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TRANSCRIPT OF PROCEEDINGS

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**CORONER'S COURT OF THE
AUSTRALIAN CAPITAL TERRITORY**

20

MRS M. DOOGAN, CORONER

25

CF No 154 of 2003

INQUEST AND INQUIRY

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INTO

THE DEATHS OF DOROTHY MCGRATH,
ALLISON MARY TENNER,
PETER BROOKE, AND DOUGLAS JOHN FRASER,
AND THE FIRES OF JANUARY 2003

35

CANBERRA

40

10.40AM, TUESDAY, 14 OCTOBER 2003

45

[10.40am]

5 MR LASRY: Your Worship, I recall Mr Cheney to his chair, if I might, and I believe that the substitute video of this particular section of the compilations is in the machine. It may have to be changed when this particular section is completed, but it's the digital video that carries a date and time stamp.

10 MR STITT: Before we resume, could I just indicate that I do not require Mr Tycehurst for cross-examination. I can't imagine he was waiting with bated breath, but I should inform
15 the court.

THE CORONER: He will be relieved to hear that, in any event. Thank you, Mr Stitt.

20 <MR NOEL PHILLIP CHENEY, RESWORN

<EXAMINATION-IN-CHIEF BY MR LASRY CONTINUING

25 THE CORONER: Thank you, Mr Cheney. Please have a seat.

(A video was then played)

30 THE WITNESS: This was the video that was taken from Mount Stromlo car park, looking towards the west, and this is a pan around the north and the clouds are coming out of the McIntyre fire --

35 MR LASRY: I think the soundtrack is of no consequence. If it's possible to eliminate it, then perhaps we should do so.

40 THE CORONER: It's difficult to pick up what Mr Cheney is saying with the soundtrack.

MR LASRY: If it's not possible, given the perplexed look on the face of the operator, perhaps if Mr Cheney can give us the
45 description and we can listen to the soundtrack

without him needing to comment further. Perhaps I'll invite Mr Cheney now, while it's paused, to describe what we're looking at.

5 THE CORONER: That might be the way to proceed, to pause it if Mr Cheney wishes to make a comment about a particular part.

10 MR LASRY: I think Mr Cheney's microphone is also a bit low.

THE CORONER: I note here that the date on that says 18.1.02. But the time is right, is it?

15 A. The time is right, and it's eastern summer time.

MR LASRY: Mr Cheney, if you wouldn't mind repeating the description you were giving while the soundtrack was going, just while it's paused.

20 A. The film is mostly of the progress of McIntyre's fire from the forest behind Uriarra into the pine forest on Mount McDonald, and of particular interest is the rapid build-up of
25 the convection over the hour that this video was taken. It runs until about 1430, and at that time the fire had spotted into the pine forests directly upwind of the site that this
30 film was being taken.

(The video was resumed)

35 A. At this stage the smoke on the right-hand side at the very back is probably the activity from the very western side of this fire. The smoke was merging with the major column. The column is tending to - the view directly to the middle of the column is north-west, but we note
40 the column is actually aloft under a bit more of a westerly wind which is pushing to it the site of where the boys were standing.

(The video was resumed)

45 A. You'll note at this point on the left-hand

side there is a rapid build-up of a thick black
smoke which is because of the tongue of fire
entering the forest behind the Uriarra
homestead. That will later appear over that
5 ridge in the middle ground on the left-hand
side of the ridge. One level below the horizon
is Mount McDonald. There are spot fires
occurring out into the grassland, but they are
to the right, but they are being completely
10 obscured by smoke.

(The video was resumed)

A. Although the general spread of the fire is
15 straight at you, the local wind curving around
the front of the fire, being sucked in by the
overall convection, is pulling the smoke from
that fire across at an angle to the direction
that the main fire is travelling.

20

THE CORONER: Who was making this video?

A. Peter Hutchings and Sean Cheney.

THE CORONER: They're CSIRO personnel?

25

A. Yes.

(The video was resumed)

A. This front of the fire has pushed into a
30 block of pines which is just to the west of the
Murrumbidgee River and with between the river
and the Uriarra Road, which runs along the base
of that cut-over area, which is the brownie
angle on the left-hand side.

35

MR LASRY: I might just say, before it goes back
on, as you give that description, that the time
is showing 1352.

A. Yes.

40

(The video was resumed)

A. There are small puffs of smoke coming out
on the right-hand side of that block of pines.
45 They were starting as white puffs of smoke and

behind Uriarra Station was quite fragmented and I think did hold up the overall spread of the fire, but at about this point it's being drawn through on a particularly substantial front.

5

Q. And that's at 1.57pm on the day.

(The video was resumed)

10 A. At that time they were also measuring the wind speed, and at two metres that was 63 kilometre per hour gusts.

(The video was resumed)

15

MR STITT: I'm sorry to interrupt, your Worship, but I just wonder if Mr Cheney could relate the video, which is now 1400, to the Powerpoint which we have of the McIntyre Hut fire, 20 18 January, 1400, so that we can actually relate the two to what we're seeing. I hesitate to interrupt, but I would personally find that very useful.

25 THE CORONER: I was just looking at Mr Cheney's report myself, trying to determine what part of the Powerpoint and the narrative Mr Cheney we're at here now.

30 MR STITT: 1400 hours, your Worship.

THE CORONER: Yes.

35 THE WITNESS: I've got my notes. Can you slide up the Powerpoint, John? I'll give you the number. It's slide number 67, John.

40 MR LASRY: I'll perhaps also, for a point of reference, your Worship, refer to Mr Cheney's report. The relevant passage is at page 22. He's describing in the narrative that, some time after 1300 hours, the firefighting forces were overwhelmed, the fire made a fast run through the Uriarra settlement, and at 1400 the 45 fire was burning on the pine plantations on

Mount McDonald, north of the Cotter Dam and into the pine plantations immediately west of the Murrumbidgee River, which is what the voices on the tape were at one stage referring to.

5 A. The fire is in these pine plantations here, which is the dark area which you can see which was obscured. The cut-over area, which was the clear area, is on the slopes of
10 Mount McDonald at about this point. I think on an earlier slide there had been a tongue that had broken away there, and for a while this tongue, which we watched at 1.30, had now more or less moved up, as far as I could tell.

15 MR STITT: And the spotting on Mount McDonald happened where?

A. I haven't identified the spots and I believe at this time they had linked up.

20 Q. Hadn't crossed the river?

A. Hadn't crossed the river at this point.

MR LASRY: We'll go back to the video.
25

MR STITT: Thank you for that.

(The video was resumed)

30 A. That rapid development of the black column of smoke was the tongue that came off the southern flank of the fire and was moving across the lee face of Mount McDonald. The actual front of the fire is still burning
35 through the pines down towards the Murrumbidgee, which is beyond this ridge here, and then there's an area of grassland which goes down to the river. This ridge is actually the start of the Stromlo pine plantation.

40 MR LASRY: 2.08pm.

(The video was resumed)

45 A. We're now looking north underneath the

smoke column to clear air on the other side of the northern flank of the McIntyre fire. It's due north from Mount Stromlo at 1410.

5 **(The video was resumed)**

10 A. The fire at this point is sort of coming
 down the lee slope and is amassing a few spot
 fires, which I was unable to indicate on the
 diagram, but you can see there a number of
 individual fires that are running up the
 left-hand side which are being drawn across
 towards the convective centre of the fire,
 which was somewhere closer to the right-hand
15 side of the screen.

(The video was resumed)

20 A. That's the smoke that lifted up earlier
 with the strong convection out of the mass of
 pine forest burning. As it then merged from
 the pine forest out to the grassy hills, it
 tends to lose that strong buoyant uplift to the
 front and then the smoke will collapse down
25 again and blow directly out across the area
 until it hits another area of very heavy fuel.

(The video was resumed)

30 A. At about this time I think that the
 northern flank of McIntyre's fire has crossed
 the Murrumbidgee in the vicinity of
 Uriarra Crossing.

35 Q. That's 2.22pm.

(The video was resumed)

40 A. We'll just go back a smidgen and I'll
 match that view with the 1440 map, John. If we
 go to slide 69. The next image is a line scan
 of the front of the fire at one of the times
 that they went across this portion of the front
 of the fire. So we have that very accurately
45 mapped.

THE CORONER: The fire has crossed the river now
- not just the northern part of the fire but
the whole fire, the whole front of the fire? I
5 think you say in your report at 1430 the fire
crossed the Murrumbidgee River into the pasture
country.

A. The boys are about here on Mount Stromlo
in the car park. The fire has crossed the
10 Murrumbidgee River and is making a tongue run
up the Uriarra Crossing Road. The main area of
very black smoke that was coming through this
pine plantation here has now just crossed the
Murrumbidgee River and had spotted into this
15 pine plantation sort of in this vicinity,
although you couldn't see it, and the distance
there is about three kilometres now from when
they left.

20 THE CORONER: From Mount Stromlo?

A. From where they were on Mount Stromlo,
yes, your Worship.

THE CORONER: They left at, what, 1425?

25 A. Yes. They are driving down Mount Stromlo
and will progress around on to Eucumbene Drive
and relocate at the northern edge of the Duffy
pines on Narrabundah Hill, just as an extension
off Hindmarsh Drive.

30 **(The video was resumed)**

A. That reference there - they were thinking
of relocating to Dairy Farmers Hill, which is
35 above Scrivener Dam, and they told me they had
the impression from the way the smoke was
travelling that they really thought the
direction of the fire was more to the north of
its actual path, even though the line scan
40 shows it for some time travelling directly
towards them.

THE CORONER: They're on Eucumbene Drive now
heading towards Warragamba - the section of
45 Eucumbene and Warragamba?

A. That's correct, your Worship. They're travelling south up Eucumbene Drive.

(The video was resumed)

5

A. This view is now looking to the northern flank of the Bendora fire where it had come across the northern end of the Tidbinbilla Range and is burning in a location called Black Springs.

10

MR LASRY: At 2.44pm.

(The video was resumed)

15

A. The black smoke - at this point the fire has got into the furthest most extremity of the Stromlo pines and is now starting to run through the pines on the western face of Mount Stromlo.

20

(The video was resumed)

A. This small column of smoke rising here is a spot fire that was at the junction of the Cotter Road and Uriarra Crossing Road in the vicinity of the car park in the forest, in the recreation area.

25

30

(The video was resumed)

A. At this point Peter decided to go home. He has a house in Rivett alongside Hindmarsh Drive.

35

Q. That's the end of the relevant part?

A. There is more - I don't know if it's on this clip, but later there's a shot taken from a roof in Kalgoorlie Street in Fisher which is looking across towards Mount Arawang, which gives you some evidence of the tornado passing through Mount Arawang. It is untimed, but it was shot from the Kambah side.

40

45

(The video was resumed)

MR LASRY: Did your Worship want to take break
this morning?

5 THE CORONER: I think it will be convenient.

ADJOURNED [11.58am]

RESUMED [12.22pm]

10 MR LASRY: Your Worship, I think the next stage
in this is the video shot by Channel 9. Any
commentary that Mr Cheney wanted to make in
relation to that, we'll certainly have to stop
15 it because there's a great deal of commentary
of itself.

THE CORONER: And how long will that be?

20 MR LASRY: It will certainly take us into lunch
time and possibly beyond.

(A video was then played)

25 THE CORONER: This is the intersection, as I
understand it, of Eucumbene Drive and
Warragamba Drive, and the time of it, I think -
Mr Stitt, did you want to know the time it was
taken?

30 MR STITT: Yes, thank you.

THE CORONER: You think it's about what,
Mr Cheney?

35 A. At this point it's about 2.45,
your Worship.

MR LASRY: I think that first house we saw, that
first shot, was right on the corner of those
40 two streets.

THE CORONER: That's the house on the corner
of Warragamba and Eucumbene.

45 **(The video was resumed)**

5 A. This would be about 3 o'clock - just
before 3 o'clock - because the flames are
appearing on the ridge of the southern side of
the Stromlo Observatory.

(The video was resumed)

10 A. This is now about 3.05.

Q. Thank you.

(The video was resumed)

15 A. This is about seven or eight minutes past
three, so the video hasn't been far off
real time.

(The video was resumed)

20 A. Eucumbene Drive and he's driving down
Warragamba Drive.

(The video was resumed)

25 A. That was the southern flank of the fire,
about halfway down Eucumbene Drive, coming out
of the Narrabundah Hill climb at about 3.15.

30 **(The video was resumed)**

MR LASRY: Is that a convenient time,
your Worship?

35 THE CORONER: Yes. That's pretty much the end.

MR LASRY: I hadn't realised there was another
bit.

40 A. I think this is the video that - it's well
in sequence now. It's Mount Taylor.

THE CORONER: Is that another part of that
video?

45 A. This is another video that was taken by
CSIRO, plus some video that was taken from

Kambah playing fields of the tornado that came through over Mount Arawang.

5 THE CORONER: We might watch that after the lunch break. We will adjourn until 2.15pm.

ADJOURNED [1.09pm]

10 **RESUMED [2.15pm]**

MR LASRY: If we could play the rest of the video, your Worship.

15 THE CORONER: Yes.

(The video was resumed)

20 A. This is taken from a roof in Fisher, and that's looking across towards a spot fire on Mount Taylor. It is probably about 3.30. The conditions were a lot darker than appear on the video and sometimes you can see more through the video viewfinder than you can see with the naked eye because it was extremely dark.
25 That's looking east towards Mount Taylor.

This spot fire had come right across the Weston Creek suburbs to Mount Taylor. This is looking north towards Black Mountain and swinging back
30 towards Stromlo, over towards Mount Arawang and Kambah, back to Mount Taylor.

(The video was resumed)

35 MR STITT: I wonder if we could have this fire identified by reference to a slide, as to which fire we're looking at, please.

40 A. Just where we were looking before out where it was lighter, that's looking out under the column of the McIntyre's fire, which at this time had already burnt into the suburbs of Duffy and much of Stromlo had been burnt out.

45 The spot fire on Mount Taylor is directly downwind from the fire that ran between the

McIntyre's fire and the Bendora fire, although
its source of origin was probably from the
Narrabundah pines. It would be within the
envelope so that it would be possible it had
5 come from Narrabundah pines.

THE CORONER: And Narrabundah pines, that was
the McIntyre's Hut fire that went into
Narrabundah pine?

10 A. Yes, that's correct, your Worship. The
time is approaching 4 o'clock in the afternoon.

(The video was resumed)

15 A. I think at about this time there was
experienced a southerly wind direction where he
was in Fisher, although the prevailing wind was
still north-west, as measured out at the
airport. He makes a comment that he felt the
20 wind had shifted and he's now looking towards
Mount Arawang, and this is the first signs I
think. This is looking east towards Mount
Taylor. It had now spread over the crest of
Mount Taylor and was backing downslope against
25 the wind.

(The video was resumed)

A. That is looking south and the fire is
30 coming up behind Mount Taylor. You just get a
glimpse of the vortex forming. It's not
particularly clear, but we were able to match
the timed video that Sean took here with a
clearer video taken from the Kambah side,
35 looking back towards where Sean is.

(The video was resumed)

A. This part of Mount Arawang was south of
40 Lincoln Close and a little towards the east.

(The video was resumed)

A. You get a glimpse of the vortice through
45 the smoke and darkness at this time, and around

about this time there was a shower of debris
that sort of fell out - rocks and stones and
things that were rejected from the tornado,
that fell on the roof at this point.

5

(The video was resumed)

A. That's looking a little further towards
the east from the crest of Mount Taylor in the
vicinity of Namatjira Drive.

10

(The video was resumed)

A. I think that passage was following the
vortice that went through and now the blow is
coming from parkland in between Fisher and
Kambah.

15

(The video was resumed)

20

A. The time was probably between five or ten
past 4, somewhere in that quarter.

(The video was resumed)

25

A. This is looking through - across houses in
Fisher to the fires at the base of Mount
Arawang.

30

(The video was resumed)

A. This is the fire on Mount Taylor on the
left, and the glow is coming from the fire that
has gone through the park stripland between
Fisher and Kambah. Now, looking north,
underneath the column is McIntyre's fire, and I
think he had a glimpse of fire that was up on
Oakey Hill, behind Curtin.

35

40

(The video was resumed)

A. That is looking more towards the west now.
The smoke is thinning out and the sun is
starting to penetrate through, looking towards
the north-west.

45

(The video was resumed)

THE CORONER: Is this Kambah, Mr Cheney?

5 A. This video taken by Mr Bates starts off
near Inkster Street in Kambah, and he moves
between his home and down to the northern end
of the Kambah playing fields, where he's giving
a clearer view out to the west. He's now moved
10 down on to the playing fields. That's Mount
Arawang. We weren't able to get very good
times on this, except where we can match
behaviour of the fire behind Mount Arawang with
the timed video that was taken from Fisher. I
15 suspect - he starts off around about 3.30 in
the afternoon. He's looking across towards the
column of the Bendora fire.

(The video was resumed)

20 A. Now heading around towards the south now.

(The video was resumed)

25 A. That seems to have washed out, from the
look of the video.

THE CORONER: That's Mount Arawang?

30 A. That's Mount Arawang, and it pans around -
you still have the gap there and it comes
around, now looking at the Bendora fire, and we
start to get a glimpse of the fire over the
Bullen Range.

35 **(The video was resumed)**

A. He's focused close in to the fire on the
Bullen Range there that's starting to come
across, and our estimate is that this was about
40 3.45 - 3.30 to 3.45 at this time. The fire was
starting to appear and spotting over on to the
eastern slopes of Bullen Range, and it appears
to be going from left to right, but I think in
reality it's going in the other direction. It
45 is just the spot fires are forming successively

out on to the right-hand side.

(The video was resumed)

5 A. There was quite rapid in-fill - this is
again the northern flank of the Bendora fire as
it's coming across Bullen Range, and at about
this time it also crossed a little further
down. There was some evidence from the video
10 in Gilmore - it was just a glimpse at that time
- at about the same time as this one.

(The video was resumed)

15 A. This here is Mount McQuoid, which is just
to the north of the Murrumbidgee golf club and
that western side is now filled in.

THE CORONER: Mr Cheney, it's difficult to hear
20 you, I'm sorry.

A. I'm sorry. The hill there was Mount
McQuoid, which was near the Murrumbidgee golf
club, and it now pans around and he's taken
some shots of the fire on Mount Taylor.

25 THE CORONER: This is Mount Taylor?

A. No, it's now - I think - he's now looking
at Mount Arawang and you can see the tornado
forming up on the right-hand side and the fire
30 that sweeps over Mount Taylor - sorry, Mount
Arawang now fills in very rapidly on the
eastern slopes.

(The video was resumed)

35 THE CORONER: So this is probably about 4
o'clock? Just shortly after?

A. Just shortly after, yes. About 4.05, I
think. The tornado has been pulling that fire
40 behind it with very strong winds coming along
behind it. About this time you might see
debris falling out on the oval, although the
video is not as clear as the original.

45 **(The video was resumed)**

A. It's now between Kambah and Fisher.

5 THE CORONER: So it's already been through
Lincoln Close at this point?

A. Oh, yes. It's come over and it's now a
kilometre further east.

THE CORONER: Heading towards Kambah.

10 A. Just about to enter that northern section
of Kambah.

(The video was resumed)

15 A. That shot was up his street near his house
back towards Mount Taylor. This is some of the
debris that fell around him on the oval.

(The video was resumed)

20 A. This was taken from near Gleneagles and
that was Mount McQuoid burning and at some time
after 4 o'clock, after the tornado had passed
through, and this person was now evacuating
25 from their home in Gleneagles and he then
proceeds to drive through the fire area and
into Kambah just behind where the tornado had
gone through. So he's heading down the Kambah
Pool Road, heading north.

30

(The video was resumed)

A. He's now driving. He's driving up Inkster
Street, with the cyclone damage. That just
35 preceded him by not very many minutes. This
was on Sulwood Drive, now driving around the
southern side of Mount Taylor.

(The video was resumed)

40

A. Now he gets ahead of the fire and,
although it's spotted across on to Urambi
Hills, he's now crossing across the path that
the head fire was coming off Mount Taylor and
45 is now driving north on Athllon Drive. He's

driving down into Phillip now. This is along Yarra Glenn.

THE CORONER: Is that Yarra Glenn?

5 A. We're on Yarra Glenn now, going virtually north towards Yarralumla. You have a view of Black Mountain, looking back towards the west as he's driving.

10 (The video was resumed)

A. I can't comment on this footage, your Worship. I don't know where or when it was taken.

15

(The video was resumed)

MR LASRY: Was that likely to be tornado damage - the uprooted trees?

20 A. I don't know. It could be. It looks like may be Lincoln Close, but I don't know.

THE CORONER: It does look like the area around Chapman, around Lincoln Close.

25

(The video was resumed)

A. This is in Chapman.

30 (The video was resumed)

A. This is Lincoln Close in Chapman.

(The video was resumed)

35

A. Most of this area is still parts of Chapman backing on to Coleman Ridge.

(The video was resumed)

40

A. This is the reservoir on the west of Eucumbene Drive and the corner of Hindmarsh Drive.

45 (The video was resumed)

(The video concluded)

5 MR LASRY: Your Worship, that videotape was distributed as a VHS video cassette, I think, to everybody. It's therefore not on the system as such because of its format, so I'd ask your
10 Worship to give it an exhibit number.

THE CORONER: I think the next number is [PC 0013]. So that will be tape compiled by Mr Cheney will be [PC 0013].

15 MR LASRY: Your Worship, there's actually a tape compiled - I think the compilation was done by the Australian Federal Police. It includes, of course, footage taken by Mr Cheney's staff and others not connected with the CSIRO.

20 THE CORONER: So the tape compiled by the AFP will be [PC 0013].

25 MR LASRY: If your Worship pleases. That is the evidence-in-chief of the witness.

<EXHIBIT #PC 0013 - VIDEOTAPE ADMITTED WITHOUT OBJECTION

30 THE CORONER: Mr Begbie, do you have any questions?

MR BEGBIE: Your Worship, with respect I think I should probably go down the order a bit. I
35 don't anticipate that I'll have a lot of questions, if any, for this witness and certainly he's not a witness who would concern me as much perhaps as Mr Johnson.

40 THE CORONER: So are you ready to proceed, Mr Johnson.

MR JOHNSON: Yes, thank you.

45 **<CROSS-EXAMINATION BY MR JOHNSON**

MR JOHNSON: I wanted to ask you some questions, firstly, about the McIntyre's Hut fire, Mr Cheney. From the work you've done examining
5 line scans and the history of the fire, are you able to give your best estimate of the time when the fire crossed the border from New South Wales into the ACT.

10 A. I think it was between midnight and 8 o'clock on the 18th.

Q. Could I just take you to one of your line scans, and, I'm sorry, I don't have the image number but it's the McIntyre's Hut fire, 18
15 January, 0800 hours. I think there were a couple at that time. One is an enlarged version of the fire. The next is a less detailed one. Could I ask that the image which is immediately after the spot fires into
20 grasslands at about 2000 hours be brought up. Just give us a moment, Mr Cheney. I'm sorry. (Pause) That's the one, thank you. If I could ask if the slide number could be indicated, your Worship, it would certainly help us for
25 future purposes to have a number.

THE CORONER: It's slide 64.

MR JOHNSON: In slide 64, it indicates the
30 position of the McIntyre's Hut fire at about 0800 hours on 18 January.

A. That's correct.

Q. And at that stage, is the fire entirely on
35 the New South Wales side of the border?

A. I'd say it was. It's just approaching the border, which is a line on the map at that point, but it has entered the Uriarra pine plantations.

40 Q. Yes, although that part of the plantation is on the New South Wales side of the border?

A. That's correct, yes.

45 Q. Now, if the next number might be brought

up, thank you. That's at the same time but a detailed plan showing what essentially was the path that lay ahead in the Territory; is that a fair way of describing it?

5 A. Yes, it's just an expanded scale so we could then follow the progress from that point.

Q. The next plan, if that might be brought up, thank you. This is at 1300 hours, and this shows the fire having entered the Territory?

10 A. Yes.

Q. Does that indicate then that some time between 8am and 1300 hours the fire entered the Territory?

15 A. Yes, I imagine it was soon after 8, as soon as the wind increased a little.

Q. Now, are you able to indicate the distance that lay between the ACT border and the edge of Duffy, and I'm conscious there's a five-kilometre line on the map, but perhaps you have a figure in your head already as to that.

20 THE CORONER: From what point?

MR JOHNSON: From the point of the edge of the ACT border, where the fire had crossed to the edge of Duffy?

30 A. I'd say it's between 15 and 20 kilometres.

Q. Would it be correct to say that it was in the vicinity of about 12 noon that the fire crossed the border into the ACT?

35 A. I think it would have been before that. I think that the wind picked up fairly early in the morning, and although I didn't have any imagery, that 8 o'clock scan was the start of the more severe burning period where there was a transition in the forest from green crowns to fully scorched and soon after defoliated crowns, so I don't think it was very long after 40 8 o'clock.

45 Q. Now, without taking you through the series

of plans that follow, it was the fire which crossed at that point which headed up towards Mount Stromlo and ultimately hit Duffy; that's so, isn't it?

5 A. That's pretty right, yes.

Q. You've described the off-shoot, which developed a little later and which essentially did a horseshoe and came around. It wasn't
10 that part of the fire that struck Duffy, as you understand it. It was the main fire coming from the McIntyre's Hut fire; is that a fair way of putting it?

15 A. Yes, it seemed that the head fire, the direct projection of this point, maintained that general shape and then came over Mount Stromlo and hit very close to the point of Eucumbene and Warragamba drive.

20 Q. And some of the very graphic images which have been seen during the course of today, in particular when Fire Officer Thornthwaite was driving his vehicle around, was that part of the fire effectively hitting Duffy; is that so?

25 A. That's correct. In the period between a little after 3 o'clock, 1500 hours, and about 1545 - and it covered that - I think 1545 was the last time that I could extract from the
30 tape - and in that period the fire had hit on the corner and then expanded from about Dixon Drive to Hindmarsh Drive.

Q. Now, I just wanted to ask you some
35 questions with respect to the report. I think you told the court at page 249 of the transcript, at line 15, there was the question that you were asked:

40 Since the fires of January of this year, have you spent a considerable amount of time accumulating information either from other people or from known data or from your own investigations and observations for
45 the purpose of compiling a report for

the Coroner in relation to those fires?

And you said:

5

Almost wholly since the fires I've been doing that.

A. That's correct.

10

Q. So almost wholly since January this year, it's been close to a full-time job?

A. Yes.

15

Q. And you've gathered a whole range of data, technical data, including line scans and matters of that sort?

A. Yes.

20

Q. You've had access to statements of persons and you've interviewed other persons in the field and matters of that sort?

A. A limited number of statements and I interviewed what I considered to be key people that I knew were at certain locations and that were happy to talk.

25

Q. And, when you came to prepare the report, you had the benefit of, in effect, the total picture that you'd obtained as a result of that investigation you'd undertaken; is that so?

A. As far as I had broken the analysis down and been able to reconstruct the spread as I could fit the data together, and there were parts particularly to the south of the ACT where I know there's data but I haven't had it processed.

30

35

Q. Now, from time to time I think you commented on operational aspects of the fires; that's so, I think, isn't it?

A. That's correct.

40

45

Q. And those are comments that you've made having had an opportunity to look at the total

picture; that's so, isn't it?

A. Yes.

5 Q. From time to time you've raised criticisms of decisions that were made or steps that were taken or sometimes not taken in relation to particular fires; that's so?

A. Correct.

10 Q. You accept, don't you, that decisions in an operational firefighting setting involve exercises of judgment in the field frequently; that's so, is it not?

A. Yes.

15

Q. Sometimes exercises of judgment made under pressure of various sorts?

A. Yes.

20 Q. And the decisions made as to what to do or not to do at different times may involve variables, including what particular resources may be available, whether it's plant or personnel?

25 A. Yes.

Q. In so far as your commentary on operational matters are concerned, you had what might be described as the benefit of looking back at the total picture and looking at decisions that were made, in effect knowing the outcome, if I could use that term; is that a fair statement?

30 A. That's correct, but it's also based on long experience of observing firefighters not only in the ACT but elsewhere, and working with them elsewhere.

40 Q. In putting that, I should make it clear, Mr Cheney, I'm not seeking to be critical of you. I'm just seeking to put in context your commentary on fires which of course is historical in nature but has regard to your very substantial experience in many areas.

45 A. Yes.

Q. Now, I just wanted to ask you this - in so far as your own experience of operational firefighting is concerned, have you played an operational firefighting role yourself?

5 A. What do you mean by "operational"?

Q. Well, perhaps being a fire boss, making decisions in the field, as an operational firefighter?

10 A. Yes, I have.

Q. And when was the last time that you would have done that?

15 A. On a fire was probably 1972.

Q. And were you at that time a member of a brigade?

A. Not officially as they are formed now. The CSIRO, or what we were in an organisation prior to CSIRO, did have a tanker that was - we used to control our own experimental fires and that was seconded usually by the Chief Fire Control Officer or ACT Forests to assist in firefighting operations.

Q. And when you say your last experience in that capacity would have been in 1972, when would your first experience of that type have been?

A. My first experience of firefighting probably goes back to childhood, but when I was a student in probably 1958, coming into summer vacations, taking part in fire operations, although I was a member of a fire crew at those times.

Q. From the evidence you've given in the last few minutes, is it the case that your experience up to 1972 was in the setting of working with the CSIRO crew from time to time when they may perform some operational activity?

A. That was suppressing wildfires in the ACT. We did light our own fires during summer and we

carried out our own suppression on those fires.

Q. I just wanted to take you to a number of
the matters raised in your report and raise
5 some matters with you specifically. Firstly,
as to page 15 of your report, I think you were
commenting on aspects of the McIntyre's Hut
fire. In the middle of the page you referred
to the Rural Fire Service, that's the New South
10 Wales Rural Fire Service, request for a large
task force from the ACT to undertake
back-burning operations in the order of 15
light units and 10 tankers. Do you see that
reference?

15 A. Yes.

Q. Now, that number of units would, if they
had been provided, have constituted a
substantial part of the ACT's firefighting
20 resources. That's so, isn't it?

A. I don't know the exact numbers but I can
imagine that would be so. It would be close to
a fair proportion of their resources.

25 THE CORONER: Just to clarify that request that
relates to Friday, 10 January?

MR JOHNSON: Yes, that's so, your Worship, yes.
In the middle of page 15.

30

Q. And at that stage the ACT was seeking to
deal with fires within its own borders,
including the Bendora fire; is that so?

A. Yes.

35

Q. And you would accept, wouldn't you, that a
request for resources such as that may be met
with a reply that we need a substantial part of
our own resources to fight a fire in our own
40 territory; therefore, we may only be able to
give you a lesser number of vehicles, for
example?

A. Yes.

45 Q. And that would be an entirely

understandable state of affairs if a judgment of that sort was formed, would you agree?

A. Yes.

5 Q. On the next page, page 16, the second last paragraph commencing:

10 The taskforce from ACT ... that had been sent to assist the RFS with burning out operations were originally planned to be deployed all-night. However, they were advised by ESB that they had to return to respected depots by midnight, which meant leaving the
15 fire ground at around 2100 hours. This decision may have influenced the RFS incident control team not to continue with the burn overnight.

20 Just to put that in context, that's a comment made with respect to some operational activities in the McIntyre fire on 11 January; is that so?

25 A. Yes, they were assigned to, I believe, burn-out along the Powerline track at that time.

30 Q. Now, at that time, a Mr Bruce Arthur was the section 44 Rural Fires Act incident controller in New South Wales with respect to that fire, as you understood it?

A. Yes.

35 Q. And has it been brought to your attention that Mr Arthur gave evidence at the recent New South Wales fire inquiry which touched upon this fire and said in evidence, in effect, that the departure of the ACT force did not affect the Rural Fire Service's ability to perform its
40 operations? Do you have any knowledge one way or the other as to that?

A. I don't have any knowledge of that, no.

45 Q. I'd ask you to assume that that was correct, that he did give evidence to that

effect. If that was correct, then that would suggest that the departure of the ACT firefighters would have no practical adverse impact upon the ability of the New South Wales Rural Fire Service to deal with that fire at that time; would you agree?

5
A. I don't know what Mr Arthur said, but it did appear that the progress of placing that burning out operation slowed down in that period and it certainly appeared to be, from Mr Winter's statement, his opinion of the progress on that area when he considered that burning out conditions were very good for continuing the operation.

15
Q. Yes. This is an example. You've based your opinion on Mr Winter's statement. If the New South Wales incident controller expressed a different view, you would take that into account in determining what comment you would pass with respect to this aspect of the fire; is that fair?

20
A. Yes, and the basis for his comment.

25
Q. If I could ask you this, Mr Cheney: In recent years has there been greater emphasis on concerns of an occupational health and safety nature with respect to bushfire fighting operations?

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A. There has been a much more formal concern about it. I wouldn't say that in years when I fought fires that occupational health and safety wasn't a major concern for firefighters in the field, but there's been more formal documentation of what's required under occupational health and safety legislation, and more formal accounting of it.

35
Q. On page 18 of your curriculum vitae, you mention a conference paper delivered on 3 June 1994 entitled "Bushfire fighting and occupational health and safety"; that's so, isn't it?

40
A. I don't have that in front of me, but if it's there.

Q. Yes. It's fair to say that occupational health and safety Acts - and I'm conscious you're not a lawyer - in fact I'll withdraw that. Is it your understanding that occupational health and safety statutes have had greater emphasis since the 1980s and certainly into the 1990s and certainly currently as a factor to be taken into account in operational bushfire fighting activities?

A. Yes, that was the reason we undertook that research project, to determine what health risks to firefighters doing heavy industrial work were and to quantify the risks as we saw them and measure them.

Q. As you understood it, although one is fighting a bushfire out on a trail or in a forest somewhere, it's still capable of being understood as a workplace for the purpose of the application of those types of statutes?

A. Yes.

Q. And, therefore, a note of caution is added to the mix of factors which an incident controller, for example, may need to take into account, being a note of caution of the occupational health and safety type?

A. Yes.

Q. That doesn't mean those considerations dominate and control all decision making, but it's an additional factor that someone must take into account in the exercise of judgment in the field to which you've already referred; is that so?

A. It should be undertaken at all levels and we try and take it through all firefighters as they are operating, that that's a major concern that they have to be aware of safety issues.

Q. You've mentioned I think on a couple of occasions in your report the question of whether there could have been overnight firefighting both in relation to - in the early

stages of both the McIntyre's Hut fire and the Bendora fire. I think that's so, isn't it?

A. That's correct.

5 Q. And you accept that in both cases the relevant incident controllers had to make a judgment call as to what to do in the circumstances; that's so, isn't it?

A. I would agree.

10

Q. And it would be reasonable in those circumstances for those persons to have regard to hazards that may in some respects be greater in fighting a fire at night-time?

15

A. They may consider that. I don't particularly consider fighting a fire at night is particularly more hazardous than fighting it during the day. It's a matter of training to be aware of what the hazards are both during

20

Q. I think you've mentioned several times in your evidence factors which may be both pros and cons with respect to fighting fires at night. Would you agree with that?

25

A. Yes.

Q. Would you agree with this proposition, that, after fire passes, from time to time branches smoulder and are not visibly burning, so you can have branches in trees that are smouldering but may not be glowing red and therefore more visible?

30

A. Yes.

35

Q. And there are risks that branches of that type can fall down, aren't there?

A. Yes. There are risks of falling branches at any time in a forest.

40

Q. Yes. In so far as you've referred to the branches and logs burning, logs being part of a tree, coals can be inside those items and not be so easily visible?

45

A. Yes.

Q. So they're factors that would need to be taken into account in relation to night firefighting as well as day firefighting decision making?

5

A. Yes, the smoke is not always visible during the day, by the same token.

Q. Would you agree that in making a decision such as whether to stay on the fire ground fighting a fire overnight, some incident controllers may be more cautious or conservative than others in their decision making?

10

15

A. Absolutely.

Q. And that doesn't mean that one is necessarily right and one is necessarily wrong; would you agree?

20

A. It's usually a matter of experience on the controllers' behalf.

Q. Experience and making a judgment call in the field?

25

A. Yes.

Q. Now, from time to time you have made reference to questions such as whether a bulldozer should have been obtained and used at particular times. That's so, isn't it?

30

A. Yes.

Q. Have you yourself checked to see whether at the times that you've suggested there were bulldozers or plant of that type that were available?

35

A. No, I haven't checked that.

Q. So it's an assumption on your part in raising those comments that plants such as a bulldozer was available?

40

A. It's an issue that, if you're going to fight fires in forest country, once they go beyond a few hectares you cannot do it by any other means than using bulldozers, and so

45

really that has to be pre-planned so they are available, and, if they're not available, then I would consider there is something wrong with the pre-planning that has gone on.

5

Q. By 9 January, were there fires burning in the ACT, in New South Wales and in Victoria as part of this network of fires that you've referred to?

10 A. Yes.

Q. And in a sense there were substantial fires burning through a wide part of south-east Australia?

15 A. Yes.

Q. And there was a heavy demand on plant such as bulldozers in that period?

20 A. I would expect so.

Q. So when you speak of pre-planning, that's pre-planning for what in the end was a network of fires burning in a number of different parts simultaneously in south-east Australia; is that so?

25

A. No, I believe that the agencies have to pre-plan to handle the fires on their own areas under their responsibility, and I think that has to be given some priority in organising their manpower and trucks and equipment to meet the incidents that they were being faced with, as would other organisations in other states and other parts of New South Wales.

30

35 Q. At page 32 of your report - and this is in the context of the Bendora fire on Sunday, 4 January - you refer to - and this is in the last sentence, just above the heading "Monday, 13 January":

40

It appears that crews are not permitted to work beneath helicopter drops which, if correct, almost complete negates their effectiveness.

45

Are you aware that the rule is S ^ crews are not to work directly under where a water drop is to occur but they are to work in close vicinity in conjunction with the water drop; is that what you understand that the rule of practice is in the ACT when crews are working in conjunction with helicopters?

5

A. My impression of observing what went on at that location is that they weren't even working in close vicinity to where the drops were happening. But in those incidents, I would expect for them - if the helicopter was going to drop on the fire, to step back a few metres from the fire and let the drop proceed and then resume work.

10

15

Q. The various helicopters were in use at various stages of the fire. I think that's so, isn't it, as you understand it?

20

A. Yes.

Q. The Bell 412, the SouthCare helicopter, carries 1600 litres of water; is that your understanding?

25

A. I don't know their capacities.

Q. 1.6 tonnes. The Squirrel that's the smaller helicopter, 450 litres?

30

A. Yes.

Q. And clearly caution has to be exercised by firefighters so that they are not literally under such drops. That's sensible practice, isn't it?

35

A. Yes.

MR JOHNSON: Might that be a suitable time, your Worship?

40

THE CORONER: That's a suitable time.

MR JOHNSON: Thank you.

45

THE CORONER: You're able to come back tomorrow, presumably, Mr Cheney?

A. Yes, your Worship.

THE CORONER: There's nothing to raise?

5 MR LASRY: No, your Worship.

THE CORONER: We'll adjourn until tomorrow at
10 o'clock.

10 **MATTER ADJOURNED AT 4.03PM UNTIL WEDNESDAY,
15 OCTOBER 2003**

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