorrow afternoon to give evidence.

35 THE CORONER: Mr Thompson?

MR LASRY: Mr Thompson. I think it is fair to say that on the critical issue he has a difficulty in  
40 recollection, but that can be seen in the documents. So we would propose to call him after the witnesses that I have already referred to. I will pass up to your Worship and perhaps formally tender Mr Thompson's statement so that the  
45 document can go on the system. I will make copies available.

47

MR ERSKINE: Can I ask through you when it is proposed that Mr Bartlett is to be recalled.

5 THE CORONER: Yes. You can step down, Mr Cooper, thank you.

**<WITNESS STOOD DOWN**

MR LASRY: Look, your Worship, we will fit Mr Bartlett at whatever was convenient to him in the morning. I had forgotten he was of course part-heard. It may be that we perhaps do him first. Perhaps we will deal with Mr Gould and Mr Bartlett, either in that order or in the reverse, and then go on to Mr Smith and Mr Thompson later in the day - subject to the completion, of course, of Mr Cooper.

20 THE CORONER: I think Mr Prince and Mr Smith were on the list for tomorrow too.

MR ARCHER: Yes. A number of counsel have contacted me with an interest in Mr Prince. Can I advise them perhaps Friday?

25 MR LASRY: I was going to say, Mr Prince is more likely to be Friday.

MR WATTS: That does cause me difficulty. I was going to be in Sydney on Friday on the basis that Mr Prince was going to be called tomorrow. I might be able to make some arrangements but I do have something on in Sydney of Friday. I will see what I can do. I need to be here for Mr Prince.

35 MR ERSKINE: May I also say that we had been led to understand that the proposal for Friday had been witnesses who don't affect the interests whom I represent, which is why I asked the question about Mr Bartlett. I am not interested in Mr Thompson - I say that in advance of seeing his statement but I don't expect to be interested in him - I am interested in Mr Smith. But we had not understand that we were going to be going into Friday for any witness for whom we were interested. Indeed, I have another brief on Friday.

47

THE CORONER: Well, it may be that counsel --

MR LASRY: We will have everybody bar the residents that were to be called originally on Friday along tomorrow and we will get through as many of them as we can. Perhaps it may be appropriate, given that we are coming up to a period where we anticipate the Court won't sit next week that, if necessary to accommodate Mr Erskine and Mr Watts, your Worship might be willing to sit a bit longer tomorrow to finish the evidence.

THE CORONER: Yes, I am content to do that.

MR LASRY: I don't anticipate that Mr Cooper is going to take a great deal longer, subject to Mr Pike and Mr Watts' position. I don't imagine Mr Bartlett is going to take much longer either. Mr Gould will not take very long in any event, neither will Mr Smith. So it is entirely conceivable that we will get to Mr Prince and get through his evidence tomorrow. Ms Cronan is doing Mr Prince's evidence. I will perhaps consult with her before the morning. It may be that we can deal with him tomorrow as well.

THE CORONER: We will see how we go. Mr Thompson's statement will become exhibit 0068.

**EXHIBIT #00668 - MR THOMPSON'S STATEMENT DATED 02/06/04 TENDERED, ADMITTED WITHOUT OBJECTION**

THE CORONER: We will adjourn until tomorrow morning at 10 o'clock. Is there any benefit at starting tomorrow at 9.30?

MR LASRY: I am content to do that, your Worship.

THE CORONER: We might do that then. We will start tomorrow morning at 9.30.

**MATTER ADJOURNED AT 3.58PM UNTIL THURSDAY, 3 JUNE 2004.**

45

47

TRANSCRIPT OF PROCEEDINGS

CORONER'S COURT OF THE  
AUSTRALIAN CAPITAL TERRITORY

MRS M. DOOGAN, CORONER

CF No 154 of 2003

CANBERRA

INQUEST AND INQUIRY INTO  
THE DEATH OF DOROTHY MCGRATH,  
ALLISON MARY TENNER,  
PETER BROOKE, AND DOUGLAS JOHN FRASER  
AND THE FIRES OF JANUARY 2003

DAY 66

Thursday, 3 June 2004

[ 9 . 3 3 a m ]

MR LASRY: Your Worship, I am told by  
your Worship's associate that the notes provided  
5 by Mr Cooper, which have been distributed and  
which have been referred to, have not been  
exhibited. So I formally tender those.

THE CORONER: Mr Cooper's notes will become  
10 exhibit 0069.

**EXHIBIT #0069 - MR COOPER'S NOTES TENDERED,  
ADMITTED WITHOUT OBJECTION**

15 THE CORONER: Mr Cooper, if you would come into  
the witness box, please.

**<KEVIN COOPER, RESWORN**

20 **<CROSS-EXAMINATION BY MR WATTS**

20

MR WATTS: Mr Cooper, I represent a number of  
people, I will read the names out: Neil Cooper,  
Andrew Winter, Tony Bartlett, Tony Corrigan, Peter  
Newham, Superintendent Newham of the Fire Brigade,  
25 Hilton Taylor, Dave Jamieson, Dave Dutton, Robert  
Gore, Peter Cartwright and Felicity Grant.

Q. Yesterday Mr Lakatos asked you some  
questions - handed you a bundle of notes, do you  
30 recall that?

A. They were the ones that were previously copied  
out of the box.

Q. He handed you a bundle of photocopied notes;  
35 do you recall that?

A. Yes, I do.

Q. He asked you some questions about them?

A. That's correct.  
40

Q. He asked you whether they were effectively all  
the notes that you had concerning the events in  
Canberra?

A. My personal notes, yes.  
45

Q. You do have other notes, do you not?

A. Me personally?

6245

Q. Do you have other notes that you have produced brought to Canberra with you today? I am not suggesting they were in your handwriting, Mr Cooper; I am asking you about other notes.

5 A. Sorry, what I was saying is what I have tendered to the Court and what was in that bundle yesterday --

Q. You have a big box, don't you, containing documents you brought to Canberra with you?

10 A. The photocopy box, yes. I brought that yesterday and that was the one I gave to the Federal Police previously.

15 Q. When Mr Lakatos was asking about notes, you made no mention of that box, did you?

A. No.

Q. Why didn't you?

20 MR LASRY: Your Worship, that may be a legitimate inquiry but, if the witness is going to be criticised for not referring to this box and these notes, then the questions he was asked and the answers that he gave - either demonstrating that they should have been referred to or might not need to have been referred to - should be put to him.

30 THE CORONER: Yes.

MR WATTS: Very well.

Q. Mr Lakatos asked you this at page 6172:

35 "Q. May we take it that the handwriting on the spiral pad which is recorded there represents the notes you took in the course of your attendance in Canberra between 16 and 40 22 January?

"A. Not all the notes but some of the notes, yes.

45 "Q. Are there any more which relate to that period?

47 "A. No, not that I'm aware of."

Now, did you not intend to convey by that answer that there were no further notes?

5 A. There were no further notes of mine. I hadn't recorded personally any other information. I did go on to say that there would have been individual pieces of paper. For instance, when I briefed a task force, I might have given them a sheet of paper with some specific directions in the morning when they went to work. But other than that, as I  
10 said, the two spiral backed books were the key, if you like, collection of my notes. And any other small snippets, pieces of paper would have gone between myself and the forward controller, those sorts of people.

15

Q. Thank you. But this box contains a significant number of notes relating to the period when you were in Canberra; does it not?

20 A. It contains some - that's why I salvaged those notes and put them in the box. It contains some records from Canberra.

Q. You didn't think it was important to tell that to Mr Lakatos when he was asking questions about  
25 notes yesterday?

30 A. I thought it was important enough to bring it to the attention of the Federal Police last year. And yesterday I brought that box with me. I am sorry if I didn't recognise it was important to bring it to the notice of Mr Lakatos.

Q. Do you have your record of conversation there with you?

35 A. That's the transcript of my discussion with the Federal Police; is that the document you are referring to?

Q. Yes.

40 A. Yes.

Q. You don't need to turn it up. At question and answer 72 you said, "Our guys did an amazing job" at the bottom of the page, do you see that? Is that your answer - the last line?

45 A. It's obviously my answer. There was only myself and the two representatives for the DPP in there, so, yes.

Q. You were talking about what a good job your men had done or your crew had done?

A. Yes. Obviously.

5 Q. That's your opinion now?

A. Yes, it is still my opinion.

Q. As far as you were concerned, they did everything as well as they possibly could during  
10 the time they were in Canberra?

A. Within the scope of what they had available and the challenges put before them, they did quite an exceptional job, I think.

15 Q. You were asked yesterday about some back-burning by Mr Walker; do you recall that?

A. We had a fairly lengthy discussion on back-burning yesterday, yes.

20 Q. Do I take it that you are of the view that your crews did the best job they possibly could when they did back-burning?

A. My comment here relates to their overall performance.

25

Q. No, sorry, I am not asking about that comment. I am asking you: is it your view that your crews did the very best job they possibly could when they did back-burning?

30 A. Back-burning was a technical function, and I wouldn't have had the specific details on that. That was being supervised by the divisional commanders and the task force leaders.

35 Q. Are you aware of any deficiencies that arose when your crews were doing back-burning?

A. No.

40 Q. No doubt people reported to you as the leader of the task force if there were any particular problems?

A. At the end of a shift the task force leaders and the division commanders, if they were in place, were debriefed. So in terms of what they  
45 both provided but they were also asked for information.

47

Q. What I am asking is you are not aware of any particular deficiencies displayed by your crews when they did back-burning?

5 A. That's correct, I am not aware of any deficiencies. None were reported to me.

Q. When you were asked by Mr Walker about the lack of knowledge by the crews of strategy, were you intending to convey by that that, because they  
10 didn't have that knowledge, there was some defect or deficiency in the job they were doing?

15 A. Not at all. What I was suggesting was that, by knowing the strategy, people have an overall idea of where they are going and what they are contributing to.

Q. But in terms of them doing a particular job, it didn't affect the work they did on the ground; did it?

20 A. It certainly has the potential to affect significantly.

Q. Did it in the job they were doing when they were here doing back-burning impede or affect  
25 adversely their ability to do the job?

30 A. I obviously can't comment on that because I don't have any feedback to say that they were anything other than successful with their tactical back-burning.

Q. So you are not aware of any deficiencies that arose as a result of the people on the ground not being aware of the overall strategy?

35 A. The only negative comment that was relayed back to me, and it came from ESB, on back-burning was when I was asked to go to the fire ground at Tidbinbilla with Brian Murphy and discuss with the Parks and the task force people that were sent  
40 there on the Friday afternoon at about 2.30 where our people wanted to back-burn and the Parks people didn't want to back-burn.

Q. That is different, isn't it? That is talking about the decision to back-burn. What I am  
45 putting to you is this: you did not become aware of any deficiencies in the way your crews did the job because of any apparent lack of knowledge

about some strategy, the overall strategy?

5 A. Yes, I did. When we debriefed even the first morning, Friday morning, the crews which actually didn't work on the Friday night, they were things they offered up and had nothing to do with back-burning. But they were saying they hadn't been given information about the broad strategy, where they fit in, where was their little patch of ground --

10

Q. Yes, Mr Cooper, I understand that. I understand the suggestion that they weren't given the overall strategy. What I am putting to you is this: you were not aware and are not aware of any deficiency in the way they did their job as a result of not having that knowledge of the overall strategy?

15 A. All the feedback that I had on the back-burning that our crews were involved with was positive.

20

Q. So the answer to my question, I take it, is there was no problem arising from that lack of knowledge?

25 A. There was a problem with the crews arising from that lack of knowledge.

25

Q. In the way they did their job?

A. Yes.

30

Q. Well, what was the deficiency in the way they did their job?

35 A. They felt that they weren't achieving what they should have been achieving. They didn't feel that they knew where they were going overall.

35

Q. Can you give some specific examples of the way the back-burning wasn't done effectively and efficiently by your crews because of that lack of knowledge?

40

45 A. I have already relayed to you, I don't have the specific information on deficiencies with their back-burning. I am saying when they were debriefed, they had indicated the need for strategy and that would have enhanced their ability to do what they were doing in the broad strategic sense - what they were doing and where

they were going.

Q. Mr Cooper, you can't personally give us any examples of any problems, can you?

5 A. I have already said I can't give you any examples of any problems.

Q. Would you turn up question 72, please. You recall being asked some questions about that  
10 yesterday about the conversation you say you had with Mr Graham and with Mr McRae about what might happen if the fires reached Canberra.

A. Yes. I mentioned those discussions yesterday.

15 Q. Do I take it that you gave that answer in question 72 to convey a suggestion that there was a lack of preparedness for the possibility that the fires might reach Canberra?

20 A. In a broad sense, that's correct. What I was on about was getting in front, having control. It is about getting in front of the fire; so in terms of planning for that.

Q. You had been in Canberra - can you just remind  
25 me which day this conversation took place?

A. I arrived - sorry?

Q. Which day did this conversation take place,  
what date?

30 A. The conversation with Mr Graham?

Q. Yes.

A. The Friday afternoon.

35 Q. And you had arrived when, that day?

A. Thursday night.

Q. And you were the new boy on the block, so to speak, in ESB?

40 A. That's correct. I was very conscious of that, very well aware of that.

Q. It takes a while, does it not, in those  
45 circumstances for you to become familiar with what is going on?

A. I guess part of my training and part of my job is to get up to speed as quick as I can in terms

of evaluating control centre performance. There are indicators that tell you pretty quickly where they are at.

5 Q. Were you aware at that time about the lines of authority, the statutory authority and obligation as between the Fire Brigade on the one hand and the Bushfire Service on the other?

10 A. Tony Graham, when I spoke to him about whether there was a plan in place for reaching the urban interface, did explain to me that once it reached the urban interface that was an urban fire service authority.

15 Q. I take it that you accepted that?

A. Absolutely.

20 Q. That conversation on its own would not indicate to you, would it, that there was any lack of planning going on for the possibility of the fires reaching the urban interface of Canberra?

25 A. The conversation I had with Tony, as I indicated yesterday, was informal and casual. It was standing beside him asking him really: was there a plan in place or were you working on a plan; should we have a plan about doing this? And we discussed some of the actions that might be part of that. I was certainly not in a position to force the issue in terms of developing a plan.  
30 That wasn't my role.

35 Q. Do I take it that you were concerned after you spoke to Mr Graham about the fact that there may not be planning in place?

A. Yes, I was concerned.

40 Q. You had been told that the Fire Brigade was the authority responsible?

A. I had been told the Fire Brigade was responsible.

45 Q. You knew the Fire Brigade headquarters were located at Curtin?

A. No, I didn't actually, not until later that day.

Q. Later that day?

A. You have got to remember I hadn't had an induction or briefing in terms of the control centre.

5 Q. So you were still a bit unfamiliar with what was going on there?

A. In terms of where key activities in the building were but I didn't know that the urban fire service was actually located in the building.  
10 I knew they took the 000 calls from the building.

Q. But you did find out later that day?

A. Yes.

15 Q. You didn't go and talk to any of the senior Fire Brigade officers about what preparation they might have in place?

A. No. I spoke to both the OPS officer and the planning officer on the basis that this is an all agency management approach. It is how the ICS IMT  
20 is used. So I didn't assume - I guess I could have inquired as to whether the fire service was sitting outside that structure.

25 Q. So you didn't know that on the 16th the Fire Brigade had in fact formed a specific Incident Management Team to deal with the possibility of the fires impacting on Canberra?

A. That information was at no time relayed to me.  
30

Q. You didn't know that an incident action plan was prepared by the Fire Brigade relating to this possibility?

A. No, I didn't. That information wasn't relayed  
35 to me.

Q. You didn't know that the tankers had been stationed at the Fire Brigade's stations around Canberra and fully crewed?

40 A. On the Saturday?

Q. Prior to the Saturday.

A. Not on the Friday, but on the Saturday I was aware.

45

Q. And that had been in place for some time before the Saturday?

A. No, I wasn't aware of that.

Q. Are you aware that all available Fire Brigade units were used on the Saturday to fight the fires  
5 in the suburbs of Canberra?

A. I'm well aware of that, but planning would have had more units available.

Q. Mr Cooper, you were not in any position to  
10 make any criticism of any lack of planning concerning preparations for the fires impacting on the urban part of Canberra; were you?

A. At no stage have I said I was criticising. In fact, what I was working on was supportive. I was  
15 discussing the IMT people with those responsibilities and exploring those options.

Q. So I take it in your answer to question 72,  
20 you are not putting to the coroner that you were in any way critical of any lack of preparation concerning the fire impacting upon Canberra?

A. As I just said, I was concerned enough to approach the people in the control centre who had those responsibilities, given that we were a  
25 resource, to discuss planning.

Q. Mr Cooper, you didn't know what was going on so far as that planning was concerned; did you?

A. I have already indicated I wasn't aware that  
30 the urban fire service was doing some planning.

Q. Therefore you were not in a position to make any kind of comment about the state of planning?

A. I think I was in a position to ask the  
35 question.

Q. I am not putting that to you. You were not in a position to make any comment about the state of planning which was in place at the time of that  
40 conversation?

A. I don't think I have made a comment. What I have done is asked the question at the time, and my information has indicated that I did ask that  
45 question at the time.

Q. Between the time you departed the fires and the day you made this record of conversation, you

made no further inquiries of anybody as to what had in fact been put in place before the fires reached Canberra?

5 A. I have deliberately avoided looking at information that may have come about after the fire so it wouldn't influence what I would be saying either in the statements or if I can't recall it.

10 Q. So you are not in any sense criticising any lack of preparedness concerning the fires reaching Canberra, the urban interface of Canberra, is that correct?

15 A. I thought I made it pretty clear yesterday and even in my statements --

Q. I think with great respect that can be answered yes or no.

20 A. No, I'm not criticising.

Q. When you came to the ACT you were the task force commander?

A. Task force coordinator, yes.

25 Q. Coordinator?

A. Yes.

Q. In your overview document --

30 A. Dated 27 July, yes.

Q. -- you talk about transport, accommodation, meals, fuel, medical systems and so on. As coordinator that's essentially your job, isn't it, to make sure that the crews that come in are fed, looked after, that there are rosters in place and so on?

35 A. That's part of my job, that's correct.

40 Q. It is a very important part of your job, isn't it?

A. As I said, it is part of my job.

45 Q. It is a very important part of your job, isn't it, to make sure that your crews are fed, for example?

A. I take my whole job very seriously and, yes, they are important parts of my job.

Q. It is your job to make sure for example - and you have made comment I think about this - that there is adequate office space and whiteboards and so on available?

5 A. No. That's in terms of control centre; that's not in terms of task force. That's not a responsibility that comes under my area, if you like, as a task force coordinator.

10 Q. You make, I think, comment about some problems you had to deal with in terms of your crews, them being fed properly and so on?

15 A. What I would call the normal minor issues cropped up along the way. They were all dealt with, particularly by logistics in ESB and the two motel managers, very well. And some of the internal issues with the task forces were dealt with by their own senior officers.

20 Q. What I am putting to you is this: there is a lot of detail that you have got to be conscious of and take care of to make sure that your crews are properly looked after?

25 A. Absolutely.

Q. That kept you very busy right from the moment you arrived in Canberra looking after those kinds of things?

30 A. It kept me busy and I also had support personnel - in one case a specific person, John Kennedy - to look after welfare of the people. So there were a number of people allocated to that. As we scaled up the task force, the support to those activities was also scaled up.

35 Q. This was your first time as a task force coordinator interstate; wasn't it?

40 A. With the Rural Fire Service, yes. Not in terms of my career job, no.

Q. We will come to that. In terms of the Rural Fire Services, it was your first time as a task force coordinator interstate?

45 A. Across the border, that's correct.

Q. I think you say in question and answer 20 of your interview that your task force came in - have

you got it?

A. It is still on the other document.

5 Q. I will read it to you. You say:

"I had the responsibility of coordination and control of our resources under the direction of ESB."

10 Is that right?

A. That's correct.

Q. That is a correct statement?

15 A. And the crews were briefed on the way down so --

Q. I am not asking about that briefing. I am asking if that is a correct statement.

20 A. It is.

Q. We might speed things up if we concentrate on the question and answer, Mr Cooper. In question and answer 38 you talk about coming to slot in, is that right - meaning to try and seamlessly become

25 part of what is going on down here?

A. That's most important.

30 Q. You talk, I think, in the last page of your overview about the sensitivities involved in this kind of operation?

A. That was not only apparently clear to me, it was made apparently clear to the people working with me.

35 Q. I suppose it is a two-way street: both the host state and the visiting crews have to be conscious of each other's sensitivities?

40 A. Often just the underpinning cultural differences often underpin where you are trying to work to.

Q. But you as coordinator of course have the ultimate responsibility of trying to see that your crews fit in well under the control of ESB?

45 A. That's correct.

Q. Had you done any particular training about the

role of task force coordinator before you came?

A. You mean me personally?

Q. Yes.

5 A. Yes.

Q. What training was that?

A. The service has a number of training packages, group leader in particular. Part of group leader training covers task force coordination, and I am  
10 group leader qualified.

Q. In a rural fire service lines of authority are very important, aren't they?

15 A. Lines of authority in terms of command every day with rank but also, once you go into an Incident Management Team structure, it is the roles that are critical.

20 Q. Out on the ground where there is a fire, it is absolutely critical that the command structure work effectively?

A. Control and command.

25 Q. Control and command?

A. Control and command, yes.

Q. Without putting them down, the person at the lowest rank on the fire ground must know from whom  
30 they take orders and to whom they report?

A. Yes. People need to know where they fit in the structure and, as I said, that's particularly important in terms of role and not just rank during large emergencies.  
35

Q. In fact, it can cause disaster if people don't do what they are supposed to do in a fire situation; if they don't do as they are ordered to do?

40 A. That's correct. But part of the training the service has given is that, if people feel it is unreasonable, they will challenge that.

Q. Certainly, if someone was directed to walk  
45 through a wall of flame. But as a general rule it is very important, isn't it, that the lines of authority be observed to avoid any major problems?

A. Yes. I mean that's how it operates. As I said, the training now has an emphasis on team approach not just individual.

5 Q. At the end of the day there are officers in charge on the fire ground who have the ultimate say about what goes on?

A. There are positions on the fire ground that are in charge during a large operation, yes.

10

Q. For example, if a divisional commander said to a bulldozer driver, "I want you to run a containment line through there," you wouldn't expect the bulldozer driver to say, "No, mate, I want to run it somewhere else"; would you?

15

A. I would expect the bulldozer driver to say, "I don't usually take instructions from a divisional commander. I take them from a sector leader or a person tasked to that role," not a division commander.

20

Q. Fair enough. But the person above him, he would take directions from?

A. That's correct in the structure.

25

Q. He wouldn't go and do whatever he wanted to do different to what he had been ordered to do?

A. I would hope that not to be the case.

30

Q. You hope not?

A. What go and do something different?

Q. Yes.

35

A. As I said, unless it was inconsistent with the overall strategy and particularly if it related to safety, I would be disappointed if people didn't challenge that.

40

Q. I am not asking about that, Mr Cooper. Certainly if a sector leader said, "Drive your bulldozer over the cliff," he is entitled to challenge it. But in the ordinary course of events, I think you would agree with me it is important that people do as they are told to make the system work?

45

A. That's the whole basis of how the organisations work together.

Q. Are you familiar with documents produced by the Australian Fire Authorities Council concerning the duties and obligations of crews that go interstate?

5 A. I'm familiar with it. I couldn't tell you the detail in it. I have seen the document.

Q. You are familiar with the fact that there are certain obligations imposed, for example, on the host fire service to provide certain things for the crews coming in?

10 A. As I said, I have read it but I couldn't tell what you is in it.

15 Q. I am not going to put you to a memory test here, Mr Cooper. I am just asking you: are you familiar that there are protocols set down?

A. I would expect there would be.

20 Q. Related to what accommodation should be provided, first-aid and so on, which need to be provided to the incoming crews?

A. That's correct.

25 Q. And, likewise, there are protocols which relate to the obligations and duties of the incoming crew.

A. That's correct.

30 Q. One of which is to subject themselves to the control and command of the host fire service.

A. As you said, fit in seamlessly.

Q. And subject themselves to the control and command of that fire service?

35 A. Yes.

Q. I think you have agreed you were subject to the control of ESB?

40 A. We certainly were.

Q. I know you don't know this off by heart, but would it surprise you that in a document produced in 2002 called "AFAC interstate/international incident support plan", these words appear:

45

"At no point unless requested and approved by

the respective incident controller will the  
supplying agency - meaning the one coming  
in - personnel carry out a control role  
during an interstate/international  
5 deployment."

You would agree that is the protocol?

A. If that's what is written in there. As I  
said, I wouldn't know the detail of that. But I  
10 would reasonably expect that to be the case.

Q. When there is a fire taking place, a bushfire  
taking place, I think it would go without saying  
that local knowledge is a valuable tool?

15 A. Local knowledge is critical. It has been  
stated at a number of hearings such as this and  
also debriefs.

Q. Up-to-date knowledge of what has happened is  
20 critical?

A. Real-time information is important, yes.

Q. I think yourself you have talked about some  
documents on the board of ESB being three days out  
25 of date?

A. Yes. We did talk about that yesterday.

Q. I take it what you are conveying there is how  
important it is to be up to date with what is  
30 going on?

A. At a tactical level it is particularly  
important to have current real-time information.

Q. For example, if you were given a map showing  
35 the fire to be one hectare and you got out there  
and it was 100 hectares and had been for a couple  
of days, you would be critical of that map?

A. If I was in the truck, I would be very  
surprised.

40

Q. In fact, it is dangerous?

A. Absolutely.

Q. You were talking in your evidence when you  
45 were here last time - I know you have declined to  
use the word "criticism", and we might agree on  
the word "comment" - that there were no incident

action plans provided to you?

A. No, what I said is the last day we left we got IAPS but up until then we hadn't got an IAP.

5 Q. Can you take it that my question is directed to up to and including 18th January --

A. That's correct.

10 Q. At page 4858 you said:

"Our people were concerned at the time that there were no maps and no incident action plans."

15 Is that so?

A. Yes, they were very concerned.

Q. You regard written plans as being important?

20 A. What I am saying is the service and the people now have come to expect written plans for a campaign fire, not for an initial reactive short-term fire but certainly for a campaign fire there is an expectation --

25 Q. Let's lay the ground rules: We are not talking about a fire that somebody can go out and put a garden hose on; we are talking about the kind of fires you were dealing with.

A. Yes, that's correct.

30

Q. Your view is that a written incident action plan is important?

A. My view is, as is the service. An incident action plan provides maps, provides strategy --

35

Q. I don't want to stop you, but we will be quicker if you just attend to the one question. Your view is, and was at the time, that a written plan was important?

40 A. That's correct.

Q. No point having a plan that is in someone's head unless all those who might be affected know about it?

45 A. Yes.

Q. In terms of local knowledge, when you go into

a fire situation you would be hoping to have the plan but also you would like to know information about the mix, the countryside, the bush, what it is made up of, how much undergrowth there is; that is important?

5 A. That comes in an incident action plan.

Q. Topography?

10 A. It comes in an incident action plan.

Q. Fuel loads?

A. Comes in an incident action plan.

15 Q. Having that up-to-date information, you are putting to us, is very important?

A. Yes.

Q. You are a deputy group captain. Is that your position with the Rural Fire Service?

20 A. That's my rank, that's correct.

Q. Your full-time job is with the department of agriculture?

25 A. New South Wales Agriculture, soon to become the Department of Primary Industries.

Q. The answer is yes?

30 A. I'm just saying - they are fairly particular about their departments.

Q. Thank you. Your full-time job has nothing to do with firefighting?

A. With firefighting per se --

35 Q. Firefighting. Your full-time job has nothing to do with firefighting.

A. It has everything to do with systems and control centre management.

40 Q. Mr Cooper, do you mind answering the question and you will get away from here much quicker. Your full-time job has nothing to do with firefighting, does it?

45 MR ERSKINE: With respect, the answer was being given.

47

MR WATTS: He wasn't answering the question.

MR ERSKINE: I am sorry, can I just put my  
objection. The answer, when one looks at it being  
5 given, is a response to the question because in my  
submission it is probably not a yes or no  
question. It is not quite as simple an issue,  
with respect, as my learned friend is putting to  
him.

10

MR WATTS: Q. When was the last time in your  
full-time job that you fought a bushfire?

A. Between 1987 and 1990 I would have attended a  
number of fires as part of my career job.

15

Q. Since then?

A. None.

Q. All I am putting to you, Mr Cooper - there is  
20 nothing clever about it - is that your full-time  
job is not as a firefighter?

A. Firefighting, in terms of - do you want me to  
discuss that?

25 Q. No, I don't. I want you to answer the  
question.

A. Full-time isn't as a firefighter, that's  
correct.

30 Q. Do I take it that, in your part-time work as  
with the Rural Fire Service, you have not been an  
incident controller of a major fire, campaign  
fire, extending over a week?

35 A. I have been an incident controller during a  
campaign fire.

Q. When was that?

A. It would have been in the early '90s in the  
Campbelltown district.

40

Q. As a general rule, in your job as deputy group  
captain, you are not called upon to play the role  
of incident controller with major campaign fires  
in New South Wales; that's true, isn't it?

45 A. I'm not aware that the service has a policy  
that says a volunteer can't be a controller.

47

Q. As a general rule, in your job as deputy group captain you were not called upon to play the role, in major campaign fires in New South Wales, of incident controller. That's true; isn't it?

5 A. I could be expected to do that job.

Q. But you haven't in recent years, in the last 10 years, been called upon to do that task?

10 A. I think if you have a look probably at Gosford I did night shift in that role while I was the planning officer as well.

Q. On one occasion in 10 years for one night?

15 A. You asked the question. I am just sharing with you the information.

Q. I am just asking as a general rule, Mr Cooper, that you are not usually an incident controller on campaign fires in New South Wales?

20 A. Based on history, I haven't done that job significantly.

Q. So you would agree with me?

25 A. As I said, it is not a routine activity that I have undertaken - or a role, sorry.

Q. Do I take it that, in the last 10 years, you have not had published any material or studies done by you personally concerning major fires?

30 A. You mean in scientific journals, is that what you are looking for?

Q. Yes.

35 A. Yes, that's correct.

Q. You have no professional qualifications, I take it, in forestry?

40 A. Not in forestry. Just in terms of the previous publication, the New South Wales Rural Fire Service operations manual, I was one of the authors of that.

Q. Mr Cooper, please just answer the questions --

45 A. You asked for scientific. I was --

Q. The question was: you have no professional qualifications, I take it, in forestry?

A. Not in forestry, that's correct. But the previous question, as I said, I was an author of the operations manual for the service.

5 Q. I want to ask you a few more things about your qualifications. Could you tell me whether you have undertaken any of these formal training courses please: have you done a course in basic fire control?

10 A. I guess I'm not sure what that means but, yes, I have certainly done all the basic training, if that is what we are referring to.

Q. Have you done an air observer's training course?

15 A. I have assessed people in that. I have undertaken that role for 13 days.

Q. Have you done a formal course?

20 A. No.

Q. Have you undertaken a course entitled "fire management techniques"?

25 A. No, I don't believe I have.

Q. Have you undertaken a course called "Incident Management Team roles"?

30 A. Yes, and I actually deliver that course as well.

Q. I take it that you are not nationally recognised as being competent to perform the role of incident controller under the AIIMS incident control system at major wildfires?

35 A. That's correct. I am not recognised.

Q. On the 18th of January you were not within the ESB structure a planning officer?

40 A. That's correct.

Q. You were not an operations officer?

A. No. I was reporting to the operations officer.

45 Q. You were not an incident controller on the 17th or 18th?

A. Most definitely not.

Q. And on the 17th you had some concerns about the fires getting into Canberra?

A. Yes.

5 Q. I think you did tell us it was your view that they might reach there on the Saturday?

A. Yes, I said consistently that my view and the view of others around me were they would reach Canberra's western edge on the Saturday.

10

Q. So things were - I take it from what you said - going to move and did in fact move pretty quickly on the 18th in terms of the fire movement?

15 A. They moved consistent with what the fire behaviour specialist in planning said they would.

Q. The fire was moving and did move pretty fast on the 18th?

A. Yes.

20

Q. On the 18th your task force was stationed in the morning at Tidbinbilla?

A. No. That's not correct.

25 Q. The vast majority of your crews were stationed at Tidbinbilla on the morning of the 18th; were they not?

A. No, that's not correct.

30 Q. Where were they?

A. The task we were given was, as I said yesterday, Tidbinbilla, Naas, Tharwa and Smith Road. And the task forces in accordance with that direction and in discussion with the incident controller in the morning were deployed according to that. They went to Tidbinbilla and were deployed from there.

40 Q. In the morning they went to Tidbinbilla?

A. That's correct. That's where they started --

Q. It was operating as one task force under one control?

45 A. No. They were under the incident controller. I think it was Arthur Sayer at the time.

Q. On the morning of the 18th we are talking

about --

A. That's correct.

Q. It wasn't Arthur Sayer, was it?

5 A. In the morning - I believe at the start of the day early in the morning it was Arthur, wasn't it?

Q. The incident controller on the 18th, I put to you, was Tony Bartlett?

10 A. He arrived mid-morning.

Q. He went and saw your crews at Tidbinbilla?

A. Mid to late morning.

15 Q. The command structure underneath the incident controller, whoever that may have been, was one unit?

A. The command structure were two divisional commanders reporting to Tony.

20

Q. The New South Wales units were operating as one unit on the morning of the 18th?

A. No, they were operating as four task forces, two of each reporting to each two divisional  
25 commanders.

Q. Under one control?

A. Under one control structure.

30 Q. Thank you. And you had John Ryan and Guy Duckworth as senior officers?

A. John Ryan was a runner between Dennis McTaggart and Guy Duckworth. Dennis McTaggart and Guy Duckworth were the two divisional commanders.  
35

Q. You told us that on the previous evening you worked up a plan for the day?

A. We worked up a plan in the carpark with Arthur Sayer and Brian Murphy.  
40

Q. You worked on the plan that night at your motel?

A. We firmed up which task forces would go where and make sure the comms was in place.  
45

Q. I suppose I should ask you this: it is important, particularly when things are moving

fast, to have a degree of flexibility with any plan if circumstances change?

5 A. That's why you have a plan. Any plan today is better than no plan tomorrow. You can change a plan as you go.

Q. On the morning of the 18th, you became aware that Tony Bartlett was incident controller for all the fires?

10 A. I became aware that he was going to be the incident controller where my task forces were working.

Q. He wanted to divide your task force into two lots, didn't he?

15 A. They were already divided into two lots. He discussed that with Dennis and Guy at Tidbinbilla as to how they would be deployed. That discussion went for 40 minutes.

20 Q. Mr Bartlett wanted to have half of the task force in the Tidbinbilla area and half down in Tharwa or down in the Naas Valley area?

25 A. Which was in complete agreement in terms of how things had been worked out with the previous IC.

Q. But you fought against it?

30 A. No, we didn't fight against it. Not at all.

Q. You said in your statement he tried to change what you had?

35 A. He was going to change some of the detail in terms of --

Q. The detail was the command structure; wasn't it?

40 A. Absolutely, and that's what they work with. The division commanders spoke to Tony in the field.

Q. But of course I think you say in your material that you were strongly opposed to it and weren't going to do it?

45 A. We were opposed to changing the individual units locations on the ground, given that they were now already well engaged in firefighting

activities. Tony arrived later in the morning when the crews had been deployed and were in place.

5 Q. I will come back to that. At question and answer 78 you tell us that halfway down your answer, a third of the way down:

"I argued that we won't change."

10 A. That's correct. I said that yesterday.

Q. Well you had no right to refuse to change being subject to the control of the incident controller; did you?

15 A. As I indicated earlier, if it is a safety issue, we do have rights to challenge it. I am responsible for those crews' safety.

Q. At the end of the day, your role was to do as you were told by the incident controller?

A. Subject to safety of the crews.

Q. There was no safety issue, was there?

25 A. There was an absolute safety issue.

Q. In fact, what he was concerned about was your crews being stuck up in the Tidbinbilla area and not being able to get to the Naas Valley if the fire came through between Tidbinbilla and the Naas Valley.

30 A. The crews were already in those areas. He agreed that they were where he wanted them. At that time of day they had spent all morning familiarising themselves with where their operating environment and the refuge areas were really critical.

Q. They were already down there; is that right?

40 A. There were crews deployed according to how he wanted them.

Q. What he wanted was separate command structures between the two; didn't he?

45 A. There was a separate command structure between the two.

Q. What you opposed changing was the command

structure?

A. We didn't even discuss command structure, didn't oppose changing --

5 Q. Tell us what you opposed.

A. As I said earlier, we opposed moving individual units in terms of out of one patch of ground where they were into a foreign patch of ground. They had spent their whole morning getting familiar with their operating environment  
10 for what was about to unfold.

Q. You know Mr Bartlett was the incident controller for the day?

15 A. I do.

Q. You knew, didn't you, that from about 6.40 that morning he had flown over all the fires?

A. I was aware of that, yes.  
20

Q. You knew he was a local person?

A. Yes.

Q. Did you know he was a level 3 incident controller?  
25

A. I was aware that he was an incident controller.

Q. A very senior and experienced incident controller?  
30

A. Absolutely experienced.

Q. With local knowledge?

A. Yes.  
35

Q. And up-to-date knowledge?

A. Yes.

Q. And yet you thought that you knew better?

40 A. No, That's not what I have said.

Q. Well that's the fact, isn't it, Mr Cooper?

A. No. That's not at all what we have said. That's not what we worked on. The senior management team didn't say, "We knew better".  
45 What we were working on was striking a balance in terms of safety of the crews.

Q. You have told us how important it is to commit plans to writing?

A. That's correct.

5 Q. This plan that you worked up, there is no copy of that amongst your material; is there?

A. It won't be because it was with the division commanders, and unfortunately the map as it were that we used, the tourist map, was also destroyed.  
10 But it was in writing and there was a tourist map that was marked up with sectors and divisions.

Q. You never showed that to Mr Bartlett, did you?

A. The division commanders had that. Their  
15 discussion with Tony - I don't know whether they did or they didn't. You would have to discuss that with Tony.

Q. You tell us that part of the plan - I just  
20 remind you of question and answer 84 and I think you talked about this yesterday in your evidence - is that you had a trigger worked out for when your crews might vacate and go back to Canberra?

A. The only option that I discussed with Brian  
25 Murphy and the IC the evening before was whether we should pull out of the valley if our job was done there, and they agreed. A reasonable trigger that was struck with them in terms of local  
30 knowledge and what was known was once the fire had moved across that road and was up to the river and the properties were safe.

Q. There was nothing in writing in any plan about any trigger, was there?

A. There was in terms of what we had given to our  
35 crews and the briefing.

Q. And never given to the incident controller?

A. As I said, Tony discussed the detail with  
40 Dennis and Guy. You would have to talk to them.

Q. Well, you never mentioned it to Mr Bartlett, did you?

A. No. My discussion with the two Tonys and  
45 Peter Lucas-Smith was very short and brief by way of introduction just saying he was going out to the field.

Q. I am talking about the trigger --

A. No, I'm just saying that's the discussion that I had in the control centre. I didn't discuss with him in great detail in terms of what was  
5 going to happen as I explained to him the division commanders had that information.

Q. This idea of the trigger was something you and your own New South Wales people talked about and  
10 never mentioned to anybody else, did you?

A. No, that's not correct.

Q. In fact, when your crews were out of Tharwa on the 18th, they were called upon to assist by  
15 Mr Jeffery in fighting the fires at Tharwa, were they not?

A. They could well have been.

Q. They refused to do so; didn't they?

A. If they refused, it would have been in line with staying within command and control structure. If he didn't approach the division commander in terms of releasing individual tankers. As was  
20 indicated, our people work on task forces not on  
25 individual tankers.

Q. Of course what happened was that when this so-called trigger occurred, your tankers, your whole crew from Tharwa, left and went back to  
30 Canberra?

A. No tankers left Tharwa until Tony Graham had requested me to provide task forces to go into Canberra. They actually sat tight. In fact, when I rang the division commander, at that stage one  
35 of them was still being overrun. They only left there after the operations officer in ESB asked me to send them into town.

Q. Your idea of the trigger meant that your crews left all of the rural area between Tharwa and  
40 Canberra unattended?

A. That's not correct. The trigger is a decision-making point. You reach that point and you say, "Is this what we do or do we keep doing  
45 what we are doing?"

Q. Which had the effect, didn't it, of leaving

that whole area unattended?

A. As I said, the operation officer requested -  
asked me specifically to release and send task  
forces to the urban interface at Canberra. That's  
5 what I was asked to do.

Q. After the trigger occurred and your crews left  
Tharwa, the whole area between Tharwa and Canberra  
was unattended?

10 A. The trigger had no connection between Tony  
asking me to bring those crews into town. The  
crews at that stage, we had been feeding  
information to Tony. Tony was also getting it  
from Tony Bartlett and other crews on the ground.  
15 That was up to Tony Graham to make the decision as  
to whether my task forces left that area that they  
had been given responsibility for.

Q. Mr Cooper, on the 18th, you took it upon  
20 yourself to make decisions concerning planning  
which you had no right to make?

A. No. That's not correct.

Q. You took it upon yourself to make decisions  
25 about the deployment of your crews which you had  
no right to make?

A. All the crew deployment was in line with ESB  
direction.

30 Q. And when it didn't suit you, you tried to  
prevent it happening?

A. That's not correct either. All our actions  
were consistent with what was requested of us.

35 MR WATTS: Yes, Thank you, your Worship.

THE CORONER: Thank you, Mr Watts. Yes, Mr Pike.

40 MR PIKE: Yes, Thank you, your Worship.

**<CROSS-EXAMINATION BY MR PIKE**

MR PIKE: Q. Mr Cooper, just a minor thing  
firstly. You were being asked some questions  
about who the incident controller was on the 18th,  
45 and I think you said that you thought it was  
Mr Sayer in the morning. Is that your feeling at  
the time that perhaps it was Mr Sayer that

morning?

A. On the Friday night when we met with him in the carpark, he said he would be back there the next day.

5

Q. Sorry, Mr Cooper, again like Mr Watts I would ask you to - I know it is difficult - focus on the question I am asking. On the morning of the 18th, was it your feeling that Mr Sayer was the incident controller?

10

A. That's what we had been told, yes.

Q. You obviously haven't been at the inquest, apart from your last occasion here, and you haven't taken the opportunity, having no doubt better things to do, to read statements and transcript and that sort of thing; would that be fair?

15

A. As I indicated, I tried not to collect too much information.

20

Q. Let me just tell you what Mr Sayer says in his statement at paragraph 54. He had finished work on the 17th at about 3.30 and then he says he wasn't tasked on the 18th by ESB. If that was the case, then your feeling or whatever it was about who was incident controller in the morning of the 18th might be wrong?

25

A. What I am saying is no-one told us otherwise.

30

Q. Consequently the feeling you had on that morning that he was the incident controller may well be wrong?

A. No. As I said, no-one told us otherwise.

35

Q. Perhaps it is deja vu. And consequently, given what I have just read from Mr Sayer's statement to you, the feeling you had that morning may be wrong; yes or no, sir?

A. I guess if you are saying he wasn't going to be and we didn't know that, yes, my knowledge was wrong. We didn't have that information.

40

Q. Yes, I think you have told me that several times now. You were giving some evidence yesterday in answer to Mr Walker's questions. Mr Walker is sitting immediately behind me. I beg

45

your pardon, I should have told you who I am appearing for.

A. I have a little list now.

5 Q. I don't think I announced my appearance. In any event, I appear for Mr David Ingram, Mr Ian Bennett and Mr Tony Graham.

A. I became re-acquainted with David Ingram out the front this morning. It was good to see him.

10

Q. You were asked some questions by Mr Walker yesterday afternoon at some length. Do you recall being asked questions yesterday by Mr Walker?

A. Yes.

15

Q. He asked you a number of questions relating to what your knowledge was of the McIntyre's Hut fire and the extent to which you took that fire into account in your planning. Do you remember that general area being discussed with you yesterday?

20

A. Yes.

Q. I think the effect of your evidence was that you didn't ask about McIntyre's Hut fire and you didn't have any knowledge about McIntyre's Hut fire?

25

A. As indicated, I knew it was there; I was aware of it; but I certainly didn't have any specific information. I think I mentioned yesterday that some of our crews locally had worked on it and even some of the crews that we met at the service station on the way down were on their way to that fire.

30

35 The information I got at the 1830 briefing on the 17th was the other bits of information that were fed to me on McIntyre. Other than that no specific information on McIntyre.

40 Q. Certainly the meeting of the 17th at about 1800 hours dramatically increased the amount of knowledge you had about the McIntyre's Hut fire?

A. Well, again, it confirmed my awareness of where it was and obviously the information that was given about rate of spread.

45

Q. I think you have already told us yesterday in

answer to questions by Mr Lasry that in fact a very detailed briefing was given by the planning people in relation to the fires, including McIntyre's Hut fire, and the rate of spread and projections and that sort of thing?

5 A. As I have indicated in my statement, I mean the key points I got out of that --

Q. Sorry to interrupt, Mr Cooper. What I am asking you, you said to Mr Lasry yesterday that a very detailed briefing was given by the planning people in relation to the fires, predictions and the rate of spread?

15 A. Yes, a briefing was given.

Q. It was very detailed?

A. It was adequate.

Q. These are your words, Mr Cooper, from the transcript at page 6141:

25 "A. Hilton Taylor and Nic Gellie both gave a briefing. It was very comprehensive and very thorough in terms of rate of spread of the fire, particularly McIntyre but the other two were also included."

A. That's correct.

Q. Do you recall giving that evidence?

30 A. Yes.

Q. A moment ago I asked you the question whether the briefing was very detailed and your response was "it was adequate" --

35 A. The information that was given --

Q. Mr Cooper, wait for my question, if you don't mind.

A. Sorry.

40

Q. Given the answer you gave yesterday to Mr Lasry, can I ask you this: why did you use the term "it was adequate" when I asked you the question essentially to confirm your evidence yesterday that the briefing was very detailed?

45 Why do you choose to use the words "it was adequate"?

A. What you just read out was described as thorough and comprehensive in terms of a rate of spread.

5 Q. "very comprehensive and very thorough", you seem to be missing a few of the important words --

A. If you read the words back, it was rate of spread --

10 Q. So you are focusing on rate of spread and not the qualifying words which you used yesterday; is that right?

A. What I am saying is the information I described yesterday was about how this fire was going to spread. It wasn't what I was going to expect in terms of a detailed briefing about that fire and how it was being managed.

Q. I see.

20 A. That information wasn't provided. I wouldn't have expected it to be.

Q. Let me make sure I understand. I am perhaps not the sharpest knife on the block so I better go through it slowly. Briefing was being provided by plans people but you say you wouldn't have expected certain information to be provided. I still can't understand why it was that your position in terms of the answers has changed from yesterday saying that the briefing in that regard was very comprehensive and very thorough to now saying it was adequate?

A. No, I am not saying it changed --

35 MR ERSKINE: I object to the question. My learned friend has, with respect, not put the question and answer that was given yesterday and compared it to what he was asked this morning. The words are quite clear in the answer. As the witness has picked it up, the words about comprehensive related to an issue and the original question my friend asked related generally. With respect, I think he has done the same thing again comparing the same --

45

THE CORONER: That's the way I understand it as well.

MR PIKE: The difficulty for the witness though,  
your Worship, is he himself has now said he  
wouldn't have expected that other information from  
these people. Therefore it takes that information  
5 out of the equation. But I am happy to pass on.  
Clearly the witness is uncomfortable with this  
line of questioning.

THE CORONER: No, I don't accept that. It is not  
10 appropriate for you to say that.

MR PIKE: I will withdraw it if it caused any  
offence, your Worship.

15 THE CORONER: I am sure Mr Cooper will - if you  
wish him to explain further, then I am sure he  
will. I certainly understand what he meant  
yesterday and what he means today by the two terms  
that he has used. But if you wish him to  
20 explain --

MR PIKE: I will give him the opportunity to  
explain a bit later on, your Worship.

25 Q. You were, as you have told us, Mr Cooper, at  
the planning meeting on the 17th?

A. Sorry at the --

Q. You were at the planning meeting at 6 o'clock  
30 on the 17th?

A. It was described to me as a briefing meeting  
rather than as a planning meeting.

Q. You were at the meeting, sir, and we have  
35 discussed that.

A. Yes.

Q. The purpose of you being at the meeting was  
for you to get up to speed as quickly as you could  
40 in relation to what was happening?

A. The main purpose for being at the meeting was  
to find out what our tasking was.

Q. It is one thing finding out about tasking,  
45 sir. Unless you got up to speed as quickly as you  
could about everything that was happening with the  
fires, including projections and planning and that

sort of thing, then being aware of tasking by itself would not be adequate; that's right, isn't it?

A. Absolutely. Broad strategy most important.

5

Q. So you were at the planning meeting or the meeting, if we can describe it in that way, to get as fully briefed as you could as quickly as you could about matters relevant to your position?

10 A. I had been in the field more than six hours at that stage as well.

Q. I will ask the question again. You were at the meeting so that you could get as quickly up to speed about the matters relevant to your position as you could; that was why you were there?

A. That was my primary reason. That was part of why I was there.

20 Q. It was an extraordinarily important part of the reason why you were there?

A. No, I wouldn't have described it - as I said, the primary reason for going was to find out the tasking, where our crews fitted into the overall operation.

30 Q. And to have a concept of the overall operation, it was important to go to that meeting and absorb as much of the material being conveyed at that meeting as you could?

A. As it was relevant to the task forces.

35 Q. Until you heard the entirety of the material being conveyed at the meeting, you wouldn't know what was relevant to the task forces and what wasn't?

A. That's correct.

40 Q. So it was important for you to pay great attention to everything being said at the meeting so that you could distil from that what was of significance to you and your task forces?

A. But as I indicated yesterday, I only needed to recall or write down what was going to be relevant to the task forces.

45 Q. Sorry, I missed a bit of that answer. I

didn't ask you anything about what you needed to recall or write down, sir.

A. What I was looking for - whilst I --

5 Q. Wait for my question, if you could. I will read it out again:

10 "Q. So it was important for you to pay great attention to everything being said at the meeting so that you could distil from that what was of significance to you and your task forces?"

A. Yes.

15

Q. You told us yesterday that planning officers gave a briefing. We have discussed that a minute ago.

A. We did.

20

Q. I think you said that you knew Mr Gellie from previous experience?

A. Blue Mountains fire, that's correct.

25 Q. You were aware that Mr Gellie as well as Mr Hilton Taylor were providing the briefing from the planning section that night?

A. They were introduced at the meeting.

30 Q. And they were involved in the presentation or the briefing on behalf of the planning section?

A. That's normally how it would work.

Q. Is that how it worked that night, sir?

35 A. That's how those two people gave a briefing.

Q. As a matter of interest, was Rick McRae involved in giving a briefing as far as you can recall?

40 A. He was certainly present, I believe, and did add some information along the way, particularly the weather. He provided a lot of information on the weather.

45 Q. I think you said yesterday that the planning officers during the course of their briefing spoke to a map which was put up?

A. Yes. Basically in broad terms butcher's paper put on the wall with hand-drawn concentric circles radiating out from Canberra, essentially.

5 Q. I take it that you had a look at that map to understand fully what it was that they were saying?

A. That's correct.

10 Q. Did you have a look at the map while they were discussing it or after the meeting or both times?

A. I was one of the people in the room closest to those maps. So I was --

15 Q. So as they were pointing at things on the map, you were observing what they were pointing out and having a look?

A. That's correct.

20 Q. Did you take an opportunity to study the map in more detail at any point either later in the meeting or at the end of the meeting?

A. The map wasn't that sort of map that had detail on it. It had fairly sort of broad-scale,  
25 the one that was put on the wall.

Q. Do you recall one of the planning officers saying something along these lines in terms of projections:

30

"If left unchecked the McIntyre's Hut fire would be at Uriarra Settlement by noon on Saturday and then on into Stromlo Forest and into the adjoining Canberra suburbs by around  
35 2000 hours on Saturday."

Do you recall anything to that effect?

A. The minutes of the meeting were put up yesterday. Whilst I don't recall the specific  
40 detail because I recorded the rate of spread across the ground in terms of the three or four-hour time line. So that's how I recalled it from my point of view rather than actual locations.

45

Q. You will recall yesterday from having a look at the minutes of the meeting reading these words:

"There is the potential for fire to reach Uriarra by midday tomorrow, the Cotter Pub and Reserve at 1600 and Mt Stromlo and potentially Narrabundah Hill by 2000 hours."

5

Do you recall reading those words?

A. I agreed to that yesterday. As I said, I don't remember the detail.

10 Q. No, I understand that. But you do recall those words being on the document that was put up yesterday?

A. That's correct.

15 Q. Do you recall now those words or words to that effect being said at the meeting on the 17th?

A. No. That's what I have just indicated. That detail - it wasn't a fire that I was dealing with. It wasn't part of our responsibility.

20

Q. You don't recall, sir?

A. Sorry?

Q. The answer is you don't recall?

25

A. No.

Q. That's fine. I understand.

A. No, not at all.

30 Q. You were taken yesterday to your own notes. Do you have a copy of your notes there?

A. Yes. If you can just indicate which document?

Q. Do you have a copy of your notes with you?

35

A. My handwritten notes?

Q. Your handwritten notes.

A. I had them yesterday.

40 Q. Might the witness be shown a copy, it is exhibit 69. Do you have them now, sir?

A. Yes, that's fine. Go ahead.

45 Q. Can you see if you can find the page where it says in your stenographer's pad "1800, Friday".

It is about halfway down the page. You were asked some questions about it yesterday which deals with

your notes concerning this meeting?

A. It has weather on one side and a brief description of --

5 Q. The actual first page of the document commences with the words "John Kennedy" and there is a mobile telephone number, if that is of any assistance to you.

10 A. Yes, I have got that "1800 Friday and Saturday slightly worse weather Bendora" --

Q. Sir, I am not asking you to read it, just locate it for us. Turn over the next page, if you would be so kind. At about point 6 on the page  
15 there is the entry "2000 hours tomorrow night at Mt Stromlo"?

A. Yes.

Q. I think you said in evidence yesterday that at  
20 that time you didn't know where Mt Stromlo was?

A. That's correct.

Q. Could the map that we were discussing be brought up, it is [ESB.AFP.0110.1035]. While that  
25 is being done, Mr Cooper, when that map was being discussed and the projected rate of spread of the McIntyre's fire if left unchecked was being discussed, you understood the message to be that it could reach the urban interface by a certain  
30 time the following day if left unchecked?

A. That's correct.

Q. It was in that context that you understood the reference to Mt Stromlo being made?

35 A. If you are referring to McIntyre's Hut only, yes.

Q. I am referring to McIntyre's Hut only. Do you see the document now on the screen in front of  
40 you?

A. Yes.

Q. Do you recognise that? Is that the map in question?

45 A. It certainly looks very much like it. I mean I couldn't - as I said, it looks for all the world like it. It has got those concentric circles that

I described.

Q. I ask you to accept that was the map, and we have had evidence to the effect that that was the map being used at that time. You will see that there is a number of concentric circles or semi-circles extending from the edge of the McIntyre's Hut fire in the direction of the Canberra urban area?

10 A. Projected rate of spread, that's correct.

Q. You understood at that time that those projections had been based on the predictions concerning the wind for the following day being from the north-west?

15 A. That's what the planning people would have used, that sort of information.

Q. It is quite clear from the diagram in front of you that's the effect of it because the concentric rings are moving in a south-easterly direction from all three fires?

A. Without local effect, yes.

25 Q. Well, no - the concentric rings on the map are going in a south-easterly direction from all three fires?

A. They are, yes.

30 Q. It is quite clear, both from that map and combined with your knowledge about what was being said at the meeting on the 17th, that planning had been consequent upon the predictions concerning the wind; that's right, isn't it?

35 A. They have to take all those factors into account when they are planning.

Q. That was your understanding, they were doing exactly that at that time?

40 A. That's what you would expect them to do. I don't understand whether that's what they were doing. I would expect them to do that.

45 Q. Your understanding at the time you first saw that map was that the map and the concentric rings were as a result of the prediction process having been completed taking into account all the

relevant factors and the planning people having arrived at these predictions; that was your understanding at that time?

5 A. That is what I would expect of them to have done.

Q. It is also your understanding, leaving aside what you'd expect, your understanding as to what was done.

10 A. I don't know whether that is what they did do --

Q. I didn't ask you that. I said it's your understanding as to what they would have done.

15 A. I still don't think I could agree but I understand they did do that.

Q. You assumed they had done that?

20 A. Yes, that's fine, I would assume.

Q. I am glad we can reach agreement on that. The primary discussion, I suggest to you, in terms of impact on urban interface at that meeting, and in particular from the planning people, was from the McIntyre's Hut fire?

25 A. The primary impact?

Q. Yes.

30 A. That was the general thrust of the meeting, yes.

Q. No, I am sorry, the primary discussion in terms of impact to the urban interface was in relation to the McIntyre's Hut fire; that was the primary discussion concerning impact on the urban fringe was in relation to the McIntyre's Hut fire?

35 A. It could have been. I remember the discussion about the pine trees reaching the Cotter, going through there and getting into the grasslands, and obviously most of that based on these predictions would relate to McIntyre's Hut.

40 Q. If in fact you look at the projections in terms of the concentric circles emanating from the other two fires, being the Bendora and the Stockyard fires, on those projections they are clearly directed at areas away from the urban

fringe?

A. Sorry, can you put that to me again?

Q. I will read it again:

5

"If in fact you look at the projections in terms of the concentric circles emanating from the other two fires, being the Bendora and the Stockyard fires, on those projections they are clearly directed at areas away from the urban fringe?"

10

A. If I recall --

15

Q. No no, I am asking you quite specifically about looking at this map the projections on this map in terms of the concentric circles and leading from those other two fires?

A. That shows them going south-east again.

20

Q. And it shows them going not in the direction of the urban fringe of Canberra?

A. That's correct.

25

Q. When you heard that information being conveyed and saw that map, I take it that it then dawned on you why no-one was paying much attention to your suggestions that the urban fringe might be in danger from the Bendora and Stockyard fires?

30

A. No, not specifically, no.

35

Q. Because you see, what we have is a planning section who, one might assume, has done some planning and projections along the lines that we have discussed before and they have come up with this map in terms of projecting spread and areas of spread; that's right, isn't it?

A. Based on the information that they had available to them to do that, that's correct.

40

Q. And those projections yield the result that the fire at risk to the Canberra urban interface or proposing a risk to the Canberra urban interface is the McIntyre's Hut fire?

45

A. Based on this information, that's correct.

Q. You are not a planning officer, I take it,

sir?

A. During the operation I did not have a role of planning officer, no.

5 Q. You have had a role, I take it, in that position in the past?

A. I have occupied the role of planning officer a number of times.

10 Q. Based on both that experience and your other general experience in terms of firefighting over the years you have been involved in that, you know that planning sections are expected to take into  
15 account all available relevant information and come up with maps of this nature indicating rates of spread and predictions as to where they will spread; that's right isn't it?

A. And part of that scenario also is to come up with worst case options.

20

Q. That doesn't begin to - I will ask the question again:

25 "Based on both that experience and other general experience in terms of firefighting over the years you have been involved in that, you know that planning sections are expected to take into account all available relevant information and come up with maps of  
30 this nature indicating rates of spread and predictions as to where they will spread; isn't that right?"

35 I will ask you to answer that question and not answer something which I haven't asked you about at this point?

A. What I am saying is --

40 Q. No, no. I will ask you to answer my question and not go into matters which I haven't asked you about at this point. Do you want me to repeat the question?

A. I thought I was answering the question.

45 Q. I will ask you the question again:

"Based on both that experience and other

5           general experience in terms of firefighting  
over the years you have been involved in  
that, you know that planning sections are  
expected to take into account all available  
relevant information and come up with maps of  
this nature indicating rates of spread and  
predictions as to where they will spread;  
isn't that right?"

10       That is correct, isn't it?

A.     Yes.

Q.     Going back to a matter we touched on a moment  
ago, you made a note in your notes "2000 hours  
tomorrow night at Mt Stromlo". I think you agreed  
with me that you made that note in the context of  
receiving information concerning possible impact  
on the urban fringe by the McIntyre's Hut fire?

15           A.     I made it in the context of it was information  
20       that was given.

Q.     Yes. And information was given as you recall  
in the context, as you have already agreed with  
me, of a discussion concerning the McIntyre's Hut  
fire?

25           A.     That's correct.

Q.     It was in the context of a possible impact on  
the urban interface by the McIntyre's Hut fire?

30           A.     That's correct.

Q.     You didn't know at that time when Mt Stromlo  
was first mentioned where Mt Stromlo was, you've  
told us?

35           A.     That's correct.

Q.     I take it that immediately after the briefing  
you went over and had a good look at that map or  
some other map to find out where Mt Stromlo was?

40           A.     No, I didn't, because it wasn't an area where  
our task forces were likely to operate.

Q.     Mr Cooper, if you don't know where Mt Stromlo  
is, how do you know it would not be in an area  
where your task forces might operate?

45           A.     Because we had been tasked to Stockyard and  
Bendora, which were the southern fires.

Q. Mr Cooper, if you don't know where Mt Stromlo is, then how can you possibly make any assumptions that it is not going to impact upon your own actions?

5 A. The concentric circles for McIntyre here, all right, didn't overlap with Bendora and Stockyard.

Q. Quite so.

10 A. Which is where the task forces were going to be working under ESB control.

Q. Sir, you assumed from the context of the discussion that Mt Stromlo had no possibility of involvement or interaction or relevance to your operations?

15 A. Unless ESB told us otherwise. We had been tasked.

Q. That was your assumption, was it?

20 A. No. What I am saying is we were tasked to Tidbinbilla, Naas, Tharwa valleys on Bendora and Stockyard. If operations had moved us to work in the McIntyre's Hut area, well then we would need to gather that information.

25

Q. You assumed that Mt Stromlo had nothing to do with you at that time?

A. Yes, McIntyre's Hut was a different fire.

30 Q. Yet during that meeting there was absolutely no discussion of Bendora or Stockyard potentially impacting on the urban fringe of Canberra, was there?

A. Not specifically, no.

35

Q. That means not at all, doesn't it?

A. No. I don't think you could say, "Not at all".

40 Q. Just not specifically, what was implied in some way --

A. There was broad general discussion about the fire going through the rural interface and then afterwards it may move towards the centre of  
45 Canberra.

Q. The only discussion about potential impact on

the urban interface was in relation to the McIntyre's Hut fire, that's correct, isn't it?

A. Specifically, yes.

5 Q. I take it you didn't raise any voice of disagreement in relation to any of the projections that had been discussed at the meeting?

A. No. That wasn't my role. That's not why I was there.

10

Q. Leaving aside it wasn't your role, you are a team player, sir. If you had an opinion about something and it was an opinion which you thought could contribute to the situation, you wouldn't hesitate in adding your opinion?

15

A. I indicated yesterday that, in that forum, I didn't think it appropriate. I had spoken to the operations officer and the planning officer informally and casually. And it was up to them: if they felt they should raise it, they should raise it. It wasn't appropriate for me to raise it in that forum.

20

Q. You didn't disagree with the projections being discussed and illustrated by use of this document, did you?

25

A. Generally or specifically?

Q. Specifically, sir.

30

A. Personally I still felt that Bendora and Stockyard, based on what I knew from the afternoon spread of both fires, that they were still going to reach Canberra on the Saturday.

35

Q. So you looked at this map with the concentric rings going from the Stockyard and the Bendora fires in a south-easterly direction well away from the Canberra urban area and you said to yourself, "That's not right"?

40

A. No, that's not what I said. What I said is that's consistent with the information that they had at the time - this is to myself - and what they were working with.

45

Q. Sir, you didn't say to yourself, "Those projections about Bendora and Stockyard, they are not right". You didn't say that, did you, to

yourself?

A. To myself?

Q. Yes, to yourself, sir.

5 A. Yes, I did. When I looked at the map and they went up --

Q. But, Mr Cooper, you see the difficulty is that you are such an experienced firefighter and you  
10 have got these reservations that you are keeping back to yourself. After that meeting did you go and say to anyone, "Look, I know you are the planning people, but this is not right. I think you are wrong there." Did you say that to anyone?

15 A. Haven't I indicated in evidence previously --

Q. No, no, don't tell me that, sir. My question was very clear. You are an experienced firefighter. You formed a view, you told us, that  
20 in your mind when you saw this map you thought, "That's not right"?

A. I spoke to --

Q. No, wait for my question, sir.

25 A. Sorry.

Q. After that meeting didn't you go up to some of the planning people and say, "Look, I know I am from outside but that's not right. What you have  
30 got on that map about Bendora and Stockyard, that's not right." Didn't you do that?

A. I did speak to the planning officer and the operations officer after the meeting.

35 Q. Who did you speak to in terms of planning, sir?

A. The planning officer, Rick McRae.

Q. You told him - I take it you are going to tell us that his projections about Stockyard and Bendora were wrong?

A. No. The reason I approached --

Q. I didn't ask you the reason. I want to know  
45 what you said.

A. What I was about to say is what I said to him was to talk to him initially about plant and

machinery which --

Q. No, sir. Please --

5 THE CORONER: Mr Cooper is answering the question,  
Mr Pike.

MR PIKE: I want to know what his words were, your  
Worship. He was about to tell me why he  
10 approached him.

THE WITNESS: I can't --

MR PIKE: No, please, I want to know what were the  
15 actual words used. That is a simple question.  
And Mr Cooper can, with respect to him, tell me if  
he recalls it what his words were. He may feel  
that the reason is relevant, but my question is:  
what were his words?  
20

THE WITNESS: I can't remember the specific words.

MR PIKE: Q. All right. Doing the best you can,  
what was the gist of what you told him?

25 A. The gist - the reason I had gone to see him --

Q. I don't want to know the reason you went to  
see him. I want you to tell me as best you can,  
given you can't recall the specific words, the  
30 gist of what you told him.

A. The gist of what I discussed with him was  
about accessing plant and machinery to prepare  
around the rural interface. That was the primary  
reason for the discussion.  
35

Q. No, don't tell me the primary reason for the  
discussion --

THE CORONER: I want to know the reason, Mr Pike.  
40 I would like to know the reason why Mr Cooper went  
to talk to Mr McRae.

MR PIKE: As is customary in an inquest, if at any  
time the coroner wishes to ask a question then  
45 obviously it's your inquiry and you are entitled  
to.  
47

THE CORONER: Q. Why did you go and see Mr McRae - I know you gave this evidence yesterday but, if Mr Pike wishes you to repeat it, then so be it.

5 A. During the meeting, I actually asked for plant and machinery to prepare around properties. As I left the room Peter Lucas-Smith suggested that was a good move and I should take it up with the planning officer and the operations officer,  
10 which, as I indicated yesterday, I spoke to both of them about it.

But also when I had spoken to the OPS officer in particular, I had also mentioned that they might  
15 want to have another look at, based on what they had in the field, where these fires were going. I didn't talk about projections, you are right. I didn't do that. Because the OPS officer had the information that I had that Stockyard was now much  
20 bigger than what is shown on that map.

MR PIKE: Q. What I am trying to get to, Mr Cooper, is having formed the view in your mind, as you told us you did, that the projections about  
25 Stockyard and Bendora were not correct, my question was: did you say to any of the planning people "I think your projections about Stockyard and Bendora are not correct". And I think you just told me a moment ago that no, you didn't say  
30 that.

A. No, I didn't specifically raise that.

Q. Thank you.

A. It wasn't in line with the role --  
35

Q. Thank you, sir.

THE CORONER: I just note the time. Given we started at 9.30 we might, if it is convenient,  
40 take the morning adjournment.

MR PIKE: I am happy, your Worship.

**SHORT ADJOURNMENT** [11.08am]  
45

**RESUMED** [11.35am]  
47

MR PIKE: Q. Mr Cooper, you haven't, as you have already told us, read any of the statements or seen any of the evidence of the planning officers?

A. No.

5

Q. You don't know, apart from your own observations, what they were doing in terms of planning; that's right?

A. Discussions with them while I was there, yes.

10

Q. While I said observations I should have included discussions with them.

A. Yes. We also had a planning officer in there, Bob Wilcox. He was part of that team.

15

Q. Do you have your document described as "Response to request for information by ACT coronial investigation"?

A. That's correct. Yes.

20

Q. Do you have it with you? Your Worship, my copy doesn't have an ESB number.

MR LASRY: [NRF.AFP.0085.0106]

25

MR PIKE: I am grateful to my friend.

Q. Could I ask you to turn to page 5 of that document, please, Mr Cooper. Have you got that?

30

A. Yes.

Q. In the fourth dot point you talk about - you talk in the preceding dot point about the fact that you attended the 1800 briefing on the 17th. In the dot point I have taken you to you say that a fire behaviour specialist presented information. You go on to say in about the fourth line of that dot point:

35

40

"His predictions - I think you are referring to the fire behaviour specialist - were consistent with the interpretations of the senior RFS personnel, Dennis, Guy and myself."

45

Is that right?

A. In a general sense. We talked about this

yesterday. That was referring to the 3- to 4-hour rate of spread in terms of once those fire conditions had arrived. So our belief was - our understanding was that's how it was going to spread once those conditions arrived.

5  
Q. The question I was asking was the sentence "his predictions". When you say, "His", you are talking about the fire behaviour specialist; his predictions were consistent with the interpretations that you and your colleagues had; that is correct, isn't?

A. But what I am referring to is --

15 Q. Is that correct or not?

A. Well, no. If you are looking for specifics.

Q. Let us go slowly. First of all can we agree with a couple of things. Your use of the word "his" in that sentence is a reference to the fire behaviour specialist?

A. Yesterday we said that was Nic Gellie, and Hilton was also mentioned in that.

25 Q. Perhaps, looking at it now, it could be a reference to Mr Gellie and Mr Hilton Taylor?

A. That's correct.

Q. Your sentence then understood in that way, reads as follows: "Mr Gellie's and Mr Taylor's predictions were consistent with the interpretations of the senior RFS personnel, Dennis, Guy and myself". Now, I am not asking you about any interpretation of it, I am simply asking firstly: do our documents correlate; what I have just read out appears on your copy of the document?

A. They do. It does.

40 Q. I take it when you made that statement, you were talking about all of the predictions communicated by those two planning officers during that meeting, as best as you could recall?

A. No. I was referring specifically in this case to the previous sentence, which we discussed yesterday.

47

Q. Let me take you now to some of the evidence you gave early on this morning. It is at transcript 6266. You were asked some questions by Mr Watts. I will put it in context. The  
5 questions leading up to the question I want to ask you about was this:

"Q. I think you did tell us it was your view that they - being the fires - might reach  
10 there - that's Canberra - on the Saturday?  
"A. Yes, I said consistently that my view and others around me were that they would reach Canberra's western edge on the Saturday.

"Q. So things were, I take it from what you said, going to move and did in fact move pretty quickly on the 18th in terms of the fire movement?

"A. They moved consistent with what the fire behaviour specialist in planning said they would."

Do you recall giving that evidence this morning?

A. I certainly do.  
25

Q. Has any aspect of Mr Hilton Taylor's evidence, either in his statement or in his evidence in this court, been brought to your attention?

A. Not at all.  
30

Q. Can I read to you from Mr Taylor's statement. Again, I don't have the number for it on my copy. It is the corrected statement dated 7 May 2003. Mr Taylor says this in paragraph 41:  
35

"I don't think anybody comprehended or could have comprehended the rate at which the McIntyre's Hut fire jumped the Murrumbidgee River and came across the open ground between  
40 the Murrumbidgee corridor and Stromlo Forest. This happened during the early afternoon. The fire just seemed to burn across bare ground defying all models."

45 That's the extent that I want to read to you from his statement. Has that aspect of Mr Taylor's opinion been drawn to your attention, sir?

A. Not at all.

Q. I take it that you are not in agreement with that?

5 A. As I have indicated all along and during my interviews, anything to do with McIntyre's Hut I have not pursued, didn't have any responsibility for it, and the statements that you have got here all relate to Bendora and Stockyard only.

10

Q. Going back to what you said this morning in answer to Mr Watts, you were asked the question:

15 "Q. It was your view the fires might reach there on Saturday?

"A. Yes, I said consistently that my view and the view of others around me that they would reach Canberra's western edge on the Saturday.

20

"Q. So things were going to move and in fact did move pretty quickly on the 18th in terms of the fire movement?

25 "A. They moved consistent with what the fire behaviour specialist in planning said they would."

You were at that point only talking about the Bendora and the Stockyard fires?

30 A. Bendora and Stockyard fires and, as is indicated in here, the rate of spread after --

Q. Sorry, you are only talking about the Bendora and Stockyard fires in answer to that question; is that right?

35

A. That's correct.

Q. You are not talking about the fire that did in fact impact upon the urban fringe of Canberra?

40 A. I don't know whether it did or it didn't. I don't know that. If you are saying that is the McIntyre's Hut fire, I don't know that the McIntyre's Hut fire impacted on the urban interface.

45

Q. You never found out at any point from the 18th of January 2003 onwards that it was the McIntyre's

Hut fire which impacted upon the urban fringe of Canberra on the 18th?

A. We were working on two --

5 Q. Sorry, is that correct? You never found that out?

A. I know it is one of three fires that reached Canberra.

10 Q. You have never found out from the 18th of January 2003 onwards that it was the McIntyre's Hut fire, not the others, which impacted on the Canberra urban fringe on the 18th --

15 MR ERSKINE: With respect, your Worship --

THE CORONER: I don't know that is right, Mr Pike, what you are putting.

20 MR LASRY: It is already wrong.

MR ERSKINE: Already wrong.

25 MR PIKE: Already wrong is one thing, having the courtesy to let someone finish a sentence is something else.

THE CORONER: What you are putting is not right.

30 MR PIKE: Let me put it in a different way. Perhaps I will put it in this way and, if it is not correct, I am sure I will be corrected.

35 Q. You have never found out from 18 January 2003 onwards that it was the McIntyre's Hut fire, not the others, which impacted on Duffy on the 18th?

A. That's correct, I have not found out.

40 Q. So any statement that you might make in terms of what in fact happened being consistent with your predictions, in light of the fact that you don't know what happened, can't carry any weight or validity at all; can they?

45 A. Consistently I have said that Bendora and Stockyard were what I was focused and what I was tasked to work on. That's what I worked on. If McIntyre was one of the fires that reached

Canberra as well as the other two or instead of, I wasn't going to know that on the 18th. I certainly haven't looked since to see whether it was alone or one of the three.

5

Q. I will repeat my question:

"So any statement that you might make in terms of what in fact happened being consistent with your predictions, in light of the fact that you don't know what happened, can't carry any weight or validity at all; isn't that right?"

A. As it applies to McIntyre.

15

MR PIKE: Thank you, your Worship. Nothing further of this witness.

THE CORONER: Thank you, Mr Pike. Yes, Mr Erskine.

20

MR PHILIP WALKER: Your Worship, just before that occurs, yesterday I was informed of the New South Wales Rural Fire Service box and the documents contained therein. There is a single document that I want to put to Mr Cooper. I will preface it by saying I think there is a document, which I don't have with me, which is in very similar terms to that which I tendered from the New South Wales section 44 report. You may recall I said I had a copy which had that in it and what was on the system didn't appear to do so. I have looked this morning at what has been exhibited. It seems to me, as best as I can find out, it is in fact the copy without the table in it. I might take the opportunity to put this. If ultimately it has been duplicated, well so be it.

25

30

35

THE CORONER: To tender that document?

40

MR PHILIP WALKER: Yes, your Worship.

THE WITNESS: Can I just have a look at that table?

45

THE CORONER: Yes, that is what you want to do, show Mr Cooper that document?

MR PHILIP WALKER: In fact might I approach Mr Cooper because I need to ask him a couple of questions about the content of the document?

5 THE CORONER: Yes, certainly. You won't be intimidated if Mr Walker stands next to you?

THE WITNESS: No, no. I can stand down there if you like. I am shorter.

10

**<FURTHER CROSS-EXAMINATION BY MR PHILIP WALKER**

MR PHILIP WALKER: Q. Just have a look at that document, if you would, Mr Cooper.

A. Yes.

15

Q. Do you recognise it?

A. Yes - there is a second page to it.

Q. I see. I am not sure I have the second page.

20

A. It is in there. It is an updated version. The other page is in the box.

Q. We might have to look at that.

A. It is an ESB document prepared by Roberta.

25

Q. And provided to you?

A. She was working, doing an exceptional job, with me to get the crews accommodated in terms of where they were going to go and what they were going to do. I had been talking to her on the way down on the phone and when we arrived. Not only did she do this on the 17th but on the night of the 18th just did an amazing job, because we had four more task forces. She worked very closely. Those task forces all knocked off at midnight. She had organised accommodation for them, meals and the changeover crews arrived the next morning. That is what that document is.

30

35

40

There is a very similar document that looks like that - so we had copies of it. If you have what ESB has provided, I assume, the coroner with, there should already be copies in your system. So that is what that document is all about. I am sorry I don't remember Roberta's last name, but she was our liaison contact person. She did quite an exceptional job looking after the welfare of

45

these people.

5 Q. When you say there is a second page, you mean  
a second page at the same date as the document in  
front of you; or do you mean there is another  
schedule for a different date?

10 A. Yes, I think you will find it is for the 18th.  
It is a very similar looking page, same font, same  
style. You can see here she is trying to  
accommodate New South Wales Ambulance Service  
people who arrived as well. She was trying to  
balance all those things for people coming into  
town. She sat around with Wayne Willmott, I think  
it was, and Kate Keane in that part of the  
15 building of ESB.

20 Q. All right. Thank you. If you direct your  
attention to the third column of the document, it  
indicates the equipment brought for each task  
force by New South Wales.

A. That's correct.

25 Q. Are you able to tell us from your knowledge  
whether that is an accurate reflection of the  
equipment that was provided?

30 A. It would be pretty close. Basically the task  
forces were made up of either one or two heavies  
and the rest of them up to a total of 5 would be  
lights. So Northern Rivers - two Cat 7s, one Cat  
2 and one Cat 9, and a command vehicle. That is  
consistent with what I said. The same for  
Northern Region. Same for Great Lakes - in that  
sense three Cat 7s, two Cat 1s, you can see there  
is a heavy there. Similarly from the Hunter -  
35 again one heavy and four lights. So that's  
certainly what those four task forces had. The  
extra four task forces that arrived on the  
Saturday were all heavy tanker, each again with a  
command vehicle.

40

Q. All right. Did you see this table at around  
about the 17th of January at some stage?

45 A. I worked with Roberta and put it together.  
She was frequently backwards and forwards with me.

Q. I take it the accuracy of the equipment  
provided was something you would have given some

consideration to?

A. That information was provided in the OPS room. It was recorded on a whiteboard right in the middle below the map. We also submitted T-cards  
5 on a daily basis in a photocopied form. You have seen them in the box both individually and also photocopied. They were submitted into operations on a daily - on a per shift basis.

10 Q. But I take it if there had been any inaccuracy about this equipment it would have been something which you would have put to right?

A. Yes. What I guess I am saying is whilst this - I'm pretty confident that's what it is. I  
15 used the T-cards as an absolute - the T-cards are a lot more definitive as to what.

Q. I take it the fourth column, which refers to the number of crews per vehicle, is again to the  
20 best of your knowledge accurate?

A. I mean what is indicated there is typical. A heavy tanker would have 4 or 5 people on it and a light tanker would have 2 or 3. Some of the light tankers are twin cab, so they may have additional  
25 personnel. The numbers on there are consistent with how we would deploy our units.

Q. The purpose of this was to look after accommodation, amongst other things, wasn't it, so  
30 the numbers of people would have been a matter of some importance to the very reason the document was created?

A. Absolutely. You can see there a day and a night shift is indicated. If you look at my  
35 earlier evidence, when we first arrived has always getting accommodation sorted out, keeping the task forces together and doing day and night and what we call "hot bedding" so you can double up in a room. That's why you need that sort of  
40 information to be able to do that.

Q. I will ask you something I have asked some other people: could you just give us a brief description of each of the categories of the  
45 appliances that were supplied?

A. Category 1 tanker is a heavy tanker about 3,800 litres 4-wheel drive, twin cab crew of 4 to

5 typically with a crew leader. Category 9 is a land cruiser or land rover size vehicle ranging from about 450 litres to around 500 litres. Some go to 700, if they have got dual axle. There was  
5 some dual axle in this group. A Cat 7 is 900 litres, crew of 2 to 4, sometimes 5. They will range from 900 to 1300 litres. All those vehicles are 4-wheel drive. To pull that up, there is also a Cat 2 on there. A Cat 2 is about  
10 2,800 litres, 4-wheel drive, again with a crew of about 4 or 5. All have a capacity to draw from either mains water supply or still water such as a pool or a portable dam.

15 Q. In the 5th column there are some comments. Against for example task force 4, "arrive late Sunday 19th, pm to start work Monday"; what does that refer to?

A. That is referring to the changeover. The  
20 crews come for three days, 72 hours. In New South Wales if you travel more than 3 hours, you are committed for 72 hours on the job. If it is less than a 3-hour job you do a 24-hour stint. So these crews arrived Thursday the 16th and  
25 therefore they would bug out, which is what they did Sunday night, the 19th. That would be their turnaround time to head home.

Q. That is the replacement crew?

30 A. Yes, both day and night shift. In fact, one of the crews changed a little early and the 4 task forces that came afterwards were day shift only. So there was no accommodation issue with them.

35 MR PHILIP WALKER: Thank you, Mr Cooper. Your Worship, I will tender that document. We will have to get some copies made so that the New South Wales box is not down a document.

40 THE CORONER: What is it entitled?

MR PHILIP WALKER: "New South Wales Rural Fire Service crews as at 17 January 2003 changeover timetable".

45 THE WITNESS: Do you want me to pull out the other page some time?

MR PHILIP WALKER: If it is possible.

THE WITNESS: It won't take very long. I know it is there. I have seen it.

5

MR PHILIP WALKER: I didn't do the search.

THE WITNESS: I am saying that I know this is actually a page and the other one were the two I worked off while I was in ESB.

10

MR PHILIP WALKER: It might be worth just seeing if we can locate that. Rather than delay the examination of Mr Cooper, I might have a bit more of a scramble around for it.

15

MR LASRY: Can I just intervene: Constable Travers has just brought to my attention that the document that my learned friend has been asking the witness about actually forms part of exhibit 69 which are the notes which you marked as an exhibit this morning. It is the third last page in.

20

MR PHILIP WALKER: Sorry, I didn't realise that.

25

MR LASRY: Neither did I. If you want to make sure it is the same document and, if it is, it is all part of the exhibit.

30

THE CORONER: Both parts of it?

MR PHILIP WALKER: We have got the 17th. I don't think we have got the 18th.

35

THE WITNESS: I wouldn't count on them being in order. Mark is saying, "Yes".

MR LASRY: I think the most efficient thing to do is for my learned friend - he can take my copy of the exhibit - to check if there is anything now loose that he is interested in which is already in exhibit 69. If it is already there, obviously we don't need to exhibit it any further.

40

THE CORONER: Yes. If the page for the 18th is found and you want to exhibit that, then we will

do that.

THE WITNESS: They were pretty thorough in photocopying what was in the box.

5

MR PHILIP WALKER: Just pardon me one moment, your Worship. I will have a quick look at this. The 18th is in there. I think from the explanation of the document I have obtained from Mr Cooper that makes sufficient sense of what is of the 18th. There is no need to ask him anything further. There is obviously no need to tender that document.

10  
15 THE CORONER: It is part of exhibit 69. Thank you. Yes, Mr Erskine?

**<CROSS-EXAMINATION BY MR ERSKINE**

MR ERSKINE: Q. Mr Cooper you were asked some questions this morning about what is being called your day job. Can I first of all establish that you are a volunteer with the RFS rather than a full-time officer?

20  
25 A. I am a volunteer, and my family might not think otherwise all the time.

Q. Could you please tell us what your day job is?

30 A. My career job role title is currently co-ordinator emergency response for New South Wales Agriculture.

Q. In slightly broader terms, what sort of things does it encompass in relation to, for example, emergencies?

35 A. I am responsible for the preparedness for emergency animal diseases in New South Wales on the basis of engaging all the stakeholders, which are all the different emergency management agencies and all the government agencies, developing protocols, procedures, training, and also engage with similar activities nationally.

Q. Just - sorry I cut you off.

45 A. In a response role when we actually have a problem, my role is as a controller. I am an accredited controller for that role nationally. What that means is I become, I guess - in fire

terms - the incident controller as you would call it, at a district level not at a state level. So I could be co-ordinating. I have coordinated 45 agencies, 1,600 people in the field at one time,  
5 for up to four months.

Q. So that perhaps we have a little bit of a concrete example of the kind of situation you are talking about there, could you just give us one  
10 example of the kind of emergency that you deal with in your career job?

A. I guess most people here would recognise the words foot-and-mouth disease. That is initially the sort of disease that we would deal with. In  
15 Australia, fortunately, we are yet to have any of the significant large diseases. We have had some with poultry, bird flu. Importantly underpinning how we deal with those diseases and obviously with an all agency approach, we use the Incident  
20 Management Team or the ICS system right across the board, and board with a little 'b' in terms of all hazards, all agencies. It is not different. It doesn't matter what emergency we are deal with; it is the same structure, same systems, same process.

25  
Q. In relation to your RFS duties, you told us you were in part responsible for the operations manual, I think it was. Is there some part of RFS procedures that equates directly with your work in  
30 your career job?

A. The New South Wales Rural Fire Service operations manual was produced essentially to deliver some systems that people could use straight away during an event. One of those  
35 systems or protocols that is built into that manual is what is referred to as the information management system, which is essentially an SOP. That SOP --

40 Q. What is an SOP?

A. Standard operating procedure.

Q. Thank you.

A. It is almost word for word the same as is used  
45 by New South Wales Agriculture and other agencies nationally for dealing with emergency animal diseases and their control.

Q. We have heard a reference in the last two days to AIIMS procedures, and I believe that is A-I-I-M-S but I may have that wrong.

A. Yes.

5

Q. Have I got it wrong?

A. No, that is correct.

Q. What is AIIMS?

10 A. Well, it is an all-encompassing agency that is set up across Australia to try and get consistency in terms of incident control systems or incident management systems. So obviously the relevant discussion of this group is the IMT approach or  
15 the ICS approach. They have also been responsible for rolling out things like message forms.

The IAP - there is actually an AIIMS manual for ICS which has all the role descriptions in it but  
20 also has proformas for incident action plans, message forms, those sorts of things. In fact, if you pick up the Australian AIIMS manual you would be hard put to tell the difference between the American one, because they have the same coloured  
25 cover and almost the same words. The American one is just a bit bigger.

Q. The AIIMS manuals and procedures in Australia, are they specific to particular types of  
30 emergencies or are they generic?

A. No. The AIIMS manual is developed on an all hazards, all agencies response. If you read the document, it starts off by saying the beauty of the AIIMS or the ICS approach as outlined in the  
35 manual is that it can be scaled up and adaptable to whatever circumstance as is appropriate.

Q. From that answer you gave, does that mean that the operating procedures in terms of managing a  
40 crisis are very similar between different types of emergencies?

A. Yes, they are. What changes is obviously the technical knowledge that underpins it. This morning we have been talking about fire behaviour  
45 people. In my agricultural world we have epidemiologists who are interested in disease behaviour, if you like, in the same language. If

you go to floods, you then have flood mitigation people. So apart from those technical people, the systems and the process, and importantly here we are talking about the structure which was first  
5 developed by the Forestry Service in 1972 in California is the same.

Q. And obviously once you go down the structure, if one can go down a structure, once you get down  
10 to people in the field, there is then a huge difference so that you have got bushfire firefighters fighting the fire with expertise in fighting the fires; you have got vets and farmers dealing with foot and mouth disease outbreaks with  
15 expertise in that and so forth. So it is at that level, that is in the field, where the structures change radically from emergency to emergency?

A. The structure is in fact still the same. It is the task that changes. If you looked at what  
20 is a national plan published on the web called AusVet plan, the control centre management manual parts 1 and 2 which I have recently reviewed completely, they are the national manuals, they are actually considered an international  
25 reference. They are built around the ICS structure.

Q. You did mention the American manual. Has there been a development in the United States that  
30 you are aware of in recent times in relation to the way the United States uses the ICS system?

A. Obviously with my job we have an international flavour, exotic disease jumps over borders out of  
35 the country. One of the interesting developments in the States last year was the President essentially proclaimed that all agencies right across the States would use the incident control system for all hazards.

40 Now for the United States Department of Agriculture, which are my equivalent, that was a useful piece of news. What it has meant is that 1,100 people were expected to be trained in 12 months in ICS. So there you can see the whole  
45 of the country has adopted that same approach which Australia has been using for animal health emergencies since 1988.

Q. Just to make that clear, the ICS system that you are referring to, as you understand it, in the United States would be used with whatever modifications necessary to fight the forest fire in California or an outbreak of foot and mouth disease in Montana or whatever it might be in New York?

A. Or a building collapse in New York.

10 Q. Thank you. In relation to your experience of dealing with veterinary emergencies and fire emergencies, just based on your own experience, to what extent is the structure of responding to them similar?

15 A. The structure is essentially the same. I mean the terminology of planning, operations, logistics, those cells, controller, media PR. We have a more heavy emphasis on legal - people in this room would be pleased to know that. So we have legal people in our control centres. And logistics is exactly the same. I mean we have got people doing accommodation, welfare, transport, also significant engineering resources.

25 In the field operations, obviously the difference between, as you alluded to earlier, where this operation uses fire trucks, we will use people that are engaged in either vaccination or destruction of animals. Even the fire trucks are relevant. At Mangrove Mountain we transported 14 million litres of water in three-and-a-half months. That was all done by the Rural Fire Service.

35 Q. Do you find that your experience in dealing with your career job in responding to emergencies has been useful experience for you in your RFS duties, and vice versa?

40 A. I think I could best answer that by saying that other people have indicated to me that they see it as entirely relevant and useful.

Q. You indicated to Mr Watts this morning in answer to one of his questions when he was asking whether you went down a particular course - I have forgotten the name of the precise course - and you said not only had you done it but you also teach

it or facilitate it.

A. Incident Management Team?

Q. Yes. Which course is it?

5 A. There is an Incident Management Team course.  
Not only the Incident Management Team course but  
other courses at Mt Macedon, the Australian  
Institute of Emergency Management at Mt Macedon  
that I have been involved in are emergency  
10 operations centre courses. They run for four  
days. Planning course for emergencies. These are  
all hazards training not just fires --

Q. Just stopping you there, are those courses  
15 that you are involved in delivering?

A. Yes, that's correct.

Q. Mt Macedon is in Victoria as I recall, is it  
not?

20 A. Yes, but it is national training. What  
happens is they bring people from all around the  
country from different agencies, from local  
government right through to Emergency Services.  
There might be a course with 20 people in it. The  
25 real beauty of 20 people is they are often drawn  
from 20 different parts of the country and 20  
different agencies.

Q. You have been asked a large number of  
30 questions, both in your interviews and in the  
evidence before this inquest, about planning.  
Divorcing it from the particular objectives of the  
emergency you are dealing with, could you just  
tell us at the highest possible level what the  
35 point of a plan is?

A. The point of a plan is to actually get in  
front. What you want to do is get in front of the  
emergency you are dealing with. So your plan is  
about anticipation and in some cases really  
40 looking at worst case scenario.

Q. Hoping they don't happen.

A. Hoping they don't happen. But if you don't  
plan for that worst case scenario, anticipate a  
45 problem and you can solve a problem. If you don't  
anticipate it, you can't solve it. So planning is  
very much about getting in front of the operation,

looking how far forward, how brave are you at going forward.

5 The planners ask those "what if" questions and work back. That allows you to get out of the reactive mode so you are not reacting to what is happening.

Q. What is the problem with reactive mode?

10 A. The reactive mode is you have no time and space. You don't have as much time and space between the event and your response to the event. You don't have control. Whereas if you have a planned approach, and you can change a plan as you go. It shouldn't be rigid. If you get far enough  
15 out, that means that you are now working your way backwards towards the hazard or the emergency that you are dealing with. That gives you significantly more operational control.

20

Q. I think you gave to Mr Walker yesterday afternoon some examples of that in the context of how one might plan for these fires to hit the urban interface of Canberra. For example, you  
25 mentioned the water pressures, turning off the gas and so forth. Are those examples of how one might get ahead of the developing crisis?

A. That's correct. I mean they are pre-emptive actions. I guess one of the things I didn't  
30 mention yesterday is in that planning, as was alluded to, around Sydney put task forces. You can stage your task forces as well as some of the utilities, some of the community education. That allows you to get in front. You are sitting there  
35 basically waiting for something to happen rather than chasing it, in simple language.

Q. The example I think you are now referring to is the fact that there were task forces on standby  
40 at Campbelltown first thing on Saturday morning, on the 18th?

A. Sydney had - I don't know specifically - but I do know that we got four of them, so I don't know how many. But there were task forces stationed  
45 around Sydney. It was a severe fire day, which is what happens. I actually sat at the station all day recently for a severe fire day. They are

ready to be used in terms of what we would call  
"risk areas".

5 Q. So you get a weather forecast which says the  
weather is turning bad for the purpose of the fire  
in this discussion and, in anticipation of that,  
what may well happen is that fire crews are  
assembled. You don't quite know where they are  
going to have to go to; but they are there ready  
10 to roll.

A. You will have a fairly good idea in terms of  
risk assessments as to where they might be. You  
can imagine around Sydney that risk assessment has  
become easier in recent years, because a lot of it  
15 has been burnt.

But it is the principle of actually getting in  
front, being well advanced, getting a lot of time  
and a lot of space between you and the event.  
20 Your systems should take you towards that.  
Planning is one of those systems.

Q. You were asked some questions yesterday about  
the relative size of the Emergency Services Bureau  
25 in the ACT compared to Rural Fire Service in New  
South Wales. Leaving aside one obvious and very  
important qualification to that, which is also New  
South Wales is also a much larger land area than  
the ACT, based on your observation of how the  
30 system worked in the ACT, is it fair to equate the  
ACT roughly speaking to a district in your  
system - or a zone?

A. I think that was in one of my answers  
yesterday. Essentially you have got to remember  
35 that districts in New South Wales are different  
sizes, because they are tentatively based on local  
government areas. And sometimes the zones that  
have been formed also might be three smaller  
districts.

40 But in the scheme of things they would equate - if  
you took Sydney as an area because it is fairly  
populated in the same way Canberra is, you would  
have to say that the urban fringe Sydney  
45 metropolitan area type fire districts would equate  
reasonably well to the ACT situation, even of my  
own local government area. I mean we haven't

quite got the population but it is --

Q. Not far off it.

5 A. It is not that far off it. We certainly have  
as much urban interface with the bush land. We  
have a significant bushland risk from the military  
firing range. So in many ways there is a great  
similarity with the ACT. We are surrounded by  
10 water catchment area along three sides.  
Wollondilly, which is an adjoining district, sits  
in the middle of a catchment area.

Q. The district you are talking about is  
Campbelltown?

15 A. That's correct.

Q. You mentioned yesterday that each district of  
New South Wales will have an operational plan as  
to how to deal with emergencies generally?

20 A. They are required to have an OPS plan.  
Yesterday we mentioned the bushfire plan as well.

Q. Do you understand that actually stems from the  
legislation that governs the Rural Fire Service in  
25 New South Wales?

A. It certainly does. That's what I mentioned  
yesterday, that the Commissioner has the  
responsibility to see they are in place.

30 Q. Do you have some familiarity with the plan in  
your district?

A. I know the plan exists. I actually have a  
copy of it in my vehicle. I am reasonably  
familiar with how it rolls out. It talks about  
35 who is going to do what role and what agencies  
come on board. Local Emergency Management  
Committees are important in terms of tapping in  
New South Wales Police, contact numbers, all those  
sorts of things.

40

Q. May we take it that, in relation to each  
district, the plan has to try and foresee a range  
of emergencies ranging from a relatively small  
spot fire of some kind through to a crisis that  
45 will just overwhelm the resources available  
specifically at that district?

A. Yes. I have already, I think several times,

talked about class 1, 2 and 3 fires.

5 Q. In relation to a crisis that might completely exhaust the resources of a district, could you tell the inquest your understanding, without going into the detail of it, of how a plan deals with having to get resources from elsewhere?

10 A. I think I have indicated previously that, if it is a class 1 fire, the district will use its own resources in their everyday events.

15 If it goes to class 2, typically it will be the district's resources and the adjoining resources, so they can direct contact the adjoining districts and pull them in.

20 If you go to a class 3, now you have exhausted all the resources in adjoining districts and your district. At that stage you then work through the region's state operations to access additional resources.

25 Q. So the plan is going to envisage bringing in resources such as task forces and troops on the ground?

A. And managers.

30 Q. That is what I was about to come to. Does it also deal with the need to - I think the term you used yesterday was "up scale", which sounds like something out of McDonald's - up scale not just the number of troops on the ground fighting the fires but also the management and planning and so forth for the fires?

35 A. Quite clearly if you want to get in front of an emergency, you are going to need managers and not just troops on the ground. So in my training, I talk about getting as big as possible as quick as possible. You can always get small easily but  
40 you can't get big easily.

45 So what you might do is pre-emptively - so this discussion we were just having about plans, you can actually do that pre-emptively so that, if there is a district with an adjoining fire, in December 2002 Sutherland was about to get a very big fire from Campbelltown. Sutherland

pre-emptively had a section 44 declaration. They didn't actually have a fire. That was a good example of getting in front. They were able to scale up and put their IMT in place, and access  
5 additional resources from outside their district from adjoining districts to be ready for when that fire impacted on their local government area.

Q. Can we put it as a general proposition, although I doubt there is a precise equation for it, the more troops on the ground there must be a corresponding increase of some kind in the management and planning resources available as well?  
10

A. ICS certainly works on a structure, and they talk about span of control 5-7 people. So essentially any one role should only be relating to another 5 to 7 roles below them. That is pretty critical.  
15

20

Q. You were taken this morning by Mr Pike to a map at the briefing, session which I understand took place on 17 January at or about 6 o'clock at night.

A. That's correct. That was the 1800 briefing. I think I have said previously it was about 1830.  
25

Q. I wonder if that might come up. This is my first attempt at mastering the system. If I get it wrong, I apologise in advance. It is document [ESB.AFP.0110.1035]. Is this the map we were looking at this morning?  
30

A. That's correct. That was the one used at the briefing.  
35

35

Q. Do you know what the date of that map was that it was produced?

A. I think it has a date on the side here of 1600 as at the 17th.  
40

40

Q. In the course of the daylight on the 17th, had your crews actually been out in the field?

A. Our crews in the morning had set out to do the back-burn up in the valley, and the ESB and myself had withdrawn them out of the valley mid to late morning because of the severe weather warning. Came back to Tharwa and around 1430, 1500, Tony  
45

Graham asked me to send units to Tidbinbilla Nature Reserve because there was spot fires landing in the nature reserve that afternoon.

5 Q. By the time you got to the briefing at 6pm, had you had information from your people in the field about where the fires that they were dealing with had spotted?

10 A. As I have just indicated, Tony had asked me to deploy units to Tidbinbilla Nature Reserve because they were having spot fires landing in the nature reserve there. And they had withdrawn - initially from the back-burning operation, they had been  
15 withdrawn for safety reasons back to Glendale, for safety reasons. The staging area was actually overrun by fire. So the information that both Tony and I had was that clearly we now had fire at  
20 Tidbinbilla, but the Stockyard fire was now essentially visible from Tharwa without too much effort. You didn't have to go too far now to see the Tharwa fire.

25 Q. In relation to the two southern-most fires on this map, when you first attended this briefing and you saw this map, based on the knowledge you have from whatever observations you had made and from whatever you had been told from the people in the field, did it look to be accurate in  
30 describing the extent of the two southern fires which I think are Bendora and Stockyard?

A. It was not consistent with the information that both Tony and I had received from the field.

35 Q. In what respect?

A. Well basically, as I said, the Bendora fire was now spotting into Tidbinbilla Nature Reserve. I personally observed that later that evening. And the Stockyard Fire was, as I have just  
40 indicated, to the west of Tharwa. I mean it wasn't on Tharwa's doorstep but it wasn't that far out, which basically indicated that both fires had travelled due east.

45 Q. Now the concentric circles of both of those fires, which my friend Mr Pike took you to in some detail this morning, where do those circles

radiate from?

5 A. They radiate from a fire line which I have no knowledge of because it is pre my time. I wasn't aware - I mean I couldn't say that's where the fires were on the 16th or 17th. What I know on the 17th, from my information and from what Tony told me, was that we now have fire at the back of Tidbinbilla Nature Reserve and also at the back of Tharwa.

10

Q. Mr Pike has asked a very good question which is: can you identify which Tony? We have at least two.

15

A. I should have used the role - operations officer. I don't think Tony Bartlett was on the field on the Friday, was he? Well, if he was, he certainly didn't have any contact with our - well no-one in my group indicated that they were working with Tony Bartlett on the Friday.

20

25 Q. So when you said to the inquest, both yesterday and today, that in relation to this you had an opinion that the western urban edge of Canberra might come under threat from the two fires in which you were involved, that is Bendora and Stockyard, what was that based on when you saw this map?

30

A. As I have indicated, it was initially based on whether the control centre had control of the operations. So they were in front of the operation. That was the initial Friday. But then the technical assessment and certainly the more Friday went on, the more these two fires were well within reach of Canberra based on my previous two years of - I mean based on the last two years during drought years, these fires, as was read out this morning from one of Hilton's transcripts, were doing things that they had never done before.

35

40

But I mean I had been involved with enough fires to see that, where they got to on the Friday, on the Friday afternoon and if you had looked at the rate of spread across the ground on Friday afternoon, under the weather conditions that were predicted for Friday, and again Saturday's was worse than what Friday's had been predicted and what did deliver, it was in Australian language a

45

hop, step and a jump to Canberra. It was a very short jump.

5 Q. In relation to what you had seen on this map, were you also taking into account, by the evening of the 17th, not where the fires were shown on the map but where you understood them to be?

10 A. Are you asking me whether the map represented the field situation?

15 Q. No, I am asking you whether your view that there was some risk, whatever scale, to the urban edge of Canberra was based not just upon what you see on that map as to where the fires might be at one point in time but what your people had told you in the field was where the fires had reached?

20 A. It was not only my people. It was what I was getting from the OPS officer as well. As I said, I was asked to go to the field later that evening and saw it first hand for myself.

25 Q. So may we take it that your understanding was that there were fires not where they are shown and where the radiation concentric circles come from but some distance to the east on both of those fires?

A. I mean, in fairly broad terms, a half to two-thirds further closer to Canberra.

30 Q. If we take the higher of those two which I think is Bendora, your understanding was that there were at the very least spot fires more than halfway to Canberra --

35 A. They were in the Tidbinbilla Nature Reserve, so the local people would know better than I would. There were people on the road between Tharwa and Cotter on Friday night taking pictures of this fire, because we asked the police if they could check on that later that night.

40 Q. You have on a number of occasions referred to the logistics people. You have mentioned, for example, a woman called Roberta who you don't know the surname of.

45 A. No.

Q. Speaking generally about the way in which the

ACT handled logistics for bringing in what was ultimately I think eight task forces, what would you wish to say to the inquest about that?

5 A. I think in my transcripts and even the evidence I have given today, logistics generally did an amazing job. We were always going to be a big load, you know, in terms of just sheer numbers of people and hardware.

10 Even when things got hot on the Saturday the, logistics people were working very hard to get ahead. Once they got that staging area up and running at Curtin, that was a plus. In terms of anything we needed, I mean one of the really  
15 impressive things was I had to send a number of people home for either family reasons or the like. And logistics in less than an hour not only had the air transport organised but they actually had someone pick them up and take them to the airport.

20

Q. You said I think a minute ago that they were getting ahead of the situation. Does that in your view indicate that there was some good planning going on in relation to logistics?

25 A. I'm quite sure that was the case. They were asking us questions. We were feeding them information from the first night. I mean the first night when we arrived, we wanted food and water, not only water for trucks but drinking  
30 water. That was arranged by midnight. It was very efficient.

A group that I don't think anyone has really mentioned it here, I mentioned earlier on, was the  
35 Ambulance Service. In terms of getting ahead, the people that were going to do the back-burn were a long way in in firefighting terms. You are in trucks. You don't escape from a running fire or if you have an injury, you don't get an ambulance  
40 out there quickly. Again our people have an expectation that, if they are injured, they will be evacuated as soon as possible. That wasn't in place.

45 But the impressive thing was when I did speak to the senior plans officer, I am sorry I don't think I knew his name. I knew where he sat. He was

most efficient and produced a plan, a clearly articulated plan. One of the outcomes of that plan was they took their aircraft - is it SouthCare or SouthCorp? That helicopter had been water bombing. He said he would arrange for that to be taken off that straight away so it was available for evacuations.

During the Saturday we required an ambulance on two occasions. On both occasions the service, the delivery fitted with the plan. That was for, if you like, the lights and siren ambulance. One of our people had forgotten to take medication. It was impressive. Even for the standard smoke in eyes, minor cuts and scratches, the ambulance in line with his plan delivered that all the way through.

Q. I also want to ask you something about maintenance. I take it one of the difficulties that task forces like this would have with large amounts of equipment is that things don't always work when they are supposed to and they get damaged because of the rough conditions they are in.

A. Certainly with the large amount of hardware we had, they were working pretty hard, some of them you can imagine had come a long way. The north coast of New South Wales is a long way to run a truck. Whilst we have got a lot of new equipment, not everything is new. We did sustain some damage or the Saturday. There was some normal wear and tear.

Wayne Willmott from the fire service in the ACT was just the most efficient person. I mean he approached us and initially said, "We have 12 Isuzu mechanics brought into our workshop. They will run 24 hours a day. Can you tell me what you have got that you need service on?" We had already collected that. We worked with him to develop a plan to put these units.

Some of them were fairly major jobs. We had a Hilux that lost all its glass on the left-hand side when a car trailer was thrown against it by the wind. Wayne's people measured it up and

replaced all the glass in half an afternoon - particularly impressive. He had a good system going in terms of "What have you got? We will get it in." He will come back, "Okay it is on the  
5 job, it's going through. What is next on the job". Even a couple of our vehicles sustained insurance claim level damage, and he provided me with the forms. I thought, "Yes, I need to fill these out now, don't I." I mean he was  
10 particularly good.

He was very around where Roberta was. They were able to get in front. They were able to match the needs of the task forces. When they were off at  
15 lunch or on a break, we were able to go to Kambah at the workshop, which was in a fire affected area, which was even more impressive.

Q. Again is that an example of being able to plan ahead, anticipating what might happen have the stores in place for it and the crews to do it and so forth?

A. Absolutely. This guy could see that there was going to be a need for hardware. Quite clearly  
25 the ACT had the same need. I didn't approach him. He came to us and was right on the ball.

MR ERSKINE: Thank you, Mr Cooper.

30 THE CORONER: Thank you, Mr Erskine.

MR LASRY: No questions, your Worship, thank you.

THE CORONER: Mr Cooper, you are excused. You are  
35 free to leave, if you wish. Thank you.

THE WITNESS: Thank you very much.

**<THE WITNESS WITHDREW.**

40

MR WOODWARD: I call James Stanley Gould.

**<JAMES STANLEY GOULD, SWORN**

45 **<EXAMINATION-IN-CHIEF BY MR WOODWARD**

45

MR WOODWARD: Q. Your full name is James Stanley Gould?

A. That's correct.

Q. Mr Gould, what is your current professional address?

5 A. Banks Street, Yarralumla.

Q. Mr Gould, you are currently employed as a research officer with Forestry and Forest Products at CSIRO?

10 A. Yes.

Q. You have been with CSIRO for a total of 22 years; is that correct?

15 A. A little over 22 now, yes.

Q. For the purposes of this inquest, Mr Gould, have you provided a written statement?

A. Yes.

20 Q. Do you have it with you?

A. Yes, I have.

Q. My copy isn't signed, Mr Gould, but I know the one on the system is. It is at  
25 [DPP.DPP.0006.0289]. That was signed by you on the 17th of May 2004; is that correct?

A. Yes.

Q. Why don't you just jump to the last page to  
30 record - that actually says 17 May 2003. That is incorrect?

A. It should be 2004.

Q. So you provided that statement in the last  
35 couple of weeks?

A. Yes.

Q. Mr Gould, in that statement you explain in the second paragraph your role with the CSIRO, and in  
40 particular you say you are responsible for leading the Fire Behaviour and Management Group within CSIRO Forestry and Forest Products and you are responsible for co-ordinating bushfire research programs; is that correct?

45 A. Yes.

Q. You say you have been in that supervisory role

for the past 3 years and you have been involved in the field of fire behaviour research for nearly 15 years; is that correct?

A. Yes.

5

Q. Jumping over the page, Mr Gould, in particular to the last paragraph - after referring to your involvement in wildfire investigation and your responsibility for major research in the recent development of the Bushfire Cooperative Research Centre, you talk in more detail about your exposure to actual fires. In the final paragraph you say:

15 "During these experimental fires - that you have described - I have taken the opportunity to observe different suppression techniques to ensure that experimental fires did not escape the plot areas."

20

Has that been a role that you have been undertaking regularly during that 15 years of your fire behaviour research, Mr Gould?

A. I think that role over the 15 years just involved the fuel experimental programs it sort of comes in bust and boom cycles.

Q. For that period you have been involved in observing suppression techniques; is that correct?

30 A. Yes.

Q. I should just ask: have you yourself been involved in fire suppression either during those experimental fires or during any wildfire?

35 A. No. My major job is to collect scientific data but no direct suppression activity.

Q. Consistent with that, Mr Gould, on the afternoon of the 8th of January 2003 you, with some colleagues, observed the fire smoke column generated I think at that time by what became known at the McIntyre's Hut fire and decided to go out and visit the area of that fire for the purpose of your research; is that correct?

45 A. That's correct.

MR WOODWARD: Your Worship would recall a lengthy

video that was played during Mr Cheney's evidence, which has at the commencement of that video some CSIRO video footage of the McIntyre's Hut fire and in particular the spot fire at Baldy Range.

5 Mr Gould provided to me a further copy of that part of the video. What I propose to do is play parts of that copy

10 The reason for that is that, unlike the copy that was played when Mr Cheney gave his evidence, this particular copy has the time and date stamp in the bottom corner, more particularly the time stamp so it assists in locating the various events to the time; whereas the other copy doesn't.

15

Q. That is correct, isn't it, Mr Gould?

A. Yes. The only thing is the year is wrong on the video. I forgot to change to the calendar year 02 to 03.

20

Q. The calendar will show 2002 but in fact it was in 2003?

A. In 2003.

25 Q. To the best of your knowledge, was the time stamp on that video correct?

A. We double-checked the clock time.

Q. On that occasion?

30 A. On that occasion, but not the calendar year.

MR WOODWARD: I should also add it also includes just a little bit of additional footage of the trip taken by Mr Gould and his colleagues to the fire site, which he refers to in the second paragraph on page 3 of his statement. What I propose to do is play that video in a moment. I will ask the Court operator to save time by fast-forwarding it from time to time.

40

Q. Mr Gould, if there is any part in the video, particularly as we are fast-forwarding it which you feel would be useful to refer to in elaborating your statement, please don't hesitate to say so.

45

A. Okay.

47

Q. You refer to the smoke column in the first paragraph of page 3 of your statement. That was on the drive on the way out to the area of the McIntyre's Hut fire; is that correct?

5 A. That's right.

Q. You say:

10 "My first impression of the smoke column was that it was very active, and we decided it would be a good opportunity to observe some fire behaviour - sorry that was while you were still at your offices - We left Yarralumla at 6pm and drove towards Uriarra  
15 Road."

If we could perhaps play that video from the beginning of the video to begin with. You mentioned you were accompanied, as I understand,  
20 Mr Gould, by three colleagues including Mr Peter Ellis, Peter Hutchings and Sean Cheney; is that correct?

A. That's right. They are my staff members.

25 (Video played)

MR WOODWARD: Q. Is that the observation you are referring to, at least in part in the first paragraph, about quite an active smoke plume at  
30 that point, Mr Gould?

A. I first noticed a smoke plume when I left my office to go to our compound to change, to cycle back home. From that observation, I went back and I said, "There is an active fire up in the hills."  
35 We suggested we should go up and look. The first view from the vehicle leaving the office going towards Uriarra Road is that video clippage.

Q. Is that similar to what you observed in a sense of the activity that that was suggesting to you at Yarralumla; in other words, it is still suggesting an active fire?

A. Quite an active fire, yes.

45 Q. I see the time stamp is 18.26?

A. Yes.

47

Q. What road were you on there?

A. Probably the Uriarra Road.

5 Q. Unless there is some part of that trip that  
you want to refer to, Mr Gould, we might  
fast-forward quickly through to when you arrived  
at the first fire site.

(video fast-forwarded to 20.05.07)

10

MR WOODWARD: Q. You describe in the second  
paragraph of your statement, Mr Gould, the roads  
you went down in order to get to the fire.  
Perhaps if it is not too difficult we might jump  
15 to slide 56 of Mr Cheney's presentation which I  
think provides some indication of the roads in the  
area so I can get a sense of where you did  
actually travel. As that is being brought up, you  
say:

20

"From Uriarra Road, we drove up Mountain  
Creek Road, then onto Two Sticks Road."

Perhaps with your Worship's permission if Mr Gould  
25 could approach the large board.

Mr Gould, if you would just trace the direction  
which you drove in order to reach the first of the  
fires that we can see in the video.

30 A. The roads aren't labelled on this map.

Q. I think Webbs Ridge Trail is the road?

A. About there (indicated).

35 Q. And Two Sticks Road down. Unfortunately you  
are not able to touch the screen.

A. Oh. This is up to Two Sticks Road, up to  
Baldy Range Road, going up onto Two Sticks. This  
would be up the Dingi Ding Trail, rode up into  
40 here.

Q. You say in your statement:

45 "Approximately 8pm we arrived at a small spot  
fire on Dingi Range Trail."

Could I ask the operator to go back to slide 45.

Do you see, Mr Gould, there is the Dingi-Dingi trail shown on that map more or less in the centre of the map?

A. Mmm-hmm.

5

Q. You see the area of the McIntyre's Hut fire shown there. Close to the front of that fire there were three small spot fires shown right against the Dingi-Dingi trail. Was it one of those spot fires that you first visited as far as you know?

10

A. As far as I know it would be, yes.

Q. Perhaps I should ask this, to save jumping back to this later: as I understand your statement, Mr Gould, you went to each of those three spot fires that are shown out the front of the main head of the fire; is that correct?

15

A. That's correct. I walked around two of them.

20

Q. And then you drove back to the east along the Dingi-Dingi trail onto the Baldy Range trail and went to the spot fire that is traversing that Baldy Range trail, is that correct?

25

A. That would be the spot fire just below the capital R.

Q. We will return to the video. What I would like to do is firstly look at what you observed at the Dingi-Dingi Trail where you saw those three spot fires, and then fast forward through to the Baldy Range fire.

30

(video played from 20.05.08 through to 20.05.44)

35

MR WOODWARD: Q. Now, you say at "approximately 8pm we arrived at a small spot fire on the Dingi Range Trail." You took a GPS reading. You took a weather measurement which gave you relative humidity at 62 degrees. Is that at this fire, as best as you can recall it?

40

A. Yes.

Q. You say:

45

"We took these readings at about 8.10pm. There was light, variable winds and pretty

good visibility around the spot fire perimeter."

That is as is evident in that video, Mr Gould.  
5 Does that generally represent as you saw it on the night?

A. Pretty well, yes. It shows it quite well.

Q. You say the winds were light and variable.  
10 Can you give an indication as to what direction, if any, the winds were predominantly coming from?

A. It was difficult. I mean by light and variable winds, the smoke is drifting up and not much movement in the shrubs and stuff underneath  
15 it. We have light, variable winds, it is not difficult to determine which direction it is going in there.

Q. Are you able to say from where the person  
20 holding the camera is, which direction - at least as you understood it - the main fire, the McIntyre's Hut fire, was?

MR ERSKINE: I object to that question.  
25 Mr Gould's statement with great respect makes it quite clear he has no idea where the McIntyre's Hut fire was. He was never able to identify it.

THE CORONER: How do you say that, Mr Erskine?  
30

MR ERSKINE: Because he says it several times.

THE CORONER: The main McIntyre fire?

35 MR ERSKINE: Yes. On the next page, your Worship:

"During this reconnaissance we did not identify the location of the main fire."

40 It really couldn't be clearer.

MR WOODWARD: I will perhaps clarify it, your Worship.

45 Q. That is correct, isn't it, Mr Gould, on page 2 of your statement you say - this is after visiting the other spot fires that you walked back out onto

the Dingi Trail:

"During this reconnaissance we did not  
identify the location of the main fire."

5

What did you mean by that?

A. Well, we know that, with the size of the  
convection column that we saw as we drove out, it  
was quite a large fire to produce that column. We  
10 know that those were spot fires. At that time we  
were unable to identify the location of that main  
fire front.

Q. When you say the location, do you mean you  
15 weren't able to or you didn't go to that site but  
were you aware where the main fire was?

A. We knew it would be somewhere to the west of  
us but we were unable to get there or identify it.

Q. Perhaps I can ask the question this way: can  
20 you say from where you and your colleagues were  
standing there which way is west?

A. The camera would most likely be pointing a  
little bit to a westerly direction.

25

Q. What I will ask the operator to do is to now  
fast forward to the point where you visited the  
site of the Baldy spot fire, unless there was  
something you wanted to refer to along the way.

30

(video fast forwarded to the visit to the Baldy  
spot fire, 20.29.58)

MR WOODWARD: Q. Up to that point roughly in the  
35 videotape, Mr Gould, we were watching the process  
you have described up to the third complete  
paragraph on page 4, the process of visiting each  
of the three spot fires that you could get to from  
the Dingi Trail; is that correct?

40 A. That's correct.

Q. We are now at the point where you had moved,  
as you say, in the bottom paragraph on that page:

45 "We arrived at the Baldy Range spot fire at  
around 9.30pm."

47

Is that the case?

A. Yes.

5 Q. Just before I ask you some questions about  
that spot fire, the intensity of the fire that you  
observed from the Dingi Trail, the three spot  
fires, how would you describe the intensity of  
those three spot fires?

10 A. I would describe it as what we call the lower  
intensity fire, less than 10,000 kilowatts per  
metre.

Q. Are you able to be more precise?

15 A. I guess we go by that. Due to the flame  
heights, the flame heights were less than a metre,  
maybe half a metre to a metre high. It is a  
creeping backing fire sort of downslope, and the  
flames were leading on to burnt ground instead of  
unburnt fuels.

20

Q. I observed yourself and your colleagues were  
quite close to the fire edge?

A. Pretty well could walk around the fire  
perimeter, yes.

25

Q. What was your observation just from you being  
located close to the fire of the heat being  
generated by the fire?

30 A. It was quite comparable. It was easy to walk  
around and stuff like that.

Q. We might just play. As I understand it, this  
is the Baldy Range fire; is that correct?

A. Yes, it is.

35

(video played - paused at 21.30.11)

40 MR WOODWARD: Q. The fire seems to be blowing  
right to left across the screen as your colleagues  
are standing on the Baldy Range Trail; is that  
correct?

45 A. Yes, right to left, so probably would have had  
a light easterly wind up there. Being higher up  
we felt it was a little bit stronger winds  
compared to where we saw the three spot fires.

Q. It was a little bit stronger because of your

higher elevation?

A. Yes. A little bit stronger because we were on a little bit higher elevation. A little bit more exposed.

5

Q. Are you able to say which way, roughly, the camera is pointing?

A. He would be sort of pointing in a north-easterly direction.

10

MR WOODWARD: Thank you. Just continue to play that, please.

(video continued to play - paused at 21.37.59)

15

MR WOODWARD: Q. Again, Mr Gould, based on your observation, how would you describe the intensity of that fire?

A. Maybe just a little bit higher intensity than a spot fire but not that much different. It was still quite low flame heights, up to about a metre and maybe some places a bit higher. Again, it was still creeping backing fires into the fuels.

25 Q. You indicate in your statement, I think, that the fire had crossed the Baldy Range trail.

A. Yes.

30 Q. Were you able to assess or provide any approximation of the size of the fire area? That is how much of the spot fire, if you like, had crossed to the east of the Baldy Range trail?

A. No. We were unable to do that. We walked up the trail - we estimated about a hundred metres. Sort of fire on both sides of us. At about that time there was a tree across the road. We turned around and came back out.

40 Q. Were you able to observe from the distance you went how much further along the trail there was fire either side?

A. No.

45 Q. How much further down the trail could you see?

A. It was dark. As you can see in the video, it was fully dark there. We just relied on the light from the fire.

Q. You say in your statement - this is page 5 in the middle of the page:

5 "In my opinion, the fire behaviour in the late afternoon/early evening was a low intense fire" --

I do take it by that you mean a low intensity fire?

10 A. That's right, yes.

Q. You continue:

15 "-- which could have been contained by ground forces constructing a fire constructing a fire line around these spot fires ie rake hoe teams, being supported with tankers."

20 That was your observation of both the earlier spot fires and more particularly this spot fire; is that correct?

A. Yes, I think that could have been done, yes.

25 MR WOODWARD: Your Worship, I am not sure how much of that video is left to show. But my recollection of it is that it doesn't show anything vastly different to what we have already seen already of that fire. I wouldn't propose to play it any further, unless your Worship or any of  
30 the other parties would be assisted.

THE CORONER: No. Does any counsel wish the video to be played?

35 MR ERSKINE: No.

MR LAKATOS: No.

40 MR PIKE: No.

MR WOODWARD: In those circumstances, I have no further questions.

THE CORONER: Mr Archer?

45

MR ARCHER: Nothing.

47

THE CORONER: Mr Lakatos?

MR LAKATOS: Nothing.

5 THE CORONER: Mr Pike?

MR PIKE: Nothing, your Worship.

THE CORONER: Mr Erskine?

10

**<CROSS-EXAMINATION BY MR ERSKINE**

MR ERSKINE: Q. Very briefly, Mr Gould. You clearly have a wet and dry bulb thermometer with you. Did you have a wind measuring device with you as well?

15

A. No, we didn't.

Q. So your estimate of winds is therefore based on what you could see rather than any instrumentation?

20

A. It was a visual estimate, yes. Visual estimate light and variable.

Q. One other matter, Mr Gould, on your way back from having observed these fires did you or, to your knowledge, anybody else in your group pass that information on to Queanbeyan?

25

A. No idea.

Q. To the services there as to what you had observed?

30

A. No we didn't that evening. It was midnight when we arrived home.

35 MR ERSKINE: Thank you.

THE CORONER: Mr Whybrow?

MR WHYBROW: Nothing, your Worship.

40

THE CORONER: Mr Walker?

MR PHILIP WALKER: No Thank you, your Worship.

45 THE CORONER: Mr Watts?

MR WATTS: No, thank you, your Worship.

THE CORONER: Any re-examination?

MR WOODWARD: No re-examination.

5 THE CORONER: Thank you Mr Gould. You are  
excused. You are free to leave.

**<THE WITNESS WITHDREW.**

10 MR LASRY: Just before we adjourn at 2 o'clock  
Mr Thompson will be here I think by arrangement  
and Mr Bartlett's evidence is yet to be completed.  
I don't have a preference as to which we do first,  
I must say. Maybe some of the parties do or  
15 your Worship may have a view.

MR JOHNSON: Would it be possible to take  
Mr Thompson first? He is coming by arrangement.  
I think he will be quite short from what I  
20 understand. Mr Bartlett might be a little longer.

THE CORONER: Yes, that is fine.

MR ERSKINE: May I inquire through you to counsel  
25 assisting as to when, if at all, we are likely to  
reach Mr Smith this afternoon? I understand from  
talking with my colleagues in the second row that  
the examination of Mr Bartlett may still take some  
time. I am getting estimates in excess of an hour  
30 still to go. If we are going to have Mr Thompson  
as well, it sounds like we are not going to have  
Mr Smith. In which case we do run into the  
problem that was flagged with your Worship  
yesterday afternoon in that both Mr Watts, as I  
35 understand it, and I have difficulties tomorrow.

MR WATTS: I have solved my problem.

MR ERSKINE: I haven't yet been able to solve  
40 mine.

MR WATTS: He is on his own.

MR ERSKINE: Just from the point of view of  
45 knowing where we are going, may we have some  
indication of when Mr Smith might be called,  
assuming he is not this afternoon.

MR LASRY: Your Worship, the plan would be that I would have thought we would have reached Mr Smith's evidence this afternoon. If we reach it I don't think it will take terribly long. I understand my learned friend has an interest in it. There is a video to be played and perhaps fast forwarded through part of it. I would be surprised if we didn't get to him by later in the afternoon. If we did get to him we could probably complete his evidence today.

Otherwise the next witness after that is Mr Prince, who may start today or his evidence will be completed tomorrow. If the worst happened, it may be that your Worship might need to sit for a short period next week simply to take Mr Smith's evidence. I would be happy to sit on until we finish Mr Smith, if that suits everybody else.

THE CORONER: If that is suitable to counsel.

MR ERSKINE: Yes, your Worship. I should indicate that I, with respect, agree with my learned friend's assessment of how long Mr Smith will take. I think he will be quite short.

THE CORONER: That is the plan then. We will take the luncheon adjournment.

**LUNCHEON ADJOURNMENT [1.03pm]**

**RESUMED [2.00pm]**

MR WHITELAW: Before your Worship resumes the afternoon evidence, might I seek on behalf of my client a marking as to when he might be called. I understand through my learned friends that the volume of evidence yet to come this afternoon probably will fill up the afternoon. If it is convenient with your Worship, might he be stood down until tomorrow morning?

THE CORONER: You and Mr Prince are available tomorrow morning?

MR WHITELAW: Yes.

THE CORONER: That is probably right. So you are excused until tomorrow, Mr Whitelaw.

5 MR WHITELAW: At what time would your Worship resume?

THE CORONER: 10 o'clock.

10 MR LASRY: Would you call Alan Thompson, please.

**<ALAN GEOFFREY THOMPSON, AFFIRMED**

**<EXAMINATION-IN-CHIEF BY MR LASRY**

15 MR LASRY: Q. Mr Thompson, is your full name Allan Geoffrey Thompson?

A. That's correct.

Q. You are the chief executive of the Australian Capital Territory Department of Urban Services?

20 A. That is correct.

Q. Is your office level 5 Macarthur House, 12 Wattle Street, Lyneham?

25 A. That's correct.

Q. Were you also the occupant of that position in January of 2003?

A. Yes.

30 Q. Mr Thompson, have you made a statement on 2 June, yesterday, to Detective Sergeant Barnicoat which you have signed?

A. Yes.

35 Q. Have you signed it because it is your view that the information in that statement is true and correct?

A. That is correct.

40 MR LASRY: I think I tendered that yesterday as exhibit 68.

THE CORONER: Yes, it is.

45 MR LASRY: Q. Mr Thompson, I will just take you briefly through some of the aspects of that statement. Do you have a copy of that statement

with you? If you need to refer to it, please do so. In particular, in paragraph 4 your statement deals with you becoming aware that Mr Tony  
5 Bartlett had sought to speak to you about the bushfires on the 10th of January. You in that paragraph identify who he was. In the following paragraph you describe the conversation that you and he had. You say in particular:

10 "Tony Bartlett opened the meeting and to me he seemed very concerned. I can't recall his exact words. He indicated he was very  
worried about the lack of resources and lack  
15 of experienced supervision in the field at the McIntyre's Hut fire."

Just pausing there for a moment: At that stage did you understand the layout, if you like, of the fires that were burning as at 10 January?

20 A. I had a reasonable understanding that we had three fires within the ACT and the Brindabellas and then one off in New South Wales but rather more north-westerly of Canberra and therefore of  
25 significant worry to both Canberra as an urban area and of our assets which were predominantly pine forest.

Q. You say then:

30 "Tony stated he had concerns for Uriarra pines (which were just across the border) because when the weather turned the fire would progress towards the ACT. I don't recall the words 'Canberra suburbs' being  
35 specifically mentioned. Tony said the concerns were based on his own observations and those of Neil Cooper."

40 You go on to describe your awareness of who Neil Cooper is. Your position is that you recall the conversation with Mr Bartlett and you recall the topic that was discussed between the two of you?  
A. Mmm.

45 Q. But unsurprisingly you don't recall exact words used; is that right?

A. That is correct, yes.

Q. Mr Bartlett in his statement  
[ESB.AFP.0001.1140] at page 12 and in paragraph 43  
also refers to the meeting. Has anyone brought  
that portion of Mr Bartlett's statement to your  
5 attention?

A. 15 minutes ago I had a very brief scan of his  
words.

Q. Well, he says in relation to the meeting with  
10 you the following:

"At the meeting with Alan Thompson I outlined  
my concern over the potential of the  
McIntyre's Hut fire to impact on our pine  
15 plantations and fact that New South Wales  
didn't seem to be doing enough to suppress  
the fire."

I take it on what is in your statement so far, you  
20 would agree with that?

A. Absolutely, yes.

Q. He then describes his view at the time and  
25 says:

"My view at that time was that we were going  
to suffer the consequences unless there was a  
significant escalation of the fire  
30 suppression effort."

He is there describing his opinion. Continuing  
his description of what he said to you, he says:

"I expressed my frustration that despite the  
35 New South Wales agencies having agreed to  
implement an indirect suppression strategy on  
the Wednesday night it now appeared that no  
back-burning would be done until at least  
Saturday despite the existence of very  
40 favourable weather conditions."

Do you recall those words or words to that effect  
being said to you?

A. Words to that effect, yes.  
45

Q. He says:  
47

"I recall showing Alan Thompson my report from the 1988 Byadbo fires and indicating to him on the basis of that experience I believe that both our Uriarra/Pierces Creek plantations and the western suburbs of Canberra would come under threat when the next day of strong north-westerly winds occurred."

10 What do you say about that account of what he said to you? Do you agree that he said that?

A. I have a very, very clear recollection about the major risk to the pines and I certainly recall Tony showing me showing me his report on those Byadbo fires. My recollection about the effect on Canberra suburbs is much less clear but, if it was mentioned, it was along the lines of "if we don't get these fires out, this could be the inevitable further down the track consequence".

20 Q. As I read to you he has described it in terms of showing you first of all his report from those 1988 fires. The important words in his statement are that he indicated to you that, on the basis of that experience, his belief was that "both the Uriarra/Pierces Creek plantations and the western suburbs of Canberra would come under threat when the next day of strong north-westerly winds occurred." Do you recall him making reference, among other things, to the prospect of bad fire weather; that is, that the weather would change and there would be north-westerly winds occurring and obviously unfavourable fire weather at some stage in the near future?

30 A. What I recall is very common ground that we had favourable weather, you know, for a few days and then inevitably in Canberra over summer the winds swung to the north-west.

40 Q. You do recall a reference to the Pierces Creek/Uriarra plantations?

A. Very clearly.

45 Q. And also he suggested you to there would be a threat to the western suburbs of Canberra. Is it the position that you recall that wasn't said or is it the position that it may have been said but

you can't specifically recall it?

A. It may have been said.

5 Q. Certainly on your recollection of this conversation, Mr Bartlett was particularly concerned, wasn't he?

A. Extremely concerned.

10 Q. Quite animated in the way he presented his case to you?

A. Unambiguously so, yes.

15 Q. The next part of the statement perhaps underlines his concern when he next said to you, according to him:

20 "I expressed the view that we should consider asking the Chief Minister to contact the NSW Premier to express concern about the potential for the McIntyre fire to impact on ACT assets if more was not done to suppress it."

25 You would agree that something to that effect was said; don't you?

A. Yes.

30 Q. I think you summarise that to some extent in the last sentence of paragraph 5 of your statement?

A. That's right, yes.

35 Q. Perhaps for completeness I will put the rest of it to you from Mr Bartlett's statement. He goes on to say:

"I also expressed my concern to Alan Thompson about not being deployed" --

40 Pausing there, I think Mr Bartlett is there referring to his concern about his own non-deployment to that point; is that the way you recall the conversation being put to you?

45 A. My recollection of that part of the discussion was about Tony personally and also about his perceptions of underutilisation of the Forests brigade.

Q. I am sure he wouldn't have put it to you this way but the effect of it is, "I am an experienced and expert person in relation to fire suppression. I am not being sufficiently utilised." Is that  
5 the message you took from what he was putting to you?

A. Yes.

Q. That sentence goes on to say:  
10

"... and the lack of progress with controlling the fires in the ACT, particularly the two southern fires being Mt Gingera and Stockyard Spur."  
15

Do you recall that being referred to?

A. I recall his concern about the ACT fires. Now whether it was the Gingera and Stockyard Spur, I simply can't recall now.  
20

Q. The direct consequence of the conversation for you was that you rang Mr Castle?

A. Well, we had a very brief discussion just across the table when I pointed out to Tony that  
25 the idea of the Chief Minister contacting Bob Carr was difficult because the Chief Minister was, to my knowledge, not in town.

Q. Still on holidays?

A. Still on holidays. I said, "Let's move to plan B very quickly. Let's ring Mike Castle." I think my recollection is that I said, "We'll ring Mike Castle and get him to contact Phil Koperberg straight away". I moved to my desk. I have a  
35 speaker phone. I dialled Mike's number and my recollection is that it was, if you like, primarily a two-way discussion between myself and Mike with Tony sitting across the other side of the desk.  
40

Q. Did you indicate to Mr Castle that Mr Bartlett was present and could hear the conversation?

A. That's my recollection.

Q. Now your account of what you said to him, that is to Mr Castle, is in paragraph 7 of your statement. You say:  
45

5 "To the best of my recollection I told  
Mr Castle that we were deeply concerned about  
the New South Wales fire, particularly the  
lack of resources and lack of field  
leadership."

I am not saying this isn't good enough,  
Mr Thompson but, as best as you can recall the  
conversation, is that the best you can do as to  
10 what you said to Mr Castle in that opening part of  
the conversation?

A. Yes. Because I mean the second part of what  
I was going to say to Mike was about contacting  
Phil Koperberg, and at about that point in the  
15 discussion Mike volunteered that he was heading  
across to Queanbeyan to meet at the RFS office.

So if you like, the totality of what I had planned  
to say I didn't have to get into, because he was  
20 volunteering a different course of action.

Q. You go on in that paragraph to say:

25 "I also recall that there was conversation  
about there being a window of opportunity to  
conduct back-burning and we were concerned  
that New South Wales was being too slow. I  
can't recall whether it was myself or Tony  
Bartlett who brought up the back-burning  
30 issue. During the conversation with Mr Mike  
Castle I can remember emphasising a deep and  
urgent concern regarding the pines."

Did you, in that expression of concern, refer  
35 specifically to Uriarra and Pierces Creek, as  
Mr Bartlett had done in his discussion with you?

A. Yes.

Q. And you go on to say:  
40

"I don't recall mentioning the urban edge,  
however that is not to say that it wasn't  
mentioned."

45 A. Yes.

Q. So again it is a lack of recollection,

Mr Thompson; is that right?

A. Yes.

5 Q. Was it your intention in making the phone call to Mr Castle to effectively mirror in your discussion with him what you had been told by Mr Bartlett; was that the point of the call?

10 A. My primary intention in making the call was - between that and a follow-through with Mr Brian Gilligan at the Parks service - to make sure that the level of resourcing on the McIntyre's Hut fire by New South Wales agencies was enough to get that fire out in New South Wales before it came into the ACT.

15

Q. You complete that paragraph by saying:

20 "Far more important in my mind was to ensure additional resources were utilised to combat the fire, and thus preventing it coming into the ACT."

Which is precisely what you just said?

25 A. That's right, yes.

25

Q. The outcome of the conversation is referred to by you in paragraph 8. Mr Castle says he was going to be attending a meeting at the Rural Fire Service in Queanbeyan later that afternoon and he suggested that Tony come along to that meeting.

30

A. That's right.

Q. So in part that was a solution that was being offered by Mr Castle?

35

A. Yes.

Q. In fact, attached to your statement is some handwritten notes of yours, I think, Mr Thompson. Do you have those?

40

A. No, I don't have a copy with me.

MR JOHNSON: The actual book is here with the notes. I have the book. Perhaps I can explain: There is a black-out area. This was copied yesterday with the police, as I understand it. A portion has been covered with a post-it note because it is not relevant to this and in fact

45

relates to something entirely different. But there is no objection to counsel looking under the post-it note, if they wish to. The book is here.

5 I can indicate also that the electronic diary, which is referred to in paragraph 4 of Mr Thompson's statement, where he says at the bottom of the page:

10 "I have an electronic diary. I will check to see whether the time is noted."

That is here, if that is of assistance. There isn't any problem with this being observed by anyone who wishes to look at it. So the book and the electronic diary are here. I will hand them to Mr Lasry.

20 THE CORONER: Thank you, Mr Johnson.

MR LASRY: I have no intention in looking under the post-it notes, your Worship. I am much more anxious that the witness have access to his original notes so I can ask him about the notes that are relevant.

Q. The page that we've got, obviously Mr Thompson, is a page from your day book as you have described. Minus the area that has been covered, we are clearly dealing with Friday, the 10th of January?

A. That's right.

Q. The relevant note for the purposes of this conversation is numbered - do you number your conversations or your notes during each day, do you; is that what the number means?

A. Yes, that's right. If you went under that post-it note you will see there is 1, 2, 3 and 4 there.

Q. The note actually reads "Tony B" for Tony Bartlett, "bushfires" which is the topic of discussion, "major concern re New South Wales fire"; is that right?

A. That's right.

47

Q. Then "need to strengthen New South Wales response"?

A. Yes.

5 Q. Pausing there. Were those first two notes made as you were speaking with Mr Bartlett or was this done afterwards as a summary of what happened?

A. I think if you jump down to 6 you see "Tim  
10 K/Rob T". Predominantly my day book is lists of jobs to do, if you like. Having had this discussion with Tony and with Mike Castle and also asked Dr Maxine Cooper to contact Brian Gilligan, I then decided it was important that I contact the  
15 head of the justice department or Rob Tonkin and make sure that we had the ministerial briefing on all of these issues.

The best of my recollection is that, having  
20 decided that, I jotted down a few notes about what had happened with Tony just so when I was then talking to Tim Keady or Rob Tonkin, I would have a few key points. So I believe, looking at the diary, I probably made those notes some time after  
25 2 o'clock. The meeting was at 1.30 and so some time after 2.

Q. The key points were as you have noted them there: The major concern in relation to the New  
30 South Wales fire; the need to strengthen New South Wales response; and the solution at least or the partial solution that had been provided to you in the conversation with Mr Castle, which was that Tony Bartlett and Mike Castle would visit RFS in  
35 Queanbeyan where the matter would be further discussed and hopefully resolved; does that summarise what these notes indicate?

A. Yes, yes. With that little asterisk down the  
40 bottom as well about the worry about Uriarra pines.

Q. I see, yes. So that is a footnote from the first point?

A. That's right, yes.

45

Q. So "major concern re New South Wales fires re impact on Uriarra pines"?

A. That's right.

Q. Was it your view that any significant impact on the Uriarra/Pierces Creek plantation from the  
5 New South Wales fire did have the consequence - at this stage not determined but some consequence - for Canberra itself?

A. I was extremely aware that once any fire had, if you like, come from New South Wales and was of  
10 sufficient magnitude to affect, say, the Uriarra Forest, then it would have a very wide fire front. Through my career I have been involved to some extent in bushfire issues and I was aware at that stage that it could be a very, very serious fire  
15 for the ACT and possibly for the urban edge of Canberra, like the 2001 fire was.

Q. And obviously your discussion with Mr Bartlett underlined that possibility?

20 A. Definitely.

Q. Now, at point 6, as you have already mentioned, that summarises Tim Keady and Rob  
25 Tonkin - Tim K and Rob T are the references to those two gentlemen?

A. That's right.

Q. And underneath that "need for the ministerial briefing?" What was the procedure now you have  
30 this information from Mr Bartlett and his concerns and some at least partial solution by Mr Bartlett and Mr Castle going to the Rural Fire Service at Queanbeyan, what was the point of note number 6 and the need for a ministerial briefing?

A. Well, I had obviously set myself a little task  
35 of talking to either Tim or Rob about the fact that we had some very serious fires. We were very worried about the New South Wales issues as well as the ACT issues. And I assume that on the  
40 Friday I would have rung through to one or other of those.

Now I can go on to say - this is the bit that is  
45 much clearer in my memory - that then over the weekend there were two or three phone calls between myself and Tim. Out of that came the notion that on the Monday there should a briefing

of the whole cabinet. What I cannot recall precisely is whether I was successful in getting through to Tim or Rob on the Friday.

5 Q. What we know from the evidence here is that I think from the Chief Minister's evidence that there was a discussion between he and I forget who - but an adviser or his chief of staff - I think on Sunday, the 12th with a view to him being  
10 briefed on Monday, the 13th. As you would be aware, the cabinet briefing took place the following Thursday, the 16th?

A. No. No, there was a cabinet briefing on the Monday and a follow-up one on the Thursday.  
15 Monday, whatever date it is --

Q. Monday, the 13th?

A. Yes, I think all the cabinet ministers were there down at ESB, including a number of the  
20 department heads as well, and thereafter the Chief Minister went off to inspect the fires in a helicopter with Peter Lucas-Smith.

Q. I may have missed the vital fact but you think  
25 the whole cabinet was at ESB on Monday, the 13th?

A. That's my recollection.

MR LASRY: I will be corrected but I think that is the first we have heard of that. I should say to  
30 you, Mr Thompson - I invite anyone who wants to to correct this - that certainly the impression from the evidence so far is that Mr Stanhope was contacted, as I said, on the Sunday and arranged for him to be briefed on the Monday and indeed he  
35 was. The helicopter trip and all the consequences that flowed from that then occurred.

But I think the evidence before her Worship indicates that the first cabinet briefing was on  
40 Thursday, the 16th. Is it your belief that there was an earlier cabinet briefing?

A. Well, my clear recollection is that the cabinet ministers were there on the Monday - interesting question as to whether all five of  
45 them were there; I cannot recall that. But a number of them were along with a number of the department heads; and Mike Castle and Peter gave

quite a comprehensive run-down about what was happening with our fires and also some indication of what was happening in New South Wales. Now whether it was called a cabinet meeting with all the formality that goes with that, I cannot recall.

Q. Is it the case the trigger for that meeting, whatever it was, with most of the cabinet present at ESB on Monday, the 13th was at least in part the expressions of concern that you had received back on the previous Friday from Mr Bartlett?

A. It would have been one of the triggers. I mean, what I can recall in talking to Tim was - I was ringing him saying "Tim, this is very serious". I think he responded to me very quickly and said, "Yes, it is". He had begun to think that the Ministers needed a very early comprehensive briefing. Now, to the extent that my concerns, whether that was 50 per cent of the reason or 10 per cent of the reason, I can't say.

Q. Now to go back to the Friday, once you finished speaking with Mr Castle - let me stop there. You finished speaking with Mr Castle and you and Mr Bartlett then went to the office of Dr Maxine Cooper?

A. Yes.

Q. Who, as you say, is the executive director of Environment ACT. You and Mr Bartlett then outline the situation again?

A. Mmm.

Q. The same situation, I take it, Mr Thompson, which had been outlined to you initially and which you had then outlined to Mr Castle was then outlined to Dr Cooper; is that right?

A. That's my recollection, yes.

Q. You requested that she speak with Brian Gilligan in relation to the question of further resources and you were later informed that she had done so; is that right?

A. Yes, and the reason for asking Maxine to do it was simply that she had a regular working relationship with Brian. Brian was somebody I

knew but I didn't know well; whereas Maxine had a regular relationship with him. And we knew that he was out and about dealing with this myriad of fires in the New South Wales Parks estate. It was  
5 easier for her to pursue him wherever he was and make sure, to the extent we could, to get some focus on this fire just across our border.

MR LASRY: Thank you, Mr Thompson. I have no  
10 further questions.

THE CORONER: Thank you. Yes, Mr Pike?

MR PIKE: No questions.  
15

THE CORONER: Mr Erskine?

MR ERSKINE: No questions.

20 THE CORONER: Mr Whybrow, do you have any questions of Mr Thompson?

MR WHYBROW: Yes, your Worship.

25 **<CROSS-EXAMINATION BY MR WHYBROW**  
25

MR WHYBROW: Q. I represent Mr Castle. When was the first time that you were asked to recall this conversation or this meeting with Mr Bartlett?

A. Sorry?  
30

Q. When was the first time that you were asked to try to recall this meeting with Mr Bartlett that took place on 10 January 2003?

A. Well, I think it was on an evening this week.  
35 You people here will recall which day it was better than I can. I was driving up Northbourne Avenue and I heard the news, whichever day that was. Was it Tuesday?

40 Q. Very recently --

A. Very recently, yes, when it became an issue in this room.

Q. What did you hear on the news, sir?

45 A. What I heard was that Tony had suggested to me that - the way the news grab was that Tony and I should contact the Premier of New South Wales. It

caused me to do a very quick think about what on earth had gone on, and I was able to piece some bits of it together. But when I read the 'Canberra Times' the next day I had a clearer understanding of just what had been led here and it was about us encouraging our Chief Minister to make contact.

Q. So is it fair to say apart from - I presume that in putting together your thoughts for the statement that you gave, you had access to your diary and your electronic diary?

A. Well I --

Q. To the extent that they helped you.

A. I didn't print out my electronic one until an hour ago. But I did have - I did grab my day book from the time, yes.

Q. One of the things that helped jog your memory was the news reports of the evidence that Mr Bartlett had given about this issue?

A. Up until then it had been just one of a thousand issues to deal with the bushfire or bushfire recovery.

Q. Indeed, you were at Emergency Services on 18 January?

A. I was, yes.

Q. You were, as I understand it, if not a participant in but present at the various discussions that were taking place involving the Chief Minister, Mr Lucas-Smith, Mr Castle and the Chief Police Officer about whether or not a state of emergency needed to be declared?

A. I was in various meetings through that day and, yes, the one where the Chief Police Officer was putting the case for the state of emergency, I was in the room for that.

Q. What's your level of recollection of those meetings on that day?

A. Well, extremely - there are bits that are crystal clear and other bits that are less than clear. It was a very emotional time for a lot of people.

Q. Can I suggest to you that, in relation to the discussions that took place about whether or not a state of emergency should be declared in the early part of that afternoon, a difference of opinion  
5 between the various sides of the argument revolved around questions of whether or not there should be evacuations; is that something you recall?

A. Yes, I recall there being an extensive discussion about that subject.  
10

Q. Would it be fair to say that the issue of whether to declare a state of emergency at that time, those for and against - the issue that separated them was the question of evacuation or  
15 not evacuation?

A. I think there were two issues. One was undoubtedly to evacuate or not; the other was the vexed issue about if a state of emergency was declared, then you would have a Territory  
20 Controller and was that person then obliged to conduct all of the operations, including the fire combat or not. You had these two issues that the gathering was trying to work through. That did take some time.  
25

Q. That issue related to if the Chief Minister was to declare a state of emergency, his preference was that Mr Lucas-Smith retain control of the firefight?  
30

A. Yes, yes. The Chief Minister was very clear about that.

Q. I take you back to the 10th of January then. This particular meeting was then one of the many -  
35 I can't remember the number you used - conversations you had, meetings you have had not only about these bushfires but other relevant matters in your portfolio at the time?

A. That's right.  
40

Q. Can you recall, and if you can't, I don't criticise you, how it was that the meeting with Mr Bartlett came about?

A. Well, as I say in my statement, I think - my  
45 recollection is that my personal assistant took a message from Tony about wanting to meet with me at some urgency - during the morning I had other

meetings including one with the Minister for Planning - and was I available. I made myself available very quickly. So it was via a phone call to my personal assistant.

5

Q. At that time there was a live issue, I suggest to you, as to the ongoing viability of forest industries in the ACT?

A. As of, I suppose, January 2003, no I would not have said there was an issue. There had been some two to three years before. We had a situation where the then cost structure of ACT Forests was very high and the then government had concluded that either there had to be a major reform of how ACT Forests' business ran, including a major reduction of its costs, or the then government - that was the Carnell/Humphreys government - had views about privatising or shutting down the business.

20

Then in the early part of 2001 a major restructure was initiated. The workforce came down from some 45 down to the mid-20s and our assessment was that, if we could keep the workforce at that level and have good markets for the timber, then we had a very viable business. In fact we were having significant success in marketing our pulp wood as well as our saw logs in that 2002 period. So I would say as of early 2003 we actually had a reasonably positive outlook for our ACT Forests business.

25

30

Q. Assuming the pine plantations were not burnt?

A. Assuming they were not burnt.

35

Q. Were you in the position you held in 2003 in the early part of 2001?

A. Yes, I have been in this position since April 1999.

40

Q. Can I suggest to you that, on 20 March 2001 at a Fire Controllers Group meeting, Mr Bartlett outlined parts of this restructure to various members of the Rural Fire Service and included a number of points. I want to ask you to comment whether that is consistent with your recollection about the state of ACT Forests at that time.

45

Firstly, over the proceeding 10 years ACT Forests had not made a profit and that, as a result, a consultant had been employed to look into the governance of ACT Forests.

5 A. Yes.

Q. There had been a push towards commercial operations, which I think you generally outlined?

A. Yes.

10

Q. There was a need to try and increase revenue with, if you like, a desire to be financially viable in the 2002/3 financial year?

15 A. Yes, yes. I have got to say, obviously I was not at this meeting of the fire controllers, but that is an accurate assessment of the situation of forests, yes.

20 Q. Although the outlook was positive for the ACT Forests with restructuring, there was significant downsizing in relation to the workforce and various management positions around that time?

A. That's right.

25 Q. No doubt the aim to be financially viable in the financial year 2002/3 that was hoped for in March 2001 suffered a significant setback as a result of the loss of asset in the December 2001 fires?

30 A. There was some effect on the viability of the business at that time, yes.

35 Q. Consistent with what both Mr Bartlett and yourself have said, Mr Bartlett on the 10th of January approached you extremely concerned about the possibility of the McIntyre's Hut fire burning into the Uriarra/Pierces Creek pine plantation?

A. That's right.

40 Q. Such an eventuality would have, indeed has had, significant consequences to the viability of these operations, and of the asset in particular?

A. Obviously it has had a huge impact.

45 Q. What Mr Bartlett was emphasising to you on that day, I take it, was the need for this asset to be properly resourced and protected in terms of

fighting the fires that existed at the time?

A. Well, my interpretation of Tony's motivation there was definitely to protect that asset - firstly because it was the one which was right in the path of the fire. But - a really important but - he clearly had very grave concerns about what would happen if this fire grew too much. He brought in this paper about the Byadbo fire. He was very concerned that, once the fire grew to that magnitude, it would be incredibly difficult to control and might go a lot further.

Now, in my response to counsel assisting, I did say I can't recall the mention of the Canberra urban fringe, but I do definitely recall Tony's concern about the fire not only going through that pine plantation but going beyond with very bad consequences.

Q. At this stage the fires were 48 hours old and the fire in particular that he was concerned about was McIntyre's Hut; was it?

A. Yes.

Q. In particular his opinion that New South Wales was not doing enough to fight that fire?

A. That was his prime reason for coming to see me. At some stage during his discussion with me, I recall him making the point that, of all the fires, this was the one that was north-west of Canberra's urban area.

Q. Do you have an independent recollection now of what you heard on the news and read in the paper which was a statement by Mr Bartlett that the Chief Minister should write to the Premier of New South Wales?

A. Well, as I say, I almost drove off the road - the news grab was that he and I should write to the premier. But you could check with my staff. I got back to the office and said - I had to think about it as I drove up Northbourne. But, yes, I can definitely confirm to you that Tony was deeply concerned and he definitely did have the view that the Chief Minister should be contacting Bob Carr very quickly. And out of that came, if you like, the second plan - given the chief wasn't in town -

of going through Mike Castle.

Q. Was it considered that maybe if the Chief Minister wasn't around, the next person would be the Minister for Emergency Services; Mr Wood?

5 A. That was always possible. But I think the point was that the chief wasn't here and I was wanting to move very quickly on this and get some corrective action.

10 Q. How long had the meeting gone --

A. Sorry, there is one other important factor. The Minister for Police and Emergency Services at the time was Minister Bill Wood. Minister Wood had only been in the job for a very brief period, in that role. They had had a reshuffle of the cabinet responsibilities I think in November. So he was still, if you like, learning about his new responsibilities and in my view he would not then have had, if you like, a network into the New South Wales government.

Q. How long did the meeting go before the call was placed to Mr Castle?

25 A. I'd have to guess. About 15 minutes.

Q. Can you recall what time it started?

A. Well, according to the diary it started at 1.30.

30 Q. That's what the diary says. Have you got an independent recollection as to when it did actually start?

A. No. It was on the Friday afternoon. I recall that very clearly. I can piece other bits in my day but whether it was 1.30 or 2, I don't know.

Q. You indicated or it was suggested to you by counsel assisting that Mr Bartlett expressed his concern about not being personally deployed to date. Do you recall that concern being expressed to you?

A. I recall him saying that, yes, but it was not nearly as emphatic as his concern about the McIntyre's Hut fire.

Q. Did he indicate to you that he had in fact

earlier that day gone to ESB and told them that he was booked into accommodation in Goulburn that night in relation to whether he should be deployed at the time?

5 A. I don't recall that at all.

Q. Do you have an independent recollection of how mechanically you came to be speaking to Mr Castle or has your evidence been on the basis of "I  
10 assume I rang him up and he answered the phone"?

A. No. I can recall sitting at my desk - it was a sunny afternoon - and talking into the speaker phone. Now whether I rang Mike at his office or on the mobile, that I cannot recall.

15

Q. Can I suggest to you that you rang on his office number?

A. It may well have been.

20 Q. And you spoke to his personal assistant Elizabeth Bray?

A. It is quite possible.

Q. And that she indicated to you, I suggest, that  
25 Mr Castle was on his way over to have a meeting with - coincidentally enough - Mr Wood but she would try to contact him?

A. Mmm.

30 Q. Can you recall that being said, or words to that effect, or may have but you don't remember?

A. It could have been like that, yes.

Q. Can I suggest that you were then patched  
35 through by Ms Bray to Mr Castle on his mobile phone?

A. That's quite possible.

Q. You did not at that stage indicate to  
40 Mr Castle that you were on the speaker phone, I suggest?

A. It may be, yes. If we had gone via an assistant, yes.

45 Q. I suggest to you he indicated to you that he was at that stage running late for a meeting and didn't have a lot of time to talk at that time.

A. It's possible.

Q. And that, as you have indicated, you expressed to him your and Tony Bartlett's concerns about the level of resourcing being put into the McIntyre's Hut fire?

A. Yes.

Q. You have given that evidence. Do you recall whether or not Mr Castle told you that he was going to see the relevant minister at that time?

A. I don't recall that at all.

Q. Would you agree that you first of all stressed the importance of the Uriarra pines as a valuable asset to Mr Castle?

A. Yes, I remember that.

Q. And indeed compared it with being just as important as the National Parks assets and the catchment were?

A. That's quite possible, yes.

Q. Do you remember whether or not you referred to the loss of pines in 2001 in this conversation?

A. I cannot recall that. I may have.

Q. I suggest in this conversation, which was much, much shorter than the preceding one with Mr Bartlett, that Byadbo was not mentioned?

A. I don't recall it being mentioned at all, no. I would agree it was not mentioned.

Q. In relation to the McIntyre's Hut, what was discussed was its proximity to the border and as a consequence the ACT pines in that area?

A. That's right. If I can just offer, I mean, it was a brief discussion with Mike. He was extremely cooperative and very prompt in offering this view that he was heading off to Queanbeyan later that day and making the offer for Tony to accompany him. I will just continue here. It may well have been because he was pressed for time, but he was very prompt in offering for Tony to accompany him to the Queanbeyan meeting.

Q. Can I suggest what he indicated was he would

pass his concerns on to Mr Lucas-Smith, who was the Chief Fire Control Officer in the territory?

A. He may well have said that.

5 Q. Can I suggest to you that he did not indicate, whilst there may have been discussion of a meeting, that he was going to Queanbeyan that evening?

10 A. That's where I would have to differ because I have got a recollection that he did offer that he was going to Queanbeyan.

15 Q. This issue has arisen previously in this inquiry. I suggest to you both Mr Lucas-Smith and Mr Castle - and I will take you to the evidence - both have given evidence to the effect that Mr Castle's decision to go to this meeting at Queanbeyan was only something that occurred very late in the afternoon and that it was at the request of Mr Lucas-Smith?

20 A. I can't --

25 Q. I put that by way of background. I will refer you now to the actual evidence of both gentlemen and then ask you whether you are sure about your recollection on this point. Mr Lucas-Smith at page 927 was asked by Mr Lasry:

30 "Q. At about 6pm there was a meeting at Queanbeyan attended I think by Mr Castle and Mr Bartlett which is described as being for the purpose for discussing ACT concerns in relation to the McIntyre's Hut fire."

35 That is what your understanding, I take it, of the meeting was?

A. Yes.

40 Q. The question continues:

"As I follow it, Mr Graham didn't attend the meeting and neither did you?

"A. That's correct.

45 "Q. You are aware of the meeting?

"A. Yes. It was my intention to go. At the last minute, because of other pressures, I in

fact asked Mr Castle to go on my behalf."

That is the evidence that Mr Lucas-Smith has given on the subject. Mr Castle in his statement  
5 similarly indicates that at about 6pm Peter Lucas-Smith asked him to go to the Rural Fire Service Control Centre in Queanbeyan to convey to New South Wales Rural Fire Service that the maximum resources that the ACT can provide for  
10 assistance in relation to a proposed burn-off were 4 tankers and 4 light units, and that he accompanied Mr Tony Bartlett.

Now, in light of those indications that  
15 Mr Castle's involvement in this meeting appears to have been a last-minute decision, are you nonetheless still clear, looking back on this, that Mr Castle indicated at that time - some time around about 2 o'clock in the afternoon - that he  
20 was going to Queanbeyan in the evening?

A. That was my clear impression, yes.

Q. Might it be information that you were advised later on that afternoon that Mr Castle was in fact  
25 going to Queanbeyan with Mr Bartlett, being something that you would have been most concerned in finding out?

A. Well, as I say, my recollection was that Mike was - we were having this discussion and that he  
30 was going to Queanbeyan.

Q. That's what your recollection is to that?

A. Yes, yes.

35 Q. Your diary entries are not chronologically linear in a sense on that afternoon, are they? There is a reference at the up down to the bottom "re impact of the Uriarra pines"?

A. Yes - obviously, the way I interpret that is  
40 the reminder to me about the fact that I was there. This was, if you like, a thought jogger so that when I spoke to either Tim Keady or Rob Tonkin I would be talking to them very much as, if you like, the asset owner of Urban Services rather  
45 than a fire combat authority.

I always try to be very careful about the clear

differentiation between the various roles here. Because on the one hand as a department we provide two major brigade units and we provide a lot of people in various command positions in the ESB structure. But when that is applying of course those people are not accountable to myself, they are accountable through the ESB structure. I was just reminding myself, if you like, that I was there primarily as a concerned owner of some assets.

Q. In your diary, although there is something blanked out at the top of the page - I think you have the original page there?

A. Yes.

Q. There is nothing blanked out between item 6 and need for the ministerial briefs and then the reference to the impact on Uriarra pines?

A. No, there is nothing blanked out there.

Q. There was some space left in a sense between those entries?

A. I just tended to use one page per day, so just spaced this out.

Q. Is it fair to say that it was only shortly after your near mishap on Northbourne Avenue earlier this week that you had cause to go back to look at this page in your diary?

A. Yes.

Q. May it be the case that the entry "Tony and Mike Castle to visit RFS Queanbeyan" was something that was put in later on in the afternoon after that information was --

A. Well, I think in an answer to Mr Lasry I made the point that I would have jotted these points down after the meeting with Tony. I don't normally write during meetings. My guess was that, if the meeting was at 1.30 to 2, then looking at the diary there was a nominal hour clear there. So my speculation was that I jotted these points down somewhere between 2 and 3. It is certainly possible that I jotted these points down later. It is quite possible.

47

MR WHYBROW: Thank you, sir.

THE CORONER: Yes. Mr Walker?

5 MR PHILIP WALKER: I just wonder if I could have a look at the diary, your Worship.

THE CORONER: The diary, yes.

10 MR PHILIP WALKER: I don't know that I wish to ask anything but I would just like to have a look at the original as is.

THE CORONER: Just that page, Mr Walker?

15

MR PHILIP WALKER: Well, no, I was just going to have a quick look.

20 THE CORONER: Is there any objection? Are you looking through the whole diary, Mr Walker?

MR PHILIP WALKER: I think there was --

25 THE CORONER: I just want to know whether you were looking through the whole diary or just a particular page.

MR PHILIP WALKER: I was going to look at a couple of other pages, yes.

30

THE CORONER: Is there any objection to that? Is there anything confidential in that diary?

35 MR JOHNSON: Not for counsel at this stage. But as I understand it the witness was called this afternoon. There is some pressure to keep the matter moving with other witnesses waiting. There are obviously matters in the diary relating to a range of issues going beyond this inquiry but, if  
40 it is to be looked at, let it happen quickly. Perhaps if there are any other questions by anyone, they can proceed - I would ask that to happen, your Worship.

45 MR WATTS: I am happy to ask the very few questions I have.

47

**<CROSS-EXAMINATION BY MR WATTS**

MR WATTS: Mr Thompson, I represent Mr Tony Bartlett.

5 Q. At the time that this occurred in January 2003, you had known Mr Bartlett since he came to ACT Forests?

A. Tony's career path and mine has crossed a number of times. I first --

10

Q. You knew him in Victoria, did you?

A. I first met Tony I would think in 1988 or 1989.

15 Q. You knew him to be a person very experienced in forestry, fuel management and in firefighting?

A. Yes, yes. I guess my first interaction with Tony was when he was living in Orbost. He was a forester in that East Gippsland region. In 1992 I became head of his department, the Department of Conservation and Natural Resources, and I think in 1994 or 1995 we sent a contingent off to help deal with those very major Sydney bushfires. Tony was, if you like, identified from amongst our more expert firefighters to lead that contingent. That task force acquitted itself very well. We had a very high regard for Tony's firefighting capabilities out of that.

30 Q. You yourself, from your experience in Victoria and the ACT, had had significant experience in terms of managing both fuel management issues and fire suppression issues as a person responsible for what was done through your department?

35 A. Yes. Well, I guess primarily in that Victorian role in that department - it is now called Department of Sustainability and Environment; it keeps on changing its name - we had responsibility for both land management and fire combat on Victoria's public lands. Now my role there, of course, as department head wasn't just in relation to fire. It was in relation to a whole lot of other things, forestry and so on.

45 Q. I understand. You had a role in terms of fire management, fire suppression and fuel management?

A. Yes.

Q. When he came to see you on the 10th or 11th -  
10th of January, you understood what he was  
talking about from your own experience?

5 A. Adequately, yes. I would not pretend to be a  
fire expert. I have had experience but I  
certainly understood - in fact, if I can hark back  
to those New South Wales fires in the mid-'90s,  
where one of the major problems was they had not  
10 been able to get enough resource onto the fires  
quickly. So in those fires they had very long  
fire fronts to combat, and that made those fires  
very difficult. I knew that very well so I could  
empathise greatly with his concern about these  
fires being allowed to grow too much.

15

Q. You understood the significance of what he was  
putting to you?

A. Yes.

20 Q. It was an unusual event for him to come and  
see you urgently like he did?

A. Very unusual.

Q. That would be one matter that would help the  
25 events of that day stay in your mind?

A. That's right.

Q. You referred to the Byadbo report that he  
showed you. Was that the first time you had seen  
30 that?

A. Yes.

Q. Would I be correct in putting to you that as  
part of that report he showed you a map - perhaps  
35 I might show you this document which is the  
report. If you could turn to the last page and  
see if that is the map which you recognise having  
been shown by Mr Bartlett on the day.

40 A. Yes, I can recall seeing a map like this. On  
my recollection it was a black and white version,  
but yes.

Q. It may have been. It is not that particular  
document. I am not putting that to you. But that  
45 map?

A. Yes.

47

Q. Do you recollect him pointing out to you that what he was showing you is that that fire had travelled 15 kilometres in one day?

5 A. I can't recall the 15 kilometres. I recall the gist of the message which was that, unless we control these fires quickly, they will spread, be very difficult to control and when the weather turns - becomes adverse - they will travel a long way quickly.

10

Q. I suggest to you that he also showed you a map similar to the one that is behind you - without the yellow tags all over it a map similar to that - spread out on the desk?

15 A. Yes, it may have been on the desk. I have one on the wall just like that.

Q. Trying to point out to you where the McIntyre's Hut fire was?

20 A. Yes, yes, I recall that. Yes, thank you.

Q. And drawing to your attention the fact that it was about the same distance away from Canberra as the distance that that Byadbo fire travelled in one day; do you recall that?

25

A. Well, now that you are raising it with me, yes, I can recall it. I could not have recalled that cold but, yes, I do recall that now.

30 Q. When you rang Mr Castle, you tried to convey to him, did you, the essence of what you had been told by Mr Bartlett?

35 A. What I was seeking to get across to Mr Castle was that we were very, very concerned about this fire in New South Wales, the lack of resources being applied. If this fire got out of control, it would be very serious for the Uriarra pines and possibly carry on towards Canberra. Now what I have said in my statement is that I certainly  
40 don't recall saying, "And burning up to the urban edge," I do not recall that at all.

MR WATTS: Thank you, Mr Thompson. Thank you, your Worship.

45

THE CORONER: Yes, Mr Walker?

47

MR PHILIP WALKER: Your Worship, I must say I just require a few more minutes to have a look at some of this.

5 THE CORONER: We might take a brief adjournment.

MR LASRY: Your Worship, just before we adjourn - it is nothing to do with that but it is 3 o'clock. The estimates in relation to Mr Bartlett, who is  
10 the next witness, certainly Mr Erskine's intelligence, which I am sure is impeccable, is there is another hour in Mr Bartlett's evidence.

In that case, I don't think it is practical to  
15 deal with Mr Smith this afternoon. The options are either to adjourn him until tomorrow, which I think creates a problem for Mr Erskine, or ask your Worship to convene at some time during next week for the purpose of dealing with his evidence  
20 at a time that suits both you and other members of counsel. But on the performance in the last day or two, I wouldn't have thought that there is any real prospect of Mr Smith being reached.

25 THE CORONER: No, I agree, Mr Lasry.

MR LASRY: But I think Mr Erskine is the one with the problem tomorrow. So maybe, subject to his convenience and that of others, your Worship might  
30 need to convene for half a day or perhaps an hour or two next week.

THE CORONER: One day next week, I am content to do that.

35

MR WHYBROW: Your Worship, I am one of the sources of Mr Erskine's intelligence, which perhaps reduces its viability from Mr Lasry's comments. But what I estimate in relation to my  
40 cross-examination - I understand there may be others - it's a realistic possibility that Mr Bartlett won't be finished by 4 o'clock today. Now if he is to come back again in any event, it may be practically more useful for Mr Smith to  
45 give evidence now, if there is a particular problem with Mr Erskine tomorrow. I don't know if there is with Mr Bartlett, but there is a real

possibility that he will not be finished today.

MR ERSKINE: Your Worship, there is another  
wrinkle on that, which is that I understand that  
5 my learned friend Mr Watt might be asking  
Mr Bartlett some questions about Mr Cooper, which  
is why I have asked Mr Cooper to stay lest there  
be something that needs to be responded to. Now,  
as we know Mr Cooper is from interstate, so if  
10 Mr Bartlett is put off to some date in the future,  
I am not quite sure how we handle that. It is  
probably a lesser order problem than some of the  
others your Worship is grappling with now. I just  
throw it into the mix.

15 MR LASRY: Could I in those circumstances suggest  
that it is perhaps not - although I'm sure  
Mr Whybrow makes his suggestion with good will, I  
think it is probably more desirable to do what we  
20 can with Mr Bartlett this afternoon. He has been  
waiting for a long time. If he has to be  
adjourned to another day and on that day we finish  
Mr Bartlett and also deal with Mr Smith then.

25 THE CORONER: Yes, I would prefer to do that and  
just continue with Mr Bartlett this afternoon.

MR WHYBROW: Your Worship, can I just indicate  
that if there is going to be a short break while  
30 Mr Walker looks at Mr Thompson's diary I would  
seek similar leave. I don't expect that I will  
have any questions but I would rather have that  
clarified now whilst Mr Thompson is here in court  
than make application on a later date.

35 THE CORONER: I will give you both five minutes.

MR WHYBROW: Thank you, your Worship.

40 **SHORT ADJOURNMENT** [3.04pm]

**RESUMED** [3.15pm]

THE CORONER: Yes, Mr Walker?  
45

**<CROSS-EXAMINATION BY MR PHILIP WALKER**

MR PHILIP WALKER: Your Worship, I have returned

Mr Thompson's diary. I have a couple of questions.

5 Q. Mr Thompson, the issue that Mr Whybrow raised with you briefly about some discussion about evacuations on the Saturday, the 18th of January, I just wonder if you could give us a little bit more detail as to the respective positions of the people in that discussion?

10 A. Yes, but imperfectly. It was obviously a time when decisions needed to be taken very quickly.

Q. Under some pressure?

15 A. Under some pressure, yes. I mean the essence of it was that I think both Mike Castle and Peter Lucas-Smith raised the concern about last-minute evacuations and the fact that, in some other major fires, people being on the roads right when the fire front was coming through had been the cause  
20 of significant loss of life.

On the other hand, primarily Mr John Murray was running the argument that he had been involved with the Ash Wednesday fires in South Australia  
25 and that it was important to, if you like, evacuate people so they would be safe. If you like, there was a gap between the two because both were trying to achieve human safety. But one had the mindset that you would be safe by being  
30 evacuated; and the others had the mindset that the process of evacuation could put people at risk. That was the essence of the discussion.

35 Q. Do you have any recollection, sir, of the magnitude of the evacuation that was under discussion; or did it not descend to that level of detail?

40 A. Mr Murray's view was that he had police out there at the time who were needing on a selective basis to move people quickly. Here we were all sitting in an office in Curtin, difficult to quite move your head out to say Weston Creek or wherever and understand exactly what was going on. But my impression was that this would be the compulsory  
45 evacuation of some 10, 20, 30 people perhaps. That was the impression that I had. I did not have an impression of hundreds of people being

evacuated.

And, if I could say, at a point in the discussion I recall mention of the little Stromlo Settlement  
5 being an area of police concern. That is that little cluster of houses that was between Cotter Road and Warragamba Avenue, the old forestry settlement there.

10 Q. You have given your best recollection of the magnitude in response to my question, was there a time at which there was a discussion which at least the issue of a larger evacuation like a proportion of say an entire suburb, for example  
15 was raised?

A. I don't recall that.

MR PHILIP WALKER: Thank you, Mr Thompson.

20 THE CORONER: Yes, Mr Archer.

**<CROSS-EXAMINATION BY MR ARCHER**

MR ARCHER: Could I ask that [AFP.AFP.0110.0001] be brought up at 0035.  
25

THE CORONER: What is that document, Mr Archer?

MR ARCHER: Mr Murray's statement, your Worship.

30 Q. Mr Thompson, that is a passage from the statement that Mr Murray prepared for the purposes of these proceedings. I just invite you just to read those first dot points on that page, if you could.

35 A. Are you talking about those four dot points?

Q. Yes. Mr Murray went on in that statement in the passage following to outline what he put to that meeting. Do the four dot points reflect the  
40 tenor of the position that Mr Murray put to the meeting that took place with the Chief Minister?

A. I think it is a reasonably good summary of the points. But it was in the context that I think there was a general understanding that the  
45 general, if you like, fire breaks around the perimeter of the main urban areas would provide a good buffer; whereas, you know, things like the

Stromlo settlement that I mentioned and other nooks and crannies in parts of urban areas would be more at risk than the main urban mass of Weston Creek, say.

5

Q. The threat to the Duffy area was discussed?

A. The fact that the fire was coming towards Duffy was definitely discussed, yes.

10 Q. Were you present at any earlier meetings that day involving Sergeant Kirby where the issue of evacuation was discussed prior to that meeting with the Chief Minister?

15 A. I don't recall - well, I don't know Sergeant Kirby - so I was at a variety - I was in some meetings, primarily in Mike Castle's office. At other times I was not in those meetings; I was out in the communications area and in the planning area sorting out various problems. I don't recall  
20 the issue of evacuations coming onto the agenda in any of the meetings I was in until the time John Murray arrived.

MR ARCHER: Yes, thank you.

25

THE CORONER: Yes, Mr Johnson.

MR JOHNSON: Thank you, your Worship.

30 **<CROSS-EXAMINATION BY MR JOHNSON**

30

MR JOHNSON: Q. I just wanted to ask you some questions about the 13th of January, the Monday. You mentioned that there was a meeting at the ESB. According to the statement of Mr Castle, the  
35 relevant page is [ESB.AFP.0111.0117] at 0135. This is page 19 of Mr Castle's statement, paragraph 85. He indicated:

40 "Early on the 13th I was busy conducting media reports. The usual early morning 'fly over' of the fires was delayed due to a briefing at Curtin. Those present included the Chief Minister, Jon Stanhope, Bill Wood, Minister for Police and Emergency Services,  
45 Tim Keady, Rob Tonkin and Alan Thompson, (senior executives from the ACT Public Service)."

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Is that the meeting, as you understand it at least, to which you have made reference?

A. Yes, yes, yes. That is definitely the one.

5 Q. I think you use the term "cabinet briefing" or "cabinet meeting". This wasn't a meeting at the cabinet premises; it was at the ESB?

A. Oh, no, it was out at Curtin in that ESB conference room. And it wasn't conducted in terms  
10 of a very formal sit around the cabinet table arrangement. It was very much a briefing by Mike and Peter.

Q. Mr Castle had indicated that Mr Stanhope and  
15 Mr Wood were there. Is it your recollection that there may have been some other ministers there?

A. That's my recollection that other ministers were there. But I can definitely recall the Chief being there. I can definitely recall Minister  
20 Wood because I was sitting next to him. For the others, I have a general recollection but I could not be certain.

Q. As you also understand it, this was the  
25 meeting after which there was a helicopter trip involving the Chief Minister and Mr Lucas-Smith which ended up in certain events at Bendora Dam?

A. That's right, yes.

30 MR JOHNSON: Yes, thank you, your Worship. Thank you, Mr Thompson.

THE CORONER: Thank you, Mr Johnson. Yes,  
Mr Lasry, any re-examination?

35

MR LASRY: Thank you, your Worship.

**<RE-EXAMINATION BY MR LASRY**

MR LASRY: Q. Just in relation to the last matter  
40 Mr Johnson raised with you, I likewise don't want to get hung up on terminology. This is the relevant page of your notebook for the 13th of January and it begins by saying:

45 "Mike Castle to cabinet and PLS."

Actually I think probably it should read - I will

get you to look at it in a minute - "Mike Castle and PLS" as in Mr Lucas-Smith "to cabinet and department heads"?

A. Yes.

5

Q. Does it follow that therefore your understanding of the meeting was that it was a meeting of members of cabinet, albeit that it wasn't a formal cabinet meeting as Mr Johnson says at the parliament around the cabinet table?

10

A. It was certainly a gathering of ministers. Oftentimes I will just use the shorthand "cabinet". I suppose it is a collective for ministers, isn't it?

15

Q. But the terminology you used was "cabinet"?

A. Yes.

Q. I will hand you the book and ask you just to describe what was actually said, because I think as far as I am aware it is the first contemporaneous record of that briefing, this is the briefing given by Mr Castle and Mr Lucas-Smith. Based on that note there, do you mind running us through the things that were discussed?

20

25

A. At the very top it reads - this is all notes that I jot down very quickly, the way to read it is "Mike Castle and Peter Lucas-Smith to cabinet and department heads". It is one above the other as you can see. So that is the heading or the top-most line. Then five separate dot points, each about separate fires.

30

35 The first point, number 1, is about Stockyard Spur fire and the comment there with the asterisk is about little resource being applied to it.

40

The second one is about the Bendora fire. By then it was several hundred hectares. My notes here are "much back-burning on the west and north-west"?

45

The third one talks about the Gingera fire and it looks like "heading towards New South Wales".

The fourth is about McIntyre's Hut and the note

immediately adjacent is about there being eight  
choppers and various RFS resources. Then a  
subnote about more back-burning but spot fires.

5 The fifth one is about Mt Morgan. It simply says  
"in New South Wales (south-west of the ACT)".

Then at the bottom of the page a comment about  
strong easterlies through to 10pm, which I assume  
10 must have been the outlook for that day. I am  
just guessing about that.

Then the comment for Tuesday, again I assume this  
is about wind, it talks about Tuesday and simply  
15 says "to the north-east then to the south-east and  
then to the east". I guess that is just the  
jottings I made as the meeting was unfolding, my  
way of recording what was going on.

20 MR LASRY: I perhaps ask that a copy be made of  
that page and I will tender it as an exhibit.

Q. Before that is done, in case your memory is  
assisted by having it in front of you,  
25 Mr Thompson, at that meeting on the Monday with  
the cabinet or the group of ministers and  
department heads, can you recall whether there was  
any discussion about the matters which had been  
raised with you by Mr Bartlett, which you in turn  
30 spoke about with Mr Castle and Dr Cooper on the  
previous Friday; any relation to the McIntyre's  
Hut fire?

A. Yes, in the sense that either Mike or Peter  
observed - contributed that they been having  
35 extensive discussions with the RFS and out of that  
had come a much higher level of resourcing on that  
McIntyre's Hut fire.

Q. Are you able to recall whether the concerns  
40 that you have described Mr Bartlett giving to you  
on the Friday, whether they were the subject of  
discussion at that meeting on the Monday; in other  
words, the potential particularly for the  
McIntyre's Hut fire to burn into Uriarra or  
45 Pierces Creek or, to put it in the language you  
used earlier in your evidence, and beyond?

A. My recollection is that there was quite a

discussion about McIntyre's Hut fire and I think  
it was actually, if you like, the language was in  
the reverse in the sense that it was about the  
fact that there was now a lot of resource going  
5 into fighting this fire and that it was hoped that  
that would minimise the spread of that fire.

MR LASRY: Yes, thank you. I will perhaps ask  
that that be copied.  
10

THE CORONER: Yes. That page for the 13th of  
January 2003 from Mr Thompson's daily diary will  
become exhibit 0070.

15 **EXHIBIT #0070 - MR THOMPSON'S DAILY DIARY PAGE FOR  
13/01/03 TENDERED, ADMITTED WITHOUT OBJECTION**

MR JOHNSON: Could I ask before the book does go  
as to whether there is anything on that page that  
20 may be not dealing with this issue in which case  
there is any sensitivity. I think the indication  
is that Mr Thompson says there is not. Thank you.

THE CORONER: It will be returned to you very  
25 shortly, Mr Thompson. Thank you, Mr Thompson, you  
are excused. You are free to leave.

**<THE WITNESS WITHDREW**

30 MR LASRY: Could we recall Mr Bartlett.

**<ANTHONY GREY BARTLETT, RESWORN**

**<CROSS-EXAMINATION BY MR WHYBROW**

35 MR WHYBROW: Q. Mr Bartlett, just before we  
finished not yesterday but the day before, you  
produced your notes that you had made in early  
February 2003; do you have those with you?  
A. Yes, I do.

40 Q. If you also have your statement. Firstly, in  
relation to your setting out of --

THE WITNESS: Just while there is a pause. You  
45 may also recall that there was some confusion  
about one of the labels that I was asked to pencil  
on. I actually have that issue resolved. I am

not sure when the most appropriate time to deal with it is.

5 MR WHYBROW: In relation to the map, it has been sitting there.

THE CORONER: I was wondering what you were going to do with it, Mr Whybrow.

10 MR WHYBROW: The tags that are placed on it are not robust in terms of staying with the map. The map is a standard 1:25,000 of the Canberra area or of the Australian Capital Territory. My request, that is no more than I could do, in relation to  
15 both persons in this inquest and the general community in understanding the events of certainly from Friday and Saturday as to where this fire was at particular times, Mr Cheney has done a great deal of work in mapping out from various sources  
20 where the fire front was at various times and has produced a number of diagrams setting that out.

Whilst I don't have any particular criticism of that work, those maps do come in different scales  
25 as we move from different time. It is very difficult to get an overall perspective in such a fashion as has happened with Mr Bartlett of "10 o'clock here is where the fire was, 1 o'clock here is where the fire was." My request would be that  
30 if possible Mr Cheney reproduced his various maps on a document such as that where everybody, whether they are members of the public, your Worship, counsel at this table, can see at a glance, without reference to other background  
35 material, where, according to Mr Cheney, the various fire fronts were at various times.

Obviously that is going to be most important in submissions as to when warnings should or should  
40 not have been or could or could not have been issued.

In that sense, I don't tender that map. The points that have been put on it have been, I hope,  
45 adequately recorded in the transcript so if anybody does wish to reproduce what was done, it can be done on a standard map. In fact, by

tendering it there is every chance that those tags might move and they won't accurately reflect what the evidence was.

5 THE CORONER: The information that Mr Bartlett has put on that map is recorded in any event on other maps that he has plotted.

MR WATTS: Perhaps he should have the opportunity  
10 now to rectify the obvious mistake that he has raised.

THE CORONER: Yes, that trig point, I think that was the issue that you raised, Mr Bartlett.

15 A. It is in paragraph 153 of my statement. The grid reference that was causing concern was in about the 5th line where it said, "We detected another spot fire at grid reference 800733". I must have had a case of dyslexia when I did it. I  
20 checked back the photocopy of my original map that I had in the helicopter with me. The actual grid reference should have been 800773. So 800773 rather than 733.

25 I also checked back the original transcript of the radio call that I made and I definitely said "800733", so I made the mistake at the time. But I had obviously plotted it differently. In the haste, or something or other, in my mind I  
30 transposed it like that.

THE CORONER: That will be corrected then, Mr Bartlett. Thank you.

35 THE WITNESS: Do you want me to put that on the map now that it is clear where it is?

MR WHYBROW: I don't think so.

40 MR LASRY: Just in relation to the request, and I say this with respect: I think it is probably out of the question.

THE CORONER: I am not going to ask Mr Cheney to.  
45

MR LASRY: I am not going to impose any more work on Mr Cheney. I must say he is working extremely

hard at the moment to complete the material that he needs to complete for the next phase of his evidence.

5 THE CORONER: I am not going to require that either. There is sufficient information, Mr Whybrow, in relation to how the fire progressed and how it was plotted. I am not going to ask Mr Cheney to produce yet another document.

10

MR WHYBROW: As your Worship pleases.

Q. Mr Bartlett I would like to ask you some questions about the genesis of your statement and these notes. Your main contemporary notes and records were destroyed at the Forestry depot at Duffy on 18 January?

15

A. That's correct.

Q. Over a number of sessions did you sit down and in this first document, which is now exhibit 66 and in the system as [DPP.DPP.0006.0202]. Did you distil out your thoughts, recollections of what you were doing at various times?

20

A. That's correct. Basically what I did as soon as I stopped being deployed on the fire, some days after the 18th, of a night-time each night I just sat down and poured it all out and typed it into the computer. I felt that I needed to at least, while my thoughts were fresh, get as much as I could remember down.

25

30

I might add, if I could, that one of the reasons I did was that I had the experience when I was preparing information after the 2001 fire that I couldn't get all of that sorted out until I got the radio transcripts, and it took us some time to get those. I knew that that would be a common problem this time. I was very concerned, knowing that I had played important roles, that I at least actually made an effort to write it down as quickly as I physically could.

35

40

Q. I take it that it wasn't only your recollection that you had access to, whilst many of your personal notes were destroyed you had access to other documents to assist you in setting

45

out your recollection?

A. Very few other documents. Every single record was destroyed in our office. I think I was left with my mobile phone and a small note pad that  
5 only had a few kind of loose bits of paper because I was in a helicopter when the office burnt down. We had no access to the ESB records or anything. It was largely what came out of my mind. I got a map, I think, so I could remember various place  
10 names and things. That's all I had access to.

Q. If you could turn to page 5 of your notes. In the first paragraph you are describing what you were undertaking on Saturday the 11th of January  
15 over Flat Rock Trail. In the last sentence you say:

"At 1530 it was 20 degrees, 35% RH and 11kph wind."  
20

Was that something you were able to recall on 9 February or thereabouts or did you have some other records that you were able to use?

A. I am just trying to remember where that would  
25 have come from. That may have been one of the things, the notes or the scribble that was on the small pad I had in the helicopter. That's about the only explanation I could offer. But, you know, there was literally very limited information  
30 on that because most of the time I was in a helicopter I had a penciller who was meant to be recording information.

Q. If you go over the page, page 6, in the first  
35 full paragraph you outline there with some specificity the resources allocated to you. Again, was that something that you were able to still recall precisely some three and a half weeks later; or did you have some other records, not  
40 your own necessarily, which recorded those things and you included in your log here?

A. Yeah, that's a good question. Quite frankly now, I can't recall where I got that from.

Q. You see the next paragraph, sir, there is a  
45 reconnaissance flight undertaken and you have outlined eight or so way points. Whilst I am

not --

A. I think I can answer that one. I can recall the map I had, often when I was in the helicopter the pilot called out the way points and I wrote  
5 that on my map. If you look at one of the maps that is tendered as an exhibit or given to the AFP, you will see those numbers. I probably sat down with the map again and tried to reconstruct them in order. That would be the explanation for  
10 that one.

Q. And the next paragraph:

15 "At 1330 the weather was 19 degrees, DP 2.7, 32% relative humidity and winds about 10 kilometres per hour."

I suggest those specific details may not be something that you recall with that degree of  
20 accuracy four weeks later, but there must have been some other document that recorded those facts that you had access to?

A. Well, that's the same issue, I guess, yes. Perhaps that was in the helicopter - the small  
25 book I had in the helicopter.

Q. But in that sense the exercise you were doing was a conscientious effort by yourself to record everything you did, as accurately as you could,  
30 with the resources and memory you had at that time?

A. Yes, largely memory. Yes, but anything that I could physically get that actually jogged a bit of memory or whatever and - I won't answer that.  
35 Perhaps you are going to ask me the next question.

Q. You also, I suppose, in doing this exercise, were if not tainted but in the situation of having lived through the consequences of the 18th of  
40 January fire, knowing, writing it in retrospect --

A. It was certainly done in retrospect, yes.

Q. To what extent did you attempt to put out your knowledge of events while you were doing this?

45 A. Sorry, I don't follow your question.

Q. I withdraw that question. You then came in

December to sign the statement of some 200 paragraphs or thereabouts, on the 9th of December 2003.

A. Yes.

5

Q. What was the process in which that document was generated?

A. Okay. First of all, I was interviewed on about three or four occasions by a person whose name is Jim Venn. He came to my office for two or three hours at a time and just asked me to verbally recall whatever I could. And from that he prepared a draft statement, which was given to me to have a look at.

15

I have to say I was never very happy with his approach, and we had some interesting discussions. And after a while I said to him that I didn't want him to continue working with me.

20

I then basically took - I started with the document that he had done and deleted large parts of it and reworked on it myself over a period of time using the notes that I had. And in particular one of the key points about why my statement was so long was that I was not keen - there were two other things that I was looking for to help me reduce the statement that I tried valiantly to get for a long time.

30

The first was a copy of the notes from the penciller who was with me, and those notes disappeared into the ether somewhere and have never been seen. But probably of more substance than that was the radio transcripts because that was the thing that pinpointed all the times. Often I think if you were to go through paragraph by paragraph, you would find that in the original notes sometimes the order is not quite right.

40

I could remember doing various things but I couldn't quite remember which order the various things came in. Once I had the reference points of radio calls that I had made, I was very clear then at what time things had happened. That was the process I used. I finalised the statement in December once I had access to all the transcripts.

45

Q. Now, you in effect took a lot of time yourself in ensuring that the statement in December was the best reflection of your story, so to speak, as to what you did, what your thoughts were, where you went and things of that nature.

5 A. I certainly took a lot of time in doing this, yes.

Q. You had and used quite significant parts of your earlier notes?

10 A. Yes.

Q. And in fact many paragraphs are word for word lifted from those notes that you compiled in February 2003?

15 A. That may be the case, yes.

Q. And in areas where recollection would not have been assisted by the radio logs, would you agree that your recollection of events would be better reflected as at February when you undertook the first exercise than in December when you came back to do it again?

20 A. Possibly. That would depend on the actual instance. I mean it could well be that it had just - as a matter of passage of time, some things become clearer, some things become dimmer. I think it would depend on the particular issue.

30 Something else might have happened to have jogged your memory. It could have been all sorts of things. It could have been a visit to a place or a conversation with someone. There are lots of things that bring things back.

35 I must admit that I am still even recalling things. I heard during these proceedings, I think it was when Brett McNamara was giving evidence he referred to a meeting that he and I had had in the first week of the fire which I had completely forgotten about. When he mentioned it, I recalled it. There are all sorts of things that can rejoy your memory.

40 Q. When you were going through and doing the best you could deciding which of these notes should be transferred across to paragraphs in your

statement, did you have any particular purpose in mind other than historical accuracy?

A. My purpose all the way along was to make it as complete and accurate as I physically could.

5

Q. In paragraph 33 of your statement at page 10 where you start on the 9th of January, you state there:

10 "On Thursday morning 9 January I first went  
over to my office before then heading back  
into ESB to get an update on the fires and  
find out what role I would be given. Again I  
was advised by Peter Lucas-Smith that there  
15 was no requirement for my services."

You said that in your statement?

A. Yes.

20 Q. If I can take you to your notes on that page,  
the first page of your notes. You said in the  
second sentence:

25 "I was not required by ESB for any role on  
the Namadgi fires. I discussed with Peter  
Lucas-Smith and Mike Castle my intention to  
be away from Canberra on the weekend for a  
prebooked 20th wedding anniversary."

A. Yes.

30

Q. Was that something to your knowledge that was known by various persons within the Rural Fire Service?

A. Sorry, could you be more specific?

35

Q. Well, you had arranged to go to Goulburn for a 20th wedding anniversary that weekend.

A. That's correct.

40

Q. That had been something, had it, that had been planned for a few days at least, if not more?

A. Not quite 20 years, but some time, yes.

45

Q. Was that something that was known to members of your service, for example?

A. It was known to a number of people. But I guess what you are trying to find out is actually

on day one I volunteered that information to the people in ESB and said I was quite prepared to cancel that, given the fire circumstances. What I was trying to find out was whether I was needed so I could make a decision about whether to cancel it or not.

Q. In your original notes, your first notes reconstructing what you did, you say following that:

"They felt that I could continue with that plan."

A. At that point in time that was the answer I was being given, yes, that I wouldn't be needed.

Q. Is there any reason why you didn't, in paragraph 33, include that qualification to the statement that "there was no requirement for my services"?

A. Well, I thought it is not all that relevant, really, what I do with, you know, my personal space. That's why I didn't include it. I thought it is not that significant in terms of the event of the fire.

Q. Well, if people were to read that paragraph as somehow implying a level of non-concern with giving you any task, that would not be the way that you were trying to write that paragraph; is it?

A. No. Absolutely not.

Q. I take you to paragraph 40 on page 12. Perhaps firstly your original notes. Sorry, your first set of notes Friday 10 January, page 2:

"Again no senior officers were required for work on the Namadgi fires. I again checked with ESB about their need for me over the coming weekend, indicating I was booked into accommodation in Goulburn from Friday night. Again I was told that I should continue with my plan and be available for work on Monday if the fires were still burning."

47

That is a recollection that you had in February 2003 when you prepared that document?

A. That's correct, yes.

5 Q. Again, in paragraph 40, when you come to indicate your actions there is no reference to those private plans there; is there?

A. No. For the same reason.

10 Q. Again, when you say:

"On Friday the 10th of January I reported to ESB only to discover that once again there was no specific role allocated to me."

15

You weren't intending to place some sort of negative connotation to that lack of allocation, given that these people were aware of your plans for that weekend?

20 A. No, but I think you need to appreciate that each time I went there I made the offer and said I was prepared to cancel that. I mean, it's not like I was saying, "Don't deploy me because I have got my 20th wedding anniversary".

25

Q. That doesn't appear in either your statement or your notes, does it?

30 A. No. As I said, it is a private matter about my wedding anniversary. I wouldn't have thought it is earth shattering really. The issue was I went to ESB each day to offer my services. If I wasn't going to be used, of course I was going to take the advantage of having my 20th wedding anniversary.

35

Q. You were indicating if possible you would like to keep those plans. You were booked into accommodation --

40 A. No, I did not indicate that I would like to keep the plans. I kept asking about whether or not I was going to be deployed so I could cancel, if that was what was needed. You know, if you were to call my wife as a witness, you would find that she knew that we would never be going because  
45 I would never have walked away from the fire.

Q. Sorry, at what time?

A. Sorry, at what time what?

Q. If I were to ask your wife that she always  
knew that you would not walk away from the fire,  
5 what time?

A. She would have said that on day one.

Q. At the bottom of page 2 where you say:

10 "After the meeting at Urban Services I  
advised my wife that we would not be going  
away for the weekend."

That is not accurate?

15 A. No, that is accurate. In fact after the  
meeting that we have been discussing with Alan  
Thompson and the call to Mike Castle, that's when  
I cancelled the accommodation we had because I  
knew I was needed to go out that evening to  
20 Queanbeyan.

Q. So coming back to paragraph 40, is that first  
sentence of paragraph 40 there intended by you to  
be some sort of criticism of what was going on?

25 A. No, I don't think so. But which part are you  
referring to?

Q. The first sentence that you weren't being  
allocated any specific role?

30 A. "I reported to ESB only to discover that once  
again there was no specific role for me".

Q. Taking into account that you had advised  
people that you had plans that there were other  
35 people available, you are not suggesting that that  
is a particular criticism; are you?

A. The way it is written there is not necessarily  
a criticism. I reported to ESB only to discover  
that once again there was no specific role  
40 allocated to me.

Q. In the context of taking into account your  
personal circumstances at that time, you are not  
making a criticism of that fact, are you - the  
45 fact that people seemed to have been taking into  
account your personal circumstances?

A. Well, that was never made clear to me, because

each time I said I was prepared to cancel my plans if I was needed for fire suppression. I was fairly persistent. I went back each day.

5 Q. In the following week you specifically asked if you could be given non-operational roles in the field?

A. Yes.

10 Q. That was accommodated?

A. Yes.

Q. Perhaps if we could go at this stage to 18 January. In your statement the relevant  
15 portion is paragraph 146 where you set out as best as you can recall the planning meeting of 9.30 on the Saturday morning?

A. Yes. I have got that.

20 Q. The events at that planning meeting, as you set out in your statement, are not events that your memory would have been improved by access to radio communication logs, is it?

A. No. There was no - sorry, which specific  
25 events are you talking about?

Q. What was said and done in that meeting was not something recorded on radio transcript logs?

A. No, of course not.

30

Q. Did you have access to any other documents when you came to prepare your statement in December --

A. Yes.

35

Q. -- to assist your recollection of what you say in those notes?

A. Yes, I did. I had the minutes of the planning meetings.

40

Q. Did you have those minutes when you prepared your summary of that meeting in February 2003?

A. I can't recall. There was some delay in getting a full set of those minutes. But I may  
45 well - it is not impossible that I didn't have them by the time I signed it. I would have to check the actual day when that was signed - third

of February - look, I can't be categoric one way or the other. It is possible.

5 Q. You add by reference to some of the specific material that you wouldn't have been expected to remember had access to some other extraneous documents. The planning minutes may well be part of that material at this stage?

10 A. Yes, that's correct.

15 Q. Do you agree that your reference in the notes from operations briefing the first several lines are faithfully recorded at paragraph 147 of your statement starting at:

"At the briefing I summarised the fire situation that I had observed on the morning reconnaissance flight."

20 Through to:

"... and therefore I intended to organise the fire into three divisions with operations officers appointed to each division."

25 A. Sorry, you are going a little too fast. You want me to check word for word whether these are the same over two bits?

30 Q. Yes.

A. Starting from?

Q. The first nine lines of your notes are faithfully reproduced as paragraph 147 of your statement.

35 A. Okay. You will have to give me a minute to double check that.

Q. Do you accept that they are?

40 A. I need to check. If you want me to answer yes or no, then I will need to check.

Q. If you have some doubt, please do.

45 MR WATTS: That is an unfair comment, with respect.

THE CORONER: Mr Whybrow, are you saying you have

checked them and they are? Are you saying you checked the first nine lines and they are identical?

5 MR WHYBROW: Yes.

THE CORONER: I didn't understand it to mean that.

MR WHYBROW: I am not giving evidence.

10

THE CORONER: I know. But I am not sure that Mr Bartlett understood you had done that.

15 THE WITNESS: If you are asking me to give it as evidence, I don't know that I should just assume it.

MR WATTS: What I am objecting to is "if you have any doubt". He was not saying that; he was saying  
20 he had to check.

THE CORONER: Please feel free to check, Mr Bartlett.

25 THE WITNESS: Yes, they appear to be the same.

MR WHYBROW: Q. Skipping paragraph 148 for a moment, would you agree that paragraph 149 faithfully then reproduces the rest of that page  
30 after the word "division"?

A. Again, you will have to give me a moment.

MR LASRY: Your Worship, I don't know how long this process is going to take. I frankly wonder  
35 about the forensic benefit of we all sit here while counsel asks the witness to check that which he already knows to get the inevitable answer, because Mr Whybrow has presumably done the exercise. I wonder if we couldn't get a bit  
40 closer to the point of all this.

THE CORONER: That is not unreasonable, Mr Whybrow.

45 MR WHYBROW: I suggested to the witness that it was, and he wanted to check. It is not for me --

47

THE CORONER: If you have checked them, how many more paragraphs do you intend to go through?

5 MR WHYBROW: If I could take my cross-examination one step at a time. This witness is a significant witness. He was the eyes of ESB on 18 January. I don't see why I should be rushed through my cross-examination, if that is what is being asked of me.

10

THE CORONER: That is not what is being asked. If you have checked these, then perhaps you can just say to Mr Bartlett that.

15 MR WHYBROW: I am happy to do that.

Q. Mr Bartlett, I suggest to you that paragraph 149 is a faithful reproduction of the rest of that page of your notes.

20 A. I am happy to accept your observation.

Q. You have between 147 and 148 inserted a paragraph yourself that does not appear in your notes; would you accept that?

25 A. Again, if you say that that is the case, I will accept that, unless you want me to check that.

30 Q. If you are happy to accept that paragraph 147 represents down to "division" in your notes, and then the next taking up of your notes the next word is paragraph 149. In paragraph 148 you then set out your recollection of yourself expressing views about the potential for fires to burn to the edge of Canberra during the day. You then say:

40 "I indicated that the McIntyre's fire could make a run to the urban interface from Weston Creek to Greenway and possibly even affect west and south Belconnen if the wind was more westerly than forecast."

A. Yes.

45 Q. You then say:

"I also indicated that the fire in the

Tidbinbilla Valley could impact on the Bullen Range and then the southern Tuggeranong suburbs. I then expressed a view that the southern most fire could cross the Murrumbidgee River, impact on Williamsdale and continue into the New South Wales rural areas around Burra."

When did you recall making those comments to the planning meeting, given that they didn't appear in your original notes?

A. Well, there is a very clear section in the notes of the planning meeting, which are around the time I was giving my verbal report of what I had seen in the helicopter, and that reminded me that that is what I said during the planning meeting. I was very specific and I have a very distinct memory of putting a map on the table showing where I had observed the actual fire at various points in time and then extrapolating from that as to where I thought it was going to go in that meeting.

Q. I will take you to those minutes in a moment, sir. Again, I suggest to you that there has been much time taken up in this inquest in going through word by word the various minutes and who said what to whom and when?

A. Yes.

Q. Numerous sets of notes have been produced. In fact, I would suggest to you that the evidence is that Mr Rick McRae made those points whilst giving the planning briefing of that planning meeting?

A. I disagree.

Q. I take you to the particular minutes [ESB.AFP.0010.0266]. Does that appear to be, at least the first page, of the planning minute meetings that you say jogged your memory as to the views you expressed in this meeting?

A. It is a little difficult to see. They look the sort of document, yes. I don't have a copy of them but I presume that's them.

Q. You see under "fire operations" the fourth paragraph seems to be a summary of your advice to

the meeting of your one-hour air reconnaissance  
this morning at 0630?

A. Yes. Well I think this opens up --

5 Q. Can you see that that is what it appears to  
be?

A. Well, if you will let me answer.

10 Q. The question is: is that what it appears to  
be?

A. No. This is quite an important point  
actually. I always had a problem with the minutes  
of these meetings. There has been considerable  
correspondence, both verbal and written from me,  
15 about the accuracy of some of these minutes of  
these meetings. I don't agree that that reflects  
what I said or did in that meeting. And I  
haven't, since right after the fire. I have  
specifically requested copies of the voice  
20 transcripts of that meeting and I have never been  
able to access those because I'm told that they  
don't exist.

Q. It might a good reason?

25 A. Well, I have a very vivid memory of the  
tape-recorder being on the table.

Q. Have you been provided with copies of the  
handwritten notes contemporaneously taken by  
30 Ms Keane and Ms Ferry?

A. No, I haven't.

Q. Perhaps rather than waste time now - I note  
the time now: I have no objection if the witness  
35 takes the opportunity during the break to review  
those matters. It is obviously a matter that will  
take some little time.

Your Worship, given your Worship's and counsel  
40 assistings - I don't say this in a pejorative  
sense - attitude towards the map, it may be the  
most appropriate thing for that map to be  
tendered. Perhaps the most appropriate person --

45 THE CORONER: It doesn't have much value,  
Mr Whybrow, from my perspective.

47

MR WHYBROW: I think it shows clearly --

5 THE CORONER: It is very difficult, because of the size of the tags, to work out exactly where the fire is. That is the difficulty, I say that with great respect to your and Mr Bartlett's effort. We do have that information in another format already in the brief, the plotting of the fires by Mr Bartlett.

10

MR WHYBROW: If your Worship doesn't see any benefit in the tender of that sort of information then I don't press it.

15 THE CORONER: Do you have any other questions, Mr Whybrow?

MR WHYBROW: I have a considerable number of questions. I just note the time. I will not  
20 finish today. Given I have reached a point where there is some difference in relation to what I wish to put to this witness and his recollection of the minutes of this meeting, obviously I would be seeking to take him through all the handwritten  
25 notes and things of that nature. It may be more economical in terms of time if Mr Bartlett takes the opportunity during an adjournment to have a look at those notes.

30 I am happy to continue as long as your Worship is prepared to sit. I am going to be another hour.

THE CORONER: What is your position, Mr Watts?

35 MR WATTS: I am fine tomorrow, now. I do wish to raise an objection, perhaps in the absence of the witness. It is a matter which I think in fairness ought to be drawn to the witness's attention, but it should be done with Mr Bartlett outside.

40

THE CORONER: It may be that we can't continue much further today, Mr Bartlett. You are excused for the day. Thank you, Mr Bartlett.

45 (the witness leaves the hearing room)

45

MR LASRY: Your Worship, just on the next steps: I may be wrong, but I had the impression from the

earlier discussion that when the evidence ended today we would adjourn the completion of Mr Bartlett's evidence to whatever convenient date was going to be fixed next week, and his evidence  
5 would be completed and then Mr Smith be called on the basis that tomorrow would otherwise be occupied with some residents and the evidence of Mr Prince. I had certainly been working to that arrangement. To do otherwise might mean that --

10

THE CORONER: We will have to reschedule the other witnesses who are already slotted in for tomorrow.

MR LASRY: Hence, Mr Bartlett may be here tomorrow  
15 and again one day next week.

THE CORONER: It is probably better, if there is some further time needed with Mr Bartlett, to put him over until one day next week, maybe, if that  
20 is convenient to Mr Bartlett and to you Mr Watts.

MR WATTS: Monday is not convenient. What I was going to do tomorrow I am partly to do on Monday.  
25 But Tuesday and Wednesday would be convenient to me. I don't know Mr Bartlett's convenience.

THE CORONER: We might have to make some inquiries about that.

30

MR WATTS: The matter I wish to raise, my learned friend cross-examined in relation to paragraph 148 where what seems to be suggested is that that paragraph has been inserted and it doesn't come,  
35 as it were, from the notes and there is nothing in the notes about that.

At the bottom of the page which is headed "Saturday the 18th of January" on the first page  
40 where those notes appear - I don't have page numbers on this - the last paragraph commences "0840 discussed day's weather forecast". There is a reference in that to matters not in exactly the same terminology but starkly similar to what is  
45 now in paragraph 148. I would ask that that should be drawn to the witness's attention to clarify whether that was something which was used

in order to refresh his memory.

He did say that he put things back in order and re-organised them. In fairness to him, that  
5 paragraph should be drawn to his attention if it is going to be suggested that 148 has simply been, as it were, plucked out of the air.

MR WHYBROW: That is not being suggested. It is  
10 being suggested that this witness has adopted the words of Mr McRae in that planning meeting as his own; that is what is being suggested.

THE CORONER: Perhaps if there is reference in  
15 Mr Bartlett's notes to information such as is contained in 148 then in fairness you should put that to him on the next occasion, Mr Whybrow.

MR WHYBROW: That can be drawn to his attention.  
20 Notwithstanding that he is not here I have no objection to that.

MR LASRY: This witness raised the question of recording at these meetings. It is not the first  
25 time that issue has been raised. I want to make it clear that we would like to obtain any relevant recordings of these planning meetings. This witness has said with some level of confidence that he believed they were being voice recorded,  
30 and has sought access to the transcripts and presumably has sought access to the recordings themselves.

If those documents or recordings exist, we want  
35 them. And, if in fact there are no recordings to be handed over, then we are anxious to obtain some evidentiary material that explains either Mr Bartlett and others who have referred to it are wrong in their recollection; or alternatively that  
40 there were recordings which have been destroyed and, if so, why; and whether there are transcripts and evidence about the purpose of that recording and so on and so forth.

45 They are obviously important, particularly of the planning meetings towards the 18th of January. To my recollection, and I don't mean to say this

offensively, this issue has hung in limbo for some time. We are anxious to have some definite evidence about what the position is as soon as we can have it.

5

Mr Bartlett's evidence perhaps is the strongest evidence we have had so far, his clear recollection is that there was some voice recording of these discussions.

10

MR PIKE: Just so we are not falling into any particular error, the witness's vivid recollection at transcript 6391 was of a tape-recorder being on the table not that it was on.

15

MR LASRY: It is a lawyer's point, your Worship. Really and truly. Yes, you can imagine the utility of having the tape-recorder in the room and forgetting to switch it on. Your Worship, my interest in the material is apparent. My learned friend, including Mr Pike, would understand what we are after. We want some evidence as to whether there are recordings and if there are we would like to have the material.

25

MR PIKE: I don't want to drag this on. We are just as interested as my friend is, of course. We would desperately like to have any material we can. I am merely making point that no-one has ever suggested for one moment that there was a recollection of things being recorded; nowhere in the transcript.

30

THE CORONER: I do ask the ACT government that if there is any recording then those recordings be made available.

35

MR JOHNSON: Certainly your Worship. We will take some instructions on this. I haven't been here, as your Worship would have noted, all the time. I will certainly do that. I have a feeling that this issue was raised in some form in some earlier point in the hearing. I may be wrong and several thousand pages have probably passed since such an event. I will certainly seek instructions and perhaps those who act for Mr Lucas-Smith and Mr Castle and others may do the same.

45

THE CORONER: And also direct that if there,  
indeed, was not a recording or if there was a  
recording and that the recording doesn't exist  
that a statement be provided by those who are able  
5 to provide a statement as to what has happened to  
that.

MR JOHNSON: I will certainly make sure that we  
get instructions in relation to the evidence of  
10 Mr Bartlett today as to the presence of a  
tape-recorder and what was said to have been done.

THE CORONER: Mr Bartlett is not the only witness  
who has made reference to a recording of some  
15 memory of a recording. Thank you, Mr Johnson.

MR LASRY: Your Worship, I am told that  
Mr Bartlett is available any day next week.  
Certainly from our point of view I think almost  
20 any day would suit us, apart from Monday. My  
recollection is that there was another problem and  
that Monday or Wednesday were the two most suit  
days. Would your Worship say provisionally that  
we will continue this evidence on Wednesday.

25 THE CORONER: If that is suitable to Mr Bartlett  
and to you Mr Whybrow.

MR PHILIP WALKER: I was about to make a bid for  
30 Tuesday.

MR WATTS: I support that. Only this, I wouldn't  
like it to onto Thursday.

35 MR ERSKINE: The reason for Tuesday was me, and I  
can adjust Tuesday. If you would rather have it  
start on Tuesday, I believe I am the only  
impediment to that, and I am quite content to  
re-organise things for that day. It was a  
40 preference rather than a problem.

THE CORONER: Tuesday?

MR LASRY: Yes, Tuesday.  
45

THE CORONER: Is that suitable to all? It is  
difficult to get a consensus. So tomorrow we have

Mr Prince and the two residents from Uriarra  
Settlement. And Mr Smith?

5 MR LASRY: He would be Tuesday as well,  
your Worship, following Mr Bartlett, assuming that  
Mr Bartlett finishes - I say with an optimistic  
perhaps pious tongue.

10 THE CORONER: Thank you. We will adjourn until  
tomorrow morning at 10 o'clock.

**MATTER ADJOURNED TO FRIDAY 4 JUNE 2004**

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TRANSCRIPT OF PROCEEDINGS

CORONER'S COURT OF THE  
AUSTRALIAN CAPITAL TERRITORY

MRS M. DOOGAN, CORONER

CF No 154 of 2003

CANBERRA

INQUEST AND INQUIRY INTO  
THE DEATH OF DOROTHY MCGRATH,  
ALLISON MARY TENNER,  
PETER BROOKE, AND DOUGLAS JOHN FRASER  
AND THE FIRES OF JANUARY 2003

DAY 67

Friday, 4 June 2004

[10.05am]

MR LAKATOS: Your Worship, apropos the matter  
raised by Mr Lasry yesterday concerning recordings  
5 of planning meetings, I have made inquiries, some  
directly and have had inquiries made.

The evidence before this court and the position as  
we understand it is this: Ms Keane in her  
10 statement which is in the brief says in  
paragraph 6:

"I was involved in the recording and  
preparation of planning meeting minutes from  
15 14 January to 18 January. Electronic  
recordings of the planning meetings did not  
take place until 9.30 on the 19th of  
January."

20 Now that, with respect, is the position that I  
have arrived at based on inquiries I have made.

I have spoken to Mr Lucas-Smith and I have spoken  
to Mr Castle. They have confirmed that position.  
25 I have had inquiries made to Mr Graham and  
Mr Ingram and that is also the position relayed to  
me.

Ms Ferry gave evidence at page 2566 and 67 in  
30 which Mr Woodward raised this issue with her.  
Mr Woodward said at the bottom of the page:

"Q. You referred to taped transcripts. Those  
don't start until afterwards, I think it was  
35 the evening of the 19th; is that correct?"

Ms Ferry replied:

"A. To my knowledge they began on the 19th,  
yeah.  
40

"Q. There was no taping up until that time?  
"A. That's correct."

The inquiries that I have made exhaust, I suppose,  
45 the official avenues of taping. As your Worship  
has heard, there were many people in those  
meetings as the days wore on. So far as I am

aware and my instructions are that there were no official tape-recordings until the 19th of January.

5 THE CORONER: I am grateful to you for making those inquiries, Mr Lakatos, thank you.

MR PIKE: Might I add to that: I specifically took instructions from Mr Graham and Mr Ingram, both of whom can confirm what my friend said. I took those instructions this morning. Apropos of what Mr Lasry said yesterday:

15 "We are anxious to obtain some evidentiary material that explains either Mr Bartlett and others who have referred to it, being the recording, are wrong in their recollections or alternatively that there were recordings which have been destroyed."

20

I did a transcript search. Mr Lasry is wrong. No-one said in their evidence that there had been recordings.

25 Mr Taylor said, as Mr Bartlett said, there had been a tape-recorder on the table at one point. No-one went further. I think it is important for the record to state inadvertently certainly Mr Lasry's comment in that regard is wrong.

30

THE CORONER: Thank you, Mr Pike. Thank you, Ms Cronan.

MS CRONAN: I call Michael Lecocguen.

35

**<MICHAEL LECOUGUEN, SWORN**

**<EXAMINATION-IN-CHIEF BY MS CRONAN**

40 MS CRONAN: Q. Sir, could you please tell the Court your full name and your current occupation?

A. Michael Lecocguen. At the moment I am working at Namadgi as a park worker.

45 Q. What is your current address, Mr Lecocguen?

A. I am living at Tharwa, shearers quarters on Smith's Road.

Q. Where were you living as at 18 January 2003?

A. I am sorry?

Q. Where were you living as at 18 January 2003?

5 A. House number 3 at Pierces Creek.

Q. Was it the forestry settlement there?

A. In the forestry settlement, that's right.

10 Q. At that point who were you living in the house with?

A. A friend was staying there for a short time. But ordinarily I am there on my own, or was.

15 Q. How long had you lived at that address for?

A. At that particular address - I have to try and think - about 11 years. But prior I lived with my parents at to the top of the hill for a total of 38 years at Pierces Creek.

20

THE CORONER: Q. Is that your whole life, 38 years?

A. We moved there when I was four years old.

25 MS CRONAN: Q. Did you become aware on 8 January or after the 8th of January that there were fires in the Brindabellas from lightning strikes?

A. My word, yes.

30 Q. How did you first become aware that the fires were burning?

A. On the day that they started I was on my way to Flea Creek, which is in the Brindabella Valley. I stopped at Piccadilly Circus, which is on top of  
35 the mountain range, and a fire truck came past and then a second one came past. The chap driving is a friend of mine. He told me there were fires alight in the area. I proceeded down to Flea  
40 Creek and on the way down I could see smoke from the Waterfall Road, which was the actual - on McIntyre's fire.

I let everyone know at Flea Creek - that was three  
45 groups of campers - told them there was a fire up there. If the wind changed it would be a good idea to pack up and leave. I stayed about half an hour and then left.

Q. Over the next 10 days did you follow the progress of those fires in any way?

A. I did, yes.

5 Q. How did you get information about what was happening with the fires?

A. A friend of mine is a tower operator at Coree. Just through the news and papers.

10 Q. Did you listen to the radio or watch the television on a daily business basis; how were you accessing the news?

A. On the radio and TV. But, yeah, that's it.

15 Q. As at the evening of the 17th of January what was your level of awareness - were you aware at all that fires could possibly impact on the area where you were living?

A. No. But I did speak to Michael Shanahan at  
20 Tidbinbilla and he informs me that the fire was spotting into Tidbinbilla as early as 10 o'clock on the Friday evening. By January the 18th, between 1 and 2 in the morning it was burning in the pine trees at Oakey Creek it is called, south  
25 of where I live. As the crow flies it would be approximately 4 kilometres. And we had no warning.

Q. When you got up on the morning of the 18th  
30 were you still unaware that there was a potential for the fires to impact on your residence?

A. I was unaware. I was on my way. I wasn't sure if I was going. But a friend and myself were going to a country show down in Gunning and the  
35 weather was calm, smoky of course. But we had no idea - well, I had no idea that the fire had already jumped into Tidbinbilla.

I left and went to Gunning. My brother called me  
40 on my friend's phone at approximately 10 past 12 and told me I had better come home.

Q. Did you get the paper that morning or listen to radio or watch TV at all?

45 A. No.

Q. So you have got a number of years firefighting

experience yourself, haven't you?

A. That's right.

Q. How many years were you a firefighter for?

5 A. I was with Forestry for 13 years. At Parks and Conservation in New South Wales for about half a year, which I spent a week at Braidwood fires in 2001, I think it was, or '02. At the moment I am currently with Environment ACT up at Namadgi.

10

Q. Are you currently involved in bushfire fighting?

A. Yes, I was. I was the one that called in the fire about two weeks ago - a week and a half ago.  
15 I was the first one there.

Q. Are you with the Parks brigade, a member of the Parks brigade?

A. Unofficially, yes.  
20

Q. So your brother called you on the phone. What time did you get home after that?

A. I got home at quarter to 2 - or half past 1, quarter to 2.  
25

Q. Prior to that point had you done anything in order to prepare your home for possible impact of the fires?

A. Just cleaned up around the place. I just come home from up in Queensland and at that time I was unemployed. Being at the end of the year work was pretty scarce. Just cleaned up around the house, yeah.  
30

Q. Why were you cleaning up around the house at that time?  
35

A. Well, in case the fire came.

Q. So what did you do when you got home at about quarter to 2?  
40

A. Well, the whole place was in an uproar. I went home and was trying to work out what I was going to actually throw in the vehicles. I just couldn't get my head around it.  
45

Q. Approximately how many residences were in the settlement at that stage?

A. At that stage, I'm not a hundred percent sure, but I know at least four households had already gone, I think.

5 Q. All up how many residences were there?

A. 13.

Q. When you got back what were the other residents doing?

10 A. Doing the same, trying to prepare for the fire. Some were leaving. The majority of us left all in one hit when the fire swept around on Mt McDonald. It actually hit town first before it struck our houses.

15

A few got through past the Cotter Pub, but the majority of us were caught between the pub and home. When the fire hit there was a total of eight of us. There was myself, Troy Meredith, Jason his brother, Eric Hayes, Bob Berrick, Ron and Jean Hill and their son Tom.

20

Q. Where were you when you got hit by the fire?

A. Five of us were in the gully opposite home between my place and Bob's place, who is a ranger at Forestry. There was a hydrant there. Ron, Jean and Tom unfortunately got trapped at the top of the hill where Eric Hayes drove up in blinding smoke and hurricane-force winds and found them huddled up in the middle of the road badly burnt. He left his ute because he got it stuck. Came down to see the ranger to try and get his help. When he returned, his ute had gone and Tom, Jean/Ron's son, got the ute out of the drain and drove themselves to the Cotter where a care flight was called and they were flown into Canberra.

30

35

Q. What did you do down in the gully when the fire hit you?

40 A. Well, all we could do - we had a hydrant there. I was on the hose for a while just sprayed water around the vehicle, on the ground. Within 10 minutes when the full fire hit, come over the hill, the water stopped. So all we could do was stay in the vehicles and hope for the best.

45

Q. What you could see when the full fire front

hit?

A. We couldn't see a thing. It was just smoke. It was like a dark night with occasional gaps of light. In between that we watched four houses  
5 burn. I watched my own place go up in smoke, which was pretty bad.

Q. You were in your vehicle as you watched your house go up?

10 A. Yes.

Q. Were you able to save any of your possessions and your vehicle?

A. I saved my vehicle. I saved my work - some of  
15 my tools. I didn't know what I should get. Halfway through grabbing all my stuff I thought I'm making a mess here. I am going to have to put it all back. I just grabbed clothes. Mainly work stuff, like my chainsaw, a few tools, a few  
20 clothes. And all the rest was gone.

Q. How long did you stay in the gully for?

A. The fire hit at approximately 20 past 3, and I think we moved to the top of the hill after the  
25 front had come through roughly 10 to 4 to 4 o'clock. We saved Jason's house, which is the only one left there now. Everything else was gone.

30 Q. What did you use to save Jason's house?

A. Just a trickling hose. The fire had got in underneath the weather-board on the western side of the house. It was burning underneath the bathroom. I ripped the boards off the wall and  
35 the hose just had a little trickle. We got the hose in there and put out the fire out on the floor bearers.

40 Q. How long did you stay at the settlement for that day?

A. We were there - after the fire came through - for about an hour and a half. A police car came up. Troy's father came up. Paul Brown, who had the house on the top of the hill, came up. There  
45 were some other people there, but I am unsure who. The 4-wheel drive, a police car, came up and stopped at the ranger's house. I don't think they

knew that there was anyone up there. And there was four horses. Fortunately they were unharmed. I think they came up to actually check on the horses or just check and see if there was anyone there and the stock was there. Wayne Meredith walked down and spoke to them. They just turned around and drove out.

Q. Was that the first official vehicle you had seen that day?

A. Yes.

Q. I am talking about firefighters and police?

A. We saw no firefighters. The only warning that we got was - I wasn't there at the time - but the police car came up the hill at approximately quarter past 12. They visited I think three households, went to the Reardons house.

Mr Reardon had just come home from hospital after a heart attack. He had been home only a few days. And his wife told the policeman that he couldn't drive and she can't drive herself. The policeman assured her. He said, "Everything will be okay. There will be plenty of help here soon". No-one arrived. John had to drive himself and his wife into Canberra. That was the only help or warning that any of us got.

Q. Did you go to an evacuation centre that night?

A. We all went to the Cotter where there was an ambulance and people there. They were terrific. They checked us all out. They took down our names, made sure that everyone was okay and take them back to Canberra. The day after I went to the Belconnen evacuation place and the one at Erindale as well.

Q. Can you tell her Worship what property you lost as a result of the fire on the 18th?

A. I lost virtually all my tools, all my memories, my photographs, clothes, a Holden that I had when I was an apprentice that I had almost all my life, my motorbikes, just everything. All my parent's antiques, all the stuff they treasured. Everything. It is all gone.

Q. Do you have any issues that you wish to raise

with the coroner as a result of your experience on the 18th of January?

A. The only thing is that I am sure like I want to know and everyone up home was that we had no  
5 warning and no assistance. We never saw a fire truck. The only people that saw anyone were the three people - or the three households who spoke to the police officer. When they left, they left Eric Hayes in charge to go around and tell  
10 everyone else up home, the remaining 10 households, that they had to actually leave.

I just wanted to know why we weren't forewarned and why we had no help.  
15

Q. Were you at home the previous evening?

A. The previous evening, yes, I was.

Q. You were on the telephone?

20 A. I had a phone, yes.

Q. Did you receive any telephone calls about it?

A. No.

25 MS CRONAN: Thank you, sir. I have no further questions.

THE CORONER: Q. Mr Lecocguen, any of the people with you in the gully, were any of them injured?

30 A. No.

Q. That was very fortunate then?

A. Eric Hayes was very lucky. I don't know how he did it, but he did it. If it hadn't have been  
35 for him, three more people would have been gone - dead.

Q. You said of the 13 or so cottages four people had left. Were they the ones that were told by  
40 police, do you think? Were you able to find that out?

A. No. The only ones that were actually told that left were John Reardon and his wife. Eric Hayes went around and did his best and informed  
45 everyone else. The Eastwicks had gone.

Q. How old were they?

A. They were retired. John Reardon and his wife had gone, also retired. Angie, she is single, she was also gone with her kids. I am trying to think who else. The Bates had gone, Judy Bates. And I  
5 think that's all.

Q. Everybody else stayed behind?

A. Pretty much until the fire front was really on its way and then we all left. I got as far as the  
10 Cotter and the fire had jumped the road at the Cotter Pub and I couldn't go. So I turned around and come home and stayed with Troy, Jason, Bob and Eric.

15 Q. What did you think when you went back at about quarter to 2 on the Saturday; what did you see around you?

A. Just mayhem. There was smoke everywhere. People were just roaring up and down, checking on  
20 each other, you know, and trying to pack stuff up. Eric Hayes and myself, I went over and checked on Eric at roughly between 20 to 3 and quarter to 3. From his house we saw the fire come down the Cotter Dam on the northern side, up over  
25 Mt McDonald, and it was gone in seconds. The fire then continued on, I suppose, and struck town.

Q. Had you seen anything like that before in all your experience?

30 A. Never. Never. Never will again, I don't think.

THE CORONER: You hope. Yes, thank you Mr Lecocguen. I will see if any counsel have any  
35 questions for you. Mr Archer?

MR ARCHER: Yes, thank you.

**<CROSS-EXAMINATION BY MR ARCHER**

40

MR ARCHER: I act for the Australian Federal Police.

Q. Just a couple of questions. You referred to  
45 Michael Shanahan.

A. That's right.

Q. And you said, "He informs me that the fire was spotting into Tidbinbilla as early as 10 o'clock on the Friday evening." Is that something he told you after the 18th or is that something he told  
5 you on the night of the 17th?

A. No, I rang him during the week. I spoke to him during the week, yes.

Q. So that information he told you on the Friday  
10 evening, did he?

A. No. I rang him in the last week and spoke to him.

Q. Sorry, in the last week?

15 A. Yes.

Q. The police that arrived, you didn't see. They went to three households you said?

20 A. I think so.

Q. And alerted them and told them to leave?

A. That's right.

Q. They spoke to Mr Hayes?

25 A. That's right.

Q. And asked Mr Hayes if he could to go around the other houses and let people know?

30 A. Yes.

Q. Have you spoken to Mr Hayes afterwards to see how far he got with that process?

A. No, I didn't. No.

35 Q. You haven't spoken to him about that?

A. I have spoken to him. He is a friend. But as far as I know he got around and let everyone else know. Because Jerry Eastwick lived at the top of the hill; he had gone. I mean I don't know  
40 whether Eric spoke to him or not, but I know that he had gone.

Q. So is it your understanding that Mr Hayes did his best to get around to people and did speak to  
45 people?

A. Well Eric always does. Like everything he does, he does his best.

Q. And when you came back, the people who had left at that time, did you find out later whether they had left because of what the police had said or for other reasons?

5 A. The only one that I have spoken to was John Reardon, who is now gone. He died a few months ago and his wife. They were the only ones that I know of who actually spoke to the police and left.

10 Q. The other ones who left by the time you got back there, do you know why it was that they had gone?

A. No, I don't unfortunately. No.

15 MR ARCHER: Thank you very much.

THE CORONER: Thank you, Mr Archer. Mr Lakatos?

MR LAKATOS: Yes, very briefly.

20

**<CROSS-EXAMINATION BY MR LAKATOS**

MR LAKATOS: Q. I appear for the Australian Capital Territory. I wonder if you could tell me please, you told Ms Cronan you were in on the evening of the 17th, the night before you went through this experience?

25 A. That's right.

30 Q. Were you at home for the entire evening?

A. I was, yes.

Q. You have told us that the following morning you got up and then you left to go to Gunning?

35 A. Yes.

Q. Do you recall what time it was that you left home to go to Gunning?

40 A. It would have been approximately 7 o'clock in the morning.

Q. It was, I think you told us, about 10 past 12 when your brother called you and told you that you should get back?

45 A. Yes.

MR LAKATOS: Thank you.

THE CORONER: Yes, Mr Pike?

MR PIKE: Nothing, thank you, your Worship.

5 THE CORONER: Mr Whybrow?

MR WHYBROW: No, your Worship.

THE CORONER: Mr Whitelaw?

10

MR WHITELAW: No, thank you, your Worship.

THE CORONER: Mr Walker?

15

MR PHILIP WALKER: No, thank you, your Worship.

THE CORONER: Mr Watts?

MR WATTS: No, thank you, your Worship.

20

THE CORONER: No re-examination, Ms Cronan?

MS CRONAN: No, your Worship.

25

THE CORONER: Thank you, Mr Lecocguen. You are excused. You are free to leave.

**<THE WITNESS WITHDREW.**

30

MS CRONAN: I call Mr Jason Houghton.

**<JASON HOUGHTON, SWORN**

**<EXAMINATION-IN-CHIEF BY MS CRONAN**

35

MS CRONAN: Q. Would you please tell the Court your full name?

A. Jason Houghton.

40

Q. Your current occupation, sir?

A. Cement renderer.

Q. What is your current address?

A. 31 Uriarra Settlement.

45

Q. You were living at 31 Uriarra Settlement as at 18 January last year?

A. Yes.

Q. How long have you lived at that address for?

A. About two years, two-and-a-half years.

5

Q. You have made a statement to police which is [AFP.AFP.0085.0043]. Have you had an opportunity to read through your statement before coming to court?

10 A. Yes.

Q. Is there anything in that that you would like to alter or correct?

A. No.

15

Q. Did you become aware some time on the 8th or after the 8th of January that there were fires burning up in the Brindabellas?

A. Yeah, I could see them.

20

Q. When did you first become aware they were there?

A. The night of the lightning strike.

25

Q. How did you become aware that they were burning?

A. The smoke the next day.

30

Q. Who were you living at 31 Uriarra Settlement with at that stage?

A. My de facto Nicky and three kids.

Q. How old were the kids?

A. 8, 5 and --

35

THE CORONER: Six --

THE WITNESS: Oh, jeez, I can't remember now - and a baby.

40

THE CORONER: Q. Jade was 9, Tiana 5, Kaylee 7. Does that ring any bells?

A. 7 months.

45

THE CORONER: I beg your pardon, I didn't turn the page. So you had a baby. Thank you.

MS CRONAN: Q. Did you follow the progress of the fires from the 8th to the 18th of January?

A. Yes, just talking to the helicopter pilots and just listening on the radio.

5

Q. I think you say you don't watch free-to-air television because you don't have an aerial that picks it up?

A. Yeah, just watch Foxtel.

10

Q. There was nothing on Foxtel over the 10 days about what was happening?

A. No.

15

Q. Did you listen to FM 104.7?

A. Yes.

Q. Did you listen to that on a daily basis?

A. Yeah, on the way to work and usually on the way home.

20

Q. And did you hear anything on that channel over the 10 days about what was happening with the fires?

A. Yeah, just bits and pieces.

25

Q. You say you spoke to the helicopter pilots and the firefighters. They were at a base camp at the settlement; is that right?

A. Yes.

30

Q. Where was the base camp in relation to your house?

A. Pretty much straight across the road and down the road a bit on the oval, on the paddock opposite my house.

35

Q. How often would you speak to the helicopter pilots and firefighters?

A. Oh, usually every afternoon when I came home. A few of us would go down and talk to them.

40

Q. From the conversations you had leading up to the 18th of January, did you understand that there was any potential threat to the area where you lived from any of the fires?

45

A. No. One firefighter I talked to, one young

fellow actually told me that they were all under control. And then the same day I talked to another firefighter who said they were out of control. So it was sort of mixed. Didn't really  
5 know what to think.

Q. How many houses were there at the settlement at that stage?

10 A. Pretty sure 26.

Q. Were they all occupied?

A. No. There was about three that weren't occupied.

15 Q. So you were able to over that 10-day period just in general watch comings and goings of the people fighting the fires at the base camp?

A. Yeah. There were plenty of helicopters. At one stage we counted about 15 helicopters.

20

Q. Can you describe to the Court what kind of facilities there were at the settlement for firefighting at that stage in terms of fire hydrants and hoses and things?

25 A. For the firefighters or for us?

Q. For you.

A. Well, I had a hose in the box out the front of my house, and probably every second house had a  
30 hose. But most of them were damaged and I'm pretty sure that they hadn't been maintained for about 15 years. That's what I had heard. They were all old and not much good.

35 My father chased up a hose and we received it on Friday, the night before the fire. We actually got two brand new hoses. That was only due to him chasing it up through housing and the firies, and that. Every one didn't really want to --

40

Q. Before the 18th you got two brand new hoses?

A. Two brand new hoses on the Friday.

Q. For your hydrant?

45 A. Yes.

Q. Did the other settlement owners get that as

well?

A. No, because my dad had argued with them to get the hoses.

5 Q. Now, as of the evening of the 17th of January, did you have any degree of awareness that there was a potential threat to the area that you lived in from any of the fires?

10 A. No, not really. On Friday night we could see the fire hit the top of the hill, Blue Range. There were that many helicopters and firefighters we didn't see it being that much of a problem. Like, my daughter was scared. My eldest daughter: yes, but yeah.

15 Q. What about on the morning of the 18th when you woke up?

20 A. I woke up at about 10 o'clock because we stayed up all night watching the fires. When I woke up I seen Jason Watt and another fellow rolling out all the hoses. We gave them a hand rolling the hoses out for a while. I packed the caravan and drove my missus and kids into town and dropped them off at her mother's in Chapman.

25 Q. Is that after you had the discussion with the security guard you drove them into town?

A. Yes.

30 Q. When you got up and you saw the hoses being rolled out, did you understand at that stage there were was some potential threat to your area from the fires?

35 A. Oh, not really. I thought - yeah, I just thought they were being over-cautious, yeah. I didn't really think what was going to happen would happen.

40 Q. While you were doing that you were approached by the security guard?

A. Yes.

Q. What exactly did he say to you?

45 A. He said to roll the hoses up and go.

Q. Did he say why?

A. No. He just said, "You better go". So yeah,

we sort of had a bit of an argument with him and told him, you know, we weren't going and we were going to stay. But then I left and drove my missus into town and drove back.

5

Q. You were able to put some personal items in your caravan?

A. Yeah we took photos and the kids bikes and some clothes.

10

Q. And after you dropped Nicky and the kids at her mother's, you say you went back to the settlement?

A. Yeah.

15

Q. On the way back you were stopped by a policewoman?

A. Yes.

20

Q. What did she say you to?

A. She just asked me where I lived. I showed her my licence. And yeah she said, "All right. You better go".

25

Q. About what time was this?

A. It would have been 11 o'clock, maybe 11.30.

Q. What was happening at the settlement when you arrived back?

30

A. Yeah, mainly people were just preparing and hosing down their surrounds and that.

Q. Were most of the settlement residents still there?

35

A. Yeah.

Q. They were hosing around their houses and cleaning out gutters as well?

40

A. Yeah. That's what I had done. I got on my roof and cleaned my gutters out and hosed around my house.

Q. Could you see where the fire was at that stage?

45

A. Yeah, you could see it coming down the hill, yeah.

Q. What did it look like?

A. Oh, just, yeah, a lot of smoke and flames, yeah.

5 Q. What were the firefighters doing at that stage?

A. Yeah, at that stage everyone had pretty much gone and there was one fuel tanker on the oval and that was pretty much it. Everyone else had left.  
10 There was, I think, a truck that had all the gear for the incredible hulk. But then he soon left too.

Q. Did you talk to any of them before they left?

15 A. No.

Q. Or as they left?

A. No. The last person I talked to was the firefighter in a light unit.  
20

Q. What conversation did you have with him?

A. Well, he filled his tank up out the front of my house, because there is a hydrant there. I just asked him a bit of advice, what I should do.  
25 He said, "If you are going to stay, you know, spot fires will come over. Just try and put all them out." And I asked him to stay. I said to him, "You should stay and give us all a hand because there is no-one left." He said, "I've got to go".  
30

Q. Was he an ACT firefighter or New South Wales firefighter?

A. Oh ACT, I think but I'm not 100 per cent.

35 Q. So you continued to prepare your home as the fire front approached?

A. Yes.

Q. What did you see when the fire front did approach your home?  
40

A. You couldn't really see anything, just smoke. Yeah, just seeing all the trees go up.

Q. What were you doing when the fire front approached?  
45

A. We were hosing down the school and yeah, we were hosing all around the school because we

thought that was, you know, the main thing to sort of look after, I suppose. And then the fire hit the acacias right where we were, so we dropped the hose and ran back to the house. By then pretty  
5 much all the grass and trees were on fire, and we then tried to put out a few of the trees and that. The water ran out.

Q. After the water ran out, what did you do then?

10 A. We moved all the cars into the middle of the paddock where one of the helicopters was dumping water every time he come in. We thought that was a safe spot. We sort of put all the cars around and we all just stayed there.

15

Q. How many of you were there at that stage?

A. I think there was about 15, because we were separated from the people that lived down the bottom. They made it out to the road, apparently,  
20 or drove through the flames. We stayed up the top.

Q. I think you say you tried to move the cars to the top of the top block but couldn't get through.

25 A. Yeah, I went to move - 'cause two of the cars were on gas and for some reason we thought we better move them from where we are. Probably not a good thing to have them two cars with all them people there.

30

When I drove around, all the other houses were starting to ignite. And then we just drove back and left the cars where we were.

35 Q. You couldn't get through to the top block?

A. No, we were actually in the top block. We were actually just driving up the street.

40 Q. How long did you stay on the block for whilst the fire front was moving through?

A. Oh, the whole time, yeah. But when it actually come through, I was sort of huddled up beside my car. It was sort of - you know real windy. Couldn't see. We all had like tea towels,  
45 wet tea towels on.

Q. Did you have some water with you?

A. Yeah, we had an esky with water in it. Everyone was sort of washing out their towels every now and then.

5 Q. You say you stayed there the whole time. How long was that period for?

A. Oh, it seemed to sort of - probably about 15 minutes, I reckon, yeah.

10 Q. It took 15 minutes for the fire front to pass through that area?

A. Yeah. Oh, well, I'm not 100 per cent sure, but probably about that. Like the spot fires come through first and then it was like a real heavy  
15 wind went through after that. Probably a minute or two after that.

Q. You say you made an emergency 000 call.

A. Yeah.  
20

Q. When did you do that?

A. Oh, at that time. At that time when we were - when it actually came through, just saying there were 15 of us and we were trapped and we couldn't  
25 get out.

Q. Did you ask for some help?

A. Yeah. They said, "There is nothing we can do. Just" - yeah, just stay where we were. We made  
30 several calls because, yeah, everyone was pretty panicking sort of thing.

THE CORONER: Q. Who was with you, Mr Houghton? You said there were a few of you, who were they?  
35 If not names were they adults, males, females what sort of group did you have?

A. Yeah, a mix. Most of them were average sort of between 20 years old and 40 years old.

40 Q. You were all trapped?

A. Yes.

MS CRONAN: Q. I think you also called Nicky on the phone whilst it was happening?

45 A. Yeah. I thought you know that was it. I rang me mum and dad and me missus and pretty much said goodbye, yeah.

Q. A short time after that did you see Mick Anderson with a light unit?

A. Yeah, he came up with a tanker and a light unit, I think. And the fellow said he had come to  
5 evacuate us. I said, "What? Are we all going to jump in the fire truck?" He said, "No, just follow us out." I sort of thought, "Well, while you are here, you might want to put a few houses out". He said, "No, we have just come to get  
10 you." I said, "I know where the front gate is. I can drive my own car out". There was a bit of a heated discussion with him because he didn't want to put any of the houses out.

15 Q. So what did you do after you spoke to him?

A. Well, we all jumped in our cars. And Trent and Jason Watt didn't want to leave because they were still putting out their house. Yeah, we went down to the crossroad near Uriarra Station and we  
20 were there for, like, five minutes and thought, "Well, what are we doing here. We may as well go back up. The fire has gone over. Try and save as many houses as we could". We went back up and kept putting out little fires around the houses.

25 Q. Did you have water at that stage?

A. No, there was no - I had a 44-gallon drum in the back near my chook pen. I was just getting buckets of water out of that. There was a bit of  
30 a trickle out of my tap.

Q. What had happened to your house?

A. I just lost the shed out the back with all my tools and gear in it. The house was all right.

35 Q. How long did you stay at the settlement putting out spot fires for?

A. Oh, probably a few days. Even a week later one tree caught alight because it was burning up  
40 through the bottom of it.

Q. Were you able to stay in your house that night?

A. Yeah. Yes, I stayed. Most of the residents  
45 did. Most of the residents stayed cause I had a - oh, that was the next day, I brought the caravan back.

Q. You lost the shed. Did you lose any other possessions as a result of the fire that afternoon?

5 A. Oh, just everything that was in my shed. All my chainsaws and camping gear, tools.

Q. Have you got any issues that you want to raise in the coronial inquiry as a result of your experience that afternoon?

10 A. Yes, I believe that more houses could have been saved if the communication between ACTEW and the firefighters removing water from our tanks. ACTEW actually talked to the firefighters and told  
15 them that they shouldn't take any more water out of our tanks because they had previously drained them on the Wednesday before the fires.

That's why we run out of water. I couldn't make sense of the tankers - I could make sense of the  
20 tankers going into town to help the people in town but seeing tankers at Uriarra Station saving the cattle and the three houses there, you know, there were 22 families at Uriarra Settlement and they should have been there. That was pretty -  
25 probably the worst thing out of the whole lot was seeing the eight or 10 tankers at that farm when they should have been, say, two or three up where we were. And they would have saved probably 80 per cent of the houses or, you know, for sure they  
30 would have.

Q. Are there any other issues that you have?

A. No, that's it.

35 MS CRONAN: Thank you, sir.

THE CORONER: Q. Mr Houghton, you say about the water tanks, they were turned off, the water was turned off. What do you mean by that?

40 A. No.

Q. Did you have your own water supply at the settlement?

A. We have three tanks on the top of the hill.  
45 The Wednesday before the fires we got some dirty water. The baby was having a bath and the water, you could tell it was really dirty. So my missus

rang up ACTEW, and he came out straight away and he said the tanks, you know, they were empty. That is why it was sucking up all the dirty water on the bottom.

5

He said that he had filled them and he said to me, "You know, make sure the tankers don't drain your water tanks because if the fire does come through you are going to have no water, you know, what if it happens again?" Like they were going up there all night emptying the tank. You couldn't really - you know, they are doing their job putting the fires out. You couldn't really argue with them in that sense.

10

15

Q. They were using the water out of your tanks?

A. Yeah, yeah.

20

Q. You said that ACTEW told them at some stage not to use any more water?

A. Yep. He told me he talked to several firefighters and told them not to take any more water out of the tanks.

25

Q. That was an ACTEW person?

A. Yes.

30

Q. Do you know whether or not that happened, that the firefighters stopped taking the water out of the tanks?

A. They mustn't of, because we ran out of water. There is three very large tanks and I couldn't see it possible that you would run out of water within a few hours of using a few hoses.

35

Q. I think you said that one of the tanks it was turned off. What do you mean - it had water in it that you couldn't get to it or it was empty?

40

A. There is a reserve tank and it is meant for if there is a fire. And no-one turned it on because no-one knew about it.

45

Q. I think we have heard that evidence before.

A. The people that did know about it weren't there.

Q. That holds about 10,000 litres you think?

A. Yeah - Oh, I'm not 100 per cent, but, yeah.

Q. A large amount?

A. Yeah.

5

THE CORONER: Thank you, Mr Houghton. Mr Archer?

MR ARCHER: Yes, thank you.

10 <CROSS-EXAMINATION BY MR ARCHER

MR ARCHER: I represent the Australian Federal Police.

15 Q. Just a couple of questions about your statement. Do you have it there?

A. Yes.

20 Q. You weren't wandering around that day looking at your watch, I know, but I just want to try and link some events to some times, if I could.

A. Yes.

25 Q. You got back after going through the road block at about 12.

A. About 11 - yeah, 11.30, 12.

30 Q. You, with others, Jason and Justin, Matt and Burkey and Gavin were doing some work preparing the settlement for the fire?

A. Yes.

35 Q. At page 6 of your statement you say in relation to the issue we have just been talking about the water died to a trickle, what time was that?

A. I'm not 100 per cent what time it was.

40 Q. What is your best guess, do you think?

A. It was when the fire came through.

Q. When do you think that was?

A. I'm not sure. Not exactly sure.

45 Q. Some time after 2?

A. Yeah. Yes.

Q. The calls that were made to the 000 number, did you make the first one as far as you were aware?

5 A. Yeah. I'm pretty sure I made all of them.  
Yes.

Q. Was it on a landline or a mobile?

A. No, on a mobile.

10 Q. How many did you think you made?

A. Oh, probably about three. Actually I think one other person tried too.

15 Q. Have you got any idea when you made those calls?

A. Well, it would have been about the same time.

Q. So it was close to the time of the water running out, was it?

20 A. Oh, no. After the water had run out.

Q. How long after, do you think?

25 A. Oh, maybe 5 minutes, yeah, when the actual front come through.

Q. So far as the water issue is concerned, the pressure that is normally there is quite good I take it from the tanks; is that right?

30 A. Yes.

Q. Is it pumped down from the tanks?

A. I'm pretty sure it is gravity fed.

35 Q. That produced quite a good water pressure; does it?

A. Yes, if you hold a fire hose, you know, it pumps out pretty good, yeah.

40 MR ARCHER: Thank you.

THE CORONER: Mr Lakatos?

MR LAKATOS: I have no questions, thank you, your Worship.

45 THE CORONER: Mr Pike?

MR PIKE: No thank you, your Worship.

THE CORONER: Mr Whitelaw?

5 MR WHITELAW: No thank you, your Worship.

THE CORONER: Mr Whybrow?

MR WHYBROW: No questions, your Worship.

10

THE CORONER: Mr Walker?

MR PHILIP WALKER: No thank you, your Worship.

15

THE CORONER: Mr Watts?

MR WATTS: No questions, your Worship.

THE CORONER: Mr Bradfield?

20

MR BRADFIELD: No thank you, your Worship.

THE CORONER: Ms Cronan?

25

MS CRONAN: No re-examination, your Worship.

THE CORONER: Thank you, Mr Houghton. You are  
excused. You are free to leave, if you wish.

30

**<THE WITNESS WITHDREW.**

MS CRONAN: I call Mr William Todkill.

**<WILLIAM EDWIN GORDON TODKILL, SWORN**

35

**<EXAMINATION-IN-CHIEF BY MS CRONAN**

MS CRONAN: Q. Sir, would you please tell the  
Court your full name and your current occupation?

40

A. William Edwin Gordon Todkill. I am not  
employed at the moment.

Q. Where are you currently living?

A. 123 Badimara Street, Fisher.

45

Q. At 18 January 2003 where were you living?

A. Cottage 10, RMB113, Cotter Road, Stromlo.

Q. That is also known as the Stromlo Forestry Settlement?

A. Yes, that's correct.

5 Q. As at that date how long had you lived at cottage 10?

A. Approximately 22 years.

Q. Who did you live there with at that stage?

10 A. My wife and son - he is 10 years old now.

Q. You lived next door, I think, to Dolly McGrath; is that right?

15 A. Yeah, just behind. She was sort of at the back of our fence sort of thing.

Q. Did you have any firefighting experience yourself at that stage?

20 A. I spent 24 years with Forestry and Rural Fire Service.

Q. Did you become aware on the 8th of January or some time after the 8th of January that the fires were burning in the Brindabellas?

25 A. Yeah. We knew there were a couple of lightning strikes because the forestry depot, it was only about 15 metres from my fence and we used to talk - well all the blokes I used to work with and that. They would be coming backwards and  
30 forwards and that, and they gave us a bit of an update.

Q. You were also over the 10 days the fires were burning, as well as talking to the forestry  
35 people, accessing any kind of media to find out what was happening with the fires?

A. Only what was on the TV and hear a bit on the radio. Didn't read the papers much. Now and  
40 again, you know, but I don't get the paper every day. Mainly on the TV.

Q. Did you watch the TV or listen to the radio on a daily basis at that stage?

45 A. Yeah. I usually watch the news, if I can.

Q. As at the evening of the 17th of January, did you have any sort of awareness at all about the

area that you lived in that might be potentially impacted on by the fires?

5 A. Yeah, we were getting a lot of smoke and we had also - that was the Friday, yeah - we went to Yass to pick up my son from parent's place. When we got back in the yard, he picked up a few burnt leaves and stuff. We were getting a few embers even at that stage.

10 Q. Had you spoken to anybody as at the evening of the 17th that led you to believe that there might a problem for you in your area?

15 A. I knew it was going to be a problem because of the intensity of the smoke and that and the way it was building. When we came back from Yass, the McIntyre's Hut fire, it was starting to really boil.

Q. You could see it then, could you?

20 A. Oh, yeah.

Q. Did you have to do anything to prepare your house on the evening of the 17th?

25 A. No. The only thing, I got a couple of hoses from work. I actually had those there from the 2001, the Christmas Day fires. Fortunately it missed us. I had those still there from then.

30 Q. Did you have any discussions over the period though with any of the New South Wales rural firefighters that were using that area as a base camp?

35 A. No, not really. Only just to say G'day to them, because the closest the base camp was probably 30 metres from my driveway and I could just see them coming and going. I had a hydrant out the front of me place. They used to fill up the tankers and that out of it and wash the windscreens and that a bit when they came in after  
40 a changeover of shifts.

Q. On the morning of the 18th, you, Peggy and Matthew went to a reptile display at the National Botanic Gardens?

45 A. Yeah, that's right.

Q. You got there about 10 o'clock?

A. Around about 10 o'clock.

Q. When you left your home that morning, did you have any knowledge or awareness that your house  
5 might be potentially impacted on by the fires that day?

A. No. It was pretty calm that morning. But as the morning sort of went on, you know the wind started getting up. When we left the reptile  
10 park, we called into the Royals Rugby Club and saw a few people there. Had a mate, he works out in the field firing range. He has an ESB radio. He came in and he said, "I've just heard an update that it could hit the suburbs in two or three  
15 days". That would have been probably around about 1.30, I suppose. Just sort of looked and I said, "If it is not here in 2 hours." I said, "We'll be lucky". I said to my wife, "Come on, we're going. We will get some stuff anyway." Luckily we had  
20 photos and that packed up from the year before. We cleaned that out and they got out and then it hit.

Q. Had you been at home on the evening of the  
25 17th?

A. Yeah, yeah.

Q. Had you received any telephone calls in relation to what the fires were doing?

30 A. No.

Q. So you went home. What route did you take from Royals to your house?

A. Straight down Streeton Drive and up the Cotter  
35 Road.

Q. Did you see any police or firefighters that you spoke to on the way back to your house?

A. No, didn't speak to anyone. On the morning  
40 before we went to the botanic gardens I noticed a lot of them, a lot of the New South Wales crews and that they were pulling out. But they had been there from the Tuesday before, you know, they used to have changeover crews and that. I sort of  
45 didn't take much notice of it. It seemed everyone was going but no-one returning. There wasn't many left when we got back either.

Q. So you got home and packed the car, and Peggy and the kids left in your car?

A. Yeah, Peggy - I had friends come up too. One of the blokes who stayed there with me, Shorty,  
5 his wife and that they came up. So Lyn left in her car and Peggy left in her car.

Q. At about what time did they leave?

A. Probably about 2, I think.  
10

Q. When you arrived home from Royals, what kind of activity was going on at the settlement at that stage?

A. There was one unit there and they were  
15 hosing - because I had the hose hooked up to the hydrant. They were hosing down my house and Andre Maynes, the one on the top side of me.

Q. Was that a light unit or a tanker?

A. No, it was just a bit bigger than a light  
20 unit. It was a sort of a - yeah, it wasn't what we would normally call a light unit which is a Toyota with a tank. I think it was - I can't really --

25

Q. Was it a New South Wales Rural Fire Service --

A. Well, it was red. I guess it must have been.

Q. How long did he stay hosing down your houses  
30 for at that stage?

A. Not long. I said, "Well, we are going to stay" because we were - it was fairly warm, we only had light clothes on. He said, "You can't stay. You need protection." I said, "I've got  
35 some overalls behind the door." I went and got those. I gave one pair to Mark, one to Shorty and put one on myself. He said, "We've got a call. We're going now. We've got to go." I said, "Where do you have to go?" He said, "I don't  
40 know. We just got a call"

Q. Were you getting embers or spots at that stage?

A. Oh, yes.  
45

Q. You all wore overalls. What other preparations did you do to look after your houses?

A. Only threw heaps of water around.

Q. There is you and Kevin Shortt and Mark Graham at that stage?

5 A. Yes.

Q. Could you see what the other residents were doing at that point?

A. No.

10

Q. Were many of them around or was the place pretty --

A. Well, I only knew of Chris Knight and Marty Bennett when they drove out across the oval, I was only aware that they were there. And of course Mark. He came from two doors down. He came down and he said, "I haven't got enough hose. I haven't got any water pressure anyway." He came down to give us a hand.

20

Q. And you still had water pressure then?

A. Yes. He was only using - he only had access to a garden hose. I had this hydrant out the front.

25

Q. What did the fire front look like as it came through?

A. Well, I knew it was coming because I could hear it. I could really hear it coming. That's when it sort of came over the top of the house and hit the base camp. Virtually melted the aluminium trailers and that. I got down. I had - I don't know what they call it, a pruneus plum or Japanese plum or something, and it had a stump on it like that (indicated) and it branched up. Mark and Shorty, they were working either side of the house taking turns with the hose. I was down near the wood heap. As soon as I heard it, I knew what it was. I just got down behind the stump. It went over the top I went around and Mark and Shorty - they sort of heard it coming too and took protection as well.

40

Q. So --

45 A. But you couldn't see. I mean you could hear it but you couldn't see. You know, it was black.

Q. Did you see the flames?

A. It was more like orange smoke than flame, although I wasn't sort of looking up too much. I didn't have much protection there.

5

Q. So how long did you stay behind the stump?

A. Oh, only a matter of, you know, till it passed over, which is a matter of 20 seconds, 30 seconds. It might not have even been that long.

10

Q. What did you do after you got up?

A. Just got up and went and checked on Mark and Shorty.

15

Q. Where had they been while it passed through?

A. Shorty, he went up the front steps and he had cover there. Mark went around the carport and he got cover there.

20

Q. What did the three of you do after the fire front passed through?

A. We just started hosing down and then it seemed to get - the smoke seemed to get more intense. I walked around the back - the eastern side of the house and there was a sheet of tin which the wind had picked up. I don't know whether it came off one of the other houses behind or it came off the depot - like I said, the depot wasn't far away.

25

30

I thought the fire front has sort of passed. I said, "Oh bugger this, we will get out. We have done all we can. There is no use hanging around here. Once all of this tin and that start flying around, we will get cut in half." We left for, I suppose, half an hour or so. We came back later, about half an hour or so later.

35

Q. Where did you go when you left?

A. Over to Shorty's place in Weston.

40

Q. What route did you take to get to Shorty's place?

A. Down the Cotter Road, up Streeton, then Namatjira - I don't know what the little short street is - then on to McInnes, up Buvelot and then into Follingsby.

45

Q. Did you pass any road blocks when you went through?

A. Not when we went through, no.

5 Q. Do you know about what time that was?

A. Probably 3 o'clock roughly. Yeah. It might be 3.30, I don't know. We didn't have much time to be looking at our watches.

10 Q. In your statement you say before you left that Mr Paul Graham, the Stromlo Forest mechanic, turned up and took a large water tanker from inside the forest shed; is that right?

15 A. Yes. He pulled up right outside where we had the hoses hooked up on the hydrant, and Shorty said to him "you better not park there" they had fuel drums not far away. He said you know could I help him with the tanker. I said, "Well no, I didn't even know it was there. I thought it would  
20 be out or something." At that stage I didn't know there were any other houses - I didn't know what had happened, you know. I don't know why it was parked in there on a day like that.

25 Q. And he checked on you and then left?

A. Beg your pardon?

Q. Did he leave the area after checking on you?

A. Yeah, yeah.

30

THE CORONER: Q. Sir, what did Mr Graham do? He went to the shed, got the water tanker, parked it next to the houses and then left?

A. No, no.

35

Q. He took the water tanker?

A. See he was a mechanic. Whether he was there -  
40 he had gear and that at the depot. He got the tanker out and drove it up right up my driveway where the hydrant was and just asked if he could be of any assistance. I said, "I think we are doing all we can here". So he just drove off then. Where he went, I'm not too sure.

45 MS CRONAN: Q. When you went to Weston you say you stayed there for about half an hour; is that right?

A. Yeah, I reckon it was about that.

Q. Then you went back to the settlement?

A. Yeah.

5

Q. Did you go back alone or with someone else?

A. No, no. Mark and Shorty came back.

10 Q. What did you see when you got back to the settlement?

A. Not much except a heap of mess. There was only my house - it is known as the house on the hill around Weston now - I didn't realise that Dave Ferry and Digger's place was even still standing. Everything else around was flattened.

15 Q. But your house, what was happening with your house?

A. Well, Mark said, "I wonder what happened to Dolly" - I am digressing a little bit - anyway I said, "What do you mean?" He said, "Well I saw her in the yard, you know, earlier on in the day." He didn't say what time. And we better have a bit of a look around.

25

He went to the side fence. He said, "I don't know. I think she might be over here." I got over the fence and I had a look. I had to get down about three times to make sure it was a person or not because she was pretty badly burnt. So then we left. There was a unit, I don't know where - it was a light unit from somewhere that came around. They got in touch with the police and ambulance and that. I tried to get through on a mobile but that's when the light unit turned up at the same time.

30 And then we left. The police and that came. They said, "We won't worry about taking a statement off you now. We will leave it until later". We went back to Weston. Anyway, told Peg and Shorty's missus what had happened. So we stayed at Shorty's place for a while. I don't know for how long. Then Peg and my niece went back to the house. That was 7.30 or 8 o'clock. Peg gave me a call and said, "The house is on fire".

45

Anyway, we raced back up there but there was a couple of blokes in Forestry - because the hoses and that sort of burnt by then. We lost the shed and that and they were near the shed. Anyway, a couple of blokes from Forestry got there. They kicked the front door in and got a bucket out of the laundry. They reckoned what had happened, everything was sort of still when we left. They reckoned there was a freak gust of wind came in off the depot and blew up in the valley, and there was enough for the sparks and that there to catch on fire. They started throwing buckets of water on it. And apparently they got in touch with a unit, I think it was from Queanbeyan, and they came over and ripped the roof off and got in and put the roof out.

Q. So your house was saved then?

A. Yeah. We lost two rooms through smoke and water damage. They condemned it. They came out on the Monday, yeah, and had a look. They sent two or three different people around and they condemned it. They gave us till - well they virtually told us on the Wednesday morning we would have to get out. They started boarding it up Wednesday afternoon while we were out. They didn't know at that stage what they were going to do. They then decided to fix it. They fixed it up.

30

Q. What possessions did you lose on the afternoon of the 18th?

A. Two bedrooms, the furnishings and clothing in the two bedrooms. Then everything in the shed.

35

Q. Sir, are there any issues that you want to raise in the coronial inquiry as a result of the experience that you had on the afternoon of the 18th?

A. I would just like to know why the fires and that were left to burn like they did. I mean, in the 24 years that I had there - I mean especially in summer time when the conditions were like that, the old practice was detection and response. You would go there and stay there until they were blacked out. But I don't know. It's got me beat.

40  
45

Q. Are there any other issues that you have?

A. Not really. Just that it is something, you know, well hope we never see again.

5 MS CRONAN: Thank you, sir. I have no further questions.

THE CORONER: Q. You had some, was it the rural fire service set up a camp or a base camp at the settlement on about the 14th; is that right?

10 A. That was the Tuesday, whatever - the Tuesday.

Q. The Tuesday before. Was there much activity in and out of that?

15 A. Yes, quite a bit. Like I said to my wife, the worse thing about it was they were only set up right next - probably 30 metres or so from my place. The weather being hot, the windows were open. There was a big spotlight there and every  
20 time the wind blew, it was like living in a lighthouse.

Q. You had helicopters landing there as well?

A. There were occasional, not a great deal, no.  
25 But there was, you know, a lot of vehicles coming and going all the time.

Q. Did they leave at some stage, was it abandoned at some stage that camp?

30 A. Saturday morning there was a lot of vehicles leaving. Like I said, they used to come and go. They had changeover periods for replacement crews. Saturday morning there seemed to be a lot going and not many coming in. When we came back home  
35 that afternoon, there was only the one vehicle with personnel and that in it, apart from the base camp and the trailers and everything else, you know, their amenities.

40 Q. Did you chat to any of those people in those days?

A. Yes. The unit that was there, they were hosing down my house and the next-door neighbour's. Once they found out we had overalls  
45 and that, they just said, "We've got a call. We've got to go," and that was it.

THE CORONER: Mr Archer, do you have any questions?

5 MR ARCHER: No, I don't have any questions, your Worship.

THE CORONER: Mr Lakatos?

10 MR LAKATOS: No thank you, your Worship.

THE CORONER: Mr Pike?

MR PIKE: No thank you, your Worship.

15 THE CORONER: Mr Whitelaw?

MR WHITELAW: No Thank you, your Worship.

20 THE CORONER: Mr Whybrow?

MR WHYBROW: No.

THE CORONER: Mr Walker?

25 MR PHILIP WALKER: No.

THE CORONER: Mr Watts?

30 MR WATTS: I do actually.

**<CROSS-EXAMINATION BY MR WATTS**

35 MR WATTS: Q. Mr Todkill, when you left on the morning of the 18th, was there just the one New South Wales tanker near your house?

40 A. No, no. There was quite a few there on the morning of the 18th. But they were starting to leave. There were vehicles leaving that morning. It was only when I came back that afternoon that there was the one unit there.

Q. How many crew were present when you came back?

45 A. I think there was only two. There were only two on the unit.

Q. You said they got a call. Did you hear the call?

A. I didn't hear the call, no.

Q. Did someone tell you what the call was?

5 A. No, they just said they had to leave, and that was it.

Q. Can you recall what time that would have been?

10 A. Probably around about 2 o'clock, roughly. It might have been a bit later.

Q. Did you say anything to them about asking them to stay?

15 A. I just asked them where they had to go and they said "we just got a call", and that was it.

Q. They didn't say where they had to go?

A. No.

20 MR WATTS: Thank you, Mr Todkill.

THE CORONER: Thank you, Mr Watts. Any re-examination?

25 MS CRONAN: No re-examination.

THE CORONER: Thank you, Mr Todkill. You are excused. You are free to leave, if you wish.

30 <THE WITNESS WITHDREW

THE CORONER: We will take the morning adjournment.

35 **SHORT ADJOURNMENT** [11.27am]

**RESUMED** [11.50am]

MS CRONAN: I call Mr David Prince.

40 <DAVID LAURENCE PRINCE, SWORN

<EXAMINATION-IN-CHIEF BY MS CRONAN

45 MS CRONAN: Q. Could you please tell the Court your full name and current occupation?

A. David Laurence Prince, Acting Fire Commissioner, ACT Fire Brigade.

Q. As at January 2003, what position did you hold?

A. I was an acting superintendent and deputy director communications upgrade project for the  
5 Emergency Services Bureau.

Q. Can I just have [AUS.AFP.0070.0002] brought up on the screen. Sir, you made a statement in relation to the events of January 2003, which you  
10 signed on the 11th of June 2003; is that correct?

A. That is correct.

Q. Have you had an opportunity recently to go through the contents of that statement?

15 A. I have.

Q. Is there anything in there that you would like to alter or to correct?

A. No, there is not.  
20

Q. We don't need it brought up, but I will ask you about a record of conversation that you had with Constable Matthew Doyle on 28 December 2003, which for the record is [DPP.DPP.0004.0040]. Are  
25 you familiar with the contents of that record of conversation as well?

A. I am.

Q. Is there anything in there that you need to alter or to correct?  
30

A. No, there is not.

Q. Finally, you have also participated in a taped record of conversation with Constable Mark Travis  
35 on 18 March 2003, which for the record is [ESB.AFP.0046.0282]. Have you been through the contents of that record of conversation as well?

A. I have.

40 Q. Is there anything in that taped record of conversation that you wish to alter or correct?

A. No, there is not.

Q. Sir, you became aware of the lightning strikes  
45 and the fires in the Brindabellas some time on 8 January; is that correct?

A. That is correct, whilst driving home.

Q. At what time did you become aware that the fires had started?

A. I would think it was somewhere between 1830 and 1930 that evening.

5

Q. You had a phone call with Mr Tony Graham at 46 minutes past 5 on that afternoon?

A. Obviously earlier. Yes, I did.

10 Q. Could we have [DPP.DPP.0006.0101]. Do you have a recollection of that phone call?

A. I remember discussing, I think having a beer with Mr Graham that evening. But really what had happened was as I was driving home and saw the  
15 fires in the distance, I had rung Tony just to see what was occurring.

Q. If we could just scroll down a bit. You were told:

20

"The one in New South Wales may cause us grief tomorrow or the next day."

You said:

25

"Yeah, just looking at it I would think if the breeze, and the wind, just keep coming this way it will certainly push it to us."

30 Can you tell us what you had in mind when you were speaking to Mr Graham about any potential threat from the fire in New South Wales at that stage?

A. If the fires had turned to a westerly or north-westerly direction, they may push towards  
35 the ACT border. Obviously the New South Wales authorities would have been dealing with it, and the Bushfire Service would have been discussing the matter with them.

40 Q. Essentially I just want to take you through your statement and get some further detail in relation to some of the things you said in that statement. Throughout the 8th to the 16th of  
45 January, sir, did you have any contact with anyone in the Bushfire Service in relation to what was happening at the Brindabella Ranges and the fires specifically in the Brindabella Ranges?

A. I spoke with Tony Graham on a number of occasions just to get a brief overview.

5 Q. As at 16 January, what was your understanding in relation to whether or not those fires may or may not pose a threat to your area of responsibility in Canberra?

A. We were briefed by Mr Peter Lucas-Smith at approximately 2 o'clock or 10 past 2.

10

Q. Can I just ask you: just before that briefing, what was your state of knowledge at that stage?

15 A. I believe the fires were being dealt with by the Bushfire Service and the Rural Fire Service of New South Wales, and at that moment they had them in containment lines.

20 Q. Is it the case that you considered prior to that briefing that there was no potential for those fires to impact on an area that was under your responsibility or the responsibility of your brigade?

25 A. I had read an article the day before by Mr Phil Cheney. He had discussed that. At that stage that was certainly a theoretical possibility that they may impact. But whilst firefighters were working within containment lines, it appeared that they were dealing with it successfully.

30 Q. In paragraph 5 of your statement you say:

35 "Once a bushfire enters land gazetted as the built-up area, the ACT Fire Brigade is responsible for the fire. The ACT Bushfire Service would remain in control of the fire until ACT Fire Brigade personnel arrived."

40 Was it also the case, as in December 2001, that the Bushfire Service could assist the ACT Fire Brigade in relation to fires that did burn in the gazetted area if they were required?

A. That had always been the case, yes.

45 Q. On Thursday the 16th of January you say Mr Lucas-Smith briefed you in relation to what was happening with the fires. Can you recall now who was present when you were briefed?

A. A number of people were present: Mr Peter Newham, Mr Ian Bennett, Mr Michael Collins, Mr Conrad Barr, Mr Peter Cartwright, Mr Peter Hobbs and a number of other people.

5

Q. Can you recall Mr Lucas-Smith demonstrating to you on a map where a number of fires had burnt to in the past?

10 A. Yes, I do. He actually showed us on a map in the executive conference room where fires had burnt in the past.

Q. Where did he show you they had burnt to?

15 A. Well, in fact right up to 2001 they had burnt into the ACT area. The 1939 fire had actually come into Canberra. The possibility of a fire coming from the west into the ACT urban area was there.

20 Q. Can you recall what he said to you about that possibility in relation to these fires?

25 A. He was concerned specifically about Monday, the 20th, and that the fire weather indications at that time on the Thursday were a concern for us all, and obviously with strong westerly winds the possibility was certainly there.

Q. The possibility of what, sir?

30 A. Of those fires to the west of us coming into the urban area.

Q. Can you recall anything else that he said during that briefing?

35 A. I think through his experience over a number of years as a Chief Fire Control Officer, he advised us that he had seen fires in bad conditions spot some considerable distance and that was something that we had to be concerned about.

40

Q. Did he give a specific distance or did he just say "considerable distance"?

45 A. I recall 15 kilometres, but that may not be the exact number.

Q. Had you been to any of the planning meetings that the Bushfire Service were holding in the

mornings and the evenings prior to this occasion?

A. I had not. I had commenced I believe on the 16th. I was receiving, though, the planning minutes.

5

Q. Immediately following that briefing from Mr Lucas-Smith what did you do?

A. I stayed in the executive conference room with a group of senior Fire Brigade personnel to discuss the setup of an incident management team on behalf of the Fire Brigade.

10

Q. Paragraph 7 of your statement you say:

15

"There were differing views on how the ACT Fire Brigade should react to the information received from Mr Lucas-Smith."

20

Can you tell her Worship what those differing views were?

A. Some people thought as part of the current Service Management Team with the Bushfire Service we should be working more closely with those people, and others thought that the brigade needed to prepare itself with its own facilities and gear.

25

Q. To act independently?

A. That's correct.

30

Q. It was eventually agreed that the Incident Management Team should be set up on behalf of the ACT Fire Brigade. Do you mean by that previous answer that there was a view that you should participate in the SMT rather than set up your own IMT?

35

A. That's right. We actually placed a person in the Service Management Team and had a person in the planning area. But the team that was set up was specifically to prepare the ACT Fire Brigade.

40

Q. So your IMT was set up to manage what incident?

45

A. Really to make people aware and to manage the incident if and when that fire in the west came into the urban interface.

Q. So it was a planning IMT at that stage?

A. That's correct.

5 Q. Did you participate in that IMT at all, in any role? Were you allocated a role?

A. I did not. At that time I was working for the Fire Commissioner and assisting him in various other roles.

10 Q. What roles were you assisting him in?

A. At that moment we were dealing with a certified agreement with the United Firefighters Union, I was assisting there. I was the manager of the communications centre for staff only. I  
15 still had that role. And within the communications upgrade project, I had roles there. He also asked me to continue being the police liaison officer.

20 Q. Who were you liaising with at that stage in that role?

A. Sergeant Steve Kirby.

Q. But you also made some arrangements then to  
25 purchase some topographic maps of the ACT region; is that right?

A. I did.

Q. What maps did you order?

30 A. I think the majority of topographic maps for the ACT.

Q. What was the purpose of that order?

A. To allow those maps to be placed in water  
35 tankers for ACT personnel to use in the field.

Q. Paragraph 9 of your statement you say:

40 "District Officer Hobbs and myself had a discussion with Mr Peter Newham advising him of our concerns surrounding the fires and that there was a need to be fully prepared for the possible impact."

45 What concern specifically did you and District Officer Hobbs hold at that point in time at 4.30 on 16 January?

A. We saw the brigade needed to have a strategic position in relation to both staff and equipment to ensure that we had our full capability available.

5

Q. What does that mean?

A. Obviously hoses, standpipes, nozzles to be prepared; ensure that all of our available staff had been advised that they may be needed across the weekend or specifically Monday at that time; and of course to prepare our spare pumpers. We had three spare firefighting engines available. We wanted them ready to have staff on board.

15 Q. Did you tell all of that to Mr Newham?

A. We did.

Q. What was his response?

A. He was very comfortable with the situation and felt that at that moment the fire was 25 kilometres away and the Bushfire Service were dealing with it appropriately and, with the extra tankers that we had stood up, he believed that we were prepared.

25

Q. Did he say anything about contacting extra personnel - all your available staff?

A. We made arrangements on the Friday afternoon to do that.

30

Q. But during this discussion on the 16th of January, did he say anything about the need to do that?

A. No.

35

Q. So to your knowledge was any arrangements made to do that?

40 MR WATTS: Well, he has just answered that, he said on the 16th.

MS CRONAN: Q. The answer to your last question was he didn't say anything about that during this discussion; is that right?

45 A. On the 16th, no.

Q. To your knowledge was any arrangements

commenced on the 16th to do that?

A. Not to my knowledge, no.

Q. So that was first commenced on the 17th?

5 A. That's correct.

Q. Did you go to the afternoon planning meeting of Bushfire Service that afternoon?

A. Yes, I did.

10

Q. What time was that?

A. Probably 4.30 that day, 1630.

Q. Can you recall who was present at the meeting when you attended?

15

A. There were always a number of people present at those meetings. I believe Mr Lucas-Smith would have been there, Mr McRae, Mr Graham.

Q. Can you recall if anybody said anything at that meeting about any risk to the urban areas of Canberra?

20

A. On the 16th?

Q. On the 16th?

25

A. Not specifically, no.

Q. You again went to the planning meeting on the morning of the 17th of January?

30

A. Yes, I did.

Q. What can you recall being said about the fires on that morning?

A. The fires I think were within containment lines. There were issues around communications with the Yarrowlunla Shire and I think Mr Lucas-Smith was ensuring that that communication channel was flowing. And other than that, other than referring to the notes, not much else.

40

Q. Can you recall, were you present during the briefing on the weather conditions to be expected the following week?

45

A. The following day?

Q. The following week.

A. The following week, yes, it was still at that time Monday being our worst possibility of a fire - weather.

5 Q. Could we have a look at [ESB.AFP.0110.0868]. I think you said in evidence that you hadn't attended planning meetings prior to the afternoon of the 16th but you had been receiving the minutes; is that correct?

10 A. That's right.

Q. When were you receiving the minutes in relation to the meetings, can you say?

15 A. Probably late in the day from the morning ones and often they were just left in the intray or from an afternoon one, the next morning.

Q. If we could go down to the planning section on the first page where it says "weather". Do you recall hearing that the Saturday forecast at that point in time was for north-west winds, "25-25 kilometres, gusting 45 kilometres possibly as high as 60 kilometres, pulling back to a westerly direction"?

25 A. I do recall that being said, yes.

Q. With a maximum temperature of 37?

A. Certainly. That's right.

30 Q. If we could go to the next page, do you recall also hearing that Monday was due to have light winds early in the morning:

35 "... tending north-west late morning, 20-30 kilometres, gusting 40 kilometres plus."

And with the same temperature prediction as the Saturday?

40 A. That's right.

Q. Did you understand following that meeting then that Saturday's weather was in fact going to be worse than the Monday's weather in relation to fire behaviour?

45 A. It was appearing that way, yes.

Q. And you understood that when you were at the meeting?

5 A. When you say I understood that, I probably rather than exactly predicting that that was going to be the case, we had in our minds that Monday was still going to be worse for some reason than Saturday.

Q. Why did you have that in your mind?

10 A. I suppose it was the information that we received that Monday's fire weather was going to be worse than the Saturday.

Q. That was on the Thursday afternoon you received that?

15 A. That's right.

Q. You would agree reading these notes that that had changed as at the Friday morning?

20 A. It had changed. But for whatever reason, at that stage I still felt that Monday was the day of concern.

Q. So nobody actually explicitly said to you at that meeting, "It has now changed. Saturday is going to be the bad day"?

25 A. No.

Q. Do you recall Mr Lucas-Smith also saying that there was a potential for 10-kilometre spot-over distance?

30 A. I don't recall him saying, but he may well have.

35 Q. If we could go to 0870. If he would have a look at the bottom paragraph on the screen at the moment above the word "media" were you present and can you recall when Mr Lucas-Smith raised the potential for McIntyre's Hut fire to have many uphill runs with spotovers at potentially 40 10 kilometres with a north-west wind impacting on the ACT?

A. I was not present at that media interview at 12 noon that day.

45

Q. Sorry, this is part of the planning meeting minutes for the 9.30 --

A. I may have left - later to that meeting - I don't believe I was there in the end.

5 Q. You don't recall that being said at that meeting?

A. I certainly wasn't there - I may have been standing with a group of people and then moved outside either to answer a phone or something else.

10

Q. So following your attendance at that meeting, what was your general understanding of the potential for the McIntyre's Hut fire or any of the fires to impact on the gazetted built-up area?

15

A. Well, obviously with a number of people fighting the fires in the ACT, every effort was being made to keep them within containment lines and they were working desperately to do that. So my understanding at that time was all efforts were made to work on both the Bendora and Stockyard fires.

20

Q. But what was your understanding of the level of risk of those efforts succeeding?

25

A. Still being a good distance away and having a look at where those fires were, the impact obviously would have been south of Cotter Road and much lower in the ACT if we were subjected to north-westerly winds - obviously a bit different if they were westerly winds. I mean, a lot of people were confident that they were going to deal with those fires in the ACT.

30

THE CORONER: Q. But you, Mr Prince, what did you think yourself?

35

A. Well, I was probably concerned but we really had to wait and see how it panned out. As with any fire, you have to understand what is occurring on the incident scene.

40

Q. Were you doing that? Were you bringing yourself up to speed as to what was happening on the incident scene?

45

A. Probably not as regularly as I should have. I was doing other things during the day. I was concentrating on preparing the communications centre later that day for bringing in extra staff

and also making a ringaround to staff to ensure that Fire Brigade personnel were ready for the next day.

5 Q. Did you look at maps? I think you said you were conscious as to where the fires were or you thought you knew where the fires were; were you looking at maps to see the rate spread?

10 A. Yes, I was. There were maps in the corridor of the communications centre. I passed them regularly, so I did understand where the fires were at regular intervals.

15 MS CRONAN: Q. Did those maps include the McIntyre's Hut fire? Did you have an understanding of where that was?

20 A. Yes, I did. It was a New South Wales fire. It was my understanding that the New South Wales Rural Fire Service were dealing with that fire. Obviously it posed the biggest threat to the ACT if a north-westerly wind came.

25 Q. I know I asked you this question: what was your understanding of the level of risk to the built-up area earlier, but I think your response was in relation to the ACT fires. Can I ask you specifically what was your understanding of the level of risk posed by the McIntyre's Hut fire to the built-up gazetted area?

30 A. The number of contributing factors relative to the fire hitting the ACT are variable to obviously the topography, the wind speed, the fuel loads and the fire behaviour was becoming erratic, and we had to be concerned.

35 So where it may hit or what it may do and what risk it would pose would be something that was difficult for us to understand. If you drew a straight line from McIntyre's Hut down into the  
40 ACT on a north-west projection, obviously in a number of areas from north Canberra right down to the Duffy area, the Weston area, may have been impacted, yes.

45 Q. Apart from where the fire might have impacted, did you have an understanding of how likely an impact could be as at the morning of 17 January?

A. No. I mean, it is again to do with the fire behaviour. You have to understand the wind may just drop the next day. Although, the Bureau of Met had said we were going to have gusting winds.  
5 We had to consider that was the case. Obviously with the expanse of grasslands between the pine forests and the urban interface, a lot of people thought there was an opportunity there or a chance that firefighters would be able to deal with those  
10 fires in those areas.

Q. Who thought that at that point in time, can you say?

A. I think a number of firefighters would have  
15 thought that if fires had come out of the pine forests in the grasslands that firefighters would have been able to deal with it.

Q. Did anybody say that to you that morning?

20 A. Not specifically, no.

Q. You still went away from that meeting thinking that if there was to be an impact that would happen on the Monday?

25 A. That was right. I think my view changed in the afternoon when the fires jumped the containment lines around 4 o'clock.

Q. Do you know if Mr Newham attended that meeting  
30 with you?

A. I couldn't be sure. He could have been in the room at the other end. There are a couple of entry points for that particular room.

35 Q. Paragraph 12 of your statement you say you attended at quarter to 11 the fire safety section:

40 "... where senior personnel of the brigade met to discuss the actions in response to the creation of the Incident Management Team. We were briefed by each group as to what had occurred."

45 You said there was a liaison officer appointed the previous afternoon to liaise with the Bushfire Service; is that right?

A. That's right.

Q. Can you recall if that person gave a briefing to the meeting?

A. I'm not sure whether the individual - it may have been Michael Collins; it may not have been Michael Collins; but there was a member from the planning unit. It could have been either Station Officer Kel Hannon or Station Officer Ken Nester that could have been liaising. I don't specifically think they gave us any more news than what came out of the briefing meeting.

Q. There was a discussion that fire hydrants along the urban interface needed to be checked. Can you recall any specific suburbs being discussed in relation to that discussion?

A. Suburbs south of the Cotter Road, and station officers from the fire safety section were tasked to contact fire stations and ensure that people were informed to do such.

Q. When you say suburbs south of the Cotter Road, is that from Weston Creek south?

A. That's correct.

Q. What information did the meeting have in order to assess that those were the suburbs where the hydrants needed to be checked?

A. We had considered from the briefing the previous day with Mr Lucas-Smith that the likelihood of fires may occur below the Cotter Road hitting the suburbs.

Q. Is that something that Mr Lucas-Smith had said during that meeting?

A. Yes.

Q. Can you recall more specifically what he said that led you to believe that?

A. No. It was just a position looking at the fires and I suppose more specifically westerly fires from the ACT, not considering the McIntyre's Hut fire but that those western fires, Bendora and Stockyard, may be down through that area.

Q. So somebody was tasked to contact the stations to do the fire hydrant checking. Was anybody tasked at that meeting, can you recall, to

actually contact the stations and tell them that there was a risk?

5 A. No. I believe the operational section through Mr Newham and the operational district officers would normally do that. And it would be up to them to brief the station officers on duty and then in turn the crews.

10 Q. You had the three spare firefighting appliances which weren't normally crewed?

A. That's right.

Q. You had discussions as to when extra staff to crew those should be called in?

15 A. That's right.

Q. What was said in relation to that?

A. We considering bringing those pumpers on line at 8am on the Saturday morning.

20

Q. Why were you considering doing that?

A. To ensure that we had all available appliances in the ACT from the ACT Fire Brigade available.

25 Q. When they are described as spares, why are they actually spares? Are they old? Did anything need doing to them?

A. It is a redundancy factor in relation to maintenance to ensure that our nine front-line pumpers are on the road all the time. If a vehicle goes in to undertake maintenance, it will be replaced by one of those spare pumpers.

30 Q. Was it decided then to get extra staff in to crew the pumpers as at 8 o'clock on the 18th?

A. No, it was not. It was left to ring around and see how many staff were available. They weren't contacted to be coming in at 8 o'clock. Mr Newham was comfortable with the position and advised that we would bring them in when necessary.

40 Q. You say in your statement it was business as usual and arrangements were not made to call those staff in on Friday, the 17th. So those extra staff to crew those pumpers were called in on the 18th, were they?

45

A. They were.

Q. Can you recall what time?

5 A. After 1 o'clock in the afternoon, after 1300 hours.

Q. You say here at 10.45 you attended that meeting. Is that the same meeting that is referred to in Mr Collins planning section report as the planning cell meeting; is that what that meeting is actually referring to?

A. May I have a look at these notes that I have in front of me just to check?

15 Q. You have a copy of his notes, have you?

A. (witness nods). Is that dated 18 February 2003?

Q. Yes. The reference is on page 4, bottom of page 4.

A. Yes, that is the same meeting.

Q. After lunch on the 17th of January you spoke to station officer Graeme Bryce about the recall of staff. What did you say to him at that point in time?

A. I wanted a ringaround to staff to make them aware that we may require them over the weekend, being a hot summer's weekend a lot of people normally go down the coast on their days off and depart Canberra. We wanted to see who was available. We had senior firefighter Shane Carson ring a number of people to see who was actually available over the weekend - so who they were and what numbers were ready to be called in, if necessary.

Q. It is not in your statement but, according to Mr Collins' notes, you also attended the 3.30 ACT Fire Brigade meeting of the planning cell; is that correct? If you could have a look at page 5 of that document --

A. I don't remember actually going to that particular meeting. But being on the Friday, we had staff departing Canberra or being brought together at about 4 o'clock. Now we may have been together, but I don't recall that. I stayed until

very late in the evening that night.

Q. You might not have attended there?

5 A. I may not have but I don't recall that meeting.

Q. At 5.30 you went to an ACT Community Recovery Subcommittee meeting with Station Officer Hannon and Ms Janelle Wheatley; is that right?

10 A. Not at 5.30pm.

Q. Perhaps if we could have the report from Mr Collins brought up as well. It is [AFP.AFP.0001.0001]. If we could go over to 0005. Do you see at point 9 of the planning cell report it says:

20 "A meeting was convened at 5.30pm between Acting Superintendent D Prince, Station Officer Hannon and Ms Janelle Wheatley from the ACT Community Recovery Subcommittee."

A. That meeting did not occur until 2000 hours that night.

25

Q. So what was your next involvement in relation to preparing for some kind of potential impact that afternoon then?

30 A. I had gone back into the communications centre and spoken with a number of people. From that point I attended the 1800 hours meeting on the Friday night, and then soon after that I was confronted in the hallway outside Mr Castle's office by Mr Keady and Commissioner Bennett.

35

I was asked to work with Marika Harvey in bringing some people together to contact rural lessees and inform them. The difficulty was trying to find out exactly how many rural lessees we had. We made contact with Kerrin Styles from --

40

Q. If I could stop you there, sir.

A. Certainly.

45 Q. If we could go to the afternoon planning meeting at 1800 on the 17th. If I could have [ESB.AFP.0110.0865]. Were you the only Fire

Brigade member present at that afternoon meeting?  
Do you recall anybody else from the Fire Brigade  
being present?

5 A. There may have been. Mr Bennett may have been  
present. But at that time of the night it  
possibly was only we two and maybe another. There  
could have been another person. I'm not sure.

10 Q. If we could go to 0866 and if you could look  
at the first paragraph in the planning notes where  
it says that:

15 "There is a potential for fire to reach  
Uriarra by midday tomorrow, the Cotter Pub  
and Reserve at 1600, and Mt Stromlo and  
potentially Narrabundah Hill by 2000 hours.  
Planning is to provide a map of predicted  
unattended rate of spread."

20 Do you recall Mr McRae briefing the meeting in  
relation to that rate of spread?

A. Yes, I do.

25 Q. Do you recall Mr Hilton Taylor and Mr Nic  
Gellie addressing the meeting - sorry just  
Mr Hilton Taylor?

A. No, I don't, more Mr McRae. I don't  
specifically remember Mr Taylor addressing the  
meeting.

30

Q. Do you recall actually somebody showing a map  
with this predicted rate of spread to the meeting?

A. I can recall the particular map that you are  
talking about, yes.

35

Q. Were you able to observe during that meeting  
that the predicted rate of spread potentially  
brought the fire very close to the built-up  
gazetted area - actually into the built-up  
gazetted area - by 2000 hours the next day?

40

A. That's right, that's correct. Yes.

Q. You recall being told that there was a  
significant threat to the pine plantation as a  
result of McIntyre's Hut fire?

45

A. That's right.

Q. Do you also recall being told by Mr Peter Lucas-Smith that crews would not be placed near the fire line the next day?

5 A. That's correct. Mr Lucas-Smith was very concerned about firefighter safety within the pines.

10 Q. You were also informed then that the Bushfire Service would alter their strategy of indirect attack to property protection?

A. That's right.

15 Q. So did you understand from that meeting that essentially there was a potential for the fires to impact on the urban areas of Canberra the next day and crews would not be placed on the fire line?

A. Yes, there was a potential.

20 Q. What did you do after receiving that information as a result of receiving it?

25 A. I spoke to Mr Bennett. Again I was spoken to by Mr Keady in the hallway and asked to work with Marika Harvey. That's when I started making arrangements to bring people in to contact rural lessees that evening, because we were definitely concerned especially in the southern area of the ACT, down towards Smiths Road, of a lot of properties and a lot of people in that area.

30 Q. You say you contacted Mr Bennett. At what point in time did you contact Mr Bennett?

35 A. It would have been in the hallway after the meeting. We would have spoken then. Obviously he was concerned - we had firefighters and crews at Tidbinbilla at that stage. He wanted to bring those crews back into town.

Q. Did he say why he wanted them back in to you?

40 A. I think he was considering what he wanted to do as far as firefighting and preparing that evening for the next day.

45 Q. Mr Keady asked you to make arrangements to contact rural lessees with Marika Harvey. Was there any discussion that you recall that evening about contacting people living on the urban edge of Canberra?

A. Not that I recall, no.

Q. Did you turn your mind to it at all?

A. Probably not that evening. We were more  
5 concerned about people in the rural area and  
actually informing them and ensuring that those  
people and those properties were moved very  
quickly or were aware that the fire was coming.

10 Q. So you had a session with Marika Harvey. What  
did you do in relation to contacting the rural  
lessees that evening?

A. I made contact with a gentleman by the name of  
Kerrin Styles who went and actually gathered the  
15 list of rural lessees and their telephone numbers.  
He is from Environment ACT. He produced that. We  
probably didn't get the list until about  
10 o'clock at night. I had spoken with Janelle  
Wheatley who had come with Kel Hannon and myself  
20 late that night. Around 8 o'clock I had asked  
Mr Hannon to go into the planning area and gather  
a map so that we could actually look at it and  
talk to people to get an idea of that evening when  
the fire may or may not impact upon them.

25

Q. How was the task of contacting the rural  
lessees divided once you got that list?

A. Ms Wheatley got a number of people from the  
Department of Education. There were at least four  
30 or five ladies that were brought in. They were  
taken into the fire safety section of the ACT Fire  
Brigade. They continued ringing around to ensure  
that people were contacted. Of about 96 rural  
lessees, I think, 47 were contacted.

35

In a number of instances people knew about the  
fire. Families were out. Had brothers or fathers  
out fighting the fire. There was obviously a  
number of people we could not contact.

40

Q. Well, given that situation was there any  
discussion that you recall about using another  
medium of contacting people such as radio,  
television?

45 A. Not that evening. No. I think from that we  
were then considered with Tharwa village. We had  
turned our mind to assisting Tharwa. That was

around about 10 o'clock at night where Acting District Officer Peter Cartwright was contacted and asked to take a team of people down to Tharwa. They may have got there around midnight.

5

Q. The list that you were working off, did that include the forestry settlement residents?

10 A. I couldn't be sure. I couldn't tell you exactly if that included the forestry settlement, no.

Q. Did you see any list that evening that included the Pierces Creek, Uriarra or Stromlo pines settlement residents?

15 A. I saw a list of 96 residents. But where they actually lived or where they were, I'm not sure.

Q. You had a meeting of the ACT Community Recovery Subcommittee at 8 o'clock that night, did you say?

20 A. No. It wasn't the whole subcommittee. It was Ms Janelle Wheatley, Mr Kerrin Styles, Station Officer Hannon and myself just to prepare and make a ringaround to get some people in to assist us to ring these people.

Q. So what time did you finish up on the evening of the 17th of January?

30 A. It was after midnight. It was actually 1am on the 18th of January.

Q. When you left that evening, did you have any further information about what was happening with the fires over and above what you had been told at the planning meeting at 6 o'clock?

35 A. Yes. Both the Bendora and Stockyard fires had made runs and were actively working. However, the McIntyre's Hut fire had not moved or not greatly.

40 Q. Perhaps 17 you say:

"I rang Sergeant Steve Kirby of the AFP --

45 -- that is part of your role as the AFP liaison officer at that stage -

"-- and asked him to notify Superintendent

Chris Lines of the situation with respect to the fire".

5 What exactly did you tell Sergeant Kirby was the situation with respect to the fire at that stage?

A. Basically the same - that the two fires, Bendora and Stockyard, had jumped containment lines, that they were making a run and in fact that we needed to meet in the morning to discuss how we were going to operate and have a look at what the fires had done overnight.

10 Q. Did you tell him anything about the McIntyre's Hut fire?

A. At that moment probably not. More concerned about the fires within the ACT.

20 Q. Had anybody told what you was happening with the McIntyre's Hut fire that night - since the planning meeting?

A. No, other than the fact that it hadn't been moving greatly. I think it was some time very late in the evening that I was advised that it hadn't sort of moved or wasn't causing us concern that evening.

25 Q. Who advised you it wasn't causing you concern?

A. It was probably somewhere in the hallway - in the communications centre and in the area that they call the district manager room, operations area. It might have been in the operations room when I was trying to contact Mr Cartwright to come in and organise for Tharwa, so somewhere between 10 and 11.

35

Q. What did you say to Commissioner Bennett when you called him at 1 o'clock before you went home?

A. I didn't call him. I was actually with him. Mr Bennett and Mr Canham had arrived. We had a brief discussion saying it was late at night and we needed to come back early in the morning. We were concerned about the fires and that we would meet in the morning and have a quick meeting to determine the actions the next day.

45

Q. You say in paragraph 18 of your statement that you all had real concerns about the two ACT

bushfires. Did you not at that stage have concerns about the McIntyre's Hut fire?

5 A. Probably not. I think we were concentrating on our patch, as such. It was important for us to really look at what was happening within the ACT, our jurisdiction.

Q. On Saturday, the 18th of January, you got back to work at about 6 o'clock?

10 A. That's right.

Q. And Sergeant Kirby was there at about 20 to 8?

A. That's correct.

15 Q. When you say you informed him of the fire situation, you actually showed him a map, didn't you?

A. I did.

20 Q. Where did you get the map that you showed him?

A. The map had been produced the evening before by Mr Nic Gellie. It was a green bushfire topographic map. It had brown texta with onion rings on it. That particular map being produced after 8 o'clock at night was showing it hitting the urban area at about 1800.

Q. I was going to ask you some questions about that. You actually were briefed by Nic Gellie with a map on the evening of Friday, the 17th; weren't you?

30 A. No, I was not. Station Officer Hannon was. I sought Mr Gellie the next morning before I spoke with Mr Kirby.

35

Q. If I could ask you to have a look at your record of conversation which is [DPP.DPP.0004.0040]. It is dated 18 December 2003. If we could go, please, to page 22 at question and answer 132. You say in your record of conversation:

45 "The discussion that I had late that evening with both Rick McRae and Nic Gellie, and I have referred to Nic Gellie at paragraph 27 - he is an ecological consultant who volunteered his services ... He provided a

map that evening after Mr Keady had directed me to work with Marika Harvey in relation to contacting rural lessees. They had produced a map on the likelihood of where that  
5 McIntyre's Hut fire would go, and where it would hit, so I certainly knew about it, and I'd certainly passed that information on to Mr Bennett and others that evening."

10 Q. Do you recall giving that answer to Detective Doyle when he questioned you?

A. Oh, yes, I do. Yes.

15 Q. Does that jog your memory in relation to being shown the map that Friday evening?

A. It would have been late that evening because we were going backwards and forwards from the planning/media area back into the fire safety area trying to gather information. It would have been  
20 a very brief meeting with Nic Gellie just to ensure that he had given us that information. Now, I had said there that Rick McRae was there. He may have been there and passing but not staying the whole time.

25

Q. You knew on the Friday evening when you left that there was a potential for the McIntyre's Hut fire to impact on the urban area?

A. Yes, I did.

30

Q. The next day?

A. Yes, I did.

Q. And you had discussed that with Mr Bennett?

35 A. No, that is correct. Yes.

Q. When you discussed that with Mr Bennett, did you and he have any discussions, given that you had just spent the evening ringing the rural  
40 lessees, did you have any discussions about how people on the urban edge of Canberra, on the western edge of Canberra, might be warned?

A. We had not. The information going to the community would have been part of the Service  
45 Management Team and I think - no, I don't know whether Mr Bennett was going to discuss it with Mr Lucas-Smith. But, no, we did not that night.

Q. When you said that was part of the Service Management Team, did you think that that was an area of responsibility for the Bushfire Service rather than the Fire Brigade?

5 A. At that time it would have been something that Mr Bennett and Mr Lucas-Smith would have discussed as far as informing the community, yes.

Q. But you don't recall any discussions?

10 A. I would not have been present when that occurred.

Q. So you showed Sergeant Kirby a map when he arrived. Was that the same map that Mr Gellie had shown you the previous evening?

15 A. That's right.

Q. You informed him of the fire situation. Can you recall exactly what you said to Sergeant Kirby?

20 A. Oh, that we were concerned that the fire may come that way and it was at that time, around about 5 past 8, that he made a phone call and was advised to set up the Police Operations Centre at  
25 about 5 past 8 that day.

Q. You then went to a meeting, sort of an evacuation planning-type meeting; is that right?

30 A. I wouldn't call it an evacuation meeting but --

Q. It has had a number of names, I think?

35 A. It has. A number of Canberra Connect people were there and people from Chief Minister's, Education and myself, I think Station Officer Hannon and Sergeant Kirby.

Q. Now at that meeting - sorry, before we go on to that meeting, did you show that map to anybody else before your meeting apart from Sergeant Kirby?

40 A. No, I did not.

Q. Did you take that map into the meeting with you?

45 A. Yes, we placed it on the wall within the fire safety meeting room.

Q. What was the purpose of that gathering?

A. To my understanding was to prepare Canberra Connect to inform public or take calls from the public and inform the public about the fires.

5

Q. When were you first advised that that meeting was going to happen?

A. Midnight I believe we arranged - it might have been earlier - it was late in the evening that it was arranged for that meeting to occur.

10

Q. You yourself arranged it with Marika Harvey, did you?

A. I think Marika Harvey and Janelle Wheatley and somebody from Canberra Connect.

15

Q. So you didn't participate in arranging it; you were just aware --

A. I didn't do a ringaround to gather the people to arrive and talk to those people.

20

Q. But were you aware on the Friday evening it was going to be a fairly high level meeting with the CEO of the Chief Minister's Department?

A. I didn't realise Mr Tonkin, Ms Bitmead Mr Keady would be there, no, but they did arrive.

25

Q. What time did Mr Keady arrive?

A. Probably right on 8 o'clock.

30

Q. Did he arrive with Mr Tonkin? Do you recall him arriving?

A. They were together, yes.

35

Q. Who was chairing the meeting?

A. No-one specifically at the start. Either myself or Mr McRae spoke to the group, I think it was myself, and showed the map and spoke about the fires. There was a lot of conversation occurring. It was at that time that Mr Tonkin came in and put some clarity to the meeting.

40

Q. So you put the map on the wall and spoke to the meeting?

A. Yes.

45

Q. What did you say?

A. Well, just give them an update of the possibility of when the fire may, and this was worst case scenario, may hit the urban interface.

5 Q. At that stage what was the predicted time of potential impact?

A. The same opinion I had from the night before - 1800.

10 Q. Can you recall what, if anything, Mr McRae said to the meeting before Mr Tonkin and Mr Keady arrived?

15 A. I think he was just concerned about the fire weather, and everybody should understand that the fire could do erratic things that day.

Q. Just clarify, was Mr Tonkin and Mr Keady present whilst you were giving your presentation with the map to the meeting?

20 A. The difficulty with the room, being a small room, there were a number of people sitting down at the desk. Mr Tonkin and Mr Keady were semi out of the room and having a discussion out of the room and also trying to listen inside. They  
25 weren't really inside the area; they were semi outside.

Q. What happened after you and Mr McRae spoke?

30 A. That is, I actually walked outside with Mr Kirby, had discussions. He needed to go back to Winchester Centre. We needed to bring Sergeant Jason Byrnes in. We made arrangements for him to come over. We waited and spoke about that. He arrived fairly quickly, within 15 minutes or so.  
35 And I then escorted Sergeant Byrnes around the building and showed him all the different areas, where he would be located. It was some time, I am not sure whether Mr Kirby stayed or was doing other things or was on the phone.

40

Q. Just going back to the meeting, as I understand it, the sole purpose of that meeting was to discuss and decide how to inform the people who might be affected in the urban areas of  
45 Canberra; is that correct?

A. Well, I understood the sole purpose of the meeting was to set up Canberra Connect and have it

ready as an interface with the public with their Canberra Connect call centre and also having information available on the net.

5 Q. So that the methods discussed at that meeting would only inform people who pro-actively telephoned Canberra Connect or were on the Canberra Connect website?

10 A. That's right. I think they would give a number out to advise this is how you contact Canberra Connect.

15 Q. Was there any discussion at that meeting about using the media, such as the radio or the television, to inform people in Canberra, particularly those on the urban edge, that there was a potential for some impact by the fires that day?

20 A. That strategy would have been left with the information unit and the media unit with Marika Harvey working closely with Mr Castle and Mr Lucas-Smith. So I don't remember that being specifically said, no. It may well have but what I am saying is I don't remember it.

25 Q. Can you remember or can you tell the coroner anything else that you remember having been discussed at that meeting that you haven't already mentioned?

30 A. No, I can't. Probably because I left the meeting. I wasn't in there. I removed myself from the area and allowed the Canberra Connect people to discuss how they were going to set up the call centre.

35 Q. So what did you do as soon as you left the meeting after you had spoken to Sergeant Kirby?

40 A. Well I made arrangements to have a room ready for Sergeant Jason Byrnes. We set a room up next to the Fire Commissioner's office for that to occur so that the AFP would have a telephone and a direct link back to the Police Operations Centre.

45 On the arrival of Jason Byrnes, I took him right around the premises, which took us some time to do, and showed him the different areas including operations, planning, where the media were, the

executive conference room. By that time I think we hit the morning planning meeting.

5 Q. Did you understand why it was that Sergeant Kirby wanted to have his commander activate Police Operations Centre at that point in time?

A. He was certainly concerned that there was a possibility and that the Police Operations Centre should be stood up to prepare the AFP.

10

Q. As the liaison officer with the police, what did you understand at the time of that discussion was to be the role of the AFP on that day?

15 A. Well, obviously they play a major support role in relation to blocking roads and assisting with the flow of emergency vehicles such as ambulances and firefighters on scenes.

20 Q. So essentially their role would be support if the fires impacted in the urban area?

A. Generally speaking, that's right.

25 Q. You went to the planning meeting that morning. Do you recall if there were any other Fire Brigade personnel present at that meeting?

A. That meeting was so busy and so full, there were numerous people in there.

30 Q. You don't recall anybody specifically being in there?

A. No, not really.

35 Q. Perhaps if we could bring up [ESB.AFP.0010.0266]. If we could go please to 0267. If we could go down to the planning considerations. Do you recall being present when I think it was Mr McRae addressed the meeting stating that:

40 "The current areas of concern include: a potential run from McIntyre's fire impacting on Weston Creek to Greenway and potentially west and south Belconnen resulting from a more westerly wind."

45

Do you recall that being said at the meeting?

A. Yes, I do.

Q. Do you recall if any maps were used during that part of the briefing?

A. They may well have been on the table or on the wall. They could have been there, yes. There  
5 would have been numerous maps around.

Q. Over the page at 0268 it says:

10 "The ACT Fire Brigade maintain resources primarily in the ACT available for interventions and structural protection. Potential for New South Wales Fire Brigade assistance was discussed."

15 Do you recall that part of the meeting?

A. Yes.

Q. What was said during that part of the meeting that you recall?

20 A. Mr Bennett had made an attempt the previous night to contact Chief Superintendent Jim Hamilton. He was unsuccessful the previous night. He had contacted them some time early, and it was going to take some considerable time for New South  
25 Wales Fire Brigade personnel to arrive in the ACT because of the amount of fires in New South Wales.

Q. Given that the planning considerations had a concern for an impact on Weston Creek to Greenway  
30 and potentially Belconnen, was there any discussion that you recall in relation to the ACT Fire Brigade obtaining assistance from, for example, the Bushfire Service or New South Wales Rural Fire Service to cover the urban area?

35 A. No, there wasn't. In fact the Bushfire Service and the Rural Fire Service were very busy engaged in fighting the fires. So the assistance needed to come from the New South Wales Fire  
40 Brigade to assist us with structural areas.

Q. So the plan for that day and following that planning meeting was for the urban areas to be covered solely by the nine pumpers --

45 A. Well, in fact 12 pumpers eventually and the four heavy tankers and four light units plus any other ancillary vehicles that we could muster.

MS CRONAN: Is that a convenient time,  
your Worship?

MR PIKE: Your Worship, just before you do rise, I  
5 wonder if you could sit on. My friend indicated  
to us that she thought she would be finished by  
lunchtime. Certainly, we won't be long.  
Mr Lakatos I know has a flight to catch. Is that  
at all possible?

10

MS CRONAN: Sorry?

THE CORONER: Mr Pike is suggesting we sit on.  
You have discussed this with your other counsel  
15 and you are quite confident your counsel won't  
have many questions?

MR PIKE: Yes.

20 THE CORONER: How much longer do you think you  
will be. I am just mindful of the Court reporter  
and the other operators.

MS CRONAN: I have probably 45 minutes or half an  
25 hour.

MR PIKE: That is certainly not what we were told  
before. In those circumstances, we will certainly  
have a break.

30

THE CORONER: What time is your flight?

MR LAKATOS: I won't be here. Mr McCarthy will be  
here. I didn't mean to be the sole catalyst for  
35 the application although I join in.

THE CORONER: I understand. I will try to  
accommodate. Perhaps if we started at 1.30.

40 Are you happy to do that, Mr Prince, if we start  
at 1.30? I will say we will resume at 1.30.

**LUNCHEON ADJOURNMENT** [1.01pm]

45 **RESUMED** [1.30pm]

MS CRONAN: Sir, if I can just take you back to

the 16th, very briefly. I would ask you to look at [ESB.AFP.0046.0282] and if we could go to 0286. If I could take you to question 37 of your taped record of conversation with Constable Travers.

5 You say to Constable Travers that:

10 "Mr Lucas-Smith had commented on comments from Phil Cheney from the CSIRO who is a noted fire or forest fire analyst, I think that was on the Wednesday there had been a comment by him to say that, if we do get a westerly it was going to impact on the city."

15 Can you recall specifically what Mr Lucas-Smith told that meeting about what Mr Cheney had been saying?

20 A. I recall it was about an article from the previous day and that Mr Lucas-Smith was concerned that Mr Cheney was advising the public that, as soon as the wind had turned west, it was going to impact on the city. Obviously there was going to be some time before that would occur, and again the fire behaviour conditions would have to be assessed on a routine manner before you could make  
25 that statement.

Q. What did he say about that, you being an alarmist?

30 A. I believe Mr Lucas-Smith's opinion was that we had to assess the weather and what was happening with the fires on a regular basis. Therefore, to say that the fires were going to impact would be dependent on how firefighting was going to occur and whether or not we could actually keep it  
35 within containment lines.

Q. Can you recall what he said about having to deal with the fire we had and not the one that may be?

40 A. That's always the case. With any firefighter you deal with the fire you do have and you place your resources there to actually fight the circumstances that you have.

45 Q. But you have to also do contingency planning?

A. Most certainly. The planning unit does that and looks in advance to what may occur.

Q. That was effectively why he was giving you that briefing; wasn't it?

A. Oh, certainly to make the Fire Brigade aware, and Mr Bennett and Mr Lucas-Smith discussed that  
5 it was certainly time to ensure the Fire Brigade understood what was occurring.

Q. At the answer to question 40, you say:

10 "Certainly Mr Lucas-Smith was concerned and was - realised to every one of us that it was of a sensitive nature. We didn't want to alarm either the media or the public in relation to those fires."

15

Was that said by Mr Lucas-Smith in the same context about what he was saying about Mr Cheney's view being an alarmist view?

A. I think as the incident controller the release  
20 of information to the public was that of Mr Lucas-Smith. In my view it was true and accurate. At that time he wanted to make sure that he was the only person that was going to be authorising the release of information to the  
25 public.

Q. What did he actually say about not alarming the media or the public?

A. I think something along the lines that he  
30 wanted to make sure that the information stayed within the room and that he managed it - I can't remember the exact words.

Q. Something along those lines?

35 A. Something along those lines, yes.

Q. I think before lunch we were at the point where you had left the planning meeting in the morning and --

40 A. Which morning?

Q. On the morning of the 18th.

A. Right.

45 Q. You say in paragraph 21 of your statement that you understood Mr Lucas-Smith directed a liaison officer to contact the New South Wales Rural Fire

Service to inform them he felt such a procedure - that is the incendiary bombing - was inappropriate that day. Can you actually recall what he said about getting a liaison officer to inform New

5 South Wales about the inappropriateness --

A. On that day there was an officer from Yarrawlumlula. He wanted to make sure that they contacted Yarrawlumlula.

10 Q. Were you present when he gave those instructions?

A. I was in the room. I think I was at a lower level.

15 Q. What did he say to the liaison officer about that?

A. I think he just gave an instruction to make sure - he was concerned about that occurring on that morning and wanted to make sure that the New  
20 South Wales Rural Fire Service understood that he was.

Q. In paragraph 24 you say:

25 "About 0600 the McIntyre's Hut fire was near the ACT border on the other side of the Uriarra pines, north-west of Cotter Dam."

Is that information that you obtained from the  
30 morning planning meeting?

A. No, it was not. I think I had gone past the planning unit on the way to COMCEN when I arrived. The activity hadn't increased greatly overnight with that particular fire. It was around the  
35 border in that area.

Q. So you had that information before you briefed Sergeant Kirby; is that right?

A. Yes.  
40

Q. Did you have any discussions with the people in planning about McIntyre's Hut fire other than where it was at that stage?

A. Not specifically, no. They were busy.  
45

Q. You say in that paragraph that the ACT Bushfire Service was fighting these fires. What

was your understanding of what the ACT Bushfire Service was doing in relation to the McIntyre's Hut fire at that stage?

5 A. It was my perception that they had probably  
Forestry people up around that area. I'm not sure  
how many trucks or gear they did have there. They  
may not have had any. In fact, they would have  
probably still been concentrating on the southern  
region. But I thought there were still some  
10 Forestry units out that way.

Q. When you spoke to the planning people before  
you briefed Sergeant Kirby in the morning, you  
were aware, weren't you, that it was the  
15 McIntyre's Hut fire that could potentially impact  
on the urban edge that day?

A. Yes. With a north-westerly wind that was of  
greater concern.

20 Q. Did you make any inquiries from the planning  
section as to how that fire was to be combated if  
it did enter the ACT?

A. No, I did not.

25 Q. What was your belief as to how it was going to  
be combated?

A. My belief was that we were going to have a  
planning briefing meeting at 9, 9.30, and that  
some contingencies would be made at that time.

30

Q. After you had left the planning meeting at  
9.30, what was your belief in relation to how that  
particular fire spread from the McIntyre's Hut  
would be combated?

35 A. Well, I'm not sure how long that meeting went  
for. It may have gone for a considerable time, at  
least 40 minutes or 45 minutes. I think I spoke  
to a couple of people in the hallway outside of  
the executive conference room. Some time during  
40 that period I received a phone call from Sergeant  
Kirby. Sergeant Kirby asked me to go to  
Winchester Centre to brief them. I made sure that  
I gathered some more information before I went.

45 Q. What I am trying to establish at this point is  
what was your belief following the morning  
planning meeting as to how the McIntyre's Hut fire

would be dealt with after it entered the ACT; did you have some understanding as to what would happen to it after it entered the ACT?

5 A. Very difficult to predict depending on where it was going to come, the amount of resources we could rally. Obviously with a very large interface line down the ACT, you would have to look at where we were going to deal with that. That would have been the operations and planning  
10 people from both services getting together and discussing how that was going to be done. No, I wasn't - I didn't understand how that was going to occur at that time, no.

15 Q. So you spoke to Sergeant Kirby straight after the meeting on the phone?

A. I'm not sure whether it was straight after. It was --

20 Q. What did you do straight after the meeting?

A. I think I was speaking to somebody in the corridor. I can't remember who specifically, no.

Q. What did you do after that?

25 A. Well, after Sergeant Kirby had rung me, I tried to find somebody from planning. I happened to run into Rick McRae in the corridor moving from his office back into the planning area and I asked him about the fires.

30

Q. What did he tell you?

A. He was concerned that the particular fires under the fire behaviour and fire weather would not actually recognise the urban interface.

35

Q. What did you understand him to mean by that?

A. Well, having been a party to the Sydney bushfires in 1994, having been at Como and Jannali, I had seen fires impact on the urban  
40 interface to several streets.

THE CORONER: Q. What did you understand Mr McRae to mean by that?

A. Exactly the same thing, that the fires would  
45 probably go past the urban interface area. If you think of a street such as Eucumbene Drive, that it would go into the suburb.

MS CRONAN: Q. Approximately what time did this conversation take place?

A. Somewhere between 10.30 and 11, somewhere in there.

5

Q. Did Mr McRae inform you at that stage that a prediction had been made by one of his planning officers that the fire may impact on the urban interface as early as 3pm that day?

10 A. No, I did not know that information.

Q. He didn't give you that information?

A. Not at that time, no.

15 Q. Did you have that information given to you by anybody before you went to the Winchester Centre?

A. No, I did not.

Q. Did you do anything between speaking to

20 Mr McRae and travelling to the Winchester Centre?

A. I think I actually went to the toilet.

THE CORONER: We don't need to have that level of personal information, Mr Prince.

25

MS CRONAN: Q. You went out to brief Commander Newton and Superintendent Lines about the fire situation?

A. That's right.

30

Q. You arrived there, what, shortly before 11 o'clock?

A. No, no. I arrived around 11.30, I believe.

35 Q. Where did you go to when you got to the Winchester Centre?

A. I was taken into the Police Operations Centre and then escorted into the commander's major briefing room next to the centre.

40

Q. What did you advise Commander Newton and Superintendent Lines?

A. Exactly as I have stated in my statement in 27 and 28. Would you like me to read that?

45

Q. No. You say in paragraph 27:

"On the information I had at that time the fire was expected to reach Duffy at about 1800 that evening."

5 You specifically mentioned Duffy during that briefing, did you?

A. Yes, I did.

10 Q. Where did you get the name of that suburb from? Did you take that from the morning planning meeting or the 5.30 discussion with somebody else?

15 A. It was from the map I had received the night before and looking at the possibility of the north-west winds with the brown onion rings that were on it actually touching that western area.

Q. At paragraph 28 you say:

20 "Chris Lines then asked me if the residents of Duffy should be evacuated."

Before that you say:

25 "Because 30-foot pine trees were in that area, then 60-foot flames could be expected."

Were you advised about that by somebody from Bushfire Service or did you expect that to occur through your own knowledge and experience?

30 A. Through my own knowledge and experience.

35 Q. Had you been involved in any discussion with anybody at Curtin before you left in relation to what the fire might look like if and when it came out of the pine forest?

A. No, I had not.

40 Q. You had a view when you spoke to Superintendent Lines about whether or not the residents of Duffy should be evacuated?

45 A. I suggested it should be considered based on the AFAC stay and go policy, the public need to be prepared. It was my opinion that they may not have all been fully prepared and based on that, looking at obviously the elderly and the young, some consideration may be needed to be given for removing them from the area.

Q. Did you know at that stage what, if anything, either the Bushfire Service or the Fire Brigade were doing in relation to preparing those residents in accordance with the AFAC guidelines?

5 A. At that time, no.

Q. You had no knowledge about that?

10 A. Again, I was not at Curtin. The operations manager, Mr Peter Newham, would have been dealing with his staff and his district officers.

Q. Would you agree that the decision to evacuate or not evacuate the residents of Duffy had been considered at your briefing would need to be made knowing how prepared the residents were to stay and defend their houses?

15 A. I'm not sure whether I understand your question.

20 Q. I will rephrase it. You were having discussions with Superintendent Lines about whether or not the residents should be evacuated at that meeting at 11.30; is that right?

25 A. Yes.

Q. One of the considerations that you have to factor into that decision is how prepared the residents are to stay and defend their house?

30 A. That's correct.

Q. Did anybody from that group, to your knowledge, make any inquiries at that point as to what was being done to prepare the residents of Duffy?

35 A. I don't believe so.

Q. Did you have any knowledge at that stage as to what was being done to warn the residents of Duffy about the potential threat?

40 A. I think the important thing was to bring the police and the Emergency Services Bureau together to discuss that matter.

45 Q. So the meeting ended. You did advise Superintendent Lines that in this case the residents were not all prepared and evacuation should be considered. What information did you

have when you told him that the residents were not all prepared?

5 A. It is a difficult situation in making the community aware. If you think of any campaign that we undertake, you have to be sure that you are going to hit 100 per cent of the community. You would never be sure that that was going to occur. In fact, under most circumstances if you hit 60 per cent of the community through a  
10 community awareness campaign, you would probably be doing very well. Obviously people from non-English speaking backgrounds and people with other activities that weren't interested in fires may not be interested in your awareness program.

15

Q. So that's what you based that advice on, that people might not have got any warnings if warnings had been issued?

20 A. No. The difficulty is, thinking on I suppose a reasonable approach, that on a Saturday afternoon people within the community are doing different things. Some may be out horse riding or riding motor bikes; some may be at movies; some may be at shopping. People listen to different  
25 components. When I say that they might be listening to the radio; they might be watching the television; they might be socialising with people and not listening or hearing other messages. It is very difficult to get to the whole community.

30

Q. You returned to Curtin at about quarter to 1?

A. That's correct.

35 Q. And you noticed that District Officer Darryl Thornthwaite and Acting Superintendent Peter Newham were leaving Curtin in a command 4-wheel drive vehicle?

A. That's right.

40 Q. You then rang them and asked them what they were doing?

A. I did.

45 Q. Did they tell you why they were going to Uriarra?

A. They were going out to make an assessment of what the fires were doing.

Q. Were you actually speaking to them whilst they were making that assessment or --

A. I think they had only just left and were probably down near Curtin ovals, somewhere there.

5

Q. Paragraph 30 you say that you were concerned that the crews for the recall appliances had not been contacted. This is the spare appliances that you have referred to?

10 A. That is the three spare appliances, that is correct.

Q. At that stage crews still needed to be provided for those vehicles?

15 A. That's right.

Q. Was this a second phone call to Mr Newham that you made after finding out that those three appliances were at that still point --

20 A. It was a phone call as I was pulling up at Curtin. The second phone call was when I spoke to Station Officer Bryce and asked him whether or not he had recalled staff.

25 Q. Did he tell you why that recall hadn't commenced at that stage?

A. I think he wanted to make his assessment before he did that.

30 Q. He wanted to go and have a look at the fire first?

A. That's right.

35 Q. So you at 1.30 arranged for the crews to be called in. Did you do that off your own bat?

A. Yes, I did.

40 Q. At 1.30 you also met with the Fire Commissioner and Acting Superintendent Newham and District Officer Thornthwaite?

A. It actually may have been later than that. I think the time they left, what's that quarter to, they may have been back. Around that time, yes.

45 Q. What was said during that discussion, can you recall?

A. I think Mr Bennett wanted Mr Thornthwaite to

go in the field and bring pumpers and teams in to Eucumbene Drive.

5 Q. Did you get a briefing on Superintendent Newham's assessment of the situation?

A. No, I didn't. I think Mr Bennett was pretty busy and he wanted to make sure a direction was given to those people. He moved off to a meeting.

10 Q. Were you given any information yourself at that stage that you can recall in relation to where the fire was and how fast it was travelling?

15 A. Mr Newham and Mr Thornthwaite had met Mr Cooper out at Uriarra Crossing and they could actually see the fire a couple of kilometres away - sorry, not Uriarra Crossing, Uriarra homestead, I should say. They had seen it out there a couple of kilometres away.

20 Q. Were you given any information about how fast it was travelling at that stage?

A. No.

25 Q. Did you hear any instructions that Fire Commissioner Bennett gave to District Officer Thornthwaite in relation to what his task was to be when he got to Eucumbene Drive?

30 A. Certainly he was to ensure that the troops were available along Eucumbene Drive and Warragamba Avenue and prepare to meet and deal with the fire.

Q. On those two streets?

A. Yes.

35

Q. Did you hear how many appliances were to be stationed along Eucumbene Drive and Warragamba Avenue?

40 A. We were deploying appliances right around Canberra at that time. In fact we had a house fire going in Giralang. I can't remember exactly what time. It was at least two or three pumpers, in fact it was two house fires. There was also some fires down in the Greenway area that we had  
45 trucks at.

Certainly three firefighting appliances and two

sets of tankers.

Q. To Duffy?

A. That's right.

5

Q. Now, paragraph 35 you say:

10 "The ACT Fire Brigade Incident Management  
Team that had been set up on the 16th of  
January did not formally take over control of  
the fire after it entered the built-up area  
of Canberra. The ACT Fire Brigade IMT were  
sent as a supplementary team to the ACT  
15 Bushfire Services IMT which still had an  
active Incident Management Team managing the  
fire several hours after it entered the  
built-up area."

20 Could I ask you, sir, from your observation to  
elaborate on how the SMT actually in practice  
interacted with the Fire Brigade's IMT?

A. I couldn't give you a clear answer. I was in  
the fire centre during the whole period. The  
operations side, I was discussing issues on the  
25 floor, with 000 calls and deployment of staff,  
with Tony Graham. So what was actually occurring  
out in the planning area and the logistics area  
and with other personnel, I was unsure of what was  
occurring.

30

Q. So what did you actually do after you spoke to  
Superintendent Newham and Fire Commissioner  
Bennett?

A. I went and stayed in the communications centre  
35 trying to ensure that we were meeting the multiple  
000s coming at us.

40 Q. I think in paragraph 38 you say you had  
extreme difficulty in contacting all of the fire  
appliances that afternoon. Can you elaborate or  
expand on what those difficulties were?

A. Certainly the ACT Fire Brigade has six radio  
channels. Staff at Lower Molonglo were not being  
contacted because of radio problems down there.  
45 The other thing is with people trying to get onto  
the system with only two radio operators working,  
one north side, one south side, they weren't

getting through. So some time during the  
afternoon we tried to contact each station officer  
on pumpers and tankers to ensure that we were  
determining where people were. But it was very  
5 difficult.

Q. You go on and say:

10 "In my opinion neither the ACT Fire Brigade  
nor the ACT Bushfire Service had a complete  
understanding of where available resources  
were working or awaiting allocation."

15 In your hat as Acting Fire Commissioner, can you  
tell the coroner if that has now been addressed  
and how it is being addressed?

A. Part of the communications upgrade project is  
to place what they call mobile data terminals and  
automatic vehicle locations systems in the pumpers  
20 and front-line vehicles. That is occurring at  
this moment. What we intend to be able to do is  
actually locate through geographic information  
systems, GIS, where the vehicles are at all times.

25 This is not occurring with the Bushfire Service or  
with our tankers at the moment. It is predicted  
over the next four years that that will occur.

THE CORONER: Q. Four years?

30 A. I think financially it will be a process of  
being able to place it in all of the vehicles. It  
is going to take some time.

MS CRONAN: Q. With that system you won't have  
35 any black spots?

A. No. Black spots will always be there just due  
to the nature of the terrain of the ACT. Even if  
we put repeaters for radios on every hill that we  
could, we would still have valleys and undulations  
40 that we couldn't hit.

Q. Paragraph 41 you say at 1600 you left to find  
Mr Bennett, who advised you a state of emergency  
had been declared. Was that the first time that  
45 you were aware that a state of emergency had been  
declared?

A. Yes, it was.

Q. He told you at that stage then that you were going to be in charge of the Fire Brigade personnel?

A. It was around that time.

5

Q. What did he say to you?

A. Look, he was extremely stressed at that time. He came into the communications centre and said he was actually going out to Duffy to assess what was going on and he would leave me in charge until he returned.

10

Q. Paragraph 42 you say:

15

"There were so many fires ... that the crews in the field were self-responding to the fires. I do not - didn't at that stage - know how many rural fire tankers entered the suburbs to fight the fires."

20

Can you say who was actually co-ordinating the urban effort at that stage? It was the SMT rather than the IMT at that point in time, wasn't it?

A. That's correct.

25

Q. Paragraph 45 you say:

"The Fire Brigade had about 290 officers and fire fighters in total on that day. All available fire units were crewed."

30

How many actual firefighters were deployed on the units on the afternoon of the 16th; do you know?

A. There were only 103 firefighters on duty that day out of the 290. Normally there is a station officer and three firefighters on each appliance.

35

MR WHITELAW: Sorry to interrupt my learned friend. I think the question was put as to how many crews were deployed or people deployed on the afternoon of the 16th. Did she mean the 18th?

40

MS CRONAN: Sorry, I meant the 18th.

MR WHITELAW: Perhaps the witness might like to confirm that is still his answer.

45

THE WITNESS: That is still my answer. It is still the 18th, that day.

MS CRONAN: Q. You were able to crew a full second shift after the first shift was completed?

A. With some confusion, yes.

Q. What confusion took place?

A. Handover and trying to bring vehicles in and change fresh crews over. Obviously whilst the fires were occurring in the suburbs it was going to be difficult.

Q. Paragraph 56 you say:

15

"At 2130 I saw Acting Superintendent Kent who had returned from leave."

Acting Superintendent Kent had been away on holidays; had he?

20

A. That's right.

Q. You were told then that he was going to be the alternate Territory Controller for the evening shift?

25

A. That's right.

Q. He had no prior involvement in the management of these fires, had he? He had just come back from holidays?

30

A. He had only just arrived back, yes.

Q. Now, you and Mr Kent travelled through a number of streets - paragraph 60 - to assess the situation. Approximately what time did you go and assess the situation?

35

A. 11 or 11.30 at night, somewhere around there.

Q. What appliances did you see in the suburb at that stage both urban and rural?

40

A. That's quite a difficult question. At least Greenway fire station's pumper. I think a light unit from the Rural Fire Service and possibly another pumper. But there was just fires everywhere. Police were busy trying to close areas off. At that time of night it was difficult with powerlines down as well to get into some

45

streets.

MS CRONAN: Thank you, sir. I have no further questions.

5

THE CORONER: Yes, Mr Archer?

MR ARCHER: Thank you, your Worship.

10 **<CROSS-EXAMINATION BY MR ARCHER**

MR ARCHER: Q. Superintendent, I just want to clarify what your assumptions were at the time you were speaking to the police on the morning of the 15 18th. You have given evidence that overnight one of the planners, probably Nic Gellie, had given you a map or access to a map, and the effect of that had been discussed that morning both at that 8 o'clock meeting in discussion with Sergeant 20 Kirby beforehand and at the planning meeting at 9.30. So far as Duffy was concerned, the bottom line was that that projected possible impact at about 1800 hours; is that correct?

A. That's the information I had, yes.  
25

Q. So far as that map is concerned, the 'Canberra Times' published a map this morning which is [ESB.AFP.0110.1035]. There is no need to bring that up. That's not the map that we are talking 30 about, is it?

A. No, that is not the map.

Q. Have you seen that map since?

A. No, I have not.  
35

Q. At that 8 o'clock meeting there are a number of people present. Rob Tonkin, Mr Keady, Marika Harvey was there. Amongst the matters discussed were issues concerning public information; is that 40 correct?

A. Public information to go on to the web, yes.

Q. On the web only or were there other strings to the public information bow, as it were, that were 45 canvassed in that 8 o'clock meeting?

A. There may have been, but I did not hear that.

Q. Could the planning meeting minutes of that morning be brought up. That is [ESB.AFP.0010.0266] at 0268. I gather, superintendent, you have that document in front of you there?

A. I do.

Q. Could you turn up, whilst it is being brought up, the section dealing with media. Do you have that? I don't know if you have an ID stamp on it, 0268 is the number?

A. I don't have the ID. At the bottom of the page it actually goes to the next meeting.

Q. Yes. It says:

"Mike Castle to determine regular radio interview times.

Press conference at 12 noon.

A community advice and information strategy is being developed: Canberra Connect is developing scripts and key answers for community questions; review of Canberra Connect operating hours to be undertaken; processes for quick information sharing are being developed; focus placed on local radio."

Now, that is the minuted version of the discussion. Do you actually recall that discussion taking place?

A. No, I don't recall it taking place. But, generally speaking, my thoughts at the 8 o'clock meeting, if I go back to the 8 o'clock meeting, is everything but the focus on local radio is what I do remember. I don't remember the focus on local radio.

Q. Are you confident you were actually present at that part of the meeting dealing with that particular issue?

A. The difficulty with that particular meeting there that day, the executive conference room has a higher level. I was on the lower level because of the number of people in the room. Whether I

exactly heard it with people muttering and talking, I can't be sure.

5 Q. You might have done but you just can't be sure?

A. I cannot be sure.

10 Q. What was your understanding after that meeting finished as to what was to happen that morning so far as a coordinated public information campaign was concerned to let people know of the danger of the fire?

15 A. It was my opinion that the information unit, which is part of planning and the media process, would have been working closely with the Service Management Team to achieve that result.

20 Q. And as my colleague Ms Cronan has put to you, public information is an important component of readiness in respect of the stay or go issue?

A. That's correct.

25 Q. Could this document be brought up, please, [ESB.AFP.0110.0693]. Could you just scroll down so the witness has the chance to take in the content of that. Have you seen that document before?

A. No, I have not.

30 Q. At all in your preparation for giving evidence?

A. In preparation I have, sir.

Q. When was the first time you sighted that?

35 A. Monday a week ago, I believe.

Q. In the context of discussion with your counsel?

40 A. That's correct.

Q. You were not aware, I take it, then that Mr Taylor around the time frame is a little bit unclear, but say between 8 and 9 that morning or thereabouts had opined as it were that there was a risk that the fire would be in and about the urban area by 1500 that afternoon?

45

MR PIKE: I object. My recollection of Mr Taylor's evidence was that he prepared this document prior to the planning meeting at 9.30 but that it wasn't given - certainly wasn't given to the operations area until after the meeting. It may be able to be clarified in terms of opined to whom, but that is my clear recollection of Mr Taylor's evidence in that respect.

10 MR ARCHER: I am only suggesting - and my friends are absolutely right - that in that document he opined.

Q. You were unaware of that fact?

15 A. I was unaware of that fact.

Q. As my colleagues very correctly point out, it was passed on to somebody, I think it was described as the situation unit, I think, some time after the planning meeting; you didn't become aware of it at all, I take it?

A. Not at all.

Q. Mr Gellie has also given evidence, and his statement reflects the evidence that he gave, that he was revising his forecasts and by 12 o'clock he was predicting an impact at Duffy or thereabouts at about 1500 hours. Did you become aware of that information?

30 A. No, I did not.

Q. Can I put to you by the time you spoke to the police at the Winchester Centre that morning that you were assuming for the purposes of that discussion that the impact was likely to be at about 1800 hours?

A. That's right. The worst case scenario that I understood was 1800 hours.

40 Q. As a worst case scenario?

A. Yes.

Q. You were also under or acting on the assumption that, so far as public information was concerned, that was being attended to by those who had that responsibility within ESB back at Curtin?

A. That's correct.

MR ARCHER: Thank you.

THE CORONER: Do you want me to come back to you,  
Mr McCarthy?

5

MR McCARTHY: I am in the position now to say I  
have no questions for the territory.

THE CORONER: Yes, Mr Pike?

10

MR PIKE: Thank you, your Worship.

**<CROSS-EXAMINATION BY MR PIKE**

15 MR PIKE: Q. I think you have given evidence to  
the effect that Mr Thornthwaite, at least for part  
of the time, was out at the fire scene and at  
various times yourself, Mr Kent and Mr Bennett  
went out onto the fire scene to observe what was  
20 going on?

A. Mr Bennett went in the afternoon. Mr Kent and  
myself went very late in the evening.

25 Q. It's relatively significant if you have the  
opportunity at some time during an event like that  
that, if you can get the opportunity to eyeball it  
yourself, to do so?

A. It does assist, yes.

30 Q. You weren't present in court when one of the  
station officers, a Mr McIntyre, gave evidence, I  
don't believe?

A. No, I was not.

35 Q. He was asked whether he kept himself informed  
of events by reading his emails at the station and  
he said he didn't - at least on that morning, the  
morning of the 18th. In answer to questions as to  
why he didn't, he said that although he knew how  
40 to use emails he hadn't been trained in their use.  
He wasn't trained in emails although there were  
computers in the stations. His words were that  
there was no implementation strategy, looking at  
his emails was not part of his routine duties and  
45 he was not required to do it. Do you regard that  
as an appropriate and adequate response from a  
station officer?

A. As a manager who is responsible for all therein of a station - staff, amenities, equipment - no, I don't.

5 Q. Sir, you gave some answers in one of your documents - forgive me, I don't now recall precisely which one, I believe it may have been your TROC - to the effect when you have multiple fires and not enough appliances, you may have said  
10 something like one pumper to three houses on fire and you made the point of "How can you take that pumper from one scene to another scene?" Is it the case that on the 18th all of your resources by the time the fire hit the urban interface were  
15 fully utilised?

A. That is correct.

Q. To have taken one appliance from one place to another would simply have had the effect of  
20 depriving the place where it was taken from from the appliance?

A. I think I said earlier that you must deal with the fire that you have and firefighters on scene have to make that assessment. Obviously life,  
25 property and the environment is the first issue for an officer to make a decision on.

Q. You were asked some questions as to the list of rural stakeholders who were to be notified of  
30 the encroaching fire and you couldn't recall specifics. I think you actually recalled the number on the list but you couldn't recall any specifics of whether they were in the Uriarra and Stromlo settlements?

35 A. I didn't read all 96 names, no.

Q. You wouldn't be aware of the fact that Ms Janelle Wheatley, one of her documents indicates that she was being informed of the  
40 existence of these places, obtaining lists and organising commencement of a callout to the people on that list; you wouldn't be aware of that?

A. I am aware of that, because Ms Wheatley and I discussed that at 8 o'clock on the Friday evening.  
45

Q. I see. So you were aware of the fact that those places were being telephoned but you aren't

aware now precisely which ones?

A. As I said, there were 96 names. I believe the group of ladies that rang got to about 46 or 47 homes.

5

Q. Finally, sir, it would be a gross underestimate to say these were extraordinarily trying circumstances on the 18th; you had the opportunity though to observe Mr Tony Graham at close distance throughout that day; is that correct?

10

A. That's correct.

Q. Will you agree with me that, at least to your observation, he performed his task extremely well?

15

A. I think everybody that was working that day attempted to do the best they could.

MR PIKE: You have just taken my last question from me. Thank you, your Worship.

20

THE CORONER: Mr Whybrow?

MR WHYBROW: Mr Watts has agreed to go before me.

25

MR WATTS: I'm very flexible!

**<CROSS-EXAMINATION BY MR WATTS**

MR WATTS: Q. Mr Prince, can I ask you a couple of questions about your answer to question 16 in your record of conversation. You don't need to look it up. It just relates to an offer that was received for the use of airport pumpers; do you recall that offer being made?

30

35

A. I do.

Q. I think the offer, as you recall, was made between 7 and 7.30 in the evening on the 18th?

40

A. That's when I recall, yes.

Q. You discussed it with Mr Newham?

A. That was within the communications centre, yes.

45

Q. At that stage you both agreed and thought it appropriate that that offer not be taken up?

A. At that time.

Q. At that time. The offer in fact was that the pumpers - is that what you call them?

5 A. Correct.

Q. -- would be made available after the airport closed later that evening?

A. That's right.

10

Q. You understood there were some, certainly, communication difficulties in using those pumpers?

A. We were experiencing communication difficulties all afternoon. All portable radios, all ACT Fire Brigade radios weren't available.

15

Q. I think you understood those tankers did not have radios that were compatible with your system?

A. That's correct.

20

Q. You said in answer to some questions about paragraph 45 of your statement that the shift changeover occurred with some confusion. Do I understand you to mean by that that, because of the extraordinary circumstances of the day, there was some confusion?

25

A. There certainly was. Fresh firefighters were, I suppose, itching to get out there and assist their fellow firefighters. So the transfer had to be made in other vehicles or bringing vehicles back in to do that.

30

Q. A bit of confusion in all the circumstances of that day would not be surprising?

35

A. It was not.

Q. It was put to you by Mr Pike that, by the time that the fires reached Duffy, all units of the Fire Brigade were fully utilised; that's correct?

40

A. That's correct.

Q. The question of bringing off-duty people in when you anticipate an incident is a matter of operational judgment?

45

A. Yes, that's right.

Q. And when you do it depends on what information

you have as to when the incident is likely to occur?

A. That's true.

5 Q. It can be a difficult decision?

A. It can be a difficult decision but, in preparation for anything, you try to forecast it.

10 Q. Yes. Of course it is possible to call people in too early - in to duty too early?

15 A. Well, I suppose what is "too early"? I mean, at the beginning of the day at 0800, having the extra appliances may have been beneficial or bringing them in at midday. Normally speaking what we try to do is designate a time to bring crews in.

Q. By the time the fires actually reached the urban interface, all hands were on deck?

20 A. Yes, that's right.

MR WATTS: Yes, thank you.

25 THE CORONER: Thank you, Mr Watts. Mr Walker?

MR PHILIP WALKER: I have a few questions.

**<CROSS-EXAMINATION BY MR PHILIP WALKER**

30 MR PHILIP WALKER: Q. Mr Prince, the briefing meeting with the Fire Brigade on the 16th called by Mr Lucas-Smith, firstly, was that a fairly open sort of discussion at the meeting?

35 A. Certainly was.

Q. And a number of people participated in and made contributions to it?

40 A. A number of people listened to Mr Lucas-Smith and certainly asked him questions, yes.

Q. I suggest that in some other evidence there might even at times been touches of some humour and some forth at the meeting; do you have any recollection of that?

45 A. One might say when firefighters come together that often occurs. I think we all understood the seriousness of what was occurring.

Q. You provided some evidence about the way you say Mr Lucas-Smith said the information was to be dealt with, the information he passed to you. Firstly, did you feel under any operational  
5 constraint as to the way you could use the information that was passed to you?

A. I think with any protocol if an individual has responsibility, it is their right to advise you how to deal with it. We are often given  
10 confidential information; we are often given information during our everyday life where we are required to hold that until we are given the go ahead to inform people.

15 THE CORONER: I would like you to repeat the question, Mr Walker.

Q. I don't think you answered the question, Mr Prince. Did you feel under any constraint to  
20 deal with the information in any way that you saw fit?

A. No, I did not.

25 MR PHILIP WALKER: It might not have been the clearest question in the world.

THE CORONER: The question was clear; the answer was a bit general.

30 MR PHILIP WALKER: Maybe Mr Prince misunderstood what I said.

Q. Let me ask the same thing in another way: did you not feel impeded in the discharge of your  
35 duties in any way?

A. I did not, no.

Q. Could I just ask you a hypothetical question: assume you were in the same sort of situation as  
40 Mr Lucas-Smith and it was necessary for you to brief some emergency service personnel about an incident, which I think you will agree with me at that stage was regarded as a potential?

A. Yes, certainly a potential.  
45

Q. What, if anything, would you say to those people assembled about how the information should

be dealt with?

A. I would be open and honest and say we would have to deal with the information sensitively at any time because we have to have a position  
5 amongst us all on how we are going to deliver it. Normally you try to deliver that sort of information through one channel.

Q. If it were the case that information relating  
10 to a potential emergency was open for anybody to say anything to anyone about it, does that have the capacity to be detrimental?

A. It could be detrimental. It could cause  
15 confusion.

MR WATTS: Would your Worship excuse me?

THE CORONER: Certainly.

MR WATTS: I won't come down on Tuesday morning  
20 this time; I will come Monday night.

THE CORONER: Thank you, Mr Watts.

MR WATTS: Thank you, your Worship.

THE CORONER: Mr Watts, I will just say this: we  
won't wait for you if you are not here on Tuesday  
30 morning. Thank you.

MR PHILIP WALKER: I have nothing further, Thank  
you, your Worship.

THE CORONER: Yes, Mr Whybrow?  
35

**<CROSS-EXAMINATION BY MR WHYBROW**

MR WHYBROW: I appear on behalf of Mr Castle.

Q. Sir, the meeting which discussed setting up  
40 Canberra Connect and the information that would go at 8am or thereabouts on Saturday morning, 18 January, that was a meeting that Mr Castle was not present at?

A. He was not present at it.  
45

Q. And I take it you don't know why he was not

there or if he was even invited to be there?

A. In fact he was probably being pressed by the media himself at that time of the morning.

5 Q. Sir, in your records of interview, and I think you have clarified it to some extent in your evidence, you refer on a number of occasions to the predictions for impact on the suburbs made by various people, including Mr McRae and Mr Gellie?

10 A. That's correct.

Q. Although from time to time in your statement you refer to these things as "going to happen", would you agree that what these predictions were were worst case scenarios of projected rates of spread in unattended situations?

15 A. That's the planning team's role to keep the incident controller informed of those worst case scenarios, yes.

20

Q. You gave some evidence earlier, Mr Prince, about your attendance at the Police Operations Centre and indicated to the police that you personally did not have a great level of confidence that the community was prepared for a bushfire emergency?

25

A. No, I did not.

Q. Sorry, that is what your evidence was?

30

A. That's right.

Q. That is what your personal opinion was as to the level of community awareness of what preparations should be taken in case of a bushfire and things of that nature?

35

A. Obviously people who live in a rural environment are far more aware where they live; people within the normal city suburbs are not.

40

Q. Unless there is either some education or some experience or both that may provide them with that level of education?

A. That's correct.

45

Q. Which could take the form of various mail-outs and kits of that nature?

A. Certainly. The bushfire kit itself took

several months.

Q. Television advertising - what to do in the event of a bushfire?

5 A. Yes.

Q. Articles in the media in the lead-up to bushfire seasons describing the sorts of precautions people can take in the event that a fire threatens their area - things of that nature?

10 A. That's right.

Q. They would be the types of things that would, in the normal course - at least to those people who come across that material - be expected to help raise their level of awareness of what to do?

15 A. It would.

Q. You note both in your evidence today and in your record of interview, although there is of course members of the community, including those elderly, young and of non-English speaking backgrounds, that may not be exposed to that type of material and may not be expected to become aware of what the appropriate preparations are?

20 A. And that was the premise of my information to the police.

Q. Indeed I think you said today you would consider in an urban environment if 60 per cent of the households were aware of what to do in the case of bushfire that would be a reasonably high level of public awareness, given the nature of the information and the way it could be expressed?

25 A. I would think so.

Q. I will just refer you to some evidence of Mr McRae's on this issue, it is at page 3039 of the transcript. He was asked if he had a view as at January 2003 of the extent of the community awareness and in particular the urban community of Canberra of bushfire risk. I don't think it can come up on the screen, Mr Prince. He indicated there:

40

45 "A. I felt that it was probably as high as it's ever been, given the community awareness

5 following the Christmas 2001 event and also  
the fact that the fire agencies had been  
doing material for the media in the lead-up  
to the bushfire season to make the community  
aware of what they should be doing, as is a  
routine practice."

10 Now, I am not in any way attacking your opinion  
that you have provided to the police that you  
didn't personally think that people were well  
aware. But would you agree that the community,  
particularly in Weston Creek given the 2001 fires  
and how close they came to the urban interface,  
that was, if anything, an opportunity for them to  
15 be educated as to the danger of bushfires at the  
urban interface?

A. I believe we can make the assumption that it  
was at that highest point. Whether or not they  
were is a different matter.

20 Q. Sure. If there was some material to suggest  
that, amongst the people whose homes were either  
lost or damaged, some 85 per cent of those  
households knew what preparations should be taken,  
25 would you consider that to be a very pleasing  
level of awareness in the public?

A. If we were hitting the target audience around  
85 per cent, we would be doing well, yes.

30 Q. Sorry?

A. We would be doing well.

Q. If there was some material to suggest that,  
actually of the persons who were home on that  
35 afternoon, 75 per cent of all households actually  
did take some precautions, would you be, I  
suppose, positively impressed with that level of  
public awareness as at January 18, 2003?

40 THE CORONER: Is this theoretical, Mr Whybrow?

MR WHYBROW: No, your Worship.

45 THE CORONER: Where are you getting this  
information from?

MR WHYBROW: From about two or three volumes of

material that has been provided.

THE CORONER: Specifically, where are you getting this information from?

5

MR WHYBROW: From all the victim questionnaires that asked these questions. I assume that counsel assisting would have compiled these statistics themselves since they've expressed so much  
10 interest in this matter. And, as I understand it, the examination of that material indicate that, of the 290 people who were at home on that day, some 250 knew what preparations to take, which is 86 per cent.

15

MS CRONAN: Your Worship, I object to this. I do have statistical analysis of these questionnaires but I don't have them with me in court. But my recollection of them does not accord with that.

20

THE CORONER: No, nor does mine, Mr Whybrow.

MR WHYBROW: Well, if it turns out to be wrong, that can be clarified. But it doesn't mean I am  
25 not entitled to put the question.

THE CORONER: Absolutely. I was curious as to where you were getting the information from.

30

MR WHYBROW: Q. If community awareness of the preparations to take was in the order of 70 per cent or more, given what you said earlier, you would have said that would be a high level of awareness as to what preparations should be taken  
35 in the face of a bushfire?

A. Yes.

MR WHYBROW: Thank you, Mr Prince. Nothing further, your Worship.

40

THE CORONER: Mr Bradfield?

MR BRADFIELD: No, your Worship.

45

THE CORONER: Mr Whitelaw?

MR WHITELAW: I have no questions.

**<RE-EXAMINATION BY MS CRONAN**

MS CRONAN: Q. Would it also assist people in the community to decide whether or not they were going to evacuate and whether or not they were going to prepare their homes to also be advised that the fire was coming towards them?

A. Yes.

10 Q. You answered a question from my friend Mr Archer when you said that the map that was published in the 'Canberra Times' this morning was different to the one that Mr Gellie showed you?

15 A. That's correct, similar but different. They were actually different maps.

Q. Can I just ask you to clarify whether or not the rate of spread information that was contained on Mr Gellie's map accords with the rate of spread information on the one in the 'Canberra Times' this morning?

A. Similar.

Q. Was there any timing differences --

25 A. I would have to compare both maps to make that assessment.

Q. But the map that Mr Gellie showed you also had the final arc as occurring at 2000 hours?

30 A. No, the one that Mr Gellie showed me was 1800 hours.

Q. Was the final arc?

A. Yes.

35

MS CRONAN: Okay. Nothing further, your Worship.

THE CORONER: Q. Mr Prince, you are aware that a number of fire appliances stalled, and I think one was burnt on Warragamba Avenue.

A. That's correct.

45 Q. There was one that Mr McIntyre was driving around the suburbs of Duffy that I think also stalled but they were able to, as I recall the evidence, restart that. Is that a problem with the vehicles, the appliances that were being used

at that time?

A. It certainly was. With some robust discussion with Scania Australia, we determined there was an air filtration problem allowing embers to go into the air system and block the air system and therefore choke the appliance so it stalled. What has occurred since is that, between the Fire Brigade and Scania Australia, we have made major rectifications to that and also retrofitted new air filter systems to the appliances.

Q. To all the vehicles?

A. To the Scantias in particular.

Q. Had that ever happened before, to your knowledge, prior to January?

A. I believe it happened in 1999.

Q. Was anything done after January 1999?

A. It was a different model. I believe they had changed the filter slightly and didn't take much more work than that. They thought they had done enough. But obviously with the significance of January 2003, they realised that they had to do considerable work to rectify it.

Q. Since the new filters have been fitted, has anybody tested the efficiency of the equipment?

A. It was actually tested in Victoria, I believe, through a certain process of putting flame and embers towards the filter system. It has now been turned up the other way. It draws air from under the ground rather than having it forced in.

Q. Do you have confidence in the new filters?

A. Yes, I do.

THE CORONER: Thank you, Mr Prince. You are excused. You are free to leave. Thank you.

**<THE WITNESS WITHDREW**

MS CRONAN: Your Worship, I ask that we adjourn until 10 o'clock on Tuesday.

THE CORONER: Unless anybody has any preliminary matters? We have Mr Bartlett and Mr Smith I think

on Tuesday.

MS CRONAN: Yes, your Worship.

5 MR PHILIP WALKER: Any further news on the reports - Mr Cheney's?

MS CRONAN: Last I heard there was an ETA of Monday.

10

MR PHILIP WALKER: That is still the go; is it?

MS CRONAN: That is still the plan, as I understand.

15

THE CORONER: We will adjourn until Tuesday.

**MATTER ADJOURNED AT 2.40PM UNTIL TUESDAY, 8 JUNE 2004**

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TRANSCRIPT OF PROCEEDINGS

CORONER'S COURT OF THE  
AUSTRALIAN CAPITAL TERRITORY

MRS M. DOOGAN, CORONER

CF No 154 of 2003

CANBERRA

INQUEST AND INQUIRY INTO  
THE DEATH OF DOROTHY MCGRATH,  
ALLISON MARY TENNER,  
PETER BROOKE, AND DOUGLAS JOHN FRASER  
AND THE FIRES OF JANUARY 2003

DAY 68

Tuesday, 8 June 2004

THE CORONER: Any matters before we start today?

5 MR LASRY: I recall Mr Bartlett, if your Worship  
pleases.

<ANTHONY GREY BARTLETT, RECALLED, RESWORN

10 <CROSS-EXAMINATION BY MR WHYBROW CONTINUING

MR WHYBROW: Q. Mr Bartlett, you might recall  
last time when you were in the witness box, I was  
asking you questions about paragraph 148 of your  
15 statement where you indicated your recollection is  
that you were the person at the planning meeting  
on Saturday morning, the 18th of January,  
indicating that the McIntyre's Hut fire could make  
a run to the urban interface from Weston Creek to  
20 Greenway and a number of other matters?

A. Yes.

Q. I think I suggested to you that that paragraph  
and the contents of it were matters which you had  
25 not previously alluded to in those terms in your  
notes of February 2003?

A. I thought you said - we were talking about  
whether they were word for word lifting out of  
paragraphs.

30

Q. Yes. Well, in relation to that section of  
your notes centring on the 0930 operations  
briefing, I think you accepted that that paragraph  
which puts those matters which you yourself raised  
35 at that meeting do not appear during your outline  
in your February notes of that meeting?

A. Not in the exact same words, that's correct.

Q. At all. In the section "0930 operations  
40 briefing", no part of paragraph 148 appears in  
those notes, I suggest to you?

MR WATTS: I object. There are no paragraph  
numbers in the notes at all.

45

MR WHYBROW: I think it is plain what I am  
putting. I will do it again.

Q. Do you have your notes which outline "0930 operations briefing"?

A. Yes.

5 Q. I think you were at least prepared to accept that the first half or thereabouts of that section replicates word for word paragraph 147, and the next part of those notes on that page replicates paragraph 149 of your statement?

10 A. That's correct.

Q. Over the page it goes on to "following the operations briefing Rick McRae gave me a copy of the directory" and you conferred with Mr Graham and Kevin Cooper, which are matters that occurred after the briefing?

15 A. That's right. I have an explanation, if you would like me to give it.

20 Q. We will come back to that in moment. No doubt if we don't, Mr Watts will ask you for it. What I am asking is: the indication in your statement that you were the person who had raised at that meeting concerns about McIntyre's Hut making a run to the urban interface from Weston Creek to Greenway was not a matter you had alluded to in your February '03 notes when recounting what occurred in that operations briefing?

25  
30 MR WATTS: I object to this line of questioning on two bases. Firstly, its relevance. Frankly what does it matter so far as this inquiry is concerned as to who said what at the meeting, if it has in fact been said. It can have no particular  
35 relevance or take the matter any further so far as the inquiry is concerned.

Secondly, I ask my learned friend to identify the basis of his instructions. One question he asked  
40 last time was:

"The evidence is that Mr McRae said it."

45 Now, if there is some transcript evidence to that effect, I would ask my learned friend to identify it, because certainly in Mr McRae's statement, which I have read, it says nothing about this at

all.

THE CORONER: Are you able to do that, Mr Whybrow?

5 MR WHYBROW: Pages 3415 and 16 where Mr McRae is asked about this and the questioning proceeds on the basis that this is information he is providing to the meeting.

10 Indeed, following my cross-examination of Mr Bartlett last week, Mr Prince was called to give evidence. Knowing that this issue was one that I was raising, Mr Prince was asked by counsel assisting - at that stage Ms Cronan - what was  
15 suggested to him that Rick McRae said in that meeting Weston Creek to Greenway, pages 6466 to 67.

The relevance is obvious when this witness has  
20 asserted comments made by my client a week earlier. If there are some issues as to reliability about other perhaps even more important meetings, your Worship's evaluation as to recollections on the 10th is obviously of some  
25 significance.

The relevance is obvious in that respect. It is also obviously relevant to my client.

30 THE CORONER: What is the basis, though, of your questioning Mr Bartlett on notes that he made and the ultimate statement that he produced? Is that to show what, discrepancies in his notes and his statement; is it testing his credibility or does  
35 it go to his recollection; to what issue are focusing?

MR WHYBROW: It goes to all those things and indeed to other matters of great relevance. I am  
40 not aware there are particular protected species in this inquiry whose credibility is not entitled to be examined. This is a witness who was the eyes of ESB on 18 January. He is at the meeting asserting to himself certain points of view. I  
45 would have thought it is very relevant, as the eyes of ESB on that day in the helicopter, knowing whether or not they are things that he himself

believed or he himself had heard and indeed generally his recollection. The relevance is palpable. The fact that it is potentially going to the credibility of another witness is not a  
5 reason that it is not a valid area --

THE CORONER: I will allow you to continue.

MR LASRY: I don't want to intervene and put an  
10 argument one way or the other in the debate between Mr Watts and Mr Whybrow. The only thing that concerns me is the witness has just said, "I have an explanation if you wish to hear it". We can play the forensic game, if necessary, but it  
15 is a waste of time. There may be an explanation for this, that may or may not solve the issue. In my submission we should hear what it is and proceed on the basis of it.

20 THE CORONER: I think that is only fair to Mr Bartlett.

MR WHYBROW: The explanation came at a point where I asked him about the notes over the page. If my  
25 friend wants to examine as counsel assisting on these issues, that could have been done. I am entitled to conduct my cross-examination in a way which is relevant and pertinent to my interests.

30 THE CORONER: If there is an explanation then I want to hear it. I am not going to wait until everybody has a turn at cross-examining.

MR WHYBROW: Well, your Worship can ask questions  
35 at any stage. If it appears there is an explanation, we haven't actually got an answer to that question which is:

"Do you agree?"

40 I will ask it now, if your Worship permits.

Q. Do you agree, Mr Bartlett, that you do not at  
45 any stage in your outline of the 9.30 meeting, which appears to be on the second half of your notes on that particular page assert to yourself having said those particular comments about Weston

Creek to Greenway?

A. Can I just re-read the words for a moment, please?

5 Q. Certainly.

A. Well, I certainly say I indicated that each of these fires had the potential to make significant runs. And later on I went on to indicate what I was proposing to do with the operational  
10 firefighters. I believe that this is just my precis of that. I didn't actually have the printed notes of the planning meeting available to me when I wrote this down. That would have been the trigger that reminded me.

15

Q. So what would have caused the genesis of paragraph 148 would have been your looking at the entire minutes of the planning meeting for Saturday morning?

20 A. That was one of the additional pieces of information I had when I was making the statement, yes.

Q. Do you have a copy of those notes there with you or have you seen them recently?

25

A. Sorry, which notes?

Q. The planning minute at 9.30 on 18 January.

A. I have seen them recently; I don't have them  
30 before me.

Q. Do you accept the particular comments that you in paragraph 148 attribute to yourself occur well after your report on your reconnaissance has been  
35 given and note and in a section after the weather and planning considerations?

A. Yes, I accept that. I don't accept that that was the only time that I spoke in the meeting.

40 Q. Are you aware or would you agree that there are quite a number of people in that room for that meeting?

A. Yes.

45 Q. You are aware that Ms Kate Keane and Jillian Ferry were independently taking notes of that meeting?

A. Yes.

Q. They have produced those notes and been questioned about them?

5 A. Yes.

Q. Mr Lucas-Smith, Mr McRae, Mr Castle were all there themselves?

10 A. Yes.

Q. Mr Prince was there?

A. I think so.

Q. And an AFP liaison officer Jason Byrnes?

15 A. I can't recall the name of the AFP liaison officer.

Q. Mr Kevin Cooper from New South Wales?

20 A. Yes.

Q. I will be corrected if I am mistaken about this, but can I suggest to you that none of those people attribute those particular comments in the planning section to you?

25

MR WATTS: I object. What should be put, if it be the case, is that those people do, in fact, attribute it to Mr McRae, because that is what is being put.

30

MR WHYBROW: That is two different questions.

MR WATTS: I know. But this question is unfair.

35

THE CORONER: It is not all of them. I don't know that all of them were questioned on this point.

MR WATTS: If my learned friend is going to take him through this, he should do it properly.

40

MR WHYBROW: We will be here for the rest of the day then, your Worship. I will do it that way.

45

MR WATTS: If that is the path my learned friend has chosen, so be it. But it should be put fairly and the evidence of each should be put to him, not in a general way like this.

THE WITNESS: As I said, if it would help, I do have an explanation.

MR WHYBROW: Let me ask you this question and your explanation may be pertinent to this.

Q. If it is the case that nobody else at that meeting asserts that you made those comments and some indeed positively assert that it was Mr McRae, would you accept that your recollection may be mistaken about that point?

A. I believe my recollection is quite clear on this matter.

Q. So if I were to take you through each of these witness's evidence, the notes, comments where they assert it to various other people, you are confident that would not shake you one iota as to your recollection?

A. Yes, because I have a clear recollection of this particular part of the meeting.

THE CORONER: Q. What is your explanation?

A. After Mr McRae gave some broad information on planning, I recall Mr Lucas-Smith asking a question about what suburbs might come under threat during the day. I believe that I then actually gave those words that are paraphrased in the planning meeting simply on the basis of what I had seen in the helicopter, and then how I had worked out in my mind and prior to this planning meeting discussed with Tony Graham the operational strategy I wanted to put in place about the distinct possibility of the fire making three particular runs.

So those words in the planning meeting are actually me telling the planning meeting about where I thought each of those three runs could get to. The other reason that I am very confident about this - there are two other components: the first one is that I distinctly remember adding the bit about whether the wind was from the north-west or had a slight westerly influence. That was on the basis of my actual experience during the 2001 fire when I was the incident controller. The weather was actually forecast to be a

north-westerly wind on that day and turned out to be almost due westerly wind. So I had that very firmly in my mind.

5 The second part, which is recorded sequentially in those planning meeting minutes, after this discussion about which suburbs would come under threat, I then said that I wanted to establish an operational mechanism between the field people and  
10 the planning section to get information to and fro so that new information that the planning section had that was going to be needed to the field people was able to go out; and, vice versa, when  
15 the field people had new information, it would come back to the planning cell.

I asked for what I called two runners to be put in place. That is recorded in a very simplistic way immediately after those comments. I firmly  
20 believe that all of those comments - I have actually looked back at the handwritten notes of the minute taker and they are not attributed to any individual. I can only work off the basis of my memory of the various things that I said during  
25 the planning meeting.

And just to finalise, later on there is another section where I go on to talk about the operational strategies that I have put in place.  
30 They are not attributed to me either in the actual written minutes, but they were very definitely my words. So that's the basis upon which I believe that they were the things that I said.

35 As they said, I was the eyes of ESB. I had been out and flown around; I had a fairly clear indication. I can in fact say with confidence when I got back that I never got to speak to Mr McRae. I spoke to some of his members in his  
40 planning unit. I couldn't find Mr McRae that morning. I don't know how he would have come up with the same conclusion if he hadn't had access to the information I had seen from the helicopter. It was just a kind of thought process. I had seen  
45 where the fire was. After talking to Clem Davis and getting the weather information - I made an assessment of where I thought the fire was going

to go. I developed the next logical step which was to work out where should I put the operational firefighters. So it was a logical process.

5 MR WHYBROW: Q. You were no doubt also aware that morning or was it indeed your own predictions that the fire on a worst case unattended spread could be at the Uriarra Settlement by 1200 - the notes indicate 1200 Uriarra, 1500 Cotter and 1800 side  
10 Mt Stromlo?

A. I didn't have the capacity to actually make those detailed predictions about exact times.

Q. You were conscious that morning of those worst  
15 case possibilities being raised by the meeting?

A. I remember some members of the planning unit raising those issues.

Q. They were in that respect not inconsistent  
20 with the concerns that you say you expressed at this time about Weston Creek to Greenway and Bullen Range and things of that nature?

A. That's correct.

25 Q. No doubt once you returned to the helicopter to oversee what is happening that day, you would have been very conscious of both the predictions you had in your mind and those that had been provided by others to see whether or not they were  
30 progressing to that degree or less?

A. Sorry, I just lost your train of thought there towards the end. You are asking me whether that was uppermost in my mind when I went back to the  
35 helicopter?

Q. No. I am saying it could have been a matter of concern being the eyes, as you put it, of ESB that day to see whether or not the fires were proceeding towards those worst case scenarios or  
40 not?

A. Well, all I can say is basically when I went back what I had uppermost in my mind, my concerns, if you like, to use your words, were to make sure that the operational firefighters clearly  
45 understood the strategy and the directions about what they were to do on the ground, and then to report wherever I could from wherever I was in the

helicopter any fire development as it occurred during the day. That is what I actually set out to do in that day.

5 Q. If any of the fires started to make a run which was of major concern, you would have been calling that in, wouldn't you?

A. I did, yes.

10 Q. Could I suggest that certainly up to around about 1pm the rates of spread of the fire, certainly the McIntyre's Hut fire, was not as severe as some of those predictions were suggesting in the morning meeting?

15 A. That's correct, yes.

Q. In fact, that would, in part, be why you were concentrating most of your efforts towards the south at that time?

20 A. Yes. And also because during the planning meeting I had said that it was my assessment that the greatest threat initially, after I had been in the helicopter, was the southern fire. So that's why I went in that direction first of all.

25

Q. You have made reference before to your report on the Byadbo fires?

A. Yes.

30 Q. I think you said on several occasions, telling at least Mr Thompson that those fires at one stage travelled 15 kilometres in a day?

A. Yes.

35 Q. Do you have that report there?

A. Yes.

40 Q. Are you able to take her Worship to the part of your report which says the fires travelled 15 kilometres in a day?

A. No, because I haven't read the report recently cover to cover. If you would like me to find it, I will need a few moments to go through it.

45 Q. Can I take you to the bottom of page 25 of your report, which is part of your statement [ESB.AFP.0001.1140]. It is at 1217.

A. Is that going to come up on the screen?

Q. I hope so. It is at page 25, if you have the hard copy in front of you.

5 A. Of my Byadbo report? Unfortunately, my copy doesn't have page numbers on it.

Q. It is the sections on "final statistics" and "discussion"?

10 A. Yes, okay, I have that.

Q. You set out at the bottom of page 25 there what seems to be a discussion of what you had earlier been reporting in that paper?

15 A. Yes.

Q. You talk about there:

20 "It developed major runs of 12 kilometres on the ninth day and 6 kilometres on the 12th day, with estimated maximum forward rates of spread of 1.5 km/h on each of those days."

A. Yes, that's what I have written there.

25

Q. Over the page you then talk about further rates of spread, various flanks and maximum forward rate of spread of 1.4 kilometres on the 4th day on a particular slope?

30 A. Yes.

Q. When you had been referring to 15 kilometres per day might it be that what you either meant to either say to this court or to people you were reporting your findings to was 12 kilometres?

35

A. That is the literal figure that is in there. I do have map in front of me which is taken from there. I have remeasured the two runs which are clearly shown by map form with a scale. In fact, under north-westerly winds one of those runs is 13 kilometres and one is 15. It could well be at the time I wrote this report, which was finally published in 1994 from memory, but I wrote it a couple of years after the 1988 fire, I had a different view.

40

45

As I said, I have subsequently remeasured those

distances on the maps, which is map 4 in that report, which if you would like to check my measurement on the map you could work out - it all depends from which point of a breakaway of a fire edge you actually measure this from. You can come up with a lot of different figures. So you know, I think certainly the text says 12 kilometres there but I could easily find you a spot where it has made a run of 15 kilometres.

10

Q. Well, what I am asking you is are you aware of any other reference in the text as opposed to my --

15 A. No, because I haven't read the full report in recent times.

Q. Might the only reference in the text be 12 kilometres notwithstanding that, if you get a ruler on one of the maps, you might be able to estimate it at 15?

20

A. That could be correct.

Q. In any event, you were from that experience aware of rates of spread between 1 and 2 kilometres per hour having occurred in that fire?

25

A. Yes.

Q. You were aware that morning, both from you say your own concerns expressed to the meeting and what planning had been indicating, that the fires may make various runs indeed to the extent of putting Weston Creek to Greenway at some risk?

30

A. Yes.

35

Q. I think you have already agreed that, up until 1 o'clock, there was in effect good news in that the fires hadn't appeared to be behaving towards reaching those worst case predictions?

40

A. That's right.

Q. Indeed, you would have been monitoring - I think you have actually indicated you have gone extensively through the COMCEN logs in preparation for giving evidence?

45

A. Yes.

Q. If I can take you, sir, the logs for 18 January in the afternoon, [ESB.DPP.0012.0002]. You were going by the call sign Oscar 5, that was your call sign?

5 A. That's correct.

Q. Or alternatively you were in 'Firebird 7'?

A. Yes.

10 Q. I take it that, as incident controller that day, you were also monitoring to the extent that you could other traffic that was occurring?

A. Yes. Except I was only able to listen on one channel at a time.

15

Q. Page 16 of that file, which is a time of 13.51 - you are familiar with the One Tree Tower?

A. Yes.

20 Q. You are aware that there was also a fire tower on Coree?

A. Yes.

25 Q. If you were to spot from Mt Coree to One Tree Tower, that would be reasonably equivalent to looking across the border between New South Wales and the ACT?

A. Sorry, can you repeat that?

30 Q. The Mt Coree tower is on the border at the top of the range between New South Wales and the ACT?

A. Yes.

35 Q. The One Tree Tower respectively is on a same trajectory or bearing as the upper north-western straight edge of the ACT border?

A. Yes.

40 Q. There is a map behind you that has the details.

A. I know roughly where it is. No, it is in that general direction.

45 Q. If we go to 1.51. I take you to firstly some COMCEN logs. 13.51.32 seconds:

"Oscar 8, Oscar 8 from Oscar 5."

MR WATTS: I don't think that is actually up yet.

THE WITNESS: 13.51 and how many seconds?

5 MR WHYBROW: Q. 46. It is at the very bottom of that page. This is a communication between One Tree Tower and COMCEN. I am just asking you your interpretation of what this would be. It says:

10 "COMCEN One Tree Tower, blue.

Yeah, One Tree Tower go ahead."

A. I can see those two lines.

15

Q. If you go over then there seems to be a report from One Tree Tower at that time:

20

"Yes, I can see ash or flames coming up, it's from the McIntyre fire, a bearing of 236 237. So it's coming up over the ridge. One Tree Tower out."

A. Yes, I can see that.

25

Q. Further on:

"Yeah ... but I can actually see the flames coming out over the top of the ridge."

30

Then at 13.55 clarification from COMCEN is:

"I take it where can you see those flames that's where Coree used to be; is that correct?"

35

That's correct."

Do you see that reference?

40

A. Yes.

Q. Would you agree if that is an indication of a fire front being at that point, at 1.51, that is a fire in that area crossing effectively over  
45 Mt Coree and into the ACT?

A. It could be if that is literal. In other words, you are saying those flames are reported

going up a ridge. The ridge is the ridge of Mt Coree; is that what you are suggesting?

5 Q. I can only put to you what the COMCEN traffic reports. The map is behind you. If you look at the bearing of 236237, there is flame coming up over the ridge on that bearing, would that not seem to indicate a fire front there passing into the ACT?

10 A. Do you want me to look for that bearing?

Q. If it will help.

A. Has somebody got a ruler?

15 Q. You have a line on that bearing.

A. You mean, someone has drawn it?

Q. No, I think that is the border. On 236?

A. 236 from One Tree Tower?

20

Q. From One Tree Tower.

A. I need my glasses.

Q. Sorry One Tree is up near Hall, isn't it?

25 A. Yes. It is still a little difficult to read the scale. You are saying that that bearing is the actual borderline?

Q. Certainly the border runs very close to 236, 237 from One Tree Tower?

30

A. That's correct.

Q. Again, it is perhaps consistent with what you had already been saying that indeed up to this time, the predictions and concerns that everyone had, including yourself, at the planning meeting that morning as to worst case rates of spread, the fire was not reaching those sorts of worst case scenarios as at those times; was it?

35

40 A. The fire was quiet in the morning, but normally average rates of spread are taken over a period of time. Generally what happens is the fire moves slowly in the early part of the morning and then more quickly in the afternoon. When  
45 people make the calculations, they generally pick an average rate of spread.

Q. Well, did you call in at any stage at this time that "the fire was ahead of those predictions they are not worst case enough" or anything of that nature?

5 A. No, I did not.

Q. Would that have been because that was not the case?

10 A. Well, in the helicopter you have no capacity to actually sit there and work out rates of spread. I was reporting particular grid references where there was fire activity but I wasn't recording rates of spread.

15 Q. On that same page at 1357 you report - it may be one you have already gone through:

20 "Yeah, message to assist fire patrol officer, at this stage there is no fire in the Mt Stromlo pine plantation, we just flown over it, we're heading, tacking for Huntly, I don't think there is any fire there either, the fire that everybody's concerned about is on Mt McDonald.

25 Roger that. Mr Graham has received.

30 We'll just stay in this general area to get a better idea. Oscar 5 clear."

A. The only thing I should say it should have been fire control officer not fire patrol officer. But that certainly accords with my recollection of what I saw and what I relayed.

35 Q. A minute later:

40 "Yes, Oscar 5, from Mr Graham, if you could deploy your units as soon as you can, a quick protection around the property - probably Huntly - but you may have to deploy to protect the urban interface. Over."

Do you see that?

45 A. Yes.

Q. That is a communication from COMCEN to you in

effect to assist you in your duties as an incident controller at that time?

A. Yes.

5 Q. Can I suggest to you that that is the first time that there is an indication in those transcripts, at just a minute or two before 2pm, of the possibility of needing to protect the urban interface with your units?

10 A. That's probably correct.

Q. From about this time onwards, I suggest that the fire activity was obviously increasing significantly?

15 A. Yes.

Q. And phenomenally so, much more than anyone's predictions had anticipated?

A. Yes.

20

Q. Including your own?

A. Well, as I said, I don't recall making predictions of rates of spread.

25 Q. You had not at this stage, which was until 2pm, foreseen any risk to your forestry depot; had you?

A. That's correct. I still didn't at 2pm.

30 Q. Were you in the other courtroom when Mr Neil Cooper gave evidence about his experience that afternoon?

A. No, I was not.

35 Q. You have become aware of his evidence about being burnt over?

A. In general terms. I was overseas when he was giving evidence.

40 Q. You were aware, probably well before this court became aware of it, of his account of being burnt over in very --

A. Very, I am aware of that.

45 Q. -- life threatening circumstances at or about the Huntly property?

A. Yes.

Q. And limping his vehicle back to the forestry depot?

A. Yes.

5 Q. Even at that stage having experienced that, not having any appreciation that the forestry depot was in any danger?

A. Yes.

10 Q. That of itself is, would you agree, from somebody as experienced as Mr Cooper, a stark indication as to how dramatically this fire behaviour escalated after about 2pm?

A. Yes. Certainly a good indication, yes.

15

Q. Indeed, if we go to page 24 of this document, at 1454 you make the following communication to COMCEN - about a third to a half of the way down the page:

20

"Yeah, COMCEN, it won't be long before we have got fire crossing the Cotter Road in the vicinity of Stromlo Forest office. So we also need to think about Eucumbene Drive and the Tuggeranong Parkway and get them to move their road closures. My feeling is the fire is going to run through the pine forest and (indistinct) and the Tuggeranong Parkway again, probably south of the Cotter Road. We need to get some road closures in place fairly soon. There's a lot of traffic in that - all these roads at the moment."

25

30

You at that stage, from your position at 5 to 3, foresaw the need to close Tuggeranong Parkway and Eucumbene Drive?

35

A. Yes.

Q. You, I take it, at that stage didn't see an immediate or imminent risk to houses on the other side of Eucumbene Drive?

40

A. I didn't indicate that.

Q. Well, if you had had such a risk, you would have indicated; wouldn't you?

45

A. Most likely, yes.

Q. And indeed, you do indicate, I suggest, that Duffy is an area of greatest threat some time after that; at the top of page 29 of this document.

5 A. Yes, I can see that.

Q. It says:

10 "Location is ah we're overhead at Duffy and we're monitoring the outskirts of Chapman and the Tuggeranong (indistinct) -

15 Yeah, Roger Firebird 7, um from Tony Graham can you give us the area of greatest threat in that vicinity, over."

This is a communication of 26 minutes past 3. You say:

20 "Yes, the area of the greatest threat is actually the suburb of Duffy. I repeat, the suburb of Duffy. The fire is right up against it, it's in Deeks Forest. The temporary camping area for the firefighters  
25 is under threat and ah, second to that will --

30 Yeah, received, Duffy area is the main concern at this stage. Did you say Deeks Drive?"

That's a communication you made at that time?

A. Yes.

35 Q. I think your earlier evidence has been that the first house caught fire in Duffy at 11 minutes past 3?

A. That could be the case. I don't recall that.

40 Q. In that sense, the fact that you are indicating that the suburb of Duffy is in greatest threat at 26 past 3 is of itself another stark indication as to how fast this fire moved that afternoon?

45 A. Sorry, I have lost your train of thought there.

Q. Well, that is the first time that you, in the helicopter, indicated to anybody at COMCEN that Duffy is under direct threat, the suburb itself?

A. Under direct threat, yes.

5

Q. That's, if the evidence is correct, after the suburb itself has commenced to be under attack?

A. Well, that could be right if someone else was on the ground. There was a lot of smoke around.

10

It was very difficult to see exactly where things were at any point in time. So even though we were in the helicopter, you haven't got the ability to see all around. There was just so much smoke.

15

MR WHYBROW: I have no further questions, your Worship.

THE CORONER: Yes, thank you, Mr Whybrow. Mr Walker?

20

**<CROSS-EXAMINATION BY MR PHILIP WALKER**

MR PHILIP WALKER: Q. Mr Bartlett, I would just like to change subject for a moment. You have given some evidence about fuel management and fuel reduction already?

25

A. Yes.

Q. I would like to get some more detail on some of that from you, if you would, please. It is the case, is it not, that the management of the levels of fuel on land in the ACT is not the responsibility of the Bushfire Service but the land managers; is that right?

30

35

A. That's correct.

Q. I think you have already given some evidence and we have seen your statements in which, as far as Forests go, Forests have been trying to reduce fuel levels for some time and sometimes they have encountered some difficulty?

40

A. Yes.

Q. Forests are one of the land managers who have to look after fuel reduction; is that correct?

45

A. Yes.

Q. Another land manager in the territory is the Parks and Conservation Service?

A. Yes.

5 Q. Amongst the responsibilities of Parks and Conservation, does that include native forests?

A. Yes.

10 Q. So, for example, the area in which the Bendora fire was burning, land management would be the responsibility of Parks and Conservation in that area?

A. That's correct.

15 Q. Another land manager in the territory is Canberra Urban Parks and Places; is that right?

A. Yes.

20 Q. Can you just tell us what their area of responsibility is as far as what land they look after?

25 A. Well, to the best of my knowledge, they have quite a wide variety of categories that they manage, which range from sportsgrounds to things like Weston Park down by Lake Burley Griffin. So a range of different categories. They don't manage what people would traditionally recognise as national parks. They certainly don't manage pine plantations.

30

Q. Obviously as the name urban parks would suggest, it would be some things like football ovals which don't present much of a bushfire risk. Are there areas within their responsibility for which fuel management for bushfire hazard issues are relevant?

35 A. Yes.

Q. Where are they?

40 A. Well, I don't have the bushfire fuel management plan with me, if you want me to be precise, but there would be a range of blocks of land that they were the land manager for that would have fuel on them and that may be located in  
45 an area where fire could impact on those particular blocks.

Q. For example, I should know this, but I must confess that I do not: who looks after Black Mountain?

5 A. That is Canberra - sorry, no, that is the Parks and Conservation Service.

Q. And another land authority is ACT Planning and Land Management Authority; is that right?

10 A. That's right.

Q. Can you just give us a broad description of what they look after?

15 A. They are responsible for all those bits of the territory that are in the process of being converted from one land use to urban land use. So they are the custodian while that process is going on.

20 Q. Development blocks in places like Gungahlin and places like that?

A. That's correct.

25 Q. Is it fair to say that their responsibility from the point of view of fuel management and bushfires is not that great?

30 A. Well, no, I wouldn't say that. I would say all the land managers have an equal responsibility to manage fuels on their individual pieces of land. The risks and the issues could be different under the different tenures but they all have a responsibility.

35 Q. Perhaps the question I should have asked is both the frequency and the magnitude of the requirement for the Planning and Land Management people to deal with issues of fuel management is perhaps not as large or as often as, say, Forests or Parks and Conservation?

40 A. That's correct.

45 Q. You have indicated some of the difficulties which the Forests area have encountered in fuel reduction. Do you have any of the records relating to the permits which were granted to you or were they lost in the fire?

A. The originals were lost. After the fire one of my staff went to ESB and copied what he could

in relation to permits related to ACT Forests  
burns. We also have other email correspondence  
that was sourced through the Government  
Solicitor's Office that relate to some of those  
5 issues.

Q. Do you have those with you?

A. With me - no, I don't think I brought them  
with me.

10

MR PHILIP WALKER: Again, I should know this,  
your Worship, but I am not sure whether those  
permits have actually been included within the  
courtbook brief. If not, I am wondering if we  
15 could get access to a couple of the permits which  
Mr Bartlett has copied.

THE CORONER: I don't know whether they are in the  
brief or not.

20

MR LASRY: I don't either, your Worship.

THE CORONER: It is not known whether they are in  
the brief at this stage.

25

THE WITNESS: I don't think they are.

THE CORONER: I don't think they were provided.  
Not that I know every piece of paper in the brief  
30 or recall it, but I don't recall seeing that sort  
of information. Do you need that?

MR PHILIP WALKER: In the course of looking over  
some stuff, I am yet to find them myself.

35

Q. What I would like to know, Mr Bartlett, is:  
firstly, have you seen the permits that have been  
copied?

A. Yes, I have.

40

Q. And you have given some evidence and certainly  
said in your taped record of conversation that at  
times the conditions which have been imposed upon  
your ability to conduct fuel reduction burns are  
45 so tight one almost gets the impression it is  
almost impossible to comply with them - almost?

A. Yes, that's right. It is very difficult. Not

to comply with them. You can comply with them -  
in other words, you don't burn.

5 Q. Yes. But to find a day where all the  
conditions are met so you can in fact conduct a  
burn?

A. That's right, yes.

10 Q. Do the copies of the permits that you have,  
are they representative of those sorts of  
conditions about which you have just been  
speaking?

15 A. I think so. From memory I think we were able  
to re-obtain copies of almost all of the permits  
for all of those burns that I talked about that  
ACT Forests had undertaken. There may have been  
one that we couldn't find a copy of a permit for.  
We virtually got all of them. They would have  
been represented.

20

Q. They contain these conditions; would they?

25 A. Yes. Sorry, because I haven't looked at one  
recently - in terms of the wind directions, I  
don't think I could answer yes or no without  
looking at whether that is on there or whether  
that was part of the environmental authorisation  
conditions. My memory is that yes, it is  
contained on the permit, but I could be wrong.

30 Q. You mentioned the environmental authorisation  
conditions, I think were the words you just used?

A. Yes.

Q. Is that something different?

35 A. Yes.

Q. What is the difference between the two things  
that you are referring to?

40 A. I think in the notes that I presented, I  
explained that under the Environment Protection  
Act if you are going to conduct a fuel reduction  
burn, you actually have to have an environmental  
authorisation that permits you to put smoke into  
the air. And as part of that authorisation the  
45 environment protection staff can include  
conditions, if you like, that relate to particular  
burns.

Normally the environmental authorisation would be a general document. I don't have one in front of me. But it would normally give - so we now do have an environmental authorisation of our own to  
5 conduct burns. It would permit us to carry out those actions under certain conditions. But then as a table now, although this has come since the 2003 fire, as a table which indicates different conditions for different areas of the territory.  
10 So it kind of is a more strategic approach. That wasn't the case for most of the burns that I have referred to. It was more individual burn by burn, where is the smoke going to go, what conditions will they put on us?

15

Q. Mr Bartlett, I think you are possibly aware that there have certainly been some people who have stated some criticism about levels of fuel both in forests and some people have stated  
20 criticisms about of levels of fuel in parks?

A. Yes, I am aware of those criticisms.

Q. I am trying to get a description from you and ultimately see if we can get some documents from  
25 you - some documents which would indicate the sort of strictures under which you were required to work and which may have had some impact upon your ability to in fact reduce the fuel in your particular area of responsibility; do you  
30 understand what I am referring to?

A. Yes, I understand what you are saying.

Q. Would you be able to supply the authorisations, including the sorts of conditions  
35 about which you have been speaking to the inquiry?

A. It may be difficult to supply the exact authorisation conditions that relate to some of those burns before the 2003 fire. I am just not absolutely certain what records of those we have  
40 been able to re-source. I would be more than willing to go back and see what we have in our office. Anything that we have in our office now is something that has been re-created from other people's records. We had no original records left  
45 ourselves.

MR PHILIP WALKER: I just ask if Mr Bartlett would

do that. It seems to me, as we have had evidence about the level of fuel, one ought to at least see the other side, the kind of constraints which people, who could theoretically be criticised about this, are required to work within. At least it gives a bit of balance of the whole thing.

MR LASRY: I have just had a quick look as best I can. I haven't found much. My learned friend may care to look at document [DUS.GSO.0003.0135], which seems to be a series of emails involving Mr Croston from Environment Protection, Janine Goodwin and Mr Neil Cooper also. There seems to be an exchange of views about some of the conditions that have been applied to a burn in March 2002, I think, in the Deeks Forest area. It is the only one I could find. Looking at it, I suspect my friend may think that it is an example of the sort of thing he is after. I suspect there is not much more than that. Perhaps a more thorough search will reveal some more documents.

MR PHILIP WALKER: I will do that during the course of the morning break. I still ask if Mr Bartlett could, that he supply what he can so we get some idea of the sort of structures under which he has been required to operate.

THE CORONER: Can you do that, Mr Bartlett?

THE WITNESS: Yes, I can.

MR PHILIP WALKER: Q. Dealing with your area in Forests for the moment, Mr Bartlett, doubtless you have been a party to discussions in which the sort of reasons for the constraints placed upon you have been made known to you?

A. Yes.

Q. One I'm sure from the evidence is there is a concern that, if smoke blows the wrong way, it blows across people's houses and there are a series of complaints?

A. Yes.

Q. I think you have given evidence that you have received complaints from people in Eucumbene

Drive?

A. And other places.

Q. And indeed other places.

5 A. Yes.

Q. In the course of your discussions about the basis for these strictures, have any other reasons been indicated to you?

10 A. About the smoke you are referring to?

Q. Sorry, it is a bad question. I will start again. When you were discussing burns with the people from whom you were required to get some permits, have they raised any other concerns apart from smoke?

15 A. Well, I think the answer would be yes. One that springs to mind relates to the ability to give notification to the community about what we are intending to do. And I have just thought of a second one where roads need to be formally closed. I think under some legislation there needs to be formally a 24-hour period of notification. There are probably a range of other reasons why  
20 different agencies put different restrictions on us in terms of burning operations.  
25

Q. Things such as notification, road closures and where the smoke is going to blow, I take it each  
30 individually are all quite reasonable considerations, it is just that sometimes it is difficult to get them all converging together at one time for you to conduct your burn; is that the case?

35 A. That's right. I don't think I have said anywhere that I think any of those considerations are unreasonable. I certainly do have a view that they make it very difficult to implement burning operations. It is a very complex system.  
40

MR LASRY: Can I just interrupt again to add to my friend's reading list: [DUS.GSO.0001.0187]. The document is a 33-page publication from Environment ACT entitled "Prescribed burning pocket book". It  
45 does appear to go through a number of the restrictions, at least from the point of view of Environment ACT, on conducting prescribed burns.

It mentions some of the things that to some extent at random my learned friend was asking Mr Bartlett about. It might be a handy compendium of the issues that Mr Bartlett has to deal with.

5

THE CORONER: Thank you, Mr Lasry. That might be of assistance to you, Mr Walker.

MR PHILIP WALKER: Yes, your Worship.

10

THE CORONER: Q. Environment ACT, is that the ultimate authority providing approval for burns?

A. In terms of smoke management, they are the ones that give the conditions that relate to the environmental authorisation.

15

Q. If there are other considerations such as road closures, do you then have to go to each separate authority responsible for that approval and seek all those individual approvals before you can do that?

20

A. That's correct.

Q. There is not one central organisation?

25

A. That's correct.

Q. That says, "Taking everything into account you now have approval to burn"?

A. That's right.

30

MR PHILIP WALKER: Q. You also, I think, need a permit from the Chief Fire Control Officer as well; do you not?

A. Yes.

35

Q. That's to look after the fire safety aspect of the operation?

A. That's correct.

40

Q. One final question in relation to the forests and fuel reduction: can we take it that the environmental debate in which sometimes we hear about prescribed burning in native forests, that that's not really an issue in your plantation area?

45

A. No.

Q. I wouldn't have thought so. Now, can I just go to native forests. Perhaps wearing your other hat, your bushfire responsibilities, are you familiar with efforts to undertake fuel reduction programs in the native forest in the ACT?

5 A. I'm familiar in my role as one of the members of Bushfire Council and also the Bushfire Fuel Management Committee and also helping the other land management agencies within the Department of  
10 Urban Services to prepare the bushfire fuel management plan. That's where I have my familiarity from.

Q. You have given now quite a deal of evidence about the difficulties in reducing fuel loads in forests. Do you have any knowledge or experience about attempts to do the same in native forests?

15 A. Well, I think you might need to be a little more precise. Are you talking about my knowledge  
20 of whether they participated in the fuel management planning or in terms of the actual burning operations?

Q. More the actual burning operations that are a somewhat more individual point of reference. Are you familiar with attempts to reduce fuel by one means or another in native forests in the ACT?

25 A. In the ACT, well, I mean, it is not the area that I have direct responsibility for so I could  
30 only, I guess, if you like, offer observations rather than factual information.

Q. In fact, are you familiar with the period prior to the 2003 fires?

35 A. Yes.

Q. Are you able to give her Worship any particular examples of which you have knowledge prior to the 2003 fires in which there have been  
40 actual operations undertaken in an effort to try to reduce fuel loads in native forests?

A. I do not have that information.

Q. Are you familiar with the sort of procedures which might be gone through in order to undertake  
45 fuel reduction in native forests?

A. Yes, I am.

Q. Can you indicate what to your knowledge those procedures are?

A. Well, by procedures are you talking about techniques that they would use?

5

Q. In fact that is a good point. Let's take it in two parts. What are the techniques first of all?

A. Okay, in native forests you really have got two main techniques that could be used to reduce the fuels. The first would be to mechanically or physically remove the fuels. That could be done by a variety of methods. Most commonly it would be done by using a large slasher flail mower that just macerates any of the shrubs and sticks and things on the ground and helps them to decompose.

The second and perhaps more common technique on a broader scale in south-eastern Australia would be to use prescribed burning during the autumn and spring in particular to reduce fuels in selected areas of native forest.

Q. Has there been any attempt to use the first - the maceration technique - in ACT Forests to your knowledge?

A. I am certainly aware of a lot of that work being done in recent times.

Q. Prior to 2003?

A. Again, I don't have the specifics. I think I recall some discussion during the Fuel Management Committee meetings of those strategies being strategies for particular areas of land managed by the Parks and Conservation Service and Canberra Urban Parks and Places. Whether they implement them, I don't have that information before me.

Q. Prior to 2003, are you aware of instances of prescribed burning in ACT native forests?

A. Again, I am only working off my recollection here. I don't recall a lot of prescribed burning in native forest in the time I have been in the ACT. There may well have been some, but I don't recall a lot of it.

Q. Let me go to the other side of the distinction

you drew a couple of minutes ago. In order for prescribed burning to be undertaken in ACT native forests, what procedurally has to occur?

5 A. Well, it would be fairly similar to the procedures that apply to burning in plantation areas. They would also require a burn permit to conduct that. They would have to submit a burn plan and get a permit from the Bushfire Service in order to carry out that burn.

10

They would also have to have an environmental authorisation for the smoke emissions. They would have to, like Forests, also do the physical works needed to ensure that the burn could be kept within a particular area.

15

Q. Are you aware of any attempts to undertake prescribed burns which for one reason or another have not been permitted prior to 2003?

20

A. That's a very general question. Perhaps you could help me by - are you still referring to within native forests?

25

Q. Yes, indeed. This discussion relates to native forests.

A. Right. Sorry, could I have that question again?

30

Q. I am just asking, are you aware of any instance where there has been an attempt to undertake a fuel reduction burn in native forests prior to the 2003 fires which, for one reason or another, has not been able to go ahead?

35

A. I'm not aware of the details but it wouldn't surprise me if there were some similar examples. I have kind of a feeling that they were planning burns in some of the urban parks around town but, again, because it is not area of responsibility, I don't know the actual details. Whether some of those burns couldn't go ahead because of restrictions or not, I think you would have to ask the relevant land managers.

40

45

Q. You obviously worked for an extensive period of time combating the fires. Are you able to tell us from your observation, Mr Bartlett, what the fuel loads were in the forest in the Bendora area

where you were?

A. They were certainly very heavy.

Q. I don't want to ask you to do something that  
5 you don't feel comfortable doing, but are you able  
to give some sort of estimate of the quantity of  
fuel on the ground?

A. Well, even the area of the Bendora fire that I  
10 was working in, the vegetation systems varied  
quite a bit over the fire from alpine ash forests  
up near the top and some other mountain-style  
forest near the top of the range right down  
through a range of mixed species. The fuel loads  
and the under-storey species varied considerably  
15 throughout that area around the fire line.

I think in a general sense it would be reasonable  
to say they were heavy in all locations and that  
did have some impact on some of our operations.  
20 For example, back-burning operations. The more  
fuel that you have when you are trying to light a  
back-burn, the more difficult it is to keep the  
back-burn under control. So progress is generally  
slower.

25 If you are asking me to put estimates of quantity,  
that's a little more difficult. I could do so,  
but I wouldn't do it with any great certainty  
because I didn't physically - while I was there -  
30 I didn't actually take time --

Q. Take time to measure it?

A. I certainly didn't have time to measure it. I  
didn't even consciously stop - I have a reasonable  
35 capacity to make estimates from eye because I have  
done quite a bit of measuring when I was a fire  
protection officer in Gippsland. I won't always  
get it exactly right but I have a reasonable  
understanding of what 25 tonnes per hectare looks  
40 like and 10 tonnes per hectare and so on. I  
didn't consciously as I was travelling around make  
those mental notes.

Q. Are you in any position to give an estimate at  
45 all or do you not feel comfortable about it?

A. Only in a general sense I would have said that  
they would have been generally in excess of

25 tonnes per hectare and in some places quite a bit more than that.

5 Q. That is at the high to very high end of the scale?

A. That's at the scale in eucalypt forests where the fuels become in equilibrium. In terms of total quantities of fine fuels on the ground, it is the high end. They do reach an equilibrium.

10

Q. The point where it is decaying at the bottom as fast as being added at the top?

A. That's right. So it doesn't vary very much over time, yes.

15

Q. As high as it can get, effectively?

A. Pretty well, yes.

20 Q. You mentioned that sort of fuel load impedes back-burning. Do you mean in the actual conducting of the back-burn; or in the clearing of some sort of trail that a back-burn can be burnt off it; or both?

25 A. Primarily the back-burning operations, the actual lighting of the fire. But if you have got particularly a lot of heavy fuels on the ground where you are trying to construct a control line with a bulldozer, the more heavy the logs and things that are on the ground that you have to  
30 push around, the longer it takes to construct the line.

35 But in general sense fuel reduction burning doesn't always remove those heavy fuels. It is aimed at removing the finer fuels from the forest. It will burn some of the old logs but it doesn't always get rid of all the heavy fuels.

40 Q. The question I asked another person was: in the establishment of fire breaks or trails or even roads within native parks, is it correct to say that it is possible to take something of a strategic approach; a person skilled in the area can look at an area and say, "This is a good area  
45 for a break. This area wouldn't be much use at all". Do you understand what I mean?

A. Yes. Yes. An experienced person generally

appreciates both in terms of where a fire control line could be located where you have a reasonable prospect of actually succeeding in controlling the fire with that control line; and they would also know, if you used a particular line or constructed a line in a particular manner where the chances of keeping the fire inside the area you wanted to keep it in would be much more reduced because of the location of where you put that control in.

10

Q. Again the responsibility for undertaking that assessment and then the work involved in putting that sort of break or trail in, that is the responsibility of the land manager; is that right?

15

A. Well, I think --

Q. Perhaps in consultation, but ultimately the responsibility of the land manager?

20

A. I need to answer this question in two ways, if you don't mind. I would certainly say it is the responsibility of the land manager to have what I would call a network of fire access tracks. In fact, the report that we were talking about under the last lot of questioning actually talks about that issue. A strategic track network is very important in terms of the options you have got for initial fire control lines.

25

However, at most fires you will still have to put other control lines in. The decision about the secondary control lines, if you like, or the more detailed, falls with the Incident Management Team. And usually in my experience with the operations officer who is looking after the on-ground operations.

35

So the responsibility rests with two lots of people, the land manager who establishes this network of tracks, trails and helipads and fire dams in advance of the fire, and then the person who is in charge of the fire control operations on the ground taking into account all of the circumstances at the time.

40

Q. Put it another way, the broad strategic trails that might be put in are the land manager's responsibility and the sort of tactical trail to

45

fight the individual fire is obviously the person in charge of the firefighting operation?

A. Yes.

5 Q. Prior to the 2003 fires, from your observations, does it appear that in the native forests to the west of Canberra where these fires, Stockyard, Brindabella, so forth took place, did it appear that there had been some strategic  
10 attempt to put fire trails into that area?

A. Well, I think the answer to that question is - I mean I don't really have a good understanding of how all those trails came into being - but I don't recall any, in the time that I have been in the  
15 ACT, any, if you like, strategic exercise at working out where tracks are required. I do recall an exercise, I think it was in about October of 2002, a strategic planning exercise which the parks service actually facilitated to  
20 actually identify where the existing trails were and which ones might be needed from a fire suppression point of view.

Q. Is there a policy to your knowledge which  
25 exists within parks against the introduction of fire trails in advance of any particular fire?

A. Again I am not absolutely familiar with all of the operating procedures of the Parks and Conservation Service. I do know that there is  
30 legislation which prohibits the establishment of tracks in certain parts of national parks. But I'm not - I can't give you the specifics of that. I just don't have that information.

35 Q. There is a document attached to - it might have been Mr Jeffery included this in an annexure, suggesting that where parks opposed the introduction of fire trails and where fire trails were put in as part of the combating of a fire  
40 they would be rehabilitated after that fire had been extinguished. Do you know whether that was a correct statement?

A. I don't know that policy statement. But the intent of what you are just talking about would be  
45 normal in all land tenures, that after a fire sometimes tracks are put in in a fairly hasty manner not necessarily --

Q. They might not be strategic --

A. That's right. And in sites that are prone to erosion. It is fairly standard practice, in my experience, that tracks are rehabilitated and generally that will include putting in soil erosion measures on those tracks. It may include closing some tracks which were put in that were inappropriate. It may also include keeping some of those tracks if they could be useful. It is more that there is a strategic rehabilitation program developed and implemented.

Q. You are talking there about the general appropriate approach rather than necessarily what was the actual approach; is that right?

A. Well, all I can say is that I understand. Again, I am not the manager of those lands. But I understand for instance that that is the style of approach that the Parks and Conservation Service have used after the 2003 fires in Namadgi National Park. I have not been out there and had a look at which tracks they have put soil control works on, which ones they have closed and which ones they have kept open. But I have been told, by sitting in other meetings, I have heard them talk about doing that style of approach.

Q. That is after 2003?

A. Yes.

Q. You are not sure about before?

A. Well, they didn't have any large fires before 2003 in the park.

MR PHILIP WALKER: Perhaps that might be a convenient time?

THE CORONER: We will take the morning adjournment.

**SHORT ADJOURNMENT**

**[11.15am]**

**RESUMED**

**[11.42am]**

MR PHILIP WALKER: Q. Mr Bartlett, you have personally been responsible for fuel management in native forests yourself when you worked in

Victoria; is that right?

A. That's correct.

Q. Just briefly outline the nature of what you  
5 did in that respect while you were in Victoria?

A. The situation in Victoria is that the  
departmental structure facilitates a very  
integrated approach to fire management in the  
10 broad sense, both fuel management and fire  
suppression. So when I was working in East  
Gippsland, there was about a million hectares of  
public land. From memory about half was national  
park and half was state forest.

15 There was one fire protection plan that sat over  
the top of all of that land. It indicated a  
series of strategic fire management zones where  
fuel management burning would be conducted and  
other areas where mosaic burning would be done.  
20 That applied right across the landscape, whether  
it was national park or state forest. Of course  
it took into account significant environmental  
values and wilderness areas in national parks.

25 We had this strategic approach. I think in one of  
the documents, it may be in my statement, I  
indicated in one year we burnt 50,000 hectares.  
That 50,000 hectares was spread across state  
forest and national park. It wasn't all in state  
30 forest and none in national park. The system was  
that the burns had to be located in strategic  
areas with the objective of trying to limit the  
spread of large fires across the forested  
landscape in East Gippsland.

35 So the techniques we used were a combination of  
ground-based lighting of native forest areas.  
That is from existing roads and tracks with ground  
crews. And we also used aerial ignition in some  
40 places where we flew in a helicopter and used  
aerial incendiaries to light fires both in  
national park and in state forest.

Q. Prior to the 2003 fires, how you would compare  
45 what you did in Victoria with what has taken place  
in the ACT?

A. It was a different approach here. There are

two issues which I explained, one was planning, the strategic planning framework, and the other is then the implementation. The strategic planning framework, we had actually made fairly large  
5 advances, in my view, in trying to get the strategic zone system set up on all land in the ACT, including within Namadgi National Park.

10 In the latest version of the bushfire fuel management plan which was finalised I think in October 2002, it does now have strategic burning zones in it. So on that side of the equation, we had made some advances but we hadn't yet got to the same level that I was used to in Victoria of  
15 implementation of prescribed burning across the landscape.

Q. Are you able to say why that was the case?

A. Not precisely. But my view would be that some  
20 of this is about culture as well. I think in my statement I indicated that my impression was when I arrived in the ACT that even at ACT Forests they didn't have a strong culture of fire management. The way I describe "culture" - culture is about  
25 having both the skills you need to implement burns. You can't just send anybody out there to light these burns. You need a clear process that enables you to conduct it, so the planning process, all the associated approvals processes  
30 and whatever, and you need leadership to say, "Oh, yes, we are going to do this". So those things are important elements of making the system work.

Q. To your knowledge and experience, was there a  
35 reluctance in the ACT by 2003 to conduct prescribed burns in native forests?

A. I can honestly say in any of the meetings I have sat in with Parks people, I haven't heard people say, "Oh, we are reluctant to burn" or "we  
40 don't want to burn". I don't recall people saying that to me.

Q. Just one other matter, I understand prior to the fires - please understand that these questions  
45 are generally relating to prior to the fire - it was the case, was it not, that if people from the ACT Bushfire Service, up to and including the

Chief Fire Control Officer, wanted access to the parkland areas which were in fact behind locked gates and therefore not generally accessible to the public, they actually had to approach the land manager and ask permission and get keys so they might have access to that area; they didn't have any general right of admission?

A. That's correct.

10 Q. I should say that is subject to the fact that if there was a fire the Bushfire Service could go straight to a fire. But, as a general rule without a fire, they did not have a right to go behind locked gates within the parks without permission?

15 A. That's right, although I would say it was an issue that there had been a lot of discussion about. In fact, we had developed a protocol, if you like, to deal with that particular issue in advance of the 2003 fires. All the keys and things had been cut and hadn't been distributed. But it was an issue that we, as a group of land managers, were working closely with the Bushfire Service to change.

25 In fact, I recall quite vividly an instruction from my chief executive saying that he didn't want that system to continue. But we had to develop a system of procedure so that - again, to bring it back onto my own situation - if we were conducting a car rally on ACT Forests land and we had the forest closed, I couldn't from a public safety point of view just have open access.

30 If someone went in there without my knowledge or my staff's knowledge and crashed head on into a rally car, there would be a particular issue. So the system we set up was to try and say when there was a fire of course everybody - the highest priority is immediate access. When it is for a different purpose - reconnaissance, training, whatever - then the people needed to work with the land managers, at least inform them they were going to go into these areas and give the land manager the chance to say, "Look I am happy for you to go in. I would prefer you didn't go in on Saturday because there is a car rally. You could

go in on Sunday." It wasn't about keeping people out but balancing the other uses.

5 Q. To take a specific example of the Mt Ginini carpark, there is a gate beyond which the public cannot travel; is that right?

A. Yes.

10 Q. My recollection is that the trail which was ultimately used to gain access to the Stockyard Spur fire is at the other side of that gate?

A. That's correct.

15 Q. If, for example, the Chief Fire Control Officer prior to 2003 wanted to go up and have a look around that particular area and therefore go to the other side of that gate, he would have had to apply or ask the land manager's permission to get the keys to be able to do so; is that correct?

20 A. That's correct.

Q. Within your experience, Mr Bartlett, the fires of 2003 here, were they the largest fires that you have fought - ultimately?

25 A. I think the largest fire I have been involved in in Victoria was 125,000 hectares. I am just not sure from memory what the total footprint of this fire was. But if it is not --

30 Q. I can tell you, sir, it was about 160,000 hectares in the ACT and 100,000 in New South Wales?

A. So it was a large fire.

35 Q. It would be the largest fire. From your experience with a fire of 160,000 hectares, do you know how many people there might be throughout the country who would occupy a position equivalent to that of Mr Lucas-Smith - for example, of Chief  
40 Fire Control Officer, commissioner, call it what you like - who would have had experience in that role in a fire as large as that which occurred in the ACT in 2003?

45 A. I don't know precisely but I would venture to say that I would be surprised if there are very many, because fires of that size are not regular.

Q. Are we talking half a dozen or less, do you think?

A. It could be a number as small as that, yes.

5 Q. As a general matter, in your statements, Mr Bartlett, I take it when you raised some criticism you do so in an effort to be constructive and point out things which might be the subject of some improvement; is that right?

10 A. That's correct. I think somewhere in my statement I actually say that. None of the things I have raised are meant to be personal criticisms.

15 Q. In that respect, there is sometimes a difference between a criticism which is a constructive criticism and a criticism which is intended to be indicative of people being what we might say "culpable"; do you understand the difference I am endeavouring to draw?

20 A. Not in a strict legal sense.

Q. Perhaps I mean it in a more general sense. Do you understand the distinction I am endeavouring to draw in that more general sense between a constructive criticism "this went wrong and it ought to be done differently" and "this went wrong and someone is to blame"?

25 A. I think so.

30 Q. Is your criticism generally of the former than the latter kind?

A. The former being?

35 Q. Pointing out those things which might be improved?

A. Yes, absolutely. Well, that's what they are intended to be. Whether I have worded them carefully enough, I guess, remains to be seen.

40 Q. It is the case, is it not, in a large fire of the size we have just been talking about that you will almost invariably find that some things won't arrive on time or somebody won't get told something or some documentation is not there. You could find those sorts of eventualities in virtually any fire of this size?

45 A. Generally, that's correct. They are very

dynamic situations with not a perfect operating environment. I think almost every large fire I have participated in some things have gone wrong, some of which relate to human factors, if you like.

Q. And some pure accident?

A. Some are just accidents, yes. A vehicle accident, someone runs off the road or something or other, or a tree falls down over a firefighting vehicle - you know, these things happen.

Q. I want to turn to some of the earlier responses to the fire. In paragraph 115, you say the following just a little over halfway through that paragraph:

"I have concerns that increasingly fire controllers are being held accountable for serious injuries to firefighters and that this can affect their willingness to fight fires aggressively."

Do you have some specific experience upon which you draw when you make that comment?

A. Not personal experience. I guess when I wrote this, at the time, this was in the context of discussions that were happening at the time about the introduction of industrial manslaughter legislation, which does cover firefighting operations. I certainly raised some concerns I had with a range of people, including members of the government, about this particular issue.

But that's not to say I am unhappy with that legislation. All I'm trying to make is a point here is that over time it is a tendency in our society, if you like, that with hindsight people are now held accountable for actions that occur, injuries that occur to firefighters.

You know, from my own perspective I would be saying if I was the person in charge of several hundred firefighters on the line, be it say at the 18th of January or at any point in time, I could expect as the incident controller to be held accountable if one of those firefighters was

seriously injured or perhaps died to explain "what did we tell them to do" and "why did we do this".

5 The difficulty that I am trying to express there  
is that in a fire situation there is a lot of  
unpredictable situations. It is not like we are  
all sitting in the same room or a normal work  
situation where you can actually direct people and  
supervise them. There is a lot of things that go  
10 on that by their nature are not supervised as  
closely as they would be in a non-fire situation.

I am simply trying to express a personal concern  
that if we are not careful with this style of  
15 thing then people either, as I have said there,  
always err on the side of caution or perhaps even  
worse people won't volunteer to be in the senior  
management positions as fire controllers because  
they are the ones in the end whose neck will be on  
20 the line if something goes wrong.

Q. So if they make the decision not to fight  
something for safety reasons, they are potentially  
called into account because they didn't attack  
25 aggressively enough; and if they make a decision  
to fight and somebody is hurt, then they might be  
in trouble because somebody was hurt and they  
should have realised there was a safety issue?

A. That is the dilemma, yes.

30

Q. In your record of conversation,  
paragraph 74 --

A. Sorry, are you talking about question 74?

35 Q. Indeed, I am sorry, in question 74 of your  
taped record of conversation of the 17th of  
December, you indicated at the very bottom of your  
answer that you can't be more specific about the  
number of resources that you would have sent to  
40 the fire. I understand that to be on the day that  
it first broke out. Firstly, am I correct in that  
assumption? You might wish to take a moment to  
read the paragraph.

A. Yes, I will just take a moment. I can see it  
45 now. Yes, that is certainly the case. I was  
referring to the first evening.

Q. You have finished reading?

A. Yes.

Q. Why was it that you said you couldn't be more  
5 specific about the number of resources that you  
said that you would have sent to the fire on that  
particular day?

A. I think somewhere there I also mention that I  
would have - if it wasn't there, it is somewhere  
10 else - wanted to actually have a look from the air  
at those individual fires fairly early on and then  
made an assessment about what I would have  
deployed. I can be precise enough to say that I  
certainly would have deployed at least two remote  
15 area firefighting teams to each of the fires.

From experience I believe that, in order to  
control lightning strike fires successfully,  
particularly ones in remote areas where it takes a  
20 little bit of time to get there, it is unrealistic  
to expect six people on the ground with hand tools  
in most situations to do that by themselves. If  
you send two crews, they can work around the fire,  
one around one way and one around the other. They  
25 generally have more of a chance of controlling it.

At the end, from this question in the interview,  
we didn't get right down to the specifics. But  
what I was trying to say is that those judgments  
30 would normally be made by a senior person with  
good information. I didn't have all that  
information.

Q. In evidence we had, I can't remember if it was  
35 Mr Hayes or Mr Gray who said, "Look, dispatching a  
great deal of resources to a particular fire can  
often be a waste until you know what resources are  
best for the fighting of the fire in the location  
and the type of fire that you are dealing with."

40 Is that broadly what you are endeavouring to say?

A. No, that's not what I am trying to say.  
Again, going back to my experience with this style  
of fires in Victoria, sometimes we would get 10 or  
12 lightning strikes called in one afternoon, and  
45 I would be responsible for dispatching resources  
to those fires. Sometimes all we had was two  
bearings from two fire towers and we would have no

further information. But we would dispatch the ground firefighters, particularly the crews that could work on the ground with hand tools straight away. And sometimes they couldn't find the fire.  
5 But we didn't wait to know all the precise details before we despatched those resources.

Q. I gather what you are saying there is there is a base level of resources you would dispatch but then you would wait for more information before dispatching more resources; is that what you are saying?  
10

A. Again, it depends on the situation. In a general sense my answer would be yes to that.  
15 However, also from my experience in Victoria and in other places, I have seen situations where experienced fire personnel have then suggested to the on-ground forces, "We are sending you these additional resources," because they have made a  
20 judgment that in their view it may be that the forests are very dry or the weather conditions are deteriorating or whatever, and they make a judgment that we really do need to round these fires up quickly. So they accepted more resources  
25 than perhaps the ground firefighters have requested because they want to be sure the fire is put out.

Q. In the first couple of days you said quite clearly that you were not used in the fighting of the fires. You have also indicated that you took some steps to try and invigorate New South Wales to direct more attention to the McIntyre's Hut fire. Apart from the conversation that you had  
30 with Mr Thompson and your discussions directly with the New South Wales fire authorities, was there any other efforts that you took in an effort to get more attention directed to the McIntyre's Hut fire?  
35

A. No specific actions other than I did take a few phone calls from Neil Cooper while he was the liaison officer, where he was both informing me of what was going on and using me as a sounding board so I would have made suggestions to him. I can't  
40 recall what they were but I certainly recall a number of phone calls from him. But at that point in time I had no power to actually take any other  
45

action in relation to the New South Wales follow-up.

5 Q. The Forests capability was two tankers and two light units; is that right?

A. We have two heavy tankers and three light units.

10 Q. Three light units, my mistake. You took the opportunity in those couple of days to actually do some bulldozer work around the top of Uriarra pine plantation; is that right?

A. That's correct.

15 Q. Just explain what the thinking was behind what you did.

A. Okay. Primarily the reason for doing that was that because I was concerned about whether or not a control line was going to be successfully  
20 established on the southern side of the McIntyre's Hut fire, it occurred to me that, if that didn't happen, the only other, if you like, defence line that could be created was to build a control line around the north-western side of the Uriarra  
25 plantation, and then at some point in time to light a back-burn off that and send the fire back into New South Wales.

So what I was doing by getting that line  
30 constructed was giving us an option at some point in time for the Bushfire Service to be able to light a back-burn with a trail already prepared. Now, as it turned out, we didn't need to do that because there was increased efforts to get the  
35 southern control line of the McIntyre's Hut fire put in. So we didn't need to do that.

The final point is that the bulldozer work was never designed, if you like, for stopping the fire  
40 from entering the plantation. It would have been impossible for a bulldozer to put a wide enough break to stop an advancing fire from spotting into the plantation. But it certainly would have given us a good basis to conduct a back-burn. In my  
45 experience, you always need to have the control line in place to start the back-burn, so it was really just giving us an extra option in terms of

the fire control strategies that might be used.

Q. So at that point in time you were working on the basis that you were dissatisfied with what New South Wales was doing in terms of combating the McIntyre's Hut fire and you decided that you would endeavour to come up with a means of protecting the forests yourself in the event that New South Wales did not do enough to protect those forests themselves?

A. It was giving us an extra option. I might also add that it wouldn't have been an easy back-burn to conduct. It was very broken terrain. But under a south-easterly wind it could have been conducted.

Q. I take it that is a thoroughly productive use of the machinery and your time --

A. Particularly the D9 bulldozer that was there because it couldn't be floated. There was no float big enough in the ACT to get it further up into the mountain, so it was a good use of that particular machine.

Q. You said in paragraph 33 of your statement that you could source additional bulldozers, where were you able to get them from?

A. I don't recall the specifics because it wasn't the job that I do. But I will just explain that in our work in managing the plantation forest, we actually use private bulldozer contractors quite a lot to do a range of operations, particularly the site preparation operations. Some of my staff had good knowledge, through tendering processes, of potential availability of bulldozers from across New South Wales and down into north-eastern Victoria. So they started ringing around any contact that they knew to try to source whatever they could.

Q. Do you know how far you had to go to get some equipment?

A. I don't know because I wasn't directly involved, so I don't know the actual distance. I do know that they came from considerable periods. For instance, sometimes the travel time was over a day to get the machine from wherever it was into

the ACT and then up onto the fire line. I recall one in particular that came in early in the fire, which we ended up parking at our Stromlo office overnight. So it spent all day getting to the  
5 ACT. We had to get a road escort to get it through the city late in the day, and it was parked there and sent up at first light the next morning.

10 Q. What day was that?

A. It might have been about day 3 of the fire from memory. I would have to look - I have a feeling it was the one that we started trying to organise on day 2 and eventually got deployed onto  
15 the fire on day 3. But I would have to check.

Q. At paragraph 37 you recall being asked to supply a bulldozer, a D6. In paragraph 40 you talk about supplying two bulldozers, one to  
20 McIntyre's Hut and one to Bendora. Were either of those the bulldozers you are referring to?

A. I can see in paragraph 37, this is the one I am referring to:

25 "ACT Forests was asked by the ACT Bushfire Service to supply a D6 bulldozer to be used on the Bendora fire. This machine was brought in from New South Wales and remained overnight at the Stromlo depot before being  
30 sent to Bendora early on Friday morning."

Q. That is the bulldozer you are referring to there?

A. Yes.  
35

Q. You say in your 17th of December record of conversation that on the 11th you were satisfied with the resources that you were allocated and I think you said, "So long as nothing went wrong".  
40 This is at question 155?

A. That's correct. This is referring to when I was in charge of the two bulldozers constructing the control line along Chalet Road down Flat Rock Spur.  
45

Q. I gather it is the case, is it not, when you are constructing a control line such as that there

is a limit to the amount of equipment such as bulldozers you can actually use; it is not the case that if two are good, four will be twice as good and eight will be four times as good; there is a limit, is there not?

5 A. I don't think it is as simple as that. The strict answer to your question would be yes there is a limit, and generally limit is related to how many you can source more than having them tripping over each other. But clearly it is a specialist skill in terms of actually deploying bulldozers onto fires and getting bulldozers - generally they will either work singly or in my experience in teams of two. Because often you can use one bulldozer to do a quick brush up and opening up of a track or to lay out the new control line, and then the other one comes along behind him and tidies it up to an acceptable standard where the back-burn could be lit off.

20 But the most important thing is to identify how many kilometres of control line do you need to construct; how much time have you got to do it; how much can one bulldozer do per day; and make sure that you match the number of machines with the tasks that are required and allow, if you can, for something to go wrong, because it always does.

25 Q. I want to talk about ICS. In your experience in Victoria, can you just indicate to me the way incident management teams work in Victoria. I gather you would go to a fire in some area in rural Victoria and an Incident Management Team would be set up very close to the fire or somewhere in the local community hall; or how would it work?

30 A. In a variety of locations which ranged from an office of the department if the fire was reasonably close by; or in a community hall in remote communities and generally in those cases additional portable office facilities would be brought in; or in some cases I think I could mention one where there was a school camp that was taken over and the fire was run out of the school camp. Normally these things, in each particular area in advance of the fire season as part of the planning process, a number of sites are identified

where a large fire could be managed from. So there is some pre-planning done to identify what specifically is on a particular site and what additional facilities might need to be brought in at quick notice if you wanted to run a fire from it.

10 Q. What did you call this fire area, a control centre or something like that? What was the name you gave it?

15 A. I am struggling to remember the exact title, but it was really the forward command headquarters of the fire where the Incident Management Team was located.

20 Q. You said sometimes this could be run out of an office in the department if the fire was reasonably proximate. What sort of examples were you thinking of in that case?

25 A. I can recall some when I worked in East Gippsland where we had a small office in a place called Bendoc which is up near the border of New South Wales and Victoria. Often there were lightning strikes around the forest there, and we would run the Incident Management Team out of that office.

30 In other cases if the travel time became too great, we moved to school houses and things like that further away. We always tried to find the most appropriate place where we could operate the team from as close as we could to the fire but where we still had capacity to have offices for people and phone lines. In some cases --

35 Q. Do what you had to do --

A. --Telstra, that's right, to put extra phone lines in when the fire started and so on.

40 Q. Of the fires you mentioned - there are a number of your statements - what sort of distances are we talking about at the graver end between the location of the IMT, the control centre and the actual fire itself?

45 A. If you want me to be to be precise, that is a little difficult. About the best I could do to answer your question would be to refer to that

fire research report that we have been talking about. The headquarters in that case was located at a place called Tubbut, which is a small settlement with no shops or anything like that.

5 We could measure the distance from there to where the fire started, which would have been probably 15, 20 kilometres. But in terms of where the control lines were ultimately put, the control lines came within a couple of kilometres of the  
10 actual school building that we were using as our headquarters. So it varied over the duration of the fire.

15 Actually another important point is that when you are selecting the locations of these, you don't want to be shifting your headquarters every five minutes. I have been involved in situations where the headquarters had to be shifted because it came under threat of fire. But generally you try to  
20 establish it at a spot that is not going to be threatened by the fire.

Q. You have indicated in your record of conversation that the ACT incident control system  
25 was a modification to suit the circumstances for the ACT. Doubtless that includes the fact that the ACT is much smaller than other jurisdictions?

A. Yes.

30 Q. What are the modifications that you are particularly referring to that you considered to be necessary to meet the circumstances of the ACT - or at least appropriate if not necessary?

A. I think because the ACT is its own  
35 jurisdiction, there is this issue about the difference between a large jurisdiction like New South Wales or Victoria or any other larger state where you would normally have, if you like, three tiers of management in fire suppression. You have  
40 a central office where the Commissioner or the head person is located, usually in a capital city. You would have some other form of regional office or coordination point. You may well have fire operations being managed out of sites close to a  
45 particular fire.

Q. Such as we have just been speaking about?

A. That's right - wherever. Now in the ACT because we don't have such a large land area, we don't have a need for three tiers of management. So that's one modification in particular that  
5 would spring to mind.

Q. Just to understand what you say the roles of the different tiers which I gather you say to some extent are compressed in the ACT, in a large fire  
10 of the kind that occurred here in 2003 what are the sort of roles that would be run out of head office in Melbourne, for example, in the country fire service in Victoria?

A. Coordination roles primarily.  
15

Q. Such as?

A. Such as generally they may have more than one fire burning in the state at any point in time so there will always be competing demands for  
20 resources, be they firefighters, helicopters, tankers, bulldozers or whatever. Someone has to make a decision about which fire gets which number of which resources. So that coordination role.

25 Co-ordinating other things like requests for weather information, weather predictions from multiple sources. Some of those things can be well co-ordinated to save a lot of people asking for the same information, depending on where the  
30 fires are, if it is something that could be well coordinated. Use of other scarce technology like infra-red line scans is certainly managed from a more central location. It is not normal for that sort of resource to be managed out of a fire  
35 control headquarters.

Q. And the regional level?

A. Well, again, I would be drawing on my experience in Victoria. If there was a large fire  
40 burning in the Gippsland region and I was, say, the incident controller at that fire, I would be liaising both with the regional office in Gippsland, looking for whatever resources could be made available from Gippsland, and I would also be  
45 liaising with the Melbourne office on a broader sense.

But normally the system is to try to have self-assisting situations or mutual support, I think is the word, where you have local arrangements set up to move local resources first of all. If you can't get all of the resources you need locally or there are other specialised resources like the helicopters or whatever, you need to work through the state office for those sorts of things.

10

Q. That is a role that is not ordinarily conducted from the forward control centre?

A. That's right.

15

Q. And the forward control centre, I take it, is dealing with much more tactical level of the fire or strategic as well?

20

A. Both tactical and strategic. They would normally - for instance, the planning unit would be developing a long-range plan for the control of the fire, including where they thought the control lines were going to be established, and then doing calculations about how many different resources they needed to implement that, what are the other options and what are the risks, if you like, from changing weather and so on.

25

Then they would also be doing the more tactical planning, which is the day-to-day deployment orders, if you like, for each sector. So saying how many people are going to go on to this sector, how many on that sector; and what are the tasks that need to be done on this particular shift that are consistent with the broader more strategic plan for putting out the fire.

30

35

Q. The ESB at Curtin is at least the head office and the regional office together; is that right?

A. Yes.

40

Q. Does it involve elements in your view of the forward control centre as well?

A. It could, depending on the location of the fire. So for instance, if the fire was on --

45

Q. Did it rather than could it?

A. Did it in 2003?

Q. Yes.

A. In 2003 it did.

Q. You were going to say "it could depending on  
5 the location of the fire"?

A. If the fire was located on Black Mountain, for  
example, it would make a lot of sense for that  
facility to be used also for the location of the  
Incident Management Team because it is an office  
10 close by a mountain.

If a fire was located, say, south of the Namadgi  
visitors' centre then my view the incident  
management team should be located in the Namadgi  
15 visitors' centre. It would depend on the location  
of where the fire is and what facilities were  
available, because you have to have facilities as  
well. It is not easy to set up an incident  
management team in a paddock.

20

Q. Yes, of course. Using your example of the  
forward control in Namadgi, would you suggest that  
all operations in relation to the fire be run from  
Namadgi in the scenario you have given?

A. Well, all in the sense of how I answered one  
25 of the previous questions. Certainly not  
necessarily aircraft deployment or something like  
that, but certainly all of the strategic and  
operational planning for control of the incident.  
30 If you had a full Incident Management Team I  
believe you could carry out those tasks in a  
centre like the Namadgi visitors office.

Q. Your base proposition, as I understand it, is  
35 in circumstances such as that the forward control  
should be close to the fire because it reduces  
communication delay between planners and the  
people who are actually implementing those plans  
at the fire front; is that broadly your  
40 proposition?

A. That is broadly, and perhaps more  
specifically, on the basis of all my experience,  
one of the most important things is to allow the  
operations officer in the Incident Management Team  
45 to both spend time with other members of the  
Incident Management Team, the planners and the  
incident controller and the logistics people in

the headquarters, and spend time on the fire line making sure that things are actually implementing and directing operations on the fire line. So that is my experience as to when they work most effectively.

So the further you go away from where the actual fire is, the more difficult it is for the operations officer to leave the fire ground for extended periods to travel back to the headquarters. What tends to happen - there is no magic figure on this - is that they never come in, and therefore the planners develop the strategies without direct conversation with the operations person, and they are not always in touch with what can be done in the field.

Q. You said in your record of conversation in answer to question 38 - I just want to bring these things together - that you did not have a problem with the way ICS is applied in the ACT. Now it is obviously applied somewhat differently to what your experience has been. I wonder if you could elaborate on what you have said there.

A. Sorry, if you could give me a moment to read the paragraph before and that one.

Q. By all means.

A. I think in the paragraph before, without reading every word, I am talking about the documentation that relates to how a Service Management Team and the relationship with the field Incident Management Teams is supposed to work in the ACT. And I think when I go on to the answer to question 38 that's what I am probably referring to, that I don't have a problem with the way that it is described in that document. But that wasn't the way it operated in 2003.

Q. I see. You are saying there is a variation between the way the ACT was supposed to operate and the way that it did?

A. That's correct.

Q. What do you say that difference was?

A. The document - I have a paper copy of the document here; I am not sure it is on the system -

certainly indicates that there would be full incident management teams set up for each incident, and that is certainly not what happened in 2003, and that the role of the Service Management Team would be more coordination rather than detailed operational planning for an incident.

10 Q. Your basic position is you accept the theoretic way, as you would describe it, the ACT has modified the incident management system in 2003 but you say certain aspects of it should have been conducted closer to the fires which were being fought; is that your basic position?

15 A. Partly. Those two things I would certainly support. I would also say that there was a real need for a full Incident Management Team - say, for the Bendora fire, when we were managing just the Bendora part of the fire. It needed the  
20 capacity to have a planning section that could develop the details of deployments for a particular day.

25 Q. From your experience in Victoria, I am just wondering to what extent there needs to be some allowance made for the ACT by comparison with your experience in Victoria. Did Victoria, for example, have the capacity to run out mobile control centres to areas and operate off the back  
30 of trucks or things of that nature?

A. Only insofar as through the emergency management arrangements. The particular case that I was talking about at the township of Tubbet, we actually got portable, I think they were Atco  
35 style offices. They are available. I have seen them around town. It is not like there was a specialist truck or something that was sent there. It was just we said, "We need some more office space here" and a semitrailer brought the things  
40 the next day.

Q. What about the provision of equipment and so forth. Does Victoria have equipment ready to go?

45 A. They have more equipment ready to go than what is available in the ACT and different types of firefighting equipment as well.

Q. Such as?

A. Well, they have use of fixed wing aircraft dropping fire retardant, that is one example.

5 Q. Ready to go?

A. Ready to go during the summer.

Q. Communications, planning, plotting equipment, any of that sort of stuff?

10 A. They have different magnitudes of that style of equipment. There is also similar equipment in the ACT, but different magnitudes of how many things such as radio systems, portable radio towers and all of those sorts of planning boxes  
15 and things like that.

Q. What I am trying to get at, I don't want to take too long on it, you mentioned portable radio towers and you mentioned planning boxes. I take  
20 it that is a box of all sorts of different equipment, is it?

A. Yes. You just grab that and put it in the vehicle. Then when you arrive at the place where the Incident Management Team is going to operate  
25 you have all the forms --

Q. Fold it all out and you are ready to go?

A. That's it. Take it all out of the box and everything you need is there.  
30

Q. Are we talking about a truck load of material?

A. No, no, something you can fit in the back of a station wagon.

35 Q. I just want to deal with a couple of things about your statement and your notes, Mr Bartlett. In your notes I notice you mention on the 16th that you undertook an early morning reconnaissance of the Bendora area and you said that the control  
40 lines around the Bendora fire were looking quite strong.

A. Yes.

45 Q. I can't find some equivalent reference in your statement. I am trying to identify whether there is anything you say in your statement which you say records something equivalent to your recording

that the control lines around Bendora were looking quite strong on the 16th of January. The relevant area of your statement --

5 A. Well, there is some similar text in paragraph 127. It is not exactly the same. But certainly in the middle of that paragraph I refer to:

10 "In the early afternoon I recall flying up Flat Rock Spur and not being able to see any smouldering material" --

15 Q. First of all, is there any reason why you didn't mention the containment lines. It seems a pretty important matter, isn't it?

A. From one to the other?

Q. Yes.

20 A. Nothing that I can recall. All I can think of is perhaps - remember, the basis of this statement originally came from someone else who wrote it from tape-recordings. Then I spent a lot of time working through it. I honestly can say I put most effort into the early part and the bit of the  
25 18th. The bit in the week in the middle I put less effort into. I was also under pressure to get the thing finished to submit it. You note the date that was there. That was probably the strategy I used. I probably just overlooked that  
30 particular point.

35 Certainly the words I have on my notes I would stick by on the morning of the Thursday, the 16th of January. One of the reasons for submitting both was so that people could see everything that I put down.

40 Q. About those containment lines, they were completed on the eastern side of Bendora by this time; weren't they?

A. Yes.

45 Q. You describe them as looking quite strong. As far as the introduction of the containment lines are concerned, then I take it there is very little else that one could have done at that point in time in relation to the Bendora fire; is that

right?

A. That's largely correct. Perhaps if I just describe what I mean by "quite strong".

5 Q. All right.

A. The control line consists of the bulldozer line and then the back-burning that is conducted from that control line. That particular case, the back-burn had advanced a long way back in towards  
10 the fire and actually the suppression operations along the edge of the back-burn had been conducted. So there was no evidence of any smouldering trees or stumps or whatever close to the actual physical control line. In fact, from  
15 memory there was virtually no smoking trees within about half a kilometre of the actual physical control line.

However, there were bits inside the control line  
20 that had not burnt in various places. As I have said elsewhere, that becomes a problem because the fire smoulders around and then eventually burns inside the control line and that always has the potential to cause spot fires to occur over the  
25 top of it.

However, having a strong control line, that is one where there is no active fire - you know, obvious evidence of smouldering stumps and things is a  
30 very good sign in terms of having confidence that you can contain the fire within the control lines, in my experience.

Q. If we go back to 10 January. I think you have  
35 been asked some questions about the fact that you had some accommodation booked at a private residence on the weekend of 11 and 12th. Please understand I am not criticising you about that because, as we know, the evidence discloses when  
40 you were required you in fact cancelled that so you could be at your duties on the 11th and 12th.

A. Yes.

Q. If some consideration was given to the fact  
45 that you did have some accommodation booked and if there were other people who could in fact operate as incident controller on the 11th and 12th, it

would have been a perfectly reasonable decision, would it not, to expect that somebody else might do that and you be allowed to go about your business?

5 A. If there were other appropriate people, yes.

Q. In the two days before the 9th and the 10th, if that was known at that time you were likely to be away on the weekend, would it make sense to put  
10 somebody else in rather than you on those days, if competent people were available?

A. Well, that would be one factor that I would take into account. The other one would be what experience do people have for the sorts of fires  
15 that had to be suppressed. But I am certainly not trying to imply that I was the only person that could be deployed, if that is what you are asking.

Q. I think you have given the answer I was after.  
20 On the 11th, you say in your notes that you drove up to catch up with Mr Murphy before you commenced your duties as incident controller. Was that so you could brief yourself on what you were required to do for the day and the situation of the fire?

A. My understanding was that Brian Murphy was  
25 actually the incident controller at the Bendora fire on that day. The arrangement we had was that he would remain as incident controller until such time as we started the back-burning operations  
30 which happened much later in the day. So the reason for going to talk to Brian was just so I was aware of what he and his firefighters were going to do.

35 But the control line that I had to construct with the bulldozer was actually a couple of kilometres away from where the fire was. With the wind that was blowing at the time there was no danger of the fire approaching on where we were working. It was  
40 more for a two-way conversation, if you like, for me to find out what they were going to be doing and for me to let him know. Strictly speaking I would have been operating under his command. He was the incident controller. The task that I was  
45 doing was not right on the fire line but was still a task related to the suppression of that fire.

Q. The task that you were allocated on that day you said you thought you could actually get completed by the evening?

5 A. That's correct. When I went up there, I thought we could do it.

Q. You have also expressed your satisfaction with the sort of job that people did in construction of the border trail?

10 A. Yes.

Q. I think you said a good job was done, and the only one of the problems was that there was a delay in the arrival of some bulldozers?

15 A. That and the fact that the actual wildfire, the Bendora fire, was burning up the hill toward it so that made life a little difficult.

Q. Well, indeed. But insofar as you ultimately were defeated because of that fire, in part that was because of the delay in the arrival of bulldozers; is that right?

20 A. That was one of the significant components, yes.

25

Q. In paragraph 82 of your statement you refer to not having received a briefing from ESB before going to be the incident controller on 12 January. The bit I don't understand is whether you went to ESB actually in the effort to get a briefing?

30

A. No, I didn't go to ESB.

Q. How would you expect to have received that briefing then?

35

A. Well, again, based on my previous experience, I have often turned up to the start of a shift to manage a fire, and the first thing when you arrive there is somebody waiting and says, "I've come to brief you. Here is the package of information.

40

This is what you need to know."

I think it is actually quite important to realise that, in fire suppression operations, you generally work very long hours. I think I have indicated I left home at 5.30 in the morning. Somewhere else in there would say what time I actually got home. If you then spend more time

45

actually going to do something or other else, like physically going and searching for briefings, you end up working exceedingly long hours and in my experience you end up not being able to perform  
5 the role very well.

So in this case I incorrectly assumed that, because I wasn't told to actually come and get a briefing, someone would be there waiting for me to  
10 give me that information, that there would have been some planning done overnight, and that my priority was to get up there when I left home that morning.

The previous day I had actually spent a bit of time trying to gather information. That wasn't regarded very favourably. Somewhere else I mention that. Anyway, look, in hindsight, now I realise I probably should have gone to ESB and got  
20 whatever I could have, but that would have delayed my arrival at Bulls Head. So it would have compounded the allocation of resources on the fire line. But assuming that information was available when I got to ESB, which may or may not have been  
25 the case, it would have delayed my arrival at the fire, unless I had got up at 4 o'clock in the morning.

Q. I think the view was, was it not, that it didn't matter all that much because the absence of such a briefing didn't turn out to be a problem. I think you say at questions 208 and onwards in your record of conversation that you knew the job was that you actually had to construct a trail and  
35 you don't necessarily need a written plan to go about that particular job?

A. That's right. We worked it out as we went along. The weather forecast came in over the radio later that morning. I knew what tasks  
40 needed to be done. What I didn't know - the most significant thing that I could have gained by either going to ESB or having someone meet me somewhere to give me the information is what crews exactly had been assigned to me, what people's  
45 thoughts were about how they should have been used so I could have deployed them quickly, and accompanying with that some maps that I could have

handed out to the firefighters. That would have improved the situation.

5 Q. I think you have said it is perhaps an error  
to make the assumption that you did but, in doing  
so, that would have involved you going to the fire  
front and someone else going up to the fire just  
for the sake of giving you a briefing; is that not  
10 the case, the sort of scenario where somebody  
would be at the fire to give you a briefing?

15 A. That's right. Again, I am working off my  
previous experience. Normally the situation that  
I have been used to is where the outgoing team,  
the incident control team, would actually brief  
the incoming team. In fact, in many cases I have  
20 seen it where the outgoing team actually manages  
the shift changeover because they are familiar  
with everything that has happened over the last  
shift. They have worked out the incident action  
plan for the flex shift. They know all the  
25 details. They don't need any time to become  
familiar with that. I guess this just reflects  
the situation that the operating system here was  
different to what I was used to at large fires.

30 Q. You said at paragraphs 113 and 114 of your  
statement that you think you met some of the  
objectives not others, that firefighters did  
everything that they were asked but that you were  
ultimately beaten by the fire beating you to the  
top of the hill?

35 A. Yes, in relation to control of all those spot  
fires, yes. We certainly gave it a very good  
attempt, in my view, to contain those spot fires.

40 Q. In your notes you mention that for family  
reasons you asked to stay in the Curtin over the  
next few days.

A. Mmm-hmm.

45 Q. You were responsible for aircraft control?

A. Yes.

Q. That is, I gather, a perfectly appropriate use  
of your skills and abilities?

A. I certainly have some knowledge and  
understanding of management of aircraft from

previous things. I think the point may have already been made that it was indicated to me that the military operation had to run with a degree of precision, people had to be well briefed and under  
5 the control of someone that knew what was going on. So in my view - I had those skills. I wouldn't say I was the only person who could have done that role but I certainly had those skills.

10 Q. In any event, it was to the best of your knowledge - it was something done at your specific request in any event?

A. I certainly asked if I could instead of being out on the fire line during the week work from  
15 Curtin in the second week. I didn't ask to be deployed as the aircraft officer. There was a range of roles that I would have been happy to do.

Q. On the 18th you have indicated that you were  
20 content with your decision that ACT resources be disposed to the southern part of the ACT?

A. Yes.

Q. Can I ask the question this way, Mr Bartlett:  
25 if you had the benefit, as we now do, of hindsight - obviously you didn't, but if you did - you would have done something different; is that right?

A. I don't think so.

30

Q. You don't think you would?

A. No.

Q. Again I am not criticising you because you  
35 didn't have the benefit of hindsight, but could explain your thinking on that point?

A. If we are referring to the deployment of the Bushfire Service resources in the morning, I  
40 wouldn't have done anything different.

Q. Why do you say that?

A. Well, the active parts of the fires in the ACT were threatening rural assets in the ACT. Therefore, we needed to deploy the firefighting  
45 resources to try to protect those assets that were immediately under threat.

Q. And taking away the benefit of hindsight now, the comment you have just made is even more strong, is it not? If you don't know what ultimately happened you fight the fire you have got, not the fire that you think you might have; you said that before?

A. That's right, yes.

Q. You simply didn't have the resources to put additional resources in the north; is that right?

A. That's right, yes. Well you can see through various parts of some of the documentation that there were resources deployed to the north. When I left Curtin that morning, I have got a very precise recollection and recorded in there of what resources were under my control in the southern two divisions of the fire, and less information about what was deployed to the north because that was still being sorted out when I left Curtin to go out to Tidbinbilla.

Q. You say in your statement that you didn't think that you really operated as an incident controller but more like an operations officer on that day.

A. Yes.

Q. I just want to understand why you make that comment. Firstly, again without any criticism, you elected to try to control the fire from the helicopter?

A. Mmm-hmm. That's right. I don't think it has got anything to do with where I was that I am making that statement.

35

Q. Right. You were the incident controller. If there was something else that you should or thought you could have done to be an incident controller as you understood it, in what respect were you limited? Why weren't you able to say, "I'm the incident controller" --

A. I was not in control of the planning component or the logistics component of the Incident Management Team under the AIIMS - ICS. My comment there relates to the way I understand the responsibilities of an incident controller under the AIIMS - ICS system and the responsibilities

45

that I had on that day, which was largely to control the field firefighting forces but not the other parts.

5 Q. Obviously you couldn't do that from the helicopter though, control the planning or logistics?

A. No, that's right.

10 Q. Let me ask you this question first of all: I take it you still are of the view that your decision to actually control operations against the fire from the helicopter was a correct one given the --

15 A. The circumstances, yes.

Q. -- the circumstances and the distance between the fires?

A. Yes.

20

Q. Doesn't that decision to some extent, albeit made for good reasons, deprive you of some capacity to control planning and logistics?

A. Well, it shouldn't. The point I am trying to  
25 make is that the incident controller at a large fire like that should have control over all aspects. The role that I was doing was actually the role of the operations officer. That's what I am saying in my statement. I wasn't performing  
30 the role, because the operations officer is tasked to and has the responsibility to control the firefighting resources that are suppressing the fire and has no direct role to manage the planning section or the logistics section. That's the  
35 point I am trying to make.

Q. The point I am trying to put to you is: you made the decision to command the fire from a helicopter, for perfectly good reason; doesn't  
40 that very decision of putting yourself in the helicopter deprive you of any capacity to deal with planning and logistics?

A. It would have - I think the reason I am - this is a little difficult - in my view, the time to  
45 have a discussion about how ICS operates was not on the morning of 18 January. Having been involved in the suppression of this fire from the

10th or 11th, whenever I started, I made my points about if you are an incident controller you needed planning support and logistics support, and a decision was made not to run the fire that way.

5 So I wasn't going to argue about that during the time that we were suppressing the fire. I was going to perform whatever role was given to me.

10 On the morning of the 18th I was given the role nominally called incident controller. In fact I recall very strongly Tony Graham saying that that's what he wanted me to do. But it was clear all I was going to be doing was be out in the helicopter, controlling the on-ground firefighting  
15 resources. I was not going to have any role in managing the planning people or the logistics people.

MR PHILIP WALKER: I wonder if that is a  
20 convenient time. There is another area I am going to go on to.

THE CORONER: We will adjourn for lunch and resume  
at 2.

25

**LUNCHEON ADJOURNMENT** [12.58pm]

**RESUMED** [2.05pm]

30 MR LASRY: Before Mr Walker continues, can I just note for the transcript that we have today distributed to the parties Mr Cheney's fuel management material, it is a document dated  
7 June 2004. It is not signed but it will be  
35 obviously adopted by Mr Cheney when he gives evidence. I will tender a copy so your Worship will have access to it. It is simply described as "fuel management in the ACT".

40 MR ERSKINE: Your Worship, might I just ask counsel assisting through you when we might expect Mr Roche's report?

THE CORONER: Mr Roche's report.

45

MR LASRY: I have a suggestion that we deal with this first.

THE CORONER: Mr Cheney's report, "Fuel management in the ACT" will become exhibit 0071.

5 **EXHIBIT #0071 - MR CHENEY'S REPORT FUEL MANAGEMENT IN THE ACT TENDERED, ADMITTED WITHOUT OBJECTION**

MR LASRY: So far as Mr Roche's material is concerned, Mr McCarthy and I have been discussing it this morning. He has been asking me the same  
10 question. We understand that, given the work that remains to be done, it can't realistically be done before next Tuesday. I am happy to do this on transcript as well. I have just promised  
15 Mr McCarthy that Tuesday will mean Tuesday morning not Tuesday night so at least they will get the benefit of the day.

THE CORONER: That is Tuesday, the 15th?

20 MR LASRY: Tuesday, the 15th. The original plan - if you trawled the transcript you will probably find expressions that that material will be provided on the 14th. I think the extra day is going to be important to Mr Roche to get the work  
25 done. He is essentially doing it on his own, as it were. That is the best I can do. It will mean that there should be something of the order of a week or more between the time of the material being provided and Mr Roche being called.

30 THE CORONER: At the moment it is proposed to call Mr Roche on the 21st, the following Monday.

MR LASRY: That is right, your Worship. A  
35 timetable has been sent out which I don't have in front of me --

THE CORONER: I have it in front of me.

40 MR LASRY: I think that is right.

MR WATTS: Just on that, I wish to raise the fact I saw that draft timetable yesterday. The 21st is a significant problem for me. I was going to ask  
45 if it is possible to have him called on the 22nd rather than the 21st. It would achieve two things: it would help myself but also it would

give us another day to deal with the report. I suppose if it can't be done, it can't be done. But it is for my personal convenience, with a longstanding commitment in Sydney which I tried to shift after having seen that draft timetable, and I can't. I just flag that as a personal problem.

THE CORONER: We will take it on board, Mr Watts.

MR LASRY: I can't respond to that at the moment, your Worship. It may be that it is possible. It is just a question of what other arrangements have been made. Certainly in view of the fact that Mr Watts has a difficulty, and it is an inflexible difficulty it seems, I will see what I can do.

THE CORONER: Thank you, Mr Lasry. Did you want to say something, Mr McCarthy?

MR MCCARTHY: I raise the question that the delay by a day of Mr Roche's report would support, in my submission, the opportunity for Mr Roche to be called on the 22nd as a matter of the time frame that was originally envisaged. The territory would support that proposal, as much as we don't have the inflexibility that Mr Watts has spoken about.

THE CORONER: Thank you, Mr McCarthy.

MR PIKE: The only other matter of housekeeping that should be raised now is your Worship will recall some month and a half ago I raised the issue of the material on which Mr Cheney prepared his report, that being made available by way of a list so that we could all know what material he had at the time of preparing his report. Mr Lasry and I have discussed it this morning and I have been told that list is being done as we speak and we will have it tomorrow. I think I am correct in what Mr Lasry has told me.

There may be other matters referred to in Mr Cheney's second report which may not be abundantly clear from the first page of his report; for example, letters to Mr Lasry from several witnesses which I am not sure are on the

system. I am hoping to have the opportunity after we finish evidence to discuss it with Mr Lasry.

THE CORONER: That is fine. Thank you, Mr Pike.  
5 Yes, Mr Walker.

MR PHILIP WALKER: Thank you, your Worship.

10 Q. Mr Bartlett, when you were here previously, the inquiry was provided with a copy of a report that you wrote on the fires of December 2001. Are you familiar with the report that I am referring to?

15 A. Yes.

MR PHILIP WALKER: Your Worship, the report became exhibit 65 and the call number is [DPP.DPP.0006.0222].

20 Q. At page 21 of the report, Mr Bartlett, there are a series of recommendations which you made. I think you said there was a debriefing at which those recommendations were discussed; is that right?

25 A. I may have commented like that. What I actually meant was there was a very large debrief with a range of issues, including some of the issues --

30 Q. Including?

A. --related to these recommendations. We certainly didn't sit down and go through these however many recommendations one by one at that debrief.

35

MR PHILIP WALKER: Your Worship, I have here a copy of a table. I have provided a copy to Mr Bartlett and I can provide copies to other members and to the Court. The document is  
40 produced in response to a request from Mr Cahill and, as it says, it concerns the debrief of the December 2001 fires and recommendations from the Linton and Kur-ring-gai fires.

45 For my present purposes, I just wish to take Mr Bartlett through a number of the recommendations and suggest to him that at least

there has been some dealing with it and see the extent to which he agrees that to be the case.

5 THE CORONER: This one says "Linton and Kur-ring-gai fires", is that the same document?

10 MR PHILIP WALKER: It is entitled "Debrief of the December 2001 fires and the coroner's recommendations from the Linton and Ku-ring-gai fires have been considered and the list below reflects the recommendations proposed by the various ACT Bushfire Service forums to address the issues raised".

15 THE CORONER: What is this document exactly?

20 MR PHILIP WALKER: It is effectively a table dealing with various recommendations and recording the extent to which they have been implemented or they are under consideration. For present purposes, Mr Bartlett's recommendations from the document which became exhibit 65 are included within this table. I don't know the extent to which Mr Bartlett will agree with the assessment of how far those recommendations have gone or not, but I will take him through some of those now.

25 MR WATTS: Can I just interrupt. Whose document is it?

30

THE CORONER: Yes, who prepared it, Mr Walker?

35 MR PHILIP WALKER: Mr Lucas-Smith said the Bushfire Service prepared it for which I guess he ultimately takes the responsibility, although I am sure he didn't sit down and put the whole thing together. But it was produced by the Bushfire Service for Mr Cahill's coronial.

40 MR LASRY: Your Worship, I am sorry to interrupt but I am just not sure I really understand what the point of this is. This witness's evidence, which I think raised the point of the December 2001 fire, was that in that report he made some recommendations of deficiencies which seemed to him, to paraphrase his evidence, to still have been deficiencies in 2003, despite the

45

fact that he identified them in the 2001 report.

I am not clear about what my learned friend is about to embark on but I am wondering what the point is of going through the issues that were raised and the recommendations that came out of the 2001 fires, unless it deals for example with the point that I understood Mr Bartlett was making particularly about the Incident Management Team process. To go back and relitigate this list in relation to the 2001 fire doesn't seem to me, with respect, to be a particularly useful exercise. But it may that be I misunderstand the point.

15 THE CORONER: That's why I want you to clarify it, Mr Walker, because there has already been material presented in a fairly comprehensive folder as to the state of progress with various recommendations - I think a lot of them arising from the McLeod Inquiry, for example.

What is the date of this document? That would be a useful piece of information too. If it was prepared for Mr Cahill's inquiry, then presumably it was finalised towards the end of last year and beginning of this year. So it might already be out of date if other proposals have been implemented or are in the process of being implemented.

30 MR PHILIP WALKER: Late 2003, it was prepared.

The purpose, your Worship, was that you asked a question when this list of recommendations was produced as to whether there was any response to the recommendations. I think it was at that point, if my memory serves me correctly, that Mr Bartlett said there was an all-round debrief session. The point I wish to go through simply is that the recommendations that have been advanced have been given due consideration. It is as simple as that.

45 THE CORONER: The recommendations that Mr Bartlett made after the 2001 fires have been given consideration, what, prior to the 2003 fires? If this document was prepared in December 2003, then

how useful is it to take account of Mr Bartlett's criticism as to what did or did not happen prior to the January 2003 fires?

5 MR PHILIP WALKER: The answer lies in column 3. The answer is that some were implemented before and some were implemented after. You will see, for instance --

10 THE CORONER: But can this document then not speak for itself? I mean, do you particularly want Mr Bartlett to comment on it? I don't know --

MR PHILIP WALKER: If that is the case, I am quite  
15 happy to simply tender the document. But I thought I would put it to Mr Bartlett and see whether he agrees that the recommendations he outlined in fact received the response that has been indicated in this table. So long as nobody  
20 says "you didn't put that to Mr Bartlett", then I am happy to put the document in.

THE CORONER: Are you able to comment, Mr Bartlett, on some of this information? Is this  
25 information within Mr Bartlett's knowledge, do you know, Mr Walker?

MR PHILIP WALKER: I am sorry, your Worship?

30 THE CORONER: Do you know whether or not Mr Bartlett would be able to comment on some of the information contained in this document?

MR PHILIP WALKER: No, I don't. That is why I  
35 wish to ask him. I am not being flippant but I don't know.

THE CORONER: I understand.

40 MR PHILIP WALKER: I am quite happy to tender the document. You will see some of the items, the ones that Mr Bartlett referred to in his recommendations, are items 4, 13, 16 --

45 THE CORONER: There are only a few, is there? You don't intend to go through from 1-97, do you?

MR PHILIP WALKER: No.

THE CORONER: Just selected ones.

5 MR PHILIP WALKER: Just the ones that Mr Bartlett referred to in his recommendations.

THE CORONER: All right. I will allow you to proceed on that basis then, Mr Walker.

10

MR PHILIP WALKER: Q. Mr Bartlett, if you just direct your attention to the first of your recommendations:

15

"Implementation of the incident control system in the ACT needs to be significantly enhanced to improve the efficiency of fire suppression operations and reduce the risk of injury to firefighters who are not operating under the direction of the incident controller."

20

If you go to item 20 in the table - do you see that?

25

A. Yes.

Q. Do you accept that there was discussion and that there was training undertaken in the first half of 2002 in relation to the ICS system as mentioned in the table there; or are you not able to say?

30

A. I certainly recall some of those things. I think some of the training may have actually extended into the second half of 2002. I certainly recall those things. I'm not disputing that those actions were taken.

35

I guess, having listened to the discussion, I would still say that the intent of my original recommendation was to closely look at how the ICS system works in the ACT and in fact, as we have discussed, I still had concerns about that in terms of the things that went wrong with ICS implementation at the 2003 fires.

40

Training is one component of what needed to be done. But I wouldn't say that that issue was - it

45

depends what you mean by "implemented" in that table. If it is fully implemented by 17/12/02, in my view we should have been expected that ICS run completely smoothly.

5

Q. Just pausing there, the next fire season after you have written your particular paper was of course the fire season in which the fires we are all interested in actually occurred. So it was in fact the first opportunity to put to the test what had been done throughout 2002, wasn't it?

10

A. Yes.

THE CORONER: Q. Just so I can understand you, Mr Bartlett, when it says under item 20 "implemented 17/12/02", you still have doubts that it was operating effectively come the January 2003 fires?

15

A. Yes, your Worship.

20

MR PHILIP WALKER: Your Worship, I am not necessarily endeavouring to establish that Mr Bartlett agrees that everything he recommended occurred exactly as he wants it; merely it was an attempt to deal with the issues. He may dispute the outcome but merely there was an attempt to deal with them.

25

Q. Mr Bartlett, if you can turn to item 41 in the table.

30

A. Yes, I can see that.

Q. You understand that to have occurred?

A. Yes. That is effectively the outcome that we were talking about before lunch with that revision to the policy document about how the Service Management Team and field teams would operate. So that was certainly carried out. But as I pointed out before, it wasn't then implemented during the January fires.

35

40

Q. There has been the publication of the paper of the role of the SMT paper as well, the incident control paper; do you recall that particular paper?

45

A. That is the paper I was just referring to. There is a three- or four-page document about the

role of the Service Management Team and the consequential roles of Incident Management Teams.

5 Q. If you go to item 2 on your recommendations and number 71 in the table, do you understand that there has been a review of the staffing levels of the Incident Management Team?

10 A. Well, the action talks about 160 people attended training. I mean all of the things in their discussions - review of requirements, discussions between the Bushfire Service staff, fire control crew members and land managers - there were certainly discussions that went over a period of time and training programs run, so in 15 that sense it is done. But the essence of what I was getting at was we needed to run those things on a two-shift basis. Clearly that didn't happen during the 2003 fires.

20 Q. If you go to your number 3 and item 21 in the table. Do you understand there was some attempt to actually implement the particular procedure that you recommended?

25 A. Yes.

Q. Item number 4 and paragraph 13 of the table, that's, to some extent, beyond the control of the Bushfire Service; isn't it?

30 A. Well, yes, insofar as the resources of the urban fire brigade clearly respond through a different command structure. But I do know there was a series of meetings held, some of which I was present at, trying to resolve this issue so that they would all operate under the one radio 35 communications system when on the fire ground.

40 So in my view I think there was a concerted effort to try and make that issue work. I personally don't have any information about that not working on the fire ground during the 2003 fires. That's not to say it didn't. I just don't have any information.

45 Q. If you go to item number 5 on your list and item number 25 on the table. The training package which is indicated to be still in progress, do you understand there is some training package being

developed?

A. Yes.

Q. Is it correct, as it says in the far  
5 right-hand column of the table that says:

10 "Firefighters need 5 years firefighting  
experience before they can become an officer.  
They must also be trained in ICS. ESB is  
currently sourcing training and assessment  
material to enable it to conduct a program  
called Lead, manage and develop teams."

15 Do you understand that to be correct or are you  
not sure?

A. I am not sure where the five years came from.  
I wouldn't necessarily agree with an arbitrary  
definition like that. I mean, I wouldn't argue  
that they need to be trained in ICS, that training  
20 materials were being sourced and those sorts of  
things.

But it comes back to the heart of developing the  
training package for fire ground management. In  
25 the 2001 fire there was quite some concern not  
only expressed by me but by people who felt that  
they were, you know, for the first time being in  
roles where they really did have significant  
resources to manage and they felt uncomfortable  
30 about the level of training that some of them had  
for that particular role.

But I would also recognise that this is an ongoing  
issue. It is not something you just do once and  
35 it is done; it is something that takes a long time  
to fully implement.

Q. Your item number 6 and item 52 in the table?

A. Yes. This is one that, again, in my statement  
40 I give a number of instance where this again  
occurred during the 2003 fires. I had to, on a  
number of cases, override those calls from COMCEN  
to some of my field resources. So there were  
actions taken, but yet again when it came to the  
45 fire situation the system fell down.

Q. The effort was to try to at least improve that

problem?

A. Oh, that's right. Yes.

Q. Number 7 on the table and if you go to item  
5 92. Do you understand evacuation procedures are  
presently under development --

A. Yes, I understood that before the 2003 fire.

Q. If we go to table number 61, the same  
10 arrangement, that is a recommendation which is  
under review?

A. Yes, it says "work in progress".

Q. Well, I am asking you whether you know of  
15 course rather than just what is on the table?

A. Well I haven't been closely involved in that  
process.

MR ARCHER: The moment has probably past, but I am  
20 wondering what the utility of this process is.  
With all due respect to Mr Bartlett, although he  
may have had some views arising from the 2001  
fires, the necessary response to those operation  
issues must happen at a level above --

25

THE CORONER: That doesn't involve Mr Bartlett.

MR ARCHER: No, and I am wondering what the  
utility of this process is.

30

THE CORONER: What do you say, Mr Walker? There  
has just been another question as to the utility  
of going through this.

35 MR PHILIP WALKER: Your Worship, they were  
Mr Bartlett's recommendations, and he is a man  
with obviously a good deal of knowledge about  
firefighting.

40 THE CORONER: Is what you are trying to establish  
from Mr Bartlett the fact that the recommendations  
and the concerns that he had and the comments that  
he made after the 2001 fires, you want to show  
that some effort has been made by those who were  
45 the recipients of those comments and  
recommendations to improve, remedy, address - for  
want of a better word - the issues that were

raised.

MR PHILIP WALKER: That's right. As I said, I am quite content to put the table to him because  
5 Mr Bartlett has a view about some of these things. He has accepted without equivocation some instances and in others he said, "Yes, but it didn't always work that well." I thought I would take the opportunity to put that to him. But I am  
10 quite happy to put the table in, if your Worship thinks for your purposes it is a better way of going about it.

THE CORONER: Mr Bartlett can obviously comment on  
15 some of these and on the others he can't --

MR PHILIP WALKER: Yes, but I don't know which ones he can and what ones he can't. I can guess but I am not absolutely sure.  
20

THE CORONER: I would have no difficulty with you tendering the table. I don't know whether anybody else would have any objection to it.

MR ARCHER: I would only on this basis that the document on its face seems to be an  
25 all-of-government response or overview of what is happening in relation to various issues, and Mr Walker acts for a particular party represented  
30 in these proceedings.

My respectful submission is that that process of identifying where particular things are at by way of review and amendment to procedure and so on may  
35 be of great assistance to your Worship, but it is a process that should be mediated through the representatives of the territory rather than a particular party. It seems to me that if you have too many documents in the mix which purport to  
40 represent whole-of-government responses to the problems identified particularly in the 2003 fires we are going to end up in some difficulty.

Mr Lakatos just recently, for example, has  
45 tendered a large corpus of material dealing with those sorts of issues. In my submission, if your Worship were to be assisted by this sort of

document, it should not come through Mr Walker but through those that represent the territory so that some imprimatur can be given to the document rather than just everybody throwing in a document that from their point of view represents their appreciation of the process of change and the form it is at.

MR LASRY: Your Worship, with respect, I agree with that. As Justice Gallop used to say, "It is not obvious about the similitude of this document." It does not stand for itself. It is not clear whose document it is.

THE CORONER: We don't know the author of it.

MR LASRY: I would be anxious about this document going in in any way as a document which spoke for itself and which was in any way evidence of the truth of what is in the document. We simply don't know. With respect, it doesn't seem to have a great deal of value, except in so far perhaps as it is being used as a kind of memory prompt for Mr Bartlett; but otherwise it doesn't have any independent value.

THE CORONER: That is the difficulty without knowing how it was prepared and who prepared it and what sort of, I suppose, official imprimatur, to use Mr Archer's words.

MR PHILIP WALKER: That's why I was going through the process of asking Mr Bartlett whether he understood various aspects of the recommendations which he made were in fact implemented or something that was done in relation to each one of them.

THE CORONER: But the difficulty there, Mr Walker, is that without knowing how and who prepared this document, the fact that it says under "status" "implemented" does not mean of itself that that is so.

MR PHILIP WALKER: That may be so, your Worship. That is why I am asking Mr Bartlett whether he is prepared to accept that that is or is not the case

and that certain things did or did not occur.  
What is of concern to me is that, in providing the  
recommendations which were led through counsel  
assisting to Mr Bartlett, somebody is going to  
5 say - and, in fact, I frankly interpreted  
your Worship's question asking whether there had  
been any response to these recommendations - as  
potentially giving rise to the question, "Well,  
you had the 2001 fires. Here is an experienced  
10 firefighter like Mr Bartlett who obviously puts a  
good deal of thought into a brief after those  
fires. Firstly, what has been done? It is not  
obvious that something has been done about it. It  
might be said that Mr Lucas-Smith as the Chief  
15 Fire Control Officer must bear some  
responsibility."

All I want to do is to indicate that Mr Bartlett's  
recommendations were treated with the utmost  
20 seriousness and a great number of them have not  
only been put in train but many of them have been  
implemented. I understand he has been agreeing  
with that in some respects.

25 THE CORONER: Yes. But the way to do that perhaps  
is to call evidence rather than to put in a  
document, when there is some doubt as to how this  
document was created and who created the document  
and I suppose the veracity of the information on  
30 the document.

MR PHILIP WALKER: Yes, your Worship. That's why  
I said to Mr Bartlett when he gave me one answer  
and I think he said something like, "That's what  
35 it says." And I said, "I don't want you to tell  
me what is in the document, I want you to indicate  
whether you agree." I understood the answers  
which I had been receiving from him was in fact  
Mr Bartlett's evidence that there had been certain  
40 actions taken in response to the recommendations  
he had advanced by way of him saying, "Yes, I  
accept there was this training course" or "Yes, I  
accept this was done". That is evidence of the  
fact.

45 MR LASRY: Your Worship, if I can just say, what  
my learned friend's submission demonstrates is

that this document is completely surplus to requirements. It would have been far more efficient for the witness to have been taken through his recommendations and asked to give  
5 evidence as to whether he knew in relation to some or all of those if action had been taken; if he knew what the action was, when the action had been taken; and, importantly for your Worship's purposes, whether the action was taken before the  
10 January 2003 fires. But to show him a document of doubtful heritage and then ask him questions based on that document is, frankly, a complete waste of time. The document is simply not useful.

15 THE CORONER: I think that is right, Mr Walker. If you simply want to address the comments and the recommendations that Mr Bartlett has made, then that is the way to proceed. Ask Mr Bartlett - and I think you are up to about number 7 now - as to  
20 whether he is aware as to whether any of the recommendations that he has made have been implemented.

MR PHILIP WALKER: I can certainly do that,  
25 your Worship, and I will probably put to him those things which are on the table and see whether he agrees whether they were being done, which is exactly what I was doing. I can do it that way.

30 THE WITNESS: Your Worship, if it assists, I would be more than happy to state that I believe, just listening to some of the discussion, that my recommendations were taken seriously and that through a wide range of mechanisms a variety of  
35 actions were taken to try to improve the systems, if you like, that go to the heart of some of the things that I wrote about. So I certainly wouldn't want anyone to imply that nothing was done. But I would also indicate, at least in the  
40 case of some of them, that the systemic problem still persisted into the 2003 fire.

THE CORONER: I think that probably gives you the answer that you are looking for, Mr Walker - well  
45 maybe not what you are looking for but the answer to the questions that you asked.

MR PHILIP WALKER: Yes. I will call some more evidence from Mr Lucas-Smith about the implementation of some of these things too.

5 THE CORONER: That is probably the most appropriate way to do it.

MR PHILIP WALKER: On the basis of what Mr Bartlett said, I take it there will be no  
10 complaint or challenge that none of this was put to Mr Bartlett.

MR LASRY: Your Worship, I just want to be clear about that. It is a relevant issue to deal with  
15 Mr Bartlett's recommendations. My complaint is that this document is getting in the way of an efficient processing of that issue, that is all. If my learned friend has particular instructions from Mr Lucas-Smith that particular steps were  
20 taken in relation to shortcomings that Mr Bartlett has referred to, then let him put them. My complaint is that this document isn't advancing the process. Of course, neither now is the debate which has overtaken the questioning itself in  
25 duration. I regret that.

MR PHILIP WALKER: I must say, your Worship --

THE CORONER: Mr Walker, are there any other  
30 issues? Do you have any specific instructions that some of Mr Bartlett's criticisms have not been actioned or have been actioned?

MR PHILIP WALKER: My instructions as to the  
35 actioning of them as at the time is consistent with what is recorded in this table. In putting to Mr Bartlett: "Was this done at this time?" I am really putting what my instructions --

THE CORONER: You have read what Mr Bartlett has  
40 said in his last statement; you have heard what his comments were. Unless you have some specific instructions that some of the recommendations were not actioned upon, then I think we should leave it  
45 at that, Mr Walker.

MR PHILIP WALKER: What I just said simply was as

a result of what Mr Lasry had just said. I can't put my instructions any more than what is in that table. I could simply have asked, by way of cross-examination, questions drawn entirely from that table without asking the gentleman to look at it. It just seemed easier to ask him whether he endorsed what was recorded in the table.

Now I understand he says that had all been dealt with. I propose now to call Mr Lucas-Smith, and Mr Lucas-Smith can say exactly what was done in relation to them. I do not anticipate there will be any quibble with that course of action.

THE CORONER: That is the appropriate way to proceed.

MR PHILIP WALKER: Q. A final couple of questions, Mr Bartlett. I understand from the evidence that you gave Mr Whybrow that you were to some extent taken by surprise at the speed of the fire on the 18th from 1 o'clock in the afternoon onwards, how rapidly it moved; is that correct?  
A. Yes, in terms of when you actually could see it, although I'm well aware that fires have been recorded in Australia moving at those rates in other places, so it is not something that I was completely unfamiliar with, it is not something you see very often either.

Q. There was some evidence about a tanker which was not used on that Saturday. I understand the tanker was a Forests tanker; is that right?  
A. That's my understanding.

Q. Is there any reason why that particular tanker was not used?  
A. Yes, there is a reason.

Q. What was it? Was there no crew for it or what was the story?  
A. That's, I guess, the simplest way of putting it. But I would just like to explain - in terms of my role at that point in time I was not acting as the Director of ACT Forests and providing those resources; I was undertaking other roles; I had no knowledge of which of my staff were on which

units, and indeed whether any or all of them had been deployed.

5 What I do know is that there was some discussion  
with people in the Service Management Team a few  
days before the 18th when it became quite obvious  
that the full resources of ACT Forests staff were  
deployed in a range of roles and increasingly over  
10 time an increasing number of them got deployed  
onto management roles in the planning section,  
supervising bulldozers and so on - but not crewing  
fire tankers.

15 So we got to a point - I think at that time we had  
29 people working for us. In order to fully crew  
the Bushfire Service units on a two-shift basis we  
need 20 people. There were probably a couple of  
people on leave and/or sick, and some of the  
20 rangers have peculiar working arrangements that  
they are required to be rostered off at various  
times. We were probably down to around 25 people  
in total available on the 18th of January on a  
two-shift basis. When you take out probably half  
a dozen in command and management roles and put  
25 another couple in supervising bulldozers, you very  
quickly get to a point where the Forests team by  
itself can't fully maintain all of those  
appliances.

30 I also understand, having asked the questions  
about what happened because I was surprised by it  
as well, there was some other problem with the  
crew who had been on the day before or something  
working exceedingly long hours and not being able  
35 to go back on shift early on the 18th. At least  
that's the way it has been explained to me.

40 But my understanding was that this particular  
issue was specifically raised with Tony Graham by  
one of the Forest staff who was keeping track of  
which crews were being allocated. He said that  
they were going to be unable to crew that  
particular unit and was there any other way of  
deploying the unit. He was told at that time  
45 there wasn't another way of deploying that unit.

Q. It was not something that you at the time had

personal knowledge of?

A. No. On that day, the first I became aware of it was after I landed back on the ground and that particular unit happened to be on the Curtin oval.  
5 I commandeered it to get me back to where I thought my car was on fire. I found out then that it had been rescued from the shed. But before that, I had no knowledge that it had been parked in the shed.

10

Q. There's been some criticism of the Bushfire Service. I just wonder if you could give us your overall view of where some problems occurred and doubtless some good things occurred. If you could  
15 give us your overall assessment as to the way you think the community was actually served by the Bushfire Service in the course of the --

THE CORONER: I don't know that that is helpful.

20

MR WATTS: I object.

MR PHILIP WALKER: As your Worship please.

25

THE CORONER: It is too broad and too general. It is not helpful.

MR WATTS: It is not fair to the witness also to ask him to answer that.

30

MR PHILIP WALKER: I have no further questions.

THE CORONER: Thank you, Mr Walker. Yes, Mr Watts.

35

MR WATTS: Thank you, your Worship.

**<CROSS-EXAMINATION BY MR WATTS**

40

MR WATTS: Q. Mr Bartlett, on the morning of the 18th of January after you had flown the fires in the helicopter, you returned to Curtin at about 8.30am; is that so?

A. Yes.

45

Q. You knew at that stage you were going to be incident controller for the day?

A. Yes.

Q. In your mind you were developing, I take it, a strategy for how resources would be dealt with on that particular day?

A. Yes.

Q. Do I understand correctly you discussed that with Mr Graham?

10 A. Yes.

Q. And you developed a strategy for the stationing of the resources you had down the western side of the urban interface of Canberra; is that so?

A. Well, more precisely in the rural areas on the western side of Canberra but not --

Q. Yes, it was a badly asked question. Down the western side of Canberra but more into the rural areas; is that so?

A. Into the rural areas, yes.

Q. Can you just explain to her Worship the rationale behind the strategy you had developed at that stage in consultation with Mr Graham?

A. Certainly. My observations from the helicopter indicated that there were three distinct uncontained areas of wildfire at that early part of the morning. I knew that there was strong winds forecast and I also knew that there was no capacity to establish immediate control lines of those three separate bits of fire.

35 I was very concerned that I couldn't tell which of those fires would make runs precisely at what time and how extensive. I needed to develop a strategy that enabled the people who were on the ground to cope with that situation. I should say also  
40 there, because I don't think I have actually explained it before, the other piece of information that I used to help me realise that this was potentially a problem was, as a result of the mapping I did in the helicopter and some  
45 discussions I with Tony Graham, it became obvious that each of those three fires had made quite different runs the previous afternoon under

theoretically similar weather conditions.

5 So the McIntyre's Hut fire had moved - I can't  
recall the exact distance - but let's just say a  
couple of kilometres outside of its control line  
to get to where it had got by 7am on the 18th;  
whereas the fire that had come from Stockyard had  
travelled almost 15 kilometres down to Mt Tennant.  
10 So I was concerned that it was quite possible that  
those fires could develop different lengths of  
runs.

15 I was very concerned particularly about the fire  
in the Tidbinbilla area and the one around Tharwa  
that the way the firefighting resources had been  
allocated, the strategy that had been developed  
meant that all of those people in essence were  
working across the whole area under the command  
structure. And I was worried - let's say if the  
20 Tidbinbilla fire made a run and the other one  
didn't - that firefighters could be trapped on one  
side or the other without a senior officer  
commanding them. I wasn't convinced that I could  
be in every place at every point in time to give  
25 them the command instructions that they might  
need.

I was trying to ensure, to protect their safety,  
that if all else failed at least there was one  
30 senior officer located with whatever firefighting  
resources had been deployed in the vicinity of  
each of those uncontained areas of fire. That was  
the basis for the strategy.

35 Q. Can I just stop you there?  
A. Certainly.

Q. Thank you for your comprehensive answer.  
A. I can get some water.

40 Q. You had under your command, as it were, both  
New South Wales and ACT firefighters?  
A. Yes.

45 Q. Did you become aware of where the New South  
Wales Rural Fire Service crews were on the morning  
of the 18th?

A. Yes. When I was in Curtin I got some information and then later when I flew out --

5 Q. The information that you obtained, where is that?

A. I think it is somewhere in my statement. I was given a list of what were called "sectors" and I was given another list of what parts of the task force and what ACT Bushfire Service resources were  
10 being deployed to each of those sectors, if you like.

Q. Did you visit where they were at some point after you had been at Curtin?

15 A. Yes. I flew to Tidbinbilla and when I arrived there, I observed that the paper plan I had wasn't in fact what had happened. In specifics, all the New South Wales resources were at Tidbinbilla when I arrived there.

20 Q. Putting it simply, was it your plan that there would be resources at Tidbinbilla as it were in the middle, resources to the south near Tharwa and the Naas Valley, and then a further group to the  
25 north of Tidbinbilla?

A. Yes.

Q. Was it your plan that the New South Wales resources would be divided between Tidbinbilla in  
30 the middle and the Naas Valley/Tharwa in the south?

A. Yes.

Q. You were in court the other day when Mr Kevin  
35 Cooper gave some evidence in response to questions I asked him?

A. Yes.

Q. He indicated that he had opposition to what  
40 you were planning?

A. Yes.

Q. Can you indicate to her Worship what that  
opposition was, as you understood it on the day?

45 A. My recollection of his opposition on the morning when I discussed it with him and Tony Graham in the headquarters at Curtin was that he

believed that all of the members of the four task forces needed to operate under a unified command. They had each been deployed nominally to areas ranging from the Naas Valley up to Tidbinbilla but  
5 they needed the flexibility to be able to move wherever the fire was.

We certainly discussed the fact that they had been sent out and given instructions. And then I  
10 indicated that I was concerned about those arrangements and put forward this alternative proposal that has been outlined just before.

Q. In answer to a question I asked him, he  
15 indicated a safety issue was the reason he opposed your plan. Was there any such safety issue, in your opinion?

A. In my belief the greater safety issue was the risk of leaving units without a proper command  
20 structure in the event of a serious run, an intense run of the fire. That's what I was primarily worried about.

Q. With the units being crowded at Tidbinbilla,  
25 were you also concerned about their ability to get down to the south if the fire came across between Tidbinbilla and south?

A. Yes, that's right. Although, I would just like to add - because I didn't discuss it when I  
30 got out there - that I am not sure that they intended to all stay at Tidbinbilla. I think they had been given a plan to implement. I'm not sure why they all went to Tidbinbilla. But I was more concerned about changing the plan to set it up the  
35 way I wanted it.

Q. So that, even if the fire came through between Tidbinbilla and the south, you had a command structure for those in the north and a command  
40 structure for those in the south?

A. Yes.

Q. As far as you were concerned, what you intended to do was implement it after your  
45 discussions with Mr Kevin Cooper?

A. Specifically after discussions with the two New South Wales officers who were out at

Tidbinbilla, I wanted to implement it with their consent, which is what I did. They offered some comments, we finetuned it, and then it was implemented, as far as I am aware.

5

Q. In paragraph 49 of your statement do you recall suggesting that on the 10th of January you made an offer to New South Wales to use some of the Forests - have you got it there?

10 A. Yes.

Q. The bottom of the paragraph - for some of your Forests resources to be used in helping to combat the McIntyre's Hut fire?

15 A. Yes.

Q. Was it your intention at the time you did that that they would be subjected to the command and control of the New South Wales authorities?

20 A. Yes.

Q. It wasn't intended they would be out there doing whatever they wanted to do under ACT control?

25 A. Certainly not.

Q. And did you make that clear at the time?

A. I tried to. Whether I made it clear or not, I'm not sure. But I tried to.

30

Q. You raised, in response to some questions Mr Walker asked you, the use of fixed wing aircraft and use of fire retardant?

A. Yes.

35

Q. I take it there is a difference in the way fire retardant works on fires compared with the way water works on fires?

A. That's correct.

40

Q. As you understand it, what is the difference and the effectiveness of each?

A. Well, they both have their places. Basically water when dropped from aircraft is usually dropped onto the flames and it has a very short duration impact on the ground. So within a very short period of time, perhaps one or two minutes,

45

the water evaporates and the flames will get going again.

5 Fire retardant on the other hand can be put out -  
it is usually put out in advance of the fire and  
it forms a barrier to either slow or restrict the  
spread of the fire. It lasts for a considerable  
period of time - many hours. So they are  
different products used for different purposes.

10

Q. Can fire retardant be used early in the fire  
even before crews are on the ground?

A. Certainly. That's when it is sometimes most  
effective.

15

Q. That is a resource that you consider to be  
very useful as part of the army for fighting  
bushfires; is that so?

20

A. Yes. In my experience a number of remote  
fires that I have been responsible for managing in  
Victoria were largely only controlled because we  
were able to put retardant around - while it might  
have taken 3 or 4 hours to get the ground people  
in there.

25

Q. It is not a resource that the ACT presently  
has?

A. Not currently has, that's correct.

30

Q. You are not, of course, being critical of  
anybody at ESB for not using that resource; it was  
simply a resource that was not available at the  
time, nor is it available now in the ACT?

A. That's correct.

35

Q. On the 8th of January you have given some  
evidence concerning what crews from ACT Forests  
might have been available to go out on the evening  
of the 8th?

40

A. Yes.

Q. Can you just tell the Court what crews were  
available?

45

A. As I indicated in a previous answer, at that  
time we would have had approximately 25 staff  
members physically at work on the 8th of December.  
They could have been used in a combination of

different roles. I know at least 19 of them had passed the arduous fitness test and had been trained for remote area firefighting. They could have been used in a combination of remote area  
5 firefighting, planning style roles and also to man tankers and light units.

Q. I think Mr Walker put to you that the Forests capability was two tankers and two light units,  
10 but in fact that did not include the ground crews?

A. Well, in order to crew two tankers you need six people and to crew two light units you need another four people.

15 Q. I understand that. But from your experience do you say that ground crews - irrespective of whether tankers are used - are important in fighting a fire early in the piece?

20 A. My experience is the most important resource you need at remote lightning course fires is ground crews.

Q. How does that work?

25 A. Well, they generally either drive or preferably are deployed by air as close as possible to the fire. They walk in with a series of hand tools taken with them, primarily rake hoes and axes, and perhaps a chainsaw. They physically cut a trail, construct a hand trail around the  
30 fire. And then subsequently either a bulldozer comes along behind that or, in some cases, the fires have been totally suppressed just with people with hand tools.

35 Q. Has it been your experience over the years that that can be a very effective way of dealing with the fires early in the piece and getting rid of it?

40 A. Yes.

Q. You were asked some questions about the use of I think it was the D9 to put in a line around Uriarra?

45 A. Yes.

Q. Can you just describe the extent of that line that you had put in?

A. I think somewhere in the statement - I'm not sure which paragraph - it refers to the fact that I went out there and made a decision that it should be about four blades width of a D9  
5 bulldozer wide - I am not quite sure how wide that is but it is a reasonable width and virtually as big as you can get with a bulldozer. We ended up with a break, from memory, 20 to 30 metres wide around the edge of the plantation - cleared bare  
10 mineral earth all the way around

Q. You were asked by Mr Walker some questions concerning the implementation of some of your recommendations. Could we have brought up, please  
15 [ESB.DPP.0001.0001]. Do you recognise that document?

A. Yes.

Q. Was that a document that was circulating  
20 within ESB prior to the 2003 fires?

A. It was circulated within ESB and was also handed out and discussed at the pre-season workshop for Bushfire Service officers.

Q. In your opinion, what is in there is quite  
25 consistent with the ICS concept?

A. Yes.

Q. Do I take it that you have got no particular  
30 criticism of what is in that document?

A. No.

Q. But in response to Mr Walker I think you said  
35 simply on the 2003 fires that it wasn't implemented in accordance with that document?

A. That's correct.

Q. Can I show you a document, please. (handed)  
Do you recognise that?

40 A. Yes, I do.

Q. What is that document?

A. This is a document that I produced in about  
45 September last year as a follow-up in discussions with staff in ESB about how we might implement the AIIMS - ICS system in the ACT. I produced this document after some discussion with some other

fire control officers while I was at the international wild land fire conference down in Sydney.

5 At that time we were having a series of meetings between the Emergency Services Bureau staff and some of the more senior officers about how we might improve the implementation of ICS. I produced this document as a discussion paper with  
10 my ideas about how it could work for all types of incidents from small fires up to the largest fire, like the 2003 fire.

15 Q. Thank you. Does it still express your view as to how the ICS system could and should operate in the ACT?

A. Yes.

20 Q. Does it give examples of how the system gears up depending on the extent of a crisis?

A. Yes.

25 Q. Can I ask you to explain as shortly and simply as you can - certainly this has been covered in other evidence that you have given - you consider there should be an Incident Management Team as it were at the grass roots of any incident under the incident controller; is that so?

30 A. Sorry not to give a straightforward answer, primarily yes, but sometimes there are appropriate circumstances where one Incident Management Team can manage more than one fire.

35 Q. Yes, certainly. Perhaps can we deal with the situation of an example where you have one fire in the north of the ACT and one in the south of the ACT?

A. Yes.

40 Q. Would it be the case that generally you would have an incident controller for each of those two fires?

A. Yes, in my view.

45 Q. Working with an Incident Management Team at or near that particular fire?

A. Yes.

Q. An Incident Management Team would consist of planning, logistics and operations?

A. Yes.

5 Q. And that Incident Management Team and incident controller would need the appropriate resources at the appropriate place?

A. Yes.

10 Q. That might be a hall, a school or even a big black truck?

A. Yes.

15 Q. The detailed planning and strategy for the particular fire is done by that team under the incident controller?

A. Yes.

20 Q. The more general resourcing and so on takes place back, say, at Curtin?

A. Yes.

Q. Is that how you see it working?

A. Yes, I do.

25

Q. Does this document set that out and explain how it might work in different kinds of scenarios?

A. Largely, yes.

30 Q. Well, you would qualify that?

A. It doesn't go down to the specifics of which halls you might operate in --

35 Q. Well, I suppose that depends on where the fire is.

A. Yes.

Q. So you can't build the halls beforehand --

40 A. It talks about the principles of deciding that though.

MR WATTS: I tender that, your Worship. That is on a floppy disk as well.

45 THE CORONER: I am impressed. The document prepared by Mr Bartlett entitled "The implementation of AIIMS - ICS in the ACT:

suggested structures and roles for type 1, 2 and 3 incidents" will become exhibit 0072.

5 **EXHIBIT #0072 - DOCUMENT ENTITLED "THE  
IMPLEMENTATION OF AIIMS - ICS IN THE ACT"  
TENDERED, ADMITTED WITHOUT OBJECTION**

MR WATTS: Q. Mr Bartlett, I want this answered  
yes or no. Is there any more that you consider  
10 needs to be said in relation to your view of the  
implementation of ICS over and above what you have  
said?

A. No.

15 Q. Can I just ask you one thing on that --

A. I should have said yes.

THE CORONER: You should follow your own rules.

20 MR WATTS: Q. You said that on the morning of the  
18th you didn't feel you were incident controller  
although you had an incident controller's shirt  
on, I think. Is that because you didn't have in  
fact a planning officer, logistics officer and  
25 operations officer working beneath you?

A. That's correct. Seeing that you asked me an  
extra question, I would like to clarify the  
earlier one just simply to say I think it is  
really important to understand that training in  
30 these roles and ongoing exposure to experience is  
very important as well. So you can have the  
perfect structure but still fail. A lot of this  
is learned through training but, in my experience,  
it is very important that people get exposed in  
35 real life experience as well.

Q. Can I ask you a couple of questions concerning  
the early days of the McIntyre's Hut fire. Now,  
Mr Cooper was more intimately involved in that  
40 than you were is that so?

A. Yes.

Q. He was telling you what was going on?

A. Yes.

45

Q. You attended a meeting at Queanbeyan and in  
paragraph 32 of your statement you say:

5 "I recall being satisfied with the initial strategies and objectives as outlined by New South Wales given the available resources, the forecast easterly winds and the information about the fire boundaries."

10 I take it that you were not informed at that stage by New South Wales as to precisely what resources they were going to put into carrying that strategy through?

A. That's correct.

15 Q. Do I understand your evidence to be that you were satisfied with the strategy on the basis that they would put resources in?

A. Yes.

20 Q. Is it true that if you are going to develop a strategy such as the one they developed, which entails a very large area around the fire - being some 10 kilometres by 10 kilometres - you would consider it important that at the outset you have some idea of what resources you need to throw at that to get things going quickly?

25 A. Fairly quickly after you develop the strategy, yes.

30 Q. Is that particularly so in circumstances where there is a limited window of opportunity with the weather?

A. Yes.

35 Q. From what you have seen of how that fire was fought, is it your view that the back-burning could and should have been commenced earlier?

A. Yes.

40 Q. One final matter, you have been asked some questions concerning the fact that you were not used as a resource early in the piece?

A. Yes.

45 Q. You did have plans to go away on your wedding anniversary?

A. Yes.

Q. Did you ever indicate that that was a priority

for you and you would rather be going away than being used?

A. No.

5 Q. In the early days, on the 8th and the next few days, were there other senior resources not being used in your opinion?

A. Yes.

10 Q. What were they?

A. Certainly on the second day there was another Deputy Chief Fire Control Officer and a group of officers not deployed.

15 Q. Mr Whybrow asked you some questions about your statement and your notes. Is it your evidence that the final statement that you prepared was the more accurate of the two documents?

A. Yes.

20

Q. Because you --

A. Because I had a lot more time to prepare it and had access to a lot of other sources of information other than just what immediately came to me from my memory - with a couple of other things, as I have indicated previously.

25

MR WATTS: Yes, thank you, Mr Bartlett. Thank you, your Worship.

30

THE CORONER: Thank you, Mr Watts. Mr Lasry?

MR LASRY: I have no questions.

35

THE CORONER: Thank you, Mr Bartlett, you are excused. You are free to leave if you wish. We might just take a brief adjournment before we hear from Mr Smith.

40

**SHORT ADJOURNMENT**

**[3.16pm]**

**RESUMED**

**[3.25pm]**

MR LASRY: I call Peter Anthony Smith.

45

**<PETER ANTHONY SMITH, SWORN**

**<EXAMINATION-IN-CHIEF BY MR LASRY**

MR LASRY: Q. Mr Smith, is your full name Peter Anthony Smith?

5 A. Yes.

Q. Do you live at 743 Brindabella Valley Road, Koorabri, Brindabella, New South Wales?

10 A. I do.

Q. As far as you know, have you waited longer than any other witness in this inquest - you don't have to answer that.

15 A. Since last September.

Q. Mr Smith, you are the captain of the Brindabella Fire Brigade?

A. Yes.

20 Q. You have been with that Fire Brigade for 30 years?

A. I have.

Q. You have been captain since 1990?

25 A. Yes.

Q. You were a deputy group captain between 1995 and 2001; is that correct?

30 A. That's correct.

Q. You are qualified to group officer level?

A. Yes.

35 Q. You are trained in the incident control system?

A. Yes.

40 Q. You have held various field positions at fires which include sector leader, fire boss and divisional commander; is that correct?

A. That's correct. Fire boss and divisional commander is the same thing really. I have also done the resident course in Mt Macedon in emergency management.

45

Q. On the 10th of May this year as a result of a request from police assisting the coroner, was a

statement prepared which you signed?

A. It was.

5 Q. At the time that you signed it, did you believe that it was true and correct?

A. I did, but there are a couple of minor things that I should correct.

10 Q. Perhaps can I just deal globally with one issue --

A. Sure.

15 Q. -- in your statement you refer to a number of phone calls that were made on the 8th of January in particular. Have you since making that statement had the opportunity to look at a printout in relation to I think your home telephone, the Brindabella fire station and also, I think I am right about this, the Firecom section at Queanbeyan; is that right?

20 A. That's correct. I got this this morning and I have really only been able to - to tell you the truth, I didn't know that so many people had rung me, whose numbers I have no idea.

25

MR LASRY: Before the witness goes any further, I have copies of the details but, because they include a private phone number, I haven't distributed them. If anyone wanted to look at this list of course they could. It doesn't seem to me, subject to any of the represented parties wanting to see the detail, that it is appropriate either to distribute it or to tender it as an exhibit. If your Worship takes a different view --

35

THE CORONER: No, I think that is quite a reasonable position. It is available if people wish to have a look at the document.

40

MR LASRY: The statement is [DPP.DPP.0006.0311].

45 Q. Taking that into account, tell us if you could the amendments that you want to make to your statement.

A. I haven't really checked all the times on the phone calls against the one. Most of the times I

have looked at, my statement seemed to be pretty close. On page 5 of my statement, I refer to the fire on the Dingi-Dingi range which was in fact on the 4th of January 1998 not 2000.

5

Q. Sorry on page 5?

A. Page 5. Third paragraph.

Q. Yes. What was the correct date?

10 A. 1998 and actually 2 kilometres of rake hoe line were put in on that fire. I think they are the only substantial corrections I would like to make.

15 Q. Let me ask you some questions about the statement that you have made. You have described on page 2 in the first paragraph some broad details about the capacity of the Brindabella Fire Brigade. As you say in that paragraph it has  
20 about 18 active members and has four vehicles: a category 1 tanker, a category 7 tanker, a category 9 tanker and a Toyota Land Cruiser; is that right?

A. That's correct.

25 Q. You go on to describe the notification of the total fire ban that was declared for the 8th of January and that you became aware of that on the 7th of January.

A. That's correct.

30

Q. You also describe the fact that you experienced the thunderstorms on the afternoon of the 8th of January at about 3 o'clock, in fact where you were it rained for a period of time; is  
35 that correct?

A. That's true. As a matter of fact I had rung in earlier in the day because the day, at least up until then, was quite sultry. It was, I suppose, not like the weather we thought we were going to  
40 get. It obviously came through later.

Q. On the top of page 3 you say that at 3.30pm on 8 January as far as you were aware you were at home and you saw the smoke columns from at least  
45 four fires as you describe it: McIntyre's Hut fire, the Baldy Range fire, the Broken Cart Fire and the fire that you refer to as Princess Flat

fire. Where is Princess Flat in relation to the other locations?

5 A. Princess Flat is about 6 kilometres west of the Brindabella Valley. I could also see fire from the Brindabella Range, which would have been the Stockyard and the Gingera fire - Bendora fire. So in other words, from where I sat, I could see that my location was ringed by some nine fires.

10 Q. Where is your place in relation to the Brindabella settlement itself?

A. My house is at the southern end of the valley and has a commanding view of the ranges to the north.

15

Q. The place Brindabella is almost due south I think - am I right about this - of the ignition point of McIntyre's Hut fire?

A. That's correct.

20

Q. At least as the crow flies something like 12 to 13 kilometres?

A. It would be something like that.

25

Q. You became aware of particularly the McIntyre's Hut fire, and in the third paragraph on page 3 you assumed or believed that your brigade members would be required for duty and you began to call them via telephone. You also describe in the third paragraph on that page attempting to contact Firecom. Now I take it Firecom is the central number at the Queanbeyan headquarters?

30

A. The Queanbeyan Fire Control Centre, yes.

35

Q. What was the purpose of wanting to speak to Firecom at that stage; that is, in the afternoon of the 8th of January?

40

A. Essentially this was an extremely unusual situation in that the number of fires in the area was way above what we would normally expect. Clearly there would be a large call on resources. I would need some guidance if I were to choose to go to any fire on my own, because I could be going to the wrong fire, from those who had a rather bigger picture than I did.

45

Q. You then describe around 6 o'clock receiving a

phone call from Mrs Stuart at a property called Bramina. Have you checked in your records whether that appears to be the right time?

5 A. I apologise - I think it would be very close to the time but I have not checked that particular call.

10 Q. I think the records - I don't want to get bogged down in this - I suspect what the records tend to show there was a phone call from the Stuart's place at about 6.16pm and I think in fact that phone call went to the Brindabella fire station rather than to your home; am I right about that?

15 A. No. The first call would have been to my home. I just can't see it there. I have a very clear recollection of that call.

20 Q. In all event, what she was reporting, as you say in your statement:

"Fire was all around."

25 She believed the Mt Vale property was under threat?

30 A. Yes. Mrs Stuart is an elderly lady who has lived in that area for a very long time. She has family around. I took it that she had received information from people that there were fires and that she was passing it on in that particular way. So it was something, given the nature of that piece of information, that I needed to check before I would send anybody to that area.

35 Q. You describe in your statement - I don't need to ask you any more questions about it - but was the outcome that in fact there was no fire at Mt Vale and no-one from your fire station responded to that fire?

40 A. Truth is stranger than fiction. There was a fire on Mt Vale, but the information that I got on that afternoon was that there wasn't a fire at Mt Vale. That fire would have been very clearly visible from the Mt Coree tower and I would say from the aircraft that went around. But I didn't have any contact with Firecom regarding that particular fire. I couldn't see that fire from  
45

Brindabella. That's why I needed to get back to the people at Mt Vale to ask them would they go and have a look and see. They did that. They informed me that they could see no fire in the  
5 vicinity of their homestead.

So that seemed to me to be very reliable evidence that there in fact wasn't a fire in the vicinity of the Mt Vale homestead and therefore that  
10 property wasn't under immediate threat. So I held the brigade at the station, really, expecting that Firecom would ask us to respond to one of those fires out there.

15 Q. We know from other evidence that there was a fire at Mt Vale, but the information available to you at that stage was that there wasn't?

A. That there wasn't, yes. I considered it to be reliable information.

20

Q. You then say on page 4 in the second paragraph on that page that at a quarter to 7pm you attended the Brindabella fire station. There were a number of your members were there and a category 7 tanker  
25 was ready to respond. You advised the crew, obviously based on the information that you had been provided with, that there was no fire at Mt Vale and to stand by until further instructions were received. Is it the position that you then  
30 stayed at the fire station from quarter to 7 until about 8 o'clock when you returned home, as you say in the next paragraph but one on page 4?

A. That's correct. Over that period of time members of the Fire Brigade were continuing to  
35 assemble there. And then I rang Firecom and was basically told they didn't wish to us respond at that stage.

Q. You went home at 8 o'clock. As you say you  
40 had some further conversations with group officer Neil Donoghue - perhaps the important thing at the moment at least is on the 8th of January; is this the correct conclusion to be drawn from the material in your statement that no unit from  
45 Brindabella turned out to any fire on that day?

A. That's correct.

Q. Let me just ask one other question in relation to that: As the captain of the brigade, as a matter of course if any member were turning out, whether you were at the fire station or not, you would be advised of that turnout?

A. I normally would. I would normally hear on the radio which I had with me. If any unit responded they would advise Firecom of that response, and I would hear that.

10

Q. On page 5 you say in particular that Brindabella Brigade members have previously fought fires in the area of the Baldy Range and the Dingi-Dingi range. In summarising, your members are familiar with the access routes and obviously the general topography of the area; is that right?

15

A. That's correct.

Q. You say:

20

"I believe a category 7 tanker or category 9 tanker would have been capable of reaching the ignition area and base of the McIntyre's Hut fire located near or at grid reference 588964. It would take around 30 minutes to reach Lowells Flat from Brindabella fire station."

25

Is that 30 minutes for a category 7 or category 9 tanker?

30

A. I apologise. That is one of the figures I meant to correct. That is 30 minutes, if you like, for a normal vehicle. For a tanker I would put that up to 45 minutes - let's say 45 to be conservative.

35

Q. In recent times Mr Smith, have you for the purpose of this inquest been back into that area, armed with members of the Police Force and a video camera and I think a category 7 tanker; is that correct?

40

A. That is correct. I was asked if I would actually show the team assisting the coroner that particular area and assess the conditions on the ground.

45

MR LASRY: Your Worship, I want to show some

portions of the videotape that was taken. It is in the form, as these so often are, of a tape recorded record of conversation. That is the way it is introduced by Constable Travers at the start.

Q. Perhaps I can ask one other introductory question, which everyone will recognise: is this in part filmed on the Lowells Flat trail which becomes I think the McIntyre's Hut trail; is that correct.

A. That's correct. I think it begins at the southern end of Lowells Flat Trail - you will notice that is spelt about three different ways in the transcripts and on the video - we started on the southern end of Lowells Flat, moved to the northern end of that flat, then up the Lowells Flat trail to the point where it joins the McIntyre's Hut trail.

Q. At one point in the video do you move around through what Mr Brett Walker will probably now call "Lasry kink"?

A. I didn't know --

Q. There is a section in the road which is in a sort of a horseshoe shape, which I have often been mocked about my desire to straighten it. That was the area you went to?

A. We agreed for the terms of the video we would call that topographic feature or that bend in the road "the kink".

MR LASRY: I ask that that video be played. I may ask from time to time that it be fast forwarded. There is a degree of repetition in some of the scenery.

(Video played of the expedition)

MR LASRY: While the corporate logo is being displayed, I think it actually begins with the trip out there. Apart from the introduction we can perhaps fast forward through the trip out there until we get to the actual track.

(Video played of the expedition)

MR LASRY: I think the rest of this introduction we can probably do without, with great respect to Constable Travers. Perhaps if we can fast forward it to the point where we actually reach the relevant trail. The video, of course, is available.

(Video played continuing from the beginning of the Goodradigbee River)

MR LASRY: There is a fair bit of this, your Worship. It can probably be fast forwarded.

(Continuing from the northern end of Lowells Flat)

MR LASRY: We could probably fast forward again.

(Continuing from quarter past 12. Located off the Lowells Flat itself on the river. Driven to the junction with the McIntyre's Hut fire trail.)

MR LASRY: Again, we can go forward.

Q. Mr Smith while that is playing, that is a category 7 tanker from Brindabella fire station that we are looking at?

A. It is, yes.

(Continuing with a rear view of the category 7 tanker)

MR LASRY: If that could be fast forwarded.

(Continue playing video at 25 minutes to 1, located on the south side of the kink)

MR LASRY: We could probably go forward a little bit. It is perhaps self-explanatory. I won't ask any questions.

THE WITNESS: It is worth pointing out you have heard evidence throughout about things called rake hoe trails. That is a demonstration indeed of what that tool is and how it works.

THE CORONER: Thank you.

(Video continued playing with Mr Smith physically showing what a rake hoe trail is)

5 MR LASRY: Q. As that is playing, Mr Smith, and as you are walking down the hill you are describing where you are and what you are doing, but the microphone on the camera doesn't always pick it up. You are walking down into the centre of that kink?

10 A. In the centre of the kink roughly towards the ignition point of the northern side of the kink.

15 Q. What are the difficulties in creating a hand line in that sort of countryside and in that sort of terrain?

20 A. I say it is fortuitous that that particular area as you can see is relatively open. The soil type is a shaly type soil, which would make it probably easier than a lot of situations. So quite good conditions for rake hoe work there.

Q. Have you, in that film there, walked down into the valley, you seem now to be walking --

25 A. Right down into the creek, yes.

(Video continued to play)

30 MR LASRY: Q. Are there any greater difficulties on the other side of the creek going back up the hill --

A. No, really quite similar.

Q. Just run it forward a little bit.

35 A. We are actually moving around there at about the break between the day-time burn and the night-time burn.

(Video continued to play with vision of the topographic map)

40 MR LASRY: Your Worship, I tender the video.

THE CORONER: Video will become exhibit 0073.

45 **EXHIBIT #0073 VIDEO WITH MR SMITH,**  
**^ BOLD** TENDERED, ADMITTED WITHOUT OBJECTION

MR LASRY: Q. Mr Smith, the contents of the third paragraph on page 5 of your statement saying:

5 "I believe a rake hoe team would have been  
capable of putting in up to a 300-metre hand  
line trail."

10 I think your expression of view in that statement  
was made in fact before you went out there and had  
a look; am I right about that? In other words,  
did the statement come first or did the video come  
first?

15 THE CORONER: It was May of this year.

20 THE WITNESS: The statement came first,  
your Worship. That belief was really based on the  
fact that we had worked in that kind of country  
before. As I have said in my statement --

25 MR LASRY: Q. The point I want to ask you is  
that, having actually been out there subsequent to  
making your statement, nothing you saw, I take it,  
during what we have just been looking at made any  
difference or effected the view that you expressed  
on page 5?

30 A. I have to say, it was perhaps somewhat easier  
than I would have anticipated. But, you know, it  
is one thing to find it now, but any crew having  
gone in on that day would have been confronted  
with those conditions that we saw there. I should  
say, that it is my belief that it would have been  
utterly safe for any crews to have operated in  
that area.

35 MR LASRY: Thank you, Mr Smith, I have no further  
questions, your Worship.

40 THE CORONER: Yes, Mr Archer?

MR ARCHER: No, thank you, your Worship. I will  
defer to Mrs Prosser.

45 MRS PROSSER: I belated advise that our other  
counsel are not available this afternoon and I  
seek your leave to appear, and to very advise that  
I have no questions for this witness.

THE CORONER: Thank you. Leave is granted to appear. Mr Pike?

MR PIKE: I adopt my friend's submission.

5

THE CORONER: Mr Erskine?

MR ERSKINE: No questions, your Worship.

10 THE CORONER: Mr Whybrow?

MR WHYBROW: No, your Worship.

THE CORONER: Mr Walker?

15

MR PHILIP WALKER: Nothing from me, your Worship.

THE CORONER: Mr Watts?

20 MR WATTS: No, thank you, your Worship.

THE CORONER: No re-examination, Mr Lasry?

25 MR LASRY: I am working on it. I have no re-examination, thank you, your Worship.

30 THE WITNESS: Your Worship, as I am unrepresented and as I have no agency representing me, I was wondering if I could make a brief statement. Clearly none of the counsel have any questions relating to other aspects of my submissions.

THE CORONER: Yes.

35 THE WITNESS: I would like to, if possible, make some brief statements which I believe to be within the realm of my expertise and not to go beyond that.

40 MR PIKE: Your Worship, I object to this.

THE CORONER: I will just see what area it is, Mr Smith.

45 THE WITNESS: It is really based on my direct observation of the course of the fire over the first three days from the area where I had

constantly a fairly good view of what was going on. And particularly my view is that --

MR PIKE: I object to this.

5

MR ERSKINE: I object to this too.

MR PIKE: Perhaps my friend Mr Lasry may wish to ask for a short adjournment to discuss these things. These are things which probably should be under the control of counsel assisting. This is not a free for all.

THE CORONER: Yes, that might be right. I will ask Mr Lasry to speak with you, Mr Smith, and just canvass the areas upon which you want to make comment.

THE WITNESS: Thank you. None of them would be outside any material that I have produced and presented.

THE CORONER: All right. I will still ask you to do that.

25

MR LASRY: Let me make it clear: I have only spoken to Mr Smith in the course of outside the Court. I haven't, as far as I can recall, conferred with him. I perhaps should have referred to the fact that there is other material which is on the system which represents his submission. I had intended, and I don't want to deprive Mr Smith of any opportunity that he wishes to take, to treat him only as a witness and I have, as would have been obvious, restricted his evidence to what I perceived to be the issue particular in relation to the viability of the Lowells trail, McIntyre's Hut trail and also the issue of whether or not any Brindabella units turned out on the first night. They seem to be the main two issues.

The question will be whether or not Mr Smith is in a position similar to other potential witnesses from whom your Worship has received submissions and who have been asked if there are any issues that they wish to raise for your consideration, as

45

people who have been involved in both the firestorm and subsequently as witnesses in the inquest.

5 I don't see a difficulty with it. I must say, your Worship, I am not sure my conferring with Mr Smith will really resolve the problem. I doubt it will assuage the objections. If there is information that Mr Smith has, unless it is in  
10 some way scandalous or offensive - and I don't suspect it is - then it is probably more efficient for your Worship to hear what he has to say and then your Worship can hear from all of us as to what use, if any, your Worship makes of it. I am  
15 not sure that me having a conference with him will resolve the issue, and I am not his counsel.

THE CORONER: No, I understand that.

20 MR ERSKINE: Your Worship, with respect, the problem one has with that is that, perhaps unlike some of the other witnesses, Mr Smith has a very confined role in matters that are relevant to your inquiry. He didn't actually fight McIntyre's Hut  
25 fire for the next several days.

THE WITNESS: That is not correct.

MR ERSKINE: According to his statement that is  
30 what he says. He was out fighting Mt Vale. He was 10, 15 kilometres away. We would respectfully suggest that your Worship's original proposal is safer just to find out what the issue actually is. It may be that it is outside the scope of your  
35 inquiry or it may be that it is inside it, in which case we have to open up the issue.

THE CORONER: Q. You have put in another submission over and above this statement,  
40 Mr Smith.

A. All of my daily notes for that period from the 8th to the 18th have been included, which do include the issues that I would raise now. I won't intend to raise all of those.  
45

THE CORONER: I will hear what Mr Smith has to say and then I will hear submissions, as Mr Lasry

suggested, from counsel as to what can or cannot be made of that information. It is not appropriate to prevent Mr Smith from giving further information, if that information is relevant.

5  
10 Q. What involvement did you have, Mr Smith, and what observations did you make? I think you said you observed the fire. I should say to you that I did see also a very brief video, which I think is in the middle of a family barbecue or a family celebration or lunch, of the fire. I have seen that as well. I think you very kindly provided that video. I have seen that little piece.

15 A. Your Worship, I think that would have been the Broken Cart Fire. I just wanted to make the point - and you will have heard this from other witnesses and even the previous witness, but I think it is important for me, as someone who  
20 operates in the area and field to make the point - that I believe that the use of local knowledge is extremely important when it comes to the reactive phase of a fire.

25 We have heard that in this incident we moved pretty quickly into a planned incident management approach to an indirect attack on the fire. The normal thing would have been to attempt a direct attack and to get intelligence on that fire at the  
30 outset.

These lightning strikes behaved in a fairly normal way, and particularly the Baldy Range fire. This is judged very much as we do from the character  
35 and size of the smoke column that the run-up the hill, which would be totally normal for a fire in the afternoon under any conditions, to run quickly up a very steep mountain the way it did. The Baldy Range fire, on the other hand, was quite  
40 small and stayed quite small for a long time.

I find it fairly inconceivable that a group officer who I have full respect for could have gone back on the Friday evening, that is the 10th,  
45 and argued to the Incident Management Team that they could have attempted a direct attack to suppress that fire; that that fire wouldn't have

been suppressed - done in the same way, much better, two days earlier.

5 One other point I would like to make is in  
relation to containment lines. I think the Court  
has heard a deal about containment lines and  
containment. I got quite a strong impression that  
people have referred to containment lines in much  
10 the way as they are a barrier to fire and that, if  
you like, the wider the road or the river or the  
trail or the rake hoe line, it presents some kind  
of a barrier to the fire. This is indeed not the  
case. In any running fire any kind of a line will  
probably not hold.

15 The important thing about a containment line is  
that it doesn't represent a containment until it  
has been burnt in from that line quite deeply.  
The fact that it is a line on the map route really  
20 means nothing until you really have undertaken  
that back-burn from the trail. It is exceedingly  
important that a containment line is burnt in that  
way so that the edge is quite black, so that a  
fire can't come back through there and that the  
25 containment line is patrollable. So in that sense  
the use of a river as a containment line is, in my  
opinion, a flawed choice, one that I would avoid  
if you had any kind of a fire trail to use.

30 Even though in this case we used the Goodradigbee  
River as a containment line on the western side of  
the fire, clearly throughout the week it was  
spotting over that fire. I think it indicates  
that aerial attack alone is not sufficient for  
35 containing a fire, that you must have ground  
forces on the ground and they must be able, in a  
sense, to be able to get to every inch of the  
containment line.

40 Those are the main points I wish to make: that  
local knowledge is, I believe, very important;  
that meteorological conditions in the mountain are  
quite different to Canberra Airport; and that in  
future one might look to getting local  
45 meteorological data.

The last point I would make is that I don't

believe in any way it is necessary to completely  
prepare a control line before you start a  
back-burn. Usually the preparation of an anchor  
point on a back-burn, you need to take some time  
5 to get a depth of burn in there. It is quite  
normal in my experience for the preparation of the  
line to be taken concurrently with the actual  
back-burning operation.

10 Now people have to make judgment calls on that.  
But long delays resulted, delays which I think  
were ill-affordable on at least two of the fires  
that I was involved in. I think that basically --

15 THE CORONER: Q. Waiting for the back-burn?  
A. Yes, yes. I think that covers most of the  
things that I wanted to just draw out of the  
larger volume of the material.

20 THE CORONER: Yes, thank you, Mr Smith.

MR LASRY: There was one matter that doesn't arise  
from any of that that perhaps I should have asked  
Mr Smith, since he knows the trail that the video  
25 was taken. If I might ask him that question.

Q. Mr Smith, the Lowells trail, McIntyre's trail  
that we have seen in the video, as at the time, as  
at January 2003 and indeed as at the time of your  
30 visit to it recently, to what extent is that  
trafficable for either a bulldozer or a vehicle  
carrying a bulldozer; and, if it is trafficable,  
what kind of bulldozer would you expect to get  
down that trail?

35 A. You wouldn't be able to float any bulldozer on  
those trails. It is far too windy.

Q. Too steep and windy?

40 A. It is not very steep, but you certainly  
wouldn't even dream of floating a bulldozer in.  
You would walk a bulldozer in of any category into  
that area.

45 MR LASRY: Thank you. Thank you, your Worship.

THE CORONER: Yes, are there any questions arising  
from what Mr Smith has said?

MR WATTS: Yes, your Worship.

**<CROSS-EXAMINATION BY MR WATTS**

5 MR WATTS: Q. If you got a bulldozer to the point where there is the kink in the trail, you have given some evidence about putting a rake hoe line across. Would a bulldozer have been able to put a line across there as well, in your opinion?

10 A. Certainly. In the normal case of fighting a fire in that particular spot, my approach would be with your tanker units probably in the first instance just to go along the edge of it and put it out and then begin working on - a rake hoe  
15 trail in my opinion would probably be sufficient because it is such a small area. And remember, too, that the whole of that kink hadn't been burnt through probably until the second day. So that if  
20 one had got in on the first day, then you would have a much smaller area just to link back into the road and keep the fire to the eastern side of McIntyre's Hut trail.

Q. It is your view that those containment lines  
25 could have been burnt off and then the fire contained in that area?

A. Certainly. There wouldn't be a great advantage of putting the bulldozer line there because you couldn't really drive vehicles - you  
30 can go more steeply with a rake hoe line than you would with a vehicle. The whole point of this, the only point of putting a bulldozer trail in would be that you could patrol it with a vehicle. But I would have thought in this case a rake hoe  
35 line which was patrolled by people on foot would have been sufficient.

Q. If you have a large containment area of about  
40 10 kilometres by 10 kilometres, as was established ultimately around the McIntyre's Hut fire, it is your opinion that the back-burning ought to commence promptly whilst you have good weather conditions?

A. I would have recommended a much smaller  
45 containment area. But given the judgment was made for the bigger one, it would have been absolutely imperative in my opinion to begin back-burning on

the 9th.

Q. When?

A. On the 9th.

5

MR WATTS: Thank you.

THE CORONER: Yes, thank you, Mr Smith. Thank you  
for your assistance. You are excused. Thank you.

10

**<THE WITNESS WITHDREW**

MS CRONAN: Your Worship, on Friday afternoon my  
friend Mr Whybrow raised the issue of the  
15 statistical breakdown of the issues from the  
victim/resident questionnaires. I am in a  
position now to tender three statistical analysis  
done by Constable Judy Goldsmith. First of all,  
there is a statistical analysis of the  
20 questionnaires relating to issues by suburb which  
I tender.

THE CORONER: These are to be separate exhibits?

25 MS CRONAN: Yes, your Worship.

THE CORONER: Statistical analysis by suburbs -  
they were all conducted by Constable Goldsmith?

30 MS CRONAN: Yes, your Worship.

THE CORONER: That analysis will be exhibit 0074.

35 **EXHIBIT #0074 - STATISTICAL ANALYSIS BY SUBURBS BY  
CONSTABLE GOLDSMITH TENDERED, ADMITTED**

MS CRONAN: I also tender a statistical analysis  
of issues from questionnaires relating to urban  
houses destroyed.

40

THE CORONER: That will become exhibit 0075.

45 **EXHIBIT #0075 - STATISTICAL ANALYSIS OF ISSUES  
FROM QUESTIONNAIRES RELATING TO URBAN HOUSES  
DESTROYED TENDERED, ADMITTED**

MS CRONAN: Finally, an analysis of the issue

breakdown for the rural lessees.

MR WHYBROW: I assume that copies will be provided  
at some stage to the rest of us, even though they  
5 have now been accepted into evidence as exhibits.

MS CRONAN: I will get copies for my friends.

MR WHYBROW: Do those documents --  
10

THE CORONER: The last analysis will be exhibit  
#0076.

**EXHIBIT #0076 - STATISTICAL ANALYSIS OF RURAL  
15 LESSEES TENDERED, ADMITTED**

THE CORONER: Yes, Mr Whybrow.

MR WHYBROW: I haven't seen them. Do those  
20 documents contain any methodology as to what is  
contained on them? I am somewhat concerned  
firstly that this material only becomes an exhibit  
after it has been raised by myself when it has  
apparently been something that has been around for  
25 a while.

On the Friday at page 6498, Ms Cronan objected to  
what I was doing and said:

30 "Ms Cronan: I do have some statistical  
analysis of these questionnaires but I don't  
have them with me in court. But my  
recollection of them does not accord with  
that.

35 The Coroner: No, nor does mine."

THE CORONER: She didn't object to what you were  
doing. The objection was to the information that  
40 you were suggesting.

MR WHYBROW: It would appear that both  
your Worship and Ms Cronan were of the  
understanding that there was material containing  
45 different figures to those that I was putting. I  
am somewhat concerned that that material only  
becomes provided to the rest of us upon it

becoming an issue where I asked for it specifically after court. I also request if there is any other material that counsel assisting has which is an analysis of other parts of the evidence which may or may not have been provided to your Worship already, that that be disclosed to the rest of us, your Worship.

10 THE CORONER: Perhaps I am speaking for Constable Goldsmith, but I presume this information is extracted from information that is available to everybody, Mr Whybrow. This is not a secret. This is information that has been available and is available to everybody. It is just put in table form.

20 If you want to know how Constable Goldsmith collated it, that is another issue. It is not proper for you to suggest that this is somehow secret information or information that has only just recently come to light. As I understand, it is an extraction of statistical information based on what is already contained and provided to everybody.

25 MR WHYBROW: That is exactly what I was doing which was objected to, and then all of a sudden this material comes out. That is what my concerns are.

30 THE CORONER: Do you have a table of the statistical examination that you have done, Mr Whybrow?

35 MR WHYBROW: I have the basis upon which I have put my questions, and in due course it may well be material I will be seeking to put before the Court.

40 THE CORONER: If you have a statistical analysis that differs from this then you can bring that matter forward.

45 MR PIKE: Can I say - it may not affect me at all - I wish to reserve my position about these documents. They have taken me completely by surprise. I must say it is a bit unorthodox for

the evidence to be produced in this way. I take it no further than that.

5 THE CORONER: The evidence is already there. This is just --

MR PIKE: I am sorry, your Worship. What I am indicating is that it is unorthodox for a document to be tendered in a circumstance where it has  
10 apparently been prepared by someone apparently on the basis of the material before the court. All I am saying is we haven't been given it in advance and haven't had the opportunity to assess it and  
15 to do is reserve my position. I am sure there will be no problem but I do ask to reserve my position.

20 THE CORONER: Yes, thank you.

MR LASRY: Can I return to the orthodox, your Worship, and suggest that your Worship now adjourn until the orthodox time of 10 o'clock next  
25 Tuesday morning.

THE CORONER: So Mr Cheney on Tuesday?

MR LASRY: Yes, your Worship, the 16th.

30 THE CORONER: Tuesday is the 15th.

MR LASRY: Look, your Worship, rather than have yet another discussion about it, can I invite your Worship to adjourn sine die.  
35

THE CORONER: It is just that the information that has been sent to counsel suggests that Mr Cheney will be called on the 16th or the 17th. I will just adjourn until somebody provides me with the  
40 information --

MR LASRY: Perhaps your Worship would adjourn to not before the 16th. If that is what is in the information that has been provided, if  
45 your Worship will make that as the date before which you won't resume.

THE CORONER: Is that what you were going to say,  
Mr Walker?

5 MR PHILIP WALKER: No, your Worship. I was  
wondering whether we could get an update on the  
transcription of the telephone recordings that  
your Worship has been listening to and I  
understand that you indicated were going to be  
transcribed.

10

THE CORONER: We do have the bulk or the great  
amount of the last lot - I don't know whether they  
have been provided to you. I do not know what is  
happening with the transcription. I presume that  
15 is still proceeding?

MS CRONAN: Yes, your Worship. If they haven't  
been provided I will make arrangements for them to  
be provided.

20

THE CORONER: They have all been transcribed now  
and the transcriptions are available?

MS CRONAN: I don't know if they have all been  
25 transcribed. Certainly the ones we have been  
listening to have been. They can be made  
available. I will make arrangements for that.

THE CORONER: I will adjourn now until not before  
30 the 16th, that is next Wednesday, at 10 o'clock.

**MATTER ADJOURNED AT 4.24PM UNTIL NOT BEFORE  
WEDNESDAY, 16 JUNE 2004**

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TRANSCRIPT OF PROCEEDINGS

CORONER'S COURT OF THE  
AUSTRALIAN CAPITAL TERRITORY

MRS M. DOOGAN, CORONER

CF No 154 of 2003

CANBERRA

INQUEST AND INQUIRY INTO  
THE DEATH OF DOROTHY MCGRATH,  
ALLISON MARY TENNER,  
PETER BROOKE, AND DOUGLAS JOHN FRASER  
AND THE FIRES OF JANUARY 2003

DAY 69

Thursday, 17 June 2004

MR LASRY: Good morning, your Worship.

5 The main purpose of this hearing this morning from  
our point of view is to effectively treat today as  
a directions hearing. It became apparent to us in  
the middle and towards the end of last week that  
the original timetable that we had proposed, which  
10 involved endeavouring to complete all the  
evidence, both expert and remaining evidence of  
factual material, by the 30th of June was simply  
impractical. Particularly in assembling the  
expert evidence of Mr Roche, to some extent  
15 Mr Leonard and the outstanding supplementary  
report of Mr Cheney on fire behaviour, the  
original timetable that we set for ourselves was a  
timetable that we could have comply with. But it  
became obvious to us that what was being pressured  
20 by that timetable was the necessary time for the  
represented parties affected by that material to  
digest it, to take instructions on it and to be in  
a position to deal with it in evidence within a  
fairly short time after its delivery.

25 We received one particular, I say complaint but  
request in effect from our learned friend  
Mr Craddock who made it clear from his point of  
view he simply could not cope with the timetable.  
30 On analysis, it seemed that it was likely that  
others would justifiably say that they couldn't  
either.

The material is too important to be rushed. The  
35 issues are all important issues in your Worship's  
inquest, and therefore it became necessary to  
reconsider the timetable. So we have done that.  
The broad detail of the proposed future timetable  
has been communicated to the represented parties  
40 and at least as far as I am aware there is no  
particular opposition to it.

I have provided to your Worship and to the parties  
a copy of the timetable as we would see it.  
45 Perhaps I will just go through it briefly. We  
would expect that by the 2nd of July all of the  
material in relation to the expert evidence would

be able to be provided to the parties. That is the evidence of Mr Roche, Mr Leonard and Mr Cheney. The further supplementary report of Mr Cheney is I think only brief and as I  
5 understand it - I have not yet seen the material - it is effectively an adjustment of his original report based on the evidence that has been given in this inquest.

10 Your Worship will no doubt recall that in the course of his initial evidence he made it clear that his assessment of the fire behaviour would of course give way to any other evidence which was obviously better material and was available to  
15 him. I think that is essentially the exercise that he is presently going through. I don't need to say anything about Mr Roche and Mr Leonard's material. The nature of that is clear to the parties. We expect that all that material will be  
20 with them by the close of business on 2 July, which I think is a Friday.

We would request that the legal representatives of the parties who wish to recall their clients  
25 advise us of that by 16 July. In the end the decision which witnesses to call, as we have observed throughout the inquest, is our decision and of course primarily your Worship's decision. So we would ask that we be informed by the parties  
30 of either their client's or any other evidence which they say we should call as relevant to the issues in this inquest by 16 July.

We had always anticipated that Mr Lucas-Smith  
35 would be recalled. It is I think now clear that Mr Castle will also need to be recalled, if only on the issue of the evidence given by Mr Bartlett. There may be other issues as well that affect him. If there are any others, then we would ask that we  
40 be informed of that by 16 July.

We would then propose that your Worship continue to hear evidence starting on 9 August. The intention is that that evidence would run for a  
45 period of two weeks. So it would finish on the 20th of August which is a Friday. It does seem to us that will be enough time to deal with the

expert evidence and subject to the number, which I imagine will only be a handful, also enough time to deal with the recall of any parties who have to give further evidence.

5

I have been asked by I think both my learned friends Mr Stitt and Mr Pike that we deal with the witnesses Messrs Roche and Leonard in that first week and perhaps call them as the first two  
10 witnesses on the 9th of August. I don't see any difficulty with that. From our point of view there is no particular importance in the order of witnesses. So if it suits other parties, then we will do it in that order.

15

If, in fact, the evidence does not finish by 20 August - depending on how far over the 20th of August it runs, the rest of the timetable might need to be adjusted, although I think that is  
20 unlikely. Unless something dramatic happened, we would still expect that by 3 September our final written submissions could be provided. I have submitted before and say again that, although no submissions are before the Court at the moment, we  
25 would suggest that it is clear as to what many of the issues are and obviously work is being done by us and will be able to be done by the parties in relation to the issues in the case.

30

We would then ask your Worship to direct that by 1 October the detailed written final submissions of the parties be provided to you and to us. That effectively provides a month beyond the provision of our submissions which, although the issues are  
35 numerous and in some cases complex, we would have thought is more than adequate time to complete that response.

40

Then we would propose that on the 6th of October your Worship resume hearings, effectively for the purpose of enabling counsel to speak to their submissions. It may be that it would be necessary for us, for example, to make a reply. It may be that, depending on the way the situation develops,  
45 the reply we would wish to make to the submissions of the parties could be done verbally. It may turn out that it would be desirable for us to

provide some further written reply and then speak to that in the session commencing on 6 October.

5 One way or the other it seems to us that three days ought to be sufficient for the issues to be raised and, in part, we would submit it is appropriate to do this simply so that the public know what in the end the issues as between the parties are. So the format would probably be the provision of some kind of overview by each counsel of the important points they make in their submissions and, where necessary, have some debate, whether it be over legal issues such as the matter raised by Mr Walker and Mr Erskine or other issues that may develop in the course of the submissions.

20 It does seem to us appropriate that some time limit be applied to the submissions, and three days ought to be adequate for the parties, including us, to put our cases succinctly and in a summary form in order to inform the public and in order to resolve issues between us without the need to spend weeks going into the sort of detail that will be found in the written submissions.

30 We wondered whether it was feasible to put a blanket time limit on everyone of an hour or two hours or something like that. In the end that is probably not appropriate because different parties will require a different amount of time. I would imagine that there would be a number of parties making submissions whose submissions would be quite brief, either because their interests don't appear to be adversely affected by the inquest; or their interest is simply a peripheral interest and they deal with that issue and that is it.

40 Others of course are centrally involved in all the material before court, and they obviously need to be given time to develop their argument and to put their case. As to how a time limit might apply we haven't really formulated, but we would ask that the other parties prepare - we will certainly do this - on the basis that all of this material needs to be completed within three days, so that of course your Worship can immediately do the work

necessary to develop findings and produce a report.

5 As far as we can see, that resolves all the  
difficulties about pressure of time, and the time  
required to digest expert material and I think  
allows, as far as we can tell, everybody  
sufficient time to do the work they have to do.  
10 It will mean that we will be effectively two or  
three weeks over our original timetable. I think  
the first evidence in this case was called on the  
7th of October last year. So that final hearing  
date will in fact be 12 months since the inquest  
15 commenced. Of course the inquest hasn't been  
sitting continuously since that date. Although it  
is more than we had hoped for, we still think it  
is a satisfactory process. If your Worship  
pleases, that is our proposal.

20 THE CORONER: Thank you, Mr Lasry. I will just  
hear if counsel have any comment that they wish to  
make on the proposed timetable. I must admit, I  
have been very satisfied with the solid progress  
that we have made to date but do recognise that,  
25 given there are still reports and substantial  
reports outstanding, it is important that counsel  
be given an opportunity to consider the content of  
those reports.

30 I will hear from counsel if they have any comment  
they wish to make on the proposed timetable. Does  
anybody - Mr Archer? Mr Erskine, seeing you have  
stood up?

35 MR ERSKINE: I think it is the case of somebody  
needs to go first.

THE CORONER: That is fine.

40 MR ERSKINE: We have, with great respect,  
absolutely no problem with the timetable. Indeed,  
we would say that it is a very reasonable proposal  
in all of the circumstances, subject to one  
matter. Counsel assisting you has indicated that  
45 his team would be able to give their submissions  
on 3 September and, to a large extent, those are  
the submissions to which other parties may need to

respond.

But it is also apparent in the course of this  
inquest that between parties there may or may not  
5 be some issues. There have been a number of  
witnesses called where issues have been explored  
by one counsel representing a particular interest  
which affects another interest which have not been  
explored by counsel assisting. I don't mean that  
10 in any way pejoratively, it is simply a fact of  
different interests pursuing different issues.

We would therefore submit to you that there is  
probably a need for one more layer of exchange of  
15 written submissions. It could be very brief in  
terms of taking time, but it would be perhaps a  
week required in order to respond to the  
submissions of other counsel or of other parties.  
It could be, for example, accommodated - I don't  
20 know if I am going to get howls of protest for  
this proposition - by moving the 1st of October  
forward a week as being the time when the  
substantial submissions are required, and then  
having 1 October as the reply written submissions,  
25 if I can call them that, as between the parties.

Subject to that one matter, your Worship, and  
also, I gather to a degree of flexibility and  
discussion as to exactly what the order of  
30 witnesses will be after 9 August, which we can't  
decide now, that was the only matter that I wished  
to raise with your Worship.

THE CORONER: Thank you, Mr Erskine, that sounds a  
35 sensible proposition.

MR LASRY: Perhaps if I can deal with that. My  
learned friend raised that with us just before  
your Worship came on the bench. It sounds  
40 sensible to us. Of course, the pressure isn't  
applied to us by reducing the time by which the  
other parties' submissions are to be filed. I  
only say that work can be done at the moment on  
the issues. Perhaps an extra week might not make  
45 all that much difference. There may, on the other  
hand, be reasons why it can't be done by then.  
That would actually mean 24 September instead of

the 1st of October, and then a week for exchange of submissions between the parties as to the issues between themselves, of course copied to us as well. We would be content with that. But  
5 whether the other parties would be or not remains to be seen.

THE CORONER: Yes, Mr Pike?

10 MR PIKE: I do have an application to make of sorts. The background to it is this: I have a part-heard matter before the Deputy State Coroner Karl Milovanovich in the Westmead Coroner's Court which has been set down some time ago to be  
15 completed on the 17th and 18th of August. I should say for the record there has also been a day set down for the 19th. We are all very confident that that will not be required. Indeed, I am making what efforts I can to see if there is  
20 any possibility of the evidence being completed on the 17th. It is a case where I appear on a direct access basis pro bono for the family of the deceased. The matter involves a suicide of a young woman. Clearly I have a commitment in that  
25 regard. I would have to satisfy that commitment.

My first application, as has already been foreshadowed by Mr Lasry, would be that Mr Roche's evidence be taken first up or at least completed  
30 in the first week, being the week commencing 9 August. Because it seems to me unlikely that I am going to need, at the present time, not having seen Mr Cheney's further report, to cross-examine Mr Cheney. That appears to be I have no problem,  
35 at least as far as we have heard so far.

The second aspect, and my formal application, would be on the 17th, that being the Tuesday, no evidence be taken in this inquest because I won't  
40 be able to be here. I understand your Worship may be against me on that but I do make the application. If your Worship is against me on that, my supplementary application or further application is that if evidence is to be taken on  
45 the 17th and 18th, being a Tuesday and Wednesday, that be the evidence of Mr Castle, if we were up to that point. Much of this is speculative

because we have no idea as to how the evidence is going to run.

5 I say Mr Castle because it seems to me, and I have discussed with my friends, that of Mr Castle and Mr Lucas-Smith, although it is probably unlikely that either of them will touch on the interests I appear for, it is less likely to be Mr Castle who would touch on those than Mr Lucas-Smith. I  
10 simply make that application, that if there is to be evidence on those two days, it be Mr Castle's.

15 If his evidence is finished on that Tuesday and you have to proceed with Mr Lucas-Smith's, then the further application I would have, I have discussed this with my learned friend Mr Woodward yesterday, would be that I be allowed to complete my examination of the witnesses who gave evidence on those two days after I have had the opportunity  
20 of reviewing the transcript and taking instructions in relation to the matters that they had raised in that period of time that I wasn't there.

25 It is an unfortunate situation but something which has arisen because of these dates having been allocated prior to there being a suggestion of going over to August. Subject to the other possibility of simply not sitting on those two  
30 days, which may not be something that your Worship warms to, those would be the only submissions I would have to make.

35 THE CORONER: Thank you, Mr Pike. I am not inclined at this stage to say I won't sit on the 17th or 18th. Mr Lasry has indicated that there is a likelihood that Mr Roche's evidence would be taken in that first week. I think it just depends on how far we proceed with that and what does in  
40 fact happen on the 17th and 18th.

45 MR PIKE: As I said to Mr Woodward the other day and in fact when I first raised it with both Mr Lasry and Mr Woodward last week - on the Friday, I think it was - this is very speculative because we simply don't know how the evidence will unfold.

THE CORONER: Thank you, Mr Pike.

MR LASRY: If I could say in relation to that: we will accommodate my learned friend as much as we  
5 can. Unless someone has an objection to this, I am happy to say now that we will call Mr Roche first on the 9th of August. That seems to suit everybody.

10 THE CORONER: Yes, Mr Archer?

MR ARCHER: In relation to the proposition that my friend Mr Erskine raised, the time frame allowed for response to counsel assisting's submissions,  
15 perhaps less for me but I suspect more for interests such as those represented by Mr Lakatos, would be substantially prejudiced by a collapsing of that time frame. Although I am very aware of your Worship's desire to get this matter completed  
20 expeditiously, my suggestion would be just a slight slippage in the last three days to perhaps days in the following week, the week beginning Monday, the 11th of October, would allow enough time for the parties to make submissions in reply.

25

I think there may be a couple of parties that will need a little bit of time to review the evidence in relation to submissions made by other parties,  
30 and the three days that allow for oral submission and the five days between the parties receiving that material and presenting oral submissions may not be, in my submission, quite enough.

35 My proposition - just to put forward a suggestion - would be some time that week, even the 11th, 12th and 13th being set aside for submissions to be made. My general proposition is that the extra layer should not be accommodated by  
40 collapsing of that time that the parties will need I think to review what I expect will be very thorough and quite detailed submissions by counsel assisting.

45 THE CORONER: Except that perhaps counsel should be considering now what submissions they intend to make themselves in this time frame.

MR ARCHER: I am sure the parties are. But the reality is that the way the parties approach that task and the detail of the submissions they put in would be very much determined by what counsel  
5 assisting says. A party like the territory, for example, or the party that I represent, will not want to waste a lot of time making written submissions in relation to material that is not going to be a matter of contention or matters  
10 raised by counsel assisting.

MR LAKATOS: Very briefly, may I say Mr Archer has taken the wind out of my sails again in relation to the issue about the four weeks. If I could put  
15 it this way: it is my submission that your Worship should make, if directions are required to be made, directions up to and including the 9th of August. Thereafter making firm directions is speculative. If we expect the evidence to finish  
20 on a certain day and it doesn't, then time periods may have to be blown out. I must say the territory accepts the general time frames that my learned friends counsel assisting have put up, and we would attempt to meet those, but it is perhaps  
25 not appropriate to fix them in stone at this stage because there is some variation.

At least two variables are these: they have not been adverted to this morning but have been  
30 previously, the expert reports of Messrs Roche, Leonard and Cheney may or may not require the adducing of further evidence; that of course will be an issue. Secondly, the submissions by my learned friends counsel assisting, so time earlier  
35 your Worship will recall that Mr Lasry said - I am now quoting from my memory - the adverse comments which they would agitate your Worship make will become apparent in their written submissions. If there are comments which rely upon evidence which  
40 has not been the subject of testing in an oral way - it was put that way - there may be a need for further evidence to be called on one side or both sides.

45 Now that is still very much an issue which is determined by what my learned friends write, and it may never come to pass. That is indeed another

variable which, in my submission, is a good reason why firm timetables and dates should not now be set for after the completion of the evidence. Perhaps at that time we should revisit it with a  
5 view to saying that these kind of time frames be set down.

The last thing I should say is the suggestion by my learned friend Mr Erskine can be dealt with in  
10 a different way, which is to say: if there are matters in the submissions of individual parties which affect other individual parties and they would wish to respond to it, which seems to be the basis of his application, at least one way of  
15 doing that is that the individual parties (a) can talk to each other; and (b) can prepare an outline which should be delivered to the other affected party a day or some days before --

20 THE CORONER: Put them on notice.

MR LAKATOS: -- oral submission and those be dealt with orally. Otherwise there is a very real prospect that there will be written submissions,  
25 written submissions in reply, reply, reply and so on we go. That is a suggestion. But in my submission, it is too early really to make any firm directions in that regard with any degree of confidence. Those are my submissions.

30 THE CORONER: Thank you, Mr Lakatos. Yes, Mr Stitt.

MR STITT: The proposed timetable by my learned  
35 friend is suitable to us. I am grateful to him for calling Mr Roche and Mr Leonard first, because that probably will not require me to deal with Mr Cheney at all.

40 The only comment we would make is that the statutory obligation of your Worship to give notice of possible adverse findings I take it are to be complied with in the submissions of counsel assisting. In other words, parties that are  
45 likely or are to be given notice that they will have an adverse finding or a possible adverse finding made against them will be incorporated in

the submissions. I take it then that that part of those submissions will be adopted by your Worship as the relevant notice under the Coroner's Act.

5 So your Worship will have to at some stage indicate that that part of the submissions at any rate will be adopted by your Worship and then the parties that are potentially at risk can then take their own course. That's as I understand the way  
10 it was to be dealt with.

THE CORONER: Yes.

MR STITT: In that light, I then really don't  
15 understand this concept of issues between the parties. There are no such issues in these coronial inquiries. It is a matter for your Worship as to the terms of reference and the so-called issues between the parties seem to be,  
20 with respect, nothing more than a red herring where people are slagging off at each other. It doesn't really have anything to do with what your Worship is dealing with. If those matters could just be confirmed by our learned friend, we  
25 have no other comment to make.

THE CORONER: Thank you, Mr Stitt.

MR LASRY: It seemed to us the way that  
30 your Worship could comply with your obligations under the act was to in effect do it through our submissions on the basis that our submissions, insofar as they contend for adverse findings against the parties would be, as it were,  
35 potentially the worst outcome that any party could expect. If it occurred to your Worship, for example, that on the evidence you were inclined to make a finding adverse to a party which we had not put as a submission, then your Worship would need  
40 to give in relation to that potential finding separate notice.

THE CORONER: Yes.

45 MR LASRY: And obviously not rely on our submissions. If it was something that we had not put to you, then you would need to give notice

pursuant to that section of the Act. I don't understand that there is any difficulty about your Worship's compliance with I think section 55 by in effect using our submissions for that purpose.

THE CORONER: Certainly, Mr Stitt, I would have to adopt the submissions if I was minded to do that. And if there was something over and above what was in the submissions, then I would certainly have to give notice.

My understanding is also that notice has to be by way of, for example, the nature of the comment as well. It has to be more than just a very broad and general comment. It has to be a specific comment. So, yes, I accept that.

I must admit in relation to the issues between the parties, I do take account of what Mr Lakatos said. There is certainly some merit in parties giving one another some degree of notice of what they intend to say, if they wish to do so. But there certainly isn't an obligation on my part to give every party a right of reply to what another party says about that particular party in their submissions.

I can either accept or reject the submissions made by every party on behalf of their own or on behalf of the criticism they have to make of another party in the proceeding. I don't know that that is such a major issue, Mr Erskine. But the way to deal with that is for people to perhaps speak to one another, as Mr Lakatos said, put one another on notice and then perhaps address in their own submissions any criticism that they foresee being made by somebody else over and above counsel assisting.

MR ERSKINE: I understand the thrust of what is being put. May I make two brief comments in response to it. The first is that in the course of the debate in the last two minutes part of the problem has been exposed, which is that while obviously we would be paying great attention to what is in the submissions from counsel assisting,

because they have a great deal of significance in this inquest, particularly in the light of adverse comments your Worship might make. I think where my submission was heading to was drawing attention  
5 to the fact that it is actually open to other parties as well to invite your Worship to make adverse comments. They could even be comments that counsel assisting does not invite your Worship to make.

10

In order to be able to respond to that and certainly from the way the evidence has been going, there must be ample scope for that in relation to a number of parties and a number of  
15 witnesses. I submit that it is reasonable to have that additional layer so there can be a formal response, given that it is possible that your Worship might ultimately be persuaded by the force of one of the parties' submissions that  
20 there might be a need for a comment over and above that which counsel assisting has recommended.

The second matter which flows from that is while we focus upon the inquest in terms of the formal  
25 obligations your Worship has under the statute, one should not with great respect lose sight of the fact that the High Court recognised I think something like 15 years ago in Annetts v McCann, that there is also an effect upon reputations that  
30 arises out of inquests and it is necessary, to be able to protect those, that parties have sufficient ability to respond. That also, in my submission, creates a need for the extra layer. It can be brief; it can be confined; but it would  
35 be appropriate to have it in there for both those reasons.

If it be the case that it can't be accommodated by compressing the timetable between 3 September and  
40 1 October, then we would respectfully suggest that my learned friend Mr Archer's proposition about going forward another five days for the oral submissions, we would be able to accommodate that quite easily.

45

THE CORONER: Yes.

47

MR LASRY: If I could deal with that last issue before we go any further. We would agree broadly with the submissions made by Mr Erskine. It is, I would have thought, foreseeable that as between  
5 the parties a party may wish to make submissions which urge your Worship to make a finding adverse to another party or critical to another party. I think it is entirely possible as we have watched the evidence develop.

10

If those submissions were appealing to your Worship, then obviously that would have to be dealt with in the appropriate way according to everyone the opportunities that they are entitled  
15 to. I think it is more likely that Mr Archer's suggestion is the more practical; that is, that the 8th of October would become the date by which replies between the parties on those relevant issues be filed with each other, with you and with  
20 us, and that the resumption date instead of being 6 October would become the three days between 12 and 14 October. I think there is a case to be made for that being done, and we would accept that as a proposition.

25

THE CORONER: At this stage what I propose to do is just regard this - indeed as it is headed - as a "proposed future timetable". As Mr Lakatos  
30 said, it will very much depend on what information is provided to you, Mr Lasry, about other evidence to be called. But I will certainly adhere to that timetable in relation to 16 July, that parties do inform you.

35 MR LASRY: We only ask for directions up to the 9th.

THE CORONER: Up to the 9th, yes. I would certainly encourage counsel to regard the  
40 timetable after the 9th as being the broad timetable, depending on when the evidence is completed, but broad timetable in relation to the type of time frames that are being considered.

45 MR LASRY: We would be asking your Worship probably on 20 August to make the remainder of the directions. By then, of course, the issues would

be a lot clearer.

THE CORONER: If the evidence is completed it will be clearer at that time. Yes, Mr Whybrow?

5

MR WHYBROW: A couple of matters. I agree with what has been proposed in relation to giving concrete directions until 9 August, and then beyond that perhaps things that we don't know what will occur. Lest it be said that I sat silent on the possibility of three weeks being a sufficient time - and perhaps even four weeks - for certain parties to respond to counsel assisting submissions, whilst it is certainly true that work can be done in this hiatus on catching up in effect and preparing issues, the position of parties such as the one that I represent is that our submissions are guided by what counsel assisting says.

20

We can prepare certain areas, but until it is known what counsel assisting says and whether certain criticisms are made, it may not be necessary to make responses to various areas. This will be, by the time we have finished taking evidence in the inquest of some 7,000 pages of transcript, over 30 volumes of material which forms part of the evidence, and I just raise as a possibility that it may not be a sufficient time - certainly three weeks and perhaps not four weeks - for some parties.

25

30

I raise that on behalf of myself. I note for somebody like Mr Watts, if he was to set aside one day per client he would run out of time before his submissions had to be put in. I do no more than just flag that as an issue that may be raised, depending on the detail and complexity of counsel assisting's submissions in due course when they are received.

35

40

As to your Worship complying with the requirements of section 55, I take some comfort in what your Worship said about your Worship's obligation to provide a copy of the proposed comment that you are going to make. Whilst counsel assisting's submission can certainly be an indication as to

45

what criticisms they are proposing to make, certainly it wouldn't be, from my perspective, an indication that your Worship will necessarily be automatically making any and all of those.

5 Otherwise submissions made on behalf of my client might be seen to be quite pointless, and it may be that your Worship ultimately will accept part of some submissions of one party and part of another.

10 It is at that point when your Worship proposes the comments that you are going to make that I would say that the requirement for affected parties to be given notice of the actual comments proposed needs to be given so that a particular response,  
15 which the legislation indicates must, if requested, form part of your report is provided to the parties to respond to the particular comment your Worship is proposing to make; not necessarily one that counsel assisting says that you should  
20 make. I raise that now so that your Worship is aware of what my position on section 55 is. It is not something that arises at this stage. They are the only matters I wish to raise at this stage.

25 THE CORONER: Thank you, Mr Whybrow. Yes, Mr Walker?

MR PHILIP WALKER: Mr Whybrow said largely what I wished to say on section 55; that is that there is  
30 a requirement for notice of a particular comment. That comment may well be modified from what was in counsel assisting's submissions. So I don't necessarily accept that notification can merely come through counsel assisting's submissions. I  
35 won't labour the point any further.

The other matter: your Worship said you might regard this as a broad timetable. Does the broad timetable mean oral submissions now on the 12th  
40 and 14th, as Mr Lasry suggested?

THE CORONER: No. What I am saying, the time line is the broad timetable but I don't propose to make any further directions past the 9th of August.

45

MR PHILIP WALKER: I appreciate that. I understand it is sort of indicative. It is still

handy to know which dates are at least the most probable at this point in time; that is all.

5 THE CORONER: If the evidence is completed by 20 August, then in all probability this timetable could stand or it could slip by the few days that Mr Archer recommended to the 14th of October. Do you have a commitment on that date?

10 MR PHILIP WALKER: I frankly think what Mr Lasry said in response to the comments raised by Mr Erskine is probably better that, instead of foreshortening the period for submissions, just to move it slightly back to the 12th to the 14th, in  
15 the manner Mr Lasry suggested.

THE CORONER: Yes. That may be what will happen, if the evidence is completed.

20 MR PHILIP WALKER: I appreciate you are not setting it in stone. It is nice to know at least which are the most likely dates.

25 THE CORONER: The 11th of October is a Monday and the 6th is a Wednesday. Currently it is proposed 6-8, so the three days Wednesday to Friday. The proposal is that perhaps we abandon those dates and start on the Monday, which is the 11th. So from the 11th to the 14th, Monday to the Wednesday  
30 or to the Thursday, if need be. I am sure that may well happen.

MR PHILIP WALKER: I appreciate that.

35 THE CORONER: I am not really inclined to say that it will be the 6th to the 8th or it will be the 11th to the 14th at this stage. It may be that neither of those dates are indeed suitable, depending on what develops. Mr Watts?

40

MR WATTS: Your Worship, just so I can get on the transcript.

45 THE CORONER: You want a record that you were here today.

MR WATTS: I am generally happy with the proposal.

I can indicate to my learned friends that I might be prepared to trade some of my time allocations.

THE CORONER: Your friends are on notice now.

5

MR PIKE: Can I just raise one final matter, which doesn't relate to the timetable but to further evidence. Those of us who have come into the matter a little bit late have always be in  
10 "catch-up mode" to some extent. The extra time gives us a bit of breathing space.

One issue that does come up though is in relation to audiotapes of telephone conversations - of  
15 which I haven't had the full opportunity to listen to - I am envisaging it to be likely that I can make an application that certain of those calls be admitted into evidence. I would not be in a position to finalise any application along those  
20 lines for probably a couple of weeks. It is not going to be a matter of great moment. I don't think it is going to impact upon the further evidence to be adduced in the matter in terms of the experts, but I do rise to raise the issue, and  
25 indicate that once I have finished listening to the tapes and taken instructions I will contact counsel assisting and make an application.

THE CORONER: Yes.

30

MR LASRY: I might say, from memory, that the tapes that have been played to your Worship --

THE CORONER: They are all evidence.

35

MR LASRY: -- were a selection. They were chosen as the relevant ones. Everything that has been played to you is now an exhibit and is therefore in evidence.

40

MR PIKE: I am aware of that.

THE CORONER: Is this anything above that, others that you have heard?

45

MR PIKE: Yes.

47

THE CORONER: Are there any other matters? You  
have confidence, Mr Lasry, that the reports of  
Mr Roche and Mr Leonard and Mr Cheney's  
supplementary report will be available by the 2nd  
5 of July?

MR LASRY: I am nodding here. I was hoping to  
avoid a verbal response. The answer is yes,  
your Worship, I do have that confidence, which I  
10 share with my learned friends.

THE CORONER: I am sure you will hear from parties  
if that doesn't happen.

15 The only directions I will make: that if there is  
any witness or any other evidence that counsel  
wish to be called, then you should indicate that  
to counsel assisting by the 16th of July; and that  
we resume hearing of the evidence in this matter  
20 10 o'clock on the 9th of August and that we  
commence with the evidence of Mr Roche and  
Mr Leonard.

MR LASRY: If your Worship pleases.  
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THE CORONER: Thank you. Have a good few weeks,  
gentlemen and ladies.

**HEARING ADJOURNED AT 10.46AM UNTIL MONDAY,  
30 9 AUGUST 2004**

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