

TRANSCRIPT OF PROCEEDINGS

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CORONER'S COURT OF THE
AUSTRALIAN CAPITAL TERRITORY

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MRS M. DOOGAN, CORONER

CF No 154 of 2003

CANBERRA

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

20

DAY 10

Monday, 16 February 2004

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[10.00am]

THE CORONER: The inquiry into the January 2003 fires and the deaths is resumed.

5

MR LASRY: Good morning, your Worship.

Your Worship, first of all I had not proposed to open again. The matter is obviously part-heard and although it is a while since my original opening was delivered, I am sure it is ringing in everybody's ears as they sit here this morning.

Your Worship, the other thing is that just one formal matter. I am not sure whether this has actually been formalised, but I think with your Worship's agreement it was planned that we would sit four days a week. Am I right about that?

THE CORONER: That was the proposal that I put. I think I invited all of you to consider that proposition and to decide whether or not you thought that was a reasonable proposal. But also, having said that, that it was intended that we be flexible. So if there was a witness and it was desirable to finish a particular witness and we might sit on Friday and not sit on a Monday, but it is a matter for counsel. I think that that is probably the preferable way, given the length of the inquiry.

MR LASRY: Your Worship, I did not hear any dissent at the times we have discussed it and we had in mind that subject to changes that need to be made your Worship would sit Monday to Thursday and not sit on Fridays.

THE CORONER: It may be that in some weeks it is desirable to sit a little longer and other weeks not. But as a general rule four days. Could I just hear from counsel about that. Are the gentlemen agreeable to that?

MR JOHNSON: Yes, that is suitable.

THE CORONER: It gives me an opportunity to regroup and consider the matters that have gone (c) WordWave Int'l

and we can perhaps consider evidence for
the following week and proof witnesses.

MR STITT: That is suitable to us, your Worship.

5

THE CORONER: Thank you.

MR LASRY: Your Worship, the other preliminary
matter before I call Mr Lucas-Smith relates to
10 exhibits that need to be tendered as we go. In
his case for example this morning, as his evidence
starts, I will be asking for two documents to be
tendered as exhibits, and I gather there is a
15 regime of exhibit numbers for documents which are
tendered during the hearing which are given a
temporary number until they form part of
the electronic system. I gather they all get
the prefix EXH, and we are up to a particular
number.

20

THE CORONER: We are up to 17 so the next one will
be 18.

MR LASRY: Before Mr Lucas-Smith is called, could
25 I ask that the submission of the Emergency
Services Bureau to the McLeod Inquiry be marked as
an exhibit. It is not part of the brief, and it
is really an omission on my part because I will be
referring to it from time to time. I think
30 everybody has got it. If anyone has not got
access to that document then they should let us
know. If that could be given an exhibit number.
Your Worship may not have it.

35 THE CORONER: I do, if it is this document.

MR LASRY: That is the document, yes.

THE CORONER: The submission by the Emergency
40 Services Bureau to the McLeod Inquiry will be
exhibit EXH0018.

EXHIBIT #EXH0018 - SUBMISSION BY THE EMERGENCY
SERVICES BUREAU TO THE MCLEOD INQUIRY

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MR LASRY: If your Worship pleases. Could you
call Mr Lucas-Smith, please.

<PETER WILLIAM LUCAS-SMITH, AFFIRMED
<EXAMINATION-IN-CHIEF BY MR LASRY

MR LASRY: Q. Mr Lucas-Smith, just while you are
5 getting comfortable, there are a couple of things
that witnesses need to be reminded of from time to
time. You will forgive me if I do it from
the outset. One is to note that what you are
saying has to be recorded. So if you do not mind
10 just speak at a pace that gives the recorder a
chance to keep up. That microphone, I think, does
amplify your voice, so stay as close to that as
you can, within reason.

15 Your full name is Peter William Lucas-Smith.

A. That's correct.

Q. Is your professional address care of
the Emergency Services Bureau at 123 Carruthers
20 Street, Curtin?

A. That's correct.

Q. Perhaps you could describe your occupation.
I know you are the chief fire controller, but how
25 do you designate?

A. Administratively I am referred to as the
Director Bushfire and Emergency Services, but
I hold a statutory position of Chief Fire Control
Officer under the Bushfire Act and Director of
30 Emergency Service under the Emergency Management
Act.

Q. That is a bit fast. Mr Lucas-Smith, you have
made a statement in relation to this inquiry
35 on 14 October of last year, and everyone has a
copy of that statement. I do not recall its
number, but the statement I have is
the pre-electronic version. So I will come back
to that in a moment when we have a number for it.
40 Do you have that statement with you?

A. Yes, I do.

MR LASRY: Your Worship, the statement is
45 [ESB.AFP.0110.0551].

Q. Mr Lucas-Smith, you have supplemented that
statement with a CV, which I think you have
recently prepared; is that correct?

A. It depends what you call recently.

Q. Sorry, I thought it was a reasonably recent document.

5 A. I think it has been around for a while, but I think I handed it over six to eight weeks ago.

MR LASRY: Your Worship, the curriculum vitae of Mr Lucas-Smith is not part of the statement, so
10 I ask that that be given a separate exhibit number as well.

THE CORONER: Curriculum vitae of Mr Lucas-Smith will become exhibit 19, EXH0019.

15

<EXHIBIT #EXH0019 - CURRICULUM VITAE OF MR LUCAS-SMITH

MR LASRY: Q. Mr Lucas-Smith, you have been effectively the Chief Fire Control Officer in this
20 area since, am I right, 1987?

A. That's correct.

Q. Is that right? In 1987 essentially when you first started, and very briefly, what were
25 the duties that you were required to undertake as the Chief Fire Control Officer? What did that mean back in 1987?

A. It was really to fill the requirements of section 5N of the Bushfire Act. And that was a
30 statutory position appointed by the ACT Bushfire Council. It was to be responsible for the Bushfire Council's firefighting suppression capability resources, both departmental and volunteer resources, and to assist the Bushfire
35 Council in fire management matters.

Q. The organisation of firefighting, particularly bushfire fighting resources, in those days was somewhat different from the way it is now; is that
40 correct?

A. Absolutely. This was pre self-government.

Q. Pre self-government, and also pre the combined Emergency Services Bureau?

45 A. That's correct.

Q. And the Emergency Services Bureau came into

existence I think in March of 1995; is that correct?

A. I am not 100 per cent sure of the exact date but it is about that time, yes.

5

Q. We may at some stage come back to the circumstances in which that occurred, but were you part of the process under which it was decided to establish the ESB and organise firefighting resources under that regime? Were you part of either advice or consultation and those kinds of things?

10
A. The establishment of ESB took some considerable time from what was originally proposed from fire and emergency services to the emergency management group to eventually ESB. And I was a part of that process from the time it started.

20
Q. From a fire point of view, one of the primary roles of the ESB is to, as I understand it, minimise the effects of fire. That is one of its objects; am I right about that?

25
A. Certainly minimise the undesirable effects of fire, yes.

Q. Another part of the role of ESB is to, as I understand it, work with the community to preserve life, property and the environment; is that another part, as a statement of policy, something you would say the ESB was responsible to do?

30
A. Absolutely.

35
Q. And working with the community has what meaning as far as you are concerned?

40
A. Well, anything that the community wants to do with assistance in relation to the reduction of hazard or amelioration of any sort of hazard. It also means community advice as to how they need to prepare themselves and that sort of things. It is a lot broader than that in that I suppose I just gave a very narrow perspective, but it depends on how you define community. From my perspective it has always been defined from the government all the way down.

45

Q. I am sorry, you are going to have to make a
conscious effort to slow down. I understand
the problem. I say that because I do it myself.
But this gentleman right in front of you will be
5 on the brink of a nervous breakdown in an hour or
so if you do not slow down.

Another part of the role of the ESB is community
education and assistance. I take it that that
10 necessarily involves, particularly in an area like
this, where much of the bushfire fighting
resources come from the community in the form of
volunteers, to involve the community in the whole
process. That would be correct, would it not?

15 A. Yes, that would be --

Q. There is nothing that the community cannot be
told or there is no part of it they cannot be
involved in, or at least be advised about in
20 relation to bushfire suppression and it is
organised?

A. We try to keep the community informed as best
we could with the information that we have.

25 Q. One of the obligations on ESB, I suggest, is
to notify the public, and this is obviously not
restricted to fires, but to notify the public
about emergency situations and to issue warnings.
That is part of the role of ESB?

30 A. Certainly from a bushfire perspective. I can
only speak in regard to bushfires. I am not
the executive director of ESB.

Q. Within the ESB hierarchy, as it became in
35 1995, as far as you were aware were you the most
experienced person as far as bushfire fighting
experience was concerned?

A. I don't know that I can say that, but
certainly within the bushfire --

40

Q. But within ESB. I do not mean amongst
firefighters but the organisation as it was
established in 1995?

A. Yes, I would say so.

45

Q. Who else had significant bushfire fighting
experience?

A. Maybe my planning officer at that time, Rick McRae. I think certainly some members of the ACT Fire Brigade certainly had been exposed to bushfire matters.

5

Q. Mr Castle joined I think as executive director in March of 1995. The answer to this may be that it is not necessary, but did he have any kind of bushfire fighting experiences as far as you were aware?

10

A. Very little as far as I am aware.

Q. Do you know what it was if he had any?

A. I think he had some during military training.

15

Q. As a firefighter or as an organiser?

A. As a firefighter, but you will need to ask him.

20

Q. I will. You were part of his organisation, and therefore you were talking to people like Mr Castle about steps you were taking as the fires in 2003 were developing no doubt. I am just interested to know whether you understood him to have any sort of expertise in bushfire fighting, and I take it the answer is "not really"?

25

A. Not really, nor did I expect him to. That was certainly not his role either as executive director of Emergency Services Bureau. He did not get involved in operational matters.

30

Q. But he was the face of the ESB on occasions, was he not; gave radio interviews and things of that kind and talked about what ESB was doing and what steps were being taken to combat the fires?

35

A. Certainly we would obviously use a senior officer to be our talking head and provide the information to the media and the community wherever we could.

40

Q. Can we take it that when Mr Castle was speaking publicly he was at least in part, if not completely, speaking basically upon advice that he had been given by somebody like yourself?

45

A. I would think so, as the advice of all of us was given.

Q. Mr McRae joined ESB I think in 1996, and he had some bushfire fighting experience of some consequence, didn't he?

A. He joined well before 1996.

5

Q. I am sorry. I think in 1996 what he did was commence his role as acting manager of the risk management unit?

A. That's correct.

10

Q. Is that right? He was involved - how long before that was it that he joined ESB?

A. I am not 100 per cent sure. I think it was 1998 or 1999 - 1989.

15

Q. 1989.

A. 1987 or 89, somewhere in that order, I'm not too sure exactly.

20

Q. About the same time as you?

A. Yes, about a year, maybe two years after.

Q. He became the planning officer?

A. That's correct.

25

Q. That was under the arrangements that included the establishment of the service management team or the SMT, as it is referred to in all the documents?

30

A. No, we actually started to introduce incident control system arrangements into the ACT in about 1990.

35

Q. But coming forward to the 2003 fires, he was the planning officer?

A. That's correct.

Q. And that planning officer was a member of the service management team?

40

A. That's correct.

Q. Of which you were effectively the head?

A. That's correct.

45

Q. In 1996, I think in the middle of 1996, the ESB was transferred to the Attorney General's Department, which I think later became

the Department of Justice and Community Safety.
Was that anything more than an administrative
step?

5 A. It was certainly more than an administrative
step because we got additional arrangements and
support, but in general it was a restructure of
the administrative arrangements.

10 Q. In July 1997 Mr Graham, Tony Graham, became
the operations manager; is that correct?

A. I am not too sure of the exact date, but it
was about that time.

15 Q. I think it is July 1997 according to his
statement. Broadly, what is the role of
the operations manager?

20 A. It is primarily to have our preparedness and
response capability running as best as we can
possibly have it. To look at our standard
operating procedures and to continue to ensure
that we are training - our training is focused in
the right direction.

25 Q. So the occupant of the position of operations
manager would obviously need to be a significantly
experienced bushfire person?

30 A. Not necessarily. As I said before,
administrative, I am the director of Bushfire and
Emergency Services. I am also responsible for
the SES.

Q. I just missed the start of it. Would you mind
going back to the start of the answer?

35 A. As I said earlier, I am the director of
Bushfire and Emergency Services. I have Bushfire
and SES under my responsibility. We had one
operations officer who had to share their roles
and functions between those two services. So we
needed people with a broad range of experiences.

40

Q. What was Mr Graham's particular area of
expertise?

A. He came as a commander with the SES.

45 Q. A commander with the SES?

A. Yes.

Q. So he had SES experience?

A. Yes he had.

5 Q. Do you know how long he had been in the SES for?

A. I cannot recall exactly, but some time.

Q. Am I right in saying that he was without any bushfire experience?

10 A. That is not correct. He has had some bushfire - he had had some bushfire experience, and he was able to demonstrate that through the selection process.

15 Q. Yes, he may have been, but what was the extent of his bushfire experience?

A. I don't know it in detail.

20 Q. You said he was a commander in the SES. Did he have a command position of any kind within any bushfire and experience?

A. No, he did not.

Q. He didn't?

25 A. No, he did not.

Q. So if he had bushfire experience it was as a firefighter?

A. Most likely, yes.

30

Q. The fact is, you are the expert, not me, but it seems to me, and I put to you as a proposition, that experience as a firefighter really does not equip you for any kind of command or

35 decision-making role in combating a fire as one that we had in January last year. That would be correct, wouldn't it?

A. Can you say that again?

40 Q. Yes. Experience as a bushfire fighter, that is someone on the back of a truck or driving a truck and holding a hose and wielding a rake hoe and all that does not of itself qualify someone to make command decisions or judgments about

45 the conduct of a fire the size of the one we had in January 2003, does it?

A. I think that there is - you need to make a

distinction here between the firefighter in the field and the person who is assisting in the management of those operations back at Curtin. Mr Graham has never been an incident controller in the field. There might be one or two incidents, but his primary role was the co-ordination of ACT resources across the whole of the ACT from our headquarters in Curtin. He was not a front-line firefighter. He was a controller of resources.

10

Q. We will come back to this, Mr Lucas-Smith. But you know, don't you, for example, that on the night of 8 January Mr Graham was significantly involved in the decision as to whether or not to leave firefighting resources at the Bendora fire?

15

A. Yes, he was.

Q. He was actually at COMCEN I think at the time that decision was taken?

20

A. That's correct.

Q. And participated in the making of the decision?

A. Yes.

25

Q. Do you say that he was qualified to take part in the making of such an important operational decision?

A. Absolutely.

30

Q. He was?

A. Yes. We've now been six years. He has been sitting in that job. During that six-year period he's probably attended to well over a thousand incidents.

35

Q. In December of 2001 there was a fire in the area which I think the findings in respect of that fire have been delivered as late as last Friday. In the submission to the McLeod Inquiry by ESB reference is made to a strategic debrief that was held after that fire. Were there improvements which arose from that strategic debrief or changes or changes of tactics which arose from that strategic debrief between those fires at the end of 2001 and the commencement of the fires we are examining in 2003?

45

A. Yes, there was.

Q. What were they?

A. That is a tough question, without having
5 the list in front of me.

Q. Fair enough. Make that qualification. But as
best as you can recall without having the document
in front of you.

10 A. There were a number of things we combined
together. We had the strategic debrief from
the December 2001 fires. At the same time there
were other coronial inquiries coming to
15 conclusions and findings being handed down with
the Linton Inquiry in Victoria and the Ku-ring-gai
Chase National Park Coronial Inquiry in New South
Wales. We also had the National Volunteer Summit
held here in Canberra. What we did, we rolled all
20 of the outcomes of those summits and inquiries and
our own debriefs into a combined list of issues to
have a look at and see whether or not they were
things that we needed to address within our
service and if they did how would we go about it.
That resulted in a list of somewhere near 100
25 different issues that we needed to have a look at.
In fact, I was extremely pleased with the outcome
because by the time that the January 2003 fires
had rolled around we had got through about 80
per cent of that list.

30

Q. You had got through 80 per cent?

A. Over that 13 months and there had been
significant progress on a number of issues. From
our point of view there were a number that were
35 identified that were relevant to us. There were
some that were identified which required some
legislation changes, but only a few. But
the majority of them were minor procedural
matters, and we did that through the extensive
40 consultation process through our firefighting
resources and our liaison with the Department of
Urban Services.

Q. Were there any major practical or operational
45 changes that were made as a result of that process
that you can recall? I do not mean the minor
things, and the procedural things, but in terms of

major strategic operation or practical changes to the way in which fires were responded to. Was that in any way affected by that --

5 A. I think the outcomes of that whole process was that we did not really have any major deficiencies in our structure identified, and so there was not any major thing. And I need to ask you what you mean by "major". Just how extensive is major? We certainly found things that we needed to put some effort into, and we did that over a period of time. But there was no major organisational change identified required, and there was no major legislative deficiency.

15 Q. All right. What about in terms of strategic or operational approach to firefighting? Was there anything identified by any of that process that you thought or that was improved as a result of that process?

20 A. I think there were a number of things in relation to our incident control systems and some aspects associated with that, how we could improve that. We reviewed our way of attack in relation to our initial response capabilities. As I said, without having the list in front of me to be able to refer to it, there were a lot of operational issues.

30 Q. Yes. All right. The ESB submission to the McLeod Inquiry also refers to a document prepared by Mr McRae's Risk Management Unit in February 2002. And I will perhaps ask that this document, which is [ESB.DPP.0001.0074] be called up on the screen.

35 A. Excuse me, your Worship, is it all right for me to take my coat off?

THE CORONER: Yes. I make that invitation to anyone else in the Hearing. Please feel free. We will organise some water as well, Mr Lucas-Smith.

40 A. Thank you.

MR LASRY: Q. This document called the Phoenix Imperative is a document, Mr Lucas-Smith, that is produced I think as a result of the 2001 fires. Am I right about that? You have seen the document before?

A. Yes, I have seen the document before. I am not too sure if that is absolutely correct. You need to ask Mr --

5 Q. I might. It says at the outset in the introduction:

In recent history Namadgi National Park has rarely carried fire, and when it did they
10 were often very large wildfires - over 20,000 hectares. The Park is in a vicious cycle - by keeping fire out most of the time, we are endorsing the occasional very large wildfire. However very large wildfires are
15 the ones that are able to leave the reserve and damage property elsewhere. They are also the fires that can cause the most impact on biodiversity management goals.

20 To avoid very large wildfires we need a diversity of fire age across the reserve. An active fire management program can establish a dynamic equilibrium that meets a range of goals for fire protection and ecological
25 management.

He goes on to talk about a transition period of 20 years, and in the last paragraph of the introduction urges that action must start
30 immediately and will not be simple? Do you see that?

A. Yes.

35 Q. If I could just refer you to the next page, which is 0075 towards the bottom of the page, under the graph:

The potential for a drought to occur shortly as a new El Nino forms in the Pacific Ocean
40 raises the spectre of the highland fuels in the park becoming flammable. Should they be ignited, then a fire could easily become a landscape fire if the FDI is high enough. Difficult access makes rapid suppression
45 harder than elsewhere in the Territory.

Just pausing there for a moment, that is correct,

is it not?

A. That's correct.

5 Q. The area of the Namadgi National Park and where the fires began in January 2003 is an area of difficult access. There are parts of that park which are obviously hard to get to?

A. Yes.

10 Q. And particularly hard to get to for heavy vehicles, whether it be bulldozers being brought in to construct container lines or simply tankers carrying a large amount of water?

A. Yes.

15

Q. So I presume that as at the start of 2003, with your experience, this was something you knew and were conscious of?

A. Yes.

20

Q. Would that be correct?

A. Yes.

25 Q. Is it also correct to say - to state, which perhaps seems obvious, that at the commencement of any fire if you can put it out quickly that is the most desirable result?

A. Absolutely.

30 Q. And particularly out there in the national park in January, if you could jump on the fires that began quickly and get them out, then obviously that is a much better, easier more efficient result than a large burn in broad
35 containment lines which might get away?

A. That's correct.

40 Q. So quick response and quick suppression is presumably something that you are very much conscious of and conscious of the need for?

A. Absolutely.

45 Q. Do you say, just speaking in general terms and speaking as at the beginning of 2003, that there is inevitably a compromise between the desirability of rapid response of areas of difficult access on the one hand and availability

of resources on the other?

A. Of course. It depends on whether you have multiple incidents and travel time between where the resources are and the incident is and a whole
5 range of different variables.

Q. I will come back to that bit. The other part that I wanted to refer you to briefly was on the - is on page 0078, if you go forward to that.
10 Mr Lucas-Smith, if you feel disadvantaged by not having the actual document in front of you, say so.

A. I have it on my screen here.

15 Q. If you could just scroll down a little bit, please. Do you see under the recommendations that the author of the document, Mr McRae, recommended that a rigorous burning program needed to be - and I am changing the tense - to be initiated
20 immediately. A "do nothing" approach is not acceptable. Do you see that in the first paragraph?

A. Yes, I do.

25 Q. Paragraph 2:

It needs to be based on random annual targets ranging up to 32,000 hectares on an exponential distribution.

30

Going down to point 7:

The public would need to be educated in the rationale for such a program.

35

Those recommendations refer, don't they, to the tension between on the one hand fuel suppression and on the other hand the inevitable destruction of some parts of the national park
40 which occur when fuel suppression is carried out; is that correct?

A. That's correct. Whether you say tension, it is certainly a difficult management balance.

45 Q. Was a rigorous burning program commenced immediately as Mr McRae recommended after this report?

A. No, there was not.

Q. Do you know why that was?

A. There was some consultation. In fact
5 the Bushfire Council organised a field trip with
the land management agencies and the catchment
protection people, the people responsible for the
catchment of this, to actually go out on-site and
have a look and talk about the issues, and
10 specifically in relation to this paper, and there
was a fair bit of discussion. But there was still
a need for more work to be done in relation to
working out exactly what needed to be done and
which was - where the more strategic areas of
15 undertaking or initiating such a program would
need to be.

Q. Mr McRae's a very experienced bushfire person,
is he not? He understands a lot about bushfires.

20 A. Yes, he is.

Q. In your curriculum vitae you make the point
that there had been no major fire event until 2003
in the ACT under your term as Chief Fire Control
25 Officer. Perhaps you can exempt from that
the 2001 fires, but by and large there had not
been a major fire event in this area until
January 2003, had there?

A. That's correct. 1985 was the last round of
30 what I refer to as major fires. And in my
curriculum vitae I think I refer to a major fire
being a fire in excess of 5,000 hectares. And
the December 2001 fires were not in excess of
5,000 hectares.

35

Q. The weather conditions through 2002 and
leading into 2003, as you candidly acknowledge in
your statement, was such as to give rise to
extreme conditions, as they in fact did, and you
40 knew that?

A. Yes.

Q. And no doubt you knew that during the second
half of 2002, that the following summer was likely
45 to be a particularly dangerous summer?

A. I knew the potential existed, yes.

Q. And the lack of fires in the area for the period meant inevitably that fuel loads were high?

A. Yes.

5

Q. So when someone who looks at it against the background of the 2001 fires and says, "A rigorous burning program needs to be initiated immediately. A do nothing approach is not acceptable," that is a significant recommendation and one that if at all possible needs to be immediately implemented, does it not?

10

A. I would have liked to have hoped so, yes.

15

Q. When you read this, did you agree with Mr McRae's recommendation?

A. Yes.

Q. Were there people who did not agree, who stood in the way of a rigorous burning program?

20

A. I do not know whether they agreed or did not agree, but I think the important point here is that the Bushfire Service does not manage the land.

25

Q. I understand that, and perhaps that is another issue which we will deal with in some separate clause of the evidence. But whether or not they agreed or disagreed, why was it or which people said, "We are not doing that"?

30

A. I do not think anybody said, "We are not doing it." I think it was a matter of trying to work out how and when to do it.

35

Q. But Mr McRae says it needs to be initiated immediately. And I suggest that, unless I am corrected, this is a document that was prepared in February 2002, and he is suggesting in these recommendations that the need is urgent. Do you know why that was never carried into effect before January 2003?

40

A. No, I don't. I think you need to ask them.

Q. Need to ask?

45

A. The land manager --

MR STITT: Sorry, cannot hear the witness.

MR LASRY: The land managers.

A. Yes, I think you need to ask the people who are responsible for managing the land. This proposal was prepared and submitted to them. As
5 I said, the Bushfire Council did a field trip in conjunction with the land managers to look at it. As far as I was concerned we provided the macroscale advice which we agreed to undertake to do, and the ball was really in the land
10 managers' court to decide what they were going to do about it. We continued to press for something to be done.

Q. Who were you negotiating with and who were you pressing for action?

A. Through the land managers fire liaison group, which met on a regular basis. We talked about this paper. We talked about the implementation stuff.

20

Q. Just a bit slower.

A. We also had the bushfire fuel management planning process in place under the provisions of the Bushfire Act and it is up to the land managers
25 to produce those fuel management plans. And through the bushfire fuel management committee, that review process was in place.

Q. Who was the chair of that committee?

30 A. Mike Castle.

Q. In the middle of 2002 it seems - or perhaps not in the middle but during 2002 - to be suggested that the Emergency Services Bureau was
35 in effect monitoring the weather and paying particular attention to the El Nino effects in the Pacific Ocean. Am I right about that?

A. Yes, we do that continuously.

40 Q. How do you do that?

A. It is through Rick McRae, his job in the risk management section, and liaison with the Bureau of Meteorology.

45 Q. So does monitoring really mean liaison with the weather bureau?

A. Yes. We are continually monitoring,

continually reviewing the advice the bureau provide, both on climate and in weather, and we also do our own assessments.

5 Q. Independently of the weather bureau?

A. Independently.

Q. When were you doing the assessment?

10 A. It is assessments based on the information or the data provided by the bureau.

Q. When were you doing it?

15 A. It goes on continuously. We also access internationally available, through the worldwide web, data in relation to ocean currents and look at our own arrangements.

Q. Were you becoming, as that information was being monitored, extremely apprehensive about the summer of 2002/2003?

20 A. I think it was becoming quite clear that the 2002/2003 summer period was going to be a dry summer and the potential for a drought was high.

25 Q. You say in your statement, you describe the conditions as volatile. I take it that you said that because that was what you meant?

A. Yes.

30 Q. You said in paragraph 10 on page 2:

From a bushfire perspective, the quantity of available fine fuels obviously varies considerably depending on vegetation type, aspect, diurnal variation and moisture content. Heavy fuels such as logs are not normally available to contribute to the spread of a fire as they retain more moisture than the finer fuels. However, in January 2003, the ACT was at the stage where heavy fuels were also dry enough to contribute to the overall fire behaviour and spread. This meant that in January 2003 the ACT forest and grasslands were in a volatile state.

A. Yes.

Q. That is right. When did you know that? When were you aware that that was the situation?

5 A. The trend had been developing, as we have already talked about, certainly from mid-2002 onwards, and it was just a continual state of awareness, I suppose, as to how it was going, how it was trending, what the potential fire dangers
10 were.

Q. What preparations were you making - or when I say you, what preparations were being made within ESB for the fact that you were on the edge
15 of an unusually volatile fire season?

A. I think from our point of view, from a fire response point of view, suppression point of view, we were trying as quickly as we possibly could to learn the lessons from December 2001, and through
20 that the implementation of those particular lessons that was forcing a review of all of our firefighting arrangements. That was a very good opportunity to review all. It certainly was not going to provide us with any additional resources.
25

Q. Let me ask the question again because I just do not think you dealt with the issue. You had formed the view, or you formed a developing view, or the ESB had come to a developing view that in
30 January 2003 the ACT, the relevant areas of the ACT, were in a volatile state. The weather monitoring over the previous year had established the existence of the El Nino weather feature or weather event and you knew it was going to be dry
35 and you knew that any fire was going to be a particularly bad fire, didn't you?

A. No, I didn't know that. That depends on what the weather of the day is. I knew that the potential existed for us to have high intense
40 fires.

Q. The danger was unusually high, was it not, in January 2003?

A. Yes. Once again, I would ask for you to
45 define "unusual"? It was certainly higher than 2001.

Q. I will endeavour to do so. The danger in January 2003 was much higher than it would have been if there was no El Nino weather event, if it had been a wet winter, if the undergrowth in the forest and other relevant areas were still holding moisture, if the logs were still holding moisture and there had been a fire in the area, say, five years ago. It is a totally different set of circumstances, isn't it?

5
10 A. It is, but it is also relevant to on whereabouts on that scale you are.

Q. You do not balk at the proposition that by January 2003, as you said in your statement, the forests were in a volatile state and assuming extreme weather, that is assuming hot weather, strong north-westerly winds and a fire starting by lightning strike, as is common enough, that those fires would be very difficult to manage. You knew that, surely, in January 2003?

15
20 A. Yes, I did. The drought factor was 10.

Q. What I want to know is, as opposed to other years, the risk was particularly high. What I am trying to establish - what I am trying to establish is that in response to that risk what particular steps were taken to be prepared for it over and above the usual?

25
30 A. I think probably I may need to help you by clarifying how our readiness arrangements actually work. We have six levels of readiness in the ACT from nil up to red, and as you go further up that scale the more and more resources are made available and are made available for immediate response.

35
40 As conditions, as you described, are dry, we are into a drought situation, we have more drought factors attending, more available fuel, nearly 100 per cent of available fuels are available for fire spread, and what that actually reflects is a higher forest fire danger rating, which then in turn reflects a higher level of readiness. So our levels of readiness were consistent with
45 the weather conditions that we were experiencing on those days.

Q. Let me give you an example perhaps more practically of the things I mean. I will come back to this a bit later on. But in your statement you refer to one of the problems you had, and I invite you to turn to paragraph 47 of your statement. In that paragraph you are dealing with the events of 10 January, two days after fires began. You say, and I will read the paragraph:

10

However, as already indicated with the Bendora fire, we did not have a great deal of room to move between Mt Franklin Road Ridge and the Cotter River and just getting

15

adequate heavy plant into the area in a timely fashion presented significant problems. Initially, we could not access sufficient heavy plant resources because a lot of operators were already working on

20

other fires in NSW. The resources within the ACT were limited and we eventually sourced the required heavy plant from as far afield as Orange and Bathurst, meaning a wait of between 24 and 36 hours for their arrival.

25

This delay was then compounded by the fact that we were unable to float the bulldozers as close to the fire ground as we would have liked because of the remoteness of the fires and the associated difficulty with access

30

tracks. A lot of the plant operators also had concerns because they did not like "walking" their machines long distances as this often causes damage. So, irrespective of the theoretical strategies we would have

35

liked to put in place at the time, there was a certain degree of compromise required because of the remoteness of the fires,

40

the terrain, the limited area and the limited time with which we had to implement these indirect options. This meant that during the early days of the 10th, 11th and 12th

45

there was very little that our firefighting resources could do except continue with direct attack where possible, until our containment lines were in place.

That was one of the problems that you dealt with,

was it not, that when it became clear that one of
the things you needed was heavy equipment for
the construction of containment lines, you then
had to find heavy equipment, you had to find heavy
5 equipment to be brought in to construct them.

A. Yes.

Q. And as you said in your statement, that might
take a day to a day-and-a-half to get here. In
10 the meantime the fire is burning?

A. Yes.

Q. While the fire is burning, I suppose it
follows, does it not, that the need for
15 containment lines or the site where containment
lines might be placed is expanding, as the fire
gets bigger then the need for containment lines
which in effect fall back as the fire growth
increases. So the sooner you can get
20 the equipment on the scene, the better?

A. Obviously.

Q. As at January of 2003, given that everything
was in a volatile state, did ESB or anybody else
25 actually have any heavy equipment at staging
points out in the national park ready to go?

A. No, we didn't have them out in the national
park ready to go. We certainly had access to
heavy plant. We had a memorandum of understanding
30 --

Q. You will have to say that again.

A. We had a memorandum of understanding with
the land management agencies, and that included
35 access to ACT Forests heavy plant. And as we went
up the readiness scales this heavy plant would
become on standby and available to us as well. It
did not stop their work, but what it did do was
move the floats in close proximity to where
40 the machines were working so they could be readily
accessed and transported.

Q. And that was done?

A. That was done.
45

Q. When was that done?

A. That is done on every orange and red readiness

day that we have in the ACT.

Q. What problem are you describing in paragraph 47 of your statement?

5 A. The problem I am describing is we had multiple fires. We really had to make a decision very early in the piece as to where that priority lied. The McIntyre fire was the fire that was reported in the first instance and is growing rapidly and
10 had the potential to impact upon the Uriarra pine plantation if it continued to spread eastward in the direction it was going. So we deployed our heavy plant to construction of fire breaks around the Uriarra pine plantation.

15

Q. Having multiple fires must have been something that was predictable as well, surely? You would not expect, with the regular currents of dry thunderstorms that occurred on the 8th, that they
20 would produce only one fires, would you? Multiple fires are something surely you are familiar with and need to be prepared for?

A. Absolutely.

25 Q. If it is a hundred fires, obviously there is a major problem, but in this case it turned out to be three fires - four fires?

A. Well, for the ACT.

30 Q. Is there not a preparedness factor for more than one fire in effect?

A. Yes. We have a contact list which has got what plant is available to us in the ACT. It is also 8th January, we are still on Christmas
35 breaks, I suppose for a lot of - particularly the construction industry.

Q. But it meant, didn't it, that to some significant extent in these early days of these
40 fires there was a significant degree of contrast at a - a significant degree of compromise, I mean, at a time when the earliest response is the most important response. You did not have the level of equipment or the numbers of units that you needed
45 to have to these fires quickly. They simply were not available to you. Is that a fair statement?

A. I did not know that the lightning strikes were

going to occur on 8 January, otherwise I might have marshalled all the resources quickly. I did not know where the lightning was going to strike. And resources were available to us, all
5 the resources in the ACT were available to us, and they needed to be available to us over the full summer period.

10 You are talking about a logistics exercise for four months or five months of the year, which is quite extensive and very expensive.

Q. But my interest is whether or not given the state of the weather and state of
15 the conditions this year meant that as opposed to other years it was necessary to make further additional extra more expensive arrangements in order to meet the threat that was obvious from the volatile conditions?

20 A. And we did some of that in relation to our aircraft, access to aircraft --

Q. I am talking about heavy plant particularly?

A. If the plant is not available to you, it is
25 not available to you. We had arrangements with New South Wales soil conservation service - that is not what they are called, that is not what their department name is - but we had arrangements with them in relation to access to their two
30 bulldozers. But they were immediately deployed onto the McIntyre fire, and that option went away from us, as were a lot of the other resources immediately. And as far as I was concerned in that first 36-hour period, the McIntyre fire was
35 still a priority fire anyway, and I would not have got in their way to sending those resources to that fire.

Q. Mr Koperberg says in his statement that there
40 was something like 72 fires ignited by thunderstorms on 8 January. Are you aware of that?

A. Yes., that is just in New South Wales.

45 Q. Yes.

A. About that same number in Victoria.

Q. I think it was the same weather pattern that started all those fires effectively.

A. Yes. The information we had, virtually we were at the very northern end and it went right
5 the way through to the bottom of the alpine areas in Victoria.

Q. What time on 8 January was it that you became first aware that the fires had started, can you
10 recall?

A. It was somewhere in the order approaching 1600 hours.

Q. 1600 - about 4 o'clock?

15 A. Yes.

Q. I think you deal with this in paragraph 14 of your statement. The information I think came to you by somebody you immediately spoke with,
20 Mr Graham, the operations officer; is that right?

A. I believe so, yes.

Q. And you say in your statement:

25 I confirm with Tony Graham, the duty co-ordinator, that we had responded appropriately. As these fires were small and resources were still in the process of being responded, I left the management of this
30 initial response to Mr Graham.

Is that right.

A. That would be correct, yes.

35 Q. What was an appropriate response at that stage?

A. Whatever our weight of attack was for our level of readiness that day.

40 Q. What was the level of readiness for that day?

A. I think it was orange, which meant two tankers and three light units and a command unit.

45 Q. You then, as you say, continue with your administrative duties. At 4 o'clock, according to Mr McRae, he and you and Mr Graham went down to what is called COMCEN, that is the communication

centre?

A. That's correct.

Q. Do you recall going down there about 4pm?

5 A. I remember attending.

Q. Was that, in effect, to establish the nature and breadth and seriousness of the fires?

10 A. Once we started getting reports of multiple ignitions, not only in the ACT but elsewhere, and our towers were reporting a number of white calls, it became obvious that we needed to get some clear verification of exactly how many fires we had, exactly where they were and whether or not we were
15 aware of what was in the ACT and the agents that were our neighbours were aware of what they had.

Q. When you got down to COMCEN what did you discover?

20 A. I discovered there were multiple fires.

Q. What was the consequence of that as far as you were concerned? What did that mean that you would then do?

25 A. We went through a verification process. We got our towers to repeat the bearings and distances and where they thought the locations were. we contacted the agencies which we believed those fires were burning on their lands and
30 advised them, and just to ensure that they were aware of that fire. That also gave us confirmation of the locations when they responded positively.

35 Q. Were you concerned at that stage that there were so many fires and as to their location?

A. Certainly.

Q. What was your concern?

40 A. Obviously that meant that we needed to look very, very closely at what the impacts on the ACT were going to be, particularly from those fires outside the ACT.

45 Q. What was the result of examining what the impact on the ACT was going to be? Did you examine the impact there and then? Did you

immediately think there are risks for the ACT in these fires and for Canberra?

A. There was certainly a risk for the ACT and the pine plantations, and that was very obvious,
5 and we responded accordingly.

Q. Did you see these fires as being fires which could be disastrous given the volatile conditions that you described in your statement?

10 A. Did I envisage the 18th January outcome?

Q. No. That is not the question I asked you. The question I asked you was: Did you see the potential - perhaps I will re-phrase that
15 question. Did you see the potential for a major fire incident to occur as a result of these fires?

A. I certainly saw a potential for a complex fire event, yes.

20 Q. I will persist with the terminology I put. Did you see the potential for a major fire event?

A. Can I ask, are you referring to the definition as I described in my CV as to what is a major
25 fire?

Q. Fair enough. One that involves obviously New South Wales and ACT and one that at least has the potential to threaten assets in the ACT and potentially threaten the urban area of Canberra?

30 A. Certainly the first parts of that, yes. Threaten the urban areas of Canberra, no.

Q. Never considered that as a possibility?

35 A. Not at that stage, no.

Q. Because you thought, given the resources and the level of readiness, that any fire that started where these fires started would be able to be contained before that happened?

40 A. I certainly had confidence in our ability to be able to have some intervention, and therefore ameliorate some of the impact.

45 Q. Did you see that these fires were fires which needed to be immediately confronted and suppressed if possible; the initial response ought to be to put the fires out if that was at all possible?

A. When you say "these fires" which fires are you referring to?

Q. I am referring to the ACT fire, Bendora and Stockyard?
5

A. My desire would have certainly, and still is, to direct attack and suppress it as quickly as we possibly could to prevent their further spread.

10 Q. Mr Tony Bartlett you know.

A. Yes.

Q. What role was he playing as at 8 January 2003?

A. He was the director, ACT Forests. He was also
15 a Deputy Chief Fire Control Officer under the Bushfire Service arrangements.

Q. Does that mean he was your deputy?

A. He was one of the deputies, yes.

20

Q. How many deputies did you have?

A. Three.

Q. Who were the others?

25 A. Arthur Sayer and Tony Graham.

Q. Was Mr Bartlett involved early in the process that we are describing when these fires were first discovered? Was he immediately involved in
30 whatever needed to be done and whatever decisions needed to be made?

A. Not as far as Bendora and Stockyard Spur fires are concerned, but he certainly had an interest in McIntyre Hut Fire because it had the potential to
35 impact on the Uriarra pine plantation, and that was our area of highest priority as far as we were concerned.

Q. Do you remember Mr Bartlett coming to ESB on the afternoon of the 8th January and speaking to you about the fires which had just been detected?

A. No, I don't remember that specifically.

I remember certainly going with Mr Bartlett across to Yarrowlumla later on in the day.

45

Q. In his statement, [ESB.AFP.0001.1140], and at paragraph 29, he says, having got to ESB at about

4.20 on the afternoon of the 8th:

Being a Deputy Chief Fire Control Officer,
I went straight into the Operations Room to
5 inquire as to what I could do. I was worried
about the McIntyre's Hut fire and
the potential threat it posed to our forest
resources at Uriarra and Pierce's Creek.
I met Tony Graham and Peter Lucas-Smith and
10 was advised that there was no role for me at
that present time as they were still trying
to confirm the number of fires and their
specific location. I indicated that from
what I had seen on my way over to ESB that
15 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 ground
incident controllers about resource
20 requirements he was not willing to deploy
additional resources to the fires.

Do you remember that conversation?

A. No, I don't.
25

Q. Do you accept that it may have occurred as he
has described it?

A. I certainly accept that it may have occurred,
yes.
30

Q. But you have no recollection of it?

A. No.

Q. Would it be right to say that as at about 4.20
35 on 8 January there would have been no role for
Mr Bartlett to play?

A. That would be correct. Our resources would
not have yet arrived at any of the fires.

40 Q. Does that mean there is no role for him to
play? He is your deputy chief fire control
officer, or one of them?

A. I do not know whether he was the rostered one
or not.

45 Q. Would that matter?

A. Does he say that he was the rostered DCFCO?

Q. He does not?

A. We have our roster system and there is a Deputy Chief Fire Control Officer available every day 24 hours a day.

5

Q. He does not say he was told there was no role for him because he was not rostered on. He says in essence in his statement in the section that I have read to you that he went to ESB because he was concerned about the fires, and he describes in the paragraph I have just been reading to you going straight into the operations room and inquiring as to what he could do. And it was in response to that inquiry by him that he said he met you and Tony Graham and was told there was no role for him. I am just asking you whether you remember telling him that?

10
15

A. No, I don't remember telling him that.

Q. Do you agree that it is likely that Mr Graham told Mr Bartlett in your presence that until he received confirmation from the on-ground incident controllers about resource requirements he was not willing to deploy additional resources to the fires?

20
25

A. I do not remember that statement.

Q. Does that sound right to you?

A. It could have been.

30

Q. Is it a point of view you would have agreed with?

A. Certainly reconnaissance would have been important for us. I think one of the points there is that I do not know whether he is referring to the ACT fires or the McIntyre's fires. At that time the ACT fires were certainly no threat to ACT Forest Resources. But the McIntyre's Hut fire was, and we were not running or controlling the McIntyre's Hut fire.

35
40

Q. I think his concern was - part of his concern was in relation to the McIntyre's Hut fire. As at 4 o'clock, 4.30 in the afternoon, did you have a view about the desirability or otherwise of having crews at these fires overnight?

45

A. No, I didn't.

Q. Is it right to say that on the first night of a fire such as these - when I say "these" I am at the moment at least talking about Bendora, Stockyard, Gingera - that the first night the time
5 when the fire behaviour is likely to be at its most benign?

A. That's correct.

Q. And therefore obviously a time when, assuming
10 all else being equal, the fire might be able to be extinguished by properly resourced crews?

A. Theoretically, yes.

Q. It is not theoretically, is it? It is
15 practically, is it not; that is a fact?

A. I do not know what the terrain was. I do not know what the particular environment the fire was burning in. Given that it was accessible and given that you can in fact achieve a result with a
20 direct attack and you are not going to risk the safety of your firefighters, then certainly it is practical. But until you know that it is theoretical.

Q. But you have been involved, presumably in your
25 experience, in plenty of fires where crews have been sent to a fire in country such as this, or country like this, where the terrain has been difficult and crews have remained overnight?

30 A. Yes.

Q. It might be to stop the spread of the fire. That might actually be to make a serious attempt to put the fire out. But overnight firefighting
35 is not unfamiliar. Certainly not theoretical, is it?

A. No.

Q. By 5 o'clock, according to your statement,
40 the service management team had assembled or been given reports on all the known fire activity in the ACT area. You say that in paragraph 23:

45 I believe that by around 1700, the SMT, that is the service management team, had reports on all known fire activity in and around the ACT region.

You then set out what the fires were. Then you go on to say:

5 Experience suggested that there was a significant possibility of other lightning strike fires still emerging, which had not as yet produced any smoke. This meant the threat of additional fires was significant.

10

Does that mean that at about 5 o'clock the SMT was actually meeting?

A. You say meeting. We were all together doing our job in one location.

15

Q. In one room?

A. In one room, except for the logistics co-ordinator, who I think was still in the aircraft at that particular time doing the air observing work.

20

Q. At 5pm on 8 January the SMT consisted of yourself, Mr McRae., who else?

A. Tony Graham.

25

Q. Just the three of you?

A. As I said, Dave Ingram, who is the logistics co-ordinator, was doing the air observer role.

30

Q. Was anyone keeping any sort of record of either what you had been told or what you were deciding to do?

A. I am trying to think how best to explain this. Within our district management room, which is an operations room adjacent to our communications centre, there is a whole range of boards and map information around which we superimpose information onto. We have an organisation, incident management organisation structure up on the board, and as resources are deployed the resources are moved from where they are, are known to be located and to the incident. And they are written into the relevant boxes --

45

Q. On a whiteboard?

A. We know exactly what resources have been deployed and where, what resources are available

to us and what radio frequencies they are using.

Q. Are you making decisions during the course of all this, as the information comes to you?

5 A. Yes. It depends what you mean by "decisions". At this particular stage I am not too sure whether any people had arrived at any of the fire and all we had was aerial reconnaissance information coming in.

10

Q. Is the information that was on those whiteboards preserved so that we can now look at what you were being told at 5 o'clock on 8 January?

15 A. I would say it is probably unlikely.

Q. Unlikely. As the information changes, no doubt the bits and pieces are rubbed off and things are moved from one spot to the other?

20 A. Absolutely.

Q. So the developing situation in your room where the three members of the SMT are can't now be examined?

25 A. If they were, they are available and you would have them.

Q. But as part of your procedure it does not occur to you that in the earliest stages of a fire like this it is important to keep a record of the information you are getting as decisions are being made and as the situation is progressing?

30 A. We do have a record of that type of information in the context of it is all done over our radio communications system. That radio
35 communications system is --

Q. No, I am not - I understand you have that. I am talking about what is going on in your room. When you and Mr Graham and Mr McRae are meeting
40 and discussing the information you are getting, and analysing what you are being told, there is no record of that, is there?

45 A. Yes, there is, because it is on the board in front of us. We can see what resources have been deployed. We can see where they have been deployed to.

Q. But I cannot now ask you the detail of what you have been told?

A. Yes, that is exactly what I am trying to tell us is you can, because it is in the radio transcripts. Because anything that went from the field to us is in the radio transcripts, and anything that went from us to the field is in the radio transcripts.

10 Q. That is the information coming to you. What about discussions and decisions that you were called upon to make?

A. No, there is not.

15 Q. No record of that?

A. No. I can give an explanation as to why.

Q. As to why there is no record?

A. Yes.

20

Q. What is it?

A. We work on the basis of three types of fire. There is type 1, type 2 and type 3 fires. At this stage this was very much a type 1 fire. It is less than a hectare in size. We made responses to these. These are the ones inside the ACT. We made responses to it. In our type 1 fire events most of the decision and information is passed verbally and not written. As you expand up through the system into a type 2 it becomes more formalised and obviously in type 3 is very formalised.

35 Q. Who is to say a type 1 fire is not going to turn into a type 3 fire?

A. All type 3 fires start as type 1 fires.

40 Q. As part of your procedure you only keep a more formalised record of what is happening once the fire become as type 2 or type 3 fire?

A. Yes.

45 Q. So insofar as discussions occur at the very start when it is a type 1 fire and decisions are being made and issues of tactics or planning or anything else are being discussed, no-one can later look at that and see what was actually

discussed and what was decided?

A. It would appear so, yes.

Q. Is that right?

5 A. Yes.

Q. Were you operating on the basis that a type 1
fire stays a type 1 fire. You do not remember too
much about the detail until it becomes a type 2 or
10 type 3 fire?

A. I do not know just how accessible these fires
were, how effective our response was going to be.
And it could very well be that the fire event
would have been over not long after the resources
15 arrived.

Q. But Mr Lucas-Smith, given the volatile nature
of the weather and the vegetation and all
the things that we have already discussed, there
20 was also a significant chance, was there not, that
these fires might have turned into something much
bigger than a type 1 fire; you must have known
that at the time?

A. We had already responded to 92 fires that
25 summer.

Q. Maybe, but that is not what I am asking you.
You must have known that that risk was there?

A. Of course. If you want to say it in
30 the context it was in the subconscious, it was not
something that was physically out in front that
was staring us in the face. As I said, we had
already responded to 92 fires for that summer so
far and had not created a problem. Our response
35 capability was proving to be reasonable.

Q. But you would not necessarily assume that
everything was going to go absolutely according to
plan on this occasion. You might have responded
40 to 392 fires. This fire, any fire, can always be
the one that gets out of control and becomes a
major event?

A. And it is not an issue until it does.

45 Q. And you did not see that this combination of
fires, where they were, had any potential to
threaten the urban part of Canberra?

A. Not at that time.

Q. It was not something you ever thought of?

5 A. Not at that time, no. It never crossed my mind.

Q. Has it ever crossed your mind in the time you have been Chief Fire Control Officer that a fire to the west of the urban area under extreme conditions and with a strong north-westerly might actually threaten the Canberra urban edge?

10 A. Absolutely. December 2001 was a classic example. The proximity of the pine plantation to the urban areas is an area of concern to me all the time I have been Chief Fire Control Officer.

Q. It did not enter your mind on this occasion?

20 A. We are a long way away from the urban edge of the ACT.

Q. I appreciate that. But given the circumstances and given the vegetation, it was not, as far as you can see, as at 8 January, it was not something that you were concerned about or contemplated as a realistic risk?

25 A. That is absolutely correct.

Q. Is that right?

30 A. That's correct.

Q. Mr Graham, who we have discussed, is the operations manager --

35 THE CORONER: Would that be a convenient time for the morning adjournment?

MR LASRY: Now is as a convenient time as any.

40 THE CORONER: We will now take the morning adjournment.

SHORT ADJOURNMENT

[11.23am]

45

MR LASRY: Mr Lucas-Smith, can I just go back to one matter that I asked you this morning. I think
5 you told me that, as at 8 February, when these fires first started, when you became aware of them, and I am really asking you at a point when you knew how many fires there were and where they were, I think I asked you whether you contemplated
10 any risk to urban Canberra from any of these fires and I think you said at that stage the thought did not cross your mind.

A. No, and I assume you are talking about
15 8 January, not 8 February.

Q. I am sorry. Did I say February? I meant
20 8 January. It is right, is it, that that did not cross your mind on 8 January?

A. No, it did not.

Q. I want you to take it that I include in the question not just the ACT fires but also the McIntyre's Hut fire in particular?

A. I certainly felt that the McIntyre's Hut fire
25 had a potential to impact on the ACT, not the urban edge of the ACT.

Q. Does that mean you turned your mind to that and came to that conclusion or does it mean that
30 what you were thinking about as at 8 January was only perhaps assets in the ACT but not the urban edge?

A. Certainly. The data that we received back from the field on the evening of 8 January
35 indicated that the fires in the ACT were small. What information we had on the McIntyre's fire was indicating that that fire was large, and had the potential to be much larger and also had the potential to impact on ACT assets. As a
40 result of that, it was a higher priority, in my view, than the Bendora and Stockyard fires.

Q. Assets means forests and pine plantations?

A. Yes, valued assets, even our environment, and
45 grazing lands.

Q. If the pine plantations at Uriarra and

Pierce's Creek were within realistic risk from the McIntyre's fire, which I think is what you are referring to, then am I wrong to suggest to you that inevitably there is almost as a matter of
5 logic a risk to Canberra itself?

A. I think it is a pretty long bow at that particular time. We had no idea what the weather conditions were going to be for the - out from that particular point over the next week or
10 whatever it might be. The potential certainly existed for the fires to spread. The strategies that were put in place in relation to indirect attack directly on the McIntyre's fire gave us some room to move in relation to establishing
15 construction lines, and our predictions using the McArthur forest fire danger meter to work out what our rates of spread and growth for that fire were going to be gave us a number of days to put things in place before those containment lines would be
20 put under pressure.

Q. When you say you did not know what the weather conditions were going to be like, you knew or you could assume almost inevitably, indeed you are
25 almost obliged to be pessimistic, aren't you, that within a cycle of somewhere between five and seven days, given the pre-existing conditions, as Mr Cheney said in his evidence last year, that extreme conditions - that is conditions for
30 temperatures in the mid to high 30s and north-westerly winds - were almost inevitable?

A. Climate is what you expect, weather is what you get, and certainly the climatic conditions were telling us that we were into a very dry
35 period. There is no doubt about that whatsoever. But the fire behaviour on any one particular day is also going to be driven by whatever the weather conditions are on that particular day.

40 Q. Of course. But are you not obliged as an emergency response organisation to in a sense assume the worst and prepare for it as best you can?

A. Yes, well, I think that there is certainly a
45 lot of invitations in relation to that sort of statement. I do not know if any fire agency anywhere in Australia is actually equipped to deal

with the worst, if that is - however you might
define that. There are those days that will come
along in every aspect of our environment in
south-eastern Australia that will be outside
5 the realms of management in relation to fire
control regardless of how much preparation work
you have done.

Q. The point I am seeking to make, and I am sure
10 I am not making it well, is that given
the circumstances - and when I say "circumstances"
I mean fuel, temperature, weather cycles, history,
position of these fires out to the west - an
15 aggressive fire in New South Wales, the McIntyre's
fire, certainly began aggressively and as you said
was the biggest - before I ask the question, if I
can add one more thing: you saw a risk to assets
and that included risks to the pine plantations at
20 least at Uriarra and Pierce's Creek. But it is
not a big step from there to say, "If we do not
get on top of these fires very quickly", and "we"
of course includes New South Wales because they
were conducting the response to McIntyre's, "then
if things go badly, Canberra is at risk". That
25 was surely within a possible chain of logic that
was not unrealistic, even at 8 January; do you
agree with that?

A. I think it is an easy thing to say in
hindsight, but at the particular time --

30

Q. That does not make it invalid, though?

A. The thought did not cross my mind.

Q. It did not cross your mind?

35 A. It did not cross my mind that these fires at
that stage on 8 January had the potential to
impact on urban ACT.

Q. Coming back to where I was when we took
40 the break, one thing that I did want to ask you,
and perhaps I should ask you this general question
first: the Emergency Services Bureau made a
submission to the McLeod inquiry, which is a
document you would have heard me produce or tender
45 at the start of proceedings today. I take it that
document at least can be described as having
substantial input from you?

A. It had some input from me, yes.

Q. Before it went, presumably you read it?

A. Yes.

5

Q. And was satisfied that it was true?

A. Yes.

Q. The other thing --

10 A. To what we knew at that time.

Q. The other thing I know I have not asked you, but I should formally ask you while I am dealing with this sort of thing, is that in relation to your statement of 14 October 2003, to which I have already been referring, you have signed that statement as being true, I take it?

15

A. Yes.

20 Q. And to the best of your knowledge the contents of the statement are true and correct; is that right?

A. Yes.

25 Q. Now, in the submission made to the McLeod inquiry I will take you to the top of page 98, and at page 98 the submission is dealing with 8 January. The first line says, and the SMT is the service management team:

30

The SMT met to consider the situation --

-- and I think we can take the situation as being the general situation in relation to fires in the ACT and New South Wales --

35

-- and to determine the control objectives for these fires.

40 Q. Is that right? Did the SMT meet, consider the situation and determine the control objectives?

A. Yes.

45 Q. What were the control objectives?

A. Direct attack and resources. At this particular time I think you will find

the resources had not yet arrived at the fire.

Q. I heard you say "direct attack". What was it about resources?

5 A. Just direct attack with the weight of resources, the resources that had been responded.

Q. Do you know what meeting this part of the submission is referring to? I know you say
10 you were not having formal meetings, but the submission seems to suggest that the SMT, being the three of you - yourself, Graham and McRae - had a discussion and considered the situation?

15 A. We were all in the same room together all doing our things and we were obviously exchanging information continuously.

Q. But, Mr Lucas-Smith, this document suggests in
20 its terminology that you actually met and considered the situation and determined control objectives?

A. Yes, we met. We did not meet formally, I would think, but we met.

25

Q. And the control objectives were direct attack?

A. Yes.

Q. Do you know why that is not said there, as to
30 what the control objective was?

A. No, I don't.

Q. It would not take long to meet and determine
35 that the control objective is direct attack, would it? It would not take long to come to that conclusion in these circumstances?

A. No, but that is exactly why we responded. That is what our initial response is always, and our weight of attack is based on what the fire
40 danger rating is for the day. The resources are responded and their initial objective is always direct attack wherever possible.

Q. Mr Graham, who is part of the SMT, in his
45 statement - and I should give the reference, your Worship. The statement itself is [ESB.AFP.0001.1307] and I am on page 4 of

the statement, which is .1310, and in particular paragraph 16. He is also describing in his statement, Mr Lucas-Smith, 8 January, and he says this:

5

Throughout the afternoon --

-- you can take it as throughout the afternoon of the 8th --

10

-- and into the evening, the SMT, not including David Ingram, as he was in 'Firebird 7' at the time, met to discuss the current situation and to consider a range of issues, including the need for overnight deployment, the following day's resource requirements, tasking of 'Firebird 7' --

15

-- that is the helicopter?

20

A. Yes, it is.

Q. "... and objectives and strategies for each of the fires in the ACT". First of all, is what Mr Graham says there true?

25

A. I don't recall all aspects of it being in the context of the way he describes it.

30

Q. Well, he says that one of the things you discussed - and when we are talking about a meeting, I understand we are not talking about a formal meeting with minutes and a chairman and all the rest of it. But he says in his statement you met and you discussed the current situation - clearly that is true - and a range of issues. Do you remember meeting and discussing a range of issues?

35

A. Not specifically, no.

40

Q. Including the need for overnight deployment. That is one that he recalls. Do you remember discussing overnight deployment?

A. No, I don't. I certainly remember discussing overnight deployment with Mr Graham on a telephone contact when I was --

45

Q. That is much later?

A. Yes, that is much later.

Q. He describes this as being during the afternoon and into the evening there was a discussion about the need for overnight deployment. You have no recollection of that?

5 A. I do not recall discussing overnight deployment.

Q. He says you also discussed the following day's resource requirements. Do you remember discussing that on the afternoon and into the evening of 8 January?

10 A. No, I don't recall that, and we would have waited until we got advice from the incident controller as to what the resource requirement was.

Q. Did you discuss the tasking of 'Firebird 7' on the afternoon and evening of 8 January?

20 A. Certainly, because we shifted it a number of times from waterbombing to air observation and later trying to get more information about some of the other more remote fires.

Q. And the objectives and strategies for each of the fires in the ACT; he says there was a discussion about that. Was there any difference to the objectives and strategies for each of the fires in the ACT?

25 A. No.

30 Q. Direct attack?

A. It was direct attack.

Q. So when he comes and gives this evidence and describes these various issues being discussed, that is not something you can remember?

35 A. I do not remember any meeting to discuss those issues specifically.

40 Q. You put your verbal emphasis on "meeting". As I said to you at the outset --

A. Even informal discussions.

Q. The question was whether or not this range of issues - overnight deployment, following day's resources, how the helicopter would be used and the objectives and strategies for each of

the fires - whether you can recall that all those things were discussed on the afternoon and evening of 8 January?

5 A. No, I don't recall all those issues being discussed.

Q. Does that mean that you do not believe they were?

10 A. No, I am certainly not going to call Mr Graham a liar.

Q. I am not asking you to do that. There are all sorts of reasons why witnesses might vary in their recollection. I am asking you for your
15 recollection. Is your recollection that those matters were not discussed?

A. I do not recall those matters being discussed.

20 Q. I am sorry to be persistent, but does that mean they may have been discussed and you do not remember or your belief is they weren't?

A. They may have been discussed, but I don't remember.

25 Q. If they were discussed and some note had been taken of what was decided then we would be able to know of course, wouldn't we? That would not be on the white board, would it, those issues?

30 A. No, I wouldn't have thought so.

Q. And it wouldn't be in the radio transcripts either, would it?

A. Not those discussions, no.

35 Q. So in the end if Mr Graham says one thing and you say something different, we will just have to work it out for ourselves, I suppose?

A. I would assume so.

40 Q. Overnight deployment he is obviously going to say was an issue. You do not recall there being any issue about that until it arose later when you spoke to Mr Graham about in particular the Bendora fire; is that correct?

45 A. Yes. Certainly from my point of view it was obviously something I was thinking about.

Q. What were you thinking?

A. I was thinking of a whole range of different things associated with --

5 Q. Were you thinking that overnight deployment was desirable?

A. Certainly from my point of view, but once again we were still seeking advice and seeking information from --

10

Q. I appreciate that.

A. And I was not prepared to make any decisions or judgments in relation to what was going to be an effective strategy and what was not until we had that information.

15

Q. I realise that. But would it be fair to say - tell me if this is too hypothetical - that, if it could be practically or reasonably done, overnight deployment at these fires would be desirable in your view as at 8 January?

20

A. Yes, and I think I have already said that.

Q. Does the meeting of the SMT or indeed the establishment of the SMT and the fact that you are together discussing whatever issues you were discussing, and there appears to be some at least debate about what issues you were discussing, does that mean that this ESB is treating these fires as more than just a minor event, but this is something that needs to be - sorry, I withdraw that - these fires are something which require a fairly carefully planned, co-ordinated response?

25

30

A. Any multiple fire situation requires that, because you are going to split resources.

35

Q. That was the test, was it? It was the fact that there was a number of fires?

A. Yes.

40

Q. And in the same vicinity as each other, broadly?

A. It depends what you call "same vicinity". The distance between Stockyards or Mt Gingera and McIntyre's is 20 kilometres.

45

Q. They were in the Namadgi National Park, they

were out to the west of Canberra and they were in similar sort of countryside?

A. Yes.

5 Q. As far as Bendora is concerned, I will just take you to paragraph 25 of your statement, which is on page 6. The reason I am referring to the numbers whenever I can is that if I do then, when the transcript comes up, it comes up with a
10 link, a hyperlink.

Mr Lucas-Smith's statement is [ESB.AFP.0110.0551]. You say in paragraph 25 of your statement that crews deployed to the Bendora fire reached
15 the fire ground at approximately 1800 hours, 6pm. Do you know that from being told that by somebody? Do you know how you know that they got there at 6 o'clock?

A. No, I don't actually recall. I think I may
20 have got that information after the event. At that particular time, I knew they were on their way and they were trying to get there. I don't recall specifically how I know that time.

25 Q. You then say in your statement:

At about this time --

-- that is 6 o'clock on 8 January --

30 -- I discussed the need for situation planning with Rick McRae, planning officer, to consider fire growth potential in preparation for an interagency co-ordination
35 meeting to be held later that evening at the NSWNPWS office at Queanbeyan.

So you knew at 6 o'clock you were going to have to go to this meeting over at Queanbeyan?

40 A. Yes.

Q. And you were telling Rick McRae, "We need to be prepared for this," and what you were going to discuss broadly speaking was the co-ordinated
45 approach to the McIntyre's Hut fire; is that correct?

A. That's correct.

Q. We will come back to that meeting in a minute.
In the submission made by ESB to the McLeod
inquiry, at page 98, in the middle of the page,
the submission says:

5

On arrival at the Bendora fire, the crews
found that access was relatively easy, though
the fire was burning in the middle of a block
and was about 50 metres from the fire trail.

10

Just pausing there, do you know that the 50 metres
refers to 50 metres from Wombat Road; is that your
understanding?

A. I believe it is something like that, yes;
15 upslope from Wombat Road or Walk's Road --

Q. What is the terminology "burning in the middle
of a block" mean?

A. I am not 100 per cent sure in the context.
20 From my point of view, it generally means it is
something that is generally surrounded by some
sort of trail work of some sort.

Q. "Direct attack was not initially undertaken
25 due to the fire's location and the crews waited on
the fire trail for the fire to come to them."

Do you know whether that is true or not?

A. I don't know whether it is true, but
30 I understand that is what happened. You will need
to ask them.

Q. "The incident controller of the Bendora fire
35 felt that due do the rugged terrain and access
issues, together with the threat of falling trees
and tree branches, keeping crews at the fire
overnight posed significant safety issues."

In relation to that, is that something that you
40 contributed to this submission or is that
something that comes from someone else? Was that
your state of mind in relation to this?

A. I think it is attributed to the submission
based on other material that was being compiled at
45 that particular time. I did not write this
particular section.

Q. I am not saying you did. I am just asking you when it says "the incident controller at the Bendora fire felt that due to the rugged terrain and access issues, together with
5 the threat of falling trees and tree branches, keeping crews at the fire overnight posed significant safety issues," whether that was a view or an understanding that you had why crews did not stay?

10 A. The fact that it says "the incident controller at the Bendora fire felt", I would assume that is attributed to her in some way. I certainly had some concerns in relation to the night-time firefighting exercise there. The potential
15 existed, I suppose, for a number of safety issues to arise. However, it is the advice from the people in the field that make that determination, not us sitting in our bunker in Curtin, so to speak.

20 Q. Anyway, really I was asking you the question: do you know where that information came from? You are not sure, but you suspect it might be from the incident controller in the field possibly.
25 You are not sure?

A. Yes, I believe so.

Q. It is not your writing, that particular part?

30 A. It is not my writing and I do not have any difficulties with what is stated.

Q. We will come back to that, of course, but I want to come back to the meeting at 6.30 over at Queanbeyan. You deal with this first of all in
35 paragraph 25 of your statement on page 6. You describe in that paragraph a pre-meeting discussion between yourself, Tony Fleming, Julie Crawford and Bruce Arthur, which agreed that a recommendation for a section 44 declaration for Yarrowlumla shire would be made to the New South
40 Wales Rural Fire Service Commissioner for the McIntyre's Hut fire. Then at 8.30 the meeting commenced; is that right?

A. Yes.

45 Q. It says:

Rob Hunt and Scott Seymour briefed the meeting on their observations and reported that the McIntyre's Hut fire was beyond direct attack. I then briefed the meeting on the fires in the ACT and advised that these fires were still small and that we would continue with a direct attack strategy. The meeting agreed that the objective for the McIntyre's Hut fire was to establish containment lines around the fire using existing roads wherever possible and to use these containment lines to burn out the block. Over 30 kilometres of containment line was needed to achieve this objective. Thus the initial New South Wales effort would be on reconnaissance before using heavy plant to consolidate any line prior to start of backburning and subsequent patrols. While this gave some initial reprieve from the tasking of ACT resources to this fire, it was made clear that there was likely to be a request at a later date when the backburning operations commenced. It was also recognised that the ACT fires did not have the same containment line capability and direct attack was the best option and the only short-term option.

Did you agree with those strategies?

30 A. Yes.

Q. Were you asked for an opinion?

A. I contributed to the discussion.

35 Q. Yes, but were you asked for an opinion?

A. I don't recall specifically being asked for an opinion.

40 Q. Did you say in the course of this meeting that what concerned you about the McIntyre's Hut fire was that there was a realistic risk from that fire to ACT assets, including Pierce's Creek and Uriarra pine plantations?

45 A. I do not recall actually saying it, but it was the very reason I was there.

Q. Did they realise that you as an ACT

representative were concerned about them?

A. I believe so.

Q. It meant, didn't it, that this approach by
5 the New South Wales Rural Fire Service was going
to mean that a large burn of something like
90 square kilometres was going to be required?

A. It was going to be large, yes.

10 Q. That is a huge burn, is it not,
Mr Lucas-Smith?

A. Yes, it is.

Q. And there are risks with that, are there not?

15 A. There are considerable risks.

Q. Again, you are the expert, not me, but it
seems to me the big risk is once you embark on a
burn of that size, if the weather turns nasty, it
20 is something you could easily lose control?

A. Yes.

Q. Were you concerned about that at this meeting?

25 A. Yes, I was.

Q. Did you express that concern?

A. Yes, I did.

Q. What did they say?

30 A. What were the other options?

Q. Smaller containment lines; more direct attack?

35 A. There weren't any. The containment lines that
were chosen were those which - that were
constructed - that already existed and posed
the best opportunity to actually work from, and
also gave a realistic time frame to work from.

40 Q. In all events, you were consulted about
whether or not you agreed with the tactics they
were proposing to employ?

A. Yes.

45 Q. You were asked to express a view either in
favour or against?

A. Not as directly as that, but yes.

Q. How did they actually obtain your opinion?

A. As I said, there was discussion about what were the options that were available to us, and then at the end of the meeting which option
5 offered the best opportunity.

Q. And, what, went round the table and people got a chance to say?

A. Yes, I think everybody got a chance to say.
10

Q. Did you say in the course of that meeting, "I agree. The containment lines that are proposed in the 90-square kilometre burn is the only way to go" or something to that effect?

A. I don't know whether I said that.
15 I recognised that that was the best option at that particular time.

Q. You supported their decision?

A. Yes.
20

Q. I don't think you actually say that in your statement. Tell me if I am wrong about that, but I don't think you describe in your statement
25 the level of your participation in this meeting and the fact that you agreed with the tactics that were settled upon?

A. I don't think it says I disagreed either, does it?
30

Q. No, it may not. But it does not actually say - it seems to me anyway, on a reading of paragraph 25 of your statement, that you actually
35 don't reveal in your statement the position you took in relation to the McIntyre's Hut fire.

I wonder why that is.

A. I don't know.

Q. It was a pretty important meeting, was it not?

A. It certainly was.
40

Q. It was that meeting that made the decision that led to a large burn in an attempt to contain McIntyre's Hut which went wrong. Clearly, it went
45 wrong?

A. I don't know if I actually shared that view at the end of the day as to - come 18 January, yes,

it went wrong for a number of different things.
But, once again, what was the alternative?

5 Q. You may be right. There may be no
alternative. I ask you whether there is any
particular reason why you did not put in your
statement the fact that you thought the tactics
were correct and that you supported them at
the meeting on the night of 8 January?

10 MR JOHNSON: Could I at this stage rise to make
this point about paragraph 25. I am conscious
the witness has the paragraph in front of him, but
it does say certainly in general terms about 15
15 lines down, three-quarters of the way down
the page, "The meeting agreed that the objective,"
et cetera and then four lines from the bottom:

20 It was also recognised that the ACT fires did
not have the same containment line capability
and direct attack was the best option and
the only short-term option.

25 If the point that is being put is that
the statement does not say expressly, "I agreed
with this", the fact is what is put in
the statement: that there was a meeting which was
attended by the witness, and he is expressing
there what was the view of the meeting of which he
30 was a part. So, to the extent that there is some
point being made about the absence of him saying
in a separate sentence, "I agree with this",
I would submit that that perhaps overlooks what is
the necessary implication flowing from
35 the statement. I don't want to slow down the flow
of questioning, but if some significance is to be
attached to that, the whole paragraph needs to be
read as a whole, I would submit. It ought to be
so understood by those who are posing
40 the questions as well as those who are seeking to
answer them.

THE CORONER: Thank you, Mr Johnson.

45 MR LASRY: I have inquired with the witness to
the extent that I wanted. I think I have perhaps
made the point that I wanted to make and, if

the answer to it is in a reading of the whole paragraph, well no doubt my learned friend will say so at the end of the evidence.

5 Mr Lucas-Smith, you were at the meeting at Queanbeyan I think for some time. You might recall, but I think you left Queanbeyan - the meeting finished at 8.30. Am I right about that?

10 A. About that sort of time.

Q. Yes, something like that. I am just looking for it. You went back to ESB anyway?

A. Yes.

15

THE CORONER: I think it started at --

MR LASRY: It started at 8.30. I am sorry. It is more like 9.30 - 9 o'clock. According to
20 Mr McRae's statement, he says at 9 o'clock the meeting finished and you and he returned to ESB. But it was some time, 9 o'clock or thereafter. There was the pre-meeting, then there was the meeting we have just been discussing at
25 8.30 and then it seems as though it finished at about 9 o'clock. Does that accord with your recollection?

A. Yes. When I arrived at Queanbeyan, we waited around for a while, waiting for all
30 the participants to turn up. We then had a pre-meeting to discuss the section 44 declaration options, and then went into a little bit more formalised meeting. We generally crawled over that and talked about options.

35

Q. Were you being consulted while you were over there in relation to what was happening in the ACT?

A. Not while I was - not during that meeting that
40 I can recall.

Q. First of all, let me ask you the general question. Before the decision was taken that the resources at Bendora would be removed for
45 the night, were you consulted?

A. Yes, I was.

Q. You were?

A. Let me say it this way. I received a phone call from Tony Graham while I was in the car.

5 Q. What time was that?

A. I think I was actually en route to Queanbeyan at that particular time, and a discussion was had about overnight and the option was that they would not stay in overnight. How much information he
10 had from the incident controller at that time, you will need to ask him.

Q. All right. So you receive a telephone call from Tony Graham and you have a discussion about
15 it and you reach some agreement as to what is to happen; is that right?

A. Yes.

Q. That is not in your statement, is it?

20 A. I don't believe so, no.

Q. Have a look at paragraph 26 on page 7 of your statement:

25 I am now aware that during my absence from ESB discussions took place between the operations officer, Tony Graham, and the incident controller, Odile Arman, at the Bendora fire, reaching agreement on a
30 number of safety issues and that the crews would not stay out overnight and that a first-light attack would be safer and more appropriate.

35 That is just simply not right, that passage in your statement; is it?

A. As far as I am aware, yes, they had that conversation.

40 Q. Yes, but you formulate that in your statement as though you have discovered it subsequently. You say, "I am now aware as at 14 October 2003".

A. Yes.

45 Q. Why don't you include in that the fact that you had a discussion on the telephone on the night of 8 January?

A. My discussion with Tony Graham probably was less than two minutes.

Q. Well, I don't think length is a qualification
5 for inclusion, Mr Lucas-Smith. It was an important discussion, was it not?

A. No, not in relation to the relevance. It was purely and simply based on information that we had
10 available to us from the incident controller in the field.

Q. Look, Mr Lucas-Smith, you know - and I suggest you knew as at October of last year - that there are people who are participating in that group of
15 firefighters at Bendora who disagree with the decision and were of the view that, if they had been left there, they could have put the fire out. You know there are people who say that, don't you?

20 A. No, I don't.

Q. You don't know that?

A. I don't know that.

25 Q. You know, I take it, or you knew at the time you drafted your statement, that the decision to remove firefighters from the Bendora fire on the night of 8 January was a matter of some contention; didn't you?

30 A. No, I didn't know.

Q. You had no idea that that was going to be an issue?

A. No. As I have said all along, it is the
35 people in the field that make decisions about resourcing.

Q. No, I am concentrating on you at the moment. I want to know why --

40 A. You are asking me to make a judgment about whether or not there was a --

Q. No, I will tell you what I am asking you. I am asking you to say why it was that you did not
45 include the fact that you knew that people were being withdrawn from Bendora on the night of 8 January because you took part in the decision.

You don't say that in here. Now, why not?

A. I didn't consider it to be that important at the time.

5 Q. So you thought of it and left it out on purpose?

A. No, just didn't think of it.

10 Q. You didn't think it was important. You know Mr Graham says that he discussed it with you, don't you? You know in his statement that he says he had a discussion with you?

A. I believe he is referring to that telephone conversation, yes.

15

Q. You have read his statement, I take it?

A. Yes, I have, at some stage.

20 Q. His statement was made on 9 December of last year, two months after yours. You have read it since he made it?

A. Yes.

25 Q. It jogged your memory, did it, that there was a conversation on the telephone on the night of the 8 January?

A. Yes.

30 Q. Did you know when you read Mr Graham's statement by December of last year that the issue of withdrawal of troops, firefighting personnel from Bendora on the night of the 8th was a matter of some consequence to this inquiry?

A. I understood that, yes.

35

Q. You knew then, didn't you?

A. Sorry, when?

40 Q. At the time you read Mr Graham's statement, December, you realised that the withdrawal of troops on the night of 8 January was an issue of some consequence?

A. Yes. Mr McLeod made it an issue of some consequence as well.

45

Q. And Mr Cheney was critical of it in his evidence last year?

A. Yes.

Q. So it is obvious you didn't seek to contact Mr Bayliss or Mr Johnson and say, "I want to amend
5 my statement. My statement does not include something that I now see is important".

A. No, I didn't do that.

Q. You were also consulted, I think, by Mr Graham
10 in relation to the Stockyard Spur withdrawal, weren't you? Probably in the same phone call, possibly, that he talked to you about Stockyard Spur and the crews could not reach Stockyard Spur by nightfall? Do you remember having a discussion
15 with Mr - don't worry about looking in your folder for the moment, just tell me if you can recall it?

A. That is why I am having a look.

Q. I want to know if you can remember.

20 A. I can't recall Stockyard being involved in that discussion.

Q. Mr Graham said he received a report from Dennis Gray that he and his crews sent to
25 Stockyard Spur were unable to reach the fire by nightfall - this is in paragraph 23 of Mr Graham's statement:

30 I spoke to Peter Lucas-Smith about what Dennis Gray and his crews should do. Peter and I agreed that Dennis Gray and his crews should not continue to the fire and should return to Canberra.

35 Do you remember that discussion?

A. No, I don't.

Q. You don't remember that one?

40 A. No, I don't remember that one, and I don't recall that being part of our telephone conversation.

Q. What he says, going back to the Bendora fire in paragraph 19, is that he discussed Odile
45 Arman's concerns with you. He can no longer recall whether those conversations were in person or by telephone, but he recalls that he discussed

them with you. So do you recall Mr Graham ringing you and telling you that Odile Arman had concerns about staying up there overnight?

5 A. What I do recall is that we had a discussion about that after that meeting and after I had returned to Curtin, and there were crews that had already been stood down.

Q. You agreed with the withdrawal?

10 A. It was a bit late.

Q. Well, let me ask you the question again. Did you agree with the withdrawal?

15 A. Once I heard the information from the discussions that had taken place between Tony Graham and Odile Arman, I thought that there probably should have been a little bit more in-depth consideration.

20 Q. So you did not necessarily agree with the withdrawal?

A. If I had have been on the fire ground, I may have done things differently. But I dare say the people there were working on the best judgement --

Q. Maybe they were, Mr Lucas-Smith, but part of the way this process works, as I understand what happened on the night, is that Odile Arman is out at the Bendora fire and she radios back to COMCEN and makes an inquiry as to what COMCEN want her to do. She also says, in fairness, that she had concerns about staying out there overnight for a variety of reasons. At the time the phone call took place between you and Mr Graham, tell us if you can, in as much detail as you can, what you were told by Mr Graham about Odile Arman's concerns? What was it she was concerned about?

35 40 A. I don't think we included those concerns in our telephone conversation, other than the fact that there were concerns.

Q. There were concerns. Were you being asked for a view as to what should happen?

45 A. No, I was --

Q. Just being kept informed?

A. I was being kept informed.

Q. You were not being asked for an opinion?

A. I am not the operations officer.

5

Q. But you understand this telephone conversation between Mr Graham and yourself occurred before finally it was agreed that the troops would be withdrawn from Bendora, didn't you?

10 A. I am not real sure if it was before finally agreed or was advice after finally agreed.

Q. I think on Mr Graham's statement this phone call takes place somewhere around quarter past 7.

15 I think that is now your recollection too, is it, or am I wrong about that? Was it on the way to Queanbeyan for the meeting that you took the call?

A. According to my notes, the actual telephone call took place at about 1942 hours, which makes
20 it about 20 to 8.

Q. You have notes of it?

A. I have the transcript of that telephone conversation.

25

Q. Of the one we are talking about?

A. Of the one we are talking about.

Q. Thank you. Can I have a look at that.

30 A. They have been available to you.

Q. I will tender this, your Worship, but perhaps the most efficient thing for me is to read it. It is only a page and a half. The transcript records
35 the conversation as taking place at 7.42, 1942 hours, on 8 January between Peter Lucas-Smith and Tony Graham. The first voice to speak is Mr Lucas-Smith:

40 Peter Lucas-Smith: Hello.

Tony Graham: Yeah, g'day, Peter.

Peter Lucas-Smith: Yep.

45

Tony Graham: That, um, Bendora fire.

Peter Lucas-Smith: Yep.

Tony Graham: Ah, approximately 500 square metres, burning very slowly.

5

Peter Lucas-Smith: OK. Ah, is Odile on it?

10 Tony Graham: Dunno, we can't - we've just spoken to Parks, Forests 15 and they're going to grab Odile. She's in the scrub at the moment. That's the message we got.

15 Peter Lucas-Smith: OK. So, ah, what are they going to be able to do anything tonight, do you think?

Tony Graham: Um, I would be very doubtful that they could. I'd --

20 Peter Lucas-Smith: So we would be looking at crews back tomorrow?

Tony Graham: Yep.

25 Peter Lucas-Smith: OK. I will leave it to you to organise that with Odile.

Tony Graham: OK.

30 Peter Lucas-Smith: We need to make sure that we, ah, don't commit ourselves beyond what we might end up needing to commit to the McIntyre fire.

35 Tony Graham: Yep, sure.

Peter Lucas-Smith: But I think we need, if we can get them out of the way, the better.

40 Tony Graham: Yep.

Peter Lucas-Smith: But, ah, McIntyre's will most likely be, um, tankers with backburning operations anyway, so.

45

Tony Graham: Yep. OK.

Peter Lucas-Smith: ... We might use other resources for that.

5 Tony Graham: Sure, not a worry. I'll work on that and I'll let you know when you come back.

Peter Lucas-Smith: Excellent.

10 Tony Graham: Right.

Peter Lucas-Smith: See you.

15 I tender that document, if your Worship pleases.

THE CORONER: It is the transcript of the telephone conversation between Mr Lucas-Smith and Mr Graham on the afternoon or the evening of 8 January. It will become exhibit 20.

20 <EXHIBIT #EXH0020 - TRANSCRIPT OF TELEPHONE CONVERSATION BETWEEN LUCAS-SMITH AND GRAHAM OF 8 JANUARY 2003

25 MR LASRY: Once it has been marked, can I have it back, please.

Q. Do you have anything else like that there, Mr Lucas-Smith?

30 A. No, as I said, you have that information yourself.

Q. On the tapes?

A. On the tapes, yes.

35 Q. These are tapes of all conversations from ESB?

A. As I understand all transcripts were handed over to the AFP investigations.

40 Q. Certainly, as far as I am aware, we have all the transcripts of the radio broadcasts. As to whether we have the phone conversation, I am not sure. But if Mr Lucas-Smith says we have then it may be that we have.

45 A. I don't know whether you have those telephone conversations either, but I understand that you have got whatever you asked for.

Q. This is Mr Graham keeping you informed?

A. Yes. At that particular time obviously we are into the informal meeting process.

5 Q. But if you had a strong view the crews should stay there overnight, then you could have expressed it then, made it clear that that is what you wanted to have happened, couldn't you?

10 A. I could have, but I would not have made such a view without knowing what the incident controller was saying from the field.

Q. But all you know from this phone call, from this transcript, is that Odile is in the scrub and that Mr Graham is doubtful that they are going to be able to do anything tonight. That is the extent of the information you get in that phone call, isn't it?

20 A. And I trust his judgment.

Q. But you are not told that there are concerns about safety. You are told that the fire is 500 square metres, so I was going to say a reasonably small fire - I suppose it is all relative - but there is some other evidence about that which indicates that the boundaries were of the dimensions of 50 to 100 metres around three boundaries plus Wombat Road, and it was 50 metres back from the road. So, for argument's sake, it was 50 or 60 metres by 100, 150 metres by another 60 or 70 metres, those kinds of dimensions, whatever adds up to 500 square metres. But you know now, don't you, that it was a fire Odile Arman was able to walk around?

35 A. Yes, I know, and 500 square metres is 50 metres by 10 metres.

Q. Yes. It might be an odd shape.

A. Yes.

40

Q. Whatever --

A. But that is a small fire.

Q. That is a small fire?

45 A. It is less than a hectare.

Q. So to not stay and put the fire out, bearing

in mind they were there, there would need to be some pretty good reasons why they wouldn't stay?
A. I would have thought so, yes.

5 Q. You had no idea - this is not a criticism of you - from this phone call what those good reasons were?

A. No.

10 Q. Wouldn't you have wanted to know a bit more about it? I appreciate you were driving to Queanbeyan, but wouldn't you have wanted some more information?

A. At that time I was already at Queanbeyan.

15 I thought I was driving to Queanbeyan, but when I same the time, 1942, I was obviously already there. But I don't know what else I was doing and what else I was involved in. But, as I said, Dave, Tony Graham and Odile were experienced
20 officers and I trust their judgment.

Q. But their judgment is not always 100 per cent correct necessarily?

A. Whose is?

25

Q. I am not suggesting anybody's is. But you are the Chief Fire Control Officer. You are entitled to have a say in this?

A. Yes, I am.

30

Q. And in the end you have to take responsibility for the decision, don't you?

A. Yes, I do.

35 Q. And you approved this decision in effect in this phone call without knowing anything of the detail, didn't you?

A. Yes.

40 MR LASRY: I hand that back, your Worship.

Q. So if that is the phone call - sorry, I withdraw that because I have to try and get the chronology right. That phone call takes place
45 at about 10 to 8 I think.

A. 20 to 8.

Q. 20 to 8, I am sorry. Is that the only phone call you had with Mr Graham about the matter of Bendora?

A. Yes, as far as I am aware, yes.

5

Q. Mr Graham says in his statement at paragraph 17 - I am sorry, your Worship. Just pardon me for a moment.

10 THE CORONER: That is fine.

MR LASRY: Mr Graham's statement [ESB.AFP.0001.1307] at 1310 says in paragraph 18:

15 I received reports that, having conducted an initial reconnaissance and assessment of the Bendora fire, the crews on the Bendora fire prepared for direct firefighting. At the time they were being supported by
20 SouthCare 1 helicopter with water bombing, and occasional aerial reconnaissance by 'Firebird 7'. At 2001 hours --

-- one minute past 8, that is --

25

-- Odile Arman spoke to me via COMCEN about whether to keep ground crews on the fire ground overnight and sought advice through COMCEN about whether to stand her crews down
30 for the evening. While crews are trained and capable of night-time operations, this is usually conducted once the strategies have changed from direct attack to indirect attack.

35

Just pausing there, do you agree with that statement that night-time operations are usually conducted once strategies have changed from direct to indirect attack?

40 A. Not generally, no.

Q. If the conditions were right, there would be no problem with an overnight crew engaging in direct attack, would there?

45 A. Yes.

Q. It states:

When this happens, crews are generally not presented with the immediate danger of falling timber, and avenues of retreat are more accessible.

5

So that is Mr Graham in a sense summarising the concerns that I think he is saying were expressed to him by Odile Arman. That is at one minute past 8. He then says in the next paragraph of his statement:

10

I discussed Odile Arman's concerns with Peter Lucas-Smith and Rick McRae. I can no longer recall whether these conversations were in person or by phone. I can only recall discussing these concerns with them.

15

Paragraph 20:

20

The three of us agreed with the assessment made by Odile Arman of the risks to firefighters' safety at the Bendora fire as outlined above and, based on this, the SMT supported her position that her crews should not remain at this fire overnight for safety reasons. This decision was confirmed in a telephone conversation between Odile Arman and myself at 2118 hours that evening.

25

30

On your evidence, Mr Lucas-Smith, that simply cannot be right, can it?

A. I don't know what conversation Mr Graham had with Mr McRae, but Mr McRae was not involved in my discussions with Mr Graham.

35

Q. Your evidence is that, as far as you can recall, the only discussion you had with Mr Graham was the one you had at 20 to 8, that we have referred to, that you have produced the transcript of?

40

A. That's correct.

Q. That it was not a conversation in which Odile Arman's concerns were discussed, clearly, and that you didn't have any further discussions about the matter?

45

A. That's correct.

Q. You remembered the phone call with Mr Graham -
I think from your earlier evidence when I was
asking you why the phone call was not in your
statement, and I think you agreed with me
5 with the proposition that it was reading
Mr Graham's statement that jogged your memory, but
it has not jogged your memory in accordance with
Mr Graham's statement, has it? What you have
remembered, either because you have read that
10 statement or someone showed you that transcript,
was a phone call at 20 to 8?

A. Yes.

Q. What you don't remember is any phone call
15 after 8 o'clock?

A. No, I certainly don't recall that and my
telephone transcripts don't show that either.

Q. So this wouldn't be a case, would it, where
20 you would say, "It could have happened, I don't
remember"? Your evidence really is "it didn't
happen". That is right, isn't it?

A. It could have happened, I don't remember.

Q. It could have happened and you don't remember.
25 But Mr Graham was at COMCEN, wasn't he?

A. Yes, he was.

Q. So his outgoing calls were tape recorded?

30 A. As long as he didn't make them on a mobile.

Q. I don't suppose you have checked your phone
records to see if you have received a subsequent
call from Mr Graham?

35 A. Yes, I have, and I didn't.

Q. You didn't. So we are not really in
the "could have happened but don't remember"
category; we are really in the "it didn't happen"
40 category?

A. I don't remember.

Q. The overwhelming prospects are that you were
not involved in any discussion about Odile Arman's
45 concerns about the safety on the night of 8
January?

A. I am not aware of being involved in those

until after I had returned to Curtin.

Q. Yes, as you said before, after the decision had been made and the crews had withdrawn?

5 A. Yes.

Q. We are talking about 9.30, something like that?

A. Something in that order, yes.

10

Q. And you are certainly not conscious of there being any three-way agreement between you, Tony Graham and Rick McRae about these issues?

A. I certainly don't recall it.

15

Q. I suggest to you that your position on this really is that they should have reconsidered that decision in any event. It is not a decision that you particularly agree with?

20 A. That's correct.

Q. You don't express in your statement any hint of second thoughts or disagreement with that decision, do you?

25 A. No, I do not.

Q. Why is that? Why didn't you say in your statement what you have said in your evidence, that this is something that perhaps should have been looked at a bit more carefully before a decision was made?

30

A. Because it is a hindsight issue and the statement, as I understood, is about what was actually occurring at the time and it needs to be taken in the context of what was actually happening at that particular time.

35

Q. Yes, but in paragraph 26 of your statement, if you have a look at it, on page 7, I will give you a moment just to read that through and then I will ask you a question about it. In that paragraph you are really condoning the decision, aren't you; you are condoning the decision and justifying it?

40

A. They made the decision. I have confidence in those officers.

45

Q. I know they did. But I am asking you what

your statement says. In paragraph 26 of your
statement you are effectively condoning
5 the decision, aren't you?

A. Yes.

Q. But that is not really a state of mind, is it?

A. No. As I said, with people with more
10 experience in highland firefighting under those
sort of conditions, they might have made a
different judgment. If I had been sitting in
Odile Arman's position, I think I would have made
a different decision, but I was not.

15

Q. I am certainly not criticising you for being
at Queanbeyan, but might the situation have been
different if you were back at Curtin and in
the SMT room getting more information than you
20 could get on your mobile phone before you started
the meeting? You might have had more time to
think about it and be a bigger contributor to
the decision?

A. Absolutely, but --

25

Q. But you are under some pressure of time?

A. The context of that particular time was that
the reports we received from both 'Firebird 7' and
'SouthCare 1' was that both the Bendora fire and
30 the Stockyard fire were relatively small fires,
and not posing a significant and immediate threat
to the ACT resources. The McIntyre fire was and,
as far as I was concerned, that was my priority.

35 Q. You were here in, I think, October last year
when Mr Cheney gave his evidence and no doubt you
have been made aware of some of the information
about the Bendora fire as at the night of
8 January?

40 A. Yes, I was.

Q. It was a pretty benign fire from what you can
see now?

A. From what I understand at the time and what
45 was reported and what resources were asked for for
the next day's effort, it certainly gave me an
indication that the fire was not of any great
significance in relation to intensity.

Q. The ESB expectation seems to have been at the time that the fire might actually go out overnight?

5 A. My view was that that was unlikely, but it is not an uncommon occurrence in highland country.

Q. In the ESB submission to the McLeod Inquiry at page 101, if you would like to turn it up, Mr Lucas-Smith, you see at the top of the page
10 this is dealing with the morning of 9 January. To put it in context, this is the submission's description of what happened on the morning of the 9th. The submission says:

15 On arrival at the Bendora fire it was evident that there had been slow growth in fire size overnight. With no self-extinguishment of the fire overnight, a somewhat common feature of highland fire behaviour with cooler
20 easterly winds, it was evident that there was some unusual fire behaviour with cooler easterly winds. It was evident that there was some unusual fire behaviour patterns occurring. Firefighting crews were deployed
25 for direct attack on this fire in an attempt to keep it to the smallest possible size.

So did you contribute that portion of the submission?

30 A. I didn't write that.

Q. Do you agree with it?

A. Yes.

35 Q. It is written as though self-extinguishment on the night of 8 January would have been a distinct possibility?

A. I would have thought - I don't know of anyone who thought it was - the fire was going to put
40 itself out.

Q. Do you agree with the statement that, with no self-extinguishment of the fire overnight, it was evident that there were some unusual fire patterns occurring?
45

A. Yes.

Q. You do agree with that. The information and indeed the evidence which has been put before this court in December indicates a number of things about that fire, including the fact that I think
5 the flame height was something of the order of 0.3 of a metre, according to people who were present?

A. In some places, yes, I believe so.

Q. Mr Cheney refers to a photograph taken by
10 Mr Cutting of the Bendora fire, which is amongst his material which I can perhaps dig out over lunchtime, showing flame heights of about 0.3 of a metre. It was cool of course overnight, the wind was from the east?

15 A. Yes.

Q. So conditions overnight would have been cold?

A. Not cold. It would have been cool, yes.

20 Q. The intensity of the fire obviously would have diminished as darkness fell and the temperature dropped?

A. Yes.

25 Q. And as the wind dropped as well. Where would falling trees come from; where would falling branches come from; do you think?

A. I don't know. It could be a number of
30 different things. I don't know whether falling branches were referring to areas inside the fire or external to the fire. But inside the fire it is the larger fuels that actually burn through as part of the residual fire, not the actual fire spread, and, as they burn through, the trees and
35 branches will fall.

Q. Is it right to say that at night, in a sense, that is somewhat easier to predict because you can see which trees are glowing and which have been
40 more savagely damaged than others by the fire that has been passed through?

A. Not always. If it is burning internally in the hollow of the tree you may not see it, but generally, yes.

45

Q. If you were keeping yourself to the fire edge, either for the purpose of break lines or some

direct attack with water and working back to
the centre of the fire, are the risks
significantly greater at night of those sorts of
things happening than they are during the day?

5 A. No, I don't think so. If the fire intensity
is such that you can do direct attack with hand
tools, then that is fine. The only caveat I would
put on to that is that we have fire that is
10 burning in large fuels and we are not only talking
about fine fuel cleaning up on the edge, but
talking about large fuel clean as well, and large
fuel firefighting tools - generally chainsaws and
things like that - there is an increased risk in
using those overnight.

15 MR LASRY: Your Worship, would that be a
convenient time?

THE CORONER: Yes.

20 MR LASRY: I am probably about to change topics.

THE CORONER: We will take the luncheon
adjournment and resume at 2 o'clock.

25 LUNCHEON ADJOURNMENT [12.55pm]

30

35

40

45

MR LASRY: Q. Mr Lucas Smith, the transcript of
the discussion between you and Mr Graham we dealt
5 with this morning. Do you know when you first saw
that?

A. I first saw it?

Q. When you first became aware of the fact that
10 there had been that telephone conversation and it
had been transcribed?

A. No, I don't know exactly. I know it was put
on a floppy disk for me and it sat on my desk for
some time before I actually listened to it myself.

15

Q. Was it before you made your statement?

A. No, I don't think so. It was actually as a
result of preparing the statements, putting those
statements together this sort of information that
20 I became aware of its existence.

Q. You made your statement in this request on
14 October 2003. Are you saying you didn't know
of the existence of that transcript at the time
25 you made that statement?

A. I can't honestly answer that question. I
don't know whether or not I knew at that time.

Q. You can't say when you looked at it?

30 A. No.

Q. Who brought it to your attention?

A. From what I remember, I remember asking Tony
Graham whether or not he was aware of it. "Did we
35 have a telephone conversation" he said "yes". I
said "Was it recorded?" He said "don't know". He
went away and investigated that. He spoke to Tony
Corrigan who was working with the government
solicitors' office at the time. They did a search
40 and came up with it. As a result of it, he put it
on a floppy disk, or Tony Corrigan or someone put
it on a floppy disk, and handed it to - who if was
I'm not a 100 per cent sure.

45 Q. When you got back to ESB on the night of
8 January, is it right to say that Mr Graham was
still there and Mr Ingram was there?

A. Yes.

Q. And is it correct to say that on your return there was a briefing?

5 A. Well, depends how you define briefing. We had a discussion, from what I can recall.

Q. I will have to ask your planning officer Mr McRae. He says in his statement
10 [ESB.AFP.0110.0481] and in particular at page seven in paragraph 31 and following - he is starting with the Queanbeyan meeting:

As I recall the meeting finished at
15 approximately 9pm that night. Peter Lucas-Smith and I then returned to ESB at Curtin. Tony Graham was still there. And Dave Ingram had also returned to ESB by this time. During a briefing Tony Graham informed
20 me that the crew sent to Stockyard Spur had failed to reach the fire by dark and had returned to Mt Franklin Road. He also informed me that the fire crews at the Bendora fire had left that fire and that
25 there would be no crews working on the fire overnight.

So that briefing, conversation however you care to describe it that you took part?

30 A. Briefing makes it sound like it was formal. It wasn't really. It was really a discussion between the people that were in the district management room.

35 Q. I am using Mr McRae's word.

A. I understand.

Q. Had you already told McRae that the decision had been made about Bendora based on your
40 discussion with Tony Graham?

A. I don't know whether I specifically told him or not.

Q. Would that be something, either or both, relevant and important for him to be aware of that
45 you had been told by Tony Graham and you'd agreed that the crew at Bendora should be withdrawn?

A. It would probably be helpful for him to know that.

Q. He is the planning officer?

5 A. Yes.

Q. When you got back to ESB and were taking part in this discussion or briefing, did it become apparent to you the reasons for the withdrawal of troops from Bendora?

10 A. There are a number of things that were mentioned and discussed.

Q. What were they?

15 A. Can I refer to my notes?

Q. You have notes of that conversation?

A. I've got notes of things relating to --

20 Q. In the narrative, Mr Lucas-Smith, your statement appears to me at least to stop at the Queanbeyan meeting on the night of 8 January. Although it is clear enough that you and McRae went back to ESB, I don't think you refer to anything that happened. What was discussed to your recollection when you got back?

25 A. I think that the decisions in relation to whether we were resourcing overnight were probably confirmed a little bit in my mind as to the resources that were requested for the next day. We gave, I suppose, in a sense, a confirmation that the fires were still small, the resources requested for the next day's operations only consisted of two RAFT teams, which are remote firefighting teams, and one tank.

30 Q. For which fires?

35 A. For the Bendora fire, which once again is confirming in my mind anyway at that time that these fires were still small.

Q. Was there a postmortem, as it were, on the decision to remove the troops from Bendora?

40 A. Not to any great extent at --

45 Q. Not to any extent at all?

A. That decision had been made. There was no

point in turning people around. It was then a matter of getting on with the job of preparing for 0600 the next morning.

5 Q. This is all happening after you returned to ESB on the night of 8 January you have got a clear memory of all of that?

A. No, I haven't got a clear memory.

10 Q. What you have just been describing in evidence what you think it might have been as opposed to what you can actually recall?

A. It's what I think might have been happening. I know that there was certainly some discussions and confirmation about resourcing the next day.

15 Q. No doubt there was. There was no analysis of the Bendora fire so that you could better understand what the concerns, what the problems, what the issues were that led to the alliance being withdrawn?

20 A. There was prior confirmation, as I said, that the fires were small and as I recall most of the discussions were centred around the resourcing and the information we brought back from Queanbeyan about the McIntyre's fire.

25 Q. I know this is difficult to recall exactly. Do you know what time it was that you got back to ESB on the night of 8 January; any idea?

30 A. No. I think it was after 9.30 but I'm not 100 per cent. I'm not 100 per cent sure about that. It was about that sort of time.

35 Q. Mr Graham in his statement at paragraph 21 describes a telephone conversation between himself and Odile Arman at 18 minutes past 9 that night, which he says was confirming the decision to remove the crews from the Bendora fire. I take it you have no knowledge of that phone conversation?

40 A. No. I understood that they talked when Odile was able to get to a location when phone conversations could be connected, because there was no mobile phone from where she was.

45 MR LASRY: Your Worship, if it is appropriate, if there is a transcript of that discussion, I call

for it.

THE CORONER: Do you know whether there is a transcript, Mr Lucas Smith?

5

THE WITNESS: I have not seen one. I will say it up front, I doubt very much whether there was. It was probably mobile phone to mobile phone and they are not recorded, obviously.

10

MR JOHNSON: I have no knowledge of it. I will make some inquiries. Just at the lunch break, an issue was raised by counsel assisting and I am causing some inquiries to be made. If any further transcripts turn up, I will make sure that counsel assisting get them immediately.

15

MR LASRY: Thank you.

20

THE CORONER: Thank you, Mr Johnson.

MR LASRY: Q. Mr Lucas Smith, you know a Mr Nicholas Lhuede, I take it?

A. Yes, I do.

25

Q. He is from Environment ACT and is he the Fire Management Officer, ACT Parks and Conservation Service?

A. That's correct.

30

Q. On the morning of - on 9 January of 2003, he prepared what was described as a fire status report in relation to these fires. The document is [DUS.DPP.0001.0008]. It is only a brief document. In that you see there that he sets out in chart form, if we go up to the chart, in effect a situation report for each of the fires. Under the chart you see:

35

40

Main concern remains New South Wales fire with relatively large area burnt yesterday. No significant threat at this stage with prevailing southerlies. However return of north to north-west wind patterns may present threat to ACT - see weather below.

45

And in the weather below, under the heading

"Weather":

With low pressure system is expecting to develop in the Tasman with a moderate
5 southerly air stream expected for today. This will become more established Friday and should continue for the remainder of the week. Conditions in the ACT are, however, expected to remain dry with temperatures
10 rising into next week. Mid 20s for the remainder of the week, partly cloudy but dry.

That is obviously a fair description as at 9 January, I take it. Is it one you agree with?
15 A. It is not a situation or status report to me.

Q. Sorry?
A. It is not a situation or status report to me. I don't know who this is actually addressed to.
20

Q. I am asking you whether you agree with the terminology used to describe the situation as he saw it on 9 January?

A. It depends at what time on 9 January we are talking about.
25

Q. I thought you might say that. If things did change on 9 January?
A. Certainly they did.
30

Q. Perhaps we will put that issue aside for a moment. We will keep going. We will see where we get to. In relation to the fires at Bendora and Stockyard, your understanding was that crews were sent out to both of those fires in the early morning of 9 January?
35

A. That's correct.

Q. In the ESB submission to McCleod at page 100, if you would like to turn it up, the last paragraph on the page says:
40

At 0600 hours crews were deployed to the Bendora fire under the control of a parks brigade deputy captain and the Stockyard Spur Fire under control of a parks brigade deputy captain. A small strike team was also
45

deployed to the Gingera fire.

What do the words "small strike team" mean?

5 A. It was a strike team but it wasn't made up of
fire resources. Strike teams are generally an
officer plus five but this was an officer plus
whatever. I think it was only three resources.
I'm not 100 per cent sure of that.

10 Q. An officer plus three resources. In terms of
personnel and equipment what does that mean?

A. I think it was a tanker and two light units.
I'm not 100 per cent sure what was deployed there.
But it wasn't a full strike team.

15

Q. Why was that? Was it because of the size of
the fire or the remoteness of the fire?

20 A. No, it was really the basis that we didn't
know very much about that particular fire at the
time. We weren't even 100 per cent sure whether
it was in the ACT or still in New South Wales. It
was right on the border. And this was a really a
preliminary assessment team that was sent out on
the ninth.

25

Q. Now you had been at work, according to your
statement, since half past 6 that morning and
during the course of the morning there were a
number of pieces of information coming back to ESB
30 from various reconnaissance flights. Mr Ingram
was on 'Firebird 7' and getting information over
the ACT fires. I think Tony Graham was receiving
the information. According to your statement at
paragraph 29, as at 7 am you were being informed
35 that the Bendora fire was about 750 square metres,
Stockyard 500 and Gingera 300. I think you will
find that in paragraph 29 of your statement.

A. Yes.

40 Q. Does that accord with your recollection?

A. Certainly as far as the early morning
briefings are concerned, that's correct.

Q. So still small fires? Small and controllable?

45 A. Certainly - well, still small. Controllable
is a -

Q. What was the major obstacle to control? Was it the roughness of the terrain and inaccessibility?

A. Certainly terrain features, access features.
5 Certainly direct attack was still our main option.

Q. And access wasn't so difficult to Bendora of course?

A. Along Warks Road and Wombat Road, yes. Access
10 into the top end of the fire where the fire is burning uphill away from those areas was certainly an issue, yes.

Q. You know, don't you, at the point at which the
15 crews were withdrawn the night before they had hoses out ready to used?

A. So I believe - found out afterwards, yes.

Q. Mr Neil Cooper, you refer to him in paragraph
20 25 of your statement. He was established as the liaison officer for the - over at Queanbeyan; is that right?

A. That's correct, yes.

Q. In paragraph 25 - withdrawn. In the last line
25 of paragraph 25 on page 7, you say:

Neil Cooper was appointed as the first ACT
liaison officer, commencing that role at
30 Queanbeyan at about 8 am, 9 January 2003.

Is that right?

A. Yes.

Q. Mr Cooper encountered some significant
35 frustrations, didn't he; are you aware of it?

A. At Queanbeyan?

Q. In liaising with New South Wales and in being
40 part of a process by which they were planning to deal with the McIntyre's fire, were you aware of the fact that he found that a particularly frustrating activity? It doesn't - the look on your face tells me that you are hearing that for
45 the first time?

A. It doesn't ring any bells but I certainly know Neil was of the view that back-burning appeared to

be a bit slower than he would have liked. Whether or not that was reflecting an attitude of frustration, I don't know.

5 Q. In his statement, Mr Cooper's statement is [ESB.AFP.0110.01112] in particular at page .001120 in paragraph 28, he says this:

10 On the morning of January 9th, the forecast was for reasonably good weather over the next few days. Cooler conditions with predominantly east to south-east winds with high humidity - conducive to achieving good results from back-burning - so back-burning operations were commenced. However, the New South Wales authorities were concerned about the southerly winds pushing the fire north toward Yass before northerly containment lines were established. Therefore, all burning out operations were halted while the trails were upgraded.

25 In my role as liaison officer, I vigorously voiced my concerns and strongly opposed the decision to halt this back-burning, pointing out at one of the incident management team meetings that there was a considerable distance between the northern boundary and the southern edge where the fire front was located. And based on the distance that the fire had already travelled you did not have to be Einstein to see that even under severe conditions the fire would not reach the northern edges for at least 2 or 3 days before control lines would be reinforced. I also clearly enunciated that we should be taking advantage of the cool south-easterly conditions forecast for the next three or four days.

40 At this stage I was already getting frustrated that our previously agreed strategies were being readily changed and I was constantly on the phone to the ACT CFCO Peter Lucas-Smith and Tony Bartlett back in the ACT. I have a copy of the map that I faxed to Tony Bartlett indicating the

proposed actions and my recommendations -
this was in response to my increasing
frustrations.

5 Does that mean something to you?

A. I doubt very much he was constantly on the
phone to me.

Q. He says he was?

10 A. I know he says he was. I don't agree with
that aspect of it. I spoke to him and I recall
there were discussions about their slowness or
their decisions regarding back-burn. I can recall
15 emphasising to Neil from the ACT perspective it
was the southern boundary and the eastern boundary
which were the most crucial as far as I was
concerned and the ACT was concerned and that is
where we would want the priorities to go.

20 Q. His frustration was that back-burning had
stopped altogether. Had he complained to you
about that?

A. I certainly recall him talking to me about the
frustration - as I say I don't use the word
25 frustration, you are putting that into my mind.
His concern about the fact that they were a bit
slow with their back-burning operations.

Q. Was this what he is describing there
30 consistent with what you agreed the night before
at Queanbeyan or did it represent a change of
tactics?

A. The meeting at Queanbeyan the night before
hadn't gone to that detail. At that stage we
35 decided where the containment lines would be, that
they would be back-burned from, and the power line
and the trail that runs adjacent to the high
tension power line on the southern boundary would
be the boundary. That was the one that I was
40 primarily interested in. And the trail heading
north through Dingo Dell was the one - were the
two really that I was mainly concerned about.

Q. Was that - his concerns as expressed to you
45 whether he was constantly on the phone or just on
the phone a few times, was the fact that he was
concerned, as I read it, New South Wales were

dragging the chain a bit in getting on with the back-burning and stopping the back-burning for reasons that he didn't think were valid, was that a matter of concern to you?

5 A. Yes, it was.

Q. Because the McIntyre's fire was, as you said this morning, the fire about which you were most concerned?

10 A. That's correct.

Q. Part of your duties as Chief Fire Control Officer or it seems part of your role is to from time to time talk to the media?

15 A. Unfortunately, yes.

Q. Anyway, whether they would or whether they wouldn't, that is something you had to do. You did that, I suggest, on the ninth of January on the radio. You gave a number of interviews over the period. One of the interviews you gave was on 9 January at about 9 am.

25 MR LASRY: Your Worship, this document can be found at [DPP.DPP.0004.0002].

Q. Just take a moment. You may or may not recall this.

30 MR LASRY: Your Worship, from time to time I am reading material because there are a number of people that don't have access to the material. Although it is time consuming, it is a good idea to do it.

35 I was going to say, perhaps I should have raised it at the outset, in a lot of coronial inquests the statements of witnesses are read and that forms their evidence-in-chief. It just seemed to us that it was really not practical. Some of these statements are very long. It is an unnecessarily tedious exercise. We weren't proposing that that would be done but on occasions, where necessary, sections will be read so that people who do not have the document can understand what the substance of the document is.

45

THE CORONER: I think that is the preferable course, Mr Lasry, thank you.

Q. Some time before 9 o'clock, it appears you are
5 on the ABC, 666. I will read this to you and ask you some questions as we go:

Interviewer: Yesterday, we saw fires in
Kosciusko and Namadgi National Parks and
10 firefighters water-bombing that, today apparently there's a watching brief on those fires. Peter Lucas-Smith joins us now. Good morning, Peter Lucas-Smith.

15 Lucas-Smith: Morning, Dan, how are you?

You say:

We've still got two fires in the ACT in
20 Namadgi National Park which are uncontained but small, and we've got crews going there now helicopters already in the air and working on those fires, as we speak, and we expect to have them rounded up fairly early
25 this morning

Is that what you thought?

A. Before 9 o'clock, yes.

30 Q. And "rounded up" means put out?

A. Contained.

Q. Well contained means controlled, doesn't it?

35 A. Contained means they are still burning but they are in control lines.

Q. But McIntyre's Hut fire spent a great deal of the time within control lines and then burnt into Duffy?

40 A. It wasn't contained but because those control lines had not yet been fully established as a control lines.

Q. So I ask you again, does it really mean - I
45 appreciate you say it means within control lines - that really means within control lines. It then means putting the fire out?

A. Yes, the fire is still burning. It is within containment lines. There is no further spread.

5 Q. Of course anyone listening to that - you would agree, I take it, that someone listening to you saying, "We expect to have them rounded up fairly early this morning," means any problem is just about over?

A. I would expect so, yes.

10

Q. Was that your state of mind then?

A. Yes.

15 Q. You thought any problem from these fires is just about solved?

A. Yes.

Q. Going on a bit:

20 Right, well, you say you've got crews, what, crews are heading in there?

You say:

25 We've got ground crews there, and we've also got aerial operations, yes.

The interviewer says:

30 I heard yesterday that the areas were fairly inaccessible, so, you know, is it likely to take them some time to get to the fires?

You say:

35

Yeah, both fires are remote fires and they can get within about 3 kilometres of them as a walk, and the crews walked, they started at 6am this morning, they've been walking in, we expect them to be getting fairly close soon, and the helicopters are already there and started work.

40

45 Were you there referring to Stockyard and Mount Gingera? You are not referring to Bendora, are you?

A. Probably in the main part of that response

referring to Stockyard, yes.

Q. Certainly you can get a lot closer than
3 kilometres to the Bendora fire?

5 A. Yes.

Q. As at the morning of the ninth:

10 Okay. Any danger to any buildings in the
park, there, at all, or do you know if there
are campers or bush walkers in the area?

15 Lucas-Smith: No, there are no - these fires
are very remote, there's nothing within close
proximity of these fires, and I don't expect
them to grow, with a much cooler - today
under a southerly condition, I don't expect
them to grow, our biggest concern, of course,
20 is the larger fire in the Brindabella
national park, in New South Wales, which is
on the ACT's western border and --

Interviewer: What's happening there?

25 Lucas-Smith: Well, there's quite a large
fire, and growing, and it will need a large
area of containment, with bulldozer
operations, things like that, and New South
Wales National Parks and Wildlife Services
30 and the Yarrowlunla Shire are working
together to work on that fire, and I don't
have the details update to that one yet.

35 Then you are asked some questions which I won't
bother to read, unless someone wants me to, in
relation to whether or not a total fire ban is to
be imposed. Then the interview ends with the
interviewer saying.

40 Well, Peter Lucas-Smith, I'll let you go. I
know you had a fairly late night, but thanks
for talking with us this morning.

Lucas-Smith: Thanks, Dan.

45 It looks pretty much under control save McIntyre's
Hut on the morning of the 9th?

A. By that time, yes.

Q. Mr Bartlett arrived again, he says on Thursday morning, the ninth of January, to get an update
5 and is again told by you - he says in paragraph 33 of his statement that his services weren't required. Do you remember telling Mr Bartlett that on the morning of 9 January?

A. No, I don't recall.

10

Q. Might that have occurred?

A. That may very well have occurred.

Q. He says the ACT Forests crews were on standby
15 but none of them had been deployed at that stage and there was no immediate tasking for them. Does that sound right to you?

A. Well, we had a readiness that day anyway, so
20 resources were on standby whatever the level of readiness was as well as the resources that were deployed in the forest.

Q. So in relation to the ACT fires as at the
25 morning of 9 January, you wouldn't regard yourself as underresourced?

A. No.

Q. Not at all?

A. Not at all.

30

Q. Now, Mr McRae flew over the fires at about
9 o'clock on the morning of the 9th. I think at that stage you were going to Queanbeyan for another meeting; is that correct? You went to a
35 liaison meeting at 9.15 on the morning of 9 January in which you were told that a section 44 had been declared for the whole of the Yarrowlumla Shire?

A. That's correct.

40

Q. And you were requested to provide assistance for the McIntyre's Hut fire of 8 tankers and 15 light units?

A. That's correct.

45

Q. Did you agree to that?

A. No, I didn't agree at that time. I said I

would take it into consideration and get back to them.

5 Q. The ACT resources were going to be involved in simply the back-burn that was proposed? When I say "simply", that was the only role for them to play?

A. That was the only role that anybody was playing.

10

Q. There was no direct firefighting at McIntyre's, as far as you were concerned?

A. No, it was all indirect.

15

Q. Did you not agree to the 8 tankers and 15 light units because you didn't have them or because you wanted to preserve resources within the ACT itself?

20

A. I wanted to be satisfied that the ACT didn't have a problem, so I was waiting until I got the final reconnaissance report from Mr McRae as to what the fires were actually like at that time.

25

Q. That was at quarter past nine. A bit earlier you said you expected to have them rounded up fairly quickly?

30

A. That was still on the basis on the information we had the night before. The size of the fires as reported by the helicopters and also the resources that were requested for that day.

35

Q. I take it by 9 January still the prospects of McIntyre's Hut fire posing any real threat to Canberra was something that was not really in the forefront of your mind, if in your mind at all?

A. The McIntyre's Hut fire was certainly posing a threat to the ACT. That was in the forefront of my mind. That was my highest priority.

40

Q. Can I ask you to confirm that this accorded with your understanding of the time. At about 11 am on 9 January, I think on the ESB website a report in effect of all the fires was placed. The document is [ESB.AFP.0110.0761]. I think that is a screen dump or a print anyway of fires in and adjacent to the ACT as at 11 am on 9 January 2003. At the bottom of the page - your website is

45

www.esb.act.gov.au/fires; is that right?

A. (witness nods).

Q. That is what you were reporting on the web at
5 that stage:

In relation to Bendora fire it was
20 hectares and growing. The access to the
fire was Wombat Road to the south-east. It
10 was backing 1.5 flames to the north-west,
north-east hot with 2-metre flames on the
south-west out on south-eastern --

What does that mean - "out on south-east along
15 road"?

A. I think there that means there was no fire
activity on the south-east along the edge of the
road.

20 Q. Mr Woodward tells me that these are in fact
the notes that Mr McRae took during the course of
aerial reconnaissance that he then placed on the
Internet. Is that the way it works?

A. It comes out of the planning section, so we
25 don't have control of it.

Q. So at 11 am, was that a fair summary of the
situation of the Bendora fire as far as you were
aware?

30 A. Yes, it was.

Q. That it is becoming a problem; it is not
nearly rounded up; it is now 20 hectares; and it
is growing and it is hot; and there is a threat to
35 the Cotter catchment?

A. Yes.

Q. McIntyre's Hut - as you can see there are a
number of entries in relation to that including a
40 description of the main fire as 300 hectares and
the particular grid reference and a number of spot
fires, Dingi-Dingi Ridge, Mountain Creek, Baldy
Range, and all fires growing. Access is off Two
Sticks Road, mostly backing flames of half to
45 one-and-a-half metres. Some hot spots. Threats
ACT, especially pines, private property, power
lines. That is obviously correct as of that time?

A. Yes.

Q. Gingera is a small fire, 2 hectares according
to this but growing. The threat is to the Cotter
5 catchment and the possibility of a run onto the
peak or onto a peak. Right?

A. (witness nods).

Q. Stockyard, 8 hectares and growing. Access by
10 foot on a dormant trail. I take it "dormant
trail" means one that is closed or not easily
accessible?

A. It is one that has been formed previously but
has grown over and not been maintained.

15

Q. Half metre to 1 metre flames escalating threat
to Cotter catchment. Lot of large fallen timber.
Also Mt Morgan, small fire 90 per cent
self-extinguishment overnight. We will
20 concentrate on the other four. That is the
situation as at 11 am on 9 January?

A. Yes.

Q. Mr McRae says in his statement that, as a
25 result of his observations, direct attack was
becoming no longer an option.

A. (Witness nods).

Q. Was it on 9 January that a direct attack on
30 the ACT fires was starting to be obviously a less
easy option; was it that day?

A. On this briefing from the reconnaissance that
Rick McRae did on the early morning of the ninth.
When I came back from the meeting in Queanbeyan,
35 this was the information that immediately changed
our focus in relation to those fires. It
certainly didn't relate to any of the information
we previously received in Curtin about the size
and activity of these fires. It certainly
40 refocused our attention into those.

Q. Mr McRae says in his statement
[ESB.AFP.0110.0481] - he is talking about going on
his aeroplane flight:

45

On return to ESB my first priority was to
make available the notes of my observations

during the helicopter flight. I therefore
made multiple photocopies of my notes,
provided them to Peter Lucas-Smith, Tony
Graham and Dave Ingram. I then typed up my
5 notes. Downloaded the photographs from the
digital camera, printed the photographs and
placed the note on the ESB website --

10 -- which is the notes I have been reading to
you --

-- on returning to ESB it was becoming clear
to me and the rest of the SMT that direct
attack was not going to succeed and we needed
15 to focus on indirect attack. That in turn
meant we needed to address the fire as a
"campaign" fire. That in turn requires
extensive planning and additional personnel
and capability to assist with that function.

20 Do you agree with that?

A. Yes, I do.

Q. What is a campaign fire?

25 A. Just for us in the ACT it generally means a
fire that is going to extend well beyond 24 or 36
hours and we need to look at multiple shifts and
multiple field resourcing.

30 Q. Now, going back to Mr Lhuede for a minute.
His first arrival at ESB he says was around noon
on 9 January. One of the things that concerned
him was that procedures were not in place for the
provision of operational maps to a standard
35 necessary for field operations. Was there a
problem with maps as at 9 Jan that you are aware
of?

A. I don't recall an issue or a problem in
relation to maps. I don't know exactly what sort
40 of maps he is talking about.

Q. You say in paragraph 48 of your statement:

I recall considerable discussion over maps.
45 asking our planning unit to advise us on such
things as the best trails to use, how much
time did we have to clear such trails. Did

we need fallback options to something further
back, and if so, how much time was that going
to give us? We needed to know if the fire
had potential to overtake these containment
5 lines before our construction had been
completed and in order to provide these
answers we needed considerable predictive
modelling in relation to weather, terrain,
fuel loads, expected fire behaviour and the
10 effectiveness of our direct attack operations
in slowing the spread rate of the fire.

That obviously goes beyond maps. You say in your
statement that you can recall considerable
15 discussion about maps. What was the considerable
discussion about?

A. It was primarily in relation to the maps
showed a series or network of trails and we didn't
know whether those trails actually really existed
20 on the ground or whether they were on the maps.
We needed some assistance in relation to that.

Certainly from that briefing and the data that
went out at 11 o'clock, it changed the focus quite
25 significantly and we started very rapidly to
accelerate and expand our activities in ESB to
accommodate these fires.

Q. In a year when El Nino is working and there is
30 a drought on and approaching the summer everything
is in what you described as a volatile state,
wouldn't it be appropriate for, among other
things, maps to be upgraded - updated before any
fire event occurred?

A. Well, if I knew where the fire was going to
35 occur, I would have the right map.

Q. It wouldn't take much, would it? It might
take a lot of time and it would require the
40 services of the people who knew the area but, in
an area where getting to particular fires might be
difficult because of access, don't you need to
know before a fire event happens where the fire
trails are, which fire trails are workable, which
45 ones aren't, which need to be cleared, which
don't, which could be used as containment lines
and which couldn't rather than waiting until the

fire hits?

A. It is certainly an advantage, yes.

Q. Was anything like that done?

5 A. No, it wasn't.

Q. Why?

A. When I say there wasn't, we didn't have that
10 information. It was certainly an issue that we
had had a number of discussions with land
management agencies over a number of years on and
off in relation to trails and trail networks in
the ACT. You need to remember these are trails
15 and management trails primarily in lands not
managed by the Bushfire Service, and the Bushfire
Service have no control or responsibility for any
of these trails and --

Q. I am sorry to cut you off. You are talking
20 about whose responsibility they are. What I am
concerned about is the position of someone like
yourself who is the Chief Fire Control Officer or
the position of Mr Graham who was the operations
officer who was having to make snap decisions
25 about sending crews out to remote areas of
difficult access without knowledge of which trails
are in existence and which trails aren't?

A. Yes.

30 Q. That's a very difficult situation, isn't it?

A. It is indeed.

Q. It wouldn't be difficult - I say it wouldn't
35 be difficult but I accept it is time consuming and
requires some local knowledge. In the off-season
in preparation for a bad season such as that
season was, what is to stop ESB - for maps to be
updated by simply regular reconnaissance exercises
checking on how up to date the maps are so that,
40 when the fire season comes and crews are sent
there, they already know before now which trails
are working and which trails aren't?

A. That requires a resource that the Bushfire
Service didn't have. It was issues raised with
45 the land management agencies over a number of
years. They responded to it. They knew what the
condition of their trails were. We had asked to

be advised in relation to that a number of times.
There was a fair bit of discussion even going on
about access regarding through locked gates and a
whole range of different things. The land
5 management agencies were responding. They were
compiling a pre-suppression operations map which
included trails and heli pads and that sort of
stuff. Up until that time I had only ever seen
that map once and it was very much in embryo stage
10 and that was in a workshop in relation to
highlands fire issues.

Q. I thought after the Christmas 2001 fires and
particularly as the weather was monitored and the
15 volatility of the season was becoming more and
more obvious that for efficient firefighting one
of the things - never mind the land managers for a
moment - one of the things that ESB would want to
know was the up-to-date condition of trails and
20 roads in an area like Namadgi National Park. Do
you say it was beyond ESB's abilities or resources
to send people out into the forest in the
off-season to remap or update maps so, in the
event of a major fire, crews under your
25 direction - and I use the word "your"
generically - would know the map they had in front
of them was a map that actually reflected what was
on the ground? Do you say that was beyond ESB
resources?

A. Certainly beyond our permanent staff
resources. That's the reason why we approached
the land managers. And the land managers were the
people responsible for the management of this
land. They would know the answer to the very
35 question you are asking and they could convey that
information to us.

Q. It is an appalling state of affairs, isn't it,
to be finding out like Mr Graham did when he tried
40 to get to Stockyard on the night of the 8th that
the track which would have taken him down to
Stockyard was covered over with logs?

A. I agree with you. It is an appalling
situation.

45 Q. Well, it appears - and we will ask Mr Lhuede
about this - what he was concerned about on

9 January was that procedures were not in place
for the provision of operation of maps, as he says
in his statement, to a standard necessary for
field operations. He goes on to say and I will
5 ask you to comment on this:

A key function of a planning unit is to
prepare and provide operational and strategic
information through operational maps and
10 IAPs. In the absence of electronic mapping
systems, operational maps may be simply
prepared on a 1:25,000 topographic map
identifying a specified time the fire edge,
proposed and actual containment lines, water
15 points, sector lines and fallback points.
These features, once known, can be fairly
quickly drawn onto a topographic map and then
copies made through a photocopier.

20 Do you agree with that?
A. Yes.

Q. By 2 o'clock on the afternoon of the ninth of
January - I am now referring to paragraphs 35 and
25 36 and 37 of your statement - there was an
afternoon planning meeting. Paragraph 35 of your
statement at the bottom of page 9 says:

30 Throughout the afternoon, arrangements were
made for additional support staff to work
with the SMT in operations, logistics and
planning sections. An afternoon planning
meeting reviewed the situation.

35 Now this was a more formal procedure, was it?
A. Yes, it was.

Q. Is there any record kept of that meeting?
A. I don't think so. I'm not aware. I can't
40 recall any formal process.

Q. Why not? Why isn't some record kept of such
an important meeting?
A. I think we were in the process of scaling up
45 as a resource issue and we just didn't have the
resources.

Q. Which is another way of saying there was no-one who could make a note of what you discussed?

5 A. No. I think most people took their own notes of what was relevant to them.

Q. But you scaled up the resources even more later, and then there was a formal process and minutes were kept?

10 A. Yes, that's correct.

Q. Does paragraph 36 of your statement reflect the atmosphere of the planning meeting:

15 By the afternoon of the ninth of January, it was very evident that the strategy of direct attack only on the Bendora fire was not going to be successful because the fire edge could not be readily accessed with adequate water
20 resources. We were able to slow it by aerial water bombing and by crews working with hand tools on the fire ground, but we were not going to be able to extinguish the fires by those strategies along and the terrain made
25 vehicular access impossible. The maps showed a number of tracks around the area west of the Bendora Dam, being the site of the Bendora fire, but in reality there was only one track closed to the original ignition
30 point, which was the Warks Road. The SMT received reports that the other tracks in the immediate area were not in a trafficable condition.

35 A. That is correct.

Q. Does that reflect the essence of the discussion you had at that afternoon planning meeting?

40 A. Yes, it does.

Q. If the decision the night before had been different, that difficulty wouldn't necessarily be being encountered on the ninth, would it?

45 A. If we made the decision we direct attack on the night of the eighth, at first light on the morning of ninth we would have had heavy plant in there opening up those trails and doing what we

could to limit the growth of that fire.

Q. But one option which evaporated with the
departure of the crew on the night of the
5 eighth -- one option which evaporated with the
departure of the crews on the night of the eighth
was to establish a line right round the fire and
maybe even put it out, given the fire's behaviour
as at 8 or 9 o'clock on the night of the eighth.
10 That's right, isn't it?

A. Well in hindsight, we now know the fire was
much bigger on the night of the eighth. I doubt
whether the crews that were there at that time
would have been able to achieve that task.

15

Q. On the night of the eighth?

A. On the night of the eighth.

Q. Odile Arman knew how big the fire was. She
20 walked right round it?

A. And was reported to us in Curtin. We were
working on the basis of two helicopter
observations which gave us the size of the fire
and on the basis of what Odile Arman - I suppose
25 and supported by what Odile Arman had requested
was all that was necessary for the next day. It
left us with the view that the size reported by
the two helicopters was correct. As it turns
out --

30

Q. When did you first realise that Odile Arman
took three-quarters of an hour on the night of
8 January to walk right around the perimeter of
the Bendora fire?

35 A. I didn't have a real appreciation of the size
of those fires until Rick McRae came back on the
morning on the 9th from this aerial observations.

Q. I thought the critical information was the
40 information from the fire crew on the ground at
the fire?

A. And so it is.

Q. She was the incident controller?

45 A. She was.

Q. Did you ever speak to Odile Arman about what

she had seen on the night of the eighth of January?

A. No.

5 Q. It is at this point on 9 January some time
after the planning meeting on the afternoon of
9 January, according to paragraph 37 of your
statement, that you began then to organise heavy
plant to be brought in for operations commencing
10 the following day, the tenth of January, primarily
to open up access tracks and start work on
building containment lines for indirect attack; is
that correct?

A. That's right.

15

Q. Where was that heavy plant coming from?

A. Primarily from ACT Forests in the first
instance.

20 Q. As at the afternoon of 9 January, where was
it?

A. I don't know where it was working. The
largest machine had already been deployed by ACT
Forests at the top end of Uriarra pine plantation
25 to start work on a construction protection line or
firebreak line on its northern boundaries. So
that machine was out of the equation.

30 Q. Just pausing there. Is that a D9 bulldozer?

A. Yes, it is.

Q. And D9 is the largest available machine, isn't
it?

A. Yes, I believe so. It is.
35

Q. The heaviest - it has the greatest capacity
for clearing?

A. Yes.

40 Q. It goes down in size presumably to D something
or other?

A. If you use the caterpillar classifications.

45 Q. So the D9 was working at Uriarra. What other
machinery was available to you?

A. I'm not 100 per cent sure about that but I
believe there were other machines available, and

we tasked our logistics co-ordinator to acquire them and get them there.

Q. Were these the machines in the end that had to
5 come from Bathurst and places like that?

A. I think they were additional machines that came from external to that.

Q. Has it ever been done in the lead-up to a fire
10 season, say late December or early January, to have heavy machinery at various staging points like Bulls Head or Piccadilly Circus to have machinery permanently stationed there during extreme conditions so if something happens you can
15 get to it quickly?

A. No.

Q. Has that ever been done?

A. Not to that extent. Generally when we get to
20 the red readiness or orange levels, the machines we can get access to are primarily from ACT Forests. They will continue to work or cease work depending on the sort of work they were doing, their float capability will be nearby. They know
25 where they all are. All it takes is a phone call from us to determine where they are. They know what is required to move them. The difficulty is, of course, you tell me where the next fire is
30 going to start and I will make sure I have got all the resources there. We don't know that. So wherever we stage resources will not necessarily be in the right place.

Q. Nonetheless, in a forest or a national park
35 like Namadgi, there are places where you can make some sort of educated guess, aren't there?

A. I would think ACT Forests would put a higher value in relation to their machines and their
40 commercial product.

Q. Mr Lucas-Smith, does this all point to the
fact that there is a real problem created by the fact that in effect the ESB is in charge of fire
45 suppression and land managers are otherwise in charge of fuel reduction and the maintenance of their land and the application of their machinery to particular tasks? There's a real problem,

isn't there?

A. It's certainly different - it's fairly unique to the ACT.

5 Q. Whether it is or it isn't, in a lot of - in parts of your evidence you have been at pains to point out, for example in relation to the maps, that a great deal of that could have been solved by the land managers. It is their land after all
10 and if you had better assistance or better co-operation or more information coming from them then you would have been advantaged. But doesn't that underline the artificiality of this division between you being in charge of fire suppression
15 and them being in charge of fuel management and the maintenance of their land?

A. Absolutely.

Q. It doesn't work, doesn't it?

20 A. It is a difficult point. I won't say it doesn't work. It has a long way to go.

Q. It is not working well?

A. It is working. The situation has been in the
25 ACT for a long, long time.

Q. That's not necessarily --

MR JOHNSON: Could the witness be allowed to
30 answer the question? I am conscious that there is a dialogue occurring. I ask that he be given an opportunity to answer.

THE CORONER: That is a fair comment.

35

MR LASRY: Q. You were saying it has been the case for a long time

A. It has been the case for a long time. The
40 Bushfire Act has been around since 1936. Prior to self-government the Commonwealth Government wanted to keep it that way. Following self-government, the ACT government was also desirous to keep it that way principally on the basis that within the
45 ACT they haven't gone through the process of defining land boundaries. Some of the parcels of land were so small, a fire starting in it would burn out into another land management's agency of

responsibility and possibly another land management's agency before the fire was actually being contained.

5 The other aspect of course is the ACT, like all other jurisdictions, is very highly dependent upon our very valued volunteer commitment and the land management agencies didn't have responsibility nor wanted responsibility for managing that resource.

10

Q. But you have found it somewhat frustrating, haven't you?

A. I certainly have. I come from New South Wales into the ACT where there is a land management agency. Under fire legislation in that state we are responsible for fire suppression on our land.

15

Q. Since ESB has existed there has been a debate about that, isn't there, as to whether it is the appropriate way to deal with land management and fuel management and fire suppression? That's been a continuing debate?

20

A. Yes. It has certainly been an issue of discussion at times. As to whether it is a debate, I'm not too sure it has ever been discussed or debated at a political level.

25

Q. Am I right in saying, as far as fuel reduction is concerned, that is something that is outside your jurisdiction?

30

A. Certainly. Land managers are responsible for that. I was responsible for amendments to the Bushfire Act to make it compulsory in government land management agencies to carry out bushfire fuel management planning.

35

I was deliberately trying to engage the land managers in a fuel management practice.

40

SHORT ADJOURNMENT [3.07pm]

RESUMED

[3.19pm]

45

MR LASRY: Q. Mr Lucas-Smith, in material provided by Mr McRae, he describes at 4.30pm on the afternoon of 9 January a meeting being held which he describes as a stakeholders' meeting; are

you familiar with that term? You don't look as though you are?

A. No, I am not.

5 Q. I call it a stakeholders' meeting. He says this was a process instigated by you. In paragraph 51, page 11, he says:

10 Consistent with the approach taken during the December 2001 bushfires, Lucas-Smith instigated a system of formal meetings twice daily involving all stakeholders to discuss events occurring at the time. The stakeholders were the four members of the
15 SMT, the representatives from the ACT Fire Brigade, ACT Forests and Environment ACT (which covers management of national parks and nature reserves). The first meeting happened that night, 9 January 2003, at
20 approximately 4.30pm.

Do you remember that meeting?

A. Yes, that's what we refer to generally as our planning meetings.

25

Q. You don't refer to that meeting in your statement for some reason. What reason would that be?

A. I can't think of a reason.

30

Q. We get a bit more information from Mr McRae than we got from you. His next paragraph describes him going home at 7 o'clock that night. So it is not obvious from his statement what happened at the meeting. Do you know what happened at that meeting?

35

A. I think what would generally happen at those meetings is we would talk about what we now know about the fire event and get an appreciation of what was occurring and what it was that we were proposing to do about it.

40

Q. Well, that's complete surmise on your part, isn't it? You've got no memory of meeting?

45

A. No, I have got no memory of the meeting, but that's generally what we did at planning meetings. That is certainly what we did resulting from the

December 2001 fires.

Q. I take your point. He says they were twice
daily and he talks about them involving the
5 stakeholders and obviously they are the planning
meetings. Again, no record kept of any
discussions of these planning meetings, these
early planning meetings?

A. No, I don't think so.

10

Q. Because the situation was now getting quite
serious, wasn't it? By half past 4 on the
afternoon of 9 January, the situation was quite
different from the "rounding up quickly" situation
15 on the morning of 9 January?

A. Yes, as far as I was concerned.

Q. These fires weren't going to be rounded up by
the end of the day?

20

A. Absolutely not.

Q. It was meaning that resources which you would
like to have committed to McIntyre's, because you
saw the threat of McIntyre's for the ACT, you now
25 had to split between what you could offer New
South Wales and what you needed to apply to the
ACT fires, which were now becoming a major
problem?

A. That's correct. Up until that time, up until
30 that morning my focus had been on the McIntyre's
as being the areas of greatest threat to ACT
assets, and I was responding accordingly. That
now started to shift as more reliable data started
to come forward in relation to Bendora and
35 Stockyard fires.

Q. Is it part of your job to liaise with the ACT
government in relation to the progress of fires
like this?

40

A. There are a number of ways I could do that.
Generally --

Q. I didn't ask you how. Is it part of your job
to do it?

45

A. It is certainly my job to keep government and
the Public Service informed.

Q. As at the afternoon of 9 January, had you given any briefings to members of the government, whether ministers of the government or senior public servants, about the progress of these
5 fires?

A. I certainly had given a briefing to Mike Castle, Executive Director of the Emergency Services Bureau.

10 Q. I didn't have him quite in mind as such. He is in a sense on scene, isn't he? He's the executive in charge. He is part of the organisation. I meant for example the relevant
15 minister - emergency services minister or the chief minister or Mr Keady, for example, from Department of Attorney-General?

A. No, I certainly didn't give any of those briefings that I can recall. I would have left that sort of briefing to Mike Castle anyway.

20 Q. But now that the ACT fires at least were turning into campaign fires they were going to be around for some time; they were going to be more than a day, probably several days, depending on
25 the weather.

A. Absolutely. We were now forced into an indirect situation, indirect attack situation, which meant we had to construct containment lines.

30 Q. You had obviously an interested public. There was smoke all over the place in Canberra?

A. Yes - sorry, I wouldn't have actually said that.

35 Q. No.

A. There was virtually no smoke in Canberra at all. The smoke was blowing away from Canberra.

Q. Smoke visible from Canberra?

40 A. No. In fact, McIntyre's was very visible, but the other fires were not all that visible.

Q. On 9 January Mr Graham completed a situation report which is [AFP.AFP.003.0390]. You recognise
45 these kinds of documents, Mr Lucas-Smith, presumably?

A. Yes, I do.

Q. I will just ask: Is that Mr Tony Graham's signature?

A. Yes, I believe it is.

5 Q. I am sure you are not an expert. It looks like his handwriting. Are you familiar with his handwriting?

A. It looks like his handwriting, yes.

10 Q. Just go up to the top again, please. Now, this is a situation report completed at 5.45pm on 9 January in relation to the Stockyard Spur fire. It gives its status at the top as uncontained.

15 You are described as far as IMT roles are concerned on the right-hand side. You are the incident controller. Mr McRae is the planning officer. Mr Graham is the operation officer and Mr Ingram is the logistics officer?

20 A. That is not quite right. It is the SMT, not the IMT.

Q. It means SMT?

A. Yes. Just as one forum. There is no SMT forum.

25

Q. The area on the left is shown as 80 hectares, the middle of the page the grid reference is given GR615639. Going down a bit further, resource summary, 13 personnel, two combatant vehicles, one aircraft. So 13 personnel. The combatant

30 vehicles would be one tanker and one light unit?

A. No.

Q. It would be two tankers, would it?

35 A. It would be two tankers and - combatant vehicles, sorry.

MR STITT: I can't hear.

40 THE CORONER: It is hard to hear, Mr Lucas-Smith, particularly when you have your head turned that way. If you could just speak up, please.

45 THE WITNESS: It says two combatant vehicles, so I have to assume that it is two tankers.

Q. Is a light unit not regarded as a combatant

vehicle?

A. Yes, it is, but it only carries two people.

Q. Then control objective - it doesn't seem to be
5 the control objective - Mr Graham has written:

Crews withdrawing, too fatigued to continue.
Water bombing completed. Active fire left
unattended.

10

That is at quarter to 6 on the night of the 9th.
So can we take it from that that the crew that was
at Stockyard was withdrawn or withdrew at about
quarter to 6 on the night of 9 January because
15 they were too fatigued to continue?

A. Yes, it was quite an arduous walk in.

Q. They were not replaced?

A. They were not replaced for night-time
20 firefighting, no.

Q. It was obviously known from the day before
from Mr Gray's reconnaissance that it was an
arduous walk in, so a fire like this requires
25 troops who are fit - I keep saying "troops"; you'd
think I was a major in the army - personnel who
are fit, probably reasonably young and able to
endure a difficult walk like this?

A. Yes.

30

Q. Is there any reason why this crew couldn't be
replaced?

A. No. It was a decision that was made to move
from direct attack to indirect attack. It was a
35 decision that was made earlier in that day to move
from direct attack to indirect attack for all of
our fires. It was the realisation that these
fires were of a much larger size than was
originally thought at Curtin and also the fact
40 that an 80-hectare - putting two tankers and 13
personnel on a 80-hectare fire was not a real
reasonable strategy.

Q. So they were withdrawn and the fire was left
45 overnight?

A. Yes, it was.

Q. Do you say there was nothing that could have been usefully done overnight?

5 A. We now have an 80-hectare fire. And the people resources for a direct attack on 80-hectare fire whether daytime or night-time was far in excess of what I could have marshalled for that night. So we really had no choice but to move to indirect attack, and there was no established control lines around Stockyard Spur.

10

Q. At night even in those circumstances, I take it, the intensity of the fire would diminish?

A. It would quieten down, yes.

15

Q. You are saying there was no role for any personnel at the fire edge simply for the purpose of containment?

A. Not with an 80-hectare fire at that situation.

20

Q. Perhaps not with the whole 80 hectares, but for some part of it, the parts of it that were most threatening or the sides of it that were of most concern - no role at all?

A. No.

25

Q. Do heavy machinery like various sizes of bulldozers work at night with lights?

A. Yes, they do.

30

Q. You had no dozers you could send to Stockyard on the night of the 9th, did you?

A. That's absolutely correct. Even when we did get dozers to send to Stockyard, we had a great deal of difficulty because it was a long walk for

35

those machines.

Q. So in relation to the way in which this is recorded on this situation report you say, do you, that there was no utility in replacing the crews that were withdrawn at quarter to 6 on the night of the 9 with a larger, fitter, better resourced crew; there is no point in doing it?

40

A. To do direct attack on an 80-hectare fire in a remote area would have required more resources than I had.

45

Q. As far as Bendora was concerned, Mr Hayes was

the incident controller on the ground at Bendora on the afternoon or the night of 9 January; is that correct?

A. I believe so, yes.

5

Q. I will just read to you a portion of his statement and ask you to comment on it. Mr Hayes's statement is [ESB.AFP.0108.0002]. He says this:

10

When I arrived on the fire --

-- referring to the Bendora fire --

15

-- on Thursday morning 9 January, it was dead quiet. During the day fire activity increased to what was really quite an amazing intensity by the evening of 9 January. I was surprised by the change during the day.

20

I believe that more effective firefighting could have been undertaken if a dozer had been available. The dozer, which I believe was coming to assist on Bendora, was coming from Orange and obviously didn't arrive until some time later. A dozer early on the morning of 9 January 2003 would have been able to undertake better clearing of Wombat Road. This would have provided a better line for protection from the fire jumping that road. It could also have cleared Bendora break and perhaps got up around the fingers that I described earlier, which were running up the hill from the northern end of the fire. It's very difficult to say what could have been achieved during the day, especially as the difference in fire activity between the morning and the afternoon of 9 January 2003 was quite extraordinary.

40

When I got back to Bulls Head, I called COMCEN on the two-way and the instruction was to stand down and go home. I sent the crews home at approximately 6pm. I got home at approximately 9pm, having driven back from Bulls Head, and had a conversation directly with the officer at ESB before going home.

45

I do not recall if during my conversations with COMCEN during the day I recommended overnight crews. I was aware that overnight crews had not been used the night before.

5 General resourcing is worked out by ESB, following discussion with the incident controller on the ground about what resources may be required.

10 I would have responded to this question. I do not recall discussion about overnight crews. Overnight crews would really need to be in on the ground by about 4pm so they're not going in blind.

15 COMCEN had people going into a number of different places and they were trying to organise crews for ongoing shifts. I do not recall exactly what discussion we had about
20 resourcing, but this may be recorded on telephone or telephone transcripts.

So, it appears that on the night of 9 January, the personnel who were at Bendora at about 6pm were
25 told to leave the fire; is that in accordance with your recollection?

A. No - that could have been the case. That sounds a little early to me, but, yes.

30 Q. Do you know why they were told to leave?

A. We were now in a situation which was identical to that of the McIntyre's fire. We had a large fire and night crews - direct attack with night crews was not going to contain this fire. We had
35 already made the decision to have to shift to indirect attack. That meant the establishment of containment lines, and we were falling well back from the actual fire front to establish those containment lines and that was our strategies at
40 that particular time. So putting firefighters directly on the fire overnight was of little value.

Q. How many personnel were out at the Bendora
45 fire on 9 January?

A. Not very many, as I understand. That was based on what was requested from the incident

controller from the night before. It was programmed to be dispatched and, as I understand it and as I found out a number of days later, some of those resources did not arrive at that fire.
5 So, apart from being underresourced in the first instance, they then didn't get their full complement of resources that was requested.

Q. So I take it that you would agree with
10 Mr Cheney's evidence, his written evidence at page 29, where he says:

In my opinion this fire --

15 -- this is referring to Bendora as at 9 January --

-- was severely underresourced. The incident controller had effectively one hand tool team or a tanker and light unit. With this team
20 he was unable to construct a patrol line and patrol Wombat Road at the same time. The fire had grown to a size that hand line construction with a five-man crew had virtually no chance of success without
25 further backup. The most effective action would probably have been only to hold the fire on the western side of Wombat Road.

You would agree with that, I take it?

30 A. Yes.

Q. And so is it the position that whoever made the decision at the end of the day on 9 January to withdraw everybody from the Bendora fire was doing
35 that because there was nothing useful they could do, given such limited resources?

A. Exactly.

Q. In the ESB submission to the McCleod Inquiry
40 in relation to the withdrawal from the Bendora fire on the night of 9 January, at page 101 the submission says:

45 Through the day the western flank was the most intense and caused the greatest control difficulty. The incident controller requested the SMT to provide heavy plant to

improve the fire trail network around the
fire. Heavy plant was subsequently
allocated. In the late afternoon an
agreement was reached between the Bendora
5 fire incident controller --

-- that's Mr Hayes --

10 -- and SMT that, due to safety concerns posed
by access limitations and the possible
dangers of falling trees and branches, crews
would not be used overnight.

15 That's not what you have just been describing, is
it?

A. No.

Q. Do you know how ESB came to make that
submission to the McCleod Inquiry?

20 A. I certainly would think that we, as I said,
had moved to indirect attack. Our concerns were
that there was little value to be gained by
overnight crews working direct attack. It was
certainly a high-risk strategy, purely and simply
25 on the basis of the perimeter. If we have a
fire - excuse my mathematics, but if a fire is
100 hectares in size, then you have got
4 kilometres of perimeter if you take it as a box,
you have 4 kilometres of perimeter, and if you are
30 on foot with people spread around a 4-kilometre
perimeter, it is a very large resource requirement
to actually be able to construct hand tool lines
with direct attack to contain that fire.

35 So our option was to go to indirect attack and
fall back as best as we possibly could.
Therefore, direct attack in the night-time, with
night-time crews, was of little value.

40 Q. Well, why didn't the ESB submission to the
McCleod Inquiry say what you have just said in the
answer to that question?

A. I don't know.

45 Q. Because what the ESB submission to the McCleod
Inquiry is suggesting is none of that, is it, in
the paragraph I just read to you? It is saying an

agreement was reached between Mr Hayes and the service management team that, due to safety concerns posed by access limitations and the dangers of falling trees and branches, the crews
5 wouldn't be used overnight. That's quite different from what you have been describing, isn't it?

A. I think access limitations certainly falls into my areas. It's different, yes.

10

Q. You read this submission in its final form?

A. Yes.

Q. Before it went?

15

A. Yes.

Q. Were you concerned to ensure that Mr McCleod was given as much information as he could possibly need to come to a clear understanding about the way in which these fires developed and were
20 responded to?

A. Yes.

Q. Did you express dissatisfaction with the fact that passages such as this don't give the complete picture as you knew it?

25

A. No.

Q. So the move to indirect attack as at the second half of 9 January meant that overnight both Bendora and Stockyard were left unattended - in fact all the ACT fires were left unattended?

30

A. Yes.

Q. That's part of the process?

35

A. Yes.

Q. And by now they're obviously large going fires. There is no prospect of self-extinguishment overnight, is there?

40

A. Absolutely not.

Q. And would you regard, from the point of view of putting it in layman's terms perhaps rather than in expert firefighter's terms, the situation was now becoming serious?

45

A. Yes.

Q. And it was becoming a significant problem, a significant fire?

A. It wasn't becoming; it was a serious --

5 Q. It was already. McIntyre's, of course, was still expanding?

A. It was even more serious.

10 Q. Had you by now thought, "Well, there could be a problem for the western edge of Canberra" and this?

A. No, I did not.

15 Q. Still didn't think that?

A. No, I didn't.

Q. In paragraph 41 of your statement, it seems to be the last thing that you deal with for 9 January, you say in the last sentence:

20

The service management team met at about 2030 hours, 8.30pm, where objectives and strategies for the next day were set. I finished my shift at 2300 that day.

25

How long did that meeting of the service management team last?

A. I don't recall.

30 Q. What did you decide?

A. Well, it was just confirming up the indirect attack strategies and what trails we were going to use and what were going to be the resource requirements to actually start to put these things in place.

35

Q. What were the trails you were going to use?

40 A. We had to open up Bendora break in the first instance and we had to get machinery in to do that. We certainly wanted to keep the fire on the western side of Warks Road or Wombat Road, because it changes in name halfway across that line, and we still had difficulties in identifying a fire line to the south. We had Parrat Road I think it was - I have forgotten the names of all the roads completely - to the west which was a break
45 before it got up onto the hill of Mt Franklin, and

our goal was to ensure that it didn't cross the Mt Franklin Road.

5 Q. And had the decision in relation to overnight firefighting resources been well and truly made by then. That was no longer a live issue at 8.30pm I take it?

A. Certainly not.

10 Q. Were you by 8.30pm on 9 January starting to feel significantly underresourced as far as your ability to deal with each of these fires and maintain whatever commitment you were going to be called upon to make to McIntyre's Hut fire?

15 A. No, I wasn't feeling underresourced in the sense of firefighters and firefighting equipment; I was certainly feeling underresourced in relation to heavy plant and aircraft.

20 Q. You thought you had enough firefighting personnel and enough firefighting appliances, tankers and light units, for the situation as it stood?

A. Yes.

25

Q. Did it occur to you that if things got significantly worse the resources might then become a problem?

30 A. Sure, as I was sure it was a problem already for New South Wales and for Victoria with the fires that they were fighting.

Q. I want to ask you about something else. Mr McRae prepared three incident objective and strategy forms. I ask that each of these be brought up on the screen more or less in turn, and we will deal with them. The first one is [ESB.AFP.0110.0756]. Now, do you recognise that handwriting, Mr Lucas-Smith?

40 A. Yes.

Q. Is that Mr McRae's writing?

A. It looks like it, yes.

45 Q. Is that an incident objective and strategy form for the Bendora fire, which appears to have been prepared at 2100 hours on 9 January 2003?

A. That's the way it appears, yes.

Q. Did you participate in the preparation of this document or is this all his work?

5 A. This would be all Mr McRae's work. That's what his job as planning officer is.

Q. This was to take effect from 6 am the following morning for 12 hours; is that right?

10 A. Yes.

Q. The general control objective is direct attack minimum area?

15 A. Yes.

Q. Does that mean direct attack on the fire?

A. Well, as I said before, we had constraints in areas to be able to do indirect attack, which was one of the reasons why we went to direct attack in 20 the very first place when McIntyre's went to indirect. We had the east-facing aspects of the Mt Franklin Road to the west and the Cotter River to the east, and all we had were those east-facing aspects. So our area to actually move in relation 25 to establishing lines for indirect attack was a lot smaller than what we needed for the time that we know we would have needed to construct the complete lines. So a strategy had to be adopted where we continued to suppress the growth of the 30 fire as much as we possibly could to give us as much time as we possibly could to construct our indirect attack containment lines.

Q. So where was the direct attack to actually 35 take place?

A. Directly on fire. That was primarily using aircraft.

Q. Using aircraft?

40 A. Yes.

Q. Not personnel on the ground?

A. Yes, there were personnel on the ground as well. Using aircraft without personnel on the 45 ground is certainly not using the aircraft strategically.

Q. So does that mean that the plan for the 10th was that some firefighting personnel on the ground assisted by aircraft would be involved in direct attack on the fire?

5 A. Yes.

Q. And other personnel and your heavy machinery, when it was available, would be involved in preparing your containment lines?

10 A. That's correct.

Q. Well, why couldn't the direct attack at 6 am on 10 January also have been carried on over the night of 9 January?

15 A. Because the aircraft won't operate in the dark.

Q. You can't have any direct attack on the ground without the aircraft?

20 A. You can have direct attack on the ground, but the strategy was to suppress the growth of the fire using a combination of aircraft and ground crews.

25 Q. Well, of course during the day, as this document points out a bit further down under safety consideration, the considerations included escalating fire behaviour, fire runs and loss of safe exit. So I understand how during the day it was an appropriate tactic to have crews on the ground working in conjunction with water bombing from the air. But at night when the intensity of the fire is less and direct attack is at least still an aspect of your strategy in relation to this fire, even without aircraft, why couldn't you leave crews to carry out some direct attack?

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40 A. I would have thought because of the growth of the fire during the day would have overtaken our direct attack efforts during the night unless we could have put a substantial workforce out there to take care of a potentially 4-kilometre perimeter fire.

45 Q. We will go to the next one and think about what you have just said. [ESB.AFP.0110.0757]. This is the incident objective and strategy for Stockyard to operate from 6 am on the 10th until

6pm on the 10th. The control objective is to leave it unattended until resources can be freed from the Bendora fire. Then direct attack minimum area if still plausible. So that is obviously an objective that you agreed with?

5 A. Yes.

Q. Does it mean what it says, at least on one interpretation, that you really were concentrating your resources on Bendora and you couldn't afford to apply resources to both Bendora and Stockyard?

10 A. Absolutely. To attack Stockyard required substantial heavy plant we didn't have.

15 Q. And then going to the next one, [ESB.AFP.0110.0758], this is the incident objective and strategy for Gingera. Direct attack, minimum area. Now again, that was the strategy for the 10th, direct attack, minimum area?

20 A. Yes.

Q. Does that also mean direct attack including personnel on the ground and aircraft?

25 A. Yes. Well, Gingera was achievable still. It was still a small fire.

Q. So direct attack was still an important part of the strategy at least as at 10 January?

30 A. Absolutely. As I said, it was essential to stop and minimise the growth of the fires as much as possible.

Q. But not in New South Wales with McIntyre's Hut, it seems? There was no direct attack going on; is that correct?

35 A. Yes. But you are talking about a fire now that is --

40 Q. Significantly bigger?

A. 300 to 400 hectares in size. I think the other aspect of that is we are talking about fairly rugged terrain and it is not easy work. It is not flat work and it is not easy work.

45

Q. I want to ask you if you agree with this view expressed by Mr McRae in his statement, also

dealing with this particular approach as at 10 January. On page 10 in paragraph 46 - perhaps I will read paragraph 45 as well:

5 The outcome of the discussions with Tony Graham and Dave Ingram as the operations officer and logistics officer respectively was that there were a number of options for containing the Bendora fire, there being
10 various fire access trails through the area. But the Stockyard Spur and Gingera fire had no existing containment lines, except the Mt Franklin Road.

15 Do you agree with that so far?

A. Yes, but not all those Bendora trails were trafficable. They existed on map.

Q. He says:

20 We therefore agreed on a set of containment lines for Bendora based on fire access trails. The plan was incorporated into the incident action plan for the day shift
25 commencing at daybreak on 10 January 2003. Those working on the fire at the time performing direct attack continued to do this task in order to try and hold the fire while the containment lines were put in place.

30 The agreed containment lines meant that there was no purpose in overnight direct attack because overnight fire behaviour would not jeopardise the proposed lines. That proved
35 to be correct.

Do you agree with that?

A. Yes, I do.

40 Q. No purpose in overnight direct attack because the overnight fire behaviour wouldn't jeopardise the proposed lines; so there was no point?

A. Yes.

45 Q. That is a view that you agree with?

A. Yes, it is.

Q. Mr McRae says that on 10 January 2003,
paragraph 53, he was back at work at ESB at 7 am.
He said:

5 As soon as I arrived I checked the weather
forecast and the reports coming in from the
crews in the field and found that the weather
forecasts and fire events had occurred
10 roughly as we had anticipated. None of the
fires was out nor had any broken out in a
significant way.

There's no way any of these fires was going to be
out on the morning of 10 January, was there?

15 A. No way.

Q. Nobody was attempting to suppress them and
they were of such a magnitude that they would not
self-extinguish?

20 A. That's correct.

MR LASRY: Your Worship, I am about to launch into
10 January. If it is convenient to stop now, I am
happy to do it.

25

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

MATTER ADJOURNED AT 4 PM UNTIL TUESDAY,
30 17 FEBRUARY 2004

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TRANSCRIPT OF PROCEEDINGS

5

CORONER'S COURT OF THE
AUSTRALIAN CAPITAL TERRITORY

10

MRS M. DOOGAN, CORONER

15

CF No 154 of 2003

20

CANBERRA

25

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

30

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DAY 11

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Tuesday, 17 February 2004

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[10.00 am]

THE CORONER: Mr Lucas-Smith, I might ask you to take the affirmation again, if you would please.

<PETER WILLIAM LUCAS-SMITH, AFFIRMED
<EXAMINATION-IN-CHIEF BY MR LASRY CONTINUING

MR LASRY: Q. Mr Lucas-Smith, I just want to ask you some questions about a document that I missed referring to yesterday. I wonder if we could have on the screen, please, [ESB.AFP.0110.0834]. Perhaps while it is coming I will refer to it. Mr Lucas-Smith, I just for a moment want to take you back to December of 2002. It appears that on 13 November 2002 the Legislative Assembly for the ACT passed a particular resolution which was mainly concerned with the fires from 2001. I don't suggest you will know this word for word. But the resolution of the ACT Legislative Assembly decried the loss of property in those fires, and noted but for the excellent work undertaken by the ACT rural service and emergency services great devastation would have occurred, and refers to the fact that the fires were deliberately lit.

In paragraph (4) of their resolution it says this:

"That the ACT Legislative Assembly(4) notes that the fast approaching summer contains bushfire conditions that are anticipated to eclipse those of 2001-2002, with severe weather conditions likely to exacerbate a desperately dry situation ..."

Now, that's in November of 2002. I wondered whether you knew where the information for that resolution came from. In other words, had you briefed ministers or members of the government or the chief minister in or before November 2002 on the dangers of the 2002/2003 season?

A. Can I ask who was putting that resolution to the assembly?

Q. All I have is the document which recites it. If you have no knowledge of it then --

A. I really have no knowledge. I am certainly aware that discussion took place. I haven't seen

the Hansard or anything like that. I am not aware that we provided any real information for it.

5 Q. Without looking at those sorts of documents, you wouldn't know where they got that?

A. I seem to recall that I think that resolution came from the leader of the opposition, but I'm not 100 per cent sure about that.

10 Q. I think the document is now on your screen; am I right about that? The other question that I wanted to ask you about that was that it appeared that the document you have is in fact a memorandum from Mr Castle to the policy adviser for the
15 Minister of Police and Emergency Services. It notes the resolution. It refers to a series of community service announcements which were going to be placed on television commencing on Sunday, 15 December 2002. I am not sure that I have ever
20 seen those community service announcements. Can you tell us what was in them?

A. Certainly. They were in fact - from what I can recall, I think they were about arson and arson prevention. They were in fact done through
25 the criminal justice policy area of JACS, the Department of Justice and Community Safety. It didn't really involve the Bushfire Service. They were actually talking about the amendments to the Crimes Act in relation to arson, penalties
30 associated with arson. An opportunity arose to actually run community announcements and that to consider what sort of preventative measures could be done within the community to prevent arson from occurring. It was primarily a juvenile prevention
35 campaign.

Q. On the screen in paragraph (5) you will see that the ACT assembly's resolution notes:

40 "... the importance of the Government's current fire safety education programmes in ACT schools and also programmes aimed at arson offenders in the ACT."

45 So does that mean to your recollection any publicity over, if you like, the Christmas holiday period of 2002, before the fires of 2003 started,

were primarily about issues of deliberately lighting fires?

5 A. Well, when you say "any", that's a fairly broad statement. There was a lot of community awareness stuff that is done as we approach every fire season and a whole range of different things happen. That is just one of a number of things that occurred as we went into the fire season, as we do with every fire season.

10

Q. You said yesterday in the course of your evidence that as at 8 January, when you first became aware of these fires being in existence I think as at the 8th, probably as at the 9th and we will press on to find out when this view changed, but as at those two days it never crossed your mind that such a fire could have an impact on the suburban area of Canberra. That was effectively yesterday's evidence. Do you agree with that?

15 20 A. Yes. That was certainly not something that was in the forefront of my mind.

Q. As at the start of these fires, in other words up to the point where the fires had actually started on 8 January 2003, in the time that you had been Chief Fire Control Officer had you from time to time ever considered circumstances in which the suburban area of Canberra might be affected by what began as a bushfire?

25 30 A. Numerous times. We even did exercises a few times.

Q. What sort of exercises were they that dealt with that particular scenario?

35 40 45 A. Generally desktop exercises that looked at a fire scenario to see - once we had been through a hazard assessment process in a large scale, we would look at what were the things that were contributing to the highest hazard areas and then what was the potential for those areas to impact upon valued assets of some sort. We would often exercise those. We would prepare presuppression plans in the form of maps and things like that as to detailed information about different sites adjacent to the urban edge.

Q. Was the kind of thing that happened in January

- if I can describe it in general terms - where fires start by lightning strikes to the west, north-west of Canberra in national parks like Namadgi and burn to such a stage that there is a definite threat to the suburban area of Canberra, was that ever part of the desktop scenario?

5 A. Certainly not fires to that extent, no.

Q. Well, what sort of scenarios were formulated in these desktop exercises which would involve an actual threat to the suburban area of Canberra? I am not so much interested in what the desktop exercise dealt with in terms of fire suppression and that kind of thing, but what kind of scenario was formulated which would have involved a threat to suburban Canberra?

15 A. They were primarily - you know, in 1991 we had a large fire that burned on Black Mountain and crossed Barry Way and impacted on Dryandra Street, O'Connor. So it was the hills and ridges areas of Canberra that were the primary focus of such exercises. There were field trips done with the bushfire council with experts from the land management agencies and so forth to look at different aspects. A whole series of things, but certainly not on that sort of scale. I think you need to put that into context. I can only speak to the time that I have been in the ACT. Since I have been in the ACT, since 1987, we have attended well over 3,000 - well over 3,000 fires, probably approaching 3,500 fires in the ACT at that time. None of them ever exceeded any more - I think the largest one was about 1,500 hectares. So we had a pretty good success at containing small fires.

25 35 Q. You certainly envisaged the possibility that suburban Canberra might be affected?

A. I think it is always there. You know the history in the south-eastern Australia and you know that potential exists.

Q. As far as a plan which involved people in suburban sections of Canberra who would be affected by such an event, what was the plan?

45 A. Sorry, can you say that again?

Q. Yes. So far as the people living in those

parts of suburban Canberra who might be affected by such a fire, presumably people living on the suburban edges of the Canberra metropolitan area, what was the plan in relation to them as to how they would be dealt with, as to how they would be informed of a risk and as to how they would be informed of what they should do?

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A. I think there are a couple of things. There was nothing specific related to bushfire in this regard because we are now talking about something of quite a significant scale. It was really the emergency management planning arrangements and more of a whole-of-government approach to the start of it to consider these things. There was - I forgot what it is called - a recovery subplan to the emergency plan dealing with people. There is a people recovery subplan. We looked at evaluation centres, how they could be organised and coordinated and a whole range of different activities from the whole suite of government departments to be involved in such an activity. There was also an interstructure recovery plan. There was a media liaison plan attached to the emergency plan. These things were done at a high level and bigger scale type of event than that of the direct bushfire impact.

30
Q. There was no actual bushfire plan for circumstances where a bushfire would affect residents of suburban Canberra as such, no fire plan?

A. Not on an 8 January scale, no.

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Q. As you say, you had envisaged in your desktop activities circumstances in which the particular residents of the suburban part of Canberra might be affected by bushfire either by smoke, by ember shower or actually by fire reaching the Canberra edge. I mean, that was a realistic possibility wasn't it?

A. Absolutely. As I said, it was tested but not of the scale of 18 January.

45
Q. In relation to that, and apart from what I might describe as the bureaucratic or the ordinary emergency management measures, there was no specific plan for a bushfire emergency of the kind

that happened in January of last year?

A. That's correct.

Q. And I take it it follows from that that there
5 was no program by which, if that eventuality
occurred, people in the affected areas would be
informed (a) of the event and (b) as to what they
should do?

A. Well, I don't think I could say that quite
10 categorically in that context. As I said, there
were things in relation to a recovery subplan
where --

Q. I am not worried about recovery. I want you
15 to understand what I am concentrating on. I am
concentrating on when the event was happening was
there a designated formulated plan by which people
in the affected suburban area of Canberra could
20 (a) be informed of the fact of the disaster
occurring and (b) informed as to what action they
should take?

A. We had a media annex, a media liaison plan,
which was an annex to the emergency plan which
laid out the scenario for large scale media advice
25 in relation to the event. That media plan dealt
with dealing with the event.

Q. We will come back to this of course. Do you
30 say in the last part of the week ending 18 January
that that plan was put into effect?

A. I think that plan was bypassed. We were
getting closer to 18 January and it was much
broader than just advice to the community about
the event. It was also an information requirement
35 as well which hadn't been planned at that stage.

Q. You know, don't you, that as a matter of
gauging public opinion or gauging the atmosphere
there are a large number of people who from time
40 to time have complained about the lack of
information on 18th January? You know there are
people who say they weren't properly informed as
to what was going on and what they should do?

A. I heard a lot of that. I have also heard
45 people say, "I knew what to do."

Q. I want to be clear about this. Do you say

that as at 18 January or 17 and 18 January, once
it was obvious what was going to happen, that
there was a coordinated process by which people in
Canberra were informed, first of all, it was going
5 to happen and, secondly, informed as to what they
should do?

A. Yes, I think there was.

Q. Let us go back to the 10th. Mr Lucas-Smith,
10 the morning of 10 January I think was the morning
on which the Service Management Team agreed to a
request from the Queanbeyan fire control centre
which had been made the night before with
assistance for the McIntyre's Hut fire. I think
15 it is on the morning of 10 January that some 10
units were dispatched to Queanbeyan or to the
McIntyre's Hut fire to assist; is that right?

A. That's correct.

20 Q. And Mr Graham in his statement in paragraph
52, [ESB.AFP.0001.1307] says:

25 "With some possibility that the McIntyre's
Hut fire could impact on the ACT at some
stage, ACT Forests organised a D9 dozer" --

-- which is the large one, isn't it --

30 -- "to work in and around the Blundells Flat
area, clearing a mineral earth break around
Uriarra pines to the north-west of Uriarra
Road. This work was done throughout the day.
The SMT supported this activity."

35 We can ask Mr Graham what he means. I take it he
is there referring to the possibility that
McIntyre's Hut fire might affect the ACT pine
plantations at Uriarra?

A. Absolutely.

40

Q. You would agree with that?

A. Absolutely.

45 Q. Certainly by 10 January that was a significant
possibility, wasn't it?

A. Yes.

47

Q. At 9.30 that morning you attended a meeting at Queanbeyan to discuss, among other things, the resources which were being or which were to be provided by the ACT for the McIntyre's Hut effort.
5 This is referred to in paragraph 43 of your statement. At 7.30 in the morning you went to a McIntyre's Hut bushfire planning meeting in Queanbeyan to obtain an update on the strategies for containing that fire:

10 "Having already deployed ACT resources to the McIntyre's Hut fire as requested by NSW, I advised this meeting that I would continue to provide resources at this stage as agreed but
15 I would not be providing any additional resources for fighting the McIntyre's Hut fire as our own fires were building in momentum and the threat to Mt Franklin Road was increasing."

20 Was it necessary for you to actually go to Queanbeyan to say that or were you in regular contact by telephone or was there more to this meeting than simply what you have referred to in
25 the statement?

A. Of course. The meeting was the planning meeting and I was there obviously as an interested person and also a person to assist wherever I possibly could.

30 Q. Perhaps if I can go back to the first part of what you describe. You said you went there to obtain an update on the strategies. What update did you get on the strategies that they were using
35 for the McIntyre's fire?

A. Well, really, it was confirmation of the strategies they had previously adopted, and that is the construction of the containment lines and the back-burning from that, and then taking the
40 opportunity to burn out wherever possible.

Q. That was a strategy developed on 8 January, wasn't it?

A. Exactly.

45 Q. So nothing had changed as at the 10th?

A. Nothing had changed, but my reason for

attending was to ensure that the priorities didn't change from an ACT perspective; that is, I had concern that the priority from our point of view needed to be on the southern boundaries and eastern boundaries and I didn't want to see that shifted.

Q. Was it to be shifted? Were you satisfied with the outcome of the meeting?

10 A. I think you said yesterday there was consideration being given to putting in the northern boundary lines, and that was discussed.

Q. What was the outcome of the discussion?

15 A. Priority stayed with the southern and eastern boundaries.

Q. And presumably at least in part of the expression of your opinion as to what should happen?

20 A. Yes.

Q. The threat, as far as you could see, was the threat to the ACT assets and so on from McIntyre's Hut; the major threat of all the threats around --

25 A. It was certainly the most immediate threat. It was the one that had the greatest potential to impact upon valued resources of the ACT.

30 Q. Mr Cooper at this stage was the incident controller for the Bendora fire; do you recall that being the case?

A. We are talking about the 10th, are we?

35 Q. Yes, the 10th.

A. Yes.

40 Q. In relation to that he says in his statement the following in relation to 10 January - sorry, at this stage on the morning of the 10th he was still in the role of liaison officer and conducted a flight over the fires, and that's what he is describing at about 8 am on 10 January. He says:

45 "We then flew up to the Gingera fire where we landed at about 8 am to liaise with Tony Greep and Peter Callan. I recall it being

very cold and the fire behaviour was even more inactive than at Bendora. In some places the fire had actually burnt itself out. The vegetation cover was a thick Alpine shrub, heath and poyier type grasses that became extremely difficult to get through with hand tools. This was further shown to be true when we tried to land the helicopter. It actually sank about half a metre into the heath until the tail rotor was almost touching the vegetation. We were expecting that hand crews could cut tracks into this area, but seeing as the heath was probably half a metre deep I radioed in to COMCEN at 7.46 am that a small bulldozer would be best to cut a trail directly alongside the fire edge, direct attack, right in around the top of the spur causing minimal damage and thereby contain the fire. I received an immediate reply from Tony Graham at COMCEN that this would not be an option. In later discussions with Tony Graham I believe the reason that this was not an option is that it was a national park and it was deemed inappropriate to have heavy machinery in this particular environment. However I remained very confident that we could have contained the Gingera fire at that time with the use of a small dozer."

30 Are you aware of that issue?
A. No.

Q. Not aware at all?
35 A. No.

Q. Never discussed it with Tony Graham?
A. No.

40 Q. Were you aware generally of an issue about the use of heavy machinery, whether medium size or large dozers in that area, and the effect it might have on the environment?
A. Certainly. I spent 17 years with New South
45 Wales National Parks and Wildlife Service. But I agree with Neil Cooper.

47

Q. Obviously we will ask Mr Graham. But, as to the reason why Mr Graham refused permission, in effect, saying it wasn't an option, you have no idea?

5 A. I would think it has probably got more to do with the fact that there wasn't any machines available to do that task.

Q. That may be the reason, except that Mr Cooper says that in a later discussion it wasn't about that at all; it was about the lack of appropriateness in having heavy machinery in that particular environment?

10 A. You'd have to ask him that.
15

Q. I will. But at the various planning meetings and discussions you were spending a lot of time with Mr Graham. This was never raised with you?

20 A. In fact I wasn't spending a lot of time with Mr Graham.

Q. Weren't you meeting him at least twice a day?
A. Yes.

25 Q. For planning meetings?

A. Meeting twice a day is not necessarily spending a lot of time with him.

Q. Well, at planning meetings the issue that Mr Cooper refers to here and the refusal of permission by Mr Graham for what he wanted to do to contain the Gingera fire to your recollection was never raised with you?

30 A. I'm sorry?
35

Q. That issue was not raised with you by Mr Graham?

A. No, I am not aware of that issue.

40 Q. At about 9 o'clock on the same day the Service Management Team had a meeting with Mr McNamara from Environment ACT, didn't they?

A. Yes.

45 Q. Do you recall that?

A. Yes, I do.
47

Q. I think it is referred to in paragraph 44 of your statement on page 11. Feel free to refer to it if you want to. You say:

5 "At about 0900 hours the SMT met with a
representative from Environment ACT, Brett
McNamara, to consider the location and
condition of existing trails. It became
10 apparent that considerable work would be
required if a shift to indirect attack became
necessary. I advised Brett McNamara that
dozer work would be necessary and that we
would commence with opening old regenerated
trails in the Bendora area."

15 Mr Graham says in relation to that same meeting
that, in effect, Environment ACT empowered you to
construct fire trails through the Namadgi where
necessary, taking into account environmental and
20 heritage issues. That appears in paragraph 57.
Is it a fair summary of that particular meeting to
say that you made it clear to Mr McNamara that, in
order to control these fires, dozer work was
needing to be done in Namadgi National Park?

25 A. Yes, I initiated the meeting.

Q. You needed their agreement?

A. I didn't need their agreement. I in fact told
them what I was going to do.

30 Q. So was it a courtesy as far as you were
concerned?

A. I needed their information. I needed their
detail in relation to the trails in that area. I
35 told them, "This is what we are going to do."

Q. Am I right in saying you did that in part
because you were aware of the fact that there may
be some issue about damage that might be done by
40 heavy machinery - am I right in saying that one of
the reasons you had the meeting and had the
discussion was that you were aware of the fact
that heavy machinery might do some damage in the
national park but it had to be done in the cause
45 of the fire suppression effort?

A. Absolutely, and I wanted to minimise that
damage wherever possible.

Q. I take it Mr McNamara readily agreed?

A. Yes.

Q. That would appear to be an hour after
5 Mr Graham has told Mr Cooper of the use of a small
dozer around the Gingera fire in order to control
it was not an option if what Mr Cooper says is
correct?

A. That could very well be the case. I'm not
10 sure that we had access to a small dozer at that
time.

Q. I know it assumes what these other witnesses
will say, but on the face of it there is a
15 communication problem, isn't there, because at
8 o'clock Mr Graham is giving instructions to
Mr Cooper denying him the right to use heavy
equipment. An hour later you are telling
Mr McNamara that heavy equipment needs to be used
20 in the suppression effort. Mr McNamara is
agreeing. Apparently you and Mr Graham have never
discussed this question about the Gingera fire?

A. We are talking about two different fires.

Q. I appreciate that. Does that make a
25 difference?

A. Certainly. To get to the Mt Gingera fire even
with a small dozer was a significant challenge.

Q. Yes, you say that, but the point is the reason
30 Mr Cooper says he was given for not being allowed
to use the heavy machinery was the heritage or
conservation considerations?

A. Yes. I had no input into that decision.

35

Q. I want to suggest to you that, at least on the
face of that material and subject to what comes
out in the future, there does seem to be some kind
of a communication problem as at 10 January in
40 relation to the use of heavy machinery?

A. No, I don't think so. I'm not running
operations. Tony Graham was running operations.
He's the person that is providing the resource to
the people in the field, to the incident
45 management people in the field. Whatever resource
he has available he would make available.

47

Q. You keep saying that, but the point I am trying to make is that according to Mr Cooper's statement he doesn't say he was denied permission to use heavy machinery around the Gingera fire because the machinery wasn't available; he says that at 8am that morning he was told it wasn't an option and was later informed it wasn't an option because of conservation issues. On your evidence I suggest that was the very issue you dealt with with Mr McNamara an hour or so later by saying to him, "We have to use heavy machinery in order to stop this fire"?

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A. Yes. But I was talking to Mr McNamara about the Bendora fire.

Q. But were you restricting that discussion to the Bendora fire?

A. That discussion was about the Bendora fire, yes.

20
Q. If you thought it appropriate you would have had the same discussion with him in relation to the other fires, wouldn't you?

A. Certainly. If I had been running operations and had a small dozer available, I would not have hesitated to move it to Mt Gingera.

Q. Mr Lucas-Smith, I want to assure you I understand there is a separate issue about the availability of resources. What at the moment I am seeking to concentrate on is whether or not you and Mr Graham, for example, were communicating about the issue of the use of heavy equipment and dealing with the conservation issue. In essence, the proposition I am putting to you is you dealt with the conservation issue in your conversation with Mr McNamara, but that conversation took place only an hour after Mr Graham had taken an opposite position with Neil Cooper in relation to the Gingera fire. Do you see the point that I am putting to you?

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A. Yes, but I don't think you are understanding my response. Mr Graham is dealing with almost the immediate. He is dealing with what is happening now, then and there at the time. What I am dealing with with Mr McNamara is planning for future operations. I am looking ahead. We are

talking about two totally different things.

Q. It appears on the material that Mr Graham was confronted with someone who was telling him, "If I
5 can get a small dozer in" - assume the small dozer is available - "to cut a track along the side of this fire we can control the fire"?

A. It would appear so.

10 Q. And he was told that was not an option for conservation reasons?

A. It would appear so. I don't know how I can answer your question because I wasn't involved in the conversation.

15

Q. Let me ask you a simpler question. If that turns out to be the case you would be appalled by that, wouldn't you, because it is simply the wrong reason not to do that work?

20 A. Well, it's a reason I would have thought under the conditions had a much lower justification.

Q. Particularly if what was at stake was keeping the fire contained?

25 A. Absolutely.

Q. It is in this context that you say in paragraph 47 of your statement - I think I have already referred to this passage, but I want to
30 refer to it again - you refer to the limits within - we will come now to resources - you are referring in paragraph 47 to the limits on the resources in the ACT which required in effect a wait of between 24 and 36 hours for the arrival of
35 heavy plant and the difficulties of floating the plant as close to the fire as you could get. In conclusion at the end of that paragraph you say:

40 "So, irrespective of the theoretical strategies we would have liked to have put in place at the time, there was a certain degree of compromise required because of the remoteness of the fires, the terrain, the limited area and the limited time with which
45 we had to implement these indirect options. This meant that during the early days of 10, 11 and 12 January there was very little that

our firefighting resources could do except continue with direct attack where possible, until our containment lines were in place."

5 That's a fair description of the situation?

A. A broad perspective, yes.

Q. Throughout that period the fires were building in size?

10 A. Yes, to the west.

Q. To the west. It's fair to say, isn't it, that the risks with this were the same as the risks that accompanied the strategy in relation to McIntyre's Hut? In other words, as the fire gets bigger, as the containment lines get broader, if the weather goes wrong, the risk of things going wrong and losing control of the fire continues to increase?

15 A. Yes.

Q. I take it you say you just simply had no choice; this was the only way to go?

25 A. Exactly. I didn't have any other options.

Q. Do you remember what the weather was as at 10 January, what it was like?

30 A. I don't recall specifically, but the winds as I understand continued to come in from the east or south-east.

Q. And relatively cool?

35 A. Yes, it wasn't overly hot. The humidities were a little higher. But, as I said, the fires were spreading to the west and that was primarily a feature of terrain, it wasn't weather.

Q. Were you conscious of the fact that at some stage within days the weather would of course change, as it inevitably did?

40 A. Yes.

Q. You were watching the weather pretty carefully, I take it?

45 A. Absolutely.

Q. As all of these fires grew, the prospect of a

high temperature north-westerly day meant the impact on the ACT at least was almost inevitable; it was reaching the point where it was almost inevitable?

5 A. What do you mean by the ACT?

Q. I mean anything within the ACT border.

A. The fire is already within the ACT border.

10 Q. I mean the assets you were particularly interested in, the pine plantations at Uriarra, Pierce's Creek. They were now at severe risk, weren't they?

A. Yes.

15

Q. As at 10 January?

A. Yes, the reason why the priority was given to Bendora.

20 Q. And the containment policy that you would say you had no choice but to undertake was only going to work as long as the extreme weather in effect stayed away for enough time to give you a chance to get control of these fires?

25 A. That's correct.

Q. I will go back to Mr Cooper for a minute. Just dealing with two matters to which he refers on the morning of 10 January, Mr Cooper in
30 paragraph 38 of his statement says this:

"I'd been given the instructions authorisation from the Chief Fire Control Officer, Peter Lucas-Smith, that I could
35 commit any level of ACT resources to the McIntyre's Hut fire that may be requested by New South Wales RFS to assist in suppression activities. However, at approximately 9.30 on the morning of the 10th of January a
40 request was made for about 10 tankers and 15 light units to assist with the start of the planned back-burning operations due to start that afternoon. This was denied by the Chief Fire Control Officer, who then stated that he
45 could not spare that many resources because of the ACT's commitments to its own fires and that he could only provide four tankers and

four light units. New South Wales RFS initially argued that they could not go ahead with the burning as planned if they had no ACT resources. However they finally accepted this reduced task force. I arranged for them to meet at the Uriarra depot at 12.30pm to proceed to the McIntyre's Hut fire."

Does that accurately state what occurred, to your recollection?

A. I certainly don't recall giving Mr Cooper authorisation to commit whatever ACT resources were figured necessary. He was there as a liaison officer to keep me informed as to what was going on and, if there was a request made - that in fact request was made at their planning meeting on the morning I believe of the 10th, I think it was the 10th, and that was the first I heard of it, and it wasn't a request made to me by Mr Cooper.

Q. It wasn't?

A. No. It was made to me by Jim Lomas, the Deputy Fire Control Officer from Yarrawlumba shire, at that planning meeting who was the operations officer for the New South Wales AMT.

Q. By telephone?

A. No, no, I was there at the meeting.

Q. You were there at the meeting?

A. Yes. My response was that I would have to consider the request and I would get back to them.

Q. Sorry, this is the meeting on which day, Mr Lucas-Smith?

A. I think this is on the morning of the 10th. Can I just check that?

Q. Yes, please do.

A. Yes, I think that is the morning of the 10th.

Q. As far as the management of the ACT's resources, I think you reached a stage by the morning of the 10th where what you were concerned to do was to concentrate on the Bendora fire; is that right?

A. I was certainly working on the basis that New

South Wales had a much bigger pool to draw resources from than the ACT did.

5 Q. But within the ACT itself your priority was the Bendora fire?

A. Yes.

10 Q. Resources were in fact removed from the Gingera fire to be taken to the Bendora fire or sent to the Bendora fire?

A. Yes, I believe so.

15 Q. As part of that re-organisation?

A. Yes.

Q. Did that mean that the Gingera fire was then left unattended some time on the morning of the 10th?

20 A. I think we left some resources there. I'm just not 100 per cent sure what was left there. It wasn't completely taken.

25 Q. What was the contingency plan in relation to the Gingera fire? Obviously if resources are taken away from that fire to be applied to the Bendora fire then that fire will grow and presumably its threat will increase?

A. Yes.

30 Q. Was there a contingency plan to deal with that?

35 A. The only strategy we were able to put in place was that we didn't want it to cross the Mt Franklin Road, and Mr Cooper was absolutely right that to construct a line around it through the Alpine heath required a light machine or a machine of some size, a dozer of some sort. Hand tool crews weren't going to do that, and we didn't have such plant available.

40

Q. That line of course was never constructed, I take it?

45 A. No, that line was never constructed. There were some later constructed for the protection of Pryor's Hut and so forth.

Q. He says in paragraph 36 of his statement this

in relation to the removal of resources:

5 "At about 11.30 on the morning of 10 January
the crews at the Gingera fire were told to
withdraw and go to Bendora."

You would agree with that; that's what happened?

A. Yes. I'm not too sure of the exact time, but
it was somewhere about then.

10

Q. That's when he thinks it was. He said that he
realised that resources may have been scarce, but
says:

15 "I still feel that the fire we had the most
chance to suppress in the early stages was
the Gingera fire."

I take it you wouldn't take issue with that as at
20 the morning of 10 January?

A. It was certainly the smallest fire. It was
probably going to be a difficult fire to suppress
purely and simply because it did require plant and
we didn't have it and it was a long haul to get it
25 there.

Q. He says:

30 "The Bendora fire was in an area that was
reasonably well serviced with roads and
tracks, whereas the Gingera area had minimal
roads which would be a problem if it was
allowed to grow in size."

35 Do you agree with that?

A. I do, except the tracks weren't available to
us. The map showed that there were tracks there,
but they didn't really exist in reality.

40 Q. They had to be re-opened and cleared?

A. Yes, exactly.

Q. That's, I take it, an easier process than
creating a new track?

45 A. Well, it is, except that some of these tracks
had been closed for over 20 years and there was
significant tree growth on them.

Q. He goes on:

5 "At that stage the Gingera fire was also in
my opinion the only one of the three fires
that I felt we had a chance to actually
control, and given its current size, altitude
at which it was burning, very low overnight
temperatures meant that it was going out in
places at night and relatively slow rates of
10 burning."

I take it you would agree at least with the
objective facts in that assertion?

A. That was his opinion, yes.
15

Q. Was the prospect that the Gingera fire, being
the smallest, was the fire that perhaps could have
been completely controlled or even extinguished as
at 10 January something that was in your mind when
20 you were involved in discussing whether troops
ought to be allocated to the Bendora fire rather
than left at Gingera?

A. No, I --

25 Q. Was that an issue you considered?

A. Certainly it was an issue considered. There
are a lot of circumstances that need to be taken
into account. Certainly you've got to remember
that the Stockyard fire is to the east of the
30 Gingera fire and is burning to the west uphill
onto the Mt Franklin Road. The Mt Franklin Road
is the eastern boundary of the Gingera fire. So
putting people and firefighting resources there
had the potential to be cut off in an uphill run
35 fire to their east. It was also a fire that, as I
say, was small. It was remote, a long way away.
It was going to require plant. We didn't have
that plant to send there. So what was going to be
achieved by putting hand tool crews and a lot of
40 resources on the ground there to control this fire
when we all knew that that wasn't in fact going to
be achievable?

Q. Now, can I come back to Bendora and can I ask
45 that the document [ESB.AFP.0110.0852] be put up on
the screen. We need page 2, page 0853 and 0854.
This is one of those documents that would be

desirable to have a hard copy of, if I can. We will see how we go on the screen. Mr Lucas-Smith, this document is a fire situation analysis form. The first page is simply a set of instructions for
5 completing the document. What you have on the screen now is the handwritten completed document. Do you know whose handwriting that is?

A. No, I don't recognise it at this stage.

10 Q. Might it be Mr Hilton Taylor's writing?

A. It could be. His name is probably on the bottom of the page.

15 Q. It is not, I don't think; that is why I was asking you.

A. No, I don't know.

20 Q. Just first of all, the fire situation analysis form is, I take it, broadly a document which is designed to analyse options for the suppression of particular fires; is that right, basically to accumulate information?

A. Yes.

25 Q. And to formulate various alternative --

A. It is a planning cell function. They complete this form.

30 Q. On the document it sets out weather details for example, which you have on the screen there, with projected outlooks for two hours, four hours and eight hours. If you go down the page a bit, it identifies the nature of fuels, type, quantity and identifies the quantity as 20-tonnes per
35 hectare; is that right?

A. That appears so, yes.

40 Q. And then sets out the fire behaviour in relation to rate of spread and projected rate of spread; is that right?

A. Yes.

45 Q. It seems to be predicted to increase over the next eight hours or so?

A. As the day warmed up, yes.

Q. I might give you a hard copy, Mr Lucas-Smith.

It is in your volume 1, your Worship, of your folders towards the back. Going back to the page that we were looking at, Mr Lucas-Smith, F is "legal constraints on suppression activities (administrative or legal)". I think that says, "This fire is in the Namadgi National Park and needs to be managed in accordance with Parks' policies"; is that right?

5

A. That's what it says.

10

Q. Is that right? Do you agree with that; the management of this fire needed to be in accordance with their policy?

A. No.

15

Q. You don't agree?

A. The management of the fire needs to be in accordance with the Bushfire Act.

20

Q. So that is wrong?

A. That's wrong.

Q. Whatever constraints there might be in the mind of the managers of the national park, certainly they weren't constraints that you considered were on the ESB?

25

A. No. At this time on 10 January I didn't feel compelled by any such constraints.

30

Q. And under "Important social and external considerations", "fire is in the Cotter catchment and will be difficult to contain if the southern or eastern breaks are breached" - I think it says "breached", doesn't it?

35

A. I think it says "breached", yes.

Q. Just before we go to the next page, is this a document that would have been brought to your attention as part of the planning process? Would this have been a document, for example, on 10 January that would have been circulated and discussed at a planning meeting or at some other operational meeting?

40

A. It may very well have been a document that was discussed within the planning section, within the planning section itself. It doesn't necessarily mean that it was actually agreed to at the end of

45

the day or brought forward from the planning section.

5 Q. So, just in relation to that process, there is a planning officer, Mr McRae?

A. McRae.

Q. Who might formulate particular plans for particular approaches to fires?

10 A. Yes.

Q. That's then got to be dealt with by the planning section; is that right?

15 A. Mr McRae had a number of staff at this time within the planning cell and there were a number of people doing different aspects. Mr McRae was managing that and people were looking at different options.

20 Q. Once he approved it, then it was the plan of the planning cell?

25 A. What he considered - I think the way he was managing it, you would need to ask him. My understanding is the way he was managing it was that they would meet and come to a consensus within the group as to what was the planning analysis that they wanted to bring forward.

30 Q. Go over the page, if you would, to first of all the top of the page, "General control objective". I think, reading that as best I can, it says, "Contain south boundary at" - I am not sure what that next - "1100 hours line", I think. Can you read the next line, Mr Lucas-Smith?

35 A. "Prevent northern boundary crossing Bushranger's Creek."

40 Q. Yes. Prevent east boundary crossing Warks Road and prevent west boundary crossing Mt Franklin Road"?

A. Yes.

45 Q. They were the general objectives. Then there were three alternatives given for the means of achieving those general control objectives; is that right?

A. Yes.

Q. That first one, the first alternative 1, is:

5 "Dozer to secure southern, eastern, western
boundaries. Chopper to control northern
flank before fire crosses Bushranger's Creek.
Tankers and light units to direct attack
where road access."

10 That is alternative 1, requiring four choppers,
two dozers, four tankers, four light units, three
RAFT teams.

A. Is that two dozers or one dozer?

15 Q. It is one, is it? I am sorry, it could well
be one. "Estimated date of control
11 January 2003. Estimated size control 500" - I
presume that is hectares - "estimated probability
of success 20 per cent." I take it that means the
20 estimated chance of achieving that particular
alternative is 20 per cent.

A. Yes.

Q. Is that an unacceptable percentage?

25 A. Yes.

Q. Alternative 2, indirect attack. "Back-burn
from swept trails." Is that "east" something
"Wombat Road"; something to do with Mt Franklin
Road?

30 A. I think it says "back-burn from swept trails.
Flat Rock Spur, Wombat Road." I don't know what
road that is.

Q. Warks Road?

35 A. It could be Warks Road.

Q. Mt Franklin Road?

A. And Bendora road.

40 Q. "Tankers, light units to support back-burn
option. Choppers also used to" - maybe "control".
It is clearly the indirect attack option anyway,
isn't it?

A. Yes.

45

Q. Two choppers, three dozers; is that right?

A. Yes.

Q. Four tankers, four light units, four RAFT teams. "Estimated date control, 13 January. Estimated size, 2500 hectares. Estimated probability of success, 50 per cent." Is that an acceptable percentage?

A. It's a percentage now that starts to fall within the realms of possibility by modification of resources. So you could modify that and probably increase the percentage by increasing the resources if that is going to assist. So you start now looking at different options there. You start looking at possibilities of expanding that option if it is appropriate.

Q. Then alternative 3:

"Fire uncontained and let natural forces extinguish the fire. Suppression forces required, nil. Estimated date of control, February 2003. 10,000 hectares burnt. Estimated probability of success, 100 per cent."

That wasn't really a realistic option, was it, alternative 3?

A. That's not an acceptable option, no.

Q. Why would that be in there?

A. I have no idea. I didn't write it. I don't know why he was writing it for.

Q. It is just a waste of space on the page to write that in. It was never an option?

A. It is interesting that he believed if the fire is left unattended it is only going to reach 10,000 hectares.

Q. And that it would burn for a month?

A. It appears so.

Q. How would anyone who was serious about planning think that that was a viable option and attribute probability of success as 100 per cent?

A. I don't know. You would need to ask the person who drafted it.

Q. I will. I just wondered whether you were

familiar with the process and whether you were familiar with this approach to planning?

A. Absolutely. It is a standard process. It is a process I support.

5

Q. You don't seriously suggest, do you, that it is legitimate as part of the planning process to include alternative 3 as an option when there is only room for 3 options?

10 A. Look, I didn't write it. I don't know what he wrote it for. I find it interesting and turn the page there is no comment against the decision columns.

15 Q. Yes.

A. So it was obviously never taken forward to decision.

20 Q. Of course not. I understand that. The point I am making is that this is 10 January and people are being asked to make critical decisions about alternative plans that will best achieve the result. Presumably the result that you want to achieve is to suppress the fire, control it and
25 suppress it in the smallest area possible, given the circumstances, without risk to life or property. I just wonder whether you could conceive of a serious reason why alternative 3 would be put in a plan under those circumstances.
30 Just I suggest to you it is a ridiculous alternative?

A. I would think that by the time that he had completed looking at option 2 and the constraints that we have with the roads, and as I said
35 yesterday, part of our difficulties with indirect attack that we didn't have a great deal of room to move. And the reality was that if option 2 failed then we were across the Cotter River, we were into a totally different ball game and we were looking
40 at a significantly increased size of fire and, therefore, would require a totally different approach to our planning.

45 Q. You wouldn't pull your troops out go home and wait till February and hope it would burned itself out, would you?

A. No, we wouldn't; no.

Q. In the middle of the day on 10 January at about 12.30 the ACT group of four tankers and four light units, I think, as we have discussed before, would meet at the Uriarra depot and proceed to
5 McIntyre's Hut fire. As we have already discussed, the idea was that they would assist with the McIntyre's Hut back-burning. Is that right?

10 A. That's correct. That evening.

Q. It was later decided, wasn't it, that that back-burn wouldn't go ahead; do you remember being aware of that?

15 A. Yes, I'm aware of that. We talked about the McIntyre's Hut fire.

Q. Yes.

A. Not a fire I was managing.

20 Q. No, I understand that. I will come to the point of it in a moment. Mr Cooper says in paragraph 39 of his statement that Rob Hunt, from New South Wales Parks and Wildlife, and the operations manager at Queanbeyan whose name he
25 couldn't recall - do you know who the operations manager at Queanbeyan was?

A. Jim Lomas. Whether he was on shift that day, I don't know.

30 Q. He says:

"They had taken a flight over the fire and returned late morning to advise the
35 McIntyre's Hut incident controller they were not happy with the progress that had been made on upgrading the containment lines. This resulted in the Incident Management Team making a decision not to proceed with the
40 burning operations."

This is Mr Cooper speaking. He said:

45 "I was against this action and argued that some progress with road work had been made and we should commence the burning operations as soon as possible to take advantage of the weather. I was outvoted. I clearly remember

5 this decision as the decision not to go ahead
seemed to be the first prompt and unanimous
decision the IMT at Queanbeyan had made since
the start of the fire. I then had to contact
the ACT task force who were already on their
way to the McIntyre's Hut fire at about 12.30
pm and redivert them to Bendora. I also
arranged for them to be back together at
Uriarra at 10 am in the morning of the next
10 day to go to McIntyre's Hut."

This is Mr Cooper speaking obviously from
firsthand knowledge. Were you aware of the fact
that they decided not to go ahead with the
15 back-burn and the reasons they decided not to?
Were you consulted about that?

A. I wasn't consulted about that. I found out
during the day that they weren't proceeding with
the back-burn. As I understand it, their concern
20 was that the trail they were proposing to use for
the southern boundary for the McIntyre's fire run
was a maintenance trail for the high tension power
lines. That trail was not constructed as a fire
trail, it was constructed as a maintenance trail
25 for the power lines and therefore it zig-zagged
around quite significantly and wasn't appropriate.
Also there had been, I can't remember exactly - it
was a year and a half or maybe two years it could
have been beforehand - there was a significant
30 issue with the power lines where TransGrid had
gone through and cleared underneath them quite
substantially and caused a bit of media interest.
They pushed all the material up onto the side that
was proposed to be burnt and that created some
35 issues for them.

Q. So you agreed with the decision not to go
ahead with the back-burn?

A. I didn't agree or disagree.
40

Q. But as a matter of principle, you think it was
the right decision - now?

A. I don't know what had been achieved in
establishing the trail so far. But from my point
45 of view, as we did with Bendora fires, the moment
we constructed a line we started to back-burn from
that line to create the best advantage we possibly

could in the time available.

Q. Mr Cooper seems to be saying in his statement that there was plenty of space between where the
5 back-burning was going to start and where the
containment lines were going to be constructed and
that, given that the weather was favourable, an
opportunity was being lost to get on with the
back-burning at a time when it could be done
10 effectively and under control. Do you agree with
that view?

A. I don't know. He was the liaison officer of
Queanbeyan. This is activity and actions that
were taking place in Queanbeyan in relation to
15 McIntyre - nothing to do with us.

Q. I understand that.

A. He was there as liaison officer. He wasn't
there representing, in a sense, the decisions of
20 the ACT.

Q. But the McIntyre's Hut fire remained, of all
the fires, the fire of probably still the greatest
threat to ACT assets; didn't it?

25 A. It certainly did, yes.

Q. So you had a vital interest in what was
happening, surely?

30 A. Yes, I did.

Q. As at 10 January were you optimistic that all
of the fires, including McIntyre's Hut, would be
contained within a few days from 10th January?

35 A. I was hopeful. Whether you want to count that
as optimistic or not, I'm not too sure. I was
also starting to consider much larger fallback
options at that time. Even by certainly the
afternoon of 10 January, from my own thinking I
was starting to broaden significantly the
40 potential impacts and what happens if we were
unable to keep to the fire to the east of the
Cotter Road - you know, where is our next line of
defence?

45 Q. As at 10 January, did you have an expectation
that within a few days the fires would be
contained?

A. That was the plan.

Q. No, but did you have an expectation?

A. I didn't put any sort of
5 confidence probability in a percentage form or
anything like that. But that's what we were
working to and needed to continue to focus on what
our task was.

10 Q. So it was your hope not your expectation?

A. Yes.

Q. An expectation would be something that was
made with some confidence and you weren't that
15 confident, were you?

A. I was confident that we would make significant
progress. Whether we made sufficient progress was
dependent as to when the weather changed. At that
time we didn't have a clear picture as to when the
20 weather would change.

Q. As at 10 January, how much longer did you
think the fires would burn for?

A. I thought I had four days.
25

Q. Four days.

A. Yep.

Q. And that in four days you would contain them?

30 A. In four days the weather would start to shift
and would start to put pressure on parts of our
line, and we needed to ensure that we had adequate
depth in our line at that time.

35 Q. But would it be fair to say then that, as far
as the actual existence of the fires and the fact
of them burning was concerned, you would expected
that they would burn for a few days obviously?

A. Oh, yes. I am not talking about putting fires
40 out; I am talking about having them contained.

Q. At 2 o'clock on the afternoon of 10 January, a
media update was issued by ESB which is
[ESB.AFP.0110.0288] and if you go to page 2 of
45 that. This is a media release for immediate
release which quotes you saying:

47

5 "The three bushfires in the ACT have grown in
the past 24 hours," Chief Fire Control
Officer of the ACT Peter Lucas-Smith said
today. "Crews are working on containing the
three ACT fires, but we expect these to
continue burning at least for the next few
days," Mr Lucas-Smith said. "We are focusing
the majority of our resources on the fire at
Bendora but are continuing to monitor and
attend the other fires. We are also keeping
informed about two New South Wales fires that
are close to the ACT borders, one at
McIntyre's Hut to the north-west and the
other at Mt Morgan to the south of the ACT."

15
What did you mean when you said, "We expect these
to continue burning for at least the next few
days"?

20 A. That's exactly what I meant.

Q. Well --

A. I meant you can expect to see - continue to
see smoke in the hills.

25 Q. It really doesn't tell the public anything
much, does it, except that you expect them to
continue burning for the next few days?

A. I didn't write the media release.

30 Q. You didn't write the media release?

A. No.

Q. Does the media release not reflect the actual
state of your mind was?

35 A. To a point, yes.

Q. Did you see it before it went out?

A. I don't recall seeing it.

40 Q. I understand that media releases go out and
people are quoted and it doesn't always mean that
they actually have said the words, particularly if
they are politicians.

45 A. The media cell is part of the planning unit.
They obtain their information from the planning
and situation reporting that existed in the
planning unit.

Q. But, Mr Lucas-Smith, there is a public interest in what is going on obviously.

A. Yes.

5 Q. This media release is presumably being issued for, among other reasons, to inform the public?

A. (Witness nods).

10 Q. And, rightly or wrongly, as a means of having some impact you are being quoted in the media release. Yet I suggest to you that the quote attributed to you doesn't truly reflect your state of mind or your belief about the future of these fires; do you agree with that?

15 A. No, I don't. I think it does. It's exactly what I said before. My expectation was that, if we were able to achieve getting around and containing those fires within the next four days, then we would succeed.

20

Q. Why doesn't this media release say, "We are undertaking tactics which we hope will contain these fires in the next four days," because that was your state of mind, that's what you said in your earlier evidence. "However if we fail and the weather changes we will have to reconsider our position and the situation might become a lot worse" why not say that?

25 A. You are obviously better at writing media advice than the person we had.

30

Q. Look, Mr Lucas-Smith, there is no point being flippant about it.

35 A. I am not trying to be flippant. I'm trying --

Q. Well are you. This is information which is being released to the public consistent with part of the ESB's mission statement and role to keep the public informed. I want to suggest to you that this doesn't tell the public anything about the future of these fires. And in particular, it doesn't convey your actual state of mind as at 10 January, does it?

40 A. No, it doesn't.

45

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

THE CORONER: Yes.

SHORT ADJOURNMENT

[11.16 am]

5 **RESUMED**

[11.30am]

MR JOHNSON: Could I raise one matter which flows from the questions immediately before the morning tea adjournment with respect to the media update
10 of 10 January. A number of questions were directed by counsel assisting to the witness concerning the top half of the first page of the document and then some propositions were put to the witness. I would ask that, as a matter of
15 fairness, the balance of the document be put to the witness and certainly be brought to the attention of the court. One of the points that counsel assisting was raising involved the suggestion to Mr Lucas-Smith that the document did
20 not tell the public anything about the future of these fires.

If your Worship goes to the second half of the first page under the heading "fire status" it says
25 "Bendora fire":

"... the fire could threaten the Cotter catchment if not contained."

30 Under the next heading, "Gingera fire":

"This fire could also threaten the Cotter catchment if not contained."

35 Under the Stockyard Spur fire, the top of page 2:

"This fire could also threaten the Cotter catchment if not contained."

40 Next:

"Further information on the New South Wales fires could be obtained from the National Parks and Wildlife Service, Queanbeyan."

45

I raise that because a number of propositions have been put to the witness that he didn't actually

write it in circumstances he explained. The totality of the document, I would submit, creates a different impression than that put to the witness.

5

It really comes down to this, if there are documents which are to be put to the witness, particularly if they are documents that he is not the author of, and if they could be put to the witness in a way that fairly states their contents. We would want to avoid a situation where the witness every time be shown a document that perhaps isn't his own, he needs to read the whole of it before he answers questions, that would be a situation that would slow the process down even further.

But it is essentially a question of making sure, in my submission, as a matter of fairness, that the totality of the document is put to the witness. And I rise now because essentially the questions were based upon the first half of the first page and not, it would seem, the balance of the document.

25

THE CORONER: That is a fair comment. Mr Lasry, I appreciate that you perhaps haven't finished questioning Mr Lucas-Smith.

MR LASRY: No, your Worship. I haven't checked on the transcript and have two things to say about matters of fairness. First of all, what my learned friend raises is primarily a matter of re-examination. Secondly, there is no jury here. Your Worship has the document and can read it yourself.

The third point I would make is my intention, and I have finished save for one question, which really isn't affected by what I am about to say. I would have thought it was clear that my intention was to test whether the quotes attributed to Mr Lucas-Smith, who is and was at the time after all the man in charge, genuinely reflected what he thought.

45

Just before the break, I think I put to him the

proposition which he agreed with which was the
quote attributed to him was not - I forget the
words I used - but in effect a fair or complete
representation of his state of mind. The reason
5 for doing that was because obviously there is a
public interest in what the man in charge of what
is happening thinks and what his view about the
future is.

10 Unless your Worship directs me to, I wasn't
proposing to ask any further questions. My
learned friend has read out the relevant parts
now. They are before everybody. They are
obviously in the document. It is obvious to you
15 from reading it. You have it. There were no
further questions that I wanted to ask. In a
sense the document speaks for itself.

20 THE CORONER: The document is an exhibit itself.

MR JOHNSON: It is an exhibit. For those members
of the public who perhaps haven't read the bottom
half of the first page and the second page, the
impression which the public would get from the
25 questioning would not be the impression that the
document conveys. I understand there are many
documents in this case, and it has been made
available and hopefully we will keep progressing.

30 It is essentially a matter that the questions of
counsel assisting, of course, can attract a degree
of interest. The expectation may be that it
fairly and accurately summarises the complete
content of the document. If it doesn't in a
35 particular case, then it may end up with a
lopsided issue which I may ask questions about,
perhaps in three, four, five, seven days' time.
It shouldn't be left, till then, I would submit.
It is essentially a matter of partly the role of
40 counsel assisting which we have all played from
time to time, which involves seeking to expose the
material in a fair and balanced way at the outset.
Clearly I will seek to ask questions in due course
if there are matters which I think need to be
45 raised to add to the evidence which has been
adduced by counsel assisting. In this particular
area, I would submit what I have put I stand by

as what I would submit would be the appropriate role of counsel assisting with a document of this type. I don't want to say anything more because I have taken up enough time already.

5

It does seem to me that the public following of this case needs an understanding of the picture as it is emerging which does, in a case like this, involve a fuller understanding of what the document conveys.

10

THE CORONER: Thank you, Mr Johnson. For the sake of the public and the people who are following this proceeding and don't have access to the information as we do, it may be just as well, Mr Lasry, if another situation like this arises for the total document to be put --

15

MR LASRY: Does your Worship want me to read the rest of it that I haven't referred to?

20

THE CORONER: No, I think Mr Johnson has covered it.

MR LASRY: Q. Mr Lucas-Smith, just before we leave that media update, you made the point when I was asking you questions earlier that the document is not your document. I accept that, of course. Who approves these documents before they are sent to the media?

30

A. I'd have to say I'm not 100 per cent sure whether this document was sent to the media. Do you know if that is the case?

Q. I do know that.

35

A. There is a lot of handwriting on it which means it could well have been a draft.

Q. If you go back to page 0288. I think you will see that is the fax transmission report.

40

A. I can't see it yet because it is down below.

Q. I am assuming that is a fax to the media. So let us assume for the sake of this debate it went to the media. Who approves them?

45

A. Approves it, I would think under these circumstances it would have been Mike Castle.

Q. Speaking of whom, at 4 o'clock on the afternoon of 10 January or some time between 4 and 6pm on 10 January, Mike Castle was interviewed on the ABC here in Canberra on, I think, Radio 666.
5 I think I've asked you before about the circumstances in which these interviews come to take place and, as I think you have agreed, Mr Castle is not an experienced firefighter. He is not at ESB in his capacity as a fire
10 suppression expert, is he; he is there in effect as chief executive or administrator; is that right?

A. That's correct.

15 Q. The document I am about to refer to is [DPP.DPP.0004.0001]. And as it is coming up on the screen - before that happens - during the course of these fires, if Mr Castle were the person who was going to be asked questions on the
20 radio or on television, would he normally come to you and say, "Peter, I am about to do a radio interview. Just give me a bit of an overview as to where we are up to"?

A. Yes, to a certain extent, yes. And I think I probably need to clarify your previous question as to who approves it - who authorises it I think are the words you used. At the end of the day the person responsible for the fire. I in fact
25 authorise that. The media cell, as I said before, is part of the planning unit. They put together - so obviously the manager of planning would be involved in that. Mr Castle was working to help
30 co-ordinate our media and public information, community information aspect. So at the end of
35 the day the authorisation for media releases would be my responsibility, and Mr Castle was helping to co-ordinate and organise those sort of activities.

Q. The media release we were looking at before
40 the break wasn't one you could remember seeing; was it?

A. I don't remember seeing it but I saw many.

Q. Just while we are dealing with that, is there
45 any policy at ESB that says if the Chief Fire Control Officer is to be quoted in a media release, he should at least be done the courtesy

of seeing it before it goes out.

A. There was not written policy but I think that is a courtesy that exists, yes.

5 Q. But are you able to say whether --

A. I'm not saying I didn't see it, I just --

Q. You can't remember?

A. I can't recall seeing it.

10

Q. In this interview, the interview commences with the interviewer saying:

15 "Overnight of course fire crews in the ACT have been kept fairly busy with a number of blazes around the area, especially the Namadgi and Brindabella National Parks. Also one at Mount Stromlo overnight. Joining me now is Mike Castle director of Emergency
20 Services in the ACT. Good morning, Mike."

He responds. Now, this is on the morning of 10 January.

25 MR JOHNSON: I think it is the afternoon 1600 to 1800.

MR LASRY: Quite. Sorry, the afternoon of 10 January. I apologise.

30

Q. The interviewer's reference to "overnight" of course would not be correct, would it? Fire crews wouldn't have been kept busy overnight because they weren't at any fires on 9 January, were they?

35 A. It does refer to Brindabella National Park and, as I understand it, yes they were.

Q. At McIntyre's?

A. At McIntyre's.

40

Q. The only problem with that, Mr Lucas-Smith, is that he says "overnight of course fire crews in the ACT have been kept fairly busy".

45 A. It also refers to Mt Stromlo and the fire at Mt Stromlo is a separate and totally different incident. So there are a number of activities going on.

Q. Where were there ACT fire crews in the ACT at work overnight on 9 January?

A. I would think Mt Stromlo - yeah, probably Mt Stromlo.

5

Q. What was happening at Mt Stromlo?

A. A separate incident. Other fires were continuing to occur in the ACT which we still had to respond to.

10

Q. How big was the fire at Mt Stromlo on the night?

A. I don't recall any of the detail associated with it.

15

Q. Anywhere else apart from Mt Stromlo?

A. I don't recall any other incidents. However, I am not saying they didn't exist.

20

Q. Do you accept that the interviewer looking at the opening paragraph as a whole is operating under a misapprehension? Is that the way it appears to you on reading that paragraph?

25

A. I have no idea what is in the mind of the interviewer at that time. It certainly isn't make it very clear from what he is stating.

30

Q. It appears, doesn't it, that he believes that crews, fire crews in the ACT have been kept busy overnight with a number of blazes. Even on your evidence that can't be right. If they were working at all, they were at Mt Stromlo in the ACT, weren't they?

35

A. Can you define "overnight" for me? The crews certainly were working out well after dark on the Bendora fires and they started very early in the morning of the morning of the 10th.

40

Q. No-one would really call that overnight?

A. The crews went to the McIntyre's fire to assist the New South Wales resources. So - and there was another fire at Stromlo. There may have been others, I don't recall.

45

Q. You don't see - the interviewer seems to be operating under a misunderstanding. It's not a huge point. I am wondering whether you accept

that he is or whether you would rather have a more particular definition of "overnight".

5 A. What I am saying is I don't recall what the extent of activity overnight was that he might have been referring to.

MR JOHNSON: Could I raise one matter for clarification. I am a little puzzled: The document has ABC Radio 666 between 1600 and 1800.
10 At the very end of the first quote from the interviewer it says "good morning Mike". This is a document provided by the DPP in recent times. I have not had the opportunity myself to see whether it is morning or 1600 to 1800. I wonder if there
15 could be some clarification in that respect as to when it is. There does seem to be some inconsistency and, for reasons of certainty, perhaps that should be clarified.

20 THE CORONER: Yes. It certainly does appear that it may have been in the morning more than is suggested at 1600.

MR JOHNSON: The more one reads it, the more it
25 sounds like that. The heading leads me to say what I said a short time ago. But what I said a short time ago may be wrong when one looks at the body of the document. If that might be clarified, I think that might assist.

30 MR LASRY: I will endeavour to do that. Hopefully, the rest of the questions I want to ask about it won't depend on the time of day necessarily. If they do, I will perhaps leave it
35 and come back to it later.

In fact, I might actually leave it until that has been clarified.

40 Q. Mr Lucas-Smith, on 10 January at about 6pm there was a meeting at Queanbeyan attended I think about 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.

45 As I follow it, Mr Graham didn't attend the meeting and neither did you?

A. That's correct.

Q. Does that make sense to you?

A. Yes.

Q. You are aware of the meeting?

5 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.

Q. Mr Graham, in his statement, which is
10 [ESB.AFP.0001.0307]. Paragraph 64 of his statement says:

15 "At about 1800 hours the executive director of ESB, Mike Castle, and Tony Bartlett attended a meeting to discuss ACT concerns with the McIntyre's Hut fire. I remained at ESB Curtin and continued to provide operational support to the fire grounds."

20 As was his role. Mr Graham is the operations officer?

A. That's correct.

Q. Mr Castle is the one who actually deals with
25 it. Before I come to what Mr Castle said, was the meeting being attended by him because there were concerns or issues that you wanted raised with the New South Wales Rural Fire Service in relation to the McIntyre's Hut fire?

30 A. Yes.

Q. What were they?

A. In relation to the continuation of ACT resources to McIntyre's Hut fire.

35

Q. Are you looking at a document there that is relevant to this meeting?

A. I'm looking at some notes that have been compiled that I put together for - a number of
40 different bits and pieces of information that happened on the 10th of January.

Q. Is there a note there of what happened at this meeting?

45 A. No, there's not.

Q. Well perhaps just fold that folder up, if you

wouldn't mind, and concentrate on the questions you are being asked.

A. Sorry, are you denying me access to my own material? Is that what are you suggesting?

5

Q. No, I am asking you to concentrate on the questions. If you need to look at documents in order to answer the question then say so. But I would be grateful if you weren't reading your folder while I was trying to ask you a question.

Mr Castle says at about 6pm he was requested by you to go to Queanbeyan and that was for the purpose of conveying to the New South Wales Rural Fire Service that the maximum resources that the ACT could provide for assistance for a burning off the Power Lines Road, which was the southern containment of McIntyre's fire was 4 tankers and 4 light units. He says he was accompanied by Tony Bartlett. It is in paragraph 74 of Mr Castle's statement. You agree with that so far?

A. Yes, I do.

Q. He says:

25

"At the meeting" - it was conducted by Bruce Arthur along with a number of his incident management team - "members of his incident management team and Mr Cooper was also present. And that there was considerable debate as to how they would co-ordinate the back-burning operation due to the narrow winding nature of access Road forming the containment."

35

I think that was something you were referring to before the break, weren't you?

A. Yes, I was.

Q. He notes at the meeting they had originally asked for 10 tankers and 10 light units. It says:

"I conveyed the message from the Chief Fire Control Officer that the ACT could not spare that many resources due to the fires in the ACT. Tony Bartlett suggested that Neil Cooper could be the division commander

45

co-ordinating the back-burn due to his experience, but New South Wales indicated that the responsibility should be a New South Wales person for legal reasons.

5

The meeting eventually devised the arrangement for the two groups to conduct the proposed back-burn commencing at two distinct ends of the containment line to ensure that they would not approach each other on the narrow winding section of the access/containment track.

10

After the meeting, Bruce Arthur indicated that he had been able to convince the rural fire service headquarters to provide more helicopter resources for his section 44 area due to his concern over the Baldy Hill trail section and potential to impact across the ACT border into the pines."

15

20

Whether that was discussed at the meeting, of course you are unaware, except to what you were told by someone who was there. But were you aware of a problem or disagreements or anything of that kind in relation to command of operations in the McIntyre's Hut fire involving ACT resources? Was there any problem about command?

25

A. No. There were no problems at all actually that I'm aware of. As far as I am concerned, from the statement that you have read there, a suggestion was put; that suggestion was denied. That's not a problem.

30

Q. Were there, generally speaking, any problems in relation to what might be described as coordinated or unified control of the fires as between New South Wales and the ACT?

35

A. There was no question of even unified control. The fire was fully the responsibility of New South Wales. We would assist wherever we possibly could. The objectives and strategies to be determined for that fire was a matter for New South Wales not for the ACT.

40

45

Q. So there was no issue about that at all?

A. We obviously had an interest. But it was

purely a matter for New South Wales.

Q. Was there a liaison problem with New South Wales?

5 A. I'm certainly not aware of any. As I understand it, and what I believe and actually know, is our co-operation and liaison with New South Wales was very good and cordial.

10 Q. And had been from the outset?

A. And had been for many, many years beforehand over many incidents.

Q. I wonder if I can jump forward a minute to
15 14 January and if we could have [ESB.AFP.0110.0775]. Do you see that first paragraph on the screen there, Mr Lucas-Smith? There is a planning meeting at 4 o'clock on the afternoon of 14 January, minutes. This is after
20 minutes had started to be taken. First heading "fire operations":

"Peter Lucas-Smith began the meeting by
25 stating that we need to focus on emerging issues and we need to establish liaison and unified control with New South Wales Rural Fire Service."

What's that about?

30 A. Without having seen the rest of the document - I haven't the rest of the document in front of me - I think at this particular time the fire is now crossing Mt Franklin Road and therefore going in - this is the Bendora fire - crossing Franklin
35 Road and going into New South Wales. Mt Franklin Road is the border between ACT and New South Wales. What I am suggesting here - I am not 100 per cent certain without seeing the rest of the document. I think what I am talking about here is
40 we now have a fire that is straddling the border.

Q. That's not what you are saying at all in that paragraph. What you are saying is --

45 A. That's exactly what I am saying.

Q. -- you began the meeting by first of all saying it was necessary to focus on emerging

issues and you need to establish liaison. Let's just concentrate on that for a moment. There had been no problem with liaison had there as at 14 January?

5 A. Absolutely.

Q. There had been, you just told me, no problem with unified control with the New South Wales Rural Fire Service?

10 A. There was no unified control until such times as a fire was on both sides of the border and it was in two jurisdictions.

Q. Does that minute reflect what you said at that meeting, as best as you can recall?

15 A. I need to see the rest of the document because I need to know exactly what that is referring to. I don't believe it is referring to McIntyre's fire at all.

20

Q. You don't believe it is referring to McIntyre's fire?

A. No, I don't.

25 Q. I jumped forward because of an answer you gave earlier. We will come back to 14 January, and I will ask you some questions about it.

30 On the night of 10 January, there was a night shift at Bendora fire; wasn't there?

A. Yes, there was.

35 Q. And you have referred to that in paragraph 51 of your statement. This was the first time that overnight crews were deployed. You say in paragraph 51:

40 "Overnight resourcing was requested for the first time by the incident controller. This request was approved because overnight crews could now work from construction lines, reducing our safety concerns for crews on foot and remote from rapid egress and vehicular resources."

45

Does that mean that overnight crews at the Bendora fire were able to be left at the Bendora fire

because they would be actually on the fire track or the established containment line rather than closer to the fire?

5 A. We had moved to indirect attack and the heavy plant had started constructing our containment line. We were clearing the containment line. As those lines were cleared we wanted to make sure we deepened those lines, as best we possibly could, and as I understand it back-burning from those
10 control lines started almost immediately on that night.

Q. So these overnight crews would not in any way be involved on direct attack on the fire?

15 A. No.

Q. They would be there working from the containment lines and back-burning?

20 A. Certainly the reason they were sent there was to work on the containment lines as a part of indirect attack. If there turned to be a need for spot overs or direct attack, then they certainly would have been used for that purpose.

25 Q. And what risks that were involved in direct attack were avoided by the arrangements that prevailed on the night of 10 January, what risks were removed? To some extent you referred to them I think, but would you explain them more?

30 A. They were obviously working from a constructed line. They are using their appliances, tankers and light units. They would have been back-burning. They had access to water supplies and crews. They would have had far more rapid
35 mobility in the event that they found themselves potentially entrapped in anyway.

Q. Entrapped by the head of the fire that was being suppressed?

40 A. Or by their own back-burning operation.

Q. What about falling branches?

A. Sure. But that potential continues to exist.

45 Q. If there is a risk from falling branches from the fire being suppressed then presumably the risk from a back-burn is similar?

5 A. Not necessarily. In the fire is burning away from you. The back-burn something at the edge of the trails in itself are a lot lower intensities. As the fire starts to build as it moves away. If you put your back-burning hopefully in the right way, you are doing it by a spot arrangement and the fire edges are a lot lower intensity and you don't expect the fire to be in the crown of the trees at all.

10

Q. On 11 January, which was a Saturday, by 11 January is it correct to say that the ESB had requested quite a large amount of plant and equipment for the fire suppression effort?

15 A. We were certainly trying to gather in as much as we possibly could, yes.

Q. I don't want you to give particular details but, apart from dozers, just give us an idea of other things in the way of plant and equipment that you were trying to assemble as at the morning of 11 January?

20 A. Primarily trying to sweep in aircraft to assist us with aerial firefighting. At this particular stage I think we were still only operating with two, maybe three, aircraft at that time. I'm not 100 per cent sure about that. But certainly only two aircraft. We needed more bulldozers; we wanted to drag in more heavy plant. That also required that there need to be some field logistics to support up. We also had to set up an air operations base to allow helicopters to refuel closer to site and we also had to provide support in the form of chases and so forth for the heavy plant. So all those resources and logistics had to be marshalled.

Q. And was there a management structure for all of those items of plant that were now being sought by the ESB? Was there a process by which they were managed?

40 A. Sure. Our service management team continued to exist, obviously.

45 Q. Who was responsible for that?

A. I was.

47

Q. Was there a logistics officer?

A. Yes, there was.

Q. Who was that?

5 A. David Ingram.

Q. So was this his area of responsibility?

A. Yes, it was. He was tasked with that
responsibility to find more aircraft, to acquire
10 more heavy plant. We used some ACT Forests
contact resources to assist us in tracking down
further plant. But it's not just four people now.
We now have quite a large team supporting that
SMT, and logistics people had a number of State
15 Emergency Service volunteers and others supporting
them in tracking resources and maintaining
resources. We were also setting up field
servicing so we could keep our trucks in the field
in the event of minor breakdown and so forth.
20 There is a whole range of different logistic
activities emerging.

Q. Labour intensive activities?

A. Very much so.
25

Q. Mr Cooper says in paragraph 41 of his
statement that on Saturday 11 January he started
at the Curtin control centre at about 7.00am and
started to set up a management structure for the
30 numerous items of plant that had now been
activated. He says:

"It was obvious to me the numerous requests
for heavy machinery had been fulfilled.
35 However, there was an overall lack of any
system to track these resources and ensure
that they were being allocated strategically.
In my opinion, it was obvious that there was
lack of realisation that these resources
40 needed to be managed the same as any other
resource such as tankers and light units."

Do you agree with that?

A. No, I don't.
45

Q. You are satisfied, are you, that there was an
appropriate management structure for the

activities that you have been describing?

5 A. Yes, I am. We needed additional support. There was no doubt about that. We brought that additional support in. In fact, I think we assigned an ACT Forests officer to perform that very role.

Q. So Mr Cooper is wrong, as far as you are concerned?

10 A. I believe, yes, he is wrong.

Q. And should be aware that is he is wrong. He is saying something which is completely at odds with your understanding of the way the arrangement worked?

15 A. He didn't express that opinion to me.

Q. He never expressed the opinion to you?

20 A. (Witness shook head).

Q. I take it you would say if he had a complaint about the way this was being done, then you were the person he should speak to?

25 A. Absolutely. Or the operations officer or the logistics officer, whoever he thought it was necessary to do so.

Q. In relation to the Bendora fire on 11 January, it appears that, for the purpose of the planning meeting on 11 January, there was an operations briefing - prepared by Mr Graham which is document [ESB.AFP.0007.0072], signed by Mr Graham at 10.20am on 11 January. I think a planning meeting itself had occurred at 10 o'clock. Does that sound right you to, Mr Lucas-Smith? The document says, "OPS briefing for planning meeting at 1000 hours 11 January". Does this document, as far as you are aware represent Mr Graham's formulation of each of the fires; in other words, Mr Graham's proposal or plan for each of the three fires with some general comments?

40 A. Well, I'm certain Mr Graham didn't tender this document. I think he used it as a speaking note document.

45

Q. So these are his notes so he can come along and give an operations report at the planning

meeting at 10 o'clock?

A. Yes.

Q. But apart from this document, it appears as at
5 11 January we still don't have a record of that
meeting?

A. Yes.

Q. Were you at that meeting at 10 o'clock on
10 11 January?

A. I believe so.

Q. Do you remember it at all?

A. No, I don't.
15

Q. Is this a typical and satisfactory operations
briefing as far as can you see from reading the
document?

A. No. By this time I certainly would have
20 preferred to have incident action plans - formal
incident action plans in operation.

Q. This is just written on a sheet of lined
paper, isn't it?

A. It appears so.
25

Q. For each of the fires it is really either a
description of what is happening or what is going
to happen with some general comments at the bottom
30 which amount to one extra light unit now being
available and where it will be staged and that
Tony Bartlett will be contacted throughout the day
for progress on strategic line development. It
doesn't tell you a great deal, does it?

A. It is a memory jogger. I would have thought
35 that he would have spoken a lot more at length
about --

Q. There may be an incident action plan but, as
40 far as I'm aware, there isn't. Is it Mr Graham
who should be preparing the incident action plan
in the form that you would have preferred it?

A. It comes out of the planning section but it
has the input from both operations and logistics.
45

Q. And in the ordinary course, if the system were
working properly, it would be the incident action

plan which would be put before the, in this case, the 10 o'clock meeting on the 11th of January?

A. Yes.

5 Q. You would all had a copy of it?

A. It didn't exist. That's the point.

Q. If it did exist you would all have a copy of it?

10 A. Absolutely.

Q. The idea is you could all sit around and discuss it?

15 A. The idea it would be out with the people in the field for the shift that they were working on. We would have been discussing whether or not we were on schedule with the IAP and also starting to formulate the incident action plan for the next 12-hour shift.

20

Q. Were you aware of the fact that there was a problem with the absence of incident action plans?

A. Yes, I was.

25 Q. Why was there a problem with those?

30 A. It was a resourcing issue. They require resources and we had recognised this in December 2001 fire that the incident action planning capabilities were lacking. We even knew in June - I think it may have been earlier than that - in May 2002 we had actually made a request to government to increase the staffing resources to allow us to have capability for this incident action planning. We were attempting at a slightly 35 later date, I can't remember exactly what date after this, to acquire templates from New South Wales that we could use as an interim. It was a deficiency in our planning, yes.

40 Q. What's the actual resource that you were short of to enable the creation of an incident action plan of the kind you would like to have?

A. People.

45 Q. People?

A. Mmm.

47

Q. We will come back to this because people refer to the absence of the incident action plan. You regard, I take it, the preparation of a carefully considered incident action plan to be a crucial part of the planning process and the means by which the people in the field can work to a particular regime or plan, don't you?
5
A. It formalises the planning process. It doesn't necessarily change the objectives or strategies or the tactics.
10

Q. But it formalises it. In a sense it codifies it. Everybody knows what the plan is.
A. Yes. Everybody knew what the plan was anyway.
15 They just didn't have it written down in a formalised document.

Q. How did they know it because they were told?
A. Yes, they were told through the briefings.
20

MR LASRY: We might just go briefly back to the radio transcript, if I could. It will not take a moment. I am instructed that my learned friend's observation is right, that in fact the document [DPP.DPP.0004.0001] is at 8.53am on 10 January, not between 1600 and 1800.
25

Q. I will just go back to that discussion between the radio interviewer and Mike Castle, Mr Lucas-Smith. I want to ask you whether what Mr Castle says in answer to - in his long answer to the question accords with your recollection. The interviewer says:
30

35 "What is the story at the moment? Have we still got those fires out of control, or have they been contained?"

Lucas-Smith: No. They're not contained, Dan, we've actually got a fire at - in the area of Bendora, west Bendora Dam, we've got one at a place called Stockyard, which is further south. There's that one, Bendora, and then another one at a place called Gingera.
40
45 They're all in fairly remote areas up in the Namadgi National Park. Today we are looking to concentrate our effort on the smallest of

those, which is Gingera. That's about nine hectares at the moment. We've got water bombing on that at the moment and quite a substantial number of crews. Bendora's our next priority. We've got crews on that at the moment and we're using a bulldozer there, and then we'll concentrate on Stockyard. What we found yesterday was, trying to tackle each of the fires individually we spread our resources. So in effect we changed our approach in trying to tackle each one to try and knock it and contain it and then move on to the next one."

15 Is that in accordance with your recollection of the state of affairs as at about 9am on 10 January?

A. He would have had - he probably had more information than I did at that time. He would have had the benefit - I think, as I understand the way it was working, that Mike - Mike Castle was almost programmed to do these interviews in the morning program with Dan Craig and he would contact Tony Graham or someone from operations or planning before the interview took place and updated as to what was happening and then reported.

Q. What he is describing at 9am or a few minutes to 9am was a system of priorities and the first priority was the smallest of the fires, which is Gingera. Was that valid as at 9am on 10 January?

A. I believe so, yes.

Q. But that changed within a couple of hours; is that right?

A. The realisation, as you pointed out to me, was Mr Cooper saying we needed a bulldozer and that changed the priority and we moved those resources to Bendora. The first expectation was that it would be done with hand tools.

Q. So are you saying that the crews were moved from Gingera to Bendora on the morning of 10 January because a bulldozer was needed to do the work that Mr Cooper wanted done and couldn't be obtained?

A. I can't be 100 per cent sure he put it exactly like that. But I believe that's what the situation was, yes.

5 Q. I don't want to go over all this again. But you recall from earlier questioning that it was made clear that Mr Cooper, according to his statement, said that it was environmental and heritage issues which prevented Tony Graham
10 agreeing to a bulldozer going into Gingera not lack of resources. Do you know whether that is right or not right?

A. You would need to ask Mr Cooper.

15 Q. I will. But do you know?

A. No, I don't know. I'm certainly not aware of those things being a constraint. I thought I said that.

20 Q. Just so I am clear about it, perhaps I am slower than everybody else. Is this the position: The priority was Gingera at 9 o'clock on
10 January but, in view of the fact that a bulldozer couldn't be sent to Gingera, that
25 priority changed because without the bulldozer there was nothing else that could be usefully be done?

A. As I understand it, the morning shift which started at 0600 hours was deployed to Gingera to
30 undertake this suppression task on the smaller fire. Later in the day, and I'm not too sure exactly what time, that was found to be unachievable without heavy plant. Heavy plant was
35 not available to be deployed so those resources were moved to Bendora to assist with the establishment of those containment lines.

Q. At 1.30pm on 11 January you went out to Bulls Head, I think. The purpose of going out there,
40 you went out there with Mr Taylor and you met with Mr Bartlett and Mr Brian Murphy to discuss the progress of containment lines. It is referred to in paragraph 57 of your statement. Do you have a note of that conversation?

45 A. No, I don't. Yes, I went to Bulls Head. We'd upgraded the incident control offices at the Bendora fire to Mr Bartlett, to a Deputy Chief

Fire Control Officer level. I went to meet Mr Bartlett and Brian Murphy, who was the operations officer at Bulls Head, to talk specifically about the strategies of that fire.

5

Q. What was discussed?

A. The strategies for that fire; what we were doing; what lines we were working from; where the plant was actually working from; what were the time-frames that we needed; could we improve things by putting more resources into some areas than into other areas.

Q. What was the outcome of the discussion?

A. I don't know that there was anything significantly different than what had been previously decided. It was just a matter of focusing on the task.

Q. You went there to discuss the objectives and strategies and the long-term outlook, according to Mr Graham, and a number of issues no doubt were discussed. Which objectives did you discuss out at Bulls Head?

A. The continuation of the indirect attack, which containment lines we were going to work for. The reconnaissance, as I understand, at that time had been done on some of the trails and we were starting to get a very clear picture of how much work was necessary to actually build our lines.

Q. Did no-one write any note at all of this discussion?

A. I didn't. Whether someone else did, I don't know.

Q. Somebody else did?

A. I don't know if they did or not.

Q. Was this an important discussion?

A. I think it was formulating ideas in people's minds as to exactly what we were doing at that time and also starting to get a picture of time-frames.

45

Q. Was it an important discussion?

A. Yes, it was.

Q. Why didn't someone keep a note of what was discussed and decided?

A. I don't know.

5 Q. Well, is there a procedure within your procedures to ensure that at this stage, dealing with quite a substantial fire incident, these steps in the process - which are in effect steps of command and control, aren't they, are recorded?

10 A. If you are suggesting to have someone walking around keeping notes of everything that was said, then that's not going to happen because we don't have that sort of resource. Certainly people kept their own notes. They kept their own information as to what it was that they were directed to do. 15 And any information that they wanted to keep in relation to what the total picture was.

Q. You didn't keep any note?

20 A. No, I didn't.

Q. Were you making suggestions, issuing instructions, offering opinions to the people at Bulls Head about issues such as strategies and the long-term outlook for the fire? 25

A. Certainly. I contributed to the discussion. I don't recall actually issuing directions as such. It was more a consensus of what realisation needed to be done and, I suppose, the mental 30 calculations as to how and when we were able to achieve this.

Q. But you can't tell me now step by step, detail by detail, what you discuss and what conclusions you and the other people in the discussion 35 actually reached, can you?

A. Well, we drew - yes, I can. I can tell you exactly what the outcomes were because, as I said, the outcomes were not that dissimilar to what had 40 already been agreed to earlier in the day. We identified what trails we wanted to work from. The whole reason for the meeting was to look and confirm that that was going to be strategy and to get a time line.

45

Q. What was the time line?

A. There was a lot more work there than what we

thought.

Q. What was the time line?

5 A. I can't remember the exact time-frames that were actually specified at that time. The whole reason for upgrading to a Deputy Chief Fire Control Officer, and particularly Tony Bartlett was a person that knew about fire and also knew about how to use plant effectively.

10

Q. That may be. A time line which is part of a plan presumably was something that you discussed and agreed upon in the course of this discussion?

A. We were --

15

Q. Is that right? It was your word, Mr Lucas-Smith. You said "time line"?

20 A. We were setting time lines. I can't recall whether we actually agreed upon a time line. I don't know whether you actually agree upon a time line. We made estimates --

Q. You just said time lines were set?

25 A. We made estimates as to what we thought that time line might be.

Q. What were the estimates?

30 A. We still looked at two or three days of trail construction to be able to achieve what we actually wanted to achieve.

Q. There was more to the time line than one entry of two or three days for trail construction, wasn't there? There were a series of steps, presumably. That's what a time line is. It is an allocated period of time to each particular step.

A. Yes.

Q. What were they?

40 A. I don't know.

Q. You can't remember?

A. I don't recall.

45 Q. It's clearly a deficiency, isn't it, not to keep a record of those sorts of discussions? Do you accept that?

A. No. I'm working on the basis of more of a global picture. I wasn't trying to drill down into the detail. As far as I was concerned, that was the job that they had to do out there and they
5 had to work out how to best deploy the resources.

Q. But you're the person responsible and in the end you're the person responsible and you are taking the trouble to go out into the field, to
10 Bulls Head, have this discussion about objectives and strategies and everything else and in particular a time line which is obviously important because you never know when the weather is going to turn nasty, except that it probably is
15 going to turn nasty in the reasonably near future and there is not, as far as we can tell, a significant note or record of those discussions.

A. Certainly lines drawn on maps. We were crawling over maps. That's what the meeting was
20 about. A number of maps were produced and lines were drawn on maps.

Q. Have you got those maps?

A. I don't have any maps from that.
25

Q. The timetable for the action, the strategies and the objectives that you discussed out there on that day, it is either in your memory or someone else's memory or it doesn't otherwise exist?

A. It is far more important --
30

Q. Is that right?

A. Yes, I suppose that is right. I don't know what details the other people in involved in the
35 meeting have got. It was more important for them to have that information than it was for me.

Q. After the meeting you went back to ESB to consider planning options for the night; is that
40 right?

A. Yes.

Q. And the plan was direct attack would be continued with to slow the growth of the fire
45 while the containment lines were being constructed?

A. Yes.

Q. And that direct attack, as on the day or so before, was pretty - very direct attack, wasn't it?

A. From a day or so before, yes.

5

Q. Well, to go back to Mr --

A. We weren't doing direct attack overnight.

Q. No, I understand that. But the direct attack was consistent, for example, with the document we looked at yesterday which was prepared by Mr McRae on the 9th, the sort of direct attack that he referred to such as in document [ESB.AFP.0110.0758]. That was the night of the 9th of January. We discussed it yesterday for the 10th of January and we have already looked at this document yesterday. But the general control strategies as can you see on the screen there refer to:

20

"Lock down line on the eastern edge (based on AM reconnaissance flight on road or upslope) build line on lefthand flank from south. Pinch off head fire. Remote area fire team on the left hand flank and head" - that refers to the head or the front of the fire, doesn't it? "Light units on righthand flank. When finished deploy to Bendora."

25

30 That's direct attack summary?

A. That's direct attack from the statement of the 9th from the activities of the 10th, not to do with the 11.

Q. Is there any difference from the direct attack to suppress the size of the fire or slow the growth of the fire on the 11th, the kind of strategies being used then with these strategies? They were same, similar, different?

35

A. I think there was less firefighter exposure to the direct fire line. It was more to do with aerial water bombing wherever we possibly could on the fire line to suppress its growth. Firefighters were used to support aerial firefighting, fire ground - firefighters on the ground were used to support aerial firefighting because it is a good combination to work in. I

40

45

5 don't think the direct attack was so detailed any more. It was now focused primarily on preventing the growth of the fire wherever we possibly could to give us as much time as we possibly could to construct our containment line.

Q. Don't you have to plan that kind of direct attack? You don't just say direct attack, suppress the size of the fire?
10 A. Absolutely.

Q. You actually have to plan what that is going to be, don't you?
15 A. Absolutely.

Q. What was it?
A. I don't know. That's the incident controllers' functions. They are handling the control of tactics in the field. It wouldn't be
20 something we would be aware of.

Q. At 4pm on 11 January there was a planning meeting - at least according to Mr Graham there was. You don't refer to it in your statement. I
25 wonder whether that is because you weren't there or whether you just forgot about it or what. Before you answer that question, let me read Mr Graham's account at paragraph 73 and 74 of Mr Graham's statement [ESB.AFP.0001.0307]. He
30 says:

"At about 1313 hours the Chief Fire Control Officer and staff from the planning section" - I am sorry he is describing the
35 trip out to Bulls Head - "at the afternoon SMT planning meeting, the SMT determined strategies and objectives for the following day based on the information gleaned from this trip."
40

Now, just pausing there, what information did you glean from the trip out to Bulls Head that you used to determine the strategies and objectives for the next day?

45 A. As I say in my statement on paragraph 57 and 58 that I had this meeting at Bulls Head and I took Hilton Taylor with me. We met with Tony

Bartlett and with Brian Murphy. We discussed progress and time frames required to construct proposed containment lines, fallback options and recourse requirements. After this meeting Hilton
5 Taylor and myself returned to Curtin to consider planning options for that night and the following day.

10 It was agreed by the SMT that our objectives and strategies should remain the same and that we would continue with direct attack to slow the growth of fire as much as possible while we continued construction containment lines using old regenerated trails where they existed.

15 Q. Does that describe the planning meeting at 4 o'clock on 11 January?

A. I believe so.

20 Q. I want to ask you a question about a document which I will be asked to be brought up on the screen, [ESB.AFP.0110.0351]. I will hand you a copy of it, Mr Lucas-Smith. The document is in three pages. The page that is on the screen at
25 the moment is the structural chart for the incident management team, I take it, for the Bendora fire as at 11 January 2003; is that correct?

30 A. That's what the incident information says, yes.

Q. Which means Mr Cooper is the incident controller, Mr McNamara is the planning officer, operations includes Messrs Greep, Connell and
35 Scott and there is no logistics officer; is that right?

A. It would appear so, yes.

40 Q. This is prepared or - it looks like it is prepared at 5.30pm on the 11th and it is for the following night shift from 6.30 to 7 o'clock the next morning; is that also correct?

A. It would appear so, yes.

45 Q. Then there are a series of three documents which appear to be sector plans. If you go over to the next three pages please. I think in the

order in which they appear in the system. The first one is sector B from Warks Road. You needn't turn the page just yet. The next one is sector C and the last one is sector A, Warks Road south to Wombat road. Warks Road north to extended fire. There is not much information in this document, is there, Mr Lucas-Smith?

5
A. Once again, I'd have to say I don't know what this document was prepared for. I don't know whether it was intended to give to Mr Cooper, which I would have thought would have been the case. It would have been Mr Cooper that actually filled in the detail in relation to how he sectorised the resources that he had available to him.

10
Q. There presumably should be --

A. The overall strategy is outlined.

15
20 Q. I am not suggesting it is your responsibility to complete this document. But you would expect there to be somewhere, wouldn't you, copies of this document where not only the boundary of the particular sector was filled in but the strategy and tactics, safety messages and identifying division sector resource summary and who was allocated to do what. That's the purpose of this; isn't it?

25
A. The purpose is, it is a standard generic form. It doesn't mean that all boxes need to be filled in.

30
Q. If you divide a fire into three sectors A, B and C and go to the trouble of preparing a sector plan for each sector, shouldn't there be a plan?

35
A. I would have thought then that is the plan, isn't it.

Q. This is the plan?

40
A. I don't know if this is the plan or not.

Q. As a matter of operational procedure shouldn't there be a plan?

A. Yes, there should.

45

Q. The only page that has a plan is the last one:

47

"Sector A Warks Road south to Wombat Road.
Warks Road north to the extended fire.
Strategy tactics keep fire within boundary."

5 That's it. So, should we have someone or should
there be somewhere documents like this where the
strategies and tactics are detailed, the safety
messages are filled in, if they are appropriate,
and at least the resources for each sector and
10 allocated tasks are identified?

A. Absolutely. That's been my issue all along.
That's what I have been talking about with the
incident action plan. This is it. This is part
of what would have been an incident action plan.

15

Q. This is, as you say, a deficiency which was
recognised as being a deficiency in the 2001 fires
and remained a deficiency in the 2003 fires?

A. Early in the 2003 fires, yes. I need to
20 stress that doesn't mean there was a deficiency in
the planning. It just means there was a
deficiency in the documentation of that planning.

Q. I understand you say that. As you also
25 indicated, the point of these forms and this
system generally is so that the planning is
formalised in a way where everyone understands
what the plan is.

A. That's right.

30

Q. And presumably as a matter of operational
procedure in any emergency service, it is
important for risks not be taken by people who
perhaps misunderstand a verbal instruction or
35 misunderstand a verbal description of a plan. If
the plan is formalised in a way which is useful
for the process, then everybody knows what the
plan is?

A. That also doesn't make it rigid. It still
40 leaves flexibility for things to occur. People
have got to use initiative. As I said, the
documentation, the actual writing down of the
plan, did not in any way interfere with the actual
strategies and tactics and objectives that were
45 being implemented.

Q. I know that is the view you take. But

Mr Cooper doesn't agree with you?

A. He is entitled to his opinion.

5 Q. He says that on 11 January he was tasked as
the incident controller for the night of
11 January. And in relation to that task - in
paragraph 42 of his statement, he says this:

10 "I was not given any maps to take into
Bendora when I was nominated as the incident
controller for the night of 11 January, nor
was I given any incident action plan which
normally sets out the strategies and tasks
15 for the next shift. I independently
developed the strategies for overall control
of the fire and the tactics that were
implemented overnight to achieve those
strategies in consultation with the previous
20 incident controller, Tony Bartlett. I was
operating as the incident controller.
However, I had no support in the form of an
incident management team. I appointed
several of the senior parks officers to
25 sectors. However, in reality I also filled
the role of the operations officer for that
evening. I had no idea where the Bendora
fire fitted in relation to all the other
fires and whether any actions that I may have
implemented would affect those other fires."

30

Do you want to say anything about Mr Cooper's view
he expressed there?

35 A. The incident management team in the field is
generally the team responsible for the development
of incident action plans. The transfer of
information from one incident controller to the
next incident controller, as Mr Cooper quite
rightly points out there, occurred. That's
40 exactly the right place for it to occur. That's
where the exchange of information occurs. That's
where the day-time tactics and strategies are
relayed to the night-time teams to be implemented
and put in place.

45 Q. So there is no deficiency in the procedure as
he asserted, as far as you are concerned?

A. No, they are doing the right job. It

certainly would have been helpful if we had had a written plan, an overall global strategy. Such a plan didn't exist and I conceded that.

5 Q. I take it you concede that is a deficiency of a value or to an effect which remains to be argued about, I suppose, but you accept that the lack of an overall strategy is a deficiency, don't you?

10 A. There is no doubt whatsoever it is something we need to improve.

Q. The other thing about the 11th of January - am I right in saying, it was the night of the 11th of January before you actually had access to line scan data from New South Wales for these fires?

15 A. I believe so.

Q. Do you know why it took as long as it took?

20 A. No, I don't. You'd need to ask the planning section.

Q. You have no idea at all?

25 A. No. I don't even know whether New South Wales had access to it before that time either. They are expensive pieces of equipment.

Q. I understand. Expense is important. The significant benefit of line scan data is that it tells you exactly what the boundaries of the fire are.

30 A. At a final --

Q. At a particular time?

35 A. Yes.

Q. Is it right to say that that tends to be, subject to where you have got troops in the field, that tends to be the most reliable overall information that you can get; that is why you were keen to see it, no doubt?

40 A. It certainly assisted us in our planning and understanding exactly where the fires were. It was not a resource that the ACT had or even had access to.

45

Q. It was coming from New South Wales?

A. It was coming from New South Wales. And the

technology to receive it and be able to interpret it was also not readily available to us in the first instance.

5 Q. At 1.30 am on the morning of 12 January, the task force, the ACT task force that had gone to the McIntyre's Hut fire, was recalled; is that right?

A. So I understand now, yes.

10

Q. Again, Mr Cooper at paragraph 44 says:

15 "He contacted Simon Katz (Rivers 1) at about 1 am on the morning of 12 January to determine how they were going and was told that they" - the task force at McIntyre's Hut fire - "had ceased burning at shift change-over that evening, at about 1700, 5pm and had not undertaken any burning activities since that time. This further frustrated me, as it appeared that the New South Wales Rural Fire Service were again wasting valuable time before the next weather change."

25 Pausing there, were you aware of that delay in the New South Wales operation that he was referring to?

A. No, I wasn't.

30 Q. He says:

35 "At the same time we were actively undertaking burning operations at the Bendora fire and were desperate for extra resources to be able to get more of the containment line secure before the following day. At 1.33am on the morning of the 12th January, I therefore contacted Dave Jamison at COMCEN to try and get the ACT task force (who had been recalled back from McIntyre's) sent to me at the Bendora fire rather than be released to return home."

45 You were aware of that request?

A. At 1.30am, no, I wasn't.

Q. Did you become aware of it the next day?

A. Sometime during the day I was aware of it, yes.

Q. He says:

5

"This request was denied by COMCEN as apparently the units were required again at 6am that morning. I pointed out that it would still give us three hours of use of those crews who were keen to assist but COMCEN denied again this request."

10

I take it that is again something you were aware of. Do you have a view as to whether the crews returning home from McIntyre's could have usefully been deployed at Bendora at the time that Mr Cooper wanted them deployed there?

15

A. I really don't know. I don't know how long those resources had been at McIntyre's, just exactly what they fully consisted of. I have no idea as to what the thinking of Dave Jamison was at that particular time. And I dare say he had to make a judgment call, and he did.

20

25 Q. He goes on:

"We continued work overnight and I handed over to Oscar 5, Tony Bartlett for the day shift at about 8am. There was no IMT set up overnight in Curtin and therefore there was again no incident action plan prepared for the following day shift."

30

Is that right - there was no incident management team at Curtin overnight?

35

A. Yes, there was an incident management team but there was no IAP.

Q. Right. So there was an incident management team 24 hours a day?

40

A. Yes. He even says so there. He was talking to David Jamison. David Jamison came in to be the service controller for that nightshift.

Q. We have discussed it, you agree there was no incident action plan. He says:

45
47

5 "Again the handover was based on overnight observations and recommendation from the overnight incident controller as to what should be done during the day. I recall commenting to Tony Bartlett that he may as well "piss on it" has come up with a small number of resources that have been allocated."

10 Obviously Mr Cooper is dissatisfied with the resources that were allocated to Bendora. Were you aware of his complaint. Did he raise that with you at any stage?

15 A. No. He didn't raise that with me. In fact, I find that extraordinary too, because he is in the position to request the resources that are required for the day.

20 Q. He says:

25 "My message radioed into COMCEN that morning at about 5.30 clearly stated that I felt that they would have difficulty in holding the fire that day and would require a lot of resources. So I was very surprised when I found out that very few resources had been allocated - a good example of the implications of not having a well thought-out and planned incident action plan. Again, no
30 overnight incident management team to prepare this document."

I take it you disagree with that?

35 A. What I have said I will say again. There was an incident management team. They did not produce an IAP and, yes, that would have been beneficial if they had.

40 Q. What about the other allocation resources?

A. There was allocation of resources based on what the incident controllers tell us as to what they require that day from the field.

45 Q. He says:

"At 5.30am he said it would take substantial resources to hold the fire during that day."

A. Who did he say that to?

Q. COMCEN:

5

"My message radioed into COMCEN that morning at about 5.30 clearly stated that I felt that they would have difficulty in holding the fire that day and would require a lot of resources."

10

A. What does he mean by "holding the fire"? Does that mean holding it within the constructed containment lines?

15

Q. Presumably we will have to ask him. I am asking you whether you were aware of this issue, whether you were aware as between Mr Cooper and COMCEN and involving Mr Bartlett there was an issue that the resources allocated to this fire on the 11th of January and the morning of the 12th were nowhere near sufficient?

20

A. That information was not relayed to me.

25

MR LASRY: I see it is 1 o'clock. Is that a convenient time?

THE CORONER: Yes, it is. We will take the luncheon adjournment. We will resume at 2 o'clock.

30

LUNCHEON ADJOURNMENT

[1pm]

35 RESUMED

[2.09pm]

MR LASRY: Q. Mr Lucas-Smith, before lunch, one of the things I asked you about was Mr Cooper's complaints which seemed to involve the complaint that there was no incident management team overnight at Curtin and no incident action plan. In your response to that, when I put it to you before lunch, I think there was an incident management team but there was no IAP. Who were the members of the overnight incident management team?

40

45

A. I don't recall them all. David Jamison was

there to principally do the co-ordination and I would think from the co-ordination's point of view - from the operations point of view - he was the only one.

5

Q. He was the only one. Who else was there in any other capacity?

A. I don't know. I certainly don't recall. There were certainly radio operators and stuff like that.

10

Q. But they were not part of the incident management team, were they?

A. No, they certainly weren't.

15

Q. But the incident management team, which is operations, planning and logistics and so on, particularly planning in the case of Mr Cooper, that was his complaint that there was no IAP for the start of the morning shift. There was no one to devise an incident action plan. There was no planning officer there overnight, was there?

20

A. I cannot be absolutely sure about that, but I don't think so.

25

Q. There was no logistics officer?

A. Once again, I cannot be absolutely sure about that.

30

Q. What was Dave Jamison, he was the operations officer?

A. He was a combined service manager, team controller and the operations person there.

35

Q. In reality when you say the incident management team was there overnight, do you really mean Dave Jamison was there overnight?

40

A. It could have been Dave Jamison and others. I just don't know if there were, how many others or what they were. But that is a part of the system. It is a part of the ICS structure. It is not something that is uncommon, the whole reason for - the whole concept of ICS is to be actually able to devote one person to more than one job and as things escalate and as things are required --

45
47

Q. That is not what I am talking about. What I am taking up with you is your assertion that there was a team there overnight. What I am trying to establish is: was it a team or was it
5 one person?

A. If it is one person, it is still referred to as a team.

Q. In your evidence before lunch you referred to
10 the incident management team and you referred to them in the plural as "they". Did you really mean Dave Jamison?

A. As I said, I don't know that Dave Jamison was the only one there.

15

Q. What you said before lunch in answer to a question from me when I was asking you a question about Mr Cooper's evidence, and I put the proposition from his statement, which was in
20 effect concerned with his radio message to COMCEN at 5.30. Do you remember I put to you he radioed in and said "you'll need plenty of resources for the Bendora fire because it is going to be hard to hold", and also referred to the fact that again no
25 overnight incident management team to prepare this document. I asked you:

"Q.I take it you disagree with that?

"A.Well, I have said, I will say again, there
30 was an incident management team. They did not produce an IAP and, yes, that would have been beneficial if they had."

When you gave that evidence before lunch who was
35 the "they" that you were referring to?

A. Whoever was there.

Q. Well, you were the Chief Fire Control Officer. Who was there apart from Mr Jamison? Who was part
40 of the formal incident management team?

A. I don't know, apart from Mr Jamison.

Q. Is it the truth that he was the incident management team?

45 A. I don't know that to be correct, no.

Q. I am puzzled why you say you don't know.

Surely you must know. When you finished work on the night of the 11th, which was quite late, it was at 10 o'clock, according to your statement, paragraph 59, did you not know that there was an
5 incident management team or an individual who was going to occupy that role overnight? Did you not know who it was? Surely you knew?

A. I think I may have spoken to Dave Jamison when he came in, but that was not my role or
10 responsibilities. It was really the operations officer as co-ordinator of that and that was really a handover of that operation role responsibilities.

15 Q. The truth is it was simply Mr Jamison, isn't it?

A. I don't know that to be true, no.

Q. You have no idea one way or the other whether
20 it was a team of people or whether it was one person?

A. I certainly suspect it was more than one person.

25 Q. Put aside radio operators?

A. That is my point. I don't know who the others were.

Q. Who else were qualified to be part of the IMP
30 overnight? Because we can ask them if they were part of it. Who else might it have been?

A. It could have been any of the officers of the Bushfire Service, of which there are about 60.

35 Q. Who are those six?

A. 60.

Q. Beyond saying there were 60 potential
40 candidates to have been part of the overnight team, you are not otherwise able to give us a hint as to who they might have been?

A. No. I was not responsible for rostering.

Q. I know, Mr Lucas-Smith, that you were not
45 responsible for the rostering but you are the person there in charge. And you obviously, although you went home and had no doubt

well-deserved rest, had an interest in who was going to be conducting operations or running the show at the Curtin centre overnight. You surely must have known who that was?

5 A. I knew Dave Jamison was going to be running the show and I had the utmost confidence in him in his ability to do the job.

10 Q. I am not asking you about that. I am not asking whether you were justified in having confidence in him or not. Let me be blunt. You were quick to respond to Mr Cooper's criticism as I put it to you that there was no incident management team. You were definite in the fact
15 that there was an incident management team, and that it was regrettable that they didn't prepare an incident action plan. But now when asked who else was in the incident management team, apart from Dave Jamison you cannot give me a name, not
20 one name. Is that the position?

A. That is true. I cannot tell you who that person was during the daylight either.

25 Q. Was there an incident management team overnight on the 8th of January?

A. I think not. I think there was --

Q. Was there one on the 9th?

30 A. No, there was not, because we didn't have resources out overnight.

Q. Was there one on the 10th?

35 A. Yes, there would have. The moment we put resources out overnight then certainly 24-hour operations continued.

Q. Can you tell me who the incident management team was on the night of the 10th?

40 A. No, I can't.

Q. Can you tell me whether Mr Jamison was part of it?

A. No, I can't.

45 Q. But you can remember that he was part of it on the 11th or you think he was?

A. My memory has been refreshed by the mention of

it.

Q. I think you were the first one to mention him. What I was putting to you was that there was a
5 complaint in effect from Mr Cooper that there was
no overnight incident management team, and you
said there was and I think you referred to
Mr Jamison. We can check the transcript, but
I think you were the one who recalled him, but you
10 cannot give us anyone else.

A. No, I cannot give that.

Q. Why wouldn't there have been a planning
section overnight?

15 A. I could only assume it is a resourcing issue.

Q. If there are 60 officers available that fill
the role of the overnight incident management
team, why couldn't one of those or one or two of
20 those officers who had the sort of experience that
was required be brought in as part of
the overnight planning section?

A. I am not responsible for rostering.

25 Q. No, but - I know that. But you see
the desirability in there being a planning section
overnight?

A. We also didn't want to deplete the resources
that were going into the field.

30

Q. I am talking about overnight?

A. I know, but we also talk about during
the daylight we have to be able to marshal our
resources and put them in there. We have to have
35 sector leaders and we have got to have control
unit, we've got to have incident management team
people in the field.

40 Q. You are saying you could not afford to have an
officer who was qualified to do the job come in
and fulfil the planning role overnight?

A. No, I am not saying we could not afford that.
What I am saying is it obviously just didn't
happen.

45

Q. You have no idea why?

A. I have no idea why.

Q. Has this lack of incident action plan and so on - you said it was an issue in the 2001 fires and it has been an issue again in the 2003 fires. Has it been subsequently addressed by you as
5 the Chief Fire Control Officer?

A. Yes, it has.

Q. To find out how it can be solved?

A. Yes, it has.

10

Q. Isn't it part of that process to find out why it was that there was not overnight planning and incident action plans?

A. What I had to do to put that process in place
15 was in fact employ an additional officer.

Q. That was the result of your investigation?

A. Yes.

20 Q. Did you investigate what the problem was?

A. It was actually the result of the McLeod Inquiry and the opportunity to go to government with a second appropriation bill to provide us with the funding that we needed to resource it
25 the way we need to resource it.

Q. Mr Lucas-Smith, on 12 January, and I am now referring to paragraph 62 of your statement, at 1.30 in the afternoon you attempted to make
30 contact with Mr Phil Koperberg of the New South Wales Rural Fire Service. As I understand it, what you were interested in was additional aircraft, and if you could get them from New South Wales or Victoria then you would get them
35 anywhere, perhaps that you possibly could; is that right?

A. No, it was more than that. I was also interested to find out what the commitment was from New South Wales resources to the New South
40 Wales fires as a state responsibility.

Q. So according to your statement, you made a phone call to Mr Koperberg, as you say there, to seek additional resources from him, but you could
45 not get through because he was not available?

A. That's correct.

47

Q. Does that mean he was out of the office?

A. It was a Sunday.

5 Q. He couldn't take your call. You then say:

"I rang Rosehill again."

Is Rosehill where the New South Wales Fire Service headquarters are?

10 A. That's right.

Q. It states:

15 "I rang Rosehill again and spoken to Alan Brinkworth, New South Wales Rural Fire Service duty officer for the day. Asking what the current status of his aerial resources and whether we could access their resources for water bombing the remote parts
20 of the Bendora fire. However, Alan Brinkworth was unable to provide any rural resources at that time and advised that he would get Marian Carmichael, the New South Wales Rural Fire Service Air Operations
25 Officer Manager, to give me a call back in relation to my request. Unfortunately I did not hear from Marian Carmichael, which left us in an awkward position in terms of aerial resources."

30

Did you never hear from Marian Carmichael?

A. No, I never did.

Q. She never rang back?

35 A. Never rang back.

Q. Your inquiry was, as far as you could tell, simply ignored?

40 A. It did not appear to be actioned from where I sat.

Q. Did you follow it up yourself?

A. I didn't call back, no.

45 Q. Did you make any other efforts to speak to Mr Koperberg at around that time?

A. No, I didn't.

Q. Why was that?

A. I was told he was not there. I assumed he was at home.

5 Q. I mean, over the next, say, 24 hours?

A. No, because I made other arrangements.

Q. Did you in the message that you left with Mr Brinkworth explain that the situation, as far as you were concerned, was urgent and you needed a proper response?

10 A. I don't recall putting it in those terms, no.

Q. Was it urgent as far as you were concerned?

15 A. I was certainly desperate to get my hands on additional firefighting capability and ground resources.

Q. Did you convey that desperation in the conversation with Mr Brinkworth?

20 A. I didn't use it in those sort of terms but I understood Mr Brinkworth understood my situation because he was responding to similar fire events that were occurring right throughout New South
25 Wales.

Q. Mr Lucas-Smith, I have just had a document drawn to my attention which I had not had in my collection, which I should ask you about.

30 I wonder if we could have document [ESB.AFP.0110.0771]. It is a fire situation analysis form for the Bendora fire, 12 January, 9.30am. Perhaps we can do it from the screen. In a sense this is for the sake of completeness,
35 Mr Lucas-Smith, just to give you a chance to look at these documents. If we go over to the second page, you can see that on your screen, can you?

A. Yes, I can.

40 Q. It is a situation analysis--

A. I cannot see the second page.

Q. No, I will take you to that - for Bendora of 12 January at 9.30. McArthur fire index number.
45 Is that number 5? There is no McArthur's fire danger index rating filled in. Can we take it that as at 12 January what the rating was?

A. I am not too sure what the (v) is supposed to represent other than the McArthur meter number model number 5.

5 Q. It again gives the usual information about weather and the projected outlook. It describes the fuel "going down a little, forward rate of spread", and there is something written in which I cannot read - under fire behaviour, "current, 10 FDI7, forward rate of spread" --

A. I think it says "flat ground".

Q. Thank you. And then something is crossed out in the legal constraints on suppression 15 activities. We are not sure what that is:

"Important social or external considerations. Cotter catchment water supply arboretum and Bendora Hut."

20

They are important considerations, are they not?

A. Yes.

Q. Go over to the next page, please. 25

"The general control objective is to continue the back-burn and secure areas already burnt out.

30 Again, three alternatives. Alternative 1:

"Continue the back-burn using Mt Franklin Road, Moonlight Hollow Road, Flat Rock Spur Road, Warks Road, Bendora Break and Bendora 35 Road. Using six tankers, six light units, three officers, two dozers and two choppers. Estimated date controlled" - expecting to be the next day - "13 January."

40 In case you need a hard copy, Mr Lucas-Smith, I will give you this one. Apparently this is not in your folder, your Worship, so we will stick with the screen. We are on the third page, Mr Lucas-Smith:

45

"Estimated date of control 13 January" - the next day - "Estimated size controlled

1,300" - presumably hectares - "estimated probability of success, 15 per cent."

5 Alternative 2 is as per alternative 1, but
fallback - I take it that is from Moonlight Hollow
Road to Mt Franklin Road. That appears to
increase the area size by 200 hectares; is that
what that measure is?

10 A. That is what it appears to be.

Q. That is a 50 per cent probability of success.
The third alternative, as per alternative 2, fall
back from Warks Road to Bendora Road. Again a
larger area of the area burnt and a similar
15 prospect of success, 50 per cent. Then on
the last page, there is in fact an analysis, isn't
there, of the various choices in the way that this
form is designed or this system is designed to
work?

20 There is an analysis of the effect of each of
the three alternatives, and then Mr McRae who
I take it prepared this document - well, perhaps
Hilton Taylor prepared the document - Mr McRae
25 certifies in effect the decision that alternative
2 is the recommended alternative because the area
is less than 3, higher chance of success than 1,
fall back to 3 if 2 fails. He signs and dates it.

30 Mr Graham reviews it and concurs with the proposed
approach, and then it is finally approved within
15 minutes. Is that Mr Bartlett's signature at
the bottom?

35 A. No, that is my signature.

Q. You approve it at 12.15?

A. Yes.

40 Q. This is a good example of how this system
should work?

A. That's right.

45 Q. And then everybody knows what the proposals
are, what the tactics are and what
the contingencies are if something does not go
according to the original plan?

A. Yes.

Q. As Mr Woodward reminds me, in this particular case the highest probability of success is 50 per cent. Is that a reasonably pessimistic percentage, as far as you were concerned?

5 A. That is, of course, using the same resources across all alternatives. So if you want to increase your rate of success, you are not going to reduce your size because you are working indirect attack arrangement, but by increasing
10 your resources you can in fact increase your success rate.

Q. No-one seems to be saying that it will burn for the next two months and we will all go home?

15 A. Absolutely not.

Q. I have no further point to make about that. Thank you. You can hand that back. Was there an adjustment to the resources for the second option
20 that was settled upon in that analysis?

A. I think you will find that I agreed to those objectives. If I remember correctly, I think it was 12.15, or thereabouts, and at 1.30 it was when I was contacting New South Wales Rural Fire
25 Service to seek those additional resources to improve our advantage.

Q. Yes, that is right. By the end of the day on 12 January, what was your state of mind in
30 relation to - I say by the end of the day, by the end of the daylight, by the end of the afternoon, on 12 January - what view did you have about whether or not what was being sought to be achieved was being achieved on the afternoon of
35 the 12th? In other words, did you think you were making progress by the end of the 12th?

A. No, I thought our chances of success were probably less than 50 per cent at that time. That is why I went to alternative arrangements.
40

Q. Did that mean that the rate of spread, for example, of the fires was increasing rather than decreasing?

A. No, it was really just indicating to me our indirect - our containment lines had to be
45 constructed and that was, even over the revegetated areas, were taking longer than

anticipated. We were not progressing as fast as we would have liked with our back-burning. And because of the much cooler weather we were then facing and very overcast and low cloud, we were
5 not getting anywhere near the depth that we required in our back-burning.

Q. Had you succeeded in reducing the growth of the fires at all?

10 A. The same climatic conditions were applied to the fire as they applied to our back-burning operations and that fire growth, the intensity had certainly reduced. And there was for a while there, and I am not too sure on the 12th - no,
15 I think on the 12th we still had reasonably clear skies. It was later in the week that it became very cloudy and at times suspended aerial operations.

20 Q. What I am interested in is whether it is fair to say that you had by the end of the day on the 12th - that is by 7 o'clock at night on the 12th - whether you had reduced the growth of the fires at all. Would you say you had done
25 that?

A. No, we didn't do that with any of the fires.

Q. You had not done that?

30 A. No, we had not done that. But that was not the goal?

Q. Pardon?

A. That was not our objective.

35 Q. But you certainly hadn't reduced the growth. Had you in some way reduced the rate of its spread?

A. That is the same thing, isn't it?

40 Q. I am not sure because it is not my terminology. Is there any difference between reducing the growth and reducing the rate of spread?

45 A. The rate of spread is a whole range of different features, including wind speed and terrain and its orientation - the terrain's orientation to wind speed and the particular types

of vegetation. The spread of the fire is uphill and downhill. Rate of spread is generally measured in the direction of the wind, and we - I don't know that we actually reduced significantly the head fire rate of spread, but we had certainly reduced some of the backing fire rate of spread with our continued water bombing, which once again was the goal, and that was to give us more time on our containment lines to the north and to the east.

Q. At 6.30pm on Sunday 12 January another media release was put together, which is [ESB.AFP.0014.0268], if we could have that up please. You will need to follow this on the screen. I will just read it as we go, and ask you questions as we go:

"While the three fires in Namadgi National Park have continued to grow during the day today (Sunday) requiring heavy resourcing, firefighters have managed to reduce the rate of spread, Executive Director of the ACT Emergency Services bureau, Mike Castle, said. The three fires are at Bendora, Stockyard Spur and Gingera in Namadgi National Park.

'While we have been successful in reducing the growth rate of the three fires, we are still expecting all three fires to continue burning for at least some time to come. If they are not contained, they could threaten the Cotter catchment system, and in particular there is some risk to water quality in the Bendora and Corin water storages. ACTEW is currently reviewing contingency arrangements, and I am advised that this includes the availability of water experts,' Mr Castle said.

'We have firefighters working around the clock, with most of our resources focused on the fire at Bendora, but we are continuing to monitor and attend to the fires at Stockyard Spur and Gingera which is now burning on the New South Wales-ACT border. We are also keeping informed about two New

South Wales fires that are close to the ACT borders, one at McIntyre's Hut to the north-west and the other at Mt Morgan to the south-west of the ACT.

5

'Firefighters and heavy support vehicles are using the roads and tracks throughout the Namadgi National Park quite heavily, so we are asking people to please stay out of the access roads through and into the park and take care in driving in the vicinity.'

10

Mr Castle praised the personnel from the many ACT government agencies who are working together closely in the firefighting effort. The agencies involved include the ACT Emergency Services Bureau, ACT Bushfire and ACT Emergency Service, both of which include many volunteers, the ACT Fire Brigade and the ACT Ambulance Service, the Department of Urban Services, Environment ACT, ACT Forests and Citiscape, Chief Minister's Department and ACTEW Corporation."

20

Then there is some discussion about photo opportunities. Then on the following page there is a description of the fire status of each of the fires describing their size and their situation, and suggesting that information can be obtained from Queanbeyan in relation to the New South Wales fires, information about fire ban status and information about resources deployed, land and property damage, which is nil apart from the 1,440 hectares burnt in the Namadgi National Park, and some road closures. My learned friend will tell me if I have not covered the relevant parts.

25

30

35

Did you see that release before it went out on 12 January or were you aware of it, Mr Lucas-Smith?

40

A. I am sure I was aware of it.

Q. You were?

45

A. Yes. I don't recall reading it or seeing it specifically. It was a statement being made by Mr Castle.

Q. Yes. Do you agree that you had been successful in reducing the growth rate of the three fires?

5 A. As I said before, our direct attack aspect to
minimise the growth of the fire as much as
possible to give time to construct those
containment lines was working to a certain degree,
and we were continuing to do that with aerial
10 water bombing. So, yes, we did have an effect on
the growth of the fires.

Q. So you were successful in reducing the growth rate of the fires? That is a true statement, is it, in that media update?

15 A. Yes, it is.

Q. Where it says "firefighters have managed to reduce the rate of spread", that is true as well?

20 A. Yes, it is.

Q. I thought you said a minute ago, before this document was produced to you, that it would not be right to say that you had been successful in reducing the growth rate of the fire?

25 A. Well, it depends - this is the very point I was trying to make before. There are two fires we have now got in Bendora. We have the main fire that is burning itself and which we are continuing to combat and reduce its growth, and then we have
30 our back-burn fire, which we are in fact trying to encourage to grow and to burn out the area between our control lines, our containment lines and the main fire. So we have one part of the fire which we are in fact trying to encourage to grow
35 as rapidly as we can, and we have another part of the fire which we are in fact trying to suppress to minimise its growth.

40 Q. What you said about five minutes ago was the following. I asked you this question:

"Q.What I am interested in is whether it is fair to say that you had by the end of the day on the 12th, that is by 7 o'clock at
45 night on the 12th, whether you had reduced the growth rate of the fires at all. Would you say you had done that?"

"A.No, we had not done that with any of the fires."

A. That is because we added to the fires.

5 Q. Then there was not a reduction in the growth rate of the fires, as appears in this press release?

A. I am sorry, you are obviously not understanding what I am saying.

10

Q. Obviously not.

A. Every time we light up a back-burn and we start to do back-burn, we are in fact increasing the overall size of the fire. We are lighting up
15 new ground and we are doing that deliberately.

Q. Yes.

A. What we are talking about in relation to this is the actual fire area itself, the actual
20 burning, the initial fire, the main fire event, and we are still working on reducing the growth of that fire.

Q. Yes. I know you are working on it.

25 A. And, yes, we were successful in reducing the growth of that main fire.

Q. Well, why didn't you say - in answer to my question as to whether you had reduced the growth
30 of the fires at all, why didn't you tell me what you have just told me ten? The answer to that question that I asked you should have been yes?

A. Well, I don't know.

35 Q. The question was straightforward enough.

A. I answered it to the best of my ability.

Q. I asked:

40 "Q.Had you reduced the growth of the fires at all? Would you say you had done that?"

You understood the question and said:

45 "A.No, we had not done that with any of the fires.

"Q.You had not done that?"

"A.No, but that was not our goal. That was not our objective."

I think you went on to make the point about
5 the fact that you were back-burning.

A. Yes. I think the other aspect of that is that we reduced its growth; we did not stop its growth; we did not make the fire shrink. All the fires
10 suppressing its potential growth.

Q. This press release gives the impression, I suggest to you, for anyone reading it, including yourself, that what is being said here is that
15 success is being achieved by the firefighters in reducing the rate of spread of the fire or reducing the growth of the fires and that, although that success is being achieved, they will burn for some time to come. But the media release
20 makes it clear that success is being achieved, doesn't it? Isn't that what it is saying?

A. That is what it is saying.

Q. That is not really accurate, is it, as at
25 6.30pm on 12 January? It remained to be seen whether success was being achieved or not, didn't it?

A. I suppose it did.

Q. Mr Graham says in his statement
30 [ESB.AFP.0001.1307] paragraph 88, dealing with 12 January:

"At 1500 hours I received a report that
35 the Bendora fire broke its lines requiring new fallback positions to be identified. The fire continued expanding throughout the day and crossed Mt Franklin Road north of Bendora Hill and into New South Wales late in
40 the afternoon. With the fire now on both sides of Mt Franklin Road, considerable safety concerns were evident for any crews working south of the crossover point, with access and egress routes now compromised."
45

Do you agree with that assessment by Mr Graham as at 3 o'clock on the afternoon of the 12th,

Mr Lucas-Smith? Do you want me to read the paragraph again?

A. No.

5 Q. What are you looking for?

A. I am looking to find out what time it crossed the Mt Franklin Road. I just don't seem to have that information in front of me at the moment.

10 Q. Assume for the sake of the argument, the debate, that what is in Mr Graham's paragraph 88 is correct, that he got a report at 3 o'clock in the afternoon that Bendora fire broke its lines which required new fallback positions to be
15 identified and that throughout the day the fire continued expanding. Do you take issue with his description of what happened that day?

A. At the moment I don't because I need to just check my notes and see whether or not that is what
20 did happen at about that time on that day.

Q. Shouldn't your statement give you an answer?

A. Maybe it will.

25 Q. Why don't you have a look at that first to see if it does?

MR LASRY: Your Worship, I am content, if it suits the witness, for your Worship to stand down for a
30 moment while he looks at whatever it is that he needs to look at.

THE CORONER: Do you want some time, Mr Lucas-Smith, to go through your notes?

35

THE WITNESS: I am sure, your Worship, that I am entitled to have a look to try to cross-reference material.

40 THE CORONER: Have a look at paragraph 63 of your statement.

MR LASRY: Q. Yes, let me read paragraph 63 of your own statement. You say:

45

"During the afternoon the Bendora fire crossed the main containment lines to

the west and later crossed the border into New South Wales. With the fire now on both sides of Mt Franklin Road, being the only north-south access road, significant safety concerns were now evident. Later at about 5 1600 the Stockyard Spur fire also crossed Mt Franklin Road north of the Pryor's Hut area. This posed additional safety concerns for crews working south of Pryor's Hut on the Mt 10 Gingera fire as their escape route was now compromised."

A. Yes.

Q. It is pretty much in accordance with 15 Mr Graham's?

A. Yes, I am satisfied Mr Graham's description is correct.

Q. That is completely at odds with what was in 20 that media release?

A. It would appear so.

Q. Which means that anyone reading that media 25 release, the public included, would be totally misled by it, whether deliberately or innocently, as to what was actually happening with these fires. The fires were expanding. The growth rate was not slowing. The rate of spread was not slowing. The fires were expanding; weren't they?

30 A. It would appear so.

Q. That is what should have been in that media 35 release on the night of the 12th. How did that media release wind up in that condition, do you think - that people were being given what is clearly misleading information? Who do we ask? Whose responsibility is it for what went into that media release?

40 A. At the end of the day it is my media release, but you can obviously see there is no statement from me in there.

Q. You are not quoted; Mr Castle is. I want you 45 to think hard about this. Did you see this document and did you approve it before it was released to the media?

A. I don't recall.

Q. You don't recall. Is there any record? Is there any process by which when a document like this media release is about to be sent out that somebody signs off on it - I think that is the modern day cliché - so there is some record that it has been approved? Is there such a process?

5
10
15
A. As I said, the media part, the media cell is a part of the planning cell. They get their information from the planning cell and it is compiled and put together. We had an information group that was providing the details to the media. There would have been through that process, I would have hoped, the appropriate checks and balances.

Q. That deals with the checks and balances. Now is there someone who actually has to sign saying "approved, send", something like that?

20
A. No, there is not.

Q. No such process?

A. No such process.

25
Q. We will have to ask Mr Castle, I suppose, whether the quotes attributed to him are first of all his state of mind and where he got the information from.

30
A. Have we got a copy of the fax cover sheet in relation to this because it could very well be it has the wrong date on the top?

35
40
Q. Well, I can only show you the document that we have got from ESB, Mr Lucas-Smith, and the date appears on the front page and it also appears on the last page. I assure you that if there is a problem with the date I will give you an opportunity to have that brought to your attention. Just while we are dealing with that, there are two numbers at the end of the release offering media contact, and one number is (02)6207 8458. Is that the office at Curtin or is that someone's number?

45
A. Sorry, the number again?

Q. (02)6207 8458?

A. Yes, I believe so.

Q. Whose number is that?

A. I don't know whose number it is, but it is an Emergency Services Bureau number at Curtin.

5 Q. There is also a mobile number, 0409 180 343.

A. I am not 100 per cent sure, but that may be Amy Lowe's number.

10 Q. On the night of 12 January, according to paragraph 64 of your statement, you requested Mike Castle, who was the authorised person, to make contact with Emergency Management Australia, which I think is generally known as EMA, isn't it?

A. That's correct.

15

Q. To source aerial firefighting and heavy plant capability from the military, as such a request was made for four military helicopters and four military dozers. Does that reflect a situation where, as at the night of the 12th, it was becoming apparent to you, and probably to Mr Castle and perhaps to others that, with all the resources available to you, these fires were now going to be extremely difficult to control?

20
25 A. Absolutely.

Q. And if the weather turned bad, then multiply that by a factor of whatever?

A. (Witness nods).

30

Q. Things were getting out of control by the night of the 12th?

A. Can you define "out of control"?

35 Q. Yes, the fires were growing, expanding, efforts either directly or indirectly to suppress them weren't bearing fruit, were not actually being successful. It is becoming clear, I suggest, that by the night of the 12th you were
40 feeling significantly underresourced. You were having to move resources and plan resources around effectively four fires, and it was difficult.

A. What it reflects to me is that at 12.15 we had
45 put together an IAP, and we had made some decisions about what the percentages of its success were. We needed to acquire additional resources to be able to achieve any of those

goals, and I was in the process of trying to marshal more resources, knowing full well of course that the fires are going to continue to burn and continue to grow.

5

Q. As you said, if it is 50 per cent probability of success and it can be increased by more resources, it likewise can be reduced by weather and by expanding fire.

10 A. Absolutely. There is a whole range of different variables, but that is the whole idea of the predictive process, is to try and ...

Q. I have another one of these fire situation analysis forms that I need to show to you, Mr Lucas-Smith. The document is [ESB.AFP.0110.0218]. There is a hard copy for you. It is not in the folder. This again is for Bendora on 12 January at 7 o'clock at night, 1900 hours. It is for the period from 7pm until 6am the following morning, the 13th. It has the usual information in relation to weather, fuel. The tonnes per hectare on this particular form seemed to have gone up. Just have a look at the front page. It is up to 25 tonnes per hectare in the eucalypt forest. I think the last one we looked at was 20. There are similar details in relation to fire behaviour and projected rates of spread.

30

Do you recognise this handwriting? Is this also Mr Taylor's handwriting?

A. I don't know Mr Taylor's writing.

35 Q. Mr Woodward thinks it might be - well, we are all guessing so don't worry for the moment. Do you see under "Legal constraints on suppression activities", the author of the document has written in "fire is heading north west into New South Wales from Bushranger Hill". Is that written there, do you believe - I understand this is not your document - because once it is into New South Wales then legal issues arise or responsibility issues arise as to who should be dealing with the fire? Is that why it is there?

45

A. The fire obviously if it goes into a multi-jurisdiction situation and we need to ensure

that we have properly unified controls in place.

Q. It states:

5 "Important social or external considerations.
The next fallback line is old Brindabella
fire trail, and this means the fire could
expand to 5,000 hectares if original block
and New South Wales block is burnt out."

10

You need to go over two pages to the alternatives:

15 "General control objective. Continue with
back-burns to secure south-west, southern and
south-east boundaries. Monitor other
boundaries."

There seems to be really only two alternatives,
which may only be one alternative. Alternative 1
20 is to use overnight crews to focus on back-burn
and monitor existing secure flanks. It seems to
suggest four tankers, five light units and I think
that is three officers, but it might be more than
that, water cart, two dozers and an estimated date
25 of control by 15 January, the size 5,000 hectares,
30 per cent probability.

There is no alternative 2. Alternative 3 is "do
nothing overnight to rest crews". Size controlled
30 is the same. No probability of success on that.
The fire situation analysis for the last page is
not completed, and there does not seem to be any
record of the decision being recommended, reviewed
and approved. As at the night of the 12th, does
35 alternative 1 appear to you to reflect
the objectives and strategies that were in force?

A. This is obviously an incomplete --

Q. Obviously.

40 A. -- fire situation analysis form. I don't know
if it ever saw the light of day.

Q. No. All right. If there is nothing you can
say about the document, Mr Lucas-Smith, I do not
45 press you to do so. I appreciate it is not your
form.

A. But I think that the general control

objectives it states were still the control objectives at that time.

5 Q. Yes. You can pass that back. On 13 January Mr Cooper was now at ESB and fulfilling the role of operations officer. Do you recall that to be so?

A. Yes, I believe so.

10 Q. He says in relation to that role in his statement at paragraph 47:

15 "I arrived at ESB on 13 January at about 7am and took the role of operations officer. I found it difficult to fill this role as there was no formal handover from a night IMT. There was none set up, and no incident action plan to work to."

20 So he is saying, just pausing there, that on the night of the 12th, morning of the 13th there was no formal handover from the night incident management team and in fact none was set up?

25 A. Yes, in fact my records show that Tony Graham was the operations officer on the 13th.

Q. On the night of the 12th - on the 13th?

A. On the day of the 13th.

30 Q. Right. Not Mr Cooper?

A. Not Mr Cooper.

35 Q. Certainly Mr Graham says in his statement at paragraph 96 that he started work at 5.55. He describes aerial operations commencing at 6.30. He talks about Mr Galvin being appointed the field incident controller at the Bendora fire. You informed him, he says, that you had advised Yarrowlunla that the ACT would not resource that
40 part of the fire to the west of Mt Franklin Road, which is New South Wales. He goes on to describe a service management team planning meeting. So it does appear that he was there, and Mr Cooper appears to be asserting that he was fulfilling
45 the role of operations officer. So I guess we will have to - you don't know who actually was fulfilling that role?

A. I believe it was Mr Graham.

Q. That would be extremely curious, wouldn't it, if Mr Cooper was asserting that he was
5 the operations officer?

A. Yes.

Q. If in fact he was not. 13th January was
10 the Bendora Dam which involved you and the Chief
Minister?

A. That is right.

Q. He in his statement - that is Mr Cooper - says
15 that he suggested that there should be a separate
incident management team to deal with that
helicopter incident. Do you recall that that was
ever suggested? I appreciate you are actually
involved in the incident, so you might not have
20 been part of any conversation along these lines.

A. What I heard later, which makes a lot more
sense to me, was that Mr Castle approached the ACT
Fire Brigade and asked them to form an incident
management team to deal with that incident.
25

Q. The fire brigade were involved in the efforts
to extract the helicopter from the dam?

A. Yes, they were. It was a hazardous chemical
spill which involved the fire brigade.
30

Q. All right. You were actually in
the helicopter when it crashed?

A. No, I was in a second helicopter at the time.

35 Q. Were you with the Chief Minister?

A. Yes, I was.

Q. Was that some time late morning?

A. It was around 12.30 or something around that
40 sort of time, middle of the day.

Q. As at 13 January had you had a number of
discussions with Mr Stanhope about the progress of
these fires?

45 A. Not a number of discussions. I had briefed
him and told him that I was doing a reconnaissance
flight about midday that day and offered him a

seat if he wanted to come along and have a look.

Q. Had you prior to 13 January given him, either by phone or in person, a briefing on the state of the fires and how it was going?

A. I don't recall doing that personally to him, but I understood he was aware of what was going on.

10 Q. I am only concerned with whether you spoke to him. Do you know him personally? Did you know him personally?

A. I have certainly met him, yes.

15 Q. But as far as you can recall, whatever anyone else might have done, prior to the 13th you cannot recall having a face-to-face discussion with him about the progress of the fires?

A. Prior to the 13th, I don't recall --

20

Q. Prior to the helicopter crash?

A. No, I don't recall such a ...

Q. Did you give him a briefing before you left on the helicopter trip?

25

A. Certainly.

Q. What did you tell him?

A. I told him where the fires were at this particular time and what we were doing to contain them. We didn't spend a great deal of time doing that. I showed him very roughly on the maps and we took the maps with us and left.

35 Q. He, of course, asked about the prospect of success in controlling the fires?

A. I don't specifically remember him making that direct statement. He heard what strategies we had in place and seemed to be satisfied with that.

40

Q. Did he ask you what were the chances, did you think, of those strategies being successful?

A. No, he did not ask that question.

45 Q. Are you sure about that?

A. I don't recall being asked that question.

47

Q. Did he raise with you any prospect of Canberra itself being affected by these fires?

A. I don't recall such a question.

5 Q. Had you by 10.30am on 13 January yourself come to the view that there was now a realistic prospect that Canberra would be affected by these fires; that is, property in urban Canberra would be damaged?

10 A. No, I was not thinking about the property in urban Canberra. I was certainly thinking about a much larger fire event and certainly looking at a whole range of different fallback options to the east.

15 Q. But as at 10.30 on 13 January had it yet crossed your mind that these fires in combination with the McIntyre's fire might reach a point where urban Canberra was at risk?

20 A. Yes.

Q. It had?

A. Yes.

25 Q. When did that first cross your mind?

A. I don't know. I think it was before then.

Q. How long before?

30 A. I don't know. You know, it is a matter of trying to work out at the end of the day how far can this actually go without any intervention and with worse case weather and whether or not we are going to get that sustained. The potential exists for it to go all the way through to the Pacific
35 Ocean.

Q. With respect, Mr Lucas-Smith, that is really an unrealistic response, isn't it? The fact is these fires did burn into Canberra and they burned
40 into Canberra five days after the day I am asking you about, 13 January. What I want to know is whether you had considered - not whether the fires would burn to the Pacific - there was a realistic prospect that people on the western edge of
45 Canberra would be affected. Had you considered that as a realistic prospect or not?

A. I certainly considered it. I did not believe

it was a realistic prospect.

Q. Do you agree that you spoke with Mr Cheney on the afternoon of Monday 13 January as he gave in
5 evidence last year?

A. Yes, we had a telephone conversation.

Q. He told you, didn't he, that he was going to be asked questions by WIN Television?

10 A. Yes.

Q. And that, if he was asked, he would say the situation was very dangerous and that it was likely these fires would burn into Canberra. He
15 told you that; didn't he?

A. I don't recall it being in those exact words.

Q. That is the evidence he gave last year at page 434 of the transcript, on 13 October. Do you
20 accept that that is what he said to you?

A. Not in those words, no.

Q. You don't?

A. No.
25

Q. So he is wrong about that?

A. He certainly wanted to imply very, very strongly that he felt that the situation was dangerous and the potential for the fire spread
30 was significant, and he intended to make that sort of statement to the press. Whether or not he said that the fire would burn into urban Canberra, I certainly don't recall those words being used.

Q. This is the evidence that he gave on oath, as you are, at page 434 in his evidence last year in answer to a question from me. The question I asked was whether he spoke to anyone within the Emergency Services Bureau about his opinion. He
40 said:

"I was contacted by our press liaison officer on the Monday, who was handling inquiries from the media, and had lined up that I talk
45 to WIN Television, and I rang Mr Lucas-Smith on Monday afternoon, towards the evening, and advised him that I was going to be asked

5 questions from WIN Television and I expressed
my opinion to Peter that, if they asked me,
I would have to tell them that in my opinion
it was a very dangerous situation and that
these fires were likely to burn into
Canberra, and the WIN Television decided not
to interview me."

Do you agree that you had the conversation?

10 A. Yes, I do.

Q. You agree that he told you that, if he was
asked, he was going to say that the situation was
very dangerous?

15 A. Yes.

Q. Do you agree that he said it was likely that
these fires would burn into Canberra?

20 A. No, I don't agree with that, because I don't
know that he said that.

Q. You tell me what he said.

25 A. There is no way in the world I could repeat
verbatim what he said.

Q. He did. Why can't you?

A. My memory is obviously not as good as his.

30 Q. We can settle on that, can we, that it is
likely that Mr Cheney's memory is better than
yours?

35 A. I kind of recall that there was discussion
about which fires we were talking about; are we
talking about the Bendora fires or are we talking
about the McIntyre fires or are we talking about a
combination of those fires.

Q. You asked him that question?

40 A. I think we spoke about that. I am not
managing the McIntyre's fire.

45 Q. I appreciate that. This conversation, as
Mr Cheney relates it, was not about who was
managing the fires. He was telling you, "Look,
Peter, I am going to be asked questions and I am
in effect putting you on notice that I am going to
say it is very dangerous and I am going to say

that these fires were likely to burn into Canberra". He says you said in response that you had formed the same opinion. Had you formed that same opinion?

5 A. I certainly had formed the opinion that those fires were dangerous.

Q. The question I asked him was:

10 "Q. So, upon you expressing the view you just said you expressed to Mr Lucas-Smith, did he respond?

"A. Yes, as I remember, he said that they had formed the same opinion."

15

He goes on to say that he thought that referred to - "they" meant the people in the Emergency Services Bureau. So had you formed the opinion that the fires were very dangerous, because that is the words he used, and were likely to burn into Canberra?

20

A. I had certainly formed an opinion that the fires were dangerous, and that the potential exists for a growth of those fires to the east.

25

Q. Are we playing with words or are you saying that, by the end of the day on 13 January, you accepted that there was a realistic risk the fires would burn into Canberra?

30

A. At that stage I did not accept --

Q. You didn't accept it?

35

A. -- that there was a realistic risk. As I said before, I had agreed and acknowledged that that potential in my mind had existed, but I didn't believe at that time that it was realistic.

40

I certainly took the information in relation to my conversation with Phil Cheney to the planning meeting and advised the planning meeting of our discussions that we had, and of what Phil was proposing. At that stage I had no idea that WINTV had chosen not to interview him. But I advised our planning meeting of my discussion with Phil Cheney and what took place as far as I was aware.

45

Q. Do you regard Mr Cheney as a significant expert on bushfires?

A. I have the utmost respect for Mr Cheney as a fire behaviour expert.

5 Q. The expression of his opinion as he gave in evidence here would not be something that he would do lightly, would it, from your knowledge of him?

A. No, he would not.

10 Q. Did you ask him to participate in rendering assistance to ESB or to take part in any discussions or to give you the benefit of his expertise in relation to the things that he was concerned about?

15 A. No, I didn't make a direct offer to him, no.

Q. Would you have been interested to have him assisting, advising --

A. Absolutely.

20 Q. But you didn't ask him?

A. I didn't ask him, no.

25 Q. Is it the position, just looking at what you said a few minutes ago, that you do not recall Mr Cheney saying that the fire would burn into urban Canberra? Is that your recollection of the conversation? What you can recall is that he said the fires were dangerous, but you don't recall him saying anything about burning into
30 urban Canberra? Just concentrate on the question, Lucas-Smith, please.

A. I certainly am concentrating on the question.

35 Q. Well, what are you looking for?

A. I am looking for what I told the planning meeting of my telephone conversation with Mr Cheney.

40 Q. Fancy that. You have found it, have you?

A. Yes, I have.

45 Q. Under the heading "Media". This is document [ESB.AFP.0110.0775] at page 0778. What you have found is the paragraph in the minutes of that meeting that says:

"Peter Lucas-Smith stated that Phil Cheney,

fire behaviour expert, had conducted an interview with WINTV. Mr Cheney stated that any strong westerly gusts of wind could turn the fire towards urban areas."

5

So does that reflect, at least to some extent, what you were told by Mr Cheney?

A. It must have.

10 Q. So he did say something about the fire and the urban area?

A. Yes, but he said, as it says there, "towards the urban area". That is to the east. There is 20 kilometres or more between where the fires were
15 and the urban areas.

Q. We have some handwritten notes of that planning meeting as well. One of those sets of handwritten notes is a document

20 [ESB.AFP.0110.0048] at 0058. I will ask you to look at the notes and identify the handwriting. Looking at the screen, first of all, can you tell us whose writing that is?

A. No, I can't.

25

Q. We will track it down. If there is any doubt, perhaps I should at least show you the front page just to verify what these are notes of. I wonder if you could go back to 0048, John, for a minute,
30 please. That is the first page of the document, Mr Lucas-Smith, and you see the heading at the top is "Planning meeting 14 January 1600". That is the planning meeting we are talking about, isn't it?

35 A. Yes, I believe so.

Q. If you go back to 0058, it seems to read:

40 "Media. WIN. Phil Cheney, fire expert, interview told any strong winds from west into Canberra city. Media attention on this expert."

45 It looks like "market", but I think it is Marika, is it, fielding questions? I think that is a reference to Marika whose second name I forget - Harvey - who is Mr Stanhope's media

person. So that seems to record that what you were told by Mr Cheney was "strong winds from the west into Canberra city".

5 If we could then go, please, to [ESB.AFP.0110.0033] at 0038. You will have to take it from me that these are also notes of the planning meeting. Do you recognise that handwriting?

10 A. No, I don't.

Q. You see halfway down the page in front of you:

15 "Media. WINTV. Phil Cheney, fire behaviour expert. CSIRO. Conservation expert" - it might be - "in Australia. Any strong gusts from west bring fire into city. Bureau of Meteorology, west wind into city. Upset not forecasting westerly winds."

20

It is difficult to read the next part. It looks as though it is a statement attributed to Mr Castle, which we can ask him about, "Fire not controlled. What wind changes risk the city."

25

At all events, that is probably sufficient for my present purposes. What this discussion was about, Mr Lucas-Smith, on the 14th at the media briefing was you reporting to them not that the fire was going to be turned by a westerly gust of wind in the direction of Canberra but that what you were reporting was there is a media issue and the media issue is that Cheney is going to say the fire could burn into Canberra, could burn into the city, and that has to be dealt with. That is a fair summary of the item before the planning meeting on the 14th, isn't it?

35 A. That appears to be from the notes we have.

40 Q. From those notes it appears clear, I suggest, that you were told by Mr Cheney that he held the view that, given the particular weather conditions, north-westerly wind, that the fire could burn into Canberra?

45 A. It would appear so, yes.

Q. Having been told that by someone like

Mr Cheney, did it cause you to reflect on the realistic prospects of that happening; that it was something that you might now need to consider and prepare for?

5 A. I suppose I added Mr Cheney's comments to my own thinking anyway.

Q. But you rejected his view, didn't you?

10 A. I looked at it from a realistic point of view at that particular time and, of course, I had confidence in our people to actually undertake the job of intervention.

Q. Of course you did. I understand.

15

Your Worship, we have been going for an hour and 20 minutes. I am simply concerned about the court writer.

20 THE CORONER: We might take a short break.

MR LASRY: He might just need five minutes. I am happy to take it as well.

25 THE CORONER: We will have a short break.

SHORT ADJOURNMENT

[3.25pm]

RESUMED

[3.35pm]

30

MR LASRY: Q. Coming back to the morning of the 13th, I think the conversation that you had with Mr Cheney that I was asking you about was late on the 13th. We are going back to
35 the morning before the helicopter incident. There was an operations section briefing for the 9.30 meeting I think. I just want to refer you to more or less in passing. The document is [ESB.AFP.0007.0127], and it is a document prepared
40 by Mr Graham. It is on the screen.

Again, in relation to Bendora, Mr Graham sets out what occurred the previous night. He says:

45

"Last night's crew put in a back-burn of about 1.5 kilometres. This was less than desired but weather conditions didn't allow

any more. Today's crews are continuing back-burning operations for the first part of the morning. The fire was quiet overnight, only little growth in size. The most active part of the fire is to the north west to Bushrangers Creek. This is the area that SouthCare is currently working on. A D6 dozer is working on the old Brindabella Road clearing the track all the way to the Brindabella Valley. Today's objective is to continue to secure the west and southern flanks, and to slow the speed on the northern flank."

15 Is that consistent with your recollection of what the plan was for the 13th?

A. It sounds reasonable, yes.

20 Q. As for Stockyard Spur, Mr Graham notes that there still isn't any units assigned to this fire:

25 "Since its run over Mt Franklin Road late yesterday it hasn't ground too much. Pryor's Hut is in tact as is the arboretum. Mt Ginini communications complex is okay. So far as I know, however, because of low cloud this morning, the aerial reconnaissance flight could not determine this for sure.

30 Does that accord with your recollection in relation to Stockyard?

A. It sounds reasonable.

35 Q. And no units assigned to the fire as at the 13th?

A. That's correct.

Q. It states:

40 "At Gingera, the northern flank has slowed down a lot and there is broken fire line on the flank. The southern edge is a continuous line of fire, though it is a backing fire and is burning fairly slowly. The fire has not
45 crossed Mt Franklin Road."

Then he identifies what the air support is. So

that is operations briefing as at the morning of the 13th for the morning meeting; is that correct?
A. It appears so, yes.

5 Q. The next thing that seems to happen on the 13th is that Mr Castle prepares a request for Commonwealth physical assistance, and the document is [ESB.AFP.0007.0025]. He notes in
10 the description of the situation - just going down a bit:

15 "There are currently three uncontained bushfires within the ACT that are threatening the ACT water catchment areas. Another large fire just outside the ACT border to the north-west is also causing serious concern with a further fire in New South Wales just to the south-west of the ACT. Containment of the fires has been
20 unsuccessful to date due to the remote and difficult terrain. ACT government resources are severely stretched responding to both the ACT and assisting with the New South Wales fires. Remote area firefighting
25 techniques are being employed, including construction of fire breaks, and aerial water bombing and reconnaissance assistance are considered vital in this campaign."

30 I will not read necessarily the rest of the document. But in essence what the request, I think, seeks is helicopters to assist with aerial water bombing obviously equipped with water buckets and four dozers, D6 to D8, requested for
35 the construction of fire breaks. In relation to the description of "own resources" on the first page, Mr Castle in the document notes:

40 "In addition the ACT has received some assistance from helicopters under New South Wales control, but these are increasingly being deployed full-time to attack the McIntyre's Hut fire just to the north-west of the ACT. This fire is very
45 large and, with a wind change and no containment, poses a substantial threat to the ACT. New South Wales are not able to

provide further assistance due to large fires located further to the south-west and west of the ACT."

5 I take it that is a sentiment you agreed with, Mr Lucas-Smith?

A. Yes, it sounds reasonable.

10 Q. The McIntyre's Hut fire is properly described as "very large and with a wind change and no containment poses a substantial threat to the ACT"?

A. With no containment, yes.

15 Q. Were you part of the formulation of this request for Commonwealth assistance?

A. No, I was not.

20 Q. Did you advise on the information that should go into it?

A. No, I didn't.

Q. So this is purely Mr Castle's work, as far as you are aware?

25 A. He is the authorised person to make that request to the Commonwealth. I should say I advised him as to what I was seeking --

Q. Yes, of course --

30 A. -- aircraft and plant.

Q. Yes, I understand. As at 13 January, apart from the conversation that you had with Mr Cheney, did you gain the impression that, within
35 the Canberra community, people were starting to wonder about whether there was some major catastrophe or some major emergency lying ahead of it?

A. I gained no such impression.

40

Q. You got no sense of that at all?

A. No. You need to remember that I am commencing work very early in the morning and going home very late at night, and my contact with the ACT
45 community was extremely limited.

Q. That is fair enough. I am really asking you

whether people were saying to you, "Look, Peter, the community is getting very nervous about these fires. They have not been contained. They are worried that there is going to be in effect a
5 disaster of some kind. We need to deal with that"?

A. No-one was saying that.

Q. Nothing like that?

10 A. No.

Q. I ask you that question because on 13 January, according to the transcript anyway, at about five to midday Mr Castle did an interview with ABC
15 radio 666. This document is [DPP.DPP.0004.0003]. You will see on the screen that the interviewer commences by saying:

20 "Interviewer: Anyone who was driving around Canberra over the weekend would have been shocked and appalled to see the plumes of smoke rising up over the Brindabellas. And it apparently is the case that two bushfires in the Namadgi National Park have spread
25 across the border into New South Wales and fires - at least some of these fires - are burning out of control at the moment.

30 "Mike Castle is the Executive Director of the ACT Emergency Services Bureau and has stepped out from a briefing he is giving to the Chief Minister to talk to us on 666ABC Canberra. Thanks for taking the time.

35 "Mr Castle: That's okay, Kerry.

40 "Interviewer: When we have been reporting that these fires have been burning out of control, is that a worry? I mean, when they are out of control, does that mean larger catastrophes lie ahead?"

45 "Mr Castle: Well, not to be too alarmed, Kerry, but they are serious. They are uncontained, so out of control sounds a little bit more dramatic, perhaps, than the terminology we use - uncontained. We

5 have resources on it - we look at particular
 outbreaks and that is where we use
 the aircraft to water bomb them. But we
 don't have a continuous containment line,
 nowhere near that potential yet around any of
 those fires."

10 I will come to the rest of it in a minute. Is
 Mr Castle there reflecting a state of mind that
 you shared in that first main answer to
 the interview?

15 A. I was certainly concerned and thought
 the situation was serious and we did not have
 containment lines right around the fires.

20 Q. The other thing, just as a matter - it may not
 matter but just in passing, if this interview
 actually occurred at five to 12 on 13 January,
 then Mr Castle could not have just stepped out of
 a briefing with the Chief Minister; could he?

 A. That is possible, yes.

 Q. Wasn't the Chief Minister with you somewhere
 in the vicinity of the Bendora Dam?

25 A. As I understand, the crash at Bendora Dam
 occurred at about 12.30 and we departed Weston
 police complex where our helicopter was based
 12.15, somewhere like that. We had only just
 arrived at the fire when the crash occurred.

30 Q. So in the briefing to Mr Stanhope before
 the helicopter flight, Mr Castle was with you?

 A. It would appear so, yes.

35 Q. Do you remember?

 A. No, I don't recall.

 Q. But he didn't go in the helicopter flight, did
 he?

40 A. No, he didn't come in the helicopter flight.

 Q. The helicopter took off from where?

 A. From the Weston police complex.

45 Q. How far away from Curtin is that? How long
 does it take you to get to?

 A. Five-minute drive, maybe a bit less.

Q. Your statement at paragraph 67 suggests that you departed in the helicopter with the Chief Minister at 12.10. So I suppose it is possible there was still a briefing going on at five to 12.
5 Would there have been any reason why Mr Castle would have gone from Curtin to Weston to brief the Chief Minister before the Chief Minister --
A. The Chief Minister went from Curtin to Weston with me in my car.

10

Q. Mr Castle goes on to say in answer to the question:

15

"Mr Castle: Yes.

"Interviewer: So is this a great concern?

20

"Mr Castle: It is to the extent that we are always susceptible to wind changes, and at this stage, we have been getting winds mainly from the easterly direction, swinging north south-east round even potentially today to the north-east, which has the potential to spread fires as they slightly change. But our most prevailing winds is from north to north-westerly, and that gives us 25 180 degrees, and would bring the fire back into us and back onto us in a much wider front. So, that's the concern that we 30 actually have."

30

Obviously that is the concern that you had as well?

35

A. Yes.

Q. Over the page and towards the bottom of the page, the last question on the page from the interviewer:

40

"Interviewer: If that wind does swing around from the north-west, could it come as far as Canberra? Could it threaten Canberra?"

45

"Mr Castle: I wouldn't want to be that dramatic. What we actually try to do is establish a series of containment lines between that. But you are talking about

fairly significant fires, and at the moment,
of course, whilst people can see them as
smoke, the smoke is, as you indicated, going
away from us. So they don't look
5 particularly large from down in the urban
area, but they could present quite a
significant impact, but that's a long way
between where they currently are and
the urban edge."

10 It is clear from that, isn't it, that at least
that radio interviewer was interested in
the concept of whether the fires could hit
Canberra?

15 A. It would appear so, yes.

Q. Was there a policy at ESB that, insofar as
such an issue arose, it was to be treated as being
something which was either alarmist or at least
20 extremely unlikely?

A. Not a policy I set.

Q. Not a policy?

A. Not a policy that I have set.

25

Q. Was there a policy?

A. I am not aware of such a policy.

Q. Were you concerned that, if the Canberra
30 community formed a view that there was a risk to
Canberra from these fires, there be panic - that
the residents particularly in the affected areas
would panic?

A. No, I don't think - no, I certainly had not
35 formed a view that I thought the community would
panic.

Q. We will come back to this, but did you
eventually reach a stage over the next couple of
40 days where you became convinced that there was a
significant risk to urban Canberra?

A. There was no doubt that the risk was
increasing, but there were a lot of things in
the way of such - of those fires reaching
45 the Canberra edge. What I had to do as a fire
controller was to stay focused on what
intervention we could put in place and what

natural barriers existed. The Murrumbidgee River existed, a large expanse of open grasslands on the eastern side of the Murrumbidgee River which the fire would have had to cross. So there were
5 opportunities for us to establish reasonable control of it.

Q. Did you reach a state of mind yourself at some time before 2pm on 18 January where you knew in
10 your heart of hearts that whatever was done could not prevent the fire from burning into Canberra?

A. What time and date did you say then?

Q. At some time before 2pm on 18 January?

15 A. Certainly, yes.

Q. When? When did you reach that state of mind?

A. Once the fires had crossed - the McIntyre's fires had crossed the border into New South Wales
20 on the morning of the 18th.

Q. Then you thought it was inevitable?

A. I thought it was a very strong possibility that it was going to occur, yes.
25

Q. Was that the first time you had that state of mind?

A. From my point of view, the fires that I was fighting was Bendora and Stockyard fires, with a
30 north-westerly wind that would not push those fires into the urban edges of Canberra. It would push them further into Namadgi, in a south-easterly direction. If fires were going to impacted on the urban edge it would have come from
35 McIntyre's. On 15 January I met with Phil Koperberg and Brian Gilligan, our director general of National Parks and Wildlife Service at that time and Bruce Arthur at Queanbeyan and we talked about those fires - I am sure you are going
40 to talk about that meeting - and they extended to me confidence that their fire was going to remain contained.

Q. I know they did. I understand all that,
45 Mr Lucas-Smith. I understand there is a process that has to be gone through and there is expressions of confidence that have to be had in

the tactics and all of rest of it. But you must have reached a point, I am trying to work out when it was, when you knew in here (Indicating). That is, it was now beyond any doubt that the fires
5 would burn into Canberra. I am just trying to establish when that was. I think you are saying it was on the morning of the 18th?

A. It was on the morning of the 18th that I thought it was inevitable. However, the Bendora
10 fires burning into rural ACT was significantly well before then.

Q. It will be the last thing I ask you before we adjourn. Mr Lhuede, I think I asked you some
15 questions about him earlier - and I am now dealing with the early morning of 14 January. Mr Lhuede, who is the fire management officer with ACT Parks and Conservation Service has said that at 7am on
20 14 January he arrived at ESB and updated himself in relation to developments - this is in paragraph 55 of his statement.

He spoke with Mr Arthur Sayer in relation to progress which had been made for implementing
25 the incident action plan for containing the Mt Gingera and Stockyard Spur fires and expressed concern about the lack of progress. Were you satisfied in the early morning of 14 January with the progress in relation to
30 the containment of those two fires? Did you think there was a problem with it?

A. I was disappointed that we had not completed the Bendora containment lines and the plant moved further south to start work on Stockyard, yes.
35

Q. He also says that he was concerned that operational maps of the kind described in
paragraph 10 - that is the paragraph I read to
40 you earlier, I think - for use in the field were not being prepared either within a relevant time frame or with sufficient information to be useful for those in the field:

"Too often the situation had changed to such
45 an extent that the operational map was obsolete or it lacked sufficient operational detail to be as effective as it should have

5 been. I raised this concern with
the planning officer, and I was assured that
people were being recruited from Mapping
Info Pty Ltd to provide various maps
10 including operational maps. Until this time
Graeme Hirth and Felicity Grant, together
with other staff from Ecowise had been
providing operational maps. The computer
difficulties were creating delays in
15 producing the maps and providing key data on
the maps."

15 Were you aware that, as at the morning of
the 14th, there was still this problem with
operational maps and maps which were regarded by
the personnel using them as being reliable?

A. Absolutely.

Q. You were?

20 A. Yes. The ACT Bushfire Service is a small
agency. We were bringing in resources. But
I also have to say that a lot of the stuff that
Mr Lhuede talks about there, I find interesting
25 that he was the actual planning officer for
the Stockyard fire and those things that he says
were not available are the things that he is
actually responsible for developing.

30 MR LASRY: Your Worship, that would be a
convenient time, if it is convenient to the court.

THE CORONER: Yes, thank you.

[4.00pm]

35

**HEARING ADJOURNED UNTIL WEDNESDAY,
18 FEBRUARY 2004, AT 10 A.M.**

40

45

TRANSCRIPT OF PROCEEDINGS

CORONER'S COURT OF THE
AUSTRALIAN CAPITAL TERRITORY

MRS M. DOOGAN, CORONER

CF No 154 of 2003

CANBERRA

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

DAY 12

Wednesday, 18 February 2004

[10.05am]

THE CORONER: I will just ask you to affirm again,
thank you, Mr Lucas-Smith.

5

<PETER WILLIAM LUCAS-SMITH, AFFIRMED
<EXAMINATION-IN-CHIEF BY MR LASRY

MR LASRY: Q. Mr Lucas-Smith, can I just tidy up
10 one small matter from yesterday. Do you remember
yesterday I asked you some questions about a radio
interview that I think was being done with
Mr Castle and the radio interviewer appearing to
be under some misapprehension that on the night of
15 9 January fire crews had been kept busy. We had a
discussion about what "overnight" meant, but you
also mentioned that you thought there had been a
fire at Stromlo on the night of the 9th. That is
still your recollection I take it.

20 A. Yes, I think that is what was reported.

Q. Mr Cliff Stephens, who you know as a deputy
captain of the forests brigade?

25 A. Yes.

Q. In a statement on 22 August of last year,
paragraph 17 of the statement [ESB.AFP.0108.0262]
says:

30 "On 10 January 2003 I commenced work at 0800
hours. I took a tanker forest 11 down to a
small fire in pines at Deek's Drive near
Stromlo Forest. A car had been burnt there,
as we often find them in the Pines area which
35 started the fire. I did some logging work
and then took the tanker to Fyshwick for
tyres. I then stood by with Stephen Nielsen
and Maria Oscares at Stromlo."

40 So that appears to be his account, at least, of
what occurred the night before; there was a car
fire. Does that mean anything to you?

A. It could well have been.

45 Q. That might well be the fire you are referring
to?

A. It could well be, but it still required a

response.

Q. On 14 January Mr Graham, in his statement, says in paragraph 115 that he had a conversation
5 with Mr Tony Corrigan, who was at that stage the ACT liaison officer at Yarrowlunla, and the advice that he received at 9.25 on the 14th was that the bulk of the McIntyre's Hut fire to the south was considered contained and
10 the back-burning had taken concerns away from the south-east corner of that fire. He says he passed that information onto other service management team members? Do you remember being told that by Mr Graham?

15 A. I do not recall specifically being told that by Mr Graham. But, yes I knew that at that time.

Q. At 9.30 that morning the first of the planning meetings where minutes were kept was conducted; is
20 that correct?

A. Yes.

Q. Am I right about that? It is 9.30 on the 14th, is the first meeting where a record was
25 kept?

A. Yes. First formal minutes of planning meetings were kept, yes.

Q. The document, your Worship, for those minutes
30 is [ESB.AFP.0110.0782]. The minutes of the meeting, if you have them in front of you, contain, it seems to me, a lot of information; first of all about fire operations. On the first page references to each of the fires, and
35 basically a description of what is occurring, where the fire was burning and where the containment lines are.

There is then a section dealing with aerial
40 operations. Then the next major heading in the minutes is "planning". Under "planning", the weather is dealt with, environmental impacts are dealt with, planning issues are identified and then there are a number of items set out under
45 the heading of "logistics". Is the purpose of a planning meeting to actually formulate a plan?

A. It is to agree on the objectives and

strategies and also to convey information to everybody. We bring all the different players together, because most of them work in independent cells, and it is a good opportunity for everybody to get a complete overview of what is going on.

Q. Is the section under "planning issues" the important part of the minutes and important part of the meeting?

10 A. They are all important parts of the meeting.

Q. I am not saying it is not important, but a lot of it is people simply describing what has happened. But for the purpose of the meeting is the section of the minutes that deals with planning issues the important part?

A. It certainly starts to lay out looking into the future a bit.

20 Q. That section of the minutes starts with a reference to the primary issues. The primary issue for the fires is whether spot fires can be extinguished to prevent the fire heading towards the Goodradigbee River. That is dealing with, I take it, the Bendora fire - or the fires?

25 A. Both Bendora and Stockyard.

Q. Yes. Then the objective is described there as being agreed. The objective is:

30 "To minimise the growth of the fire and to determine the next appropriate fall-back line. It was considered more than one fall-back line should be determined.
35 Resources need to be prioritised for direct attack and construction of containment lines. It was agreed that aerial reconnaissance and mapping was required as soon as possible to determine the appropriate fall-back
40 positions."

So prior to the discussion it really was that the planning or the objective was to, of course, minimise the growth of the fire and determine the next appropriate fall-back line. But the meeting itself did not actually determine the next appropriate fall-back line, did it?

A. No, it didn't, and nor could it.

Q. Apart from that, what other plans would you say came out of that meeting, if any others, just
5 looking through the minutes? Is there anything else that you can identify that was planned at that planning meeting?

A. It talks about fire trails identified on the Mt Franklin peaks and Stockyard Spur area.
10

Q. Where is that?

A. That is in fire break operations under "planning".

15 Q. Yes.

A. It is under the heading of "planning". There is the weather information there which talks about forecast. So we are getting a feeling as to what the weather is going to be.

20

Q. I am looking to see whether there is any other portion in the minutes or any other part of the record which indicates that the meeting actually formulated a plan, apart from the part
25 that I have read to you.

A. I think what this is saying is - well, first of all, it is really the fact that we are talking about heading towards the Goodradigbee River mean that fire is heading west, not east, and so
30 eastern containment lines are still the plan and are still operating and are still working to that strategy. There is no change to that, and they are working forward to that.

35 The fire heading towards the Goodradigbee River means it has crossed over the Mt Franklin Range, the Mt Franklin Road Range and is heading down the western aspect of that area into New South Wales. The fire is in New South Wales. What we
40 are doing here is talking about looking at planning options associated with the western spread of the fire towards the Goodradigbee.

Q. What, from those planning options?

45 A. As I just said, the fires are in New South Wales. This is New South Wales --

Q. So it is not a matter for planning in the ACT any more?

A. No. We are cooperating with New South Wales in looking at fall-back options.

5

Q. So putting it into words that would suit you, what plan was formulated at this meeting?

A. That we would continue with the strategies that we had in place for the eastern sides for Bendora and what we were proposing already - proposed to do in relation to Stockyard. And we would continue to work with New South Wales to establish containment lines between the top of the range and Goodradigbee River and look at fall-back options.

10
15

Q. Where does it say in the minutes here that you would continue with the approach that you had been using to the eastern flank of the fire?

A. I don't see where it says that anywhere specifically, other than the fire operations parts at the front there, and we are certainly not suggesting that we depart from any previous objectives.

20
25

Q. No. You just said as far as you were concerned part of the plan that came out of this meeting was that the existing tactics would be maintained for the eastern flank of the Bendora fire. I am just asking you to point out where that is referred to in the minutes.

30

A. In the fire operations area it gives a description of what is occurring at Bendora, and it says:

35

"The fire is currently burning to the west side of Mt Franklin Road in a southerly direction. A dozer file trail has been cut in a U-shape from grid reference 6107-45. Crews are trying to contain the fire south towards the arboretum. Brian Murphy will continue onsite until 11am."

40

So that, I would have thought, is describing what is going - what their current strategies are and what they are doing.

45

Q. I am not saying you are wrong necessarily, Mr Lucas-Smith, but you made a point of saying that you can take it from these minutes that it was agreed at the meeting that the tactics which were being applied to the eastern flank of the fire would be continued with. I am trying to understand where that is actually stated in the minutes. You say it was discussed. Where is it in the document?

A. My response to that is that I would think the minutes wouldn't reflect any change. Don't forget, we already had these strategies in place for some days now. Just because we didn't have them written down in a formal sense - in fact, we did have some of the situation reports from previous days which outlined those objectives and alternatives that you already presented, and we considered it. We adopted an option, and that was the option being implemented.

Q. In paragraph 70 of your statement you say the following. This is on page 17:

"Back-burning operations to the west of Mt Franklin Road had been proposed but I raised concerns at the planning meeting that there wasn't adequate or well-established co-ordination between the Yarrowlunla Shire section 44 and ACT Bushfire Service organisations, to conduct a co-ordinated approach to back-burning. I suggested that more was needed in relation to that before we started back-burning or burning out large areas."

Does that appear in these planning meeting minutes?

A. It doesn't appear to occur in those planning minutes or the 16.30 meeting minutes.

Q. Paragraph 70 describes - I had not gone to the 1600 minutes - what you said during the 9.30am planning meeting, doesn't it, in your statement? What I just read to you is something that you raised at the 9.30am meeting?

A. Yes.

Q. First of all, do you know why it has not been included in the minutes?

A. No, I don't.

5 Q. Your concern is raising a problem of some significance, isn't it? That back-burning operations to the west of Mt Franklin Road had been proposed, presumably by New South Wales Rural
10 the problem was there was not adequate or well-established co-ordination between the Yarrowlumla Shire section 44 and the ACT bushfire organisation?

15 A. I don't know how significant it was. I cannot recall how significant it was.

Q. You thought it was important?

20 A. It was worth a statement as to how that was responded to. I don't recall. It was really a matter for the liaison in the field between ACT and New South Wales firefighters.

25 Q. Why wasn't there adequate or well-established co-ordination between Yarrowlumla and ACT Bushfire Service organisations on co-ordinated approaches to back-burning as at 14 January? It is now six days after the fire started?

A. Do I say that there was not?

30 Q. In paragraph 70 you say at the planning meeting you raised concerns that there was not an adequate or well-established co-ordination between Yarrowlumla and the ACT Bushfire Service
35 organisations to conduct a co-ordinated approach to back-burning. Why wasn't there?

40 A. The sort of co-ordination I think I am talking about there is actually in the field and the resources are coming in from the west out of the Brindabella Valley, from Yarrowlumla Shire, and our resources coming out of the ACT. I am not saying there is not a co-ordinated approach or a good co-ordinated approach between the office of Queanbeyan and Curtin. What I am saying is that
45 the New South Wales resources and the ACT resources, we need to be satisfied that that co-ordination is adequate.

Q. That is not what you are saying in your statement. What you are saying in your statement is that you knew that it was not adequate or well established?

5 A. At the fire ground. I don't say that --

Q. You don't say that?

A. But that is what I am implying.

10 Q. How can that be after six days of fires, particularly in the circumstances, where on the night of the 8th of January you knew and agreed with tactics which involved indirect attack on McIntyre's Hut fire which inevitably meant
15 substantial back-burning?

A. I am sorry, but we were not working in conjunction with New South Wales at that time.

Q. Some of your troops where?

20 A. But they were in New South Wales. They had nothing to do with us. We deployed them out of the ACT into New South Wales. They were under the command and control of New South Wales. There didn't need to be that joint operations on
25 the fire ground.

Q. What needed to be done to solve the problem that you describe in section 70?

30 A. We just needed to get the New South Wales incident controller to make sure that they were liaising with the ACT incident controller to adopt a better uniform control approach.

35 Q. And after the meeting, as you say in the last part of paragraph 70, you sent Hilton Taylor, who is part of the planning unit, to liaise with the New South Wales Rural Fire Service and try and establish co-ordination from an operational perspective. I know they are words of ordinary
40 English meaning, Mr Lucas-Smith, but I must say I do not understand what that means. What does it mean "to establish co-ordination from an operational perspective"? In practical terms what does that mean?

45 A. That means to ensure that the people that are actually going to be carrying out the back-burn understand our other resources are deployed around

the incident; to ensure that they do not endanger somebody else's life.

5 Q. What does that involve? In order to establish that kind of co-ordination, what does that involve? What did Mr Hilton Taylor have to do, as far as you knew?

10 A. He had to discuss with them to find out exactly what their plan was, not just say that there was going to be a back-burn. We wanted to know precisely what it was that they were going to do and we wanted to make sure that our people knew what was involved, and there was no impediment to liaison as far as we were concerned at
15 the incident ground.

20 Q. Do you mean to convey in paragraph 70 of your statement that what was happening was that the New South Wales Rural Fire Service was proposing back-burning operations to the west of Mt Franklin Road without being concerned as to whether there was adequate or well established co-ordination?

25 A. No, I am not saying that. I am saying that we needed to ensure that there is.

30 Q. I am not trying to push you to a conclusion. Is your position that you appear to be the first person who has raised that issue since the prospect of that back-burn was proposed?

35 A. I am not aware that anybody else raised it with me, but I would hope that other people were certainly thinking about it.

40 Q. I take it that seeing there is nothing in the minutes to this effect that we can take it that there was no discussion at 9.30 on the 14th of January of any prospect of the fires getting out of control to the extent that they might threaten urban Canberra; that was not something that was discussed at that planning meeting?

45 A. No. In fact, on the contrary, I think what the planning meeting minutes reflect are success in establishment of containment lines in the southern sides of McIntyre's and progress on Bendora.

Q. So it was not an issue as far as you were

concerned? Any threat to urban Canberra simply was not an issue, it was not something that needed to be discussed?

A. No.

5

Q. I want to ask you about a couple of documents, Mr Lucas-Smith. I think you said in the course of your answers that at the planning meeting on the 14th you had situation reports. Could we have
10 [ESB.AFP.0026.0278]. This is a document which seems to have been prepared at 4 o'clock on the afternoon of the 13th - if you would like to look at the hard copy - it refers to the Brindabella complex and information of
15 the kind that is usually included. That appears on the first page. Do you recognise that as being a document that was referred to and discussed in the meeting of the 14th at 9.30?

A. No, I don't.

20

Q. You are not able to say whether you had that or not?

A. No, I don't think this was discussed at the 9.30 meeting.

25

Q. If you just go over to the second page, this document is dealing with all the fires, isn't it? It is dealing with Bendora, Stockyard and Gingera, it would seem?

30

A. All the fires in the ACT.

Q. In the ACT, yes. On page 2, the general control objective is described as.

35

"Controlling the fire by long distance indirect attack."

You don't recognise this handwriting either, do you?

40

A. No, I don't.

Q. I will see if I can work out the writing for alternative one. It is:

45

"Construct and maintain containment lines. Lick Hole Road, Cotter Hut Road - it is probably - Mt Franklin Road, Leura Road,

Goodradigbee River."

Is that Harry's Spur to River?

5 "Mt Franklin, Stockyard Spur to Corin Dam,
Flat Rock Spur, Franklin Road" - I am not
sure what that is next. Something - "CLO.
Brindabella trail" - cleared, perhaps -
10 "Brindabella Road, Franklin Road, Brindabella
Road, Flat Rock Spur".

Does that strategy mean something to you,
Mr Lucas-Smith? It is describing, I take it,
where the containment lines are to be constructed?

15 A. That appears to be what it is describing, yes.

Q. Doing the best you can to recall, does that
seem to be what the strategy was to be on
the afternoon of the 13th? Underneath that first
20 strategy - you may have an answer to the question
I just asked you, but I will go a bit further - is
a comment on the likely failure points
"mid-section, old Brindabella Road" is one. "Mt
Franklin Road at Mount Ginini. Flat Rock Spur
25 Road. Mount Franklin Road at Parrat Drive, and
southern end McIntyre's Hut fire." Offers
the prospect of control by the 16th.
18,500 hectares. "Estimated probability of
success less than 20 per cent."

30 Is that an alternative that you can recall being
discussed at any stage on the 14th of January or
the night of the 13th?

35 A. No, I don't recall ever discussing this
document.

Q. Or the proposal set out in it?

40 A. I certainly recognise all the trails and so
forth in alternative 1 that are mentioned there,
and we were certainly doing work on all of those
trails that I can see down here. But I need to
look at a map to be able to be certain as to
whether that was the strategies that we were
actually working to at that particular time. This
45 could very well - as I said, there were a number
of people working in the planning cell and each
one of them were doing their own sort of

predictions. And then they would come together and meet and decide on consensus as to what was going to be reported.

5 Q. This is not a document which has gone through the decision-making process either?

A. No, it has not.

10 Q. I will ask you to look at these documents [ESB.AFP.0110.1083]. This appears to be a photocopy or a save from a whiteboard, as best as I can tell, or it might be a photograph. Yes, there might be - you can see in the corner there are pins. It looks as though there may have been
15 something holding the document on the wall somewhere. Do you recognise this document?

A. No, I don't.

20 Q. It appears to have on it the date 13 January 2003, and it also appears to have on it "at about 1400 hours" - just have a read through the document which sets out "a strategy equals green". That means, what, current equals green?

A. I have no idea.

25

Q. You do not recognise anything about this document or the handwriting?

A. No, I certainly don't.

30 Q. Certainly the objective, "long distance indirect attack containment lines", that appears to be consistent with the approach that was being taken at this stage?

A. That was certainly the objective.

35

Q. And I think the strategies of the containment line are pretty much the same as the ones I read out to you from the document you just looked at?

40 A. And that is the role of the planning section, was once the objectives have been set to work out the strategies and give us the SMT the details in relation to what they thought would be the best strategies to achieve that objective.

45 Q. But looking through the document, pages 2 and 3 as well - are you saying you have never seen this before?

A. No, I have not seen this before.

Q. Thank you. You can hand it back.

5 A. That is the role of the planning section, and what the planning section does. It does a lot of looking into the future and all sorts of different strategies. It does not necessarily mean that any one of them had been implemented.

10 Q. No, I follow that. I want to ask you now about the planning meeting at 4 o'clock. The relevant document is [ESB.AFP.0110.0775]. Again, this is in similar format to the one of the previous meeting that morning where, in
15 effect, situation reports are given about the condition of each of the fires; is that right?

A. Yes.

20 Q. And various issues. Again, on page 3, under "control and co-ordination" you raised concerns that:

25 "Co-ordination is not sufficient to commence back-burning operations and there is a need for unified control. Current operations within ACT and New South Wales will now impact on each other's fire operations.

30 "Mr Taylor" - who you dispatched to Queanbeyan, I think - "after the morning meeting reported that New South Wales has provided verbal authority to the ACT to deploy resources into New South Wales Parks and Wildlife Service areas of Harry's Spur
35 and the Leura Hut trail. No new trail work is to be undertaken in New South Wales without prior approval."

40 Does that mean, as you understand it, that once ACT personnel are in New South Wales and endeavouring to contain the fires that have now burnt into New South Wales, or endeavouring to build containment lines for whatever reason in relation to whichever fire, that before they can
45 take a step to do that they have to check with New South Wales Parks and Wildlife Services?

A. That was our memorandum of understanding and

agreement with New South Wales National Parks and Wildlife Service, that we would not deploy heavy plant into their nature reserves or national park without first obtaining their agreement.

5

Q. That you wouldn't?

A. That we would not.

Q. So unlike the position you were able to take in the ACT, that was obviously not a position that you or your troops could take in New South Wales?

10 A. No, but there was no impediment to that. There was not a decision where they went away and thought about it. We asked as
15 the agreement - the memorandum of understanding suggests that we should, and that agreement was immediately given.

Q. Did it mean it had to be done, in effect, trail by trail?

20 A. No.

Q. Or action by action?

25 A. No.

Q. It didn't. The minutes also have you stating on page 4:

30 "Peter Lucas-Smith stated that command and control is an important issue. He will discuss this aspect with Bruce Arthur and flag that we may need to have liaison officers located in each operation centre, increasing resource levels or operate out of
35 a single control centre. It was agreed that a single control centre is the preferred option. Particularly if the New South Wales fires move south and this will impact on ACT operations."

40

So that is all still being done, still being organised?

A. It is being done at two different levels, of course. We are now doing it in relation to
45 the liaison officers. I am talking about there are, in fact, people in the field as well as people back here, specifically, to concentrate on

the joint fire arrangements we now have straddling the border.

5 Q. Then as we have already discussed under "media", the discussion between you and Mr Cheney arose. The item says:

10 "Peter Lucas-Smith stated that Phil Cheney (fire behaviour expert) has conducted an interview with WINTV. Mr Cheney stated that any strong westerly gusts of wind could turn the fire towards urban areas. There are currently no westerly winds forecast. There was a discussion regarding appropriate media response. Tim Keady suggested that while 15 the westerly wind direction would make operations difficult, we are currently implementing measures to control this possibility."

20

So we are clear, who is Tim Keady?

A. Chief Executive of the Department of Justice and Community Safety.

25 Q. What is his expertise in bushfire fighting operations?

A. I don't believe he has any.

30 Q. What did it have to do with him as to whether or not if the winds changed to the west and operations would become difficult there were measures being implemented to control the possibility?

35 A. I believe he was lending a hand and assistance as best as he possibly could and supporting the - particularly in relation to community information and media.

40 Q. How would he know operationally what was happening?

45 A. I think he was just reflecting what had already been said. As it says there, there was discussion and I think - what the comment that that sentence reflects is rounding up the discussion.

Q. Was there a discussion generally about

the level or prospect that the fire might move into the urban area or might affect the urban area?

5 A. Certainly. And that was the whole reason for raising it within the planning meeting. I took the phone call from Mr Cheney, as has already been stated, and I didn't sit on that information. I actually took that information to the planning meeting and put that on the table.

10

Q. I am sorry, Mr Lucas-Smith, I had my copy of your statement opened at the wrong page. I was wondering why what I was seeing in the minutes did not correspond with what was in your statement.

15 It was because they were two different meetings.

A. I have done that myself.

Q. Paragraph 72 of your statement is the relevant paragraph. It says this, relating to this very discussion at the meeting:

20

"During that afternoon meeting we discussed the media release by Phil Cheney who stated that any strong westerly gusts of wind could turn the fire towards the urban areas, although this potential had already been recognised at the meeting."

25

Where was it already recognised? Have a look at the minutes. I want to see where it was already recognised that there was a potential for strong westerly winds to turn the fire towards urban areas.

30

A. I think where I would say there had been discussion about it would be in the planning - on the second page, under the heading "Planning weather", that first paragraph there. It says:

35

"The inversions all of today made fire behaviour hard to predict. Long-term weather outlook details the temperatures for Saturday at 35 with temperatures on Sunday, Monday and Tuesday being hot and stronger north-westerly winds. Mr McRae stated this forecast indicated that strategies would be harder to complete and hold after Friday evening."

40

45

Q. But that does not say anything about the fire heading towards the urban area, does it?

A. What it is saying is under the north-westerly winds the fires would be heading in an easterly direction.
5

Q. The other thing that is curious about that, though, Mr Lucas-Smith, is if you go back over to page whatever it is, 0778, under "media" in the first sentence you have reported your conversation with Mr Cheney. Then the third sentence says:
10

"Mr Cheney stated that any strong westerly gusts of wind could turn the fire towards urban areas. There are currently no westerly winds forecast."
15

Do you see that?

A. Yes, I see it.
20

Q. That is completely at odds with what you have just referred to back on page 0776, which says - and this is on the 14th, the Wednesday:
25

"Long-term weather outlook details the temperature for Saturday at 35 degrees with temperatures for Sunday, Monday and Tuesday being hot with stronger north-westerly winds."
30

That makes a nonsense of the media item, does it not?

A. No, I don't think so. It is just a shorthand. It is virtually saying there are currently no north-west winds forecast for that time. We are on the 14th, which is Tuesday, and the forecast is - the outlook weather forecast is talking about Friday and Saturday. And what this is reflecting is that there are currently no north-west winds or no westerly winds forecast for our immediate planning responses.
35
40

Q. Mr Lucas-Smith, I frankly just simply do not understand that. Your planning meeting is told on the 14th, on the afternoon of the 14th, that on Saturday it is going to be 35 degrees and hotter,
45

probably, or hot at least on Sunday, Monday and Tuesday, with stronger north-westerly winds. That is only four days away.

A. That's right.

5

Q. Mr Cheney is saying, "If you get strong westerly winds the fire could burn into Canberra, or could turn the fire towards the urban area", as it is recorded there. Certainly in his conversation with you he expressed concern that in that eventuality there would be a risk to the urban area of Canberra. You acknowledge that. That is what he said?

A. Yes.

15

Q. It is a bit glib, isn't it, to toss it off by saying there is currently no westerly winds forecast when you know there are such winds forecast in three or four days' time?

A. Our planning meetings were primarily focused at the next 24-hour period.

20

Q. If anyone sitting at that meeting thought that if the fires could not be contained, and given the current outlook - which was not forecasting southerly winds and pouring rain, was it?

A. No.

25

Q. We are now in a situation where within three or four days there is a definite risk to the city of Canberra. We need to start thinking about planning. The planning process surely is not so inflexible that you do not think beyond the day or the next 24-hour period, surely?

A. Certainly not. But what these minutes also reflect is that we already stated what the weather was going to be and the weather forecasts. These minutes actually state what those forecasts are going to be. We had already given that advice. There's no doubt that that sentence appears to be inconsistent with that advice the way it is written. That does not mean it is wrong.

35

Q. I suggest to you that on a reading of this document that sentence is a somewhat flippant response to what was perceived to be a threat from Mr Cheney making public statements about the risk

40

to Canberra. And that in the course of dealing with that you or other people at the meeting, as well, were blinded by the reality. And the reality was that there was now, by this time
5 with this weather forecast and the fires and the condition they were in, there was an identifiable risk to the city of Canberra?

MR JOHNSON: Could I object to that on the basis
10 that it is a series of questions saying it was a flippant response and there are other elements. If propositions of this sort are to be put, I submit they should be broken up. There are a series of propositions put in that one question.

15 These are important matters clearly, if they are to be put. What is the witness being asked to answer; the first part, which raised flippant response, or the second part which involved
20 the series of elements. I object to the question being put on that basis, it being multi-faceted.

MR LASRY: If the witness is overwhelmed with the question I will put it some other way.

25 MR JOHNSON: That is not the point, your Worship.

MR LASRY: Q. Can we have, please, document [ESB.AFP.0110.0033] at page 0038, please. At
30 the moment, Mr Lucas-Smith, if you could just go down the page a bit, please, to the media section. We are not yet sure whose notes these are, but these are notes clearly of this meeting that we are discussing. You see there that the author of
35 the notes is recording, as we discussed yesterday, what you reported Mr Cheney was going to say. In the third line under "media" do you see:

40 "BoM" - Bureau of Meteorology - "west wind into city. Upset not forecasting west winds."

Does that note assist your memory as to who might have said that and who might have expressed upset?
45 A. Absolutely no idea at all. I am not too sure if it actually says "upset".

Q. I think it pretty clearly does, when you look at the hard copy. I will take your point. I think that is pretty clearly "upset". "Upset not forecasting W winds." Mr Keady is recorded in
5 the minutes as suggesting that:

"While westerly wind direction would make operations difficult, we are currently implementing measures to control this
10 possibility."

So is it possible that Mr Keady expressed some upset about the issue of westerly winds being forecast and Mr Cheney's statements generally?

15 A. I am not aware. I do not recall anything like that at all.

Q. We will ask the maker of the notes. Let me ask you again this question: seeing the matter had
20 been raised by Mr Cheney in his discussion with you, and seeing squarely, as far as he was concerned, at least, an effect on the Canberra suburban area was envisaged as a possibility and that he was going to say it publicly, and that
25 that prospect was being discussed at this meeting, did the meeting on 14 January at 4 o'clock devote any time at all to discussion about planning for that contingency?

A. I think all of our plans are for that
30 contingency. Our plans are to contain the fire, as to smaller areas of growth as we possibly could, to stop the other fire from breaking out. There was no doubt whatsoever that west or north-west winds were going to put pressure on our
35 eastern and southern boundaries, and particularly the south-east corner of our containment line. And they were always our priority.

Q. I will try to be more specific. Was there any
40 discussion about the planning that should be commenced to cope with the contingency that you might fail, and that New South Wales might fail in the containment of McIntyre's Hut and that your organisation, despite its best efforts, might fail
45 to contain the ACT fires, and that the fire could burn to the Canberra suburban area? Was that prospect discussed in the context of what needed

to be done to prepare for that eventuality?

A. Certainly not the last part of your statement. But certainly the whole of the planning process includes fall-back options. What happens if
5 the lines you are working on fail? I have said a number of times over the last few days we had a lot of difficulties identifying control lines to the east because of the existence of the Cotter River. We really had one aspect to work from.
10 But there still need to be identification of fall-back options from that point.

Q. Had there been discussions and involvement and specific planning and discussions involving
15 the ACT Fire Brigade itself about the prospect that over the next few days, as from 14 January, the suburban area might be directly affected by the fire?

A. I didn't specifically discuss it with the ACT
20 Fire Brigade in the sense that I think you are saying. But there were certainly numerous discussions that took place between myself and the fire commissioner as to what was going on. And even much earlier we had made some
25 arrangements regarding resources.

Q. Did the fire commissioner raise with you the possibility that would most directly affect him; that is, did he say to you, "Look, Peter, is
30 there any real risk that these fires will burn into the urban area of Canberra"?

A. No, he didn't.

Q. Never asked you?

35 A. Never asked.

Q. You certainly didn't venture that opinion to him?

A. No, I didn't.
40

Q. At the end of the day, according to your statement in paragraph 76, at the end of 14 January, you regarded the Bendora fire as just about contained; is that right?

45 A. Certainly the eastern and southern edges of the Bendora fires were contained, yes, or getting close to being contained. If I remember

correctly, there were some areas that our
back-burning had not been deep enough, and that
needed more work. But as far as the plant
operations were concerned, it was primarily
5 complete.

Q. Once Bendora was contained then
resources - the plan was to release resources to
the Stockyard fire?

10 A. The heavy plant resources, yes.

Q. Overnight on the night of the 14th
the Stockyard and Gingera fires joined, and you
discovered that when you started work in the early
15 morning of 15 January?

A. I found that - it was anticipated.

Q. I just want to ask you about one particular
document which you may or may not have seen
20 before. It is document [DUS.DPP.0001.0017]. It
is an e-mail message I think, and it is from Tony
Bartlett to Maxine Cooper, who is of DUS,
Department of Urban Services. This message is
sent initially at 7.36 on 15 January - 7.35am, it
25 would seem. Mr Bartlett is raising several issues
to her. Firstly he says:

"ACT Forests is probably going to
need support from Environment. ACT again
30 next week to man the front desk, depending on
progress of the fires. Can update again
later this week.

Secondly, we should give some thought to
35 training other people in DUS for firefighting
support. I expect these operations will go
on for a long time, and that is assuming
there are no more lightning storms. It would
be worth seeking volunteers from DUS to do a
40 crash course on firefighting. We could get
one of our people off-line for a day to run
the basic fire training modules and
the fitness assessment and then they could be
slotted in with Parks and Forests crews to
45 give us extra capabilities (RAFT et cetera)
and the ability to give others days off.
Also some of the leaders of the future could

be used to work with planning and logistics aircraft management people to learn that side of the operation, again to increase our flexibility.

5

Gordon is trying to find me some people to learn the art of following dozers around the fire line. I thought Roads might have some suitable people i.e. reasonably intelligent, fit and know what a bulldozer looks like. But Tony Gill said they could not find anyone suitable. Hopefully Gordon will find some suitable people today as I started the request on Monday afternoon. Cheers. Tony."

10
15

Do you know anything about those efforts to drum up further personnel to supplement the firefighting?

20 A. No, I'd not seen this email, and it sounds like a good idea to me.

Q. Can you get someone trained in a day to be appropriate for basic firefighting? Is that long enough?

25

A. It depends what you are going to task them to do. Obviously they are not going to have the experience of long-term or exposure to fires, but if you have other people doing tasks that are of a lighter duty, so to speak, that have got that experience, then it would be better for them to be to the forward more.

30

Q. So these people really would need to be people who were not in a frontline or risk situation. You would not want people with a day's training on the fire front itself?

35

A. I wouldn't want them on the fire fronts that we were experiencing at that time, yes.

40

Q. But they might be useful, perhaps, on constructing a containment line or something like that that was well away from the fire edge?

A. I think the options that Tony has outlined in his e-mail there seem quite sound to me.

45

Q. Were you aware of them?

A. No, I was not.

Q. Is this the first time that --

A. This is the first that I have seen this.

5

Q. Thank you. Later on that morning, on the 15th, was the next planning meeting, which is [ESB.AFP.0110.0142]. Just have a look through that. If I can take you particularly to page 3 or
10 page 0144, under "planning issues". It appears that the minute taker has recorded:

15 "The weather briefing would indicate that Monday is the operational deadline to secure operational strategies."

The weather briefing was a briefing given by a Mr Ian Mason, was it not, from the Bureau of Meteorology?

20 A. That's correct.

Q. As he already told us, he came to the ESB office on the morning of the 15th and provided an in-person briefing over the next few days as to
25 what he expected the weather to be like; is that right?

A. That's correct.

Q. Do you know or can you explain why Monday was
30 the operational deadline to secure the operational strategies? That is, Monday, 20 January. Is that based on what you were told by Mr Mason, do you believe?

A. Absolutely. What I believe is reproduced in
35 the planning meetings under "planning weather" is an exact account of Mr Mason's handwritten papers that he handed over at the time. Monday refers to a change with gusts up to 60 kilometres an hour. I think it is also referring too there his concern
40 over an approaching front on Monday, as it may bring dry thunderstorms and lightning.

Q. Mr McRae, on the previous day's meeting at
45 4 o'clock in [ESB.AFP.0110.0776], which is the afternoon before the meeting we are now looking at, said in relation to weather:

5 "Mr McRae stated this forecast" - and this is the one that we were discussing about whether there were westerly winds or not westerly winds - "indicates that strategies will be harder to complete and hold after Friday evening."

So how did the operational deadline shift out until Monday?

10 A. I don't think it has. I think it is just recognising at this particular stage that Monday was looking like it was going to be the worst day.

15 Q. Mr Mason gave evidence, as you recall, in October of last year here and said at page 92 of his evidence, referring to his notes, and the question was, I was taking him through his notes and I said to him:

20 "Q.Yes, and then for Saturday it obviously starts with your information that there was a front approaching the ACT. North-west to westerly winds; is that right?

25 "A.Yes, north, to north-west winds, 30 to 40 kilometres an hour. Trajectory from New South Wales and southern Queensland. Forecast minimum 15, maximum temperature 35 degrees plus.

30 "Q.So of the patterns so far obviously Saturday was the worst of those days from a fire weather situation?

"A.Yes.

35 "Q.Was there any discussion about the consequences of that at that meeting that you can recall?

40 "A.No, I think at that stage everyone accepts that forecasts four days in advance contain a fairly high level of uncertainty, and whilst there was definitely some interest, well, a great deal of interest in fact, that we were forecasting the weather to deteriorate from a fire weather point of view it was accepted
45 that that was the best forecast that could be provided at the time."

So as at the meeting on the 15th at 9.30am
Mr Mason has, according to his notes and his
evidence, briefed your meeting that of the outlook
period Saturday is going to be the worst of
5 the days; you accept, I take it --

A. Is that the outlook period from the 15th to
the Saturday?

Q. Yes, 9.30 --

10 A. Saturday was certainly going to be worse than
the 15th. There was no doubt about that. It is
not saying that it is going to be worse than
Monday.

15 Q. It does not matter, does it? If it is going
to be 35 degrees plus, it is going to be 30 to
40 kilometres an hour from the north-west, that is
a bad day?

A. Absolutely.

20

Q. The fire won't wait until it thinks it can
pick the worst day. The fire will react according
to the conditions that are prevailing?

A. Yes.

25

Q. Why didn't you think, as Mr McRae apparently
said the afternoon before, that the real cut off,
that is the date upon which the fire was going to
be difficult to hold, was Friday, not Monday? In
30 other words, that your tactical deadline was
Friday afternoon? Sorry, your operational
deadline. In the minutes of the 15th at 9.30
the phrase we started with is "the weather
briefing indicate that Monday is the operational
35 deadline to secure operational strategies." My
question is why wasn't the operational deadline
Friday, in view of what you were told by Mr Mason?

A. I am sorry, I am not really clearly
understanding your question because as
40 I understand it Mr McRae had indicated Friday
evening from the days before, and that is what we
were working to.

On the 14th we had our eastern and southern
45 containment lines put in place for Bendora. We
were also getting advice that the southern
containment lines for McIntyre's was already in

place, and we were moving our resources to
Stockyard to start work on those containment lines
and that down there. We were concentrating our
efforts on to the eastern and southern boundaries
5 of all of those fires.

I think that we were working towards Friday, and
what I think Mr Mason indicated to us that there
is a shift in the weather, we were going to move
10 into the north-westerly and westerly influences in
the next few days. And from my point of view
operationally we really needed to make sure that
we had our, particularly our eastern and southern
flanks as well contained as we could possibly get
15 them.

Q. I don't take issue with any of that,
Mr Lucas-Smith, and neither would Mr McRae,
I suspect. But the fact is that the author of
20 these minutes seems to conclude that the weather
briefing that you were given on the morning of
the 15th at 9.30 indicated that Monday was
the operational deadline to secure operational
strategies.

25 A. I think it is suggesting that Monday is going
to be the worst day.

Q. I am submitting to you, or putting to you as a
proposition that on the evidence the clear
30 deadline was Friday night or some time Friday --

A. And I don't have a problem with that.

Q. You don't disagree?

A. No.

35

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

40 THE CORONER: Yes.

SHORT ADJOURNMENT

[11.13am]

RESUMED

[11.40am]

45 MR LASRY: Q. Mr Lucas-Smith, I want to come back
for a minute - perhaps in the end I didn't ask
the question that I should have asked - in

relation to the discussion about the conversation you had with Mr Cheney, which is in document [ESB.AFP.0110.0775] at 0778. Am I right in saying that the paragraph which we were discussing
5 earlier, being as it is under the heading "Media", was really a discussion about media issues and how they were to be handled?

A. Yes.

10 Q. You had raised it in that context?

A. I had raised it in the context that Mr Cheney intended to make a media statement, yes.

15 Q. Was it, as a matter of policy, necessary that the Emergency Services Bureau make a response to Mr Cheney's interview if in fact it had gone to air?

A. It was not a matter of policy, no.

20 Q. In the item in the minute it would appear that Mr Keady at least was formulating a response by saying, "Well, while westerly wind direction would make operations difficult, we are currently implementing measures to control this
25 possibility"; in other words, in effect countering the risk or the threat that Mr Cheney seemed to be postulating. Did you have that impression?

A. I have no doubt that Mr Cheney's comments, if they had gone to air, would have sparked a lot
30 more media interest in those aspects, and I think they were formulating a response.

35 Q. But if Mr Cheney's interview had occurred and gone to air and in the interview he had said in effect, "If the wind changes to the west or north-west, these fires are now of sufficient size and danger that there is a significant risk to the metropolitan area of Canberra, at least the western side of it," that would have been a
40 fair comment for him to have made publicly, wouldn't it?

A. Yes, it is his opinion, as I understand it.

45 Q. And there would not have been anything wrong with the bureau saying, "Well, if those things happen, we agree that is a risk."

A. If I was asked that question I might have

responded that way, yes.

Q. So it is not a question of Mr Cheney needing
to be countered, unless he was saying something
5 that was absurd, or ridiculous or alarmist. But
you were not suggesting, were you, in what he told
you that he was being alarmist; he was simply
stating a reasoned opinion?

A. That is correct. That is certainly as
10 I understood it.

Q. I know Mr Keady actually said this, but when
he said, "A westerly wind would make operations
difficult", the minute records him as going on to
15 say:

"We are currently implementing measures to
control this possibility."

20 Presumably he was not suggesting that measures
could be implemented to control the direction of
the wind. So what was he referring to?

A. I think, if I could be so unkind, as a typical
CEO he was summarising the events of discussions
25 that had taken place and he was virtually saying
that we are in fact putting in place
the strategies, as we had been for a number of
days, to counter the westerly influences when and
should they arrive.

30 Q. Just describe those in summary form for us as
at 14 January at 4 o'clock in the afternoon. What
were the particular measures being implemented to
control the fire spread under the influence of a
35 westerly or north-westerly wind?

A. To deepen up our containment lines on our
eastern and southern boundaries, particularly in
our south-east corners, of the Bendora fire
primarily as our first priority, being
40 the furthest one north in the ACT, and moving our
resources to the Stockyard fire to try to achieve
the same thing.

Q. If I could go back to the 15th, one of
45 the significant days or one of the significant
events of the 15th, which commences to be outlined
in paragraph 82 of your statement, is that you

spoke with Mr Koperberg of the New South Wales Rural Fire Service. You say in your statement, I will just read a portion of this, your Worship:

5 "At about 1130 hours that morning" - that is
15 January - "Tony Corrigan, ACT liaison
officer at the Yarrawlumla Fire Control
Centre, telephoned to advise me that Phil
Koperberg and Brian Gilligan,
10 the Director-General of National Parks and
Wildlife Service, were in the Yarrawlumla
Fire Control Centre to meet with Bruce Arthur
over the Yarrawlumla Shire section 44 issues.
While I had not been informed of this visit
15 or that they might have any concern with
the threat to the ACT from the McIntyre's Hut
fire, I asked Tony Corrigan if he could put
Mr Koperberg on the phone. I then spoke to
Mr Koperberg and asked if I could meet with
20 him at Queanbeyan as there were some
strategic issues that I wanted to discuss.
I drove over there immediately" - presumably
you were told, "Yes, come over, he will talk
to you"?

25 A. (Witness nods).

Q. It goes on:

30 "I drove over there immediately and provided
a briefing on the situation in the ACT.
I then asked him what his level of confidence
was in relation to the McIntyre's Hut fire,
and he, Mr Gilligan and Mr Arthur expressed
great confidence that they had the fire
35 contained and that it was not going to be an
issue for the ACT. I then asked Mr Koperberg
for additional resources based on the fact
that they had already indicated to me that
they had confidence in the McIntyre's Hut
40 fire not being an issue. Brian Gilligan also
expressed to me that he had confidence that
the fires within the Kosciuszko National Park
(Broken Cart) would soon be contained and
that they were also not an issue, or threat
45 to the ACT. As a direct result of these
assurances, the resources I then requested
were to assist me in combating the two fires

that I had burning in the ACT at that particular time, albeit the Stockyard Spur fire was the only one that I still had containment issues to deal with."

5

You go on in paragraph 83 to describe what you requested, which was four task forces and five category 1s. What is a category 1?

10 A. A category 1 is a New South Wales category of a bushfire tanker, large bushfire tanker.

Q. So four task forces and five category --

A. No, that is four task forces of five category 1s. So that is 20 appliances all up.

15

Q. So your statement should read, "My request was for four task forces of five category 1s," which is 20 appliances, about 210 people capable of 24-hour operation for all those appliances. You said you also asked for incident management team resources and for RFS, Rural Fire Service, field command units for the resources. I am now summarising, but you also asked for aerial firefighting, and he agreed to provide what you had requested.

20
25

So the significant feature in the conversation that you had with Mr Koperberg was that Mr Koperberg was telling you McIntyre's Hut fire was contained and it would not be an issue to the ACT?

30

A. McIntyre's Hut fire was contained on the southern and eastern boundaries. The south-east corner was the area that was of concern to us for the ACT.

35

Q. You don't actually give that qualification in your statement. In your statement you say that he said that the McIntyre's Hut fire was contained and that it was not going to be an issue for the ACT. So which is it? Is it that it was contained or that it was contained on the southern and eastern borders?

40

A. I knew it was not contained totally; it was contained on the eastern and southern boundaries. They were the areas of concern to me.

45

Q. Am I right in saying that a consequence of that for you was that you felt that you could forget about McIntyre's Hut as any sort of threat to the ACT?

5 A. No, I certainly did not forget about McIntyre's Hut, but I felt I did not need to resource to combat an escape from McIntyre's Hut.

Q. Did Mr Koperberg express concern for
10 the western suburbs of Canberra if the fires were not controlled by the following Saturday?

A. I certainly don't recall that, no.

Q. Do you have a clear recollection of this
15 discussion, Mr Lucas-Smith?

A. Reasonably so.

Q. You are aware, I take it, that Mr Koperberg describes it in different terms from the ones that
20 you use?

A. So I believe.

Q. Have you read his statement?

A. No, I haven't. I beg your pardon, I think
25 I may have read his statement.

Q. I would be surprised if you had not, and if you have I do not criticise you for having done so. He says this, and the statement,
30 your Worship, is [NRF.DPP.0001.0014] at paragraph 5 and following:

"On Wednesday 15th January 2003 at
35 approximately 11.30 I attended a briefing at the Rural Fire Service headquarters and fire control centre in Queanbeyan which was the nominated EOC" - emergency operation centre, I presume that is?

A. Yes.
40

Q. "... for fires burning in the Brindabella Ranges area of New South Wales. The then Director-General of National Parks and Wildlife Service, Brian Gilligan, and Rural Fire Service
45 Assistant Commissioner, Executive Director Operations, Shane Fitzsimmons, accompanied me."

He describes being informed that you wanted to speak with him. You arrive. He says:

5 "Upon Mr Lucas-Smith's arrival we discussed
the progress being made on the containment of
fire on both sides of the ACT-NSW border.
Advice provided by the Bureau of Meteorology
was discussed in some detail. The Bureau of
10 Meteorology had been suggesting for some days
the possibility of extreme fire weather for
Saturday, 18th January 2003. I expressed
concern during this briefing about
the potentially serious implications for
15 the western suburbs of Canberra were
the fires not to be contained before
the onset of predicted weather. I considered
that, were the forecast conditions to
prevail, a significant threat existed to
20 the ACT if the fires currently being worked
on were not completely contained by 18th
January, and I subsequently expressed this
concern both at the briefing and during
the course of media interviews on the same
afternoon."

25 Just pausing there, do you agree that he expressed
those concerns to you?

A. I don't recall it.

30 Q. It is always difficult when someone says, "I
don't recall it." Do you allow for
the possibility that he did express those
concerns?

35 A. Well, what I will say is that, when he made
that statement to the media in the afternoon,
I was surprised.

Q. So when you say you don't recall it, you are
really saying you don't think he said it?

40 A. I don't think he said it.

Q. He sets out in his statement what he said to
the media. He quotes himself from ABC Television:

45 "'This is probably the worst threat to this
part of the state in many, many decades.
The Brindabella complex of fires are

certainly a potential threat to some very valuable assets, not the least being some mature pine forests on the border of Canberra and indeed the ACT itself.'

5

"I went on to tell the journalist, 'Given the fact that the weather is going to deteriorate at the weekend and possibly quite severely, the job is still ahead of them.'"

10

In paragraph 10 of his statement following that quote, he says:

"Given the scope and nature of the fires burning to the west of Canberra, I considered it unlikely that despite the best efforts of firefighters the fires would be suppressed prior to the onset of extremely adverse weather. In discussion with Peter Lucas-Smith, he said the ACT's resources would be insufficient in the event of the fire impacting upon Canberra and its suburbs. As a result, I offered during the meeting New South Wales resources for deployment within the ACT to the ACT Chief Fire Control Officer. The ACT Chief Fire Control Officer stated he would consider the offer and would contact New South Wales state operations centre specifying the extent of firefighting support considered necessary. The meeting ended at about 1300 hours."

In his account of that conversation he does not refer of course to what you say he said about the McIntyre's fire; in other words, he does not make any reference to telling you that the McIntyre's Hut fire was contained or at least contained on its eastern and southern boundaries. Are you confident that he said that?

40 A. When you say "he", there were quite a number of people in that meeting, including Bruce Arthur, who was the incident controller. It was Bruce Arthur who gave the brief on the current situation at McIntyre's fire.

45

Q. In your statement you describe it as something being said by Mr Koperberg, paragraph 82?

A. Yes, I noticed that when you read it out.

Q. That is an error in the statement, is it?

A. Well, it was something that was said at that
5 meeting by Yarrowlumla Shire representatives.

Q. What is it that, since October last year, has
prompted your memory so that you now think it was
not Koperberg but someone else who --

10 A. I am not saying it was not Koperberg; I am
just saying it could very well have been Bruce
Arthur who said it, but I do not know for sure.

Q. It probably doesn't matter who said it, but
15 certainly you say that was said while all persons
were present, including Koperberg?

A. Yes.

Q. Whoever said it, are you confident that is
20 what you were told?

A. Absolutely. That is why it made me make
the decision as to what resource I would request.

Q. He says in his statement, that is
25 Mr Koperberg:

"I expressed concern during the briefing
about the potentially serious implications
for the western suburbs of Canberra were the
30 fires not to be contained before the onset of
the predicted weather."

What do you say about that? Do you say that was
said or not?

35 A. It could very well have been said, and I would
have expressed the same concern if they were not
to be contained.

Q. As at 15 January, it was no sure thing that
40 the fires were going to be contained, was it?

A. The very reason I was requesting additional
resources.

Q. So are you saying this: that if Mr Koperberg
45 expressed concerns about the implications for
the western suburbs of Canberra if the fires were
not contained, they were concerns you would have

agreed with?

A. If the fires were not contained.

Q. Yes. That is what he is saying.

5 A. Yes. If the fires were not contained, definitely that is the direction the fires would run in.

Q. He is saying in his statement, in effect he is relating that he has told you, "If you do not get these fires completely contained", that is the phrase he uses, "by Saturday the 18th, then a significant threat existed to the ACT," and what he describes is serious implications for the western suburbs of Canberra. I withdraw all that. I am trying to give you information about what is in the statement.

It seems to me he is saying, and you can take issue with this if you wish, that he has told you, "If by Saturday you have not got complete containment of these fires, there will be serious implications for the western suburbs of Canberra"?

20 A. He didn't say that.

25 Q. Did he refer to the western suburbs of Canberra?

A. I don't recall any reference to the western suburbs of Canberra.

30 Q. Do you accept that he may well have said, "Uncontained these fires carry serious implications for the western suburbs of Canberra"?

35 A. I believe that that is what he said to the media later in the day, and that is why I said that was why I was surprised.

Q. You are saying he did not say that to you in the meeting?

40 A. I certainly do not recall that being discussed in the meeting.

Q. I am not sure when his television broadcast went to air, but it was obviously later that day. The 15th I think was a Wednesday. Did you see the broadcast of what he said that night on television?

A. No.

Q. When did you first realise what he had told the media?

5 A. I think some media people came to me with concern about what he had said.

Q. That day?

10 A. It could very well have been.

Q. On the Wednesday afternoon?

A. Yes, Wednesday evening or something - could have been. I don't know that for sure.

15 Q. But your recollection is that it is possible that someone from the media rang you and said, "This is what --

20 A. No, someone in my own media team had said this is what Mr Koperberg had said.

Q. Were you being asked for a response to what he had said?

A. No, I was not.

25 Q. Did you then ring Mr Koperberg and say, "What is all this?"

A. No, I did not.

Q. Why not?

30 A. Because others had agreed to do that.

Q. And who was that?

35 A. I understand Mr Keady intended to talk to Mr Koperberg.

Q. The gentleman who made the comment about the westerly winds?

40 A. Yes, the Chief Executive of the Department of Justice and Community Safety.

Q. Do you know whether he did speak to Mr Koperberg?

A. I believe he did.

45 Q. Do you know what the outcome of the discussion was?

A. No, I don't.

Q. Going on a little bit further with Mr Koperberg's statement, he quotes you in particular - not quite quotes you but summarises something you said. In paragraph 11 of his statement he says this:

5
10 "In discussion with Peter Lucas-Smith he said that the ACT's resources would be insufficient in the event of the fire impacting upon Canberra and its suburbs."

Did you say that to him?

A. I don't recall saying that. I said that our resources were certainly insufficient to even contain the fires that we currently had, let alone if the fires escaped.

Q. There may not be all that much difference between what he says and what you say. He is saying that you were identifying an insufficiency if the fire actually affected Canberra and its suburbs. Did you refer to the insufficiency as far as the ACT was concerned in that event?

A. No, my intention was still to keep the fires west of the Cotter River.

Q. Yes, I know it was, Mr Lucas-Smith.

A. That is what I was seeking resources for.

Q. Of course. But it is clear, isn't it, that Mr Koperberg is describing a contingency that needed to be planned for, which is that the fire would not be contained and it would hit Canberra and the suburbs. If I could go to the broad for the moment, do you accept that that was a topic of discussion between the two of you at lunchtime on 15 January?

A. No, I don't.

Q. You don't?

A. I don't.

Q. Not at all? No reference to the suburbs?

A. No reference to the suburbs that I can recall.

Q. No reference to a prediction by him that that was a significant possibility?

A. No reference to that at all that I can recall.

Q. No reference to the potential serious implications for the suburbs if there was not
5 containment before the onset of the predicted weather?

A. Certainly as far as the mention of suburbs and urban area, there was no discussion in relation to that. We certainly talked about if the fires
10 escaped and impacted into the ACT, the pine plantation area was an area of discussion, but we did not get outside of that area.

Q. Mr Keady in his statement, which is
15 [ESB.AFP.0111.0303], does not make any reference in his statement to any contact with Mr Koperberg. So I suppose the answer is we will have to ask him when he gives his evidence.

A. I have not read Mr Keady's statement at all.
20 I don't know what it says.

Q. This was not the end of Mr Koperberg's discussion about this meeting in the media, as I suspect you recall. I wonder if we could
25 have - I will come to it in a moment. What I am referring to, your Worship, is an interview between Kathleen Hyland of the ABC and Commissioner Koperberg on 'Stateline', and I think it was in or about May of last year in which these
30 matters were discussed. I will get the reference in a moment. I can probably supply at least as a fill-in some copies of the transcript.

MR JOHNSON: I think it is [DPP.DPP.0004.0049].
35

THE CORONER: Thank you, Mr Johnson.

MR LASRY: Thank you, Mr Johnson. I have another transcript of it which is in a different format,
40 and I think it is appropriate, your Worship, that we are all working from the same transcript. That is it. Thank you. I will endeavour to identify the date, but I think the date is something like May of last year - it is 16 May 2003. It is part
45 of an ABC 'Stateline' program.

Q. I am content for you to read this to yourself

perhaps over lunch or as you need to,
Mr Lucas-Smith, if you have not already because
I am not going to read the whole document, but
I am going to take you to parts of it. I will
5 endeavour to take you through it and summarise as
we go and you tell me if you do not feel that you
are able to - if you are disadvantaged by not
having the hard copy in front of you.

10 Mr Koperberg is being asked initially about
whether enough was done in relation to the fires
in those early crucial days, and his answers to
those questions are probably a matter to be taken
up with him. On page 2 of the transcript in about
15 the middle of the page he is referring to
the meeting on Wednesday the 15th and the question
is asked:

20 "Hyland: Given your experience and
relationship with the Bureau of Meteorology,
did you push the ACT at that meeting on
Wednesday to take more resources than simply
four task forces?

25 "Koperberg: Four task forces, I should add,
is 20 tankers as you have already mentioned
and is not an inconsiderable amount of
resource, of course.

30 "Hyland: Did you privately believe that was
enough?

35 "Koperberg: I would rather not go into
the realms of what I privately believe.
Suffice it to say that we were very concerned
about the threat to Canberra and hence our
open-ended offer. Now, there was" --

40 Just pausing there, it is clear that he is saying
that he was concerned about the threat to
Canberra, not just the threat to the ACT, and that
his offer was open-ended. Do you accept that his
offer was open-ended?

45 A. He was prepared to - he asked me what
I wanted.

Q. But you take issue with whether or not there

was concern expressed about a threat to Canberra as opposed to a threat to the ACT?

A. Yes.

5 Q. Going on:

"Now, there was fairly colourful language used during the - when I say colourful, I mean emotive language used during
10 the meeting on the part of several people at it, certainly not by Peter Lucas-Smith or I or my senior staff, but the threat was very real.

15 "Hyland: Like what? What kind of emotive comments?

"Koperberg: Well, 'Canberra's going to get
20 hammered', for argument's sake. People speculate, and they are not necessarily always in full possession of the picture and the progress being made on the fires and so forth."

25 Do you recall the use of emotive language during that meeting and anyone saying in the room, "Canberra is going to get hammered"?

A. Certainly not.

30 Q. So he is wrong about that?

A. Yes; well, in relation to that meeting.

Q. I think it is clear beyond any dispute that he is describing people in that meeting, not you and
35 not him, but other people taking part using that kind of language. You don't recall anyone saying that?

A. No. The meeting didn't last very long, and it was an easy conversation.

40

Q. So can I take it that it is not a matter of not recalling; you are confident no-one said, "Canberra is going to get hammered"?

A. I certainly don't recall any such statement.
45 I would have certainly recalled a statement like that.

Q. You would recall it if it was said?

A. (Witness nods).

Q. The answer goes on:

5

"But 20 tankers is nevertheless a considerable amount of resource. Now, I may well have privately believed but that may not have been enough" - he said earlier he was not going to talk about his private view, but now he is - "I guess my belief, we tend to base our beliefs on our own experience and I am very conscious of the fact that how we might do things in New South Wales is not necessarily appropriate for the ACT or for Canberra.

"Hyland: Could I ask you this: at that meeting did you get the feeling that the sense of urgency that New South Wales was expressing was not being expressed in the ACT?

"Koperberg: In the context of acknowledging that they may well have been aware of more facts than we in New South Wales were aware about their potential exposure, yes. I guess based on our reaction to a not dissimilar situation in New South Wales, we were a little surprised that it wasn't obviously apparent that the extent of the threat was so great.

"Hyland: Should the ACT have been planning for a worst case scenario?

"Koperberg: Yes, and I am sure they would have been. Again, I need to stress it is a question of doing things differently. We tend in New South Wales to in fact go straight to the community and confront the people in the community - tell them what's coming and all the things they ought to do and ought not to do. They almost constitute street meetings, where we try and capture every single householder and we produce maps of where the impact areas are

going to be. We produce a lot of literature pointing out what it is we are going to do in terms of a major campaign like that, because the biggest protection available to us
5 against the sort of loss that we saw was in fact - is in fact a well prepared community who can do a lot if they stay with their house."

10 There is a certain amount of opining about the benefits of what they do in New South Wales and so on. But Mr Koperberg seems to be painting a picture in this interview that in the room at the meeting on 15 January there was a sense of
15 urgency on the part of the New South Wales participants about the threat to Canberra and an insufficient sense of urgency on the part of you and your people. Do you have any comment to make on what I have just read to you and that question?

20 A. The only comment that I would make is that when I made my request for the resources he very willingly provided those in a very cooperative sort of a way, but he did not express any opinion as to whether or not he thought it was adequate or
25 inadequate.

Q. Mr Koperberg is a very experienced firefighter and now commissioner, is he not?

A. Yes.

30

Q. If he was of the view that what you had requested was not sufficient, is there any impediment that you could see as to why he wouldn't tell you that he didn't think it was
35 enough?

A. I would have liked him to. There is no impediment that I was aware of.

40 Q. Part of the questions and answers that I read to you was the question posed, "Should the ACT have been planning for a worst case scenario?" and his answer dealing directly with that question was, "Yes, and I am sure they would have been." I have to ask you: were you planning for a worst
45 case scenario as at the 15th?

A. As I said before, we were working on containing the fires we had. We had fallback

options. We had difficulties in locating where they might be because of the terrain features, particularly the Cotter River, which limited us quite considerably in relation to what we could do to the east. But we had put our containment lines in; we were asking additional resources to assist us to do this more rapidly for Stockyards; we had already moved our resources to the south. We were doing all we could.

10

Q. Yes, but were you planning for a worst case scenario?

A. We were planning in the event that the fire would not be held within the Bendora or Stockyard proposed boundaries. But can I ask you to define "worst case scenario"?

15

Q. Yes, I will define "worst case scenario" for you: what happened on the 18th.

A. I was not planning for what happened on the 18th.

20

Q. Or anything like it?

A. Or anything like it.

25

Q. And you were not making any plan for anything like that as at 15 January?

A. Certainly not.

Q. Thank you. The next thing I wanted to come to was the planning meeting at about 4 o'clock on the 15th. I am sorry, I withdraw that,

Mr Lucas-Smith. Before we come to that, there is another document that I need to ask you about.

The document is [ESB.AFP.0110.0115].

The document, the number of which I have just read, is the request for Commonwealth physical assistance prepared by Mr Castle on Wednesday the 15th at about 1 o'clock. The physical assistance being sought was a 30,000-litre or larger water tanker requested to fill portable reservoirs, and it was requested to arrive at the Stromlo depot on the Cotter Road, Duffy. I take it you are aware of this request going in and approved it and agreed with it?

40

A. I made the request to Mr Castle, who implemented it through the Commonwealth liaison

arrangements.

Q. In the description of the situation in that document, at 1 o'clock on 15 January, it says:

5

"Two of the three fires have now joined forming two large fires. The weather forecast for the weekend and early next week predicts temperatures in the high 30s with strong winds gusting to over 60 kilometres an hour from the north-west causing concern for the ACT urban environment. Current inversion layer has reduced visibility, preventing aerial water bombing operations, which has impacted on the ACT's ability to implement successful control strategies."

Then it refers to the helicopter accident the previous Monday. Was that description of the situation one that you agreed with?

20

A. That was his description that he chose to use for that request.

Q. I know it was. The question I asked you was: was that description of the situation a description that you agreed with?

25

A. They are not the words I would have used.

Q. What would you have said?

30

A. I am not going to rewrite it. I would not have used the words "causing concern to the ACT urban environment".

Q. Because you didn't believe there was any?

35

A. At that particular time, I felt that we still had potential for intervention if we got the resources that we needed.

Q. I know I keep harping on this, and I am sorry to be repetitive about it, but a risk to the Canberra urban area was not simply theoretical on Wednesday the 15th; it was a distinct possibility if certain things happened?

40

A. In relation to the Bendora and Stockyard fires, if they were under a north-west wind influence, they were going to be pushed further to the south and south-west; if they went due west,

45

the Bendora fire certainly had the potential to impact upon the southern suburbs of Canberra and rural properties, which is our first concern.

5 Q. And were warnings being issued to the people who lived in the rural properties in that vicinity as far as you are aware?

A. Well, what do you mean by "warnings"?

10 Q. Were people being contacted? Were there people in the local areas who were telling them that those landholders in the areas where you thought there might be an initial problem should start taking precautions and start making
15 arrangements and implementing their plan or whatever they were going to do?

A. I am not aware of any direct things that were put in place to provide those warnings other than the media stuff that was already in place and
20 the fact that a lot of those rural people were a part of our volunteer brigade system anyway.

Q. You would not rely on that. You would want to have a coordinated process by which people were
25 being informed that at a senior or planning level it was obvious to the people involved in planning that there was now a distinct risk to particular areas where there were people living?

A. I am not aware of any warnings that were
30 issued.

Q. Shouldn't there have been warnings at this stage?

A. I think there should, yes.
35

Q. And there weren't any?

A. There weren't any.

Q. Whose responsibility is the lack of warning at
40 that stage?

A. I assume it is mine.

Q. All right. Who else in the ordinary course of - you cannot do everything
45 obviously - the procedures at ESB should be in charge of issuing warnings such as that?

A. As I have said before, our media section,

which is media and information awareness, is a part of our planning section. They get their information from that and they produce the media advice.

5

Q. I take it you are accepting that in that area and at least to this extent as at the 15th there was a serious deficiency?

10 A. I think our media arrangements and our advice to the community was sadly lacking.

Q. Sadly lacking. Having dealt with that, can I then come to the planning meeting at 4 o'clock on the 15th. The document is [ESB.AFP.0020.0368].
15 One of the things about these minutes - do you have it?

A. This is which; what date and time?

Q. 4pm.

20 A. 4pm on the 15th?

Q. Yes.

A. Yes, I do.

25 Q. One of things that arouse my curiosity about this document is that, unless I am missing something, you do not in your report to the meeting report what you had been told at 1.30 that day that at least on the southern and eastern
30 boundaries the McIntyre's Hut fire was regarded by New South Wales as contained and would not be an issue for the ACT. I will give you a chance to have a read through it, but I don't think --

35 A. Are you referring to 1.30? What happened at 1.30?

Q. I am sorry. What you were told at - 11.30, I think. In your discussion with Mr Koperberg?

40 A. I am sorry --

Q. You go to see Mr Koperberg, you have your discussion, which includes an assertion by him or someone on his behalf at that meeting that McIntyre's Hut would not be an issue for the ACT,
45 and I assume that that was good news as far as you were concerned. But you do not appear to have reported that to this meeting?

A. In the very first line it says:

"Mr Lucas-Smith reported that a request of
NSW resources assistance had been accepted."

5

Q. Yes, that is right. I agree with that.
The request for assistance had been accepted.
I agree with that. You go on to outline the four
task forces and so on.

10 A. Yes. I am sorry, I am not understanding your
question.

Q. The question is you were also told, apart from
your request for assistance being accepted, that
15 McIntyre's Hut would not be an issue for the ACT
in that meeting. What I am curious to know is why
that is not part of your report?

A. "McIntyre's Hut - south and eastern boundaries
of McIntyre's Hut fire had been contained".

20

Q. Where are you looking?

A. I am on the second page under the heading
"McIntyre's Hut".

25 Q. Okay. Quite right. You do say that. What
about the reference to what you say you were told
by Mr Koperberg that the fire would not be an
issue for the ACT?

30 A. I didn't convey to the planning meeting my
full discussions or anything with Mr Koperberg,
and the fact that I don't know that that was
actually even mentioned at that meeting, so I was
not going to repeat it.

35 Q. I did not quite understand that. You do not
know whether what was mentioned?

A. That there was a threat to the ACT, the urban
areas of the ACT, discussed at that meeting.

40 Q. At the meeting with Koperberg?

A. Yes.

45 Q. I think you have misunderstood my question.
I am sure it is my fault. What I thought had
happened at the meeting with Mr Koperberg on
the late morning of the 15th was that you were
told by him that, according to your statement, he,

Mr Gilligan and Mr Arthur expressed great confidence that they had the McIntyre's Hut fire contained and that it was not going to be an issue for the ACT. I presume what you intended to convey in paragraph 82 of your statement was that what you were being told was, as far as the ACT was concerned, it needn't be concerned about the effect on the ACT from McIntyre's Hut. Is that a fair summary of your impression from Mr Koperberg's --

5
10 A. Yes.

Q. And that that was his opinion or that was the opinion of people in his team?

15 A. Yes.

Q. All I am asking you is why that opinion, as expressed to you, was not repeated in this meeting. I take your point; you do say the south and east boundaries of the McIntyre's fire had been contained. But you do not appear to report, I don't think, that you had been told by senior New South Wales officers that in their opinion that fire would not be an issue for the ACT at all - I withdraw "at all" - would not be an issue for the ACT?

20
25 A. No, I don't recall conveying that sort of information.

30 Q. Was there any particular reason why you wouldn't report that?

A. I think from the planning meetings, our planning meetings were restricted to 30 minutes. The information that all they needed to know was the southern and eastern boundaries were contained.

40 Q. I want to come to 16 January. In relation to the 16th, there are a number of meetings which occurred. I must say for myself I am not clear as to the order in which they occurred. I don't think it is clear from your statement. There was first of all on the 16th a planning meeting, is that correct, at 9.30?

45 A. Yes, I believe so. There was certainly a planning meeting at 9.30.

Q. I am not absolutely convinced that you were at it, because Mr Graham opened the meeting on your behalf. This is in document [ESB.AFP.0004.0219].

A. No, I was not at that meeting.

5

Q. Where were you at 9.30?

A. I was attending a cabinet briefing.

Q. So at 9.30 there was the cabinet briefing?

10 A. I think we were set for 9 o'clock.

Q. And then after the cabinet briefing there was another meeting at 2 o'clock?

A. Yes, a briefing, not a meeting as such.

15

Q. Who was that for?

A. That was for the ACT Fire Brigade and other ESB agencies.

20 Q. You don't, as far as I can tell, seem to refer to that meeting in your statement. Am I right about that?

A. I don't recall whether I did or I didn't.

25 Q. I don't think you did. You don't refer either to the cabinet briefing or to the 2 o'clock meeting, I don't think, in your statement. You will take my word for it?

A. I am taking your word for it, yes.

30

Q. What was the idea - I will deal with this one first - of the meeting at 2 o'clock with the ACT Fire Brigade?

35 A. I had been, as I said earlier, continually keeping the Fire Commissioner up to date. We needed to engage the fire brigade, the ACT Fire Brigade, into the arrangements because the potential existed for impact on rural ACT. Under the provisions of the Bushfire Act the fire
40 commissioner is responsible for fire inside the built-up area as defined under the act and buildings in the territory. So, if rural property was to be threatened, it was a fire brigade issue and responsibility.

45

Q. Was Mr Peter Cartwright at that meeting, do you recall?

A. I believe so.

Q. Do you agree with this: that you briefed that meeting for about 40 minutes?

5 A. I thought it was a shorter time than that.

Q. Could be 40 minutes?

A. Could have been, but I think that is a bit unlikely. I was actually trying to keep it brief.

10

Q. Do you agree that you said in summary that easterly winds had been predominant since January 8th, 2003 and they were predicted to turn to the west, north-west, on Friday the 17th?

15 A. Yes, something along those sort of lines, yes.

Q. And that forecast temperatures were in the mid-30s with winds from the west to north-west of 25 to 40 kilometres predicted for Friday?

20 A. Yes.

Q. So you are outlining the weather. That sounds right, doesn't it?

A. Yes.

25

Q. "Wind speed and temperature would both increase over the coming days until it peaked on Monday with temperatures around 39 degrees. Monday was predicted as the worst fire danger day in Canberra's history." Do you remember saying that?

30

A. Yes, I do.

Q. You went on, according to Mr Cartwright's statement, to say that the fires had been growing in a westerly direction since 8 January, even with best efforts to contain them. That is right, isn't it?

35

A. Yes.

40

Q. You advised that the two fires, Gingera and Stockyard, had merged in the previous 24 hours, which is true?

A. Yes.

45

Q. And predicted there was a 50:50 chance that the fires would break containment lines driven by

the westerly winds. Do you remember saying something to that effect?

5 A. I would certainly have said something to the effect that there was certainty going to be pressure on our containment lines as a result of these north-westerly winds. Whether I would have put some sort of probability percentage on it, I would think it is unlikely.

10 Q. Mr Cartwright's recollection is that you said there was a 50:50 chance that the fires would break containment lines driven by the westerly winds. You do not recall saying that?

15 A. I don't remember saying that, no.

Q. Did you have a map on the wall which outlined the extent of the 1939, 1952 and 1985 fires during this briefing?

20 A. I certainly had a map on the wall. It was a very simple map of the ACT - the total ACT area. I had marked on the map where some of the main lineal features were and where the current fires and that were burning. I cannot recall at this particular time - I certainly did not have a map that had anything printed on it in relation to
25 the fire history of those dates that you talked about. I certainly remember drawing on that map with a texta to outline what that history was.

30 Q. He says you made the point that each of the fires in those years started in the Brindabella Ranges.

A. Yes.

35 Q. And had a major affect on the ACT.

A. Yes.

40 Q. And he said you predicted in this meeting that this fire would do the same. Do you remember saying something to that effect?

A. I might have said that this fire is doing the same kind of thing, yes. I don't know what you mean by "did the same". I don't know what he means by "do the same".
45

Q. He said you referred to one particular fire. I am not sure whether it is the 1939, 1952 or 1985

fire which had come through to where the Woden Hospital now is. Do you remember discussing that?
A. The 1952 fire, yes.

5 Q. Do you remember outlining that?

A. Certainly if I was giving a bit of a potted history of those fires I would have said that; yes, probably.

10 Q. He says that you then said that the suburbs of Weston Creek and Tuggeranong were suburbs at risk. Do you recall identifying them as being suburbs at risk?

A. No, because I never at that stage felt that
15 Weston Creek was at risk because Bendora didn't have the potential unless it came on a south-westerly to burn in towards Weston Creek. Certainly the bottom end of the Canberra suburbs in the Tuggeranong area was an area at risk.

20

Q. I want to make it clear to you that what Mr Cartwright was saying, and he has recorded it in his notes - and I am putting this to you so you can comment on it; he will give his evidence of
25 course and we will see what is correct at the end of that process - but he says that you said, "These fires will do the same as the fires in 1939, 1952 and 1985, that the western suburbs of Weston Creek and Tuggeranong were at risk".
30 I have put that to you, and you have said that you don't recall saying that.

A. I certainly do not recall saying that. I certainly recall talking about areas at risk, but being that specific I certainly don't recall
35 and I think it is doubtful I would have said such a thing.

Q. His statement and note indicates that you advised the meeting that you did not want to alarm
40 the public and the media about the risk. His note records that the information that you were providing was not to leave the room. His note also records that you said that you would deny it if it got to the media. Then his written note,
45 the next thing that he writes in handwriting is "suburbs at possible risk from the Namadgi fires were the western suburbs of Tuggeranong and Weston

Creek". Is that correct, Mr Lucas-Smith?

A. No. I certainly don't recall it being in that sort of context, no.

5 Q. You know why this is important, so I want to be clear about your answer. Did you say that there were risks to the western suburbs of Weston Creek and Tuggeranong at that meeting?

10 A. I cannot be definitive. I cannot remember what I said, but I certainly find it doubtful that I would have included Weston Creek in any such statement.

15 Q. Did you in the course of this meeting say that you did not want the public alarmed and that the information which you were imparting at this briefing was not to leave the room?

A. I certainly don't recall making that sort of a statement.

20

Q. Do you deny making it?

25 A. I don't know. I might have been - there might have even been some friendly discussion or even banter about it. But we were talking fairly frankly. I find it interesting, because the whole reason I called this meeting was to actually engage the fire brigade into the process and to try and bring them on board. Why would I say it is not to leave the room? I am having difficulty
30 thinking about the logic of that.

35 Q. I know I am the one who is supposed to ask the questions and not answer them, but I think the response to your question just posed then was that you didn't want the information to leave the room, according to Mr Cartwright's note, because you didn't want to alarm the public. I will read you what he has written in his diary for 16 January. This document is
40 [ESB.AFP.0026.0195]. I will go back a step and just read you the whole entry. This is you talking:

45 "You showed the extent of fires on the map for 1939, 1952 and 1985. Possibility this fire could do same. Advised didn't want alarm public and media. This info not to

leave room. Said he would deny it if it got to media. Suburbs at possible risk from Namadgi fires were west suburbs of Tuggeranong and Weston Creek."

5

Is there any aspect of that note which you accept that you said or do you say that you didn't say any of those things?

10 A. The briefing that I was giving to the ACT Fire Brigade and what I was trying to do is engage the ACT Fire Brigade in the protection of rural properties. I was not talking about urban edge of Canberra. I was talking about rural properties, and I was talking about structure protection in
15 the rural environments of the ACT.

Q. All right. We will do it in pieces then. I think you have already agreed that you made some reference to the fires of 1939, 1952 and 1985?

20 A. Yes.

Q. I am not sure now what you said when I asked you earlier. Did you say something to the effect that there was a possibility that this fire could
25 do the same? When I say "this fire", I mean these fires presumably, the fires that were currently attempting to be controlled?

A. I may have said something like that, yes.

30 Q. Did you say any words to the effect that you didn't want to alarm the public or the media?

A. I certainly don't recall saying that, and that does not sound like the sort of thing I would say. I might have said we were having a co-ordinated
35 media response and that we needed everybody to be co-ordinated through the same media response arrangements. But that does not sound like me.

40 Q. All right. It does not sound like you. Were you as at 2 o'clock on Thursday, 16 January concerned about not alarming the public?

A. I don't recall that being a particular thought in my mind.

45 Q. Can I take it that when you say things like "I don't recall" that that means you are unable to remember thinking that or unable to remember

saying something, but that you allow for
the possibility that you either did think it or
did say it; or are you saying "I didn't ever
think - I never thought there was a problem about
5 alarming the public and I never made any comment
about alarming the public"?

A. I don't think I can be that categorical.

10 Q. So you might have said something to that
effect?

A. I might have said something, but I certainly
don't recall saying that. In fact I think there
was 15 or 16, maybe more, people in that
particular room at that time at that particular
15 briefing. I wonder if everybody shares the same
view, that is all.

Q. I can tell you in fairness to you,
Mr Lucas-Smith, that some of them do. Some of
20 them refer to this and some of them don't.

A. Okay.

Q. I think that will become clearer in the course
of the evidence as to who agrees and who does not
25 agree with Mr Cartwright. But the reason, and
I should make this clear to you as well, I refer
to Mr Cartwright's material is because he appears
to have made a contemporaneous note. So on one
view of it, and I am simply asking you these
30 questions to give you a chance to comment, his
evidence is the best or most contemporaneous
evidence. Do you understand? I was not going to
take you through every other statement, but this
is the thrust of what is being suggested.

35 The other thing that I want to finish this
particular section on is this: do you accept or
deny or are you not able to say that in the course
of this particular part of your briefing you did
40 say the information you were imparting was not to
leave the room?

A. I think that is unlikely.

Q. Unlikely. And that if it got to the media you
45 would deny it?

A. I think that is very unlikely.

Q. I have actually jumped out of order. That is 2 o'clock on 16 January, that briefing, isn't it?

A. Yes.

5 Q. The first thing you did on the morning of the 16th was the cabinet briefing, and I wonder if we could have --

A. It was not the first thing I did.

10 Q. I am sorry, quite right. But you were not at the planning meeting?

A. At 9.30, no.

15 Q. Because you were at the cabinet briefing and, as you said before, you were scheduled for 9am and I think you started a bit later than that?

A. Yes. I commenced work somewhere around the order of 7.30am that day.

20 Q. The first document I want to show you is really a formality. It is [DPP.DPP.0003.0084]. There is only two pages to that. The document is in fact the cabinet minute, Mr Lucas-Smith, and it appears that - I probably should have shown
25 the other one first, but this is quicker to deal with.

The cabinet minute records in decision number 0516 that the briefing tabled by the Minister for
30 Police and Emergency Services is noted. There is advice on costs. The cabinet also notes that a public information system has been put in place and will be activated as required by ESB in
35 consultation with the Department of Urban Services, and noted that if the situation deteriorates (1) under the Emergency Management Act the Chief Minister can declare a state of
40 emergency, at which time the chief police officer is transferred into the position of controller and the chief executive of the Department of Justice and Community Safety becomes responsible for
45 coordinating support within the administration, and that it may be necessary for cabinet to be recalled to decide or if necessary the Chief Minister may decide alone whether to withdraw, abandon or protect specific property or assets. That seems to be the outcome.

The briefing itself is document
[DPP.DPP.0003.0078]. You may already know
the answer to this, but if you need to see
the document then there it is. Do you know who
5 prepared this document? Do you have a copy of it?
A. I have a copy right here.

Q. Do you know who prepared it?
A. I am not 100 per cent sure about that, but
10 I think it was primarily prepared by Mr Castle and
Mr Keady.

Q. I have never briefed a cabinet, I have to say,
so I have no idea what happens. You go along at
15 the appointed time and are taken presumably into
the cabinet room?
A. That's correct.

Q. And all those esteemed gentlemen are sitting
20 around the table?
A. And ladies.

Q. Yes, of course. My sincere apologies. They
all have this document in advance or is
25 it distributed?
A. I think we took it with us and distributed it.

Q. Who went, apart from yourself?
A. Mr Castle and Mr Keady.

30 Q. Who was the spokesperson or did you all
participate?
A. Primarily, Mr Keady did a very brief
introduction, Mr Castle spoke about emergency
35 management matters in the broader context, and
I talked about the actual fire and what it was
doing.

Q. You saw this document obviously before it was
40 handed over, and I take it accepted that it was an
appropriate briefing paper?
A. Yes.

Q. We will just go through it briefly. It gives
45 a fire history on the first page and describes
tactics that have been employed up to date. It
also gives a very brief summary of the weather,

but attaches a summary. It says:

5 "The general wind direction since the start
of the fires has had easterly components each
day, except for some afternoon slight
north-westerlies over the last two days.
The prevailing winds are from north through
to westerlies and these are generally hot,
dry and can be very strong. A weather
10 summary is attached" --

-- which I think is the fourth page. If you go
across to that fourth page, which is 0081, it
says:

15 "For Saturday winds will be from the north
north-east, freshening to 30 to 40 kilometres
an hour" --

A. I think it says "north-west".

20

Q. I am sorry, you are quite right:

25 "Winds will be from north north-west
freshening to 30 to 40 kilometres per hour
with hot dry air coming from New South Wales
and Queensland. Temperature expected to be
35 degrees plus. Change will potentially
move through late Friday, Saturday, which
will weaken as it moves east. Monday" -
30 which is a day that you concentrated some
attention on as well - "is also forecast to
be hot, dry north-west winds ahead of a
change late Monday evening. The front could
possibly hold off until Tuesday. Low
35 humidity. Temperature is expected to be in
the high 30s, with wind speeds 35 to
45 kilometres per hour, gusting 60 kilometres
plus. This is very unusual and severe hot
dry weather currently being described as a
40 one in 40 year event."

I think that last sentence, I take it, primarily
is intended to attach to the forecast for Monday,
is it?

45 A. That's correct.

Q. Going back to page 2 --

A. Sorry, just on the final part in relation to that, there is a final paragraph there regarding thunderstorms and it also refers that there is a concern over the approaching front on Monday.

5

Q. Yes, because it may bring dry thunderstorms and more lightning, which was the problem back on 8 January. In relation to the fires themselves, on page 2 dealing first of all with the New South Wales fires - this is the day after your discussion with Mr Koperberg - the dot points indicate:

15 "Both the ACT fires have crossed into New South Wales. Mt Morgan fire to the south-west has been contained by New South Wales. McIntyre's fire to the north-west has secure containment lines to the south and east following back-burning operations. 20 However, with stronger winds from the north-west there is always the potential for spotting over the containment lines, which has the potential serious impact to ACT Forests pines and subsequently the urban 25 area."

So I take it by the 16th at 9.30am, or indeed when this briefing was finalised, it was now recognised that there was a potential serious impact to the urban area of the ACT?

30

A. Well, yes, I suppose that is the simple answer to your question. But it needs to be also put in the context.

35 Q. Can I put to you it is the usual context, which is assuming certain things?

A. Yes.

40 Q. I am not suggesting that you are of the view that at this stage --

A. I am painting a worst case scenario to the best of my ability.

45 Q. -- it was all over red rover, as it were, but simply that there was now a potential serious impact for the urban area if things went wrong, both in the weather, in a containment line and a

resource set of circumstances?

A. Yes. That potential existed.

5 Q. Yes. And obviously I assume the members of the ACT cabinet were interested in it?

A. Very interested in it.

Q. Was it discussed? Were you asked about it?

10 A. I certainly don't recall a great deal of questioning. It was generally a briefing that was given.

15 Q. Is it open in a cabinet briefing for members of the cabinet to ask questions either during or at the end of the briefing?

A. I would assume so.

Q. Did that happen on this day?

20 A. Not to a great extent.

Q. Well, to the extent that it did happen, did anyone ask questions about that third dot point under the New South Wales fires?

25 A. I don't recall that being discussed.

30 Q. Just on that topic, if I can go further down that page, the briefing paper lists the assets under potential threat, and in the seventh dot point, I think, the urban edge is particularly referred to?

A. Mm-hm.

35 Q. This briefing makes it clear, doesn't it, that as at the morning of 16 January there was now a recognised potential serious impact to the ACT urban area? That can be taken to be, can't it, the state of mind or the state of the situation within ESB on the morning of the 16th?

40 A. Eventually, if intervention failed.

Q. You remember we discussed earlier about what the operational deadlines were, whether it was Friday or Monday?

45 A. Mm-hm.

Q. And I think you were giving answers to questions suggesting that Monday was a realistic

operational deadline and I put to you something that Mr McRae had said at one of the planning meetings. What went into this document, under "Planning contingencies", was the McRae version, was it not; that the weather summary indicated that Friday is the first operational deadline to secure operational strategies due to the likely wind change?

5
10 A. Yes.

Q. And that likely wind change was a wind change that was predicted to occur for Friday and Saturday?

15 A. Yes.

MR LASRY: Your Worship, it is five minutes early, but before I go to something else, would this be a convenient time?

20 THE CORONER: Yes, it is a convenient time.

LUNCHEON ADJOURNMENT [12.55pm]

RESUMED [2pm]

25 MR LASRY: Q. Mr Lucas-Smith, there are a couple of things I want to go back to from this morning. I will deal with the shortest one first. In relation to the cabinet briefing, I asked you some questions this morning about whether questions were asked of you or your group by the members of cabinet.

30 I wanted specifically to ask you whether, in view of the references in the briefing paper to the potential serious impact subsequently on the urban area and assets under potential threat being the urban edge, any of the politicians present raised with you questions about warning people of the existence of that threat; whether they asked you questions, for example, about the means by which people would be warned and whether there was a contingency plan for those people in the event that that came to pass?

40 A. I certainly don't recall any such questions. There was certainly questions asked and things were pursued as the presentation was being given.

From what I can recall, the majority of them were around whether we had adequate resources, how we were going with resources and things like that, and whether or not there was more that could be
5 done from a government perspective.

Q. The cabinet minute that I showed you initially refers to the potential deterioration of the situation and the potential for the declaration of
10 a state of emergency. Was that discussed during the course of your briefing?

A. It certainly was. As I said, Mr Castle took care of the discussions in relation to emergency management matters which were whole-of-government
15 issues.

Q. Well, a cabinet minute dated the same day refers to the fact that a public information system had been put in place. This is in the
20 minute which is [DPP.DPP.0003.0084]. Paragraph (c):

"The cabinet noted that a public information system had been put in place and will be
25 activated as required by ESB in consultation with the Department of Urban Services."

Now, what was the public information system that that cabinet minute refers to?

A. Well, I can't be absolutely sure, but I assume they were referring to the fact that the media liaison person from the Chief Minister's
30 Department had moved in there to assist and also arrangements had been finalised and established
35 and put in place in relation to being able to put information on the Canberra Connect government website.

Q. Is Marika Harvey the person you are referring to?
40

A. Yes, I am.

Q. I am just looking through the cabinet briefing paper to see whether that refers to anything of
45 that nature. I am not sure that it does. I may be wrong about that. I have been wrong before. I just wonder where the cabinet got that information

from, that there was a public information system in place that was able to be activated as required by ESB. Where would they have got that from?

5 A. I noticed before - I can't see it here now - this is the cabinet-in-confidence document; it is signed off by the cabinet secretary, which is Rob Tonkin, who is the head of the Chief Minister's Department, and Marika Harvey worked for him. I assume he was fully aware of the commitments that
10 the Chief Minister's Department was making.

Q. It doesn't seem as though you were discussing in that briefing any aspect of the public information system and the circumstances in which
15 it might be activated by your office; that doesn't seem to have been a topic for discussion at the briefing?

A. It wasn't in the briefing from what I can recall. I don't recall it being a matter of
20 discussion.

Q. You weren't asked about it?

A. No.

25 Q. It is a fair conclusion from the briefing paper, isn't it, that anyone in the cabinet room on the day of 16 January would have realised that it was ESB's opinion that there was a potential serious impact to the Canberra urban area?

30 A. Well, no, there is certainly the potential for a serious impact to assets within the ACT, valued assets in the ACT. Whether or not the urban area was the area of significant concern, there was certainly more concern I think at that particular
35 stage about the very valued assets of the pine plantations.

Q. I follow that. I don't want to go back over what needed to happen before there was a threat to
40 the urban area. But anyone reading the briefing paper, from the Chief Minister down, would understand from reading the paper that ESB were of the view that there was a potential serious impact not only to the ACT Forests pines but also -
45 unsaid, but obvious - if things went wrong to the urban area, because that's what the briefing paper says.

A. Certainly; among other things, yes.

Q. Assets under potential threat were described as, among other things, the urban edge?

5 A. Yes.

Q. The government itself was on notice that people within your office and you as a corporate group thought that that was now a serious potential?

10 A. The potential existed, yes.

Q. The other thing, the meeting with Mr Koperberg on the 15th which we discussed earlier, there were a group of people from the New South Wales Rural Fire Service present, including Gilligan and others. I think he is actually from Parks; isn't he?

15 A. Yes.

20

Q. A number of New South Wales people?

A. Director-General, New South Wales.

Q. Apart from you, who else was there from the ACT?

25

A. No-one.

Q. You were on your own?

A. Yes, I was.

30

Q. I want to come back to the meeting at 2 o'clock on 16 January that Mr Cartwright kept a note of. Again, I simply do this to give you a chance to comment on what some of the other people who were present say about it, so you have the opportunity to be aware of it and respond if you want. One of the people present was Mr Conrad Barr, who is a firefighter and I think station officer at Fyshwick - or was at the time a station officer at Fyshwick. He had a tape recorded record of conversation with the police which is [AFP.AFP.0001.0058]. On page 0063 he is describing your briefing to that meeting. In the course of his interview, he says:

40

45 "Um, he" - that is yourself - "then spoke to some degree about where the New South Wales

McIntyre's Hut fire would go with the wind pushing it and basically indicated it would come towards the western suburbs of Canberra in the northern and central areas. Um,
5 however, he didn't actually offer an opinion as to whether it was likely or not because I would assume it was - it was in New South Wales hands - it was in, um, no, ah, no
10 position to make an accurate judgment on that, but that's an assumption on my behalf."

I might leave the "ums" out. He said:

15 "He went on to talk about some issues that he said he didn't wish to leave the room and I didn't actually take notes on those issues. However, I remember them very clearly. He spoke about his assessment of the control
20 lines that had been put around - put in place around the ACT fires, and he indicated that he believed that those fires had a less - those control lines had a less than 50 per cent chance of containing those fires. What
25 he then did was he had a map of the ACT, a black-and-white type map, and he put that on the wall and drew a number of things on it."

Just pausing there: I think you agree that you did that during the course of this briefing or
30 something like it?

A. Yes.

Q. He said:

35 "He indicated where the fires were, where they had grown in the last few days and that sort of thing, and it was on that same map that he indicated where the McIntyre's fire may come towards the city if it did. Then he
40 indicated where the other two fires could possibly move and how they could then change with further wind directions. For instance, on the map he indicated that initially they would be pushed in a south-westerly direction
45 exposing a long flank, which he then went on to say that should we have a southerly change or an easterly change then the long flank can

then become a larger front on the fire and where it could possibly impact the ACT and all that sort of thing.

5 "Also in his discussion Mr Lucas-Smith indicated that the statements he'd been making in the media did not accurately reflect what his assessments of the fires were. He didn't indicate why his media
10 statements were different to what his beliefs he was sharing with us were. But that's what he indicated and again that was one of the elements he said he didn't want to leave the room."

15 That's an extract from Mr Barr's interview with the police about that meeting. What do you say about that? Perhaps I could pick a few bits out and ask you specifically to comment. Perhaps I
20 will pick the last bit out first. He is suggesting that you were telling them that what you were saying in the media was one thing and what you really believed about what was going to happen was something different; what do you say
25 about that?

A. I don't think that is true. I was certainly speaking in a very frank tone to them. They were fellow firefighters, and we were talking in the context of firefighting and in relation to command
30 and control issues and general firefighting issues, and we really weren't mincing our words, so to speak.

I certainly - I wouldn't talk like that to the
35 media. Maybe I was talking in the context of a fire spread or something or other, and a comment could have even been made to me, "Is that what you would tell the media," and I probably would have said "no".

40 Q. I think the message that arises from it or the implication that arises from it is essentially this: that on the topic of the prospect of the fires affecting suburban Canberra, he appears to
45 be inferring that you were either not accepting that publicly or downplaying it publicly, whereas in fact you believed it was a strong possibility.

I think that's the inference that can be drawn from his account of the conversation. What do you say about it?

5 A. If that's the inference he's drawn, that's the inference he has drawn.

Q. What do you say about it? Do you agree?

10 A. I certainly wasn't trying to give that impression.

Q. Do you agree or disagree that there was a conscious distinction between what you said in the media about the risk to the urban area of Canberra and what you really believed?

15 A. No, I don't.

Q. You don't?

A. No.

20 Q. Another one present was a Mr Ian McCleary, who is also a station officer with the ACT Fire Brigade and was at the briefing. Do you know Mr McCleary?

25 A. Yes, I do.

Q. Asked in his interview - the document is [ESB.AFP.0046.0374] - question 36:

30 "Q.And do you recall what information was conveyed during the meeting?

35 "A.Certainly. The first thing that was spelt out that there were some maps that were going to be shown to us which indicated the fires, the gravity of the fires that had occurred in '36, '45 I think, '80 something, '90 something and how these fires had decimated Canberra, and that the real potential existed for that sort of fire activity to occur again on that following area time frame. He certainly indicated that the information he was providing was for in-house dissemination only and not to be released to the media. In fact, he explicitly said if it got to the media he would deny it, and I interpreted
40 that that would be just an internal alert to us. It was a big - it was a good - severe, but we didn't need to panic the world. They
45

5 showed us some maps of where fires were at the time and what the projected paths were with winds and those sorts of things, and I remember the comment about not fighting fires in the forest, that's a suicide mission, and I can concur with that without any problems at all.

10 "The western suburbs of the ACT were at risk and I certainly remember the comments in relation to the indices about the 1 to 100 for our standard configuration of extreme being at 100 and Ash Wednesday going to be 104 and our prediction - our predictions were 15 showing that it would go to about a 140 on the Monday."

20 Then a bit further on, just to give you the sense of it, in answer to question 39:

"Q.Okay. And that was - when you say that they had roared into the ACT or into the - well previous fires?

25 "A.Previous fires had gone through and on previous occasions we had stopped fires. We hadn't - fire had stopped at Woden, the location where the Woden Valley Hospital is right now. Other fires had gone right through to Captains Flat, gone across the ACT 30 and gone through. So history had shown that fires in that particular area could get right through the ACT."

35 Do you remember saying things to that effect, Mr Lucas-Smith?

A. That's obviously how he understood it.

40 Q. Do you remember saying things to the effect that I've just read to you? Do you accept that as an accurate version of what you were saying?

A. No, I don't accept it as an accurate version of what I was saying.

45 Q. In what respect do you say it's not accurate?

A. Well, I can't remember it verbatim as to all the things that were in there.

Q. There is the issue that Mr Cartwright raised --

5 A. But obviously he has expressed an opinion as to what he understood from that meeting. As I said before, the same answer to the Barr statement, that is not what I was trying to convey. I was trying to convey a need for the fire brigade to become engaged in the firefighting event.

10

Q. Mr Peter Hobbs was the acting operational superintendent with the fire brigade. His interview is in [ESB.AFP.0053.0103] at page 0105. He likewise indicates that you gave a briefing about the history of fire in the ACT. I think you broadly accepted you did that. He then says this on page 3:

20 "He indicated to us that if the fires broke the containment lines that were currently in place there was a high likelihood that those fires would get into the pine plantations. If the fire did get into the pine plantations, he was going to withdraw
25 firefighting personnel back to the ACT to provide property protection because he felt that there was no way to hold the fire."

30 Pausing there, is that something you would have told them during the course of that briefing?

A. Certainly. I was talking about rural property.

35 Q. He says:

"He indicated to us that if the fires did get into the pine plantations there was a likelihood that the fires would reach
40 Mt Stromlo pine plantations and impact on the Stromlo Observatory and settlement."

Was that your view as expressed on the 16th?

45 A. That potential existed. I could very well have said that.

Q. He said:

5 "He indicated to us that if the fires did reach the pine plantations at the base of Mt Stromlo that he was immediately going to withdraw his fire suppression crews. He had a large heavy tanker and a light tanker on standby at Mt Stromlo, which were the only Rural Fire Service crew left in the ACT urban environment. But if the fire reached the base of Mt Stromlo, he was going to withdraw those people because he said that Mt Stromlo was an undefendable position and that there would be loss of life if people were left on the mountain."

15 Is that right too?

A. I could very well have said that, because once again that is the ACT Fire Brigade who are the people responsible for the structures on Mt Stromlo.

20

Q. He says:

25 "He also indicated that if those fires did reach the Mt Stromlo pine plantation that they would almost certainly get into the Duffy Pines and that if that were the case we could expect fires to get into the suburbs."

Did you say that?

30 A. I may have extended my conversation to that extent. I don't recall saying that.

Q. But you allow for the possibility that you did?

35 A. Oh, well, as I have said, our planning is already indicating to us that this is the case.

Q. He says:

40 "He answered a number of questions at various stages through that presentation. But it was absolutely clear to everybody in the room at the time that the weather was going to deteriorate across the weekend, but everybody expected Monday to be the very worst day, and I believe that the people in the room were then thinking we had until Monday to prepare

45

for the onslaught. At the end of the meeting, and I'm not exactly sure what time that was, the meeting probably only went for 30 minutes at the outside. Peter Lucas-Smith
5 took the map that he had drawn and left the room to provide a media briefing to Mr John Murray" - who is the chief police officer.

That sounds as though that's correct also; is that
10 right?

A. Yes.

Q. The last one I will ask you about at this stage is Mr Tony Ross. You know Mr Ross?

15 A. Yes, I do.

Q. At the time of this interview, which was on 7 April last year, he was an acting district officer. The document is [ESB.AFP.0048.0216]. In
20 answer to question 36 on page 0219 he gives a similar overview to the one that the others have referred to. I perhaps don't need to read that out again. I will pick it up some distance through. About halfway through the answer he
25 says:

"And then basically we talked about the weather forecast that was due to come in on Monday, where extremely high strong winds,
30 winds I believe from the north-west, which were pushing down onto the ACT, and he sort of raised the concern that if the weather conditions did come that they predicted and if the fires jumped their containment lines
35 that they would get into the pine forests around the ACT, and with the strength of winds he sort of mentioned to the effect that Weston Creek area was the area of most vulnerability if it did happen, and he also
40 mentioned the fact that if those winds do come that they predicted he would never have - he is not going to commit his people into the forest; it was too dangerous."

45 So far, that doesn't sound as though that's in contention as far as you are concerned, except perhaps - I want to be clear - he is suggesting

that you mentioned the area of Weston Creek as being of most vulnerability?

5 A. It's a statement that I have made for quite a number of years, that in the event that a fire was to get into the Stromlo pine plantations, particularly the Narrabundah Hill area, the potential impact on Duffy would be quite high. I have been saying that for a decade or more.

10 Q. You allow for the fact that his description of what you said is accurate?

A. That's what he understood was discussed.

15 Q. Going on:

"And so he emphasised that, and then one thing that sticks in my mind is the fact that he said, 'And, um, I'd like none of this to leave the room,' which sort of - I thought, 'Well, Jesus, you know, like we're going to be the combat authority if it was to hit,' and I sort of didn't raise any objections as to or asked any questions as to why - why wouldn't it leave this room, and that's the main thing that sort of stuck in my mind with that meeting."

He obviously will get his chance to be asked questions about this, but his record of interview appears to refer to a strong recollection that he has that you told them that the information you were imparting was not to leave the room. Having heard all those bits and pieces read to you, do you accept that you said something to that effect, that the information you were giving needed to stay in that room?

30 A. No, I don't recall saying that. But there was a fair bit of - as I said, this was discussion amongst firefighters, there was a fair bit of free discussion, and there was a fair bit of humour, I suppose, added into the discussions towards the end. There is a whole range of different things that may have been said. But I find it extraordinary and I am having great difficulty understanding the logic of me making such a statement when the whole reason for that meeting was to engage the fire brigade into the

firefighting process and to alert them to the potential for impact on rural properties.

5 Q. In order to give you a chance to respond, I think the proposition that would be put in response to what you have just said is: it is one thing to brief the fire brigade, because they are going to be involved if and when the fire strikes the suburban area; but what you didn't want to
10 happen - I think what is being implied - is for the people of the suburbs to be aware of the risk because they would panic?

A. No; look, that --

15 Q. You don't agree with that?

A. I don't agree with that. That certainly hadn't entered my mind at any time.

20 Q. At the planning meeting on the morning of the 16th, which you didn't attend because you were briefing the cabinet, in document [ESB.AFP.0004.0219] - one brief question about that - if you have the document, Mr Lucas-Smith, go to page 2. You will see at the top of page 2,
25 which is now on the screen as well, "ACT Fire Brigade operations":

30 "The ACT Fire Brigade is focusing on outlying structures and there will be a planning meeting this afternoon to discuss the potential for a structural rural task force.

35 ACT Fire Brigade and the ACT Ambulance Service are to meet to discuss urban contingencies."

40 Now, I presume "urban contingencies" - although you weren't at this meeting and didn't write these minutes - you would understand to mean that meeting was to discuss the prospect of a suburban impact from these fires?

45 A. As I understand, this meeting was called by the Fire Commissioner or someone else and that was to be independent of what was actually happening within the bushfire arrangements. This was for the fire brigade, and my attendance at the 2 o'clock meeting was to give them a brief as to

where things were at that time and where they then continued on with their meeting to look at other aspects. From my point of view, and I think this reflects quite correctly, we are talking about
5 rural structures and rural task force.

Q. But also there was to be a meeting between the fire brigade and the ambulance service - we will come to the ambulance service in a moment - the
10 purpose of which was to discuss the urban contingencies, as it says there?

A. I don't know what the plan of their meeting was. I didn't attend, nor was I involved in it.

15 Q. I realise that. I am simply seeking to make the point that in the minutes of the planning meeting of your organisation, albeit you weren't present, urban contingencies are being referred to and noted that they are being discussed and
20 prepared for.

A. Yes, I agree. I think it is good work.

Q. Again I am jumping around a little bit, but I want to come to a document which appears to have
25 come into existence before the 2 o'clock meeting on the 16th. It is [ESB.AFP.0012.0114]. It is an email from Val Jeffery to a very large number of recipients - presumably all involved in the bushfire effort. Do you see that?

30 A. Yes, I do.

Q. This is not your document, but this is a product of, it appears, a conversation between yourself and Mr Jeffery.

35 A. It appears to be a product of that conversation.

Q. Mr Jeffery is a longstanding rural firefighter?

40 A. Yes.

Q. In Tharwa, I think, is it?

A. Yes, Tharwa. Southern Districts Volunteer Bushfire Brigade.

45

Q. And an experienced volunteer bushfire fighter?

A. Yes.

Q. And a former head of the Bushfire Council?

A. Former chair of the Bushfire Council.

Q. The email says:

5

"Hello there" - to all these various people -
"the Chief Fire Control Officer, Peter
Lucas-Smith, has asked me to pass on to all
involved his thanks for all your work on
these fires.

10

"The fact of the situation is that, despite a
massive effort now, even if the fires are
controlled before the bad weather that is
forecast for Monday, Tuesday, arrives,
containment lines will not be deep enough for
the fires to be held. I believe, (and the
CFCO also) that the fires will escape from
the mountains. The only question is really,
when and where and in how big the fronts are.

15

20

"I have advised all the residents of the
district of this and warned them. Please
look closely at your availability over the
next few days. At this stage I expect that I
will need some bodies on standby over the
weekend and, if the weather comes as
forecast, every available body on Monday and
Tuesday. So please look carefully at your
commitments over that period. We have a
tanker and light unit going out tonight, and
I am working on this to make this the last of
that nature at this stage.

25

30

35

"Thanks and stay safe.

Val."

Does that reflect the conversation you had with
Mr Jeffery?

40

A. Not entirely. It certainly reflects the
conversation I had with every captain of the
brigade at that particular time. I rang each
volunteer brigade captain in the ACT and asked
them to convey my thanks and appreciation for
their continued strong effort.

45

Q. And no question that that's appropriate. Did you express to him, Mr Jeffery in this case, the belief as at - this is the middle of 16 January - the belief the fires will escape the mountains and the only question is when and where and how big the fronts are?

A. No, I certainly didn't put it in those sort of terms. I think they are Mr Jeffery's words. There is no doubt whatsoever I would give him a very accurate assessment as to what was going on as best I possibly could. At that time I would have been reflecting the fact that we had containment lines established, but the fires were still burning quite vigorously and there was still uncontained areas.

Q. So when Mr Jeffery attributes to you a belief that he shares that the fire will escape the mountains and the only question is when and where and how big the fronts will be, you disagree with that? That's not what you said, I take it?

A. Not as plainly as that, no.

Q. Well, did you believe that the fires would escape the mountains?

A. As I said, I believed that we were going to have difficulty holding our lines.

Q. So is the answer yes, you did believe that that would happen?

A. No, I said I would believe that we would have difficulty holding our lines. I didn't say it would happen.

Q. Where he says, "The only question is really when and where," that's a state of mind that's beyond what your state of mind was at the time?

A. We didn't discuss that. I would have welcomed it --

Q. In fairness to you, I think the only thing that can clearly be attributed to you is that you had expressed the view that the fires would escape the mountains. The next sentence may be something that he believed you thought or it might be his own view. We will ask Mr Jeffery about that.

At 5 minutes past 3 on the 16th, some little time later, and you won't be aware necessarily of the detail of this, the ACT Ambulance Service, [ESB.AFP.0016.0441], had a strategy meeting at the
5 ESB headquarters at Curtin. I just want to refer you to a particular passage under "Overview". Whoever is briefing the meeting of the Ambulance Service in the first dot point refers to the 9.30
10 briefing on the fire situation, indicating that the ACT is facing a very real threat to property from this situation, with Monday
20 January presenting extreme conditions. Then you are referred to:

15 "Peter Lucas-Smith has indicated that we are expecting extremely poor outcomes from these fires. The conditions will potentially be worse than the Ash Wednesday fires and there is the potential for the Stockyard and
20 Bendora fires to join. Spot fires will present a huge danger in the forests and potentially in the urban areas of the ACT. Peter Lucas-Smith advised that if the fires enter the pine forests, he will remove his
25 firefighters due to the extreme danger."

Do they quote you correctly in that minute?

A. I think it is a summary of a number of briefings, yes.

30

Q. Is there anything attributed to you that you disagree with; that is, that you think you didn't say or wasn't your view?

A. No, there's not.

35

Q. At 2.30pm there is a briefing also at Curtin, and this is a briefing, among others, to senior police - Mr Murray; is that right?

A. To John Murray and Commander Newton, yes.

40

Q. This is perhaps more of a question than a criticism, but the fact of this briefing, neither the 2 o'clock or the 2.30 briefing, found their way into your statement, as I understand it. I
45 just wonder why that is, Mr Lucas-Smith.

A. Too many things to do.

Q. At the time you were making your statement, too many things to do?

A. To even recollect and to think about it. There were a lot of things happening at that time.
5 I was very busy.

Q. I take it this statement was prepared with access to ESB documentation; it's not entirely from memory?

10 A. No. At that time we didn't have the transcripts from the AFP. All of that had been handed over to them. We didn't have that information. That certainly was a concern to me. But it was - other bits of information were
15 available to me.

Q. As far as the meeting at 2 o'clock and the next meeting at 2.30 on the 16th were concerned, it is simply something that was overlooked?

20 A. Yes. I didn't attach too much relevance to it.

Q. You also didn't refer to the cabinet briefing at 9.30 that morning. Was that something you
25 didn't attach much relevance to?

A. Once again, it was an information session and I was more trying to stay focused on actually doing the job at hand.

30 Q. When you were making the statement?

A. No. When I was - on that day.

Q. All right. But when you came to make your statement and you were looking back --

35 A. Yes, I don't know why I didn't.

Q. Did you make the statement in conjunction with someone? For example, did you have Mr Bayliss or Mr Johnson or someone like that to take you
40 through the material and draw your attention to things?

A. I was making a statement to - I can't remember what they were called, but Jim Venn from a team that was engaged by the government solicitor's
45 office to assist us with statements. How much access he had to other material, I don't know.

Q. At this briefing at 2.30 for Mr Murray and Commander Newton were documents provided? For example, was the cabinet briefing paper provided to them?

5 A. I didn't provide it. Whether it was provided by others, I don't know.

Q. And, apart from yourself and John Murray and Mandy Newton, who else was present?

10 A. I think Mike Castle was present and Ian Bennett, the Fire Commissioner. I'm not too sure if there was anyone else there at all.

Q. I will tell you what Mr Murray says in his
15 statement. Your Worship, I don't have at the moment the reference number for that statement, but I will get it directly. Let me come back to the question of documents. You are not able to recall whether the briefing paper that you gave to
20 cabinet was or was not handed over to the police members when they attended?

A. No, I have no idea.

Q. Is it likely that they were given that
25 document?

A. No, I'm not able to answer that. I don't know.

Q. Mr Murray says that at 2.30pm on 16 January he
30 and Commander Newton attended the briefing. He says present were Mike Castle, yourself, Ian Bennett, Kate Keane, who is the emergency management support officer:

35 "Mr Lucas-Smith advised us of the developing fire situation to the west of Canberra. He told us there was a possibility of high fire risk to the territory in the coming week. He described how on the coming weekend, 18th and
40 19th January, the weather patterns were expected to produce high winds and temperatures. This was expected to create a moderate risk which would escalate to severe on Monday 20 January. Because of the
45 unpredictable nature of the weather there was a chance that the conditions might have become severe on Sunday. There was no

reference to the possibility of urban
Canberra being under threat. After this
meeting I asked Commander Newton to manage
any planning and liaison work necessary
5 between ACT policing and other emergency
services."

The document from which I am reading is
[AFP.AFP.0110.0001]. Does that sound like a fair
10 summary to you of what occurred at 2.30 on
16 January?

A. It sounds consistent.

Q. Consistent. Well, is there anything that
15 Mr Murray has left out of his description which
you say was said? I am happy to point-form it
again, if you would like me to?

A. You are asking me what was left out of that
discussion?

20

Q. Let me just tell you the things that he says
you did tell him. He says you advised them of the
developing fire situation to the west; said there
was a possibility of high fire risk in the coming
25 week in the territory; right so far? Described
how on 18 and 19 January weather patterns were
expected to produce high winds and temperatures;
sounds reasonable?

A. Yep.

30

Q. This would create a moderate risk which would
escalate to severe on Monday the 20th. Because of
the weather being unpredictable there was a chance
conditions might have become severe on Sunday.
35 There was no reference to the possibility of urban
Canberra being under threat. Do you agree that
they're the things you said?

A. Yes.

40

Q. And there was no reference to urban Canberra
being under threat?

A. I certainly would have talked about the rural
properties, which is where my focus was.

45

Q. The rural properties, yes. Mr Murray is
making the point in his statement there was no
reference to the possibility of urban Canberra

being under threat. Is he probably right about that?

A. He could very well be. I may not have mentioned that.

5

Q. Why wouldn't you be telling senior police, of all people, if it was the view of ESB that there was a threat to the Canberra suburban area?

A. Well, maybe it wasn't a view of ESB.

10

Q. It was in the cabinet briefing paper.

A. It was in the cabinet briefing papers in the context of, "This is a potential. This is a worst case area. This is where the fire has the potential to extend to" - and I am primarily talking about the Bendora and Stockyard fires and the southern suburbs of Canberra. I know you are going to go back and reference all those statements. What I am saying to you is that it was not something that was prominent in our thinking at that particular time, but it was there. The potential existed.

Q. What I am going to do is go back to the briefing paper on the 16th for cabinet, which was only five hours earlier, which contained the assertion that there was a potential serious impact to the ACT urban area and that the urban edge was one of the assets under threat. I am simply asking you: if it was appropriate to tell the government that that was a possibility, why wouldn't you tell the police?

A. I would have thought that if I was making a statement to cabinet, and I thought that the most serious potential for impact on urban edge existed, I would have made it far more prominent than make it the second last dot point. What I was saying there quite clearly, in my view, is that there are all these other areas of potential threat, which primarily included rural assets of some sort. However, we can't deny the fact that it could reach the urban edge.

Q. If any emergency service was going to be centrally involved in the event - however likely - that it reached the Canberra suburban area, it was going to be the police, wasn't it? They were the

ones who were going to be inextricably involved if in fact that happened?

A. Not just them alone, but certainly they would have a role to play; there is no doubt about it.

5

Q. They were going to be involved in traffic, possibly an evacuation and all sorts of other logistical things that you can imagine police being involved in?

10 A. Yes.

Q. Didn't they, as at the 16th, if there was a genuine risk to the urban area, need to be informed that they should be preparing for it?

15 A. That's Mr Murray's recollection as to what was said. I am not saying he is wrong, but I find it interesting that they then went away and did such planning.

20 Q. Mr Murray's statement - there is a reason for that, I suspect. I will go on a bit further with Mr Murray's statement. He says:

25 "After the meeting, he asked Commander Newton to manage any planning and liaison work necessary between ACT policing and other emergency services. Commander Newton nominated Sergeant Steven Kirby, acting officer in charge of specialist response in
30 security, as the liaison officer between ESB and ACT policing.

35 "At about 4pm that afternoon Sergeant Kirby attended an ESB planning meeting and was told in general terms that the fire surrounding the ACT could worsen and encroach further towards the rural areas of the ACT over the next few days."

40 Perhaps if we come to that 4 o'clock meeting. The document is [ESB.AFP.0010.0168]. I am not sure how far this takes us, Mr Lucas-Smith. To be frank, I think the real developments were probably the following day. You notice in that document
45 under "Planning" there is some descriptions by Mr Gellie and by Mr Bartlett in relation to specific fires. If you go over to the second page

dealing with the weather:

5 "The Bureau of Meteorology has issued a fire
weather warning for tomorrow. Due to the
weather forecast there will be a total fire
ban tomorrow, extending through until
midnight Tuesday, 21 January 2003. It was
reported that the fire danger rating for
tomorrow is expected to be within the range
10 of 46-50, and worse on Saturday."

I am not sure that that meeting otherwise takes
the issue of the knowledge of the police much
further, so I will not go any further with that
15 document.

I believe at about 5pm on the 16th, after all
these meetings, you then did a radio interview on
ABC 666. Before I come to that, I will deal with
20 one other matter. We still have it on the screen.
Mr Lhuede seems to suggest that he was at the
planning meeting on the afternoon of 16 January.
I am referring to his statement,
[ESB.AFP.0001.1231]. The minutes indicate that
25 the meeting was at 4 o'clock. He seems to suggest
the meeting was at 4.30. I don't think that
matters. I am just concerned to ensure that we
are speaking about the same meeting. When he
refers to an SMT planning meeting, that clearly
30 has to be this meeting we have just looked at the
minutes of?

A. I believe so, but without certainty.

Q. In paragraph 65 he refers to the meeting and
35 says at the meeting he spoke about the rate of the
spread of the Stockyard fire and proposed
containment strategies in light of the
abandonment of the proposed back-burn of Lick Hole
Road and Leura Gap Trail:

40 "I spoke about the prospect of the fire
jumping those lines and alternative
containment strategies, although they
involved the fire burning out a very large
45 amount of country because of the adverse
weather forecasts and the absence of any real
options for containment lines for a long way

further south.

5 "At that meeting either Hilton Taylor or Nic
Gellie" - and it looks as though it was Nic
Gellie - "spoke about our predictions of fire
spread from the east from the Bendora fire
and McIntyre's Hut fire in light of the
deteriorating weather forecasts. I recall a
10 prediction noted on a map that, if those
fires broke their containment lines with the
weather forecast then in existence, those
fires could reach the Canberra urban
interface by 6pm on Saturday 18 January 2003.
This would mean that the fires would travel
15 through the open grazing country, various
pine plantations and the Cotter precinct in
order to reach the urban interface."

20 Now such a prediction noted on the map I don't
think appears anywhere in these planning minutes.
Do you accept that during the course of that
meeting someone predicted fires reaching the
Canberra urban area by 6 o'clock on Saturday
night?

25 A. No, I don't. I think he's wrong. There was
such a map produced on the 4.30 planning meeting
on the 17th, and his times are still wrong. But
there was certainly no map of that produced on the
16th that I'm aware of.

30 Q. I wonder if we could have [ESB.AFP.0008.0404],
please. This document appears to be a fax
transmission from Alan Wade. I am not altogether
sure who the fax is to. JD and PJP and the
35 numbers are referred to. I'm not sure that you
would necessarily know who they refer to. Do you
know who that refers to, JD and a phone number and
PJ --

40 A. Did you say this is from Alan Wade?

Q. From Alan Wade, yes.

A. Works for ActewAGL. JD could very well be
John Demkey, who is head of hydrology for
ActewAGL. I have no idea who PJP is. I don't
45 know that to be correct, but it could possibly -
who it be.

Q. You can see at the bottom there Alan Wade appears to be the author of the document. The fax is dated at the top Thursday 16 January, fire briefing 4pm. So it does appear to refer to the
5 4 o'clock meeting. Under "Fire behaviour for Gingera fire", Mr Wade notes:

10 "Fire ecologist, Nick Gelling, provided a detailed brief on fire behaviour and options for the southern flank of this fire. Off the record (in a post session briefing) he provided a more candid assessment of the chances of the fire breaking control lines and believed this were likely to happen.
15 This is worrying and the fire may threaten much of the Bimberi wilderness, the total catchment above Corin Dam. From recent survey work undertaken in the very top of the catchment, it is apparent that the eastern
20 flank is very much drier than the western slopes."

And so on. Do you recall Mr Gelling giving an off-the-record, more candid briefing about the
25 assessment of the chances of that particular fire breaking its control lines?

A. Absolutely not. In fact, if he knew that or suspected that, I would have preferred that to be a part of the official planning meeting.
30

Q. It appears to be consistent with what Mr Lhuede had said; doesn't it?

A. They were both planning officers.

35 Q. You were suggesting that perhaps Mr Lhuede had his times wrong. It does appear that Mr Gelling was at the meeting and at least it is asserted by Mr Wade that Mr Gelling was providing an off-the-record, more candid briefing about fire
40 behaviour. So we are all talking about Thursday afternoon?

A. When you say "off-the-record, more candidly", are you suggesting that that happened during the meeting or is this after the meeting or was it
45 between those two people alone? Who else was involved in that discussion?

Q. I don't know.

A. Where else was that information conveyed other than between those two people?

5 Q. I can only refer you, Mr Lucas-Smith, to what is in this fax.

A. In that case I am unable to comment.

Q. You know nothing of this?

10 A. I know nothing of this.

Q. We now come to the interview that you had on the radio, which is [DPP.DPP.0004.0006]. I will just read parts of it and I will ask you questions as we go. The first substantial question you are asked near the top of the page is:

"What's the situation with the bushfires in Namadgi now?"

20

You say:

"We've got our containment lines in, and the major task of back-burning from those containment lines is commencing at 1800 hours tonight, so 6 o'clock tonight."

25

So your position on the radio as at 6 o'clock on the night of the 16th was that the containment lines are in and the back-burning is going to commence at 6 o'clock; is that right and was that true?

30

A. Yes, we were still working on those fires. I assume that's true.

35

Q. Then the interviewer makes an observation about how long you have got before the north-westerlies kick in which are expected tomorrow afternoon. You say:

40

"A."That's exactly right. We critically need to get this back-burning operation in tonight to protect the south-east corner of the fire. So when the north-westerlies do come, it will hopefully prevent the spotting across into unburnt areas outside our containment line.

45

"Q.And with those winds when you talk about

spotting that would be fire spotting close to here to the ACT; am I right with that?

"A.No, not really. It's - certainly it will spot. It's in the ACT already.

5

"Q.Oh, I am sorry, yes; but closer to the suburbs?

"A.Closer to the suburbs? No, that's not right.

10

"Q.Okay, we'd better correct me there. What will that mean?

"A.It'll go further south in Namadgi, so it will go to the south-east part of the Namadgi, more into the back - more into the - back into the western side of the Cotter River, and toward Mount Gudgenby."

15

Is that right?

20 A. That's correct.

Q. Is that true? Is that what you believed at that stage?

A. Yes, and that's what happened with that fire.

25

Q. Then we come to 17 January. The first step in the process seems to be the planning meeting at 9.30 on the 17th. Before we come to that meeting, I have been reminded - on the morning of the 17th in the 'Canberra Times' - this has actually become a well-known article. It is the one headlined "Next five days critical". It is [ESB.AFP.0110.0973]. I will pick out a few of what seem to be the significant parts. At the bottom of the first column Megan Doherty writes:

30

35

"ACT Bushfire and Emergency Services Director, Peter Lucas-Smith, said the next five days would be critical, with temperatures today forecast to rise to 36 degrees, humidity falling and winds shifting to the north-west, sweeping flames and smoke towards Canberra. Conditions could worsen even further on Monday and Tuesday.

40

"'We're right now at the crunch point,' Mr Lucas-Smith said. 'We desperately need

these additional resources from New South
Wales to assist us and to get these lines
established before the weather turns nasty on
us.' "

5

Now, that's one of the contingencies standing
between where things were at on the morning of the
Friday and a genuine risk to suburban area, wasn't
it?

10 A. Yes, this article I believe was in response to
the day before declaring for the first time ever
in the ACT the Chief Fire Control Officer
declaring a total fire ban for a five-day period
as a specific warning of the extent of risk to the
15 ACT over this weather period.

Q. Is the quote I have just read to you a quote
that came from a discussion between you and Megan
Doherty the night before?

20 A. I believe it is reasonably correct, yes.

Q. At the bottom of the second column, having
described the containment lines, you were quoted
as saying:

25

" 'At the moment I don't think there's any
threat to the urban edge of Canberra,'
Mr Lucas-Smith said. 'We'll certainly see a
lot more smoke than what we've seen in the
30 last few days.' "

Now, was that genuinely your state of mind on the
night of the 16th, that there was no threat to the
urban edge of Canberra?

35 A. Yes, because I am still concerned about the
rural areas. I am talking about the urban edge
there. I am not referring to rural areas of the
ACT. What I am saying is that I don't, at that
stage - it says "at the moment", I think, whatever
40 the words are; they are not visible to me now on
the screen.

Q. It says "at the moment I don't think there is
any"?

45 A. At the moment I don't think there is.

Q. Thank you. To deal with it quickly, I think

at the planning meeting at 9.30 on the morning of the 17th there doesn't appear to have been any discussion that is minuted about any risk to suburban Canberra.

5 A. I think we were certainly focusing on the fire weather again. There is certainly a comment in there under "fire behaviour" which relates to "Peter Lucas-Smith requested information on the potential fire growth without intervention."

10

Q. At this planning meeting --

A. I don't see anywhere within the planning meeting minutes that there is any particular reference to the urban edge.

15

Q. I don't actually have the transcript in front of me, but you will remember that Mr Mason from the Bureau of Meteorology attended this Friday morning meeting and at page 92 of the transcript he made it clear, I think, that the immediate weather forecast meant that Saturday, the following day, would be the worst day in the immediate forecast period. Do you recall him giving that opinion at the meeting on Friday morning?

20

25

A. No.

Q. You don't.

30 MR LASRY: Would it be convenient to take a 5 or 10-minute break?

THE CORONER: Yes.

35 **SHORT ADJOURNMENT** [3.10pm]

RESUMED [3.24pm]

40 MR LASRY: Q. Mr Lucas-Smith, by 17 January, by the middle of 17 January, the assurances that you say you were given by Mr Koperberg back on 15 January obviously hadn't been held to be true, had they, in relation to McIntyre's Hut fire?

45 A. Well, I suppose they were true because the southern boundary and the eastern boundary did hold.

Q. As at the middle - yes, that is true. The fire really spread west and then east?

A. North. It went north and then came back to the east.

5

Q. So as at 17 January at about lunchtime, the middle of the day, what was your state of mind in relation to the threat posed by the McIntyre's Hut fire, that is on the Friday?

10 A. Yes. To be quite honest, I'm not too sure I'm giving too much attention to the McIntyre's Hut fire. I have enough issues to deal with with the Bendora fire and the Stockyard Fire.

15 Q. Does that mean that you didn't have a view or you were not thinking in the middle of Friday that the McIntyre's Hut fire posed a significant risk to the ACT or you are unable to recall?

20 A. The McIntyre's Hut fire at that time was not in the forefront of my mind.

Q. At midday on the 17th there was a media conference, and I will play a short bit of that in a moment. Mr Castle in his statement at paragraph 25 107 on page 24 says:

30 "At about noon on the 17th we held a media conference as usual. During that media briefing Peter Lucas-Smith made comment about the possibility of the fires causing problems in the ACT. He stated there was not a great likelihood of the fires coming and threatening the suburbs under a north-westerly wind. The agreement and protocols we had in place with New South 35 Wales was that we would talk about the ACT fires only. If anyone wanted detail on New South Wales fires, they needed to contact the New South Wales media staff. Phil Koperberg 40 had a media person sent to the ACT, I think on the Thursday, the 16th of January."

He goes on to say that:

45 "ESB press releases consistently only referred to the Bendora and Stockyard fires and referred to the fact that information

about the New South Wales fires could be obtained from the New South Wales Rural Fire Service."

5 Is that correct? Was there a protocol in existence which meant that you couldn't speak about New South Wales fires that were burning either adjacent or in the ACT?

A. I don't know if there was anything as formal as a protocol, nor as formal as couldn't. It was just we were fighting the Bendora and Stockyard Fire and New South Wales were fighting the McIntyre's fire, and it was appropriate for them to answer their own questions in relation to those
10
15 fires.

Q. If somebody had wanted to know at noon on the 17th from you whether or not you had information which disclosed whether the McIntyre's Hut fire was controlled or not and you had information that it was, for example, what would stop you from saying that you understand that that fire's controlled?
20

A. Nothing. I would have told them what I knew in relation to the southern and eastern boundaries.
25

Q. Although Mr Castle seems to think there was a protocol, you don't think it was as formal as that?
30

A. No. My response I think I was even asked that question more than once and my response was you really need to address that question to New South Wales. If they want to press it, I would do my best.
35

MR LASRY: Your Worship, the video of the 17th media conference is ready to play. I think what has happened is the 17th and 18th have essentially
40 been put together on the same tape. There is a short grab of the 17th and then it goes into the 18th. I would ask that it be stopped after the short grab of the 17th.

45 (Video played)

Q. That's a view expressed by you as at, I think,

midday Friday the 17th. Now, conscious of matters I have been putting to you about the meeting at 2 o'clock on the 16th, is what you said there reflective of your genuine view?

5 A. Certainly in relation to the Bendora and Stockyard Fires.

Q. Or any fires?

A. That's not what the question is.

10

MR LASRY: Would you mind playing it again, please.

(video replayed)

15

Q. Now, in fairness to you, it's only a grab. We are only playing that because it is all we have got.

A. As far as I am concerned, I am talking about Bendora and Stockyard Spur Fire.

20

Q. But as you have just been telling me, the McIntyre's Hut fire in any event was something which was not in the forefront of your mind?

25 A. That's exactly right.

Q. You are saying your position as at midday on the Friday was that there was a very slim chance of Bendora or Stockyard affecting the Canberra urban area?

30

A. That's correct.

Q. And that you weren't thinking about McIntyre's?

35 A. That's correct.

Q. At 1 o'clock on the 17th, according to paragraph 97 of your statement it was reported to you there was a break-out in the containment lines on the north-east corner of the Bendora fire. Your statement actually says:

40

45 "At about 1300 hours it was reported from the Bendora fire crews that there was a break-out over the containment lines in the north-eastern corner. Despite vigorous water bombing on this break-out the fire could not

5 be contained. Also by mid-afternoon there were various spotovers reported to the east of the Corin Dam from the Stockyard Fire. Again air operations were used in an attempt to slow the run of the fire, thought this again proved to be unsuccessful."

So was that a sudden turn for the worst as far as Bendora was concerned?

10 A. Yes it was. It was a bad corner to be broken out of.

Q. As you describe, at 3.30pm the incidence controller of Bendora directed all fire crews working to withdraw to the Bulls Head staging area?

A. So I believe, yes.

Q. At about 4 o'clock there were spot fires at the Tidbinbilla Nature Reserve. At 4 o'clock there was to be a planning meeting at ESB. As I understand the evidence, that planning meeting was postponed until 6 because obviously things were starting to substantially deteriorate?

25 A. That's correct.

Q. At about 5 o'clock - perhaps I can ask you this question first of all: at what stage in the proceedings was it that the McIntyre's Hut fire regained prominence in your thinking?

A. Really not until the morning of the 18th when the break-out in its north-east corner was heading across the ACT border.

35 Q. That was at what time?

A. Oh --

Q. That you became aware of?

A. I can't remember exactly what time it was. I need to look that up. I'm not too sure. It was 40 in the morning of the 18th. Somewhere in the morning of the 18th; I don't know exactly when.

Q. As you said yesterday, that's the point where you realised that the impact on Canberra was inevitable?

A. Yes.

Q. Mr Cooper says at about 5 o'clock - I will read you the particular passage - on the 17th [ESB.AFP.0110.1112] at 1129. Paragraph 56 he refers to having to go to Sydney on the 17th and then returning:

"I went into ESB at 1500 on the 17th after receiving a phone call from someone at ESB indicating that conditions were deteriorating. I was asked to go into Queanbeyan, attended at IMT McIntyre's Hut fire briefing at Queanbeyan at about 1530 in the afternoon to see what actions they had in place to deal with the McIntyre's Hut fire. By this time the smoke from McIntyre's was towering over the ACT and Queanbeyan and it was obvious it was going to be impossible to contain. I still recall a comment by someone at the New South Wales Rural Fire Service office on that day in response to my worried and pained look "just think, Neil, we'll be part of history". My response was that they could jam their history and should concentrate their efforts on trying to save the plantations.

New South Wales Rural Fire Service still appeared to have no clear strategy to deal with the fire and they still seem not to realise the value of the pine forest resource. For example, one of the proposed strategies was to commence burning from the Brindabella Road back through the plantations. I pointed out that if the fire could not be contained by the existing containment lines then actively back-burning through pine plantations in conditions forecast for the following days was not a very good idea and had little chance of success.

I returned to ACT control centre at about 1700 and relayed my concerns to the IMT, which included Tony Graham and Peter Lucas-Smith, about the apparent inactions on the McIntyre's Hut fire."

Do you recall that being relayed to you on the late afternoon of the 17th by Mr Cooper?

A. Not specifically, no.

5 Q. Might he have relayed that?

A. Most certainly.

Q. And if he had, obviously that would have been a significant concern to you?

10 A. It certainly would have been a concern to me, but at the same time at that particular time I've got Bendora and Stockyard fires that have broken out and we are getting impact on the ACT rural communities.

15

Q. Of course.

A. So from a priority point of view, I would have noted that but moved on to the ACT.

20 Q. But it is one more thing to worry about?

A. Yes, it is.

Q. Under a north-westerly regime, on Mr Cooper's version, New South Wales have lost control of the
25 McIntyre's Hut fire or at least their back-burning and their proposed strategies and, as he would have it, their inaction was meaning that that fire was at risk of becoming --

30 A. I don't think he actually says the fire was outside of its containment lines. It was burning very vigorously inside, and still at that stage had not broken out of its containment lines.

Q. Well, what he says in his statement, as I just
35 read to you, is:

40 "New South Wales Rural Fire Service still appeared to have no clear strategy to deal with the fire and they still seem not to realise the value of the pine forest resources."

Then he criticises a strategy that was suggested to him about back-burning through pine
45 plantations. All I am really asking you is: do you recall this being told to you and, if you do, I assume or I suggest to you that it was just an

additional thing for you to be concerned about,
that things weren't going well in New South Wales?
A. Certainly. And I suspected that they wouldn't
have been. As you've just read that statement and
5 the point I just made would be the very critical
point that I would want to know, and that is, has
the southern or eastern boundaries been breached.
I indicate from that that it hasn't (sic).

10 Q. There is another document that I want to ask
you about, Mr Lucas-Smith, which is a bit earlier
on the 17th. It is [ESB.AFP.0006.0041]. I am not
sure whether you have seen this before. It
appears to be a message to operations from
15 planning. It says:

"Report confirmed from New South Wales Parks
and Wildlife Service that aerial incendiary
operations have just commenced in the
20 McIntyre's Hut fire."

Do you see that?

A. Yes.

25 Q. Underneath Mr Graham has written:

"Noted. Prayer mat out. Contact currently
making contact with Allah."

30 Pretty pessimistic note, isn't it?

A. Yes, it is. Now I understand Mr Graham's
religious persuasions.

35 Q. It is no doubt written in humour, but is it
reflective of the state of mind or the feeling
about how all this was going as at the middle of
Friday, the 17th of January?

A. There was no doubt that we had some strong
words to say to New South Wales in relation to
40 their aerial ignition plan and proposals for both
the 17th and 18th.

45 Q. As I think I have asked you before, the
planning meeting which was to be held at 4 o'clock
was postponed to 6 o'clock because of what was
described as the erratic fire behaviour, which is
really what we have been discussing.

I am not sure whether this actually went to air. But an ABC journalist by the name of Natalie Larkins refers to speaking to you at about 6 o'clock. That statement is [DPP.DPP.0003.0054] and in particular on page 3 of the statement she says the following - I withdraw all of that. I have it quite wrong.

We are now to the early morning of 18 January. The phone interview is not with you it is with Mr Castle at about 6am. A live interview went to air at 7.30am. I am not sure if I have a transcript of it. I said page 3; I meant page 2. She says:

"Just after 6am I had a phone interview with Mike Castle. During this interview we discussed the fact that the fires at Bendora and Stockyard Spur have broken their containment lines overnight and crews were battling spot fires from the McIntyre's Hut fire. He also discussed the fact that the fires had travelled down Corin Dam Road and had burned three support buildings of the tourist facility. He stated the buildings had been damaged. He didn't elaborate whether they had been destroyed. We then discussed the fact that 45 residents in the Tidbinbilla area had been placed on alert. He was emphatic that the people hadn't been evacuated, merely warned. We covered road closures and that people should stay east of the Murrumbidgee River. We discussed what resources were being utilised to fight the fires."

Now, I don't think anything in that interview that she refers to deals with the possibility that the fire might actually affect suburban Canberra. I know that is a longwinded question, but can you recall having any sort of discussion with Mr Castle early in the morning of the 18th before he was interviewed by the ABC?

A. No, I didn't.

Q. I wonder if we could have document [ESB.AFP.0110.0865], which is minutes of the

planning meeting at 6 o'clock of the 17th. I want to go, if I can, straight to page 2 under the heading "planning". You will see in the minutes there, Mr Lucas-Smith, that Mr Rick McRae states:

5

"That we need to assess the risks of the new situation, given the weather and fire behaviour conditions. Rick provided an overview of unattended fire behaviour for various periods until tomorrow afternoon. There is 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.

There is a significant threat to the pine plantation as a result of the McIntyre's Hut fire."

You then outline the objectives. So, Narrabundah Hill is, I may be the only person who doesn't know this. I know where Narrabundah is, but where is Narrabundah Hill?

25

A. Nowhere near Narrabundah. It is the hill directly to the west of the suburb of Duffy.

Q. So that potential is now making the spread of the fire to the suburbs a significant reality, isn't it?

30

A. Sorry, can you say that again?

Q. Yes. The potential that Mr McRae is outlining in these planning minutes, Uriarra by midday, the Cotter Pub and reserve at 1600 and Mt Stromlo and potentially Narrabundah Hill by 8 o'clock at night is meaning that the risk to the Canberra suburban area is now a significant risk?

35

A. Yes. That is certainly part of our plan and certainly within our strategies.

40

Q. And the risk to the suburbs follows from an acceptance of Mr McRae's opinion that that potential existed?

45

A. Yes. The fire is still at this stage not yet in the ACT.

Q. I appreciate that. It is now being recognised in this planning meeting that there is a clear line to the Canberra suburbs?

A. Yes.

5

Q. So, what was the plan after the 6 o'clock meeting in terms of letting people know who lived on the western edge of Canberra that they were now at significant risk and telling them what they should do?

10

A. At that particular stage we were still very much involved, obviously, in Tidbinbilla and Paddys River Road area and Tharwa areas and across to Naas and Mt Tennant, and Ingledine Pines were all a part of the Bendora and Stockyard fires and our resources were deployed very rapidly across that. In this same set of minutes on the last page, which is page 3 of the document, under "fire behaviour" it says:

15

20

"The planning team is to prepare a detailed list of assets at risk and to evaluate and prioritise appropriate actions."

25

That was the tasks they were then given. We wanted to make sure that we knew what the predictions were going to be. We had the areas outlined there in Mr McRae's planning statement on page 2, the one that you read.

30

They were roughly drawn onto a map which was at this planning meeting. We were referring to - I think the minutes of this meeting have actually got it wrong. I don't know if they have got it wrong. What Mr McRae said, he may very well have said that, but the map doesn't necessarily reflect that. In fact, the map shows 2000 hours the fire potentially being on the western side of the Stromlo pine plantation not yet through to Narrabundah Hill.

35

40

Q. Just speaking of maps, the map you referred to, is that amongst the material that has been handed over to the Court, as far as you are aware?

45

A. Absolutely. I can't see the original. I have only seen a copy since.

Q. The map that you drew on during the meeting at 6 o'clock on the 16th, was that also part of the material that was handed over?

5 A. I don't know. All maps were swept in by AFP. What was included in them, I don't know.

Q. Let me ask the question again because, in view of the circumstances as they prevailed at 6 o'clock on the night of the 17th, people in the path described in Mr McRae's assessment, including 10 people on the western side of the suburban area of Canberra, were now entitled to be warned - weren't they? - that they were at risk?

15 A. I think it also points out this is a fire spread without intervention. This is unattended fire growth. There were a number of things in the way there. Certainly from our point of view we had in our minds the strategy of the extensive clear area or open area of the grasslands to the 20 east of the Murrumbidgee River which gave us very strong, certainly in my view, gave us very strong control line opportunities to prevent that.

Q. Assuming all that failed, what was the warning 25 to all those people that were going to be affected?

30 A. I assume we would then go through the warning processes, which I understand we did on Saturday morning.

Q. But at this stage on Friday night, the situation was serious enough, I suggest to you, and the potential real enough to require that a plan be implemented so that people could be given 35 as much notice as possible that, if things went wrong, they were at risk?

A. (witness nods).

Q. Was there any plan on the Friday night to 40 start letting people within the affected areas all the way through, including the western side of Canberra, letting them know that they should be aware that they were exposed to a potential risk?

45 A. Not as far as the potential McIntyre's fire outbreaks were concerned, but certainly as far as a Bendora fire was concerned.

Q. What was that plan?

A. A number of rural properties were telephoned and advised, or spoken to. And there were some 40, or whatever the number was, rural properties
5 directly contacted by ESB. And we set out other advice. We moved all of our fire appliances into the Paddys River road, the Tidbinbilla Tharwa area right into Naas and top Naas and worked on all those areas. And they were to go and knock on
10 doors at rural properties and ensure that everything could be put in place. and all of the ACT firefighting resources - and I mean all of the ACT firefighting resources - were now deployed in Bendora and Stockyards.

15

Q. What about the media arrangements? You said earlier that some of the media arrangements in relation to warnings for some of the rural land dwellers were, I think to quote you, sadly
20 lacking. Was there an efficient process whereby the media would be informed so they could disseminate information on the night of the 17th?

A. The media people were part of our planning meetings; they got the information; they went away
25 and prepared the material.

Q. Was the sad lack that you referred to earlier also part of the arrangements on the 17th --

A. I think we didn't emphasise --

30

Q. Didn't emphasise --

A. -- didn't emphasise what people really needed to do in the most direct way that we possibly could. The media continued to concentrate on
35 interviews and obviously, as you hear and see and read transcripts, I obviously wasn't able to convey that message adequately.

Q. Can we have [ESB.AFP.0110.0905]. This is a media update at 8.50 as at the night of the 17th, Mr Lucas-Smith. Whilst it provides information about the status of the fires, it clearly doesn't include any warnings about risks to particular residents whether rural or suburban; does it?

45 A. All I am seeing is this scrolling past.

Q. I am happy to hand you my marked copy, if that

assists you. Ignore the highlightings.

5 A. No, it doesn't. It does point out that we would be liaising and co-ordinating with New South Wales regarding the McIntyre's Hut fire and New South Wales were the people responsible for the media notices in relation to McIntyre's Hut fire.

10 Q. It doesn't actually refer to - you just said then "New South Wales were the people responsible for the media notice in relation to the McIntyre's Hut fire". It doesn't actually say that?

15 A. No, it doesn't say that. But it does say that we were co-ordinating with New South Wales in relation to that. I think you will find there were other advice handed out well before that and I think it is attached to a number of the media releases before as to what people should do in the event that a fire should approach their property, and that had been done a number of times up to
20 that point. I think that media statement is more or less a status report.

25 Q. On the morning of the 18th, you commenced work at 5am. At that point the McIntyre's fire had crossed into the ACT; is that one of the first things you discovered upon getting to work?

A. I'm not too sure if it had crossed over at that time.

30 Q. Let's see if we can work out when you became aware that it had crossed. Your statement says that you started work at 0500. Paragraph 108:

35 "Air operations commenced at about 6.30. Mr Bartlett conducted the observation. He says that there were three fires affecting the ACT. A tongue of fire coming from McIntyre's Hut had crossed the border and was impacting on the north-western edge of the
40 Uriarra pine plantation. The Bendora fire had spread over Black Springs Mountain and into the Tidbinbilla Valley. There was a long tongue of fire from the Stockyard Fire extending into Tharwa and Naas."

45

So can we take it that you were aware by, say, 7.30am at the latest that a portion of the

McIntyre's Hut fire had crossed the border into the ACT?

A. Yes.

5 Q. Now, at 9.30 on the 18th, there was yet another planning meeting. It is referred to by you in paragraph 110 of your statement. The document is [ESB.AFP.0010.0266] and in particular under the "planning" heading for those minutes,
10 Mr Lucas-Smith, Saturday's weather conditions were set out under "planning". Under "weather" and "planning considerations" on page 2 indicate there was a significant potential for long distance spotting that day, watch-outs must be read and
15 implemented and safety procedures followed. Going down a couple of dot points:

20 "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."

25 That is as at 9.30 on the morning of 18 January. That's right, isn't it?

A. Yes.

30 Q. The as-yet-unidentified author of certain notes made note of this discussion [ESB.AFP.0010.0278] at 0280, the particular section on the screen. Is the author of these notes - I think I have already asked you and you have said you are not sure whose handwriting it is - but do you see there:

35 "High levels of exposure. Peter" - I think that is referring to you "run from McIntyre's south-east Weston Creek to Greenway. Move westerly Belconnen and south Belconnen.
40 William Hovell Drive West from Tidbinbilla."

Is it likely that at that meeting the risk to that area of Weston Creek to Greenway was described as being a high level of exposure by you?

45 A. It may be an area identified of possible exposure. Whether it was a level of high exposure, I don't know. I don't know where it

says "high level".

Q. The first words I referred you to?

A. It says, "Highlands".

5

Q. I want to suggest to you it says "high levels of exposure"; you don't agree?

A. Oh, does it? It could do. It could do, yes. Yes, "high levels of exposure".

10

Q. At a minimum the position was --

A. That doesn't necessarily mean that I said that. My name actually appears after that, not before that.

15

Q. It is difficult, bearing in mind you are not the author of those notes; I accept that. At a minimum, the meeting expressed that the current areas of concern included the potential run from McIntyre's fire impacting from Weston Creek to Greenway?

20

A. It appears so, yes.

Q. That is at 9.30 on 18 January.

25

A. Yes.

MR LASRY: Would that be a convenient time, your Worship?

30

THE CORONER: Yes. We will adjourn until 10 o'clock tomorrow morning.

**MATTER ADJOURNED AT 4.04PM UNTIL THURSDAY,
19 FEBRUARY 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

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

DAY 13

Thursday, 19 February 2004

[10.00am]

<PETER WILLIAM LUCAS-SMITH, RE-AFFIRMED
<EXAMINATION-IN-CHIEF BY MR LASRY

5

MR LASRY: Q. Mr Lucas-Smith, as you can see, we have got a number of maps which I think you will probably recognise as being ESB maps. I want to really get you essentially to identify what the maps are and their relevant time period and also ask you a couple of questions about them.

10

It may be it would be helpful for Mr Lucas-Smith to leave the witness box if he needs to. We did have a portable microphone that Mr Cheney used. I am not sure if we still have it. We will come to that if we need to.

15

The maps are also on the system. I will be referring to the numbers as we go. The first one is [ESB.AFP.0110.1035]. Do you recognise that map, Mr Lucas-Smith?

20

A. Yes, I have seen that map before.

25

Q. You have got a good enough view of it?

A. I have the screen between me and it. I have to come away from the microphone to see it.

30

THE CORONER: Would it be better if you stepped down next to the map, Mr Lucas-Smith?

35

MR LASRY: Q. Perhaps if you step outside of the witness box. Would you stand on this side, Mr Lucas-Smith, and stand near that. That is apparently a microphone. By all means if you can turn that around so you can see it.

40

I think the first map, as I follow it, is one that is compiled on 17 January at about 4pm, simply because on the left-hand side of the map it appears to say that. Do you know whose writing that is, who would have made that endorsement on the left-hand side, compiled 1600, 17/1/03?

45

A. No, I don't.

Q. Who would be likely to have produced that map?

A. I don't know.

Q. Might it be Mr McRae or his section?

A. I know Mr McRae's writing and, judging by the writing there, I don't think this has been compiled by Mr McRae.

5

Q. Obviously the dark patches on the map show the three fires of major concern and somebody has written on the map with red texta, apart from writing "compiled" - has appeared to place a sort of projected effect, particularly from the McIntyre's Hut fire on the western edge of Canberra; do you see that?

A. Yes, I do.

15 Q. If you look at those lines, am I right that they are in effect time projections?

A. Yes, they are.

Q. In relation to those red lines or red rings that are drawn with time projections, just take us through one by one what they appear to be, starting closest to the McIntyre's Hut fire?

A. From this point here, I need to point out that I haven't seen this map for well over a year now. I have to familiarise myself with it. It appears it is talking about a start point or a point here and it is referring to 17 January, 17/1, and a time of 1930. From there it is projecting out with arcs which appear to be separated by time frames and they are saying - and date and time. I believe it is suggesting that the fire has potential to spread to that arc at a particular time.

35 Q. Can you identify easily those arcs as to the times and their locations?

A. Not - well, no I can't do it that easily. For example, it says "1930, 17/1", which is exactly the same time it has written at the start and it is between two lines. I am not too sure which line it is actually referring to.

Q. Those arcs are primarily in relation to McIntyre's Hut, it appears. Are there similar projections in a form that you recognise for either Bendora or Stockyard Spur fire?

A. Similar; not the same. There is certainly a

diagram showing some predictions as to a start point or a possible start point and fire growth in what direction over what time frame.

5 Q. Am I right in that last arc going back to McIntyre's Hut it appears to show some kind of potential impact in the west of Belconnen, it seems, and also in the vicinity at least of Weston
10 Creek at around 8 o'clock I think on the evening of the 18th, that is what it would be predicting; is that what that last arc shows as far as you can see?

15 A. I think certainly the last arc shows a time and it shows --

Q. I think it is 2000 hours, isn't it?

15 A. 2000 hours. I can't see a date, but it looks like it says "22" and something is crossed out which may be "20". But it is an arc - it has
20 other lines in here. This is the predicted direction of spread, and this arc is just putting in the potential there depending on the vectors of the wind.

25 Q. Was that the kind of map used at the planning meetings?

A. As you recall, this map was actually put up at the planning meetings at the 4 o'clock - beg your
30 pardon, the 1800 planning meeting on the 17th.

Q. The one which was postponed from 4 to 6 o'clock?

A. Yes.

35 Q. I wonder if I could ask our instructor to assist with just removing these as we go so we follow the order. The next document is [ESB.AFP.0110.1036]. I am sorry, I will deal with this, but I have given the wrong number. It is
40 [ESB.AFP.0110.1070]. As I understand it, Mr Lucas-Smith, this is in effect a satellite image map of the ACT which we think Mr Lhuede may know something about. Do you recognise that document? It appears to contain projected fire
45 spread, obviously. Do you recognise that? Have you seen that before?

A. In fact, yes, I think I have seen it before.

I am not 100 per cent sure. I think what it actually is showing is where the fire growth had actually occurred on the 17th. I think what the reason why the map was actually produced was
5 because I had specifically asked that the planning section identify those assets under risk. These highlighted areas are the areas that they specifically identified.

10 Q. For the purpose of the transcript, the fire area is in a crosshatched shaded area and then the separate orange highlighter, and that is designed to identify assets or both assets and where people are living?

15 A. Yes. I can't remember what my exact words were in relation to the minute. I asked I think it was assets under risk, and that would of course include property.

20 Q. Is there a date on that map? The date I am instructed is 17 January. Is there anything that you can see on that map that fixes a date on it?

A. There is certainly nothing that is evident,
25 about the 17th.

Q. Consistent with the 17th?

A. Yes.

30 Q. I gather that the date is on the map. Before that is removed, the New South Wales border, the straight part of the New South Wales border in the vicinity of the McIntyre's Hut fire, on that map at least it seems to suggest that McIntyre's Hut
35 has crossed into the ACT, does it not?

A. Yes. That is what it is indicating. I think from the statements that have already occurred - in fact this could very well be the morning of the 18th. Mr Bartlett reported in his early morning
40 flight there had been a crossing into the northern parts of the Uriarra pine plantation on the morning of the 18th. This map could very well be the morning of the 18th. There is no date or time on this, so I am not sure.

45

Q. There is actually a date on the back. On the back it says, "Estimate of fire perimeters as at

Friday, 17 January '03 pm between 1800 and 2000 hours". It is signed by Mr Lhuede on 7 February '03. So he can be asked about that map.

5 The next one is [ESB.AFP.0110.1034]. Am I right, this is an ACT contour map which certainly has 18 January on it, but it also has on it - is that "drawn at" or "something at"?

A. It says "done at" 1000 18/1. It says
10 "scenario for the 19th".

Q. Obviously the map shows the projected impact of the fires on areas including Weston Creek, south Belconnen and Tuggeranong?

15 A. The suburb names are there, but it is very difficult to pick out where they occur.

Q. That is Weston Creek?

A. Streeton Drive, Eucumbene Drive, so they are
20 still a little bit further than there. That is saying 1700 hours on 19/1.

Q. So 5 o'clock on the Sunday afternoon?

A. Yes.
25

Q. Do you know how that map came into existence and who prepared it and who prepared that projected fire spread?

A. No, I don't. That's something that was done
30 in the planning cell.

Q. Have you seen it before?

A. I certainly don't remember seeing it before.

35 Q. Certainly anyone preparing that map at 10 o'clock on 18 January would have been immediately conscious of the need to warn people in the vicinities that were clearly affected by that projection, you would have thought?

40 A. Well, as I have said before, what happens in the mapping cell, there are a number of people working there and they are working on scenarios. What they do, they bring those scenarios together and couple it with consensus. Whether this map
45 and the scenario that was projected saw the light of day, I don't know. In the planning cell there are a number of people working on different

scenarios and they go through a meeting within the planning section, and the planning section come forward with a consensus view at the end of the day as to what they want put forward. I don't get
5 involved - I am adding bits to it. I am extending my answer.

Q. It is always dangerous. I can assure you, Mr Lucas-Smith, witnesses are constantly being
10 warned not to do that. I wonder if that map could be removed and we will go to the next one, which is [ESB.AFP.01101.1036]. I think what we can detect about this one just on the face of the document is that if you look right down the bottom
15 you will see it was printed on 17 January at about 3 o'clock in the afternoon. Does that appear to be correct?

A. That's what the legend says, yes.

Q. Of course obviously what that means is the map comes off a printer and it is used and people draw on it for the purpose of formulating their projections and whatever else. Endorsed on the map is the words "used 18 January". Do you
20 recognise that map?

A. No, I don't.

Q. It seems primarily to be concerned with fire spread in relation to Stockyard, I think. It also
30 shows the containment lines for Stockyard and Bendora, and there is also some highlighting in the suburban area which logic would suggest was highlighting of areas likely to be affected, I presume?

A. I would hope, because that would imply that the fires are coming in a totally different direction, and the areas that in fact were impacted are the areas - I am not too sure what this map is supposed to reflect. I assume that,
40 because it only refers to this, this was done by the Stockyard planning team.

Q. There was no projection of effect either from Bendora for that matter and certainly not from
45 McIntyre's Hut on that map, is there?

A. No, that's right.

Q. The next one is [ESB.AFP.0110.1031]. This has marked on it "9am on 18" - it seems to say "18-10-03"?

A. Yes.

5

Q. First of all, do you recognise that map?

A. No, I don't.

Q. Never seen it before?

10 A. Oh, well, I can't say that. I was often in the planning section pulling out the maps. I don't recall this map.

Q. On the legend of the map there is - it seems to be a plot of the fire edge. As I understand it, the red dots represent the active fire edge?

15 A. The legend says "red dots active fire edge". There appears to be some red dots here (indicates) and here, here and in here. They were outside of
20 the shaded areas.

Q. Perhaps we can't assume it is 18 January. On the legend do you see there is a print time, I think printed at 9 o'clock on 18 January. Is it
25 9 o'clock or 8?

A. It is 0900 hours, what the legend says. What I understand is that is not an automatic date. They might have produced a number of maps without changing the legend.

30

Q. There is also a plot time, 1125 hours?

A. 1125 hours, 18/1/03.

Q. On that map, as opposed to the fires and the topographical features, the suburb area is which
35 area? Is that the purple or pink area?

A. The pink area. This is Weston (indicates).

Q. If that plotting is done at 1125 on the 18th, it is somewhat out of date; it is somewhat
40 inaccurate as at 1125 on 18 January?

A. Yes.

Q. The fires were significantly more advanced
45 than that?

A. It certainly doesn't appear to reflect what I understand happened at 9am on the 18th.

Q. Next is [ESB.AFP.0110.1037]. Again, this is an 18 January map?

A. It appears to be identical to the one before.

5 Q. There is the same plotting time, 11.25?

A. 11.25 it is.

Q. Is there a reason why there is no plotting of the McIntyre's Hut fire spread on this map?

10 A. The only reason that I can think of was that the person who produced this map was not dealing with McIntyre's Hut fire predictions.

Q. Simply with the Stockyard and Bendora fire predictions?

15 A. Yes.

Q. Once the McIntyre's Hut fire had spread into the ACT, as it did overnight, was there someone at ESB who was then responsible for plotting and projecting its spread between the border and the suburban area?

20 A. I don't know specifically of someone, but certainly the planning team would be monitoring it. We had reports coming in from the field, from the aircraft and so forth also telling us and updating us. That information would have went back to planning for them to plot.

30 Q. If we go to the next one, please. It is [ESB.AFP.0110.1032]. This is 18 January printed at - probably printed at 1 o'clock and with a plot time of 2 o'clock. That is what the legend seems to suggest?

35 A. It says "18/1/2003 at 1300 hours. Plot time, 1400 hours, 18/1/2003".

Q. That does have plotting for all of the fires from Stockyard up to Bendora and McIntyre's?

40 A. Yes.

Q. Do you agree at the time of the plotting, as shown on the map, that plotting is well and truly out of date, certainly in relation to McIntyre's Hut, I think?

45 A. No, I can't be certain about that because I know from a McIntyre's Hut fire point of view it

was certainly in the ACT in the Uriarra pine plantations and at 1400 hours it was still west of the Murrumbidgee River, which is running down here.

5

Q. That's not right, Mr Lucas-Smith. By 2 o'clock wasn't it on the western side of Mt Stromlo? Am I wrong about that?

A. You are wrong about that.

10

Q. You say you are not sure whether it is accurate at the time or not?

A. No, I'm not sure.

15

Q. What about in relation to Bendora/Stockyard?

A. Certainly Bendora seems to be falling a little short. If I remember correctly, there were impacts already occurring in this area down here (indicates). I should say the map may very well have been printed for a totally different purpose and may have just not updated the plots, because that's not what the purpose of the map was produced for.

20

25

Q. I want to compare what is shown on the map with the evidence that Mr Cheney gave. We can compare it with what is shown on the map. He says:

30

"In relation to the behaviour of the McIntyre's Hut fire on the 18th, during the morning the fire expanded in the timber country west of Doctor's Flat Road and southward in the Uriarra pine plantation, and by 1200 hours was burning in the timber country behind Uriarra Station. After 1230 hours, as the weather deteriorated the fire increased in intensity and commenced throwing increasing numbers of spot fires into the grass lands. At some time after 1300 hours the firefighting forces were overwhelmed and the fire made a fast run through the Uriarra settlement and at 1400 the fire was burning in the pine plantations on Mt Macdonald north of the Cotter Dam and into the pine plantations immediately west of the Murrumbidgee River."

35

40

45

I am certainly wrong in the proposition I put to you earlier. Just to refresh everybody's memory, he says:

5 "By 1430 hours the fire had crossed the
 Murrumbidgee River into sparse pasture
 country east of the Murrumbidgee corridor
 reserve and had thrown a spot fire into
10 the western edge of the Stromlo pine
 plantation to the west of the Stromlo
 observatory."

 He goes on to describe the intense run up the
 western slopes of Mount Stromlo at 2.45 and so on.
15 That map is pretty close - the plotting is pretty
 close to what Mr Cheney is describing; is that
 right?

A. I believe so.

20 Q. If we can go to the next map, which is
 [ESB.AFP.0110.1033]. Again, an operational map.
 This one appears to have been printed out at about
 4 o'clock in the afternoon of the 18th. Does that
 appear to be right?

25 A. It says "1600 hours on the 18th". It says
 "plot time 1630".

 Q. Plot time some time later, half an hour later.
 Do you recognise that map?

30 A. Certainly not.

 Q. Certainly not?

A. (Witness shook head).

35 Q. Does that mean it is probably not a map you
 have seen before?

 A. No, it is not map I have seen before, and I
 would be surprised if it was a map that actually
 surfaced in any real discussions because it is
40 showing things that certainly weren't even close
 to being in projections.

 Q. That is probably sufficient for that purpose.
 Thank you, Mr Lucas-Smith, if you could go back to
45 the witness box, please.

 On 18 January, on the Saturday, you commenced work

very early at about 5am, as I understand it. It seems that over the next couple of hours the feeling was that the fire - we are now talking about in a sense the fires, but probably primarily
5 the McIntyre's Hut fire - would reach Duffy at about 6pm. I will tell you why I am putting that to you. Sergeant Kirby, a member of the police force, attended a meeting at ESB at 20 to 8 and was told during the course of that meeting that it
10 was predicted the fires would reach Duffy at about 6pm. Is that a prediction that you were conscious of in the earlier morning of 18 January?
A. No.

15 Q. It wasn't?
A. No.

Q. You had formed the view that it was inevitable that the fires would affect the suburban area; I
20 think you told us, effectively at or around 7.30am on the morning of the 18th yesterday. Did you have a time that you had in mind as to when that was likely to happen?

A. I hadn't clearly formulated a time in my own
25 mind nor as to what the extent of that impact might be. But the only information at that particular time I had was the predictions and projections that were made and presented to the planning meeting at 1800 hours the evening before.
30 That showed clearly that the projections that were being proposed was for 2000 hours to the western side of Mt Stromlo - the Stromlo pine plantation, not Mt Stromlo - at 2000 hours when there was to be expected a weather change. So I don't see how
35 I could have formed the other view.

Q. I should indicate in relation to Sergeant Kirby, he received a briefing from Superintendent Prince, he says in his statement. Superintendent
40 David Prince is with the ACT Fire Brigade?
A. That's correct.

Q. Mr Kirby's statement says:

45 "On Saturday 18 January at 7.40am I attended a meeting at ESB. I received a briefing from Superintendent Prince with regards to the

deterioration of the fires. He advised me that the fires were now predicted to arrive at Duffy by 1800."

5 That is 6 o'clock at night. You don't know where Superintendent Prince got that idea from?

A. No, I don't.

10 Q. Were you at a point where you were speaking to people like Mr Prince in ACT Fire Brigade?

A. I was certainly in close contact with the Fire Commissioner, Ian Bennett, yes.

15 Q. I want to show you a document, Mr Lucas-Smith, which is [ESB.AFP.0110.0974]. The document is a message form which appears to be prepared by Mr Lhuede or at least in part. It identifies in effect arrival times or exposure times of various landmarks in relation to the fires. It says under
20 the heading "Assets":

"Scout camp/Green Hills 1600, 18 January.
Mt Stromlo observatory complex 1800,
25 18 January" - that is 6 o'clock at night -
"forestry house/blue gums" - I am not sure what that is - "1800 on 18 January. Stromlo treatment" - which is the Stromlo treatment works, isn't it - "1800 on 18 January. Narrabundah Hill pines, 2000 hours on
30 18 January" - that is 8 o'clock - "and pine plantations, 2200, 17 January."

Then crossed out:

35 "Nothing directly under threat until am 18 January. On wider prediction of" - something spread - "blue range camp."

40 That's been crossed out. The "objective: contains spotovers" has been crossed out. Something else has been crossed out as well. Underneath, just above your signature:

45 "Pine plantations under threat, 2200, 17 January. Other listed assets under threat am."

Did you ever see that document or speak to Mr Lhuede about it?

5 A. No. Mr Lhuede is a member of the planning team. It was discussions within the planning team.

10 Q. Yesterday I showed you the minutes of the planning meeting held at 6 o'clock on 17 January, and what is on this document is consistent, I suggest, with what is in those minutes about when the fire would strike at those particular spots. I can read to you the relevant part. You recall yesterday I read to you Mr McRae providing an overview of unattended fire behaviour for various
15 periods:

20 "There is potential for the fire to reach Uriarra by midday tomorrow, the Cotter Pub and reserve at 1600, and Mt Stromlo and potentially Narrabundah Hill by 2000 hours."

You agree it is obviously consistent with this?

25 A. Yes. It is not consistent with the map that was on the wall.

30 Q. At about 9 o'clock on the 18th Mr Cooper attended at ESB, he says in his statement, in paragraph 57. He spoke to you. Do you remember Mr Cooper being at ESB at about 9am on the morning of the 18th and having a conversation with you?

A. No, I don't.

35 Q. He says that he attended the planning meeting at 9 o'clock on the morning of the 18th, and in paragraph 57 of [ESB.AFP.0110.1112] he says the following:

40 "The weather forecast was not good. At that time the McIntyre's Hut fire had already jumped containment lines and was now into the northern part of the pine plantations at Uriarra. The previous day, the Bendora fire had burnt through the plantation at Gibraltar. I was then informed that I was
45 not required until later that night (by Peter Lucas-Smith) which I thought a little bit strange given that I had been rested and had

already turned up as agreed the day before.
I also felt that as our plantations were at
risk it would make sense to use someone who
had plantation experience and knowledge.
5 Planning seemed to be focused on the southern
areas of the Bendora complex of fires and not
on the north-west and McIntyre's Hut fire,
even though now the McIntyre's Hut fire had
broken its containment lines and was in the
10 ACT, a point raised by Tony Bartlett at the
same meeting. My recollection is that Hilton
Taylor, the situation officer in the planning
unit, made it quite clear that at that 9am
briefing that the McIntyre's Hut fire would
15 be in Canberra by late afternoon. Still no
units were dispatched by ACT IMT into the
Uriarra area (the north-west part of the fire
complex) with the majority of units tasked
towards Tharwa."

20
Are you able to say whether you did tell Mr Cooper
that he was not required until that night?

A. I certainly don't recall saying that, but I
wasn't running the rosters. Mr Cooper is a group
25 officer within the bushfire service as well as
being a forester for ACT Forests, and he would be
rostered accordingly.

Q. Do you agree that planning at the planning
30 meeting on the morning of the 18th was focusing on
the southern areas of Bendora and not on the
McIntyre's Hut fire?

A. Certainly. We had rural property we were
still trying to protect.

35
Q. Do you recall that Mr Taylor said during that
9am briefing that the McIntyre's Hut fire would be
at Canberra by late afternoon?

A. No, I don't recall that.

40
Q. Is it possible he said that?

A. It's possible. I certainly don't recall that.

Q. Do you also agree that no units were
45 dispatched by the IMT at Curtin to the Uriarra
area?

A. Absolutely.

Q. Is that because it was too dangerous to do that?

A. No.

5 Q. Why weren't they?

A. We were protecting property in the rural areas of the ACT. Bendora had burned into Tidbinbilla. Houses were burning down. In the rural settlements we had all of our resources deployed.
10 In fact we didn't have adequate resources to do the job at hand. The cross-over at the ACT border brought with it all of the New South Wales resources that were fighting the McIntyre's Hut fire. There were more resources there than what I
15 had in the southern parts of the ACT. Why would I send my resources north?

Q. Did you become aware that in the later part of the morning at around lunchtime, which was also
20 about the time that the media conference occurred, which we will look at in a minute, the police were becoming involved and an issue was arising about whether or not evacuations needed to occur and whether a state of emergency needed to be
25 declared? Do you remember that arising in a sense as an issue?

A. I'm sorry, are you suggesting it was raised with me?

30 Q. I will be suggesting in a minute that there was a discussion which involved you. I am just asking you generally: in the late morning and around midday did you become aware of the fact that police were now saying, "We need to be
35 thinking about evacuations and the declaration of a state of emergency"; that there was some debate about that?

A. I knew the police had established their police operations centre and were in full swing to do
40 their part of what was required. What they were planning, I don't know.

Q. I will see if I can take you to a part which crystallises the issue. Do you know Commander
45 Mandy Newton?

A. Yes, I do.

Q. From the local police. She has provided to us a statement. In the version I have it is still in draft, but I assume it is accurate for these purposes, at least. I don't have a number for it.
5 I will ask Mr Woodward to supply me with it.

THE CORONER: It is still in draft form, did you say?

10 MR LASRY: It may not be in draft form anymore. Commander Newton provided us with a statement dated 7 October 2003. My copy has "draft" across each page. It is [AFP.AFP.0110.0398]. It may be that by now it is no longer a draft and she has
15 signed it. If that is the case, I am unaware. Nonetheless, in the expectation that it contains information which is true and correct, let me ask you about it, Mr Lucas-Smith.

20 Commander Newton says or is expected to say that she rang Sergeant Byrne, her liaison officer at ESB, at about 12.20pm on the 18th - this is at page 21 of the document - and ultimately she spoke with Mr Castle. She says:

25 "Sergeant Byrne put me on to Mr Castle and I had a conversation with him. During this conversation I clearly articulated my view that a state of emergency needed to be
30 declared and my reasons for wanting him to support a state of emergency. Mr Castle did not share my opinion. During the conversations we said things to the effect of ..."

35 Then she purports to quote in effect. He said, "What does the declaration give?" She said, "Powers to evacuate if needed." He said, "I don't see a need to evacuate." Commander Newton said,
40 "You can answer to the coroner if people die." He said, "If people die, I will answer to the coroner."

45 What is being portrayed in Commander Newton's statement is a significant difference of opinion about the need for a state of emergency and the need for evacuations. Were you aware of that

difference of opinion as at that stage?

A. No, I wasn't.

Q. A little bit later at 12.20 it appears that
5 Sergeant Kirby from the police went to an office
where you were present. Sergeant Kirby says in a
statement dated 13 June 2003 on page 5, again the
number for which at the moment I don't have -
there may be some doubt as to whether this
10 particular document is in the brief. I will make
some inquiries. I will read the relevant
paragraph. Sergeant Kirby is describing being
directed by Commander Newton to go to ESB and
assume the role of police liaison officer. He
15 says that on arrival he was briefed by Sergeant
Byrne and then went to Mr Castle's office, where
he says you were present together with ACT Fire
Commissioner Ian Bennett, Mike Castle and Tim
Keady. The statement goes on:

20

"I sought advice from the ESB group regarding
the possible evacuation of Duffy. I talked
about the radiant heat along the area of
Eucumbene Drive and Burrinjuck Crescent and
25 concerns I had about this radiant heat. I
said that evacuation plans were being
formulated by Superintendent Lyons for this
area. However, I was advised by all members
in attendance that the decision to evacuate
30 should be left with the residents. I relayed
this information to the PAC," which I assume
is the police operations centre.

Do you recall such a conversation?

35 A. No, I don't recall.

Q. Did you have a view that was in accordance
with what he describes? In other words, was your
own position that it was better for people to stay
40 with their houses than to be evacuated?

A. Yes, it was.

Q. Before we come to the rest of the discussion
about the declaration about the state of
45 emergency, it might be appropriate to revisit the
media conference. I think the media conference
occurred at midday on the 18th. Is that right,

Mr Lucas-Smith; do you recall that?

A. Yes, I do.

Q. Could we have that in a position to be played.

5

MR JOHNSON: Could I raise one matter. The Kirby statement which has just been referred to doesn't seem to be in the brief. We don't seem to have it. Bearing in mind that it has been referred to and that it may be that the point will be reached today where others at the Bar table may wish to ask the witness questions, could we have a hard copy of that statement as soon as possible?

10

15 THE CORONER: I am sure that will happen as soon as possible.

MR JOHNSON: Thank you.

20 MR LASRY: Yes. There is a transcript of this media conference which I will just identify. It is [DPP.DPP.0004.0047].

(Video of media conference held at midday on 18th January played)

25

Q. Mr Lucas-Smith, so far as suburban Canberra is concerned and the western side, do you accept that that media conference understates the risk they were in fact facing at 12 o'clock on the 18th?

30

A. Certainly as I said yesterday we didn't emphasise adequately enough the potential risk.

Q. You would probably agree with this in view of that answer: the language used to describe the prospect of the fire actually affecting the suburban areas was very hesitant, neutral language, wasn't it?

35

A. Yes, it was.

40

Q. There wouldn't have been any real reason now, looking back at it, and I accept with the benefit of hindsight that's what we are doing, saying, "Look, people ought to be aware there is an extremely high risk that the fire will hit the suburbs and they need to prepare for it"? Words of that nature could have justifiably been used in

45

that conference, couldn't they?

A. Yes, they could.

5 Q. Of course at that stage your state of mind was that such an event was inevitable?

A. Fire was certainly going to approach the urban edge. What the impact that fire was going to be and where that was going to occur I hadn't formulated a plan.

10

Q. But in your own words used in the press conference you talked about it in terms of a chance. Referring to the question you were asked, you said:

15

"Yes. Yeah, I think the word 'minimal' is your word."

20 That's right. In fact I think the word you used the previous day was "slim". Then you went on to say:

25 "But there's always been a chance that the fire would reach the urban area. I think that chance still exists and it's certainly not out of our planning arrangements, but they are precautionary arrangements at this stage."

30 That does understate the true situation, doesn't it? It is more than a chance?

A. I would have preferred to express it with more emphasis on the level of risk. But our planning situation still hadn't quite clearly identified as to exactly what that impact was likely to be. Obviously there is a consequence to making a statement about the high risk that you also have to have the other information that the journalists would then follow with where and when.

40

Q. Yes, of course.

A. And I didn't have that information.

45 Q. Back on Monday, which probably seems a long time ago to you and it does to me as well, at page 771 of the transcript I asked you this question.

5 "Q. There is nothing the community cannot be told or there is no part of it they cannot be involved in or at least be advised about in relation to bushfire suppression and it is organised?

"A. We try to keep the community informed as best we could with the information that we have."

10 In that particular case you didn't keep the community as well informed as you could have; did you?

15 A. With the information we have, and what I am referring to there is that we are not going to make stuff up. It has got to be fact.

Q. Of course.

20 A. As I said a moment ago, I didn't have the information of when and where.

Q. No. You know that is not what I am asking you about. I appreciate there is a real difficulty in predicting when and where and the magnitude, but the fact of the impact on the suburbs was a reality by midday on the 18th, wasn't it?

25 A. Yes, and I said so.

Q. You said it was a chance. It was more of a chance?

30 A. And I was telling people to prepare.

Q. Yes, but Mr Castle opened by saying - I thought you were agreeing with me. Mr Castle opened by saying the fires posed some difficulty for the ACT. It was more than posing a difficulty. They had been posing a difficulty for the ACT for the previous week, hadn't they?

A. Yes.

40 Q. He refers in the course of his part of the presentation to a desire not to alarm people. Before you commenced this press conference was that something that you discussed and you were concerned about, that you didn't want to alarm people?

45 A. I don't recall necessarily discussing that specifically.

Q. Was that, as far as you were concerned, something that was in your mind, that you were worried about alarming people if you told them in fact you were of the view that some effect on the suburbs was by now inevitable?

5
A. As I said before, I think from my point of view if I am going to make such statements then I want to do so with fact and I want to be able to answer all the questions that are a consequence of making such a statement.

Q. There wouldn't have been anything wrong with saying, would there, "It is my opinion that these fires will certainly reach the Canberra suburban area. I am not at this stage able to say when exactly and to what extent, but people in that area should now start preparing because to some extent or another it is going to happen"; you could have said that realistically, couldn't you?

15
20 A. I am the first to admit that I am a poor person to interview and a poor person in relation to media of getting information across, as I am sure you have witnessed here. I tend to ramble.

25 Q. I wasn't asking you to make a generalisation about your overall performance, which I am sure isn't as deserving of criticism as you just suggested. What I am interested in is not performance as such but the choice of words, and the proposition I think you originally agreed with is that overall both you and Mr Castle understated the risk?

30
A. Yes. We under-emphasised is what I think I said.

35
MR LASRY: I see it is a quarter past 11. I will keep going for another 10 minutes or so.

40 Q. Mr Lucas-Smith, the discussions, it seems, in relation to this state of emergency commenced some time before 2 o'clock. I wanted to ask you some questions based on the statement made by the Chief Police Officer, Mr Murray. I want to see if you agree with his account of what occurred. I do not have a number for his statement, but I will get it. I am currently at page 13 of his statement. He describes going to ESB at about 1.52pm on the

18th. He speaks with Sergeant Kirby and Sergeant Byrne. It is [AFP.AFP.0110.0001]. He says at the bottom of page 13:

5 "For reasons previously discussed they" -
that is Sergeants Kirby and Byrne - "were
also of the opinion that a state of emergency
should be declared. Based on the briefings
to me, my past experiences in the South
10 Australian Police during the Ash Wednesday
fires and my training and experience in
emergency management, I formed the view that
a declaration of a state of emergency was
vital for the following reasons."

15 Then he sets them out. Perhaps I will read them.
There are four:

20 "1. The fire would impact upon a range of
urban and rural settlements.

"2. The fire was of such intensity and size
that it would prove difficult to stop. It
was highly destructive and probably lethal if
25 people remained in its way.

"3. There was a need for legal authority to
be able to move residents from their houses,
in particular those residents who did not
30 want to leave but who were under imminent
threat of death if they stayed.

"4. And the impact of the fire would be such
that the full state of emergency powers would
35 be needed to manage the Territory over the
next crucial hours and days."

"At about 2pm Sergeant Kirby, Sergeant Byrne
and I went to Mr Castle's office. Sergeant
40 Kirby and I remained there for approximately
45 minutes, and Sergeant Byrne and Ms Purnell
came in and out of the room periodically.
There was a meeting already in progress
involving Mr Stanhope, Mr Castle, Mr Keady,
45 Mr Lucas-Smith, Mr Bennett and Mr Tonkin.
There were others in the room, but I did not
specifically note who they were.

Mr Lucas-Smith and Mr Castle described the overall state of the fire.

5 "My opening comments to the group were that I was strongly of the opinion that a state of emergency needed to be declared. I explained that on the basis of the briefings I had received from the commander in the PAC, the views expressed to me by Sergeant Kirby and
10 Sergeant Byrne, and from my experiences in the Ash Wednesday fires in Adelaide in 1983, a state of emergency declaration was critical. There was a need to have the authority to evacuate people if necessary
15 against their personal judgment. There had been an example at Uriarra where people's lives might have been put at risk because of their failure to heed the warning of police to leave. Mr Lucas-Smith said as a general
20 rule it was best if people were prepared and able that they should stay and protect their property."

25 Just pausing there, in terms of Mr Murray expressing his view, does that accord with your recollection?

A. Yes, it does.

30 Q. Did you in fact say what I have just quoted at the end, that as a general rule it was best if people who were prepared and able stayed and protected their property?

A. It is certainly the sort of statement that I had been making up until then.

35

Q. He then said, according to his recollection:

40 "Without putting myself forward as an expert in fires, as I am not, I was involved in the Ash Wednesday bushfires in South Australia and I can say that many houses exploded because of the extreme heat and occupants died. Mr Lucas-Smith said that in his
45 experience he'd never heard of houses exploding."

Do you remember that exchange?

A. Yes, I do.

Q. Did you say what he says you said, that you had never heard of that happening?

5 A. Yes.

Q. I take it that is true; you had never heard of a house exploding?

10 A. No. I have certainly heard of people claiming it. I have never seen any evidence to support it.

Q. From your experience, is there anything about the circumstances that were prevailing on 18th January which would have led houses to explode that you could see?

15 A. No.

Q. Do you understand why people have that impression, even if it is not accurate? Do you, as an expert in the area, understand why people might think their houses have exploded when in fact that is not what has occurred?

20 A. I think people would certainly be traumatised by the fact that their house has burnt down or houses are in fact burning down. I think there are all kinds of different impacts. Often what people would view as a house exploding is usually as a result of some other activity. But generally houses burn down as a result of embers being
25 caught in crevasses or getting entry into points where they can take hold and a small fire starts which eventually grows into a larger fire and burns the house down.
30

Q. Other evidence in this case will indicate that none of the houses that burned down were burned down by the effects of direct radiant heat. I think in every case they were as a result of embers?

35 40 A. Yes.

Q. At this point in the discussion was there, in essence, an argument or dispute between you going on as to whether or not evacuations should or should not occur? Did you feel there was a fairly vigorous debate warming up?

45 A. Absolutely not. The exchange that you just

read out was the full extent of it.

Q. Then apparently Mr Stanhope, the Chief
Minister, intervened and said, "You're the
5 experts. All I want is advice". Then Mr Murray
says that he emphasised his opinion to the Chief
Minister in the strongest possible terms that a
state of emergency should be declared. The Chief
Minister asked the opinions of other chief
10 executives present and, according to Mr Murray,
there was considerable discussion on the need for
a state of emergency declaration and whether
evacuations were necessary:

15 "The Chief Minister, Mr Lucas-Smith,
Mr Castle and Mr Bennett broke away and
discussed several issues out of my immediate
presence."

20 Did that happen?

A. Yes, I think it did.

Q. Do you agree with his description that there
was considerable discussion on the need for a
25 state of emergency?

A. I think the discussion was around what the
legislative provisions were and process and just
what the declaration of a state of emergency was
going to add to what was already in place.

30 Q. According to Mr Murray at a quarter to 3
Mr Stanhope said he would declare a state of
emergency. So it seems that the discussion had
gone on for some little time at least, more than
35 half an hour?

A. Yes.

Q. But he wanted the fire authorities to be in
charge of the operation. That was the agreement,
40 in effect?

A. As I understand it, yes.

Q. So the consequence was that Mr Murray would be
appointed as Territory controller, but you were to
45 be immediately appointed as alternate controller,
and that's what happened; isn't it?

A. That's correct.

Q. His statement goes on to say:

5 "The Chief Minister clearly expressed his
view that the responsibility for fighting the
fire was to remain with Mr Lucas-Smith and
that my role as Territory controller I would
be responsible for the recovery effort."

Then the declaration was made; is that right?

10 A. That's correct.

MR LASRY: I am just about finished. There is a
matter that Mr Woodward wants to raise with me.
Would now be convenient to adjourn?

15

THE CORONER: Yes.

SHORT ADJOURNMENT

[11.23am]

20 **RESUMED**

[11.50am]

THE CORONER: I just noted that Sergeant Kirby's
statement, which I presume copies of that
statement have been made available to each of the
25 parties, perhaps should it be exhibited?

MR LASRY: If it is not forming part of the brief,
then it should be. Apparently we have a bar code
number for it.

30

THE CORONER: There is no reason to give it an
exhibit number at this stage.

MR LASRY: No.

35

Q. Before I finish, I want to go back to a
document I asked you about yesterday
[ESB.AFP.0110.0905]. You might remember I handed
you this document which was marked. I will give
40 it to you again. Do you remember I showed you
that yesterday and you gave some evidence about
it. We had a discussion at one stage about
whether it actually informed anyone reading it.
The New South Wales Rural Fire Service were the
45 people responsible for media notice and so on.
What I wanted to ask you about was the answer that
you gave. You said at page 1104 of the

transcript:

5 "But it does say - that is that document - we
were co-ordinating with New South Wales in
relation to that. I think you will find
there were other advice handed out well
before that. I think it is attached to a
number of the media releases before as to
10 what people should do in the event that a
fire should approach their property and that
had been done a number of times up to that
point. I think that media statement is more
or less a status report."

15 That's what you said about that document. That
document is dated Friday 17th at 8.50pm, isn't it?
A. Yes.

20 Q. Can I show you another document, by way of
example [ESB.AFP.0014.0375]. I will hand you the
document. Don't worry about the marking. Just
have a flick through the document. That is a
media update for Saturday 18 January at midday.
Is that the kind of document you were referring to
25 when you said that information had been handed out
a number of times prior to the one on Friday as to
what people should do if threatened by the fire;
is that the kind of document you were referring
to?

30 A. Well, this seems to be reasonably consistent
with the format that had been used in previous
media releases.

35 Q. That is the kind of information?
A. Yes, it appears so.

40 Q. If you would hand that back, please. As far
as we can tell, Mr Lucas-Smith, from the material
available to us, this document that I have just
shown you for Saturday 18 January at midday is the
first media update with that level of detail about
information about what people should do if they
are affected by the fire. Do you say there were
others prior to Saturday, the 18th of January at
45 midday?

A. I certainly recall making media comments about
that where I was even asked that question a number

of times in media interviews as to what should people do.

Q. Prior to Saturday?

5 A. It is something I had been saying for years and years. I am not sure I didn't have a chance to have a close look to the document in your hand. But I think it refers people to the Canberra
10 Connect website where the detailed information as to what they should do is available. I think we were certainly giving out that sort of information as to where people could go and get information.

MR LASRY: Your Worship, if there are other
15 documents like this one, which is as at 12 noon, Saturday January 2003, in the possession of other parties then we call for them. We have checked. As far as we can tell, this particular media
20 update with this level of information in relation to issues of community safety appears us to be the first one issued. If there are others and I am wrong about that, which were issued in the days prior to Saturday 18 January, we would like to see them.

25 THE CORONER: If the relevant authorities are aware of those documents they can be provided.

MR LASRY: On that note, I have no further
30 questions at this stage of the witness.

THE CORONER: Thank you, Mr Lasry. Mr Archer, are you ready to ask some questions?

35 MR ARCHER: Yes, I am.

THE CORONER: Mr Johnson, perhaps you should go last.

40 MR JOHNSON: Yes, that was the plan. There has been some discussion between the counsel as to the order.

<CROSS-EXAMINATION BY MR ARCHER

45 MR ARCHER: Q. Mr Lucas-Smith, I won't take three and a half days.

A. Thank you.

Q. Although, inevitably and appropriately,
counsel assisting has taken you to matters that
5 haven't been easy, I want to take some time to
some of the positives of what happened on
18 January.

So far as the formal matters surrounding the
10 relationship between ESB - of which the Bushfire
Service was a part - and the AFP, there were in
place as of 18 January a number of formal
arrangements that consolidated cooperative
inter-agency arrangements; is that right?

15 A. Absolutely.

Q. There was the Emergency Management Committee,
for example?

A. Yes.
20

Q. There was the ACT Emergency Services Forum
that I think John Murray had set up with the first
meeting on about 11 July, I think, in 2001?

A. Yes.
25

Q. And they gave formality to what was a very
close relationship, I think, between ESB and the
Australian Federal Police?

A. Absolutely.
30

Q. Now the Australian Federal Police is a bit of
a unique creature, I suppose. It is not a
territory agency --

A. Yes.
35

Q. -- with the performance of services pursuant
to a purchase agreement arrangement between the
federal and territory governments; you understand
that to be the case?

40 A. Yes, I do.

Q. So therefore it doesn't fall under the ESB
umbrella. But that has not provided any sort of
obstacle to effective co-operation between ESB and
45 the Bushfire Services part of ESB and the
Australian Federal Police?

A. As I understand it, it has made no difference

to our co-operation and coordination and collaboration.

5 Q. And so far as those formal arrangements are underpinned by good personal relationships, those good personal relations existed, didn't they, as of 18 January 2003?

A. Certainly did.

10 Q. John Murray was a person, as Chief Police Officer of the ACT, that you had a lot of dealings with over the years that he occupied that position?

15 A. Yes. There was very good co-operation between all the chief officers of all of the emergency service agencies in the ACT, and it was a type of relationship that allowed us to speak very frankly to each other.

20 Q. And Commander Newton as 2IC at that time was again a person that you knew quite well both through professional dealings and at the various social events under the JACS umbrella. You would have met with her on a large number of occasions?

25 A. Yes.

30 Q. Neither at the formal level or at the personal level, there was no obstacle to clear and precise and frank communication between ESB generally and the Australian Federal Police?

A. Certainly none that I witnessed.

35 Q. Nor did you understand there was any suspicion of hostility at a high level within the Department of Justice and Community Safety in relation to the AFP either. You didn't understand that or you didn't perceive that?

A. No, I didn't perceive that nor understand it.

40 Q. There was in the debate surrounding the enactment of the Emergency Management Act in 1999, I think it was, some debate about who the identity of the territory controller would be; are you familiar with that debate?

45 A. Yes, I am.

Q. There may have been some reluctance held in

some quarters at that time that the Chief Police Officer may not be a suitable person to hold that position as not being a territory employee, as it were; you were aware of that debate?

5 A. I'm aware of that debate, yes.

Q. Throughout the events we are dealing with, that did not present an obstacle in any way to any decision that was taken on or about the 18th or
10 days before?

A. No. The Emergency Services Bureau made its submission to government in relation to the establishing of the Emergency Management Bill. The AFP had their opportunities to make their
15 representations the same as anyone else. And that particular matter was debated within the Assembly, and the Assembly made the decision as to what the legislation would reflect. It is not an issue; it is a normal process.

20

Q. So far as the role that various agencies were to play in the event of - I won't say emergency - in the event of a significant event, if I could put it that way, the lead agency if there was a
25 fire was going to be ESB, and the Bushfire Service if it was a bushfire. If it was an urban fire, it would have been the urban fire brigade. They would be what would be called the lead agency.

A. It is not a term we generally use in the ACT
30 but, yes, your description is correct.

Q. Under the cooperative arrangements that existed other agencies would play a support role?

A. Yes.
35

Q. And in respect of this event, ESB collectively, and particularly the Bushfire Service I suppose, played the role of the lead agency?

A. Yes.
40

Q. And there were other agencies and it went beyond the AFP who were to play a supportive role?

A. Yes.
45

Q. What was the role, as you see it, of the police in relation to this event? What did you

envisage the role that they would have to play?

A. Obviously it is part of community information. It is part of our road block arrangements and things like that. Obviously as fires are growing
5 and start to move across the landscape, then we need to make sure we have got a coordinated effort to ensure that the community and everyone else is not put under undue risk in relation to their access to sites. Unfortunately these sort of
10 events will attract spectators and I certainly am not the slightest bit interested in having my firefighters being caught up in the management of those arrangements. It is primarily the responsibility of the police, and we co-ordinate
15 with the police to ensure that these things are done as effectively as we possibly can.

Q. Could I read a passage to you from the submission to the coroner of Mr Murray which is
20 [AFP.AFP.0110.0011]. Could I have page 9 put on the screen. Under the heading "general police responsibility and ACT emergencies" - do you have that on the screen there, Mr Lucas-Smith?

A. Yes, I do.

25

Q. It says:

"Insofar as leadership of large events/emergencies is concerned (outside of a
30 declaration of a state of emergency) there is a reliance on convention rather than prescribed rules. Nonetheless, this has tended to work well and in my time in office the relationship between police and other
35 emergency services has been congenial and cooperative.

Police manage the incident scene, maintaining the cordon and undertake crowd control under
40 advice from the agency that has primary carriage and acknowledge the specific threat at hand. Each emergency service has its own internal command and control structures with cross-agency collaboration occurring via
45 requests to other institutions. Where another agency commands the incident, as in the case of fires, police maintain order at

the scene, may investigate perpetrators or assess and reduce the threat, should this be based on criminal rather than natural causes, will evacuate areas or put in place road
5 blocks under advice from other services as required and broadcast information to the public via the media unit. If there is a death or suspicious cause, the incident becomes a scene crime, regardless of whether
10 it is a fire incident or not. Police then manage the incident and control access to the site in order to preserve and collect evidence."

15 Is that a fair assessment of the role that the police were to be playing in these fires in general?

A. Yes.

20 Q. In relation to the last part of that, Mr Murray made reference to broadcasting information to the public via the media unit. Your understanding would be that, so far as the police had that responsibility by virtue of
25 convention, that information would be about matters within the bailiwick, as it were, of the police?

A. Yes.

30 Q. So, to take an example: road blocks, for example, were matters that were very much on the agenda of the police in the day of the 18th of January 2003, and you would expect that they will provide information to the public about road
35 blocks and where they were?

A. I would expect so, yes.

Q. Now, in relation to issues of fire, though, so this is very clear: it was not a matter for the
40 police to attempt to inform the public about fire movements and so on?

A. No, it wasn't.

Q. Why?

45 A. Well, that was the fire agency's responsibility. They had the information. They were the ones that were dealing with or understood

where the fires were at one particular time, and where the spread of the fire was going to be.

5 The police would certainly sit in, and they did, sit in continuously on our planning meetings and would receive that information in general. But the actual fire growth was the responsibility of the fire services.

10 Q. So on the basis of expertise and information and in the interests of ensuring a coordinated and unified approach to public information, it was important that the ESB generically - the Bushfire Service - would have control of information going
15 to the public about the fire movements?

A. Yes.

Q. Before returning to that subject, could I just go to another matter in relation to your position:
20 your CV has been made available. What is your substantive position? What level of seniority are you?

A. Are you saying what is my Public Service --

25 Q. What is your Public Service position?

A. I am referred to as an emergency service manager, which means I have a substantive Public Service position. Then I have an AWA on top of that again, which tops that substantive position
30 up.

Q. Your CV makes reference to the fact that you are a SOGB, I think?

A. That is the substantive position without the
35 AWA.

Q. So there is an Australian workplace agreement which elevates you above that?

A. Yes.
40

Q. And are there other additions to your salary structure over and above the AWA or is that contained in the AWA?

A. That is contained in the AWA. That's the
45 total.

Q. As far as that is concerned, what does that

make your salary, if I may ask?

A. Today or as of January?

Q. As of January 2003?

5

MR JOHNSON: Could I ask how this is relevant? I am conscious that the actual position, powers, functions, but the actual salary --

10 THE CORONER: Is this relevant?

MR ARCHER: If your Worship is not going to be assisted by it --

15 THE CORONER: No, I don't think it is appropriate.

MR ARCHER: Q. So far as the detail of what happened in the days leading up to 18 January, the evidence you have given is that the first time you
20 briefed the AFP was on the afternoon around 2.30-ish on 16 January?

A. The first time I briefed the Chief Police Officer of the ACT, yes.

25 Q. Did you brief anybody else before that?

A. The police had people in attendance at all of our planning meetings.

Q. Can I suggest that the involvement - is that
30 person Sergeant Steve Kirby?

A. Yes. I think there was Steve Kirby and Jason Byrnes was there for a while too. I am not too sure exactly when that was. There was also another one or two police officers, I think Peter
35 Laidlaw was there also for a little while.

Q. That was later in the piece, was it? Was that your understanding?

A. No, look, I don't understand. There were
40 police there - in fact I know they were there, because we handed over a room to them to use.

Q. So far as Sergeant Steve Kirby was concerned, was it the case - you may not know this - I
45 suggest to you the first time he attended Curtin was on 16 January on that afternoon after the meeting that you had with John Murray?

A. It may very well be the case. I don't know. While ever we were doing road marshalling and traffic marshalling, one of the things we have as part of the arrangement is a police liaison person
5 at Curtin.

Q. So far as the flow of information between the AFP and ESB was concerned in the days after the 16th, did you, as the manager of the effort, rely
10 on the planning meeting process to ensure that the AFP were kept apprised of the movement of the fire and what was planned for that particular day?

A. That's the means we used to keep everyone apprised. As I said, we made office space
15 available for the AFP. They were in attendance and had free rein of the Curtin facility to go where and sit in and be involved in any aspect they so chose to be involved.

Q. Over and above that process - there is a process where they can come and ask you things, if they can find you?

A. Yes.

Q. But otherwise the planning meeting process formalised that process of consultation and keeping the AFP informed?

A. They can either come and ask me. They could have come and asked any of the other 50 people
30 that might have been walking around the building.

Q. So far as a higher level of exchange of information between you and John Murray, or you and Mandy Newton, were there any conversations
35 that occurred between you after that meeting on the 16th?

A. Only that I can recall the meeting on the 18th in relation to the declaration of a state of emergency. I think Mr Murray went to Sydney, if I
40 remember correctly, and he wasn't in town.

Q. So far as Commander Newton was concerned, did you have any contact with her at all?

A. I certainly spoke to her on the 13th, after
45 the helicopter crash, because police were involved in that process. I don't recall having any liaison with her, nor would I really expect myself

to as well because that's why they had their liaison people at Curtin to take care of that information trail.

5 Q. And Mr Castle was also theoretically available to provide information to the police, if he was asked by the liaison officer, for example?

A. Absolutely.

10 Q. If the police were looking for some information directly from the horse's mouth, as it were, in relation to the fire movements, it was open to them to ring Mr Castle for example and ask him questions about what he knew about the fire
15 movements?

A. We gave them an office next door to Mr Castle's office. Yes, they could ring him if they wanted to or just walk up and talk to him.

20 Q. But in the management of organisations, it is sometimes important, isn't it, that those in charge will speak directly to each other, not go through intermediaries but speak to each other about what is going on?

25 A. Sure.

Q. If they are not confident they are getting timely strategic information, it must always be open to them to ring you up or ring Michael Castle
30 up and ask you directly?

A. Yes.

Q. Although they described, appropriately so, the bushfire service and ESB as the lead agency here,
35 as things went - put it this way - pear shaped on the 18th, it was increasingly clear that the AFP and officers within it were going to be put in positions where lives were going to be on the line; is that correct?

40 A. As to the day develops, yes.

Q. If managers within the AFP, leaders of the AFP are taking decisions in relation to the life and safety of the public and the life and safety of
45 their own officers, it was a fair thing, wasn't it, that they could have ready access to either you or Mr Castle in relation to what was

happening?

A. Yes.

5 Q. So far as that issue of information is
concerned, you have indicated in answer to a
question from Mr Lasry this morning that you were
not aware of information given at a planning
meeting that morning that suggested that Duffy
10 might be threatened by fire at around 1800 hours
that day?

A. Duffy, not specifically, no.

15 Q. In some documents I have seen references to
areas west of Mt Stromlo; is that a euphemism for
Duffy?

A. West of Mt Stromlo - certainly not. East of
Mt Stromlo might be a reference to Weston Creek
area, yes.

20 Q. As of the time of that planning meeting in the
morning, what was your understanding as to what
time it was that Cotter might be confronted by
fire?

25 MR JOHNSON: Could this be clarified? There is a
planning meeting of which there is minutes, and
there is a meeting which Mr Lasry asked the
witness about, which I think Sergeant Kirby
attended with Mr Prince, where he was told
30 something. Now, I don't know whether which
meeting is being referred to. Perhaps it is
appropriate that, if it is the planning meeting of
the minuted type, that be made specific just so
the witness understands what meeting is being
35 referred to.

THE CORONER: Yes, that would certainly be
helpful.

40 MR ARCHER: Q. In relation to the planning
meeting that morning, not the one with Mr Prince.
What was your understanding as of that time of
what time it was that Duffy was going to be
threatened by fire?

45 A. Without having the transcript in front of me,
from what I can recall from the question from
Mr Lasry was the planning minutes I think reflect

Narrabundah Hill 1800 hours or 2000 hours - I think it might have been 2000 hours. The map that was on the wall from the meeting of the night of the 17th showed 2000 hours to be on the western
5 side of the Stromlo pine plantation. So there was some difference between what the map projected - and I think it is one of the maps that was put up in here - what the map predictions were showing and what was actually reported and said at the
10 planning meeting. I don't recall either one of those actually referring to Duffy. And also they are referring to unattended fire growth.

Q. What were the arrangements outside of the
15 planning meeting proper for you to consult with your planning team? Was it an ad hoc on a needs basis; is that the way it was working?

A. Yes, it was. Unfortunately the facility at Curtin is not very well laid out to facilitate a
20 more centralised approach to command and control at that facility. The reality was that the only avenues that were really open to me was to make sure that I moved around to the different areas. And I would go in and out of planning and talk to
25 the planning officer as to how things were developing, have a look at things for myself. I would spend a lot of time in logistics seeing how resources were coming around and spending time in operations. There was nowhere in real terms that
30 we could set it up in a desirable way that would see things operate in reverse.

Q. In relation to that, wasn't the case that
35 later in the day in fact you did establish such a space for yourself so that people came to you rather than you going to them?

A. No. In fact I did not. I know Mr Murray made that recommendation to me but I didn't set it up
40 that way. Purely and simply, I knew it wouldn't work because I had tried it already at the start of it. That's how I would have preferred to start the whole of the campaign. But I had already attempted that and it had failed. I felt we needed to continue doing what we were doing.

45

Q. Isn't it a central premise of command and control in that sort of environment that the

person making the strategic decisions, you, be in one spot?

A. It is certainly desirable, yes.

5 Q. Otherwise people are chasing you all over the building, wherever you may be, trying to get information to you?

A. Yes.

10 Q. Isn't that what happened that day, that people were chasing you around the building?

A. Yes. I don't know there was any alternative.

15 Q. Is it possible that, as a result of that, the close relationship that you needed to have with your planning team, particularly that morning and as it moved into the afternoon, that that close relationship broke down?

20 A. I think a number of things broke down as a result of the layout - of the facility we had to work in.

Q. That was one of them?

A. Yes.

25

Q. If I suggest to you there was, therefore, a separating of the information streams that people were operating on?

A. No. I'm not too sure exactly what you mean.

30

Q. Mr Lasry asked you some questions this morning about the briefing that Mr Prince gave to members of the AFP on that morning where he did say that it was likely that the fire would hit Duffy by 35 1800 hours. Now, when was the first time you had heard about that briefing? Was it when Mr Lasry spoke to you this morning and asked you that question this morning?

40 A. I knew that Mr Prince had gone across to the Winchester Centre at Belconnen to liaise with police and meet with police. What the exchange between the AFP and David Prince was, I've got no idea. But Mr Prince is an officer within the ACT 45 Fire Brigade, and all of the resources that were at Curtin which were available to me in real terms and all of the information available to me in real terms at Curtin was also available to him.

Q. So he could go directly to Mr McRae's planning team?

A. Yes.

5 Q. Get information from them and relay that to whoever he chose to relay it to?

A. He could do, yes.

10 Q. If I suggested to you the information he relayed to the AFP that morning was based on information provided by Mr McRae's planning team, I understand that would not surprise you - or does it surprise you?

15 A. Well, without really knowing the full extent of the information, the time surprised me because it was not information conveyed to me.

Q. Perhaps they couldn't find you to tell you?

20 A. The layout of the building is certainly not conducive to the command and control arrangements, but it is not that too far apart. If it was something important and I need to be found, I was never out of the building. I was never far away from either one of four locations.

25

Q. So far as the planning meetings were concerned, they were to be a full and frank disclosure of all of the information that was available to you about what was happening with the fire?

30

A. The planning meetings were - everybody was invited to them. It was an open forum and anyone could come along and participate and contribute. There was never a gag or anything like on that put on any aspect of those planning meeting arrangements. And at times 40 people attended and were looking for information. Each of the cells, the operations area, the planning area and the logistics area were each asked independently to report to the planning meeting as to what they wanted to convey. And they conveyed a consensus, I would assume, the spokesperson for that unit conveyed a consensus from that unit to the planning meeting in a brief form, I suppose, in a summary format, I suppose.

40

45 What discussions took place within each of those

cells to actually decide on what was going to be said at the planning meeting, I was not involved in and it was not my business. It was really them, the managers, the supervisors of those units, to ensure that they brought that information forward, which was the consensus of the group.

Q. But it wasn't the case, was it, that there was a version of the fire progress being given to the planning meeting, and firefighters collectively operating on other assumptions in relation to what the fire was doing?

A. As I've said in a number of responses to Mr Lasry, there are quite a number of people, for example, in the planning cell. Each one of them was doing their own part of that planning process and each one of them may have their own particular views and scenarios or working on particular scenarios and may have their own particular views. Whether or not at the end of the day that was the consensus or the combined view of the planning section that was brought forward to the planning meeting is a matter for the planning officer. But that doesn't stop people from discussing with other people what their own private views are or what their individual assessments are.

Q. Is that desirable?

A. How do you stop it?

Q. I am taking you back to the 16th of January. Mr Lasry put to you something yesterday afternoon about Mr Lhuede. Do you remember those questions where he suggested at that meeting that afternoon on the 16th Mr Lhuede had put forward some scenarios in relation to the likely progress of the fire; do you remember those questions that were asked by Mr Lasry?

A. Yes, I think I do.

Q. Your response was that if that's what Mr Lhuede said, he was mistaken in relation to that.

A. Is that what I said?

Q. Yes.

A. Is that a summary of what I said?

Q. On the 16th. You said those events happened on the 17th, not the 16th?

5 A. Okay. Sorry, you are going to have to be a lot more specific about which events you are talking about.

Q. Could we have on the screen Mr Gellie's
10 statement [ESB.AFP.0111.0310]. What I am suggesting so you know where I am coming from, I am suggesting you are dead right, what Mr Lasry was referring to was an event that occurred the following day on the 17th, rather than the 16th?

15 A. I suspect that was going to be my response. I wasn't 100 per cent sure that was the matter you were referring to.

Q. Can I take you to the first part of the page
20 that is on the screen in front of you. Look first of all the two dot points under the 16th. Then could I draw your attention to the third dot point under the 17th of January. Does that confirm in your own mind that the information about the
25 spread of the fire towards the urban area was information that was being addressed at planning meetings late on the 17th rather than on the 16th?

A. Yes. It just confirms what I understood those matters to be.

30

Q. So far as the events of the 18th were concerned, the movement of the fire on that day was - in a speed at least - unexpected?

A. Yes.

35

Q. Events were moving very, very quickly, particularly in times after about midday?

A. Yes.

40

Q. It was very difficult for you at Curtin to gain reliable information about where the fire was at a given point of time?

A. Yes. There was a lot of smoke generated and of course was blowing directly towards Curtin and
45 over the top of Curtin. It's very, very difficult to actually pinpoint the front of such fast moving fires.

Q. To the extent that you could get information, you relied on reports from the field over the radio?

A. Yes.

5

Q. Even that became a bit problematic as the day progressed?

A. Yes, it did. Once a person is giving information from one location over the radio on whatever frequencies they might be doing, at the same time you are preventing other people giving information from the locations where they are. So you can only do so much at a certain time.

10
15 Q. As the day progressed, was it the case that the information being provided by the Australian Federal Police became more important, because with officers in the field they were able to communicate more accurate information that might have been useful to planners at Curtin and indeed Belconnen?

20
25 A. I think the police were certainly a part of that network. I don't think there were anywhere near the number of police cars in the area out and about as there were fire trucks out and around. They were all part of the network of providing information. I think one of the unfortunate aspects is that ESB can't monitor the police frequency so that information was going from the field back to Winchester.

30
35 Q. And although the police were forced to move their forward command post on a number of occasions, did a forward command post exist so far as the 18th was concerned for you?

A. No. The situation was far too dynamic, in my view, to be setting up anything that had any static aspect associated with it.

40 Q. That made it any more difficult, didn't it, the obtaining of strategic reliable information?

A. Well, information is gathered in quite a number of different ways. I'm not too sure exactly what you mean by that - whether or not you are suggesting that forward command posts people reported to the forward command post their findings and they report from the forward command

post back to Curtin. Is that the sort of structure you are proposing?

Q. Yes.

5 A. I don't know whether that would streamline things other than in a way that - other than people reporting back directly to Curtin.

10 Q. It certainly synthesises information at a level below you, does it, or potentially does it?

15 A. From the southern part of the fire and where the ACT resources were deployed and from the Bendora and Stockyard fire areas they had been sectorised, sector commanders had been put in
20 place. Those sector commanders, each of them had a number of resources under their responsibility. They were given radio frequencies and they reported back to those sector commanders and those sector commanders were actually then the people reporting back to Curtin the information. So in a sense the structure you are talking about certainly existed, but it wasn't in a static environment.

25 Q. Which made it less effective?

A. No. They are still using the same communications.

30 Q. Do you have your statement there, Mr Lucas-Smith?

A. Yes, I do.

35 Q. I take you to paragraph 113. I will read just the first sentence or so to you:

40 "As the conditions deteriorated even further, the smoke made any reasonable assessment of the fire spread almost impossible, although it was apparent that the McIntyre's Hut Fire (New South Wales) the Bendora fire, the Broken Cart Fire (New South Wales) and the Stockyard fire were all rapidly accelerating and may merge."

45 And that confirms what you just now in relation to the difficulty in getting reliable information?

A. Yes.

Q. Can I just take you through your statement. You refer in the following paragraph to a meeting that occurred with the Chief Minister at about 1400 hours?

5 A. Yes.

Q. You refer in the following paragraph, which is 115, to the fire entering Deek's Forest at 1446 hours?

10 A. Yes.

Q. In the following paragraph, which is 116:

15 "Crowning of Dixon Drive Duffy at about 1530 hours. From this point there were numerous reports of houses and other structures alight."

Do you see that?

20 A. Yes.

Q. Do you accept that - I don't say this adversely - the statement that you prepared contains very little information about what you were doing on the afternoon of the 18th of January?

25 A. Yes.

Q. The statement in total is 121 paragraphs long, 30 pages long. Do you accept that?

30 A. Yes.

Q. So far as it covers events on the afternoon of the 15th - the 18th - it seems to start on paragraph 113 and finish at 121, I suppose; do you accept that?

35 A. Yes.

Q. Does that reflect, perhaps, if nothing else, sources of information that you could go to subsequently to prepare your statement weren't in place? Do you accept that is not a lot of detail in relation to the events that we are very much concerned with - what happened when the fire hit Duffy and Chapman?

40 A. Yes.

Q. Why is that? What is your explanation for that lack of detail?

A. Because I didn't believe in my statement that I was giving a description of the fire and the fire behaviour and the fire impacts. I thought I was mainly there giving a description about the activities that I was involved in. I would have to say on the 18th it was an extremely busy time and I was moving from one thing to another thing very rapidly. I can't fully recollect all of the things that I did on that particular day.

Q. That's the point, isn't it, you were doing a lot, but what you did do is not reflected in your statement?

A. Yes.

Q. Can I suggest this to you: even now it is difficult for you to reconstruct what is happening out at Duffy and Chapman because that information wasn't available to you?

A. No. I was getting information that the fire was impacting into Duffy. We need to make sure we are putting things into the right context here. At this stage I had moved from being the Chief Fire Control Officer, in fact handed that position over to Tony Graham, and taken on the position of alternate controller across all the agencies, suppression agencies, and the ACT Fire Commission was responsible for those structure fire aspects of it and the bushfire aspects. So information was coming into two different locations and from two different sources.

Q. But you had still a strategic interest in what was happening out at Duffy that afternoon?

A. Yes. And I knew that the fire was impacting on the suburb of Duffy and Chapman.

Q. Did you have a real sense at that time of what it looked like out on Warragamba Avenue when the fire was sweeping over that particular street?

A. No, I didn't.

Q. Did you have a sense of the intensity of the fire as it hit Duffy?

A. No, I didn't. I heard descriptions from

people but me, personally, I couldn't visualise it, no.

Q. It was a huge event out there, wasn't it?

5 A. It certainly appeared so, yes.

Q. You have had an opportunity since to look at videotape and talk to people to inform yourself about what it looked like to people out on the ground?

10 A. Yes.

Q. It was big?

15 A. Yes.

Q. If I could take you to paragraph 119 of your statement. This is the way you describe it:

20 "Fire generated tornado appears to have arrived at the urban rural interface area at about the same time that the fire reached the suburbs. This resulted in massive ember storms and extreme winds and was believed to be responsible for the devastation around
25 Duffy, Chapman and Kambah."

Was this the biggest fire that you had ever been involved with?

30 A. Yes.

Q. And that sort of impact that we have now seen on videotape that has been played to this inquiry, have you seen anything like that before?

35 A. No, I haven't. I've seen footage of Ash Wednesday fires in 1983 and their impacts on coastal areas and so forth. I have seen some in relation to Adelaide Hills, but I've never seen them in person before.

40 Q. So far as command and control structures were concerned, that sort of event puts huge pressures on such a structure, doesn't it?

A. Certainly.

45 Q. You have much rely at that critical time on the good sense and the training of your officers out in the field to do what they think is the

right thing to do?

A. There's very little I can do in relation to command and control to direct them. They are really now dispersed and using their own
5 initiatives for the protection of life and property.

Q. And you rely on that?

A. Absolutely.
10

Q. And you did rely on that?

A. Yes.

Q. And this is the positive thing, did you think
15 they did a good job?

A. I think they did absolutely an outstanding job. For 500 homes we lost, the evidence that we are compiling, as we do a review of that fire, it would appear they saved well in excess of twice
20 the number of homes that were actually lost; which is nearly 4, 5 times fold the number of resources that were there. So they did an absolutely extraordinary job.

Q. The people of Canberra made their
25 contributions. They took sensible decisions on the day and got out of the way of that fire as best they could; you would agree with that?

A. Yes, I agree with that. I think the community
30 acted very responsibly.

Q. Those that were out in the field, emergency services workers of all persuasions, including the police, did a fantastic job in trying to shepherd
35 people out of the path of that fire?

A. Yes.

Q. You wouldn't be heard today to be criticising anybody in relation to decisions in your
40 organisation or under your control who took decisions on that day out in the field?

A. Absolutely not. I have nothing but admiration and praise for all of those people.

Q. Do you include in that the decisions made by
45 people out in the field to evacuate people from houses that were in the path of the fire?

A. Absolutely.

Q. What you have seen from the advantage of
reading pieces of paper in the preparation for
5 your appearance today over the last week and in
the response to the McCleod Inquiry that you had a
hand in preparing and indeed in your evidence that
you have given to these proceedings to her
Worship, is there anything you would like to say
10 in criticism of decisions made by people in the
field to evacuate people from the path of that
fire?

A. Well, I've said it before and I say it again -
and I am sure it is on record somewhere - we had
15 certainly adopted a strategy in relation to
evacuation which was the use of the Australasian
Fire Authority Council position in regards to
evacuation which had been our standard practice,
and also agreed to by the police commissioners
20 conference - I'm not too sure exactly what the
correct title of that is - that was the policy
they agreed to. It was the one we were working
to.

25 Even still, I would expect that people in the
field would have to make judgments. And where
there is a direct threat to life and property,
people will make judgments about what they should
do. Our advice coming out of Curtin was that if
30 the fire is already on you, evacuation and being
on the road is the worst place to be. So if you
are going to evacuate, evacuate early. But we
are not there. We are not facing the situation.
It is really a matter for the people in the field
35 to make those judgments.

Q. That judgment is the Australasian Fire
Authorities Council position paper on "Community
safety and evacuation during bushfires". I think
40 that represented as at 18 January the accepted
position of fire authorities and police
authorities in relation to what should be done in
respect of evacuations.

A. Yes.
45

Q. Do you agree - I will address it in the
broad - it is not a document that says people

shall stay with their houses when the fires approach; it doesn't say that, does it?

A. No, it doesn't say that.

5 Q. There is a general principle that people save houses and houses save people. But it doesn't always happen, does it?

A. It's generally the best principle to adopt, in my view.

10

Q. Subject to a number of things being present?

A. Absolutely.

15 Q. Under a broad heading that means if they are ready, willing and able to do it, then the general advice is they should stay with their house?

A. Yes.

20 Q. So if you are not ready, you don't stay?

A. It's the individual's call.

25 Q. So far as the role of emergency services are concerned, I say that in the broad, either firefighters or police, they also have to make judgments in relation to whether or not it is safe for a person to stay?

A. Relevant to their experience, yes.

30 Q. So far as that issue of evacuation is concerned, it was addressed after the fire, wasn't it, in further discussions between ESB and the AFP?

A. It was addressed after the fire, is that what you said?

35

Q. Were there further discussions between your agencies that you were privy to dealing with that issue of evacuation?

40 A. There were discussions before that incident with the AFP. Is that what you are referring to? If you are referring to --

Q. There were certainly discussions before. I am taking you to those afterwards.

45 A. Those after, yes, okay.

Q. Do you recall those conversations and

discussions, were you a party to them?

A. I can recall some discussions about evacuation. I can't recall who those discussions were between. I can certainly remember there were
5 some discussions about evacuation and relocations.

Q. I may be doing you a disservice; I don't have a transcript of what you said. Is it fair to say in interviews you conducted after the fire there
10 were aspects of the evacuation procedures that you did not agree with or you had issues with?

A. Nothing readily comes to mind.

Q. As you sit there today, there is nothing by way of criticism that you would put to her Worship about what happened in relation to evacuating
15 people on the 18th of January?

A. No. I think I have previously publicly stated that prior to this inquiry.

20

Q. I show you this document, it is not part of the case book, but I have provided copies to those at the Bar table. There is a copy for your
25 Worship as well. Have you seen that document before?

A. Yes, I think I have.

Q. Is it an agreement between ACT Emergency Services Bureau and the Australian Federal Police
30 (ACT policing) providing a position on evacuation protection of people and property in danger of bushfires?

A. Yes.

Q. It is signed by Mike Castles, executive director of ESB, and Mandy Newton, Acting Chief
35 Police Officer (ACT), Australian Federal Police?

A. That's correct.

Q. Apparently not dated, but you have seen that document before?

A. Yes, I have.

Q. I just read paragraph 3 onto the record:
45

"Where in the opinion of the most senior fire officer present or a police officer that a

5 person's life is immediately at risk by them
being in a particular location they will be
advised to evacuate either by a fire officer
or police officer. The police officer will
10 seek the advice of the senior fire officer
prior to making a decision to evacuate,
except in the most urgent of circumstances.
In the event that such a device is ignored, a
police officer may order them to evacuate and
has the legal power to enforce that
evacuation."

Do you see that particular paragraph?

15 A. Yes, I do.

Q. Do you understand that again very much in the
broad to have been what happened on the 18th?
That was the process that was followed on the
18th?

20 A. I don't know whether the police liaised with
senior fire officers in relation to making that
decision. I would certainly accept that there
were police officers that were put in
circumstances where they had to make their own
25 personal judgment without such advice, and they
did so. I certainly don't criticise them for
that.

Q. That document, so it is clear, was entered
30 into after the fires - not beforehand?

A. No.

Q. After the fires?

35 A. After the fires, yes.

Q. As you sit there today, Mr Lucas-Smith, what
is your understanding in relation to Duffy - if I
can take Duffy as a whole - as to who it was that
directed the evacuations of people in Duffy?

40 A. I think it was a combination of
self-evacuation, police and fire services.

Q. Fire services being either people from the
Bushfire Services or the ACT Fire Brigade?

45 A. Or New South Wales Rural Fire Service.

MR ARCHER: I note the time, your Worship.

THE CORONER: We will take the luncheon adjournment and resume at 2 o'clock.

LUNCHEON ADJOURNMENT

[1.00pm]

5

RESUMED

[2.00pm]

MR ARCHER: Q. Mr Lucas-Smith, in respect of the issue of representation, if I could put it that way, of the AFP at Curtin, prior to the luncheon adjournment you gave me an answer in relation to when you thought or who you thought had been at Curtin. I suggest to you that there was no formal presence at Curtin until the afternoon of the 16th when Sergeant Kirby started to attend planning meetings. Would you accept that?

15 A. I don't know for certain that there wasn't, so yes, I will accept that.

20

Q. Do you know Mr Darrell Thornthwaite?

A. Yes, I do.

Q. Who is he?

25 A. He is a district officer with the ACT Fire Brigade.

Q. Mr Thornthwaite is one of the fire officers and played a bit of the starring role in some of the material that was seen earlier in the inquest. He is the officer driving around in the car with the newsman in the back?

30 A. Yes.

Q. Was he, as you understand it, one of the senior or the senior person up at that part of Duffy at the time that the fire swept over?

35 A. I don't know that.

Q. I refer to a passage from a record of interview conducted with Mr Thornthwaite on 1 October 2003. It is [DPP.DPP.0004.0041]. The passage I want to draw attention to is at page 24. I want to read it out to you, and I am starting from - the questions unfortunately are not numbered, but it is the first question and answer on that page to a point about

45

three-quarters of the way down the answer given by Mr Thornthwaite:

5 "And once they lose control the fire goes
wherever it wishes, driven by the wind and
terrain. So it is a very, very tricky
situation and it is almost like the same
situation that I had with Chris Lines at
10 Duffy. Chris said to me, 'do we evacuate?'
and I have turned around and I thought,
"Whoa. Time is critical here. We knew
the fire was coming, and we knew the fire was
going to impact. But to actually pull
15 the population out onto the street at
the time of impact was - well, that's
definitely wrong. I mean, we were going to
lose more lives doing that than leaving them
in their houses, and yet when I saw
20 the impact it had on the property
destruction, I thought we have lost lots of
lives here. I was convinced when I went home
that we had lost literally hundreds of
families, you know."

25 Could I just pause there. This must have been an
incredibly difficult time for you and it certainly
was for those officers out at the fire front at
Duffy?

A. Yes.

30 Q. In your conversations with them, have you seen
in their eyes the impact that those events have
had on them?

A. Yes, and I am sure they have seen it in mine.

35 Q. In your darkest moments on that day, did you
think the loss of life would have been quite
substantial?

40 A. I was absolutely astonished to find out that
there were only four lives lost.

Q. It may have been the intervention of God or it
may have been the intervention of other things, so
let's go on.

45 So what was the decision there? Was
the decision made to evacuate, or --

I told Chris that we wouldn't do it until the fire front moved through and we could reassess it. Then when the fire front hit us, eventually I went round and I saw Chris
5 and he said, 'So what do we do now?' And I knew the infrastructure was all starting to impact upon it. We had lost electricity. There were power cables down. There were so many houses burning in the suburb. I really
10 didn't have an appreciation at that time of exactly how deep it had penetrated and I said, 'Chris, just evacuate anyone you can. Just clear Duffy, if you can.'

15 I suggest it was that sort of decision-making that saved the day?

A. Certainly the discussions had taken place here between Chris Lines and Darrell Thornthwaite I would expect to happen between the senior
20 officers and the incident crowd. And for them to make judgments and make decisions. You know, whether - if I had been there, whether I would have influenced a slightly different outcome at that regard I may have, because we are now at
25 the last part of your sentence there, we are now talking about the fire as actually now passed, in a sense, it has had its impact. And by evacuating now you are in fact taking away the people when they have the best opportunity to put those small
30 fires out to stop the houses from burning down.

Q. Or to save their lives?

A. Or to save their lives. Once again this is a judgment. If the fire impact has now gone and
35 the actual threat of the fire - how can I put it? - the actual threat of the fire having its impact on the urban edges now gone and we are now past that point, then the only thing that is going to be left is for structures to burn down and the
40 fires that are left burning in the structures. And if a house is left burning with small fires in it, that small fire would eventually reach to a large fire and burn the house down. Even if you have 500 fire appliances and there are 500 homes
45 alight, you are still going to be struggling to suppress - save all those houses.

Q. That's right.

A. But it is a judgment. I have no difficulties or qualms whatsoever in totally supporting the judgments and decisions that they had to make.

5

Q. What I am saying to you, it was the Chris Lines and Peter Fittlers and the Phil Spencers and the Darrell Thornthwaites who got it right out in the field and saved lives?

10 A. They may very well have, yes.

Q. And that is why, thankfully, the death toll was as low as it was - is that they got it right?

A. Well, I don't know. I can't answer that.

15 I don't know how many people they evacuated. I don't know that their evacuations actually eventually saved lives. I don't know. I was not there. I don't know the full extent of that was. Buy I certainly think that, as I said, they acted
20 in a responsible way and I think their judgments were fine and I had no problems whatsoever in accepting for one moment the judgment of Darrell Thornthwaite and Chris Lines in such matters.

25 Q. As far as the process was concerned, you said it was a good process there?

A. Yes. Absolutely.

Q. Two senior officers talking to each other?

30 A. This is what unified control is about. They were discussing the objective.

Q. AFP sought the advice of the person they assumed was the senior fire officer on the spot?

35 A. Yes.

Q. And he gave them some advice to evacuate?

A. Yes.

40 Q. And that is, as you understand it, how it should work?

A. Yes.

45 Q. Can I ask that the statement of Mr Prince [AUS.AFP.0070.0002] be brought up. Page 6, paragraph 27. It was important at that time that the AFP be given as much information that was

available to ESB collectively at that time. So you had no difficulty with the process of them seeking a briefing from Superintendent Prince at those fire meetings?

5 A. No, as long as Mr Prince was conveying the correct information.

Q. I am sure he was conveying information that he had available to him then and that he believed to
10 be true and reliable. You would assume that, wouldn't you?

A. I assume - I don't doubt for a moment that he thought he was doing the right thing and conveying the right information.
15

Q. If we could just read those two paragraphs to you:

"I attended the Winchester Centre at about
20 1130. I attended a meeting attended by police and public service officers. There were about 10 people present. I gave these people a brief overview of where the fires were. I also gave information about
25 the likelihood of fire travel under the conditions that were present. On the information I had at that time the fire was expected to reach Duffy at about 1800 that evening. That calculation was made by
30 Mr Nic Gellie - who had significant knowledge on rural fire behaviour. He is an ecological consultant who had volunteered his services to the Emergency Services Bureau. I did advise this meeting that in my opinion once
35 the fire reached Stromlo Forest it would take five to ten minutes to reach the top of Mt Stromlo and about another 30 minutes to an hour to reach Eucumbene Drive."

40 Does that suggest that the information that Mr Prince was relaying came from the planning group?

A. No, I think it was suggested that it came from Nic Gellie.
45

Q. Could I perhaps then take you back to a paragraph before. I will read the paragraph in

full:

5 "Before I attended this meeting, I spoke to
Mr Rick McRae, the planning officer for
the Emergency Services Bureau. His expertise
is in fire weather behaviour. He told me he
was concerned that the fire would not
recognise the urban interface. I took this
10 to mean the fire could travel out of
the forest and bush and into the suburbs.

15 "The factors that led Mr McRae to this
conclusion were the wind speed and direction,
the drought factor and the fire intensity.
He also highlighted that the pine forests
were very dry in the 2001 fires and they had
had another 12 months of curing in
the drought conditions. I was already
20 concerned about the fire situation but
the information from Mr McRae made me feel
extremely concerned over the danger posed by
the fire. I do not know who else Mr McRae
had briefed about this situation."

25 Mr McRae leads the planning section, doesn't he?
A. Yes, he was the planning officer.

30 Q. Obviously these gentlemen can speak for
themselves, perhaps you are not in a position to
say, but doesn't it infer that the information
that Superintendent Prince presented to the police
out at the Winchester Centre was a conglomeration
of what had been told by Mr McRae and Mr Gellie?

35 A. Yes, I get my information and advice from
Mr McRae in relation to matters of the planning
section. I note that Mr McRae did not make any
specific reference to times in his comments to
Mr Prince - according to Mr Prince, that is - so
40 I can only assume that Mr McRae didn't pass on
that information.

Q. Mr Prince went on in paragraph 28 of his
statement and says this:

45 "I recall that Superintendent Lines asked me
what firefighters, police and residents could
expect when the fire arrived. I answered

that the height of the flame would be double
the height of material that was burning.
Because 30-foot pine trees were in that area
then 60-foot flames could be expected. Chris
5 Lines then asked me if the residents of Duffy
should be evacuated. I recall that I told
the meeting the normal response to fire, if
residents are prepared, is to stay with their
houses and fight the fire. I then told
10 the group that in this case the residents
were not all prepared and that evacuation
should be considered."

In your mind's eye, so far as the impact upon
15 Duffy was concerned when you were thinking about
it in the time leading up to that press conference
at 12 o'clock, is that what you had in your mind,
so far as the description of what the fire was
going to look like?

20 A. Certainly the fire was going to come through,
when and if it got into the Stromlo pine
plantations, it was going to burn no different
than the Uriarra and Pierce's Creek pine
plantations. And they had burnt very fiercely.
25 Whether it had flame heights of 60-foot, I have
got no idea. In fact, I think it probably well
exceeded that. And he talks about then 60-foot
flames could be expected. I am not too sure if he
was referring to 60-foot up or 60-foot flame
30 length at an angle from the edge or how technical
you want to get in relation to that. There are
usually two different measures there, flame height
and flame length, and they both have different
impacts.

35 As far as I am aware, as far as the residents and
so forth were concerned, that was the very reason
on 16 January I had the meeting with the ACT Fire
Brigade and they continued on with their planning
40 meeting to start to put in place their incident
management requirements to deal with structure and
residential fire. So I would expect that
Mr Prince would have a better picture of potential
effects in the residential area than I would have
45 had.

Q. So far as the public is concerned, that they

could be provided with realistic information is an important thing, isn't it, so far as trying to control the impact on people's behaviour when they see the fire; if they know what is coming, they can react more logically and appropriately when it does come?

A. Yes. That is how I believe it generally works, yes.

10 Q. I took you through some of the formal things that prior to these fires bound the ESB and the AFP in common cause. That has not been disturbed by the events of January 2003, has it?

15 A. Certainly not. I think it has been strengthened.

Q. This sort of event can have that sort of bonding strengthening sort of effect?

20 A. Yes. I think that applies right across all the emergency service agencies and all the other government agencies that contributed significantly to the aftermath of this event.

25 Q. And that is at all levels of both organisations?

A. Yes, absolutely.

30 Q. Close cooperative arrangement dedicated, so far as it relates to fires, to protecting the people of Canberra?

A. Certainly.

MR ARCHER: Thank you.

35 THE CORONER: Thank you, Mr Archer.

<CROSS-EXAMINATION BY MR STITT

40 MR STITT: Thank you, your Worship. Mr Lucas-Smith, on page 891 of the transcript at line 7 you were asked this question by my learned friend, Mr Lasry, and I will read it to you so that you are at no disadvantage:

45 "QThere was no actual bushfire plan for circumstances where a bushfire would affect residents of suburban Canberra as such, no

fire plan?

"ANot on 8 January scale, no."

Then a little further down at line 47:

5

"QThere was no specific plan for a bushfire emergency of the kind that happened in January of last year?

"AThat's correct."

10

Do you remember giving that evidence?

A. Yes, I do.

Q. What you were then talking about was the plan that came into existence following the promulgation of the Emergency Management Act 1999; is that so?

15

A. No, I thought I was saying that there was no bushfire plan.

20

Q. No, I am talking about the plan to which you referred. Was that not a plan dealt with under the Emergency Management Act 1999?

A. Yes, I think it was, but that plan had been --

25

Q. Please, I just want an answer, either yes or no. Was that the plan to which you were referring?

A. I believe so, but I am not 100 per cent certain without hearing the full context of the transcript --

30

Q. All right. Did you understand --

MR JOHNSON: Could I just ask that the witness be given a chance to answer the question. He has been in the witness box for four days, and he will do his best to answer the question, but if he is allowed time to do so.

40

THE CORONER: That is a fair comment.

MR STITT: Q. Did you understand that, under the Emergency Management Act, there was created an ACT emergency plan?

45

A. Yes.

Q. In fairness to you, do you know that under that plan a number of subplans were formed?

A. Yes.

5 Q. Those plans included a flood management plan?

A. Yes.

Q. A hazardous material emergency plan?

A. Yes.

10

Q. An animal disease emergency plan?

A. Yes.

Q. Was that, what, foot and mouth or something?

15 A. Yes, I think it is an exotic animal disease plan.

Q. And the Canberra international airport emergency plan?

20 A. Yes.

Q. They were all set up under the emergency plan under that act?

A. Yes, and others.

25

Q. But there was no bushfire plan?

A. That's correct.

Q. Was that a deliberate decision?

30 A. You will note that each one of those plans that you have mentioned --

Q. No, please - in relation to the bushfire plan, no bushfire plan, was that a deliberate decision, or was it just sheer inadvertentness?

35

A. I know that the Emergency Management Committee discussed the need for a number of other plans over the years --

40 Q. I am only asking you at the moment about the bushfire plan. Do you understand?

A. I understand what you are saying.

45 Q. I am asking you about the bushfire plan. Was that a deliberate decision not to have a plan for bushfires?

A. Yes, and I am trying to answer your question.

There are a number of plans that were discussed by the Emergency Management Committee that needed to be done, including earthquake plans --

5 Q. I am asking you about the bushfire plan.

A. The bushfire plan was included in those discussions.

10 Q. Was there a decision taken not to have a bushfire plan?

A. A number of years ago, yes.

Q. That was a deliberate decision?

15 A. It was a decision of the Emergency Management Committee.

20 Q. Thank you. The purpose of having subplans was to ensure that there were appropriate procedures and protocols put in place to deal with the respective emergency; is that so?

25 A. The purpose of the subplans were in fact to deal with those specific matters that the generic emergency plan could not deal with and also weren't covered by some other legislative arrangement.

Q. Is the answer to my question "yes" or "no"?

30 A. The answer to your question is the answer I gave.

Q. Was the purpose of the subplan to put in place protocols and procedures to deal with the relevant emergency?

35 MR JOHNSON: I would submit the question has been asked and answered, and when answered by the witness, and he should not be pressed in this way. this is an inquiry. It is not adversarial litigation. He has offered an explanation. If
40 the cross-examiner wants clarification, he can seek it.

MR STITT: I am seeking it.

45 Q. Was the purpose of the subplan to lay down protocols to deal with the relevant emergency?

A. Yes.

Q. Did you understand that, under the Emergency Management Act, the emergency management plan only came into existence and operation after a state of emergency was declared?

5 A. No. Certainly the plan automatically comes into effect after a state of emergency is declared, but that does not mean that the plan could not be used before a state of emergency had been declared.

10

Q. Is it your understanding then that the state of emergency declaration has no relevance to the operation of emergency plans?

15 A. A declaration of the state of emergency automatically brings the plan into play.

Q. Was it your understanding that the emergency plan did not operate until there was a state of emergency declared?

20 A. No, I think it was operating before then.

Q. So the emergency plan was operating before the state of emergency was declared?

25 A. Certainly one of the subplans was, yes.

Q. But I am asking you about the emergency plan. Was that in operation before the state of emergency was declared?

30 A. I think that the co-ordination that has been established through the Emergency Management Committee and the development of the emergency management plan established the framework for the liaison and cooperation between all the emergency service agencies and those other support agencies, and those things were in place.

Q. Was it your understanding that the emergency plan was in operation before the state of emergency was declared?

40 A. Some aspects of it, yes.

Q. Was that one of the reasons there was a great debate on the afternoon of the 18th about whether or not a state of emergency should be declared; namely, whether the emergency plan would then be operational?

45 A. There was certainly some discussion as to

whether or not the declaration for the state of emergency was going to add to the co-ordination that already existed.

5 Q. Was that a debate which took place in the context that the declaration of the state of emergency would have certain legislative, if you like, consequences?

10 A. I certainly think that at the end of the day that was the reason why the state of emergency was declared, the principal reason the state of emergency was declared.

15 Q. Did you not contribute to that debate? We have had evidence that you and Mr Stanhope and various others debated this for some time. Did you participate in that debate?

20 A. I think, as I said when asked a similar question before, that I was certainly in the room, there is no doubt about that, and discussions were taking place. But they were primarily over the legal ramifications and the legal matters of the process of declaration of the state of emergency, and I did not participate in that part
25 of the debate. That was left to those people that were expert in those areas.

Q. So you didn't participate in that debate?

30 A. No, I think Mr Lasry said that Mr Stanhope --

Q. Please, did you participate in that debate?

A. No, I didn't.

35 Q. Thank you. Mr Lucas-Smith, you would agree, I take it, that it would be necessary for there to be clear and defined protocols dealing with the emergency that is created by a bushfire?

A. Yes.

40 Q. Those protocols would be necessary to ensure that people knew what they had to do and that there would be, for example, clear lines of communication; do you agree?

45 A. I am sorry, when you are talking about protocols, are you now talking about - advice to the community type protocols or command and control protocols.

Q. I am talking about protocols dealing with things, for example, such as important utilities such as water, power, sewerage, electricity and the like. Do you agree dealing with those
5 utilities that it would be necessary to have clear and unambiguous protocols in existence?
A. It would help.

Q. It would be necessary, would it not, to ensure
10 that there was precision and accuracy in coordinating important services such as those utilities; do you agree?
A. Certainly the access to water, yes.

Q. In going forward - let's not look back, but in
15 going forward - would you agree that the establishment of such protocols would be a prudent and practical step to take?
A. Yes.

Q. Would you agree that such protocols dealing
20 firstly, for example, with water and the infrastructure that was involved in that utility, that it would be necessary for there to
25 be a clear line of communication to give instructions to the relevant people about such things as closing down pumping stations?
A. Yes.

Q. You would understand, I take it, from your
30 position that to close a large piece of equipment like a pumping station could have all sorts of consequences and effects for the community at large?
35 A. Yes.

Q. Did you understand that?
A. Yes.

Q. And would you appreciate that in order for
40 such a piece of infrastructure to be dealt with safely and appropriately a reasonable lead time would be required to give instructions about dealing with such a piece of equipment; do you
45 agree?
A. Yes.

Q. Would you support the introduction of proposals and protocols which would lay down clear lines of communication, for example, with the ESB dealing with the water facility?

5 A. Yes.

Q. Would you support the proposition that there should be a clear person identified as to who the instruction should come from and a clear person identified as to who the instruction should go to?

10 A. Yes. I don't know if I need a person, but certainly a position.

15 Q. Yes. You could see the utility of having that done so that there could be no ambiguity or mistake made?

A. It could only help, yes.

20 Q. You would support that?

A. Yes.

Q. In relation to a utility such as gas, did you understand that the profession of gas to the citizens of the ACT involves complex infrastructure and complex movement of gas through a gas network?

25 A. I have had it described to me in that way, yes.

30 Q. You understood that it is not just simply a matter if you want to shut off the gas of turning a tap off; did you understand that?

A. Yes.

35 Q. And did you understand that it would be necessary for there to be appropriate lead time given before any such instruction could be complied with, do you understand that, as at, for example, 18 January?

40 A. I certainly recognise that it would have helped, yes.

45 Q. Going forward, would you support a recommendation from this court that there be protocols and procedures laid down under which instructions, such as closing off or shutting down

parts of the gas network, would be given in accordance with a strict protocol and procedure?

5 A. Certainly in accordance with a protocol and procedure. When you say "strict", there are a lot of things that are dynamically associated with this that --

Q. Clearly laid out?

10 A. Yes.

Q. Do you agree that it is quite intolerable for a utility such as gas to try to respond to an instruction from somebody in the field surrounded by fire that the gas should be closed down?

15 A. Yes.

Q. And that such an important decision could only be taken after consideration of all the relevant safety factors that would be involved in such a decision; do you agree with that?

20 A. I would expect that if a request came from the field for gas to be shut down, that request would be conveyed to the distributor of that gas and I am sure that they would then provide us with all of the information that was associated with the difficulties, complexities and the dangers of doing such thing.

30 Q. Surely, Mr Lucas-Smith, it would depend on the source of the request. If it was an apprentice boy on a pushbike, you would not expect the gas authority to respond appropriately, would you?

35 A. If the apprentice boy on a pushbike saw a gas leak, I would say yes.

Q. To close down a suburb of Canberra? Is that seriously your answer?

40 A. If an apprentice boy on a bike contacted and said there was a gas leak, I would expect the gas authority to do whatever they could to address the situation.

45 Q. But in terms of closing off a whole suburb or closing off part of a suburb, such a direction you would understand would take time to comply with; wouldn't you?

A. Yes, I know that.

Q. And you would support the proposition that there should be a clearly defined protocol as to a
5 minimum time for such a request to be complied with?

A. Well, it would be up to the distributor to tell us what that minimum time would be, and that would then become part of the protocol, yes.

10

Q. So you would accept that the distributor's assessment or judgment about that would prevail?

A. Yes.

15

Q. So far as the judgment about bushfires were concerned, though, it would be your judgment which would prevail; wouldn't it?

A. Yes.

20

Q. In terms of making assessment as to the nature, extent, degree, speed and area of a bushfire, it is your judgment and not anybody else's which is the relevant judgment; do you agree?

25

A. Yes.

30

Q. So you would not expect anybody other than the ESB and particularly the fire services to be in a position to make such an accurate judgment or judgment call about the fires?

A. About a going fire, yes.

35

Q. Or indeed where the fires might spread to; is that so?

A. I am sure there are a lot of people with a lot of expertise and a lot of other skills outside ESB who could make a judgment, but officially I say yes.

40

Q. You have been telling us for days that you were collecting - your organisation were collecting data and information and plotting it, making assessments, making judgments, making plans, you were the people that had all of that relevant information; were you not?

45

A. Yes.

Q. So that so far as the assessment or judgment about a bushfire and its likely progress and its likely area of spread, it would be your judgment or your organisation's judgment which would be
5 the definitive judgment about those matters, would it not?

A. Yes.

Q. Would you support a protocol in the future
10 that the bushfire section or the fire section of the ESB give adequate and timely notice to the utilities if your organisation wanted sections of any particular network to be closed or closed off?

15 A. When it could, yes.

Q. Of course, none of those things happened on the day of the 18th; did they?

20 A. I wouldn't want to answer that as a "yes" or "no".

Q. I see. I am content with your answer. Do you know, for example, that instruction was given to close down the Mt Stromlo pumping plant, treatment
25 plant?

A. No, I didn't.

Q. So there is no point asking you any further questions about that then?

30 A. I knew it had been closed down and we in fact organised an emergency helicopter lift in there with the maintenance people to reactivate it as quickly as they possibly could.

35 Q. That was later?

A. That was later.

Q. I am asking you about the decision to close it, shut it down.

40 A. No, I was not involved in that decision.

Q. You did not participate in that decision?

A. No, and neither would I expect to be.

45 Q. I am just asking you whether you did.

A. No, I didn't.

Q. Did you participate in any decision to give an instruction to close down sectors of the gas network on the 18th?

A. No, I didn't.

5

Q. Can we take it then that you were not consulted about either of those decisions?

A. Not directly when they were being made, no, and nor would I expect to be.

10

Q. Do you agree that in order for a utility to respond to a direction or instruction to deal with its relevant infrastructure that it is necessary for precise information to be conveyed about where the fire is at that stage and where it is likely to go?

15

A. It certainly helps.

Q. You would not expect the infrastructure to respond to a request in the absence of such information, would you?

20

A. No, I wouldn't, but I understand that ActewAGL had somebody in the planning meetings.

25

Q. I am talking about the fire and the spread of a fire at a time when a request was made to shut down a particular part of the infrastructure. You would not expect anybody other than your organisation to have the relevant detail about the fire at that time, would you?

30

A. I would expect the request to come from someone within ActewAGL or somebody from the fire services, yes.

35

Q. I am just asking you about the knowledge and information of the fire; do you understand?

A. Yes.

40

Q. You are the people who have that expertise; are you not?

A. Yes.

Q. And you are the people who is disseminating information about the fire on a continuing basis?

45

A. Yes.

Q. If Her Worship were to make recommendations

about either a bushfire subplan or alternatively about protocols under which utilities were to respond to directions, you would support such recommendations, would you?

5 A. Yes.

MR STITT: Thank you, Mr Lucas-Smith.

10 THE CORONER: Thank you, Mr Stitt. Mr Lowe, do you have some questions for Mr Lucas-Smith?

MR LOWE: Yes, your Worship.

15 THE CORONER: Mr Lowe, if you could just stand next to the microphone. Thank you.

<CROSS-EXAMINATION BY MR LOWE

20 MR LOWE: Q. Mr Lucas-Smith, could you go back to the situation prior to 8 January. In earlier evidence you recognised the comments under the report prepared by Mr McRae, I think, of the Phoenix Imperative.

25 A. Yes.

30 Q. Where he was expressing serious concern about the build-up of fuel loads in the forest areas to the west of Canberra. Is it true that you were disappointed about your representations to the land management agencies as to their response to your concerns on the build-up of fuels?

35 MR JOHNSON: Could I at this stage object on this basis. There has been very little questioning of Mr Lucas-Smith on this issue. I don't know if it is proposed that he be recalled at some later stage in relation to this issue by counsel assisting because there has been very little questioning on it.

40 Secondly, on 16 June last year, when leave was granted by you really of a limited type to those who stand behind Mr Lowe and Mr Lowe, it was essentially an interest to protect attacks that might be made on their interests. I can take your Worship to the transcript of 16 June last year.

This questioning, as I understand it, would be intended not to fend off a type of criticism made against Mr Lowe or members of the group who are fellows of his group, but it would seem to be to
5 raise broader issues of fuel management. Although that matter may be of substantial interest to that group, it is clearly a substantial interest to counsel assisting, who in due course will be dealing with that issue.

10 So at this stage I would rise to object, firstly, because it does not seem to be an issue which at this stage has been sought to be litigated through the present witness; but, secondly, that the grant
15 of leave to Mr Lowe and his group last year was really a limited one which was to protect an interest rather than to effectively use it as a means of trying to criticise others, if I could put it bluntly. I do have the transcript in
20 court, if it is necessary --

THE CORONER: No, I do recall.

MR JOHNSON: I was not here on the day, but
25 Mr Lasry was, Mr Lakatos was and I have seen the transcript. It just seemed that, in recognition of what your Worship allowed then, there should be some understanding of the nature of the interest that Mr Lowe is effectively here
30 on a limited basis to protect.

THE CORONER: Yes. I do accept what you say, Mr Johnson. Do you wish to be heard on that
35 point? I will just ask Mr Lasry, Mr Lowe, because that is certainly my understanding as well --

MR LASRY: I agree with that, your
Worship. The only qualification I would add is that from memory, and I do not have the transcript
40 in front of me, Mr Lowe's application for leave was ultimately supported by us because we detected in what he had said to you that there was some risk that his group or his members might be criticised in relation to the management of their
45 own land, and therefore he was in a sense seeking leave from you on the basis of a kind of fuel management issue itself, insofar as it affected

him, or his members or that group. So, whilst I do not disagree with what my learned friend says, Mr Lowe is not a lawyer and he has only been able to ask one question and he has already run
5 into trouble.

Although fuel management is obviously something which will be taken up with other witnesses, and as I have previously said it is likely that
10 Mr Lucas-Smith will be recalled towards the end of the evidence and perhaps some issues taken up with him, it does seem to me that the question is relevant, does have a connection at least with the basis on which Mr Lowe was granted leave. And
15 if your Worship agreed with that, then you might permit Mr Lowe some flexibility. I do not have a strong view one way or the other. I simply make those observations for your assistance.

20 MR JOHNSON: It is in fact 1 September, it is not June, and it is page 36 of the transcript. I don't know if it is possible it be brought up. Perhaps it does not need to be. After Mr Lowe made his application, Mr Lasry said at page 36,
25 line 33:

"Mr Lasry: "From what has been said so far, it does not sound as though the grant of unlimited leave for the purpose of dealing with criticisms
30 of that particular group would add significantly to the time, and on that basis and on that limited basis we would consent to that group having such leave."

35 Your Worship says:

"That will probably suit you as well, Mr Lowe, your members, because it would address the concerns that you have expressed
40 about any adverse criticism that may or may not be made."

I do not think this witness has made any adverse criticism of Mr Lowe's group. I draw to attention
45 what is formally on the record of these proceedings to date and I would ask that, in the present circumstances, if Mr Lowe is able to

indicate that he has relevant questions to protect the interests of his group, which would be within the limits of the grant of leave you gave, then that might be a different matter. But at this
5 stage perhaps that is the initial question.

THE CORONER: And it is probably a little bit difficult to determine that from the first question that Mr Lowe has asked. So I will ask
10 Mr Lowe that. What is your purpose in addressing this matter at the moment?

MR LOWE: Your Worship, if we could go back to what Mr Johnson is saying, when we had made our submission and we attended the inquiry prior to
15 Christmas, as we stated, our endeavour was to try to assist your Worship in the inquiry, and we have accepted that responsibility. If we could ask questions which certainly are not repeating
20 matters that have come up before, we are very conscious of the time, then we may be able to assist the inquiry in its endeavours.

We certainly have no wish to waste your time. It is very hard to exactly draw a line around where our members' concerns begin and end. In the 2001 inquest, just the last couple of weeks, there was a need for us to actually take issue with one of the witnesses about the statements to do with
30 the content of fuel loads on grasslands, and we certainly are very mindful of that. But I will be guided by your Worship. If you would like me to assist in asking questions in relation to some matters that have not been raised by counsel to
35 date, I am quite happy to do that. If you would like me to limit it to the grassland issues, then we can do that as well.

THE CORONER: I would prefer it to be limited to the grasslands issue. I am mindful of the fact that certainly there will be evidence brought before this inquiry about the fuel management issue, and it is certainly maybe more appropriate in that phase of the inquiry to raise any
40 questions that you might have, Mr Lowe, or to assist in that way.
45

MR LOWE: I am quite happy to do that,
your Worship. Also, I would be more than happy to
pass our concerns directly to Mr Lasry and he can
raise the matter himself. We do not want to waste
5 your time.

THE CORONER: That is a very good idea, Mr Lowe.

MR LOWE: Can I ask a question of Mr Lucas-Smith?
10

THE CORONER: Certainly. You can try.

MR LOWE: Q. In your evidence you mentioned that,
when the fires came out of the hills,
15 the situation in relation to grasslands made it
easier for you to possibly work on and contain
the fires. We also heard that Mr Cheney said in
evidence that, whilst it mightn't have felt that
that was the case, when the fires passed over
20 the grasslands they actually diminished in
intensity before they hit the urban areas. Would
you agree with those statements?

A. Yes, certainly the fire intensity in
the grasslands is significantly different from
25 that in the forests, whether it is a pine
plantation or a native eucalypt forest.

Q. In relation to Mr Cheney's comments, would you
agree that grasslands had diminished the intensity
30 of the fires as they came towards the urban
interface?

A. Yes.

MR LOWE: That is all.
35

THE CORONER: Thank you, Mr Lowe. Mr Johnson, are
you content to start cross-examination now? I am
just noting the time. I don't know how long you
propose to be.
40

MR JOHNSON: I don't think I will be very long,
but could I have 10 minutes now? I apprehend
I would be finished inside half an hour. But if
I could have ten minutes now just to have an
45 opportunity to talk to the witness, that may make
for a more efficient process.

THE CORONER: Certainly.

MR JOHNSON: I think I can guarantee to the court
that I will certainly be finished this afternoon
5 and, as I said, inside half an hour.

THE CORONER: That is fine. I will grant you
the time to speak to Mr Lucas-Smith. Having
listened to the evidence now of Mr Lucas-Smith
10 over the last four days or so, I am just curious
to see how you are proposing to cross-examine him,
Mr Johnson. It is rather obvious to me now that
there are some serious areas of discrepancies that
exist between the evidence that Mr Lucas-Smith has
15 given and evidence that perhaps will be called
from other witnesses, and witnesses who are
employees of the ACT government. Specifically
perhaps Mr Neil Cooper is one of those people who
comes to mind - but by no means the only person.
20 I am concerned that Mr Lucas-Smith's interests
should be protected, and likewise should
the interests of the other government employees
who you represent.

MR JOHNSON: I am acting for the Australian
Capital Territory. There is only one client.
There are a number of witnesses who are coming
forward, the first being Mr Lucas-Smith. There
will be others. It is certainly not my intention
30 at this stage to take one side or another on
issues of that sort. In an inquiry of this sort,
there will be differences between witnesses, in
particular in operational settings on different
matters. Those persons will be called. They are
35 all witnesses called by the inquiry, called by
your Worship. Counsel assisting will question
them. We are not acting for individual witnesses;
we are acting for the Territory.

We are giving consideration to the types of
40 matters which have been raised by your Worship,
because there are interesting questions, for
example, leaving aside questioning, ultimately
what submissions might be made on behalf of
45 the Territory. That is obviously a matter to be
considered somewhat down the track.

We are alive to the considerations raised by your Worship, but I would submit that there is not something at this stage which gives rise to some forensic concern. Counsel assisting will no doubt
5 test every witness who is called and give them an opportunity to comment on versions which may be contrary to what has been put to their own version by other persons, and that is the nature of the inquiry. It is not contested litigation.
10 There are no parties before your Worship.

THE CORONER: But do you not perceive that there is a conflict here, Mr Johnson? This is something that was raised on the very first directions
15 hearing, that you in your position representing the ACT Government - and presumably by saying that you represent the ACT Government you are representing all the employees of the ACT Government.
20

MR JOHNSON: We are acting for the Australian Capital Territory, which is a legal entity. There are employees of the Territory who will give evidence, and we will seek to defend the interests
25 of those individual witnesses as they come forward. If there are areas of conflict and of significant conflict, then obviously we will have to give consideration as to whether that poses a difficulty at some stage.
30

But the alternative is to have a multiplicity of legal teams here dealing with situations which may arise when, in my submission, ultimately it is for counsel assisting in the first instance to test
35 the witnesses, and different accounts may be tested. It will not be my function necessarily to put one version against another version of individuals. I apprehend, as Mr Lasry has done to date, he will do that with witnesses.
40

But if I could take on board what has been said by your Worship and I will certainly seek some instructions in relation to it. We are alive to these types of issues. They are not unique to
45 this inquiry. Where there is effectively representation for, say, the state of New South Wales, a legal entity, or the Australian Capital

Territory, a legal entity, where there are a number of individuals and bodies who may be officers of that particular legal entity, the question ultimately is whether there is a need
5 for separate representation for individuals.

THE CORONER: That really is my point.

MR JOHNSON: Yes. On the present state of
10 the inquiry, that is not a matter that I would see would need to be done. But if I could take on board what has been raised by your Worship, and --

THE CORONER: I simply raise it because I am
15 concerned that witnesses such as Mr Lucas-Smith's interests are protected, as I say, and indeed the interests of other employees of the government. But I will leave it with you, Mr Johnson. I can only do so much and I can only
20 raise my concern again on the matter.

MR JOHNSON: Indeed, and there are questions as to steps that have been taken to seek to protect the interests of individual witnesses. But there
25 are 74 witnesses, I think, on the list and it is probably growing. If one is talking about individual witnesses being represented or classes of witnesses, then it is not a situation at this stage that I envisage will be necessary, but
30 perhaps I will say nothing more at this stage. Having heard what has been said by your Worship, I will of course take some instructions in relation to it.

35 THE CORONER: I will grant you an adjournment.

MR JOHNSON: Thank you.

MR LASRY: Can I just add something so there is no
40 misunderstanding. I will of course question witnesses as they give evidence, and inevitably someone in my position or Woodward's or Ms Cronin's position has to make judgments. There will not necessarily be a uniformity of approach.
45 It will depend on the importance of the witness and the way in which the witness gives evidence about particular issues and whether, as a matter

of forensic judgment, I think you will be assisted by challenging or not challenging a witness on a particular piece of evidence because I make my own judgments about the evidence as it is given.

5

I say that, your Worship, because I want it to be clear that for someone in Mr Lucas-Smith's position, who has been an important witness, and there will be some others to come, I am not Mr Lucas-Smith's counsel, for example, for the purpose of cross-examining a witness like Mr Cooper. So I share your Worship's concerns that there are several witnesses, including this current witness, who are entitled to have their interests protected.

It is perhaps open to say rhetorically: who will cross-examine Neil Cooper, for example, on behalf of Mr Lucas-Smith? I may well cross-examine Mr Cooper. But I will not be doing it in the capacity of being counsel for this witness. I will be doing it in an effort to assist you and in a way in which I hope will assist. Whoever controls the power has decided I have already spoken for too long this week and it is time for me to stop.

MR STITT: We need a break.

MR LASRY: I share your Worship's concerns and I would like my learned friend Mr Johnson to also take on board, as he puts it, what I have just said.

THE CORONER: Thank you. Thank you, Mr Lasry. We will take an adjournment then.

SHORT ADJOURNMENT

[3.05pm]

RESUMED

[3.15pm]

MR JOHNSON: I thank the court for that short time. Having asked for the adjournment for one purpose, which was to talk to Mr Lucas-Smith and this issue having been raised by your Worship and having had a chance to talk briefly to those instructing me and indeed to Mr Lasry, what

I would ask at this stage, your Worship, is that you adjourn until Monday morning - there is only 40 minutes left today - to allow me to get some instructions on the issue. It has been raised
5 and, rather than just press ahead today without taking the matter on board, I would ask if we could have an adjournment from now until Monday morning, when I apprehend I will be in a position to ask questions of Mr Lucas-Smith. But it is an
10 issue of significance which has been raised by your Worship and it is a matter on which I think I should seek some instructions now.

THE CORONER: That is fine.
15

MR JOHNSON: If I could have that opportunity.

THE CORONER: Yes. You can step down, Mr Lucas-Smith, thank you. That is certainly
20 convenient if we do adjourn until Monday morning.

MR LASRY: Yes, your Worship.

THE CORONER: Thank you, Mr Lucas-Smith. You are not excused at this stage. You are available to
25 return on Monday morning at 10 o'clock?

THE WITNESS: Yes, I am.

MR LASRY: Can I say something about the next few witnesses for the information of your Worship and my learned friends. The next witness called will be Mr Castle, then followed by Mr Ian Bennett, and I anticipate Mr Keady, the Chief Minister
30 Mr Stanhope, Ms Marika Harvey, and then the ABC journalist, Natalie Larkins. I think I mentioned at the outset that her statement is new, and if there is anyone who does not have that statement then they should let me know.
35

40 On the original list which we published, Mr Koperberg would ordinarily have been the fourth witness. But I think primarily due to either his arrangements or those of his counsel we have
45 agreed to put his evidence off until the middle of March. So that is the order for the next six or so witnesses.

THE CORONER: Thank you, Mr Lasry. So we will adjourn until 10 o'clock on Monday morning.

[3.20pm]

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**HEARING ADJOURNED UNTIL MONDAY, 23 FEBRUARY AT
10.00AM**

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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

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

DAY 14

Monday, 23 February 2004

[10.00am]

THE CORONER: Mr Johnson, good morning.

5 MR JOHNSON: Good morning, your Worship. Thank
you for the opportunity on Thursday to get some
instructions on the issues that were raised by
you. If I could indicate to you that
10 the Territory's position at present is as follows:
that the legal representatives for the ACT
continue to appear for the for the ACT only; that
there is no application made on behalf of an
individual. There has been put in place, and I am
15 instructed it is coincidental, it having been
something that has been under consideration since
December of last year, put in place as a result of
a meeting last Wednesday, so I am told, between
the Legal Aid Commission and the Department of
20 Justice and Community Services, an arrangement
whereby independent legal advice will be available
to ACT employees or volunteers who will be called
as witnesses, at Territory expense.

25 That will mean that any persons who have issues
which they wish to raise, or have concerns will
have an opportunity to obtain such advice,
independent of any conferring with legal
representatives for the Territory, and that that
will provide an opportunity for those persons, if
30 they have particular concerns about their
positions or otherwise, to raise those and seek
legal advice.

35 As to whether that will translate into any
application before your Worship, it is simply
premature to say that. I indicate that such a
process has been put into place. The persons who
come within that category, being ACT employees or
volunteers who are to be called as witnesses, I am
40 instructed have been informed of the existence of
that process. I think last Friday there was
certainly a communication to that effect, which
would mean that persons who did want to avail
themselves of an opportunity for advice could take
45 up that opportunity effectively now.

In relation to the current witness,

Mr Lucas-Smith, I have had an opportunity to speak to him and to understand his position. It is certainly my understanding that he does not make any application to you for any separate legal representation himself. That, of course, could be confirmed, if your Worship wished, with him directly. It would mean then that I would seek to proceed to ask Mr Lucas-Smith some questions, and after that his evidence for the time being could be brought to a conclusion no doubt there. If there are other issues to be raised by Mr Lasry, he could do so. But there is in train in this process, insofar as your Worship has a concern about other individuals out there, a system which will see them certainly being able to obtain advice independent of that which would come from the Territory's lawyers.

THE CORONER: They are aware of that.

MR JOHNSON: Yes. As I understand it, certainly e-mails went out on Friday. As I said, it was apparently at a meeting on last Wednesday evening that this process was formally agreed to. We will cause, of course, to ensure that persons are aware of that. As I indicate, one e-mail seems to have many recipients listed at the top, which was intended to inform them of this. But no doubt by a number of other processes, including such formal processes as we put in place and word-of-mouth, indeed, having regard to the high level of interest in the inquiry, I think your Worship could be confident that word will travel fast. We will certainly do what we can to make sure people understand that is the position.

THE CORONER: Thank you, Mr Johnson. Are you ready to proceed now to ask Mr Lucas-Smith some questions?

MR JOHNSON: I am, if there is no other matter to be raised.

MR LASRY: Your Worship, I simply want to say, and to some extent repeat what I have already said - it is a matter for my learned friend, and of course it is a matter for Mr Lucas-Smith in this

case and other witnesses in other cases, but to
take him as an example - what concerns us is that
when other witnesses are called whose evidence and
interests are potentially adverse to him, there
5 will not be anyone testing that evidence on his
behalf. I have already expressed my concern about
that. If, in the end Mr Lucas-Smith is sitting
here and he hears me, if he is not concerned about
it then that will be the end of it. But our
10 position is that we are concerned that witnesses
who are centrally involved in this and who may be
criticised, or may potentially be the subject of
submissions urging adverse findings, if that
arises either in relation to this witness or other
15 witnesses, they should have their interests
protected. In the end I can only say that, and it
is a matter for them.

THE CORONER: Yes. Thank you. Mr Lucas-Smith,
20 I will just ask you to take the affirmation again,
if you would, please.

<PETER WILLIAM LUCAS-SMITH, RE-AFFIRMED

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

Q. There are several areas that I wanted to ask
you some questions about, Mr Lucas-Smith. I am
conscious you have been in the witness box for
30 some four days.

A. I am sorry, Mr Johnson, I am having a bit of
trouble hearing you.

Q. Yes. What I said is essentially an
35 introduction, that there are several areas that
I am looking to raise with you. You were asked
some questions by counsel assisting at pages 786
and 787, or thereabouts. For present purposes,
your Worship, I do not think it is necessary that
40 the pages be brought up. I am giving
the references in form of cross-reference. If
something turns on it perhaps the page can be
brought up. But for present purposes it is to
assist those who want to make a note as to what
45 the evidence relates to.

THE CORONER: Thank you.

MR JOHNSON: About steps that might be taken to deal with the risks of the 2002 and 2003 fire season, I think you indicated there were a number of levels of readiness, a classification of levels of readiness in the ACT as at January 2003, is that so?

A. That's correct.

Q. What were the levels of readiness? What did the scale go from and to?

A. It goes from nil through to red, which is the extreme end. There is green, blue, yellow, orange and then red. Each one of those is related to a fire danger rating, and as you go up the scale more and more resources are put on standby for immediate response. Also the weight of attack to incidence is increased with each level of readiness.

Q. What was the level of readiness as at 8 January 2003?

A. It was orange, the second highest level of readiness. Red readiness always automatically means a total fire ban.

Q. You were asked some questions about recordkeeping during the fires at pages 800 and 801, or thereabouts. You mentioned in passing there were types 1, 2 and 3 fires. Could you just briefly explain the classification of type 1, 2 and 3 fires?

A. It is really a scale of complexity that under the AIIMS-ICS arrangements a type 1 is generally a small incidence. In an ACT context a type 1 is generally less than five hectares in size. Type 2 is more than five hectares in size, and type 3 is generally anything over 20 hectares in size. So as you go up the scale so does the level of resources that are required and the infrastructure required to support the efforts in the field. This is a national system. As I said, it is part of the AIIMS-ICS arrangements.

We use exactly the same system here in the ACT. A type 1 incident, which the ACT probably has had more than 3,000, 3,500 in my time I have been Chief Fire Control Officer, of those types of

incidents in the ACT they were generally done with verbal objectives and strategies. It is an oral process. There is really nothing prepared until after the event, when a fire report is prepared
5 just to give us some information about where the fire was and what it did. But the actual combating of the fire is generally done with just oral instructions.

10 As you go further up the paperwork increases for a type 2, where you are really now introducing an operations officer into the field arrangements, and the recordkeeping starts to increase a little bit. Obviously when you get to a type 3, if you
15 are using the AIIMS-ICS forms, which we tend to use in the ACT, you end up with a much more detailed record.

Q. You have referred to the AIIMS-ICS records.
20 Do those records contain the classification of types 1, 2 and 3 fires?

A. They don't as such, but each different type has a different colour code form that you are actually filling out.
25

Q. Is the classification of type 1, 2 and 3 fires, as you have described it, one which as you understand it is used in other jurisdictions within Australia apart from the ACT?

30 A. Yes, they do. In fact, I think anybody that uses AIIMS-ICS uses the type 1, 2 and 3 classifications. It evolved from a system in the United States, which is the NIMS ICS rather than the AIIMS-ICS, but they use a classification
35 5 and they do it in reverse as we do it in Australia. But in Australia the general rule and the way it is written into the guide book for AIIMS-ICS is three types of incidents.

40 Q. You have been asked quite a number of questions by different counsel with respect to your thought processes as they moved from the 8th through to 18 January in relation to the possible behaviour of the fire and its movement. Many of
45 the questions that have been asked of you have been leading questions putting propositions to you. I wanted to ask you this, and perhaps give

you an opportunity in your own words to explain your position: as at the morning of 18 January 2003 could you indicate your expectations as best you can, thinking back now, of what may happen that day with these fires?

5 A. I won't shorten my answer. I will extend it out, if I can. I think that on that morning of the 18th we already had the Bendora and the Stockyard Spur fire spreading to the east

10 rapidly through Namadgi Park. It already burned into Tidbinbilla Nature Reserve and into Paddy's River Road. It had reached across to Mt Tennent and also into the Naas areas of the southern ACT. We were involved in a very extensive campaign of

15 property protection. We, in fact, were not fighting the actual fire fronts on the 17th, on the afternoon and the night of the 17th, we were in fact involved in property protection. Although we lost a number of rural properties, there were

20 still quite a number of rural properties that were saved in that process.

On the morning of the 18th we still had our resources committed. In fact, a lot of our people

25 had put in a full 24-hour shift. It had gone on in the morning of the 17th, and as the conditions worsened during the day had continued on during the night, and we brought in additional resources. We had a full complement of all our resources

30 committed, including those which Commissioner Koperberg had loaned to us from New South Wales to support our arrangements here. So that was an additional 150 people or something or other, and other appliances and other resources, and they

35 were all fully committed as well. All of those resources were committed. That was going to continue.

On the morning of the 18th we needed to make sure

40 that all the properties in fact were saved that we could possibly save. We then needed to find exactly where the fire fronts were and how the fire had been split-up because of the terrain features, so we knew exactly where the fire front

45 was. And then work out exactly how we were going to proceed to combat that fire.

On the morning of the 18th the Deputy Chief Fire Control Officer in the helicopter very early in the morning, who was Tony Bartlett, if I remember correctly, reported that the McIntyre's fire had entered the north-west corner of the Uriarra Pine Plantation, and therefore was now crossing the border into the ACT. This obviously presented a whole new range of complexities in relation to our firefighting capability. I was kind of caught between a rock and a hard place of do I pull resources out of the south to send to the north and have more rural properties burn down on the expectation that that fire will threaten more property in the north in the rural areas of the northern part of the ACT. I chose not to do that.

My first concern was to those properties immediately under threat. I think I would still make exactly the same decision today.

Those properties needed that resource, otherwise we would have lost more rural homesteads. The fires coming into the ACT from the McIntyre's fire, from the outbreak of the north-east corner of the McIntyre's fire had only just started to come into the ACT. There was a long distance between where they were and the edge of the ACT - edge of the urban area. I recognised very, very clearly that we had weather conditions that were very conducive to rapid fire spread across the landscape. However, the predictions that we had from the night before, and we have seen some of that already in the evidence given, even one of the maps that was displayed here was a map that was shown on the night, the planning meeting of 1800 hours on the 17th. So we had an idea, based on the forecast, as to what that rate of spread would be, and how far that fire would spread.

40

Q. I will get you to slow down a little bit. It is quite a long answer and I want to make sure you have an opportunity to explain what occurred. But perhaps a little slower.

45

A. Okay. We were obviously very concerned about it, and I think it is one thing to know that the potential exists for an impact on the urban

edge, whether it be from the fire escaped from Bendora or whether it be from the fires that are now entering the ACT from McIntyre's. I think it is another thing to know as to when, where and in what form that sort of impact was going to take. That really needed to be the concentration and the evaluations that we needed to do for that day to work out exactly as best we possibly could as to what that was going to be like. We needed to proceed with that quite rapidly. But at the same time we still were in a very dynamic situation in the movement of the fire in Bendora and the protection of rural properties in the south.

As I said before, all of our resources were committed to that, and I really needed to get a very good handle on what was going to happen in the northern part of the ACT before I would sacrifice rural properties in the south, to send those resources north. I also needed to establish a unified arrangement with New South Wales resources that were on the McIntyre's fire and following that fire front. And I would have to say I did not have a real clear picture of exactly what resources New South Wales had. I knew they had quite a number of aircraft. In fact, I still do not even know today how many resources they actually had on the ground to follow that fire. But at the same time New South Wales areas were still under threat also from that same break, even though the fire was coming into the ACT.

As we went through the morning and things were progressing during the day and things were starting to build fairly rapidly, the fire was still some considerable distance too, and I refer here to the McIntyre's fire, it was still some considerable distance to the west of the ACT urban area and to the west of the Murrumbidgee River. So that was giving us - it was certainly giving me some confidence that we had a little bit more time to get to fully understand exactly what that growth of that fire is going to be, and also to finalise our property protection tasks in the south.

I went to that media conference at noon and

started to convey that sort of information on
the belief that at that time that I had at least
until about 2000 hours, 8 hours from that time,
before our predictions had indicated that the fire
5 was likely - if at all - it was likely to come in
close to the urban area. So I felt that we still
needed to find out exactly what our suppression
options and capabilities were and if there were
some parts of that fire that could be suppressed
10 that would in fact put pressure on those areas
where the fire could not be suppressed.

I had to say I had a fair bit of confidence that
we could do something. As I said, I think a
15 little while ago just this morning, in the 16
years that I have been Chief Fire Control Officer
in the ACT, the ACT Bushfire Service has responded
to over 3,000 fires in the ACT, many of those on
the interface. And of those only - well over
20 3,000 - I don't know the exact number - well over
3,000 fires, only six have been significant fires
in that 16-year period.

Interesting enough, the December 2001 fire,
25 the Stromlo fire of December 2001, which burnt
about 1200 hectares, was - in fact, I think it
might have been close to 1400 hectares, I am not
too sure exactly of the size - was really
the largest fire we had in the ACT in the full 16
30 years I have been Chief Fire Control Officer.
That threatened the interface, but we did not lose
any structures or had any injury associated with
that fire.

So I had some, I believe, reasonable expectation
that some suppression effort would be successful,
and there would be some amelioration of the impact
on the ACT. We still needed to evaluate exactly
what that was going to be. I think events
40 overtook us quite significantly as things started
to accelerate at around 1 o'clock. That was when
we started to issue the standard emergency warning
signals to the community that there needed to be
additional actions taken by the community to
45 support our fire suppression office, and we
started telling people what they should do. I
can't remember an exact time but I am sure it will

come up in the evidence to come, but I think it was somewhere around 2 o'clock that we started issuing those warnings.

5 At 1400 hours, as Mr Cheney has quite rightly pointed out in his evidence, the fire at that time was still to the west, or just on the western slopes of Mt MacDonald, which is about
10 13 kilometres or more from the urban edge of the ACT and still a number of kilometres west of the Murrumbidgee River.

It was really the Murrumbidgee River and the open grasslands between the Murrumbidgee River and
15 the western side of Stromlo and the western side of the urban areas which gave us our best opportunity for fire suppression of this fire as we moved out of the forest environment into a grass environment and into a grass environment
20 that in fact had very little grass on it because of drought conditions that the ACT was currently in.

I think that then the speed and spread of that
25 fire in fact went across the Murrumbidgee River and impacted into Duffy in the first instance was an hour or hour and 10 minutes at the very most from that time out. So to be able to travel 10 or 11 kilometres in that short period of time I think
30 took everybody by surprise. Even the what part of it, the ferocity at which it impacted on the urban edge was something that certainly was outside my experience and I think certainly was outside of a lot of people's experiences. It was not the fire
35 front that caused the impact in Duffy. In fact, I don't know exactly what time the actual fire front got through to Duffy. It was the burning embers and burning brands that were carried ahead of the fire caused by these convection winds as a
40 result of this fire that showered down on Duffy and created that sort of a problem. That was well in front of the actual fire front itself.

These things were all moving very, very rapidly,
45 and obviously we were moving resources out of rural protection into urban protection. And I even, at that stage, had to make the decision to

abandon some rural property protection in favour of urban protection, of which I expected later, and probably still expect, some time during this thing I will be criticised for. But,
5 nevertheless, that was where in my view the greatest need was, and we started moving our resources out of the rural areas into the ACT for urban protection.

10 That is still quite an extensive task. Even to drive a fire tanker from Tidbinbilla Nature Reserve to the edge of Duffy is a 50-minute drive. And so from the time that the fire crossed the Murrumbidgee River, the fire took, I think it
15 Is about an hour and 10 minutes - I am sure someone will correct me if I am wrong - from the time it crossed the Murrumbidgee River to the time it impacted on Duffy is almost equivalent to the drive to get the fire appliances moved out
20 of Tidbinbilla back into the urban areas. This is a very, very rapid, very, very dynamic fire situation, and things were happening very, very rapidly. Very, very busy environment.

25 As I have said in my evidence, I think we didn't emphasise the warnings adequately enough. I thought we had more time to do that. And I think as the day was going on and we had moved from that noon media conference into the standard
30 emergency warning signal, which is the highest level of alert in the ACT, to advise the community, and we did that at around 2 o'clock, I think it was. So we were certainly moving in that sort of direction. Maybe we should
35 have done it earlier. That will certainly be something for others to judge, but as far as I was concerned it was - I was trying to fight the fire at the time, and my job was really to protect property.

40
Q. I think you have referred on a few occasions to some times. At page 22 of Mr Cheney's report, which was central to his evidence last October, he referred to some times. Just so I can seek to
45 link up the times you have mentioned with what Mr Cheney mentioned, you indicated the fire made a fast run through the Uriarra settlement and at

1400 the fire was burning in the pine plantations on Mt MacDonald north of the Cotter Dam and into the pine plantations immediately west of the Murrumbidgee River. Is that one of the sources for the 1400-hour time that you have referred to?

A. No, I obviously didn't have Mr Cheney's report at that time.

Q. I understand that. But you have mentioned Mt MacDonald in your evidence?

A. Certainly it was an area that certainly Mr Cheney identified, and it was also an area that we were able to identify. I think we had some aircraft in the air at that particular time. They were trying to pick up as close as they can as to where the fire front was and reporting back to Curtin.

Q. Mr Cheney continues:

"By 1430 hours the fire had crossed the Murrumbidgee River into sparse pasture country east of the Murrumbidgee corridor reserve and had thrown a spot fire into the western edge of the Stromlo pine plantation to the west of the Stromlo observatory."

Then moving down to the next time he mentioned:

"At 1445 hours the fire was making a very intense run up the western slopes of Mt Stromlo with high flames that were clearly visible from north Canberra. And a spot fire commenced in the forest near the junction of the Uriarra Crossing Road and Cotter Road. The main head fire burnt across onto the eastern side of Mt Stromlo by 1500 hours and was approaching the Cotter Road north-west of Duffy. The head of the fire burnt through the Mt Stromlo forestry settlement soon after 1500 hours. first crossed into Duffy just east of the intersection of Warragamba and Eucumbene Drive at 1505 hours. By 1545 hours the fire had entered the suburb of Duffy between Dixon Drive and Hindmarsh Drive."

In your evidence you have been indicating an understanding that this fire moved very quickly on the afternoon of the 18 January?

A. Absolutely.

5

Q. Do you say that those times that I have just read out to you confirm that view, that this fire was moving very quickly?

A. In fact I had no difficulties at all with Mr Cheney's reconstruction of the fire activity. The only comment I would make is that Mr Cheney's evidence of course is based on reconstruction of the fire after the event, and we were in fact in front of that fire trying to predict what it was going to do based on the models that we had available to us at that particular time. Those models grossly underestimated the rate of spread of that particular fire.

20 Q. You were doing that 10 days into a pretty demanding operational exercise, is that so?

A. Certainly. I think all of our ACT firefighters had put in an extraordinary effort for a considerable amount of time. People were tired. Most people were putting in at least a 25 12-hour day, most 14-hour day and quite a number were putting in 16 to 18-hour days.

30 Q. At paragraph 119 of your statement you said:

"A fire generated tornado appears to have arrived at the urban/rural interface area."

35 This is a matter you were asked some questions about last Thursday by Mr Archer. You have seen that very graphic and tragic film of the scenes in Duffy when Mr Thornthwaite was travelling around, and indeed other scenes captured on film, haven't you?

40 A. Yes, I have.

Q. In your experience with bushfires had you ever experienced anything like that yourself?

A. No, I had not experienced anything like that in my over 30-years experience involved in bushfire fighting. I certainly know that they had difficult, if not similar situations in Victoria

during the Ash Wednesday fires. As to whether it is to the same extent I don't know - and also in South Australia. But I was not involved in either the Victorian or South Australian Ash Wednesday
5 fires. In fact, at that time I was involved in a large fire in New South Wales of which I was the fire controller officer.

10 Q. It is always difficult looking back to try and see what your state of mind may have been at a particular time. But to the extent that you had in your mind that the McIntyre Hut fire may reach the urban edge of Canberra, did the events
15 depicted in Mr Thornthwaite's, or the video taken at the time of Mr Thornthwaite's ember shower, and matters of those sort, did those sorts of things enter into your thinking as possible events at that time on the 18th?

20 A. No, certainly not to that extent or to that ferocity. I certainly did not expect an impact on the ACT interface areas of that sort of ferocity at all. I certainly expected that somewhere, either from the Bendora fire or Stockyard fire or the McIntyre fire, just for the sheer length of
25 the interface there - and in fact if you measured around all the nooks and crannies and the full interface from that corner from Warragamba Avenue right down to the bottom of Gordon there is in fact 72 kilometres of potential interface of
30 the ACT - and I didn't know where impacts were going to occur. I knew we would not be able to cover all of that with the resources we had. So the potential for the Bendora fire or the Stockyard fire to eventually creep through to
35 the interface, or the McIntyre's Hut to eventually reach the interface, that potential really existed. But where I didn't know and when. All we had was the predictions we were able to make based on the best of our ability.

40

Q. Prior to the 2002/2003 fire season, and indeed for a period of years before then, had any steps been taken to provide information to the Canberra community in relation to bushfires and steps that
45 might be taken if bushfires approached? I am talking about general information, obviously, in this context.

A. Absolutely. We have had campaigns, media campaigns and community information campaigns going for a long time. In fact, a brochure that we are still using today - no, in fact I withdraw
5 that on the basis that the Bushfire Information Kit has now superseded that previous brochure. We had a brochure called "Will you survive?" and we had that and used that in the ACT since 1993, I think it is, or 1992, when it was first
10 introduced into the ACT. We modelled it specifically for the ACT.

We have had fridge magnets about preparing your home. We have had fridge magnets about what to do
15 on a total fire ban. I have done 10 30-second community service radio slots for the ABC radio which they play continuously and still playing last fire season, from what I can recall, about what people should do. I have even been on
20 talk-back radio about what people should do on their interface. I have done many, many dozen, probably many hundreds of media interviews, and at each one of those media interviews I actually tried to add an education component to it to talk
25 about what people should do about the things that they should do in their interface.

Q. It your understanding that there has been a gathering of printed material, a gathering which
30 has been undertaken by Mr Castle, as to which he will have some more direct knowledge when he comes to give evidence?

A. Yes, there is.

Q. When you were speaking at the press conference on noon of the 18th of January you were from time to time mentioning steps that people might take in relation to their houses and things of that sort; gutters, et cetera. Were the types of things you
40 were saying in that press conference the types of things which, as you understood, were the type of advice to give to persons who may have to take protective steps in relation to their property?

A. In fact, looking at the transcript there,
45 I have almost learnt it off by heart because that is exactly the sort of stuff I say continuously when I do media interviews about fire events and

what people should do in preparation for the fire season. As we go into every fire season, the electronic and printed media are always contacting us wanting to talk to us about what we should prepare, how people should prepare for the fire season, what they should do around their homes. So the stuff I was able to, without reference to anything, rattle off is pure and simply on the basis that I have done it so many hundred times before giving that information.

Q. I think you readily acknowledged in your evidence last week that not enough was done in relation to informing the Canberra community?

A. Yes, I think the information was there. I think what was lacking was the emphasis, which would have added the criticality to the event. There is nothing more I can say about that other than the fact that I recognise now that that needed to be done and wasn't.

Q. To the extent that there were any deficiencies in the information given by you to the community about a position with the fires, were you ever intentionally seeking to withhold information from the public of Canberra?

A. Certainly not. In fact, I have always been very frank and upfront with any media interviews that I have done in the past. I was certainly not in any way, shape or form trying to withhold or mislead anybody in the ACT.

MR JOHNSON: Thank you, your Worship.

THE CORONER: Thank you, Mr Johnson. Do you have some re-examination, Mr Lasry?

MR LASRY: I do.

<RE-EXAMINATION BY MR LASRY

Q. Mr Lucas-Smith, just to make it clear, in the course of your evidence last week you said an effect on the urban edge was inevitable. You stand by that, don't you?

A. I would have preferred to use a different word than "inevitable", but at the time that is what

I said.

Q. You said it at page 999, that some effect on
the urban edge was inevitable and you agreed with
5 it again at 1095. That is your position, isn't
it?

A. That is what I said at that time. What I said
is what I said and there is nothing I can do about
that. My view was that the potential existed.
10 I recognised that the potential then existed, but
as I said, I didn't know the when, where and what.

Q. But, look, you had plenty of opportunity last
week to answer the questions and to give your
15 point of view. I asked you to indicate initially
when, I think, as I put it to you, in your heart
of hearts you realised that it was inevitable
there would be some effect on the urban edge. Do
you remember being asked that question?

20 A. Yes, I do.

Q. You said it was Saturday morning. You didn't
say, "I never thought it was inevitable". You
said, "that was my state of mind on Saturday
25 morning". The following day after we narrowed it
down a bit it became clear that that state of mind
that you said you had on your oath last week was
somewhere around 7.30 in the morning. Do you want
to change that?

30 A. No, I don't think I indicated that I did want
to change that.

Q. Can we still take it that at or about 7.30am
on Saturday morning, 18 January, your view was
35 that some effect on the urban edge of Canberra was
inevitable but that you didn't realise when or
what the extent of it would be; is that a fair
summary of your position?

40 A. Yes, well, I think --

Q. I would like a yes or no.

A. I am not going to give you a yes or no.

Q. Is it a fair summary of your position?

45 A. What I am about to say is, from what I can
recollect, at about 6.30 we got a report that
the McIntyre's fire had crossed the border into

the ACT, into the Uriarra Pine Plantation. That then meant that our firefighting capabilities in the south were going to be stretched. Whether that impact occurred in the south from the Bendora
5 fire or the McIntyre fire, I thought that the possibility certainly existed that the interface would be affected.

Q. You said, Mr Lucas-Smith, last week that you
10 realised it was inevitable. You said that on your oath at pages 999 and again at 1095. Was that evidence right or was it wrong?

A. I can't say that I, you know,
15 inevitable - I said the word inevitable and that is what came out at that particular time. Obviously sitting here you are under pressure, I said the word and I will have to live by that word for the rest of my days. But within my heart of hearts, to your terms, the inevitability was
20 not there but the potential certainly was.

Q. You now want to say it was not inevitable, it simply was potential?

A. The potential was there, yes.
25

Q. So on Saturday morning, is this the position, that you are now going to say this is your state of mind as best you can work it out after four days in the witness box, that at or about 7.30am
30 on Saturday morning it was not inevitable that some effect would occur to the urban edge; there was simply some potential for it to happen? Is that the position you now want to take?

A. We had a lot of --
35

Q. No, Mr Lucas-Smith. Unless her Worship stops me, I want to get you to commit yourself. I want you to say whether what I have just put to you is now a correct summary of your evidence. Did you
40 see the potential or did you think it was inevitable?

A. I saw the potential, and I will stick with my words. I thought that eventually it would be inevitable.
45

Q. When did you think it would be inevitable?

A. I didn't know. That is the point I am trying

to make, that I didn't know the when or where.

Q. Well --

5 A. I just knew that I had the whole western face
of the ACT alight and nowhere near the resource
capability to be able to cover the many hundreds
of kilometres of fire front that I would have to
deal with.

10 Q. I am not asking you these questions in order
to play games with words. You have acknowledged
that the warnings to the Canberra community at
around the middle of the day on the 18th were less
15 than they should have been. I forget exactly the
terminology. You accepted that your use of
the word "chance" under-stated the position, don't
you?

A. Yes, I agree I didn't put enough emphasis on
it.

20

Q. So if it was significantly more than a chance,
if it was either potential or inevitable, and that
was your state of mind at the time you faced
the media at about midday or 12.30 on the 18th,
25 why didn't you use those words? Why didn't you
state the position as you genuinely believed it to
be?

A. Because I didn't know the where and when.

30 Q. But you don't need to know the where and when
to say to the people of the urban area of
Canberra, "some effect on the urban area of
Canberra is inevitable", do you? "People should
start preparing themselves"?

35 A. I think you do because the next question the
media is going to ask you is the where and when.
If you don't know the answer to that then you
would need to be fully prepared for those sort of
responses, and I didn't know the where and when.
40 We were workings towards finding out that where
and when.

Q. You know as well as I do the answer to that
next question could well have been "I don't know
45 where or when but it will happen and people ought
to be prepared for it". You could have said that,
couldn't you?

A. Well, I suppose I could have, yes.

Q. And you didn't?

A. I didn't.

5

Q. The next thing you said a little bit after that in the answer you gave to Mr Johnson was you were trying to fight fire, at the end of one of the long answers. I gather the point you were making was your primary obligation was to fight the fire, not to make predictions about when people would be affected by the fires. Is that the message you were trying to get across?

A. I think the message I was trying to get across when saying I was fighting the fire is I was concentrating on the fire event. As I said, we had property directly under threat, and that has to take priority. You had life and property directly under threat. That was the priority and that is where the focus was.

Q. Your obligation, I take it you accept, in a circumstance as was prevailing on 18 January was to keep the community informed, for their own safety?

A. Yes. It is not the obligation. It was one of the obligations.

Q. An important obligation. Let me add to it. I want to ask you some other questions about some things that have arisen in the questioning of others and one or two that perhaps have not. You gave some evidence some time ago now about presuppression, and the impression from your evidence that presuppression, according to the evidence you gave at around page 860, involved the preparation of maps with various information on those maps, including things like helipads, watering points, road access for fire vehicles and all that sort of thing. Is that the nature of the presuppression program? Is that the sort of document that was being produced in that presuppression program?

A. You will need to put that into some more clearer context, because as I understand it the land managers were engaged in preparing what they referred to as presuppression maps.

The Bushfire Service was not at that time, or I should say --

Q. No.

5 A. In fact we were - we in fact were developing one for Narrabundah Hill.

Q. But were the documents that were produced in that presuppression process, whoever they were produced by, did they ever become, as it were, operational maps? That is, maps that could be used operational during a fire, were they ever placed in the hands of ESB or ESB personnel?

10 A. No, not that I am aware. At that stage they were work-in-progress. I think our risk management unit of ESB had an early draft, but I had only ever seen those maps once before at a land management meeting.

20 Q. My learned friend Mr Archer asked you some questions about an agreement entered into between the AFP and ESB. I am sorry, your Worship, I am sure this was given an exhibit number. I don't recall what it was.

25 THE CORONER: I have a copy. I don't know that it was given one, actually. It is not part of the brief.

30 MR LASRY: It is not part of our brief, your Worship.

THE CORONER: This is the undated agreement signed by Mike Castle and Mandy Newton. That agreement between the ACT Emergency Services Bureau and the Australian Federal Police, that undated document, will become EXH0021.

40 **EXHIBIT #0021 - AGREEMENT BETWEEN THE ACT EMERGENCY SERVICES BUREAU AND THE AUSTRALIAN FEDERAL POLICE, SIGNED BY MIKE CASTLE AND MANDY NEWTON, UNDATED, ADMITTED WITHOUT OBJECTION.**

45 MR LASRY: This is a document that, although it is undated, is after the January fires.

Your Worship, if your Worship's associate has the document, might the witness be shown it at

some point. I think in your evidence you said it was after January 2003.

A. That's correct.

5 Q. Were you consulted about this agreement?

A. Yes, I read it before it was signed.

Q. Did you agree with it?

A. Yes.

10

Q. Did you think it was appropriate?

A. Yes.

15 Q. Looking at paragraph 3, which is the paragraph dealing with the question of evacuation, did you understand that paragraph 3 was in some way designed to give additional power to members of the police force? In particular, the last two sentences:

20

"The police officer will seek the advice of the senior fire officer prior to making a decision to evacuate, except in the most urgent circumstances. In the event that such advice is ignored, a police officer may then order them to evacuate and has the legal power to enforce that evacuation."

25

Do you see those words?

30 A. Yes, I do.

Q. Did you understand what the legal - where that legal power emanated from?

35 A. No, I don't. But I understand the Australian Federal Police had that power anyway.

Q. Do you know where they got that power from?

40 A. No, I don't. I am sure the Australian Federal Police would not sign a document that purported to have powers that they didn't have.

Q. You didn't understand that this agreement was in some way intending to create a power in the police that they didn't already have?

45 A. That's correct.

Q. Were you concerned that that paragraph, among

other things would permit a member of the police force on his or her own, and perhaps an inexperienced member of the police force on his or her on, if there was no fire officer present, to
5 enforce an evacuation in circumstances where it might not be appropriate?

A. Yes, I did. But as I said in my evidence, people are put under pressure in these sorts of situations and at the end of the day they
10 have to make a judgment. Through training, experience and exposure to these types of events hopefully their judgement will be right.

Q. The point about this is - and the two
15 propositions between which there is always tension I presume in these sorts of circumstances - on the one hand, as it were, the natural desire of police, because it is in their training, to remove people from situations they consider to be
20 dangerous, perhaps in all sorts of aspects of policing on the one hand, and yet on the other hand, as the Emergency Services Bureau was telling people during these fires, the desire that people stay with their houses in order to assist in
25 protection of their own asset, assuming they are able to do so?

A. Yes, because what the AFAC position paper was proposing, and what had been tested in a number of other cities, including Hobart only a few years
30 before, was that in fact the home was the safest place in such events, and if the policeman wanted to ensure the best possible protection for any community member, then they should be directing them to where is the safest place to be. In most
35 bushfire situations, as the bushfire is approaching the urban area, then the home is the safest place to be. Certainly not on the road.

Q. Certainly as it turns out, and it may be this
40 really is with the benefit of hindsight, but as it turns out in this particular case all of the homes, even on the Warragamba Drive/Eucumbene Drive edge were safe places to be provided people
45 were capable of resisting the consequences of the ember shower on those houses. But I think the evidence is going to show that none of those

houses were burnt down by radiant heat?

A. That is what I believe, that's correct.

5 Q. So theoretically, I put this to you to see if
you agree with it, each and every house that was
burned down, if it contained a person able to
monitor embers and their effects might not have
burnt down?

10 A. I think certainly the chances of the place
burning down could have been reduced.

Q. It is more complicated than that, of course,
because there are issues about gardens and wooden
fences and all the rest of it?

15 A. The landscape issue and the number of embers.

Q. In the course of questions from my learned
friend Mr Stitt, at page 1171 he asked you a
question in relation to the emergency management
20 committee. He said:

"Q. Was there a decision taken not to have a
bushfire plan?

25 "A.A number of years ago, yes.

"Q.Was that a deliberate decision?

"A.It was a decision of the Emergency
Management Committee."

30 I took it from that portion of your evidence that
you were saying that that committee did make a
deliberate decision not to have a bushfire
management plan; is that correct?

35 A. Yes, and an earthquake subplan.

Q. Why was that?

40 A. From the bushfire side of things there was
already bushfire legislation. If you look at all
the subplans of the emergency plan none of them
were actually events that are dealt with by a lead
combatant or involved in some legislative
framework. From the bushfire side of things, what
we had was a Bushfire Act which described
45 the powers and responsibilities for fire
suppression in the ACT and also required
the production of a rural fire control manual
which outlined the structure and processes in

relation to rural firefighting in the ACT. So we were already well on our way, I suppose, in a sense, to having a full operational plan. Anything that went into an emergency or disaster aspect from a bushfire event would invoke the emergency plan and, therefore, didn't need a subplan.

Q. So it was a decision made because in the view of the committee - when was this --

A. I don't know. Probably five or six years ago.

Q. The reason there was no bushfire plan was because it was considered not to be necessary?

A. That's correct.

Q. I referred you earlier in your evidence to the Phoenix Imperative, Mr McRae's document. Let me ask you the question that Mr Lowe attempted to ask you. Is it true that you were disappointed about representations that you had made to the land management agencies and their response to your concerns about fuel buildup?

A. I don't know if I was disappointed. I understand the complexities of this. You cannot take an area which represents 42 per cent of the total area of the ACT and reduce the fuels across that whole area of the Australian Capital Territory within a very short period of time - in this case in less than a 12-month period.

Q. Yes.

A. But I was a little disappointed that the land managers were not responding more proactively to the issues that had been raised. We certainly had some discussions with them, but we had not seen any plans developing either through the bushfire fuel management committee or from the land management agencies to start to address this issue of high fuel loads in a lot of the catchment areas of the ACT.

Q. Mr Lucas-Smith, was there a man by the name of Ken Smith working in the control room at Curtin on 18 January - a man named Ken Smith?

A. I don't know any Ken Smith. I certainly don't recall anybody named Ken Smith.

Q. I understand he is a specialist crisis and critical incident manager that was brought into the Curtin centre on or before 18 January on a recommendation from Mr Koperberg. Does that mean anything to you?

A. No, it doesn't.

Q. Do you accept that the warnings that were issued in relation to the risks to the northern suburbs, such as Belconnen, on 21 January were significantly improved and increased in content from the warnings that were issued prior to the 18th?

A. Yes.

Q. There was a significant difference, wasn't there?

A. Yes, there was.

Q. And indeed, as I understand it, there were fire breaks constructed around the urban edge of Belconnen?

A. That's correct.

Q. Is that something that was initiated by you or your office?

A. By me, yes.

Q. I asked you some questions initially in relation to overnight - the overnight IMT. First of all I want to show you a document to see if you recognise it.

A. I recognise what it is, but I have not seen it before.

Q. What is it as far as you can --

A. It looks like it was a who was on duty at what time and where, and performing what function.

Q. Yes. I have to say to you, as a matter of fairness, I cannot at the moment identify the author or the source of that document. So I was looking to you for some assistance. But obviously the names and the information on the document is familiar to you?

A. Yes.

Q. If it is correct, it seems to indicate what the situation was in relation to overnight incident management teams or who was actually staffing the office overnight, doesn't it?

5 A. Yes, it does.

Q. In some cases the information is missing. It is filled in with question marks.

10 A. That is true in relation to Gingera and in relation to air operations, yes.

MR LASRY: Your Worship, if it is appropriate to do this, what I would like to do is tender this for identification at this stage and I will have 15 copies made and distributed. I think we will work out who created the document. It is clearly not this witness. If that is satisfactory.

20 THE CORONER: Yes. So what is that?

MR LASRY: It is basically a responsibility chart, I suppose you would call it.

25 THE CORONER: A roster.

MR LASRY: Sort of a roster, yes.

30 THE CORONER: And for what period? The total period from the 8th?

35 THE WITNESS: On here it has Wednesday 8th to the 1st pm. It seems to go through to Sunday 19th of the 1st pm. It includes a number of different positions within the service management team and the incident controllers at the Gingera, Bendora and Stockyard fires, who was the liaison officer at Yarrolumla and the Tuggeranong Valley IC for the break on 17 January.

40 THE CORONER: That chart will become exhibit 0022.

EXHIBIT #022 - ROSTER CHART FROM 08/01/2003 TO 19/01/2003, MARKED FOR IDENTIFICATION.

45 MR LASRY: Thank you, your Worship.

A. In the course of the evidence that you gave when I was asking some questions about

the overnight issue, in explaining why there was a lack of an overnight IMT or a lack of an overnight planning, in particular, essentially you said that you were concerned about resources, and in particular at page 961 I asked you a question:

5 "Q. You see the desirability in there being a planning section overnight?
"A. We also didn't want to deplete
10 the resources that were going into the field.

"Q. I am talking about overnight?
"A. I know, but we also talk about during the daylight we have to be able to marshal
15 our resources and put them in there. We have to have sector leaders and we have got to have control unit. We have got incident management team people in the field."

20 You were essentially saying there were a shortage of people who could fulfil the role given the resources you had at the time?
A. Yes. It is certainly a lesson that we have learnt. The permanent staff of the ACT Bushfire
25 Service is very small, it is a very small cell, and to bring in additional resources for overnight meant we had to get them from outside of our service.

30 Q. That is the point I was coming to. You see the AIIMS-ICS system, as you said a bit earlier to Mr Johnson, is a national system?
A. Yes.

35 Q. And you said if you thought you needed an overnight IMT, an overnight planning cell, it would be feasible for you to get one either from Queensland or Victoria or somewhere like that. And as I understand it, the idea of the system is
40 that such a group would simply be brought in and would slot right into their role?
A. Yes.

Q. Do you agree with that?
45 A. Yes.

Q. Did you consider doing that?

A. We did do that. We didn't do it on the 8th and 9th.

Q. Back in the earliest days?

5 A. No, we didn't do that, because they were still type 1 fires.

Q. When did you first do that? When did you bring in an interstate incident management team for the first time?

10 A. I think it was on the 16th.

Q. I want to know broadly, Mr Lucas-Smith, whether there were some conflicts within ESB from time to time between some of the senior personnel - and I will explain to you why I am asking you that question. One of your deputy chief fire officers was Mr Arthur Sayer, wasn't he?

15 A. Yes.

Q. In the course of a statement, which I probably should have put to you earlier - the statement is [ESB.AFP.0111.0262] - he describes going into the ESB office as a result of a phone call from Peter Galvin some time after lunchtime on 9 January. He says this:

30 "I agreed to do so and went straight to Curtin. I went to the communications central, COMCEN, where I found Peter Lucas-Smith, Tony Graham, Peter Galvin, Brian Murphy, Tony Corrigan and various radio operators who were discussing the various fires. I was angry that I had not been contacted until lunchtime on that day and expressed my displeasure at the absence of any consultation with me about the fires until that time. Peter Lucas-Smith said to me in blunt terms that if that was my attitude I should leave now. In those circumstances I saw no purpose in me staying any longer and so I left the meeting and went to the Athllon Drive depot in order to report what had occurred to my manager, Mr Geoff Wells."

Mr Sayer then, and I think still, worked for the Environment ACT Parks and Conservation. Do you remember that exchange?

A. Yes, I do.

5

Q. Do you agree with his description of it? Did it happen as he described it?

A. Yes, not necessarily in that sort of context.

10 Q. What was the context?

A. I don't know what else - I have not read Mr Sayer's statement - what else he goes through, but Mr Sayer came back to me later on and apologised and told me that he was under a fair
15 bit of stress on that particular day and probably over-reacted to my comments.

Q. I cannot tell you frankly whether that apology is referred to or not. But how long after this
20 conversation was that apology tendered to you?

A. Almost the next day, I think. I immediately assigned Mr Sayer to the incident control for the Stockyard fire.

25 Q. In relation to evacuations, if I can come back to that for a minute, am I right in saying that there were no media releases issued by the ESB which indicated that in relation to people who were affected by the fire, the police had
30 the authority to remove them or evacuate them by force if they thought such a step was necessary?

A. There was certainly no media releases that I am aware of that stated that.

35 Q. Up until the declaration of the state of emergency in the afternoon of 18 January, did you, as the Chief Fire Control Officer, contemplate that particularly in the last say two or three days before 18 January that police might form a
40 view that it was necessary to evacuate people from their houses; is that something you thought about and considered?

A. It is not something I gave a lot of thought to. It was a part of the arrangements as to
45 engage the fire brigade. We are now moving into a built environment outside of my areas of expertise, and the Bureau position paper had been

accepted also by the fire commissioner and
I believe from about the 16th or something like
that, I cannot remember the date, but the exchange
and interface took place between the fire brigade
5 and the police and I expected them to be trying to
resolve those sorts of issues.

Q. On 18 January some time between 2 o'clock and
4 o'clock in the afternoon there was an interview
10 on 666ABC, which I don't think I have previously
asked you about. Perhaps Mr Castle can answer for
himself because the passage that I want to ask you
about actually quotes him. You are spoken to at
one stage. Mr Castle is spoken to. The Chief
15 Minister, Mr Stanhope, is spoken to. But in that
transcript at page 3 - I am sorry, your Worship,
I will get you the database number in a moment -
the interviewer is asking Mr Castle, who is now
speaking, or referring to the fact that I think
20 the radio station itself were getting calls from
people who wanted to volunteer to help in some
way. Mr Castle is asked:

"Do you need any volunteers or are you saying
25 'please stay home. We are organised'."

Mr Castle's response was:

"Please, please stay home. They're better
30 off actually helping us by being near their
property rather than being sort of coming to
volunteer. We can't cope with the heaps of
volunteers that want to come up and help in
any way. We have got a series of networks
35 that we have established and people that can
assist in a variety of ways, including a
whole army of volunteers already. Not only
my unformed emergency services volunteers but
also welfare agencies and so forth - and
40 I've just lost you."

I think then there was a problem. Then he goes on
to talk about volunteers. But Mr Castle's
statement that what he wanted people to do was
45 stay with their homes and that was the best way
for them to assist you was the statement of
the position of ESB, wasn't it, as at the

afternoon of 18 January?

A. Yes, well, it sticks with that philosophy.

5 Q. Mr Lucas-Smith, I want to put this general proposition to you and see whether you agree with it: that in a great deal of the material, or in quite a bit of the material anyway, including at page 121 of the submission made by ESB to the McLeod inquiry an impression is created that
10 looking out from about the 16th of January the view was that the day to be most concerned about was the following Monday, the 20th?

A. That's correct.

15 Q. Do you agree with that?

A. Yes, I do.

Q. At page 121 of that submission, referring to the meeting where the ACT Fire Brigade was briefed
20 at 2 o'clock on the 16th, the submission says at page 121:

25 "In the afternoon of 16 January the CFCO provided a comprehensive briefing on the fires for the fire commissioner and senior operations staff of the ACT Fire Brigade. As conditions deteriorated, and on advice that Monday, 20 January would see extreme weather conditions, the ACT Fire
30 Brigade, ACTFB, formed their own internal IMT to supplement the IMT."

It goes on to describe activities that were commenced by the fire brigade, including vehicle
35 and inventory checks and also the preparation of contingency plans for interface protection. I'm with Mr Stitt on this, I'm not a big fan of interface, but I presume "interface protection" means "urban protection"?

40 A. The interface is the area where the bushland meets the urban area.

Q. The fact is though, isn't it, as I referred you to last week in the course of the evidence,
45 that on the morning of the 16th of January Mr Mason from the Bureau of Meteorology in his briefing at the 9.30 planning meeting made it

reasonably clear, I think, that the worst day in his immediate outlook period was for Saturday, not Monday?

A. This is on the 16th?

5

Q. Yes.

A. Yes, well, they can only give certain levels of confidence for a number of days of events.

10 Q. That's right. He agrees with that.

A. And certainly as far as being able to be confident that the Saturday was the worst between the 16th and the 18th, and probably the 19th, would be in the areas of confidence. However, 15 the outlook was showing that Monday the 20th was also going to be a significant day. In fact, it was also going to be the day of probably the worst conditions. That does not mean that Saturday is not going to be bad. It just means that Monday, 20 in his view, was likely to be worse.

Q. Do you think now, looking back on it, that given the information that you had as at the 16th or the 17th that nowhere near enough attention was 25 paid to the potential for the Saturday and too much concentration was placed on Monday being the day to prepare for?

A. I know that meteorology is not an exact science and they do their very best to make 30 predictions and forecasts. I think, yes, we probably needed to do more in relation to Saturday. However, from the 16th, I think it was the 16th, I had in fact declared a total fire ban for the five day period --

35

Q. You did that on the afternoon of the 16th?

A. On the afternoon of the 16th, which of course included the Saturday and the Monday. So we were taking very seriously that whole five days.

40

MR LASRY: Yes, thank you, your Worship. I have no further questions at this stage.

Can I make it clear that Mr Lucas-Smith, being a 45 witness of the significance that he is, I anticipate that towards the end of the evidence there will be a number of matters that will be

litigated with other witnesses that may need to be
put back to Mr Lucas-Smith, particularly to give
him a chance to respond, both to matters which
will be raised, as it were, for and against, and
5 clearly he should have that opportunity. So I ask
your Worship not to release him but simply to
adjourn his evidence to some date in the future.

MR ARCHER: Your Worship, can I just add that
10 Mr Lasry has had to cover a huge array of
material, and a lot of the material that my friend
has put to the witness this morning has been done
for the first time, and certainly I and I am sure
my colleagues to my left may want the opportunity
15 at a later time to ask further questions in
relation to that fresh material.

THE CORONER: Thank you, Mr Archer. That is
noted. I suppose what that mean, Mr Lucas-Smith,
20 is that you are free to go for the time being but
you are on notice that it is likely you will be
recalled at some stage during the progress of this
inquiry. You are free to go at the moment. Thank
you, Mr Lucas-Smith.

25 THE WITNESS: Thank you.

THE CORONER: We will take the morning break.

30 <THE WITNESS WITHDREW

SHORT ADJOURNMENT [11.20am]

RESUMED [11.50am]

35 THE CORONER: Yes, Mr Woodward.

MR WOODWARD: Your Worship, we call Mr Michael
John Castle.

40 <MICHAEL JOHN CASTLE, SWORN

<EXAMINATION-IN-CHIEF BY MR WOODWARD

45 Q. Your full name is Michael John Castle?
A. Yes, that's correct.

Q. What is your current business address?

A. It is care of the Department of Justice and Community Safety, 12 Mort Street, Canberra.

5 Q. You have prepared a statement for the purpose of the inquest, is that correct?

A. Yes, that's correct.

Q. That is a statement dated 14 October 2003?

10 A. Yes, I believe it is. Yes, that's correct.

Q. Mr Castle, have you read that statement before coming to court today?

A. Yes, I have.

15

Q. When was the last time you read it?

A. Last evening.

Q. Are you satisfied that it is true and correct?

20 A. Except that there is one name that I will in the course of the process change.

Q. I should have said to you also to be fair to you, Mr Castle, I understand the position in relation to your current employment has changed and I will come to that in a moment. Apart from that matter and the name you have referred to, are you satisfied that your statement is true and correct?

25

30 A. Yes.

Q. Mr Castle, you have been present throughout the evidence of Mr Lucas-Smith?

A. Yes, that's correct.

35

Q. Just moving to the matter of your employment, although your statement in paragraph 3 says you are currently employed as the Executive Director of the ESB, that is no longer the case?

40 A. No, that's correct.

Q. Where are you currently employed?

45 A. I am still within the Department of Justice and Community Safety, which is the same department, but my position is Executive Director, Emergency Management Policy Unit.

Q. I should give you the same warning that was given to Mr Lucas-Smith about the speed of your delivery. Will you just keep an eye on the shorthand writer and, if he is looking pained, you might slow down.

5 A. Okay.

Q. When did you move to that position, Mr Castle?

10 A. I believe 15 December 2003, when Mr Dunn took over from me.

Q. Up until that time you had been in the position of Executive Director of ESB?

15 A. That's correct.

Q. I will come to your other roles in a moment, but generally speaking have you also - the other roles that you have described in your statement, have they also ceased as at that time? I am referring in particular to your chairmanship of the Emergency Management Committee, for instance.

20 A. Yes, although chairmanship - I was not the chair of the current EMC. I was originally. But since the Emergency Management Act came into play I was not the chair.

Q. But you were a member of that committee?

A. Yes.

30 Q. Are you still a member of that committee?

A. Yes, I am.

Q. Mr Castle, could you explain the circumstances of your change of employment? Was your contract up?

35 A. No. The position in accordance with the McLeod inquiry, it was recommended by McLeod that the Emergency Services Bureau move to become the Emergency Services Authority, and recommended that the head of that intended Emergency Services Authority become a commissioner, Chief Executive, hence the position. That new position was advertised and Mr Peter Dunn was appointed to that. In the McLeod report, he also recommended that my position as the executive director move into form an Emergency Management Policy Unit within the Department of Justice and Community

Safety.

Q. That is a new policy unit?

5 A. Yes, it is, although it is part of
the function that I actually had wearing a number
of hats as the Executive Director of the ESB. So
it actually was recommended that the policy split
be made between the policy and the delivery
agency.

10

Q. I see. I am sorry, you may have said this -
if you did, I didn't pick it up - is there a
hierarchy within the policy unit that you have
referred to?

15 A. I answer to the Chief Executive of
the Department of Justice and Community Safety,
Mr Keady.

Q. I see. Do you have staff underneath you?

20 A. I currently have three - sorry, two - three,
if the one on maternity leave is counted.

Q. Did you apply for the position that Mr Dunn
now holds?

25 A. Yes, I did.

Q. You were obviously unsuccessful. Was there a
performance review or other assessment done in
relation to your role at that time?

30 A. No.

Q. Were you given any indication as to why you
were unsuccessful in obtaining that position?

35 A. No. It was indicated that I was suitable for
the position.

Q. Why didn't you get it?

40 A. I presume on a merit base selection process
somebody is considered to be more suitable.

Q. With that caveat in relation to your current
employment, I will ask you about various roles
that you have held at the time of the fires in
2003, and perhaps if you could indicate if you are
45 a member and I will try to remember to ask you
whether they are roles you still hold or whether
those roles passed on to Mr Dunn. You say "as

Executive Director, Emergency Management" - this is in paragraph 3 of your statement, which is [ESB.AFP.0111.0117]. In that role you say:

5 "I am responsible for ensuring that there are effective plans and arrangements in place for the prevention of, preparedness for, response to and recovery from emergencies."

10 So that identifies in effect four functions, does it, Mr Castle: prevention, preparedness, response and recovery?

A. Yes, it is for the emergency management arrangements for those functions.

15

Q. Where are those four functions articulated?

A. In the act.

Q. You then refer to the Emergency Management Committee. Could you briefly explain the structure of that committee and its purpose?

20 A. Yes, I do. The Emergency Management Committee is mentioned in the emergency management act as being required and it lists a number of people and
25 positions that form part of that Emergency Management Committee. I think I have somewhere --

Q. Just while you are looking that up, Mr Castle, who is the designated chair of that committee?

30 A. The chief police officer.

Q. The membership includes yourself and did it include Mr Lucas-Smith?

35 A. Yes, it did. I can actually list them.

Q. He - I think it is referred to in your statement - actually holds the position of secretary, or is it some administrative role within the committee?

40 A. Yes, it is purely administrative. It is executive officer. Most of the other jurisdictions have a similar position in regards to their peak emergency management body.

45 Q. You say in your statement:

"I am the person authorised as the single

point of contact for requesting Commonwealth assistance for emergency operations in the ACT."

5 Is that regardless of the nature of the emergency?

A. Yes, it is. It is a process with the Commonwealth for seeking assistance from the Commonwealth, and they asked that each state and territory designate somebody that is
10 authorised as the authorising person to request for Commonwealth assistance, and I am that position.

Q. You have made several requests during
15 the period of the fires, and we will come to those in turn. But is it the case that as a general comment you would in preparing those requests essentially draft them yourself?

A. No, not necessarily. Well, I would be first
20 of all reacting to the requests of any particular agency that sought that assistance from the Commonwealth, and then draft them in terms of the requirements to indicate to the Commonwealth what we had done internally and what other
25 assistance we had actually sought. I might have somebody actually draft those and then actually me okay them and release them.

Q. Is there a specified format for those
30 documents? Do they follow a standard form?

A. We did. There is some form of a template that we used. I am not too sure from memory whether there is a specific template that is current right
35 around Australia.

Q. When you say "we used", that is a template that was established within the ESB?

A. That's correct.

Q. As I recall it, it includes a general
40 description of the current status of the relevant incident and obviously most importantly then includes a description of the assistance that is required?

A. Yes, it is designed to give the information to
45 the Commonwealth of exactly what the sort of general situation is likely to be, what resources

we have actually put in from a state or territory point of view, and then seeking what we require from the Commonwealth.

5 Q. What is the purpose of providing as part of that request, if you like, a status report in relation to the incident?

A. Because they then have to seek government approval at the Commonwealth level and I suppose
10 for them to assess the urgency in their own right to decide what category of assistance that the Commonwealth could provide. There are various categories of defence aid to the civil community, DACC, I think it is.

15 Q. What are those, do you know, off-hand, those various levels that you have just described?

A. Yes, there are various categories of DACC. It tends to relate more to whether the Commonwealth
20 is going to recover costs, but it also, in one of the categories, can be just local assistance with the okay of a local defence commander.

Q. Your statement then goes on detail your
25 qualifications and experience. I do not seek to minimise them, but I will not read them out. You were in court I think when Mr Lucas-Smith was asked about your bushfire experience, and I think he said you had little, if any. In your statement
30 you have referred to the fact that during your army career you held a number of responsibilities dealing with support to emergency operations, and you refer specifically support to fires in the Bright area in Victoria. What was the nature
35 of your role at that point?

A. There was a non-firefighting role. I was the commanding officer and we actually provided troops in a support just like DACC task. We were tasked to provide those to the Bright fires.

40 Q. So you have not actually been actively involved in a running fire as a firefighter or a command position?

A. No.

45 Q. You then go on to describe your time in the public service, commencing in 1990. Perhaps

before I go on to that I should ask this question, because it came up in Mr Lucas-Smith's evidence at about the time that question was asked. When you were speaking during the course of the fires on behalf of the ESB, can we take it then given your absence of experience that, when you are describing the fire event and the operational elements that are going into it and expectations about outcomes, you were doing so based on information provided by other parties?

A. Mostly, but I had had nine years of running the Emergency Services Bureau and over that time there had been some 2,000-odd bushfire events. And if I total up all of the events right across all of the four services I was responsible for, it is actually quite - it is in the hundreds of thousands category - I think it is 175,000 different incidents. Of course I was not directly involved specifically in those, but I was the executive director responsible overall, and an understanding of what is occurring within those agencies.

Q. Have you done any - as part of your induction, if you like into this area - Incident Control System training or any other specific training of that kind?

A. Yes, I did. Soon after I joined the Emergency Services Bureau in 1994 I actually attended and participated in an incident command system course.

Q. Do you have a formal accreditation under the Incident Control System in any role?

A. No, it is actually that I had attended an ICS training course.

Q. So you didn't go on to obtain specific accreditation as an incident controller or anything of that --

A. No, that is a specific aspect in terms of fighting fires and controlling fires, which I did not need.

Q. So the purpose of that was to give yourself a general understanding of the infrastructure, but not with the view of actually taking on any specific role under the incident control system?

A. That is correct, but it is very similar to an army system anyway. All those have the same elements.

5 Q. Again, just as a general question, to the extent that you were relying on information in relation to the various media interviews and so on that you gave, could you identify the primary sources of that information, or was it from just
10 about everywhere you could get it?

A. A number of sources. Primarily the incident command system. I relied substantially on Peter Lucas-Smith's advice and information. But then also people like operations, Tony Graham, to a
15 lesser extent Rick McRae in the planning area, because I relied on the analysed information.

Q. Can we take it from that that you didn't spend much time going into the planning section and
20 speaking to the people working in that area?

A. No, but the media cell that was established is actually part of the planning function within the ICS system, so the planning - the media people that actually were obtaining information were part
25 of the planning function.

Q. Well, perhaps being part of the function may not necessarily indicate where they are actually sourcing their information from. Was the media
30 unit actually located physically in the same area as the planning unit?

A. Yes, they were.

Q. When you say the media unit, and I know this may have changed - this obviously changed during the course of the fires, but let's say at about
35 16 January, what was the size of the media unit at that point?

A. I don't recall the exact size and the number of people that were actually rostered in there at
40 that particular time. Two, three, maybe more.

Q. They were located physically with the planning unit?

45 A. Yes, they were.

Q. They were obtaining information no doubt from

people like Mr Lhuede, Mr Taylor and Mr McRae of course?

A. I understand so.

5 Q. If statements or documents were then prepared by the media unit, putting aside perhaps the interviews, things like media releases, were they brought to you in draft form? Is that how it worked?

10 A. Some of them were. I suppose most of them were, and I tended to check them for the currency prior to them going to print and then being prepared and issued.

15 Q. Who did you check them with?

A. Primarily Peter Lucas-Smith, or operations or Rick in the planning.

20 Q. Presumably if material was coming out of the media unit, you were working on the basis that that information had been obtained from planning; is that correct?

A. That was my understanding.

25 Q. So far as interviews are concerned, were you getting a briefing before the interviews occurred from the people you have identified, namely Lucas-Smith, Mr Graham and so on, or were you getting the information for those media interviews from the media unit?

30 A. No, it depended what time of day we were actually talking about. I think in my statement I do indicate that at some time during that week of 13th to 18th I was actually getting early morning updates from the overnight duty officer arrangement within the operations section as to what had happened. But throughout the rest of the day the information was coming from a number of sources.

40

Q. I see. Among those you have identified?

A. Yes.

45 Q. You note in your paragraph 7 of your statement, Mr Castle, that you were and perhaps still are a director of the Australasian Fire Authorities Council; is that correct?

A. No, I am not anymore.

Q. Did you cease to have that role at the time you ceased to be director of the ESB?

5 A. No, only I think in January did I resign from that position.

Q. January of this year?

10 A. Yes. It was in the transition, handing over to Peter and then deciding what he needed to take on and doing the paperwork.

Q. Were you the only - if I can put it this way - ACT representative on AFAC at the time of these fires?

15 A. As a director of AFAC, yes.

Q. Was that position taken up by you in your capacity as the most senior member of the relevant authority; is that how it worked?

20 A. That's correct, back in I think 1994. But various people within agencies formed subgroups and appeared on subgroups, which is where a lot of the technical information was. It was an incorporated body, AFAC, or is an incorporated body, and as such has a series of directors and those are from the various components of the jurisdictions.

30 Q. Your role was largely to attend the regular board meetings and fulfil that function, was it?

A. Yes, it was a broad strategic overview function.

35 Q. Was it in the capacity as a director that you were or certainly by the late 1990s familiar with the AFAC position on evacuation?

A. Yes.

40 Q. I will come back to it later, but were you involved in the process of introducing that position to the relevant authorities in the ACT?

45 A. Yes. That was a position paper that had been through quite a number of iterations, if that is the right word, within the AFAC subcommittees and systems and came up through, if I recall correctly, the AFAC directors who signed it off.

Each of the jurisdictions undertook to take those guidelines and equate their police within their jurisdiction with that, and other agencies. Then the President of AFAC actually appeared at a meeting to present the paper, and I am not too sure of its exact name, but it is where the chief police officers actually meet. I think it is a subcommittee of the police ministers --

10 Q. I might ask you about that. Document [DPP.DPP.003.0168]. It is a copy of the 41st Australasian Police Ministers Council and 36th Intergovernmental Committee of the National Crime Authority's Senior Officers Group,
15 20 September 2001, which appears to have taken place in Canberra. Agenda item 22, it would seem, deals with the AFAC position paper. Have you seen that document before?

A. Only in the brief.

20

Q. You have seen it in the brief?

A. I saw it - you mean the minutes?

Q. Well --

25 A. Or the position paper?

Q. Perhaps taking one at a time. I think you have already said the position paper was something you were familiar with as a result of your directorship of AFAC?

30

A. That's correct.

MR JOHNSON: I think it is possible that the wrong number was given. It is [DPP.DPP.0003.0186].
35 I think that is the right one.

MR WOODWARD: That is the one. I must have read it incorrectly, I am sorry. Perhaps if we can go down to the bottom of the page, please.

40

Q. It says, "Draft resolution, senior officers group", which I assume is effectively the senior officers of various police officers.

A. That is my understanding.

45

Q. It goes on:

... resolved to endorse the position paper and refer the paper to the appropriate jurisdictional emergency services coordinating body for implementation".

5

Did you have any role in relation to the reference of that document within the AFP in this jurisdiction, Mr Castle?

A. The chief police officer in preparation as I understand it for this meeting, Mr John Murray, asked me my opinion and did we support it, and I indicated that we did.

Q. Are you able to say, and no doubt we can check this with Mr Murray, what then happened as far as the adoption of the policy within the AFP?

A. I cannot specifically say.

Q. In very general terms, the AFAC paper articulates a policy, the effect of which is that people who are able to do so and have properly prepared their homes are encouraged to stay in their homes and deal with ember attack and so on, or if they choose to evacuate, to do so early, that is before the fire is actually threatening their properties; is that correct?

A. Yes, that's correct.

Q. Is that the policy - and I think Mr Lucas-Smith confirmed this - that ESB certainly supported?

A. That's correct.

Q. What was your understanding as at January 2003 of the position of the AFP on that issue - sorry, I should say before the fires, not during?

A. My understanding I believe was that that decision had been adopted and supported by all the police agencies around Australia. So, as I understood it, that would be the position adopted by the police.

Q. You talk in your report at paragraph 7 about the time at which you took up your position as General Manager, ACT Emergency Management Group, which was in August 1994, and in 1995 you became the Executive Director of the ESB. At the time of

your appointment, Mr Castle, were you aware of the report that had been prepared by Mr McBeth in September of 1994?

5 A. I took up the position in August of 1994 and was or became aware of the McBeth report.

Q. Did you read it at that time?

A. Yes, I believe I did.

10 Q. It was essentially that report that then led to the Glenn report, which in turn was the report that recommended the establishment of the ESB; is that so?

A. No. No.

15

Q. Sorry. I have got that wrong?

A. That's correct.

Q. The ESB was already --

20

A. The ESB, its earlier life in 1993, it was agreed or government policy that three agencies would come together to form the Emergency Management Group, and I believe in either late 1993 or early 1994 they all co-located into
25 the current location of the old North Curtin primary school, and it also co-located with the Ambulance Service, and they moved the ambulance headquarters. But at that stage the Ambulance Service was not part of
30 the Emergency Management Group. There were only three agencies part of the Emergency Management Group when I joined it in 1994. In 1995, the government decided that it would actually include the Ambulance Service into it and the ESB
35 was formed out of the Emergency Management Group with the addition of the Ambulance Service.

Q. Yes. It was in fact the Glenn report that led to the preparation of the first bushfire fuel management plan?

40

A. That's correct.

Q. That was produced in 1998?

45

A. That's correct. It led to changes to the legislation.

Q. That is one of the areas of your specific

responsibility, isn't it, Mr Castle, the prevention and preparedness, and that includes fuel management; is that correct?

5 A. No, I don't believe it does. I believe that fuel management is the responsibility of the land management agencies as part of that. But in terms of overall prevention measures, fuel management I suppose is a prevention type approach.

10 Q. Well, you would certainly be concerned in your role, given your responsibility for prevention and preparedness, to ensure that at least from the ESB's point of view fuel management was something that was being - or the issues around
15 fuel management were being appropriately responded to?

A. That's correct.

20 Q. I cannot put my hand on it at the moment, but you were also the chairman or at least on the fuel management committee? I cannot think of the precise name of it at the moment.

A. When the legislation was brought into play, the minister of the day indicated that he wanted
25 a - he formed an administrative committee to look at and coordinate the preparation of plans and he indicated that I actually would chair that committee. It is called the Bushfire Fuel Management Committee.

30 Q. Thank you. Did you have any role in relation to the preparation of the plans and indeed the implementation of fuel management policy by virtue of that chairmanship?

35 A. It was, as I said, an administrative committee that was designed to present the plans. The actual expertise for the implementation and content of the plans was being provided by various members within the committee.

40 Q. Moving away from the actual content of the plans and to the issue of general implementation, were you able to exercise any role in relation to the monitoring of
45 the implementation of the fuel management policy?

A. Insofar as preparing the next iteration of the plans, yes. But it is my understanding that

the requirements agreed was that the effectiveness or the reporting, monitoring, of the bushfire fuel plans had to be reported in agency annual reports.

5 Q. Yes. So if it were the case at any stage you were dissatisfied with the level of implementation of fuel management policy, were you in a position to express that concern through that committee?

10 A. Yes, I believe so. But I was chairing it and I would expect that that was actually brought up with the expertise that formed part of that committee. But as a chairperson of it, I would then have the responsibility of trying to work out the pragmatic approach.

15 Q. I might come back to that a little bit later, Mr Castle. While I am on the subject of the general issue of the role and function of the ESB, which as I have mentioned included issues of community education, preparedness, response and
20 recovery, that is a matter that is dealt with in the submission on behalf of the ESB to Mr McLeod. Can you indicate what role, if any, you had in preparing that submission?

25 A. I suppose it was a co-ordination of all of the content of it. Various components were contributed by various sections within ESB to actually present that information.

30 Q. Did you draft any of it yourself?

A. Yes, I believe so, but I could not actually recall exactly which parts.

Q. Did it go through an approval process?

35 A. Yes, it did. It had a number of people. I provided input to it. Each of the agency heads provided input to it, and Mr Keady I believe also had some comments on it.

40 Q. You were satisfied, were you, when it was completed that it was true and correct?

45 A. I believe it was true based on the information that we had at that particular time, bearing in mind that most of the records had been obtained by the AFP. So obtaining all of the information which would normally be at our fingertips was a bit more of a convoluted process to obtain.

Q. Can you recall whether there was any area in particular where you felt that the deficiency in the information available to you made it more difficult to provide a complete report?

5 A. I think in the exact information to what occurred, what transmissions were made. I am not too sure that it was the mere fact that the information was held by the AFP; it was the transcription of that. We faced the same
10 problem in dealing with the 2001 fires in having many radio transmissions translated, transcribed, to actually present precise and accurate information as to what occurred when. I think that was the same on a much larger scale --

15

Q. That is certainly the case for matters of detail in relation to operational decision making. But I take it in terms of the broader policies and so on of the ESB there was no difficulty there
20 in --

A. No, I don't believe so.

Q. Under the heading "Preparedness" on page 19 of the ESB submission, which I am not sure has a
25 number, but I will just read it to you.

A. I actually have a copy.

Q. The submission states:

30 "Readiness of resources to respond to emergencies comprising aspects such as operational training, standby, resource deployment and disposition, notifying the public about emergency situation and
35 issuing warnings, collecting information about risks and hazards and developing and testing plans to meet likely disaster or emergency situations and evacuation procedures are all part of preparedness."

40

Can we take it from that that you accept that one of the key obligations of the ESB under "Preparedness" is notifying the public about emergency situations and issuing warnings?

45 A. Yes, as they occur based on the information we have.

Q. I understand that. Mr Lucas-Smith was asked about the issue of issuing warnings in general terms at page 771 of the transcript. His response in terms was:

5

"We try to keep the community informed as best we could with the information we have."

You would agree with that conclusion?

10 A. Yes, that's correct.

Q. There is nothing, is there, that the community needs to be protected from or shielded from in relation to the presence of a threat or potential threat?

15

A. No, I don't believe so.

Q. It would be consistent with that approach or at least that obligation that all warnings and notifications to the public would be full and frank in their description of the current situation?

20

A. That is my understanding.

25 Q. And there would be no place, would there, for what I think the advertisers call spin?

A. No, I don't believe so.

30 Q. A warning is something that by its very nature needs to be absolutely unequivocal in its terms, doesn't it?

A. If you define "warning" narrowly. But if it is broad in the sense of general information, it depends what information you are providing.

35

Q. I can understand that about general information. But, if you are identifying a threat, it is important to be as clear and concise as you can be?

40 A. As we can be.

Q. Yes. And you would certainly agree, wouldn't you, that that is not something that needs to be dressed up or where you add - as I said, the advertisers would call it spin?

45

A. No, but I believe you are specifically referring to warnings.

Q. Yes, I am. So you agree with that?

A. Yes, I believe so.

5 Q. Is there a procedure or protocol or anything
of that kind that assists the bureau in relation
to the wording that is used for warnings,
Mr Castle? Any written policy or protocol or
anything of that kind?

10 A. Not that I am aware of, other than
the standard emergency warning signal, which is a
template again, but it does not actually have the
content in it.

15 Q. Is there any policy or protocol that
identifies at what point in an emergency situation
it is important to issue warnings to the public?

20 A. No, and I think that is something that is
actually being discussed nationally. Many people
are familiar with warnings around cyclones, and
they have them as various categories, and
I suppose since these fires there has been
discussions both internally and nationally in one
of the inquiries, the COAG inquiry, about systems
of alerts. Various people have views about types
25 of alerts and that may help in the future.

30 Q. What was your view at the time, as at
January 2003, about the point at which it is
appropriate to identify a potential threat to
the public?

A. You mean provide information to the public as
it becomes apparent as to what level of threat or
risk is actually likely to occur?

35 Q. Well, was your view at the time that there is,
if you like, a scaling process, obviously an
informal one, that as the threat increases
the warning needs to become more apparent? What
was your view at the time about that?

40 A. In theory, yes. The difficulty and
the pragmatics are then trying to apply that as to
some basis for determining what level that
actually is and what is the specific advice that
you give.

45

Q. You certainly don't wait, do you, until
the threat is inevitable? You do it once it

becomes a genuine risk, don't you?

A. It depends what information you are actually giving and the nature of the warning. If you go back, general information about severe seasons and
5 so forth could be classed as a form of warning.

Q. Yes, it could. If you provided that sort of information, it would be appropriate, wouldn't it, during an event to be identifying perhaps in
10 the context of that information what level of risk has now been reached in relation to an event?

A. If there was a specific scale that you could actually refer to, yes. But it has to be described. At the moment there is no standardised
15 process. That is what I answered before.

Q. I think this was covered in the evidence of Mr Lucas-Smith. You refer in paragraph 11 of your statement, Mr Castle, to the emergency management
20 plan and you refer to the number of subplans and identify those in paragraph 11. There is no fire subplan; is that correct?

A. That's correct.

Q. I think Mr Lucas-Smith confirmed this morning that that was in effect a deliberate decision not to develop a fire subplan; is that your
25 understanding?

A. Yes, in broad terms. The emergency plan
30 required in the act is an overarching plan. It is designed in its totality to indicate the arrangements and co-ordination for any emergency. The nature of the subplans are either specific additional co-ordination or relate to
35 particular requirements of a type of event that amplifies the plan. So in that respect it was considered that bushfire was not one such type of emergency that required amplification partly, as Mr Lucas-Smith said, because there was specific
40 legislation that indicated how that would actually be involved.

Q. So you agree then that that was essentially the reason behind that decision, because with
45 the existence of the specific legislation?

A. Yes, and I think it is historic. Whether it was a conscious decision or not, I don't think it

would be recorded as such. It is more the case of discussions in revising the emergency plan that was totally rewritten in 2000. Following the Emergency Management Act coming into being in
5 December of 1999, the whole of the plan was revised. Prior to that, it was in various forms. In some instances, the subplans were little booklets that date back many, many years, pre self-government. So the whole of the approach of
10 the Emergency Management Act was to bring an updating of the process largely since self-government, and those plans were substantially revised and the structure formalised in the current form that it is. So in that
15 respect there was not a bushfire plan prior, and it was not considered specifically that we should set about writing a bushfire plan.

Q. Has that changed, that position, to your
20 knowledge?

A. There is a suggestion in McLeod, I think, that there should be some aspects of a bushfire plan. I believe that the McLeod report specifically indicated in relation to the rural areas.
25

Q. Because it is the case, isn't it - and Mr Lucas-Smith, I think in this context, referred to the rural fire control manual; I don't know that I have got that name right.
30

A. Yes, that's correct.

Q. And that is a document that at least as at the time of these fires was over 10 years out of date or was prepared in the early 1990s, was it?
35

A. The rural fire control manual predated my time in the bureau, and I think Mr Lucas-Smith, prior to my time, spent considerable effort with the Bushfire Council actually putting that into the document that it was. But there had been
40 various components of it that had been updated. So the rural fire control manual forms part of an operations type approach, and those types of manuals and plans are destined to be similar to an operations type level plan in the new legislation.
45

Q. I got a bit distracted, Mr Castle, when I was asking you about the report by Mr McBeth. I will

go back to that briefly. You said that you read it you think about the time - you said you came into your role in August of 1994, and the report is dated 29 September 1994. Is that at about
5 the time you read it?

A. Yes.

Q. Were you aware of the controversy surrounding the delivery of the report?

10 A. Yes, I was.

Q. I take it in those circumstances you were also aware of the various predictions that Mr McBeth made in the course of his report, were you?

15 A. Yes, I read those.

Q. What did you think of them at the time?

A. The specific predictions, I had no expertise on which to base a judgment, except I did recall particularly commenting on some of the methodology that he used where he walked along the back fences talking to the general public. That may be a methodology of establishing public opinion, but as to the methodologies and processes for
20 the management of fires and so forth, I am not too
25 sure that you would glean much information from that.

Q. I think to be fair to him part of the reason he did that was because, as I understand it, he felt as though he was not getting the level of cooperations he needed in order to conduct a more thorough assessment of the level of knowledge of individuals in those areas?

30 A. That may be the case, and bear in mind that is not a criticism of that. It was more particularly - I mentioned that for the particular part of the report that mentioned that.

Q. He identified, didn't he, albeit based on anecdotal information he obtained, a distinct lack of understanding or appreciation of those particularly on the urban-rural interface in areas like Duffy of the risks they faced from bushfire?

40 A. I don't recall whether he specifically
45 mentioned Duffy.

Q. Perhaps if we go to a specific reference.
There is a number of them. This is document
[AFP.AFP.0087.0005]. At the bottom of that page,
he is talking in very general terms as he tended
5 to do in his report:

"As a psychological consequence of not being
subjected to the traumas of fires such as
Hobart 1967, the Ash Wednesday events of
10 South Australia and Victoria" - this is on
page 8 of the document, just down at
the bottom of the page - "1983 and latterly
the milder 1994 fires in New South Wales,
the collective ACT psyche subconscious says,
15 'It won't happen to me or mine' as
the community has not been directly impacted
by a single fire disaster or multiple wild
fire conflagration event for a significant
period of time."

20

Then in capitals at the bottom of the page he
says:

"The author contends it is not if such
25 conflagration fire disasters will occur in
the ACT and on its urban-rural interface but
when."

There are a number of very similar statements
30 throughout the report. You were conscious of
those at the time they were made?

A. I read those.

Q. He deals I think more specifically with
35 the level of community awareness in response to
the Rural Bushfire Council's submission to him.
He mentions in paragraph 15, which is on page 19 -
I think that means 25:

"I am advised that the neighbourhood fire
40 watch project failed some time ago. This may
well be due to inappropriate scoping and
assessment of the project and its purpose,
intent, intended goals and desired outcomes
45 prior to being implemented."

He does in relation to his - you refer to his

visits to the relevant communities and go on to refer to a concern about the lack of appreciation by residents on the urban-rural interface of the potential risks that at least he saw at that time to their properties; do you agree with that?
5 A. What do I agree to?

Q. Do you agree he refers to his concern about the lack of appreciation of those few
10 people - admittedly few people he spoke to - about the extent of the risk they faced? He talks about the fact that it is largely a population that has not come from rural areas and therefore does not have the historical bushfire experience.

15 A. If you say it is. I do not have intimate knowledge of what he specifically said or why he said that.

Q. Perhaps if I can put it in this very general
20 way. Do you recall from his report a general sense that he was critical of the fact or concerned about the fact that the residents, particularly on the urban-rural interface, did not fully appreciate the risk they faced during a
25 conflagration event?

A. Yes, but I believe that that would be no different than any other community that has not faced a conflagration.

30 Q. I understand that. You do recall him being concerned about that issue?

A. Mm-hm, yes.

Q. In particular, you no doubt noted his
35 assertion that it is not a matter of if but when a conflagration event occurs in Canberra? Do you remember noting that at the time?

A. Do I remember reading it? Yes.

40 Q. What did you think of it at the time?

A. As I explained to you, I had actually just recently arrived at the bureau. I probably was at that stage in a similar situation as the rest of the population, not understanding what that
45 actually meant in terms of aspects of fire.

Q. Is it something you came to learn more about

as the years went by?

5 A. I think over the years you took on an understanding, and being around people that dealt with fire and other various emergencies, you take on an understanding of what is likely to pose some general risks to the community.

10 Q. Going back to your statement, Mr Castle, I just want to ask you about paragraph 17. Perhaps if you could turn that up. It is on page 4 of the statement. I understand these are words of common usage, but I must say the meaning of the paragraph has eluded me somewhat. Perhaps if I could take it sentence by sentence:

15 "The philosophy focuses on self-help in that ESB advice to the community is about self-helping, helping neighbours, helping people."

20 Firstly, the sentence begins "the philosophy". What philosophy are you referring to there?

25 A. Generally a emergency management philosophy referred around in various jurisdictions to - the word has gone out of my head - resilient community and community preparedness and resilience, and that philosophy is actually represented by a diagram. I suppose the words are meant to try and illustrate that diagram where
30 the concept of dealing with any emergency is having people prepared for their own self-preservation, their own self-help, then looking at their particular immediate neighbours and neighbourhood. That allows us to prioritise,
35 and that is the second part of the sentence, I think that is referred to there - sorry, it is the second sentence. So it is setting priority. So it is trying to give a philosophy of community resilience, and it is a term that in more recent
40 years has been adopted.

45 Q. When I first read that paragraph, I thought the philosophy was referring to something that had gone before in the previous paragraphs of the document, and I could not find that. So you are introducing there the philosophy of the resilient community effect for the first time

or are you saying that it is somehow related to the overall objectives of the ESB?

5 A. It is in some respects, insofar as that all jurisdictions are focusing on the community undertaking and having self-help in the first instance. Advice and information that we provide the community about having an emergency kit is something that has been around for some years, and has been provided and suggested. That information
10 is also contained in the booklet that Peter Lucas-Smith referred to this morning as "Will you survive?". So that philosophy is already inherent in a lot of the information.

15 Q. As you have said, it goes on to sort of talk about setting priorities and establish the efficient use of the emergency services. So if I can try and explain what I understand you now to be saying there, the priorities that are
20 determined by the Emergency Services Bureau proceed on the assumption that you have a community that is resilient; is that effectively how it goes?

25 A. I think that is the goal, but what I am saying is that that is more the reverse of what you are suggesting there, and that is that, if a community is prepared, if a community is actually resilient, the greater the resilience, the greater we have the ability to prioritise the scarce emergency
30 services resources to achieve the best effect.

Q. Perhaps if I take you to the next sentence:

35 "This can be narrowed down to helping those in most need and leading to a recovery and review process."

40 You are saying that, in circumstances where you have a resilient community, you can then focus your resources on those who are most in need and leave most members of the community who are able-bodied and so on to effectively look after themselves; is that the point?

45 A. That sounds very callous, but in the pragmatics of the available resources that is generally what occurs in just about every walk of life. What I am describing in that paragraph, as

I indicated to you, is a diagrammatic representation. I may be able to draw that from memory. But that second part is the full circle that improves the community resilience. So where
5 I say this in turn leads to improved prevention measures and so forth and feedback, that is the ability to actually learn from experiences, learn from each emergency, no matter what its scale is, and feed that back into better preparedness for
10 the community and self-help and leading back into a loop.

Q. So perhaps as a more general comment as I understand what you are saying, and I think
15 you said so earlier, this articulates perhaps more of a goal rather than a reality at a particular point in time?

A. No, I believe that you can look at various components and say that the community is more
20 resilient in particular facets, and even perhaps for some different types of emergencies. So it is a philosophy that you try and espouse across all the range of emergencies and challenges to the community in community safety.

25 Q. But that concept of self-help and helping neighbours and so on would depend on a few things, wouldn't it, Mr Castle? Firstly, an awareness that there is a risk; is that correct?

30 A. Yes, it is. It also depends on the resources you can devote to each of these components.

Q. In terms of the community and keeping the community informed, I think you would agree
35 that self-help would rely on people being aware of the risk and information?

A. Yes, that's correct.

40 Q. It would also rely on understanding what to do when confronted with that risk?

A. Yes, I believe so.

Q. And that in turn raises the issue of education programs and so on?

45 A. Yes, that's correct.

Q. And particularly in cases where perhaps there

is a concern or maybe an issue about the degree of penetration of that education process, there would need to be, wouldn't there, a real understanding that a threat is imminent in order to first appreciate there is a risk and then do something about it?

5 A. You mean at the time?

Q. Yes.

10 A. Yes. You used the word "imminent", yes.

Q. Because in circumstances where people may not have appreciated as a general proposition that they were at risk, it would take people at least a moment, if not more than a moment, to, if you like, process the fact that "I had not really appreciated this, but I now know I am at risk"?

15 A. Yes, I think so. It is no different than floods.

20

Q. Indeed. That would involve, wouldn't it, giving them as much time as possible to go through that process of understanding there is a risk?

25 A. Yes, it depends on the level of the risk again. It depends on the information you can provide about the specifics of the risk.

Q. We will come back to that. You then deal through several paragraphs in your statement with matters relating to the structure and operation of the ESB. I will not go to those independently. Just in passing, in paragraph 30 - and I will not bother to get you to bring it up - you refer to Kate Keane as the emergency manager and support officer. Can you explain just briefly her role during the fires from 8 January?

35 A. Perhaps if I actually just elaborate a bit more. She is the one person in the resources we have available that looks at the emergency management arrangements and plans. So she maintains and revises all of those pro formas and aspects and does the work and forms the secretariat for the Emergency Management Committee. I relied fairly heavily on her knowledge and understanding of procedures and processes.

40
45

Her role during the fires was to actually - one of the functions she performed was to keep the Emergency Management Committee members informed by way of two or so emails that she
5 issued, just giving them a general update. That is a practice that we have evolved and have used on a number of occasions. I suppose in colloquial terms it is a heads-up. So her role was to provide that information to members of
10 the Emergency Management Committee, and also assist in aspects about emergency plans and so forth. When it came to do the declaration of the emergency, she provided the templates and produced the disks that actually had the pro
15 formas on them.

Q. You may not know the answer to this, but I think her name was mentioned as possibly one of the people responsible for the handwritten notes
20 of the planning meetings that were taken after 14 January. Is that your understanding?

A. I believe there were two people who performed that role once it became formalised. It was her and I think a person by the name of Jillian Ferry.
25

Q. Who typed up the minutes?

A. Between the two of them. I don't know who did the typing, but that is what I understand.

30 Q. While on this subject, was there a process by which the minutes were settled, the typed minutes were settled --

A. No, not that I am aware. They were more a recording.
35

Q. Were you shown a draft of the minutes?

A. No, I don't believe so. These are people that are not court reporters.

40 Q. No, I understand.

A. And are not typists, as I understand it. If you consider that twice a day we were having hour-long briefings, to type those up and get them out as I understand it was basically a process
45 that they then devoted a fair bit of time to doing and were then just distributed generally, if I recall correctly, at the next meeting.

Q. So, as you understand it, they were not sent to anyone for approval or to be checked?

A. Not that I am aware of. I think it was purely pragmatic at the time.

5

Q. You then deal with in paragraph 32 the risk management unit and its responsibility in relation to community education?

A. Yes.

10

Q. You refer to it being based on a Country Fire Authority model and you say:

"Compared to the CFA, our unit is embryonic."

15

I take it what you are referring to there is the actual existence and operation of the unit, not so much what it was ultimately to do?

A. That's correct - its size.

20

Q. Up until the creation of that unit, was there a person or group within ESB responsible for community education?

A. There was. As I say in that paragraph, there were two cells, one called concepts and risk analysis, and the other one community education and public relations.

25

Q. I see. Who was in charge of the community education and public relations unit?

30

A. This goes back into the history of the formation of the bureau. It was largely brought together with an amalgam of a whole host of areas, community education and public relations when I came there, and for a considerable point of time formed if I recall two people, and their focus was largely on fire warden training.

35

Q. I see.

A. And the public relations side of that, I gave the responsibility for overseeing that from a managerial point of view as one of the portfolio functions responsible at that stage by the director of ambulance, and he nominated - designated one of his operations managers to have that as an, if you like, additional portfolio responsibility. I think in

40

45

the process of outlining the bureau's structure, what we formed was portfolio functions where the service heads had responsibility for other functions of smaller cells, and they literally
5 were smaller cells.

Q. I think you said in the context of community education that was an area that was mainly concerned with fire warden training; is that
10 correct?

A. That's correct.

Q. What about the process by which the community was educated concerning bushfires and bushfire
15 risk? Was that part of that unit's responsibility?

A. Yes, ultimately we were working towards that. The individual services had conducted various components of community education, and this was a
20 move to try and ensure that we get better value for money out of the scarce resources to try and have an all-hazards approach. So it was focused on trying to engender and foster all hazards, all agencies.
25

Q. Do we take it from that then that the Bushfire Service in effect, up until the creation of the risk management unit, was responsible for educating the community about the risk of
30 bushfire?

A. In a broad sense, yes. It had actually used the Bushfire Council on a number of occasions, but that then fell back on the individual members. So this was actually trying to give a broader focus
35 by bringing the resources together and trying to change the focus.

Q. Was the establishment of the unit more a way of in effect increasing efficiency rather than
40 improving the output?

A. Oh, no, it was trying to improve the output as well, co-ordinate the efforts so we were not actually at cross-purposes in terms of somebody doing something and somebody doing the same in
45 parallel. So it was trying to get the co-ordination and the message and to take the opportunity for all agencies to participate.

So in the past if there were particular events that individual agencies tried to focus on, then we tried to capitalise on the totality of the ability of forming the Emergency Services Bureau to try and boost that awareness right
5 across all hazards, of which bushfire was one.

Q. Do you say that, as at the time at which this unit was established, and I think you say it was
10 embryonic, there was scope for improvement in relation to community education on bushfire safety?

A. I think there is scope for improvement of community education across all the hazards, not
15 just bushfire. But in the way in which you are focusing on it, yes, that included bushfire.

Q. What were your concerns at the time about the inadequacies that you identified?

A. I think it was more this model, and that is
20 where I mentioned that, compared to the Country Fire Authority, our unit was embryonic. I think they had various components of the section focused on those components, if you like, to actually
25 improve it. So I believe that where we were heading was to try and improve that - the idea of actually providing information to the community also based on risk assessments, and that is why I combined the functions.

30

Q. We have been provided - not last Friday but the Friday before - with a folder of material that is said to be relevant to community awareness. Are you familiar with that material?

A. Yes, I am.
35

Q. I want to, if I could, take you to some of those items, and I will probably do this after the luncheon adjournment. But you also in
40 the submission to Mr McLeod at pages 67 to 69 deal with community awareness and identify some specific publications and other documents that you say, as I understand it, in this submission comprised the program or the approach to community
45 education in the period before the fires. Can we take it from the submission that what has been identified within the body of the submission is in

effect the totality of those elements that make up the community education program?

A. Are you referring to the McLeod --

5 Q. Submission, yes, I am sorry. Pages 67 to 69.

A. I am not too sure that the submission to McLeod represents the totality. I think the greater preparation that was here, the more specifics that are actually contained in that more recent submission tries to outline the aspects of it. So I think there is some more in that submission than there are mentioned in McLeod, and that was purely a time, I believe

10
15 Q. We should go to the index to that document to identify what was out there in the community?

A. I believe so.

MR WOODWARD: It might be appropriate to do that after the luncheon adjournment.

MR ARCHER: Your Worship, could I just note - and I will just check with Mr Stitt - that this material has not been provided to the AFP or those that Mr Stitt represents. I am wondering if it could be provided over the lunch break so that we can at least follow the evidence --

THE CORONER: This is the community awareness folder of information?

MR ARCHER: Yes.

MR WOODWARD: What I can do, your Worship, is provide a bundle of those items in the folder that are referred to in the McLeod submission which are the ones that I will be focusing on for the purposes of examination after lunch. We have those available now. The full folder we have not copied because it did seem to contain a lot of material that did not seem to add to the bundle, as it were, because they tended to be things like grabs on the radio and so on. I was mainly concerned with the key publications. We can certainly provide those.

THE CORONER: And the folder can be available for

perusal for those people who want to have a look at what additional information is contained in the folder. Has that been recently provided?

5 MR WOODWARD: It was only provided the Friday before last to us, your Worship, yes.

MR JOHNSON: Could I indicate, your Worship, that I have a spare copy. I am happy to make that
10 available to Mr Archer - that is the whole folder - for his purposes. It may be we will have another one somewhere. If anyone wants to see the whole folder, we will see if we can make those available.

15 THE CORONER: Thank you, Mr Johnson. Did you wish to say something, Mr Stitt?

MR STITT: No, your Worship, I am content with
20 that.

LUNCHEON ADJOURNMENT

[1.00pm]

RESUMED

[2.00pm]

25 MR WOODWARD: Q. Mr Castle, just a couple of issues I would like to revisit briefly that we raised before the luncheon adjournment. The first relates to the ESB submission to McLeod. Do you
30 remember I asked you who contributed to that. I think you identified yourself, Mr Lucas-Smith and you mentioned Mr Keady had a role. I think you said the head of the services, I assumed that meant Mr Paulsen, was it on behalf the
35 ambulance --

A. Yes, each of the service heads. It may not have been Mr Paulsen for ambulance. It actually may have been Mr Quiggin. He was acting director, I think, when it was being prepared.
40

Q. He was interested in those parts that related to the plans services role?

A. Yes.

45 Q. Similarly Mr Bennett, did he have a role in the document?

A. Yes. I believe so.

Q. Apart from those individuals, is there anyone else that you can identify, any individual you can identify as being involved in the preparation of the document?

5 A. I think quite a number of members of the Service Management Team, McRae, Tony Graham and maybe Dave Ingram from logistics, but I am not too sure.

10 Q. So I understand the processes, was it a case of someone preparing an overall draft and each area vetting that draft and adding things to it? Did each person contribute a part to it and someone brought it all together?

15 A. I am not too sure. There is a distinct difference between those two. A number of people preparing components and then being added to and then overall, I suppose, co-ordinated.

20 Q. Who was responsible for the overall coordination process?

A. I suppose at the end of the day, given it is coming from ESB, it is me that is actually making the submission on behalf of all the agencies.

25

Q. I understand you, I think, take responsibility for it and rightly so; I was thinking more in terms of practical or physical process of who received all of those various bits of input. I think you described it and put them altogether in a whole document and made sure it was coherent and so on?

30

A. I can't remember that detail to be quite honest -- just that process was.

35

Q. It wasn't you?

A. I wasn't actually receiving physically all the parts.

40

Q. You say you contributed parts and presumably at some point after that you received a draft of the whole. Is that how it worked?

A. We went through a number of drafts to bring all the parts together.

45

Q. Was legal advice obtained in relation to the document?

A. I think assistance was provided from Justice and Community Safety.

5 Q. One of the reasons I ask, Mr Castle, I don't know whether this is significant or not, we have a copy of the document on disk. On the cover of the document it says "by Russell Bayliss". I am not sure if that indicated who sent us the disk or whether Mr Bayliss had some role in drafting the document. Are you able to assist?

10 A. He may have had some of the scribing, some of the process actually done in his office.

Q. You can't assist any further?

15 A. I can't remember to be quite honest. We put together that many submissions for various purposes.

Q. But, as you said before, you certainly consider it a document for which you were ultimately responsible?

A. I suppose at the end of the day given it was ESB's submission to Mr McLeod, yes.

25 Q. And you saw the final draft and effectively signed off on it?

A. I believe so.

Q. The other matter I want to come back to briefly - I did ask you about and took you to the Ministerial Council on the Administration of Justice agenda item 22, the document attaching the AFAC paper.

A. Yes.

35

Q. You were present in court this morning when some questions were asked of Mr Lucas-Smith about the agreement that has been entered into, apparently last year, in connection with the evacuation issue?

40

A. Yes.

Q. Are you able to assist us to identify about when that document was entered into?

45

A. That was after the McLeod Inquiry findings were brought down. When I heard that question this morning, I was trying to remember. I think

it was about August/September, but I wouldn't be 100 per cent sure.

5 Q. I won't read it again because it was read this morning. Paragraph 3 of that document describes the process by which evacuation is to occur. It indicates, reading the second half of that:

10 "The police officer will seek the advice of the senior fire officer prior to making a decision to evacuate except in the most urgent of circumstances. In the event that such advice is ignored, a police officer may order them to evacuate and has the legal
15 power to enforce that evacuation."

Are you able to assist as to where that legal power derives from?

20 A. I'm not a police officer. My understanding is they have some common law ability to issue directions.

Q. You don't understand it, do you that this document in fact confers that power?

25 A. No, no.

Q. The AFAC paper to which I took you earlier today deals with, to some extent, the issue of what is described as acquired evacuation. The number is [DPP.DPP.0003.0186]. At 0191 at the bottom of the page --

A. What page is that?

35 Q. Page 6 of the document. Under the heading "required evacuation" - this is actually the AFAC paper - do you have that?

A. Yes, I have found it.

40 Q. It says:

"Required or directed evacuation of people by an emergency service may be needed because of the imminent threat to these people."

45 Over the page:

"People who have not undertaken adequate

preparations and who choose not to leave may put their life or others lives at risk by remaining.

5 Where a person's life is immediately at risk
by them remaining in a particular location
they may be advised to evacuate. Should that
advice be ignored, evacuation may be
enforced. This is subject to individual
10 State legislation which varies around
Australia (see below - authority to
evacuate)."

15 Just jumping down to that part of the document
which is at the bottom half under the heading
"authority to evacuate" it says:

20 "AFAC believes that a framework is needed
throughout Australia that allows and
encourages members of the community to take
responsibility for their own safety and that
of their property. AFAC also believes the
decision to evacuate should be made by the
lead fire combat authority. Where
25 legislation exists that enables forced
evacuation a protocol should be developed
between the relevant authorities to allow
people having a pecuniary interest in
property involved to only be forcibly removed
30 during a bushfire when they are in imminent
danger of death or serious injury."

Are you aware as to whether such a protocol
existed before the fires, Mr Castle?

35 A. Are you referring to that protocol --

Q. The protocol that is recommended in this
document.

40 A. No. Not for the ACT specifically.

Q. Is it the position that this document embodies
that protocol? Is that what was intended by this
document?

45 A. Yes.

Q. It goes a little bit further, I suggest to
you, Mr Castle, than the AFAC paper would

recommend in paragraph 3 of the agreement?

A. I don't have the agreement in front of me.

Q. It is really only one sentence. It says:

5

"In the event that such advice is ignored, a police officer may order them to evacuate and has the legal power to enforce that evacuation."

10

There is no qualification, is there, Mr Castle in relation to lack of preparedness or otherwise of the individual concerned?

A. No, sir, as you have just read it there.

15

Q. I have a spare copy; I will hand it to you.

MR ARCHER: I think this is an example, with respect, where the totality of the document needs to be referred to. It means you have to go to particular paragraphs, but there are a number of paragraphs dealing with the preparedness issue. In my submission, the witness needs to be taken to them all, not just to one. I am sure that is what my friend is about to do.

25

MR WOODWARD: I have handed him the document.

Q. Paragraph 1 deals with that issue:

30

"Where adequate fire protection measures have been implemented, able-bodied people are advised to remain in their homes during the passing of the fire front."

35

There is a reference to or discussion about what are exceptions to able-bodied people. Then:

40

"Where adequate fire protection measures have not been undertaken, the occupants of houses should relocate to a safe area well in advance."

Then the paragraph that I just read to you. What I would suggest though, Mr Castle, is that paragraph that I did read to you doesn't in any sense say that the action of the police should be

45

tempered in circumstances where the person is able-bodied and adequate preparation has taken place. Simply the only qualification for action by the police, as I read it, is that the advice is
5 ignored; is that as you understand it?

A. Yes, it does say "may".

Q. It is the position, isn't it, as a general point, Mr Castle, if adequate preparations have
10 been made and the person is able bodied, at least the ESB's attitude would be that person should be entitled to remain and to protect their home?

A. Yes, that's our approach.

Q. Reading the last sentence of that paragraph, it would seem that even people in that position might be forced to leave against their own better judgment; do you care to comment on that?

A. That could be read that way, as I see it, but
20 that was not the intent, I believe.

Q. So the intent is that this be consistent with the AFAC document and that as long as a person - I think the AFAC document talks about a person
25 having a pecuniary interest in the property, so that is an added qualification, perhaps. But, as long as they are able-bodied and are prepared and the house is prepared, is the position that the police should not be able to forcibly remove that
30 person?

A. The reference in the AFAC paper, "pecuniary interest", I think comes from the Victorian legislation where there is actually in law, as I understand it, not allowed forcible evacuations.
35 ESB agencies I believe have expressed in the past an interest in that approach. But this document was largely based on Hobart protocols because it was felt that we needed going into the 2003/4 fire season something that, as McLeod indicated, needed
40 to be clarified. We looked at the Hobart experience and picked up what is effectively their protocols.

Q. Which again, I am probably repeating, just to
45 give you the opportunity to comment, that last sentence would appear to suggest that the final decision is that of the police officer not of the

resident?

A. It appears to give that in that particular instance.

5 MR ARCHER: I just rise, perhaps I am a bit late. The paragraph that is on the screen at the moment says this:

10 "AFAC also believe that the decision to evacuate people should be made by the lead fire combat authority. Where legislation exists that enables forced evacuation, a protocol should be developed between the relevant authorities to allow people having a
15 pecuniary interest in property involved to only be forcibly removed during a bushfire when they are in imminent danger of death or serious injury."

20 Now, with respect, that is not what my friend is putting as what the AFAC position is. On the face of it at least, that paragraph is not qualified at all, and where a determination is made that a person is in imminent danger of death or serious
25 injury, they are advocating a system where possibly there can be forcible removal. In my submission, the questions put to Mr Castle are based on a false premise that my friend is not accurately putting the AFAC position.

30 THE CORONER: That is the AFAC document, isn't it; the document on the screen?

35 MR ARCHER: Absolutely it is, your Worship. That is not what my friend is putting. He is putting the proposition the AFAC position is if a person is able bodied and ready, as it were, and prepared they should not be compelled to move. That is not what the AFAC document says.

40 THE CORONER: I thought what Mr Woodward had put was that that was indeed what Mr Castle and the ESB's preferred position is as well. If a person is able-bodied and prepared, the position is
45 that - the preference is they should stay.

MR ARCHER: With respect to Mr Castle, some

propositions were put to him in relation to what Mr Woodward construed the AFAC document to say. Mr Castle gave a particular response. Obviously he is bound by what he said. What I am saying is the proposition as put to him was based on a
5 misapprehension of what the AFAC document actually says, that it is not subject to that qualifier -- at least that passage there.

10 THE CORONER: If there is any confusion, Mr Woodward --

MR WOODWARD: I deliberately went to that section because I accepted that is what it says. That was
15 why I asked Mr Castle - I thought I concluded that series of questions with a question about what the ESB position was - I see Mr Castle nodding his head.

20 THE CORONER: That was my understanding.

MR WOODWARD: It was in that context that I asked about the agreement. The document speaks for
25 itself.

THE WITNESS: I think I was answering the specific question about what the words actually are in that
paragraph.

30 MR WOODWARD: Q. When you say in that paragraph, in paragraph 3 of this document?
A. Of the agreement.

Q. Thank you, Mr Castle. I have no further
35 questions about that document so you can hand it back. I now want to go to the material on community awareness, as it has generally been described. Do you have a copy of that material?
A. I have a copy of the summary.

40 Q. That will assist.

Your Worship, the process by which this material has become part of the brief has only occurred
45 recently, if I can put it that way. I will endeavour to bring the documents onto the screen. They have to be done from a different place other

than courtbook. I am not sure how successful it will be. We will see how we go.

5 The first document that is dealt with in the summary document and in the folder is the document that Mr Lucas-Smith referred to earlier today entitled "Will you survive"; is that right?

A. Yes, that's correct.

10 Q. In the general publication of the document [ESB.GSO.0005.0812] - while we are attempting to find that on the system, I will just read to you what is said about this document in the summary. The summary I should say is headed up,
15 "Publications provided to the Canberra community about bushfires prior to 8 January 2003".

This document is described in this way:

20 "What to do before fire threatens and during a bushfire emergency to help save lives and property. The booklet and a series of fridge magnets were letterbox dropped after the bushfires in early 1994, the properties on
25 the interface ..."

Just pausing there, Mr Castle, in the context of that reference, what is meant by "properties on the interface"?

30 A. This was done prior to my time at the bureau, so this is being provided to me by people that were involved in that. As I understand, what was described to me is a series of street locations where in the urban area - and may have been into
35 the rural but I am not sure of that - the interface is that area I think that Peter Lucas-Smith said this morning is the transition from what we would class as rural or bush setting to urban/city area.

40

Q. So it is your understanding then that reference there to "interface" is a reference to the urban edge of what is sometimes described as the urban edge - perhaps I should clarify that.
45 What is described as the interface perhaps in other parts of the country are often areas of mixed rural and urban or rural moving into urban

rather than a suburban edge; do you understand that distinction?

5 A. Yes, it is. Although in some respects some of the parks and areas could be considered as part of the interface as well.

Q. But do you understand the reference to "interface" there as being the edge of the urban area of Canberra?

10 A. Primarily.

Q. You may not know the answer to this if it was before your time - "letterbox drop", does that mean a bulk mail-out or did someone physically go around and put them in letter boxes in particular streets?

15 A. I was advised volunteers from the Bushfire Service would physically go and deliver.

20 Q. Do you know what, if any, guidance they were given as to which areas or what part of the interface they should be focusing on?

A. No, I'm not. I understand that some assessment was made.

25

Q. I take it that the reference to the bushfires in early 1994 would indicate, would it not, at least at that point there was a concern about the risk to that area and that is what precipitated this action?

30

A. I think it was - there were areas impacted in Curtin, I believe, in 1994. Some fences - this is all advised to me; I don't have firsthand knowledge of that. But that's what I understand it was based on.

35

Q. Who was responsible, do you know, for that process back in 1994?

40 A. I think Peter Lucas-Smith as the Chief Fire Control Officer, but also with the Bushfire Council.

Q. Continuing on with the explanation:

45 "This booklet has been updated and reprinted in 1997 and most recently in February 2003. This booklet has been the primary community

education document for the ACT Bushfire
Service for over a decade and has been
distributed at community events, Canberra
Shows, field days, school fetes, other public
5 forums and on request by groups or persons."

Can we take it from that, Mr Castle, that at least
as far as you are aware there has been no further
specific targeting of the interface area or what
10 is described as the urban interface with this
document in the sense of letterbox drops?

A. That's my understanding; there was no targeted
campaign such as that.

15 Q. "Distributed at community events", are you
able to say which events or which types of events
were being identified as appropriate places to
distribute these?

A. Basically when as a presence largely of our
20 volunteers or representatives of the Bushfire
Service that attend such areas.

Q. Would that ordinarily be in rural areas or
largely in rural areas?

25 A. No, not necessarily.

Q. So what community events that might be
attended by urban residents are likely to have
been --

30 A. School fetes, field days.

Q. So the community events are the ones that are
then identified - the Canberra Show, field days
and school fetes?

35 A. Canberra Shows, field days and school fetes
are particular ones, but other public forums,
community group meetings, if we have been asked to
also go along or we have a presence there.
Australia Day functions is another one that I can
40 think of.

Q. You said if you have been asked to go along.

A. Not necessarily; if we actually go along.

45 Q. I was about to ask: is there any way of
identifying the sorts of areas in which these
community events were taking place so we can

identify what sort of residents are likely to have received or had access to this booklet?

A. Going back?

5 Q. Yes.

A. You mean is there any document we can schedule?

10 Q. What I am trying to identify is: are these events largely in rural areas of the ACT or has there been an effort to make them available to urban residents as well?

15 A. I think I have already said that it would almost be the opposite from my perspective, and that is these events don't happen a great deal in the rural areas because it is relatively small in the ACT, and these are largely in the urban areas.

20 Q. The process of distribution at those places, are they just available wherever the bushfire volunteers have a stand or something?

A. Yes, generally.

25 Q. So, it would require people to perhaps go up and ask for one or engage in a conversation with someone there before they became aware of it?

30 A. I have observed some of our volunteers are very forthright that offer the brochures and information to people passing by, particularly Canberra Shows and so forth.

Q. What has been the response generally to that?

A. People generally accept that.

35 Q. They are happy to receive that?

A. Yes.

40 Q. As a general comment, Mr Castle, it would be true, would it not, that people, particularly in the urban area, are not going to understand or appreciate that this might a document that would be useful to them unless they first appreciated that they are in an area that could be at risk of bushfire?

45 A. I'm not too sure about that. It has pictures of homes and what people need to do. So I suppose people do assess their own level of risk.

Q. It does have pictures of homes, at least on the first page. If you just scroll down a little bit, the home depicted there would appear to be a home in more of a rural setting. Would you agree with that?

A. The left-hand one is, yes.

Q. I will take you over the page in a moment where there is a different setting described. There are pictures --

A. Except it does say - in the second picture there it says, "In areas of high fire danger, including forest and suburban areas".

Q. It is picked up over the page. I will go to that in a moment. Over the page there is what appears to be a slightly more urban environment?

A. Urban environment.

Q. And a reference to the effects of ember showers next to that?

A. Yes.

Q. You referred on the first page - sorry to jump back again - to urban areas. Where was that reference again, Mr Castle?

A. It is in the middle picture.

Q. It says:

"... including forested suburban areas, a portable pump is a valuable investment in the security of your home against fire."

I suggest to you that that issue in particular is more targeted at people who have water tanks and access to water; or are you suggesting that that is advice to someone who lives in an urban area?

A. I am suggesting that that is also very valuable for people who have swimming pools, and there are quite a few swimming pools around Canberra.

Q. It doesn't say that in the document?

A. No, it doesn't.

Q. Has the bureau ever published a document like

this or any other - if it is in the folder we will
get to it, so let me know it is there and we will
work our way to it - that actually identifies for
the benefit of the community those areas of
5 Canberra that are considered to be at risk?

A. In some respects bushfire fuel management
planning does.

10 Q. Something that is accessible to people in
those areas?

A. That is accessible.

Q. The bushfire fuel management plan is
accessible to people in the urban area?

15 A. Yes.

Q. They can order a copy?

A. That was published on the web. They were
available in libraries, as I understand it.

20

Q. Are you seriously suggesting that someone who
lives in urban Canberra is likely to go and search
for and find and review that document that is
about, I think, an inch and a half thick?

25 A. No, but you did ask me whether it was
available to people in the urban area.

30 Q. Is there something that is published directed
at members of the community in those areas
identified as the urban interface that identifies
for their benefit that they are in an area that is
at risk?

A. Not in the terms that you are suggesting.

35 Q. In other terms?

A. Well, no, not directly letter box as such is
what you are suggesting, I think.

Q. Well, in any form --

40 A. Not that I'm aware of.

45 Q. I will go back to the question I asked you
before. I can't recall whether you answered it
and, if you did, what the answer was. It would be
necessary, would it not, as a matter of
commonsense, that before a person is going to
appreciate that this is a document they need to

have read and understood, for them to know that they are at risk?

5 A. I'm not too sure we are giving people the credibility of a general awareness. I think you are asking me: is it not that somebody needs to understand and have been told dramatically that this tree is a risk to their property to understand that they are at risk from a particular type of emergency or hazard? I think people are fairly intelligent in understanding what their particular risks around their particular homes are. We do live in the bush capital, that is said a number of times, and we do have bushfires. So in direct answer to your question, yes, people do need to understand the risks they face around their home.

20 Q. You say, do you, that residents in the suburban area, places like Duffy, did understand that they were at risk from the impact of bushfire?

25 A. You specifically mentioned Duffy. Duffy does not have a common back fence with the grass lanes, it has a road on two of its most vulnerable borders, one of which has in places 40 to 50 metres of mowed grassed area along it. So in terms of that, you used Duffy in this example, there are probably others that are more intimate with the interface.

30 Q. Well, that's the problem, isn't it, Mr Castle, a lot of this material is directed at residents who may back up to a grassed area or be relatively close to an urban park or a forest area; that's correct, is it?

35 A. Yes.

40 Q. And for the residents on Warragamba Avenue and Eucumbene Drive, they weren't in that position; were they?

A. They had a road around the outside.

Q. That's right.

45 A. It doesn't mean to say they are not close to an interface area.

Q. Indeed. How is it that they should have been

aware as at January 2003 that their homes were at risk from the impact of the bushfire?

A. I suppose by mere proximity to those areas.

5 Q. You say, do you, that that's enough to have alerted the average resident to the fact that they were at risk from bushfire and therefore should have been seeking out this kind of information?

A. That's not what I said.

10

Q. Well, what do you say about that?

A. I think you can always improve in terms of the information that you can give the community about the hazards. But that's actually the specific
15 hazards. That takes time and analysis and information sessions to actually do that. I think that's actually being demonstrated by the bushfire wise program that we have instituted since the fires. That is an attempt to improve that
20 educational awareness.

Q. Mr McBeth in his report identified places such as Duffy as places at considerable risk from the effect of bushfire, did he? I think he talked
25 about Eucumbene Drive?

A. I'm not familiar to that extent with it.

Q. You certainly were aware, at least as far as your planning was concerned, that was part of what
30 you describe as the interface; don't you?

A. I think we describe all of the areas that intersect with the bushland area as the interface.

Q. You said a moment ago, I think, people who
35 live in that area perhaps may not have that level of perception because between them and the forested areas there was a road and some clear grazing area; is that right?

A. In some part, yes. But they were also
40 overshadowed by the pine trees.

Q. You say that was enough, do you, for them to identify that they were at risk from the bushfire?

A. I don't say that that's enough. What I am
45 saying is that people generally have an awareness where they live in relation to an interface, whether they live close to it or whether they live

some distance from it. The specifics in what you are saying, I believe we can always improve on the information that we can actually give. It is a matter of resources as well. As I indicated, the
5 resources that were involved were volunteers that issued the "Will you survive?" booklet and did the letter box drop. We are using volunteers again with the bush wise program. Whether you continue to do that every year is on condition of
10 resources.

Q. That being the case, Mr Castle, as at January 2003 you would agree, I take it, that there would be a significant number of people on
15 the urban/rural interface that may not have understood the risk they faced and may not have picked up a document such as this booklet at a community event or something of that kind?

A. Oh, they may well have, yes.
20

Q. Has the ESB ever done any surveys or anything of that kind to identify the level of understanding of people in that area as to the risk they face?
25

A. No.

Q. Did you have a view as at January 2003 about how well people, say, in Duffy, particularly those on those two roads, understood the nature of the
30 risk they face?

A. No, I don't. However, I believe that the opportunities and the avenues were given on many occasions, as indicated in this summary that we have only touched the very first serial of, I
35 note, out of some 32 serials --

Q. I will come to the others, Mr Castle --

A. I am sorry; you were asking me a specific question about a specific document and whether
40 people were prepared. I am saying that I think the rest of the serials do indicate a level of awareness and information given to the public on which they can make some reasonable assessment. Some people are going to be more attuned to that
45 than others. That is the nature of our society.

Q. I suggest to you, Mr Castle, that as at

January 2003 you had no reason to be confident that, particularly focusing on the understanding of residents in those areas as to what to do when threatened by a fire - you had no reason to
5 believe that they had a good understanding of that process?

A. I had no reason to doubt that they didn't actually - did not have it. That's the same - there's a corollary there. You are asking me
10 whether I had no idea. But, given the information that I believe that this summary attempts to portray, is that the information had been provided. Had we actually gone and done a letter box drop around those areas? The answer is no. I
15 have already answered that.

Q. So, is it the case that you then say the totality of the information, not just this booklet, was sufficient to inform those residents or at least alert those residents to the fact that
20 they were at risk from bushfire?

A. I think you are asking me the word "sufficiency" and I said we can always improve in the level that we can provide. Did they actually
25 have opportunities and were they provided with information in a general way to the total public and people on the interface and advice given? I believe they did have some information.

Q. As at January 2003, was it your belief that they had enough?

A. I don't think you can ever have enough.

Q. So you'd agree, would you, there would be a significant number of people in those areas who firstly didn't understand they were exposed to bushfire risk?

A. I don't think I could comment either way there. You are asking me an evaluation of which I
40 have no basis to assess.

Q. Assuming that they had - putting aside whether they had an understanding that they were at risk, do you think there was sufficient information out there to inform them how to respond in the event
45 of a bushfire affecting them personally?

A. Could you ask that again, please?

Q. Do you think there was a sufficient amount of information available to residents particularly in the urban areas, say for example in Duffy, to enable them to understand what they should do if
5 threatened by a bushfire?

A. I think the information was there. Whether we had actually stressed it enough, given the particular circumstances, is I think always with hindsight, to look back and say, "We could or
10 should have done more."

Q. I am not asking perhaps so much about the period up to 18 January but before the fires started. What do you say as to the sufficiency of
15 the information that was available to residents about how to respond to a bushfire if they were directly threatened?

A. There's a particular article I think run in the 'Canberra Times' on 4 January 2003 which gave
20 specific information about tips of how to prepare and what to do. On that basis I think we actually provided a significant, very recent update of the information. So I think the information was
25 there.

Q. We will come to each of these items, Mr Castle, because obviously it is a matter of some significance. Are you familiar with what is
30 in this folder?

A. Yes.

Q. Do you say that the information that was available to residents - I am going to call it the urban edge so there is no question - on the urban
35 edge of Canberra was sufficient to enable them, firstly, to understand the risk and, secondly, to respond to it?

A. I don't think I can actually comment on the sufficiency for every individual household. I am
40 saying I believe we made the information available.

Q. It is part of your responsibility, isn't it, to ensure that people are properly and adequately
45 prepared for an emergency such as a bushfire?

A. It's a role in looking at the preparedness for all emergencies.

Q. Community awareness is identified, both in the ESB submission and in your statement, as a key part of that preparedness and responsibility; is that correct?

5 A. Along with plans and other arrangements, yes.

Q. It is a key part, isn't it?

A. I believe so, yes.

10 Q. In those circumstances, I will ask again, given that responsibility were you satisfied as at 8 January 2003 that there was sufficient information available to residents on the urban edge about, firstly, the risk of them being
15 affected by bushfire and, secondly, how to respond to that risk?

A. Could I ask the exact words? You have asked me two questions in there.

20 Q. Let's do it in two parts. Firstly, was there sufficient information available to residents in the area I've identified for them to understand that they were at risk from the impact of bushfire?

25 A. As I said, I think we can always improve the awareness about the particular hazards in the particular circumstances people face.

Q. So the answer is no, it wasn't sufficient?

30 A. I think we could improve.

Q. Can we take it from that, Mr Castle, that if we can improve as at 8 January there just wasn't enough information out there?

35 A. On the risk?

Q. On the risk that these people were at risk of bushfire?

40 A. I think the information had been provided, but whether we were confident - you are asking me about the confidence I think about people understanding that risk.

45 Q. So you couldn't be confident, could you, that people did understand the risk; is that what you are saying?

A. I don't think it crossed my mind specifically

to address at the start of the fires whether I was confident about whether they actually understood the risk or not.

5 Q. It is pretty important, isn't it, Mr Castle, because the way in which warnings are structured, for instance, should be very much dependent upon the level of understanding that people have before the event of the risk to them?

10 A. But I think the information that we have provided did give them an understanding of what was actually - the avenues to take if threatened.

Q. In that answer, when you say "the information provided" are you talking about what was provided in the period between 8-18 January or pre-fire?

A. Both, I think.

Q. Let us take them one at a time. I am talking about the position pre-fire. Was there sufficient information made available to residents on the urban edge to enable them to understand that they were at risk from the impact of bushfire?

25 A. I believe that information had been provided, but we had not letter box dropped specifically nor provided maps indicating that their particular house was at risk.

Q. I don't know how many different ways I can ask the question, Mr Castle, but I will try once more. What, in your mind - I am asking about your perception as at the period before the fire started - did the residents in places like Duffy have a sufficient understanding that they were exposed to a risk of bushfire?

35 A. I had no reason to believe that they did not.

Q. It follows from that, I think, doesn't it - I think you made this point before - you could equally say you had no reason to believe that they did either?

40 A. I had no reason to believe that they did not.

Q. Did you have any reason to believe that they had sufficient information?

45 A. All of the information that had been provided over the years.

Q. Perhaps if we go through the information I might try the question again when we get there. I have asked you about the "Will you survive?" booklet. The next document in the folder is what is described as a fridge magnet card. It is --
5 A. I think there are two fridge magnets in that, isn't there?

Q. I won't spend a lot of time on it. My list is in a slightly different order from the list. The first one, in my folder provided by you - the next document behind tab 2 is a fridge magnet that has two parts: "Prepare your home for bushfires this summer"?
10

15 A. That's correct.

Q. And some information about total fire ban?

A. That's correct.

20 Q. Without going through it item by item, the "Prepare your home for bushfires this summer" concentrates, doesn't it, on what residents should do in advance of the fire, not as a fire is approaching; is that correct?

25 A. That's generally the thrust of it.

MR WOODWARD: Your Worship, perhaps I should just explain. The folder that was given to us a little over a week ago contained a considerable amount of material. As I had understood it, and obviously wrongly, the ESB submission to McLeod referred only to a few items in this folder. I assumed that that was a full statement of what was in effect out there at the time. So the little bundle that I made only contains the ones that were referred to in the submission. But, in view of Mr Castle's responses, I think it is appropriate that I do go to each item in the folder.
30
35
40

Q. Sorry, Mr Castle. I think you agree, putting aside the total fire ban information - perhaps I should ask you this because it comes up again - that really is just information about what people are not permitted to do and so on during a total fire ban; it doesn't assist people with understanding bushfires or that they are
45

threatened by fire or anything of that kind?

A. No. It tells them - a total fire ban is exactly that. It is high bushfire danger days. It is part of the totality of information that is
5 available. It does contain the rules around total fire bans.

Q. In terms of individual preparation, the section on the other side deals with, as I
10 indicated earlier, how to generally prepare for the season rather than what to do if a fire is actually approaching your home; is that correct?

A. No. Some of that information is relevant:

15 "Clear gutters of leaves, bark and twigs. Connect hoses that reach all corners of your house."

Q. Is there any other part of that that deals
20 with --

A. I can't see the totality of the document.

Q. Don't you have it in front of you?

A. I only have the summary. If we are going to
25 go into this detail, then maybe I actually need a copy of what the individual documents are, please.

Those two that I have actually selected, they are two: "flammable liquids away from the house" is
30 one you could do as well; "check your emergency telephone numbers" is another one you could do.

Q. There are a number of other steps that were ultimately recommended in the lead-up to
35 8 January - that's right, isn't it, Mr Castle? - things like removing furniture from near doors?

A. Yes.

Q. Retaining reserve water and that sort of
40 thing?

A. Yes.

Q. Those things aren't mentioned in that --

A. No.
45

Q. The next document is quite a substantial - what is called "Fire prevention handbook". The

summary about that says:

5 "This is a booklet produced by the United
Firefighters Union, ACT branch, with
assistance from ACT Fire Brigade and ACT
Bushfire Service.

10 "Substantial information about causes of
fire, safety tips and in particular
information from the "Will you survive?"
booklet and other fire safety aspects.
Approximately 10,000 copies of this booklet
were printed and delivered to primary schools
in the ACT. It was reprinted and distributed
15 again in 1996 and May 2002."

Firstly, the reference to the 10,000 copies
printed and delivered to primary schools, was that
some time before 1996; is that how we should read
20 that part of the summary?

A. I think there were 10,000 - I am advised by
the past secretary of the United Firefighters
Union; I believe that they produced 10,000 in each
of the runs of 1995 and 1996. I am not too sure
25 whether they had 10,000 for the May 2002.

Q. And that contains similar information, as I
understand it, so far as bushfires are concerned
to what is in the "Will you survive?" booklet?

30 A. Yes, but I think it might actually have more
as well. It has a section "Will you survive?"

Q. We might come back to it. I might take you to
the specific elements. Again, because it was not
35 part of what was referred to in the ESB
submission, I haven't looked at the detail myself.
In terms of its circulation, do you understand
that it was distributed anywhere other than to
primary schools?

40 A. No, that was its primary target, as I
understand. It was available, I think, for the
same sorts of venues of the Canberra Show.

Q. Did anyone, you or anyone else, do any
45 assessment of its penetration or how it was being
used by the primary schools?

A. No.

Q. The next document --

A. Sorry, I think the idea was to actually give it to every primary school kid.

5 Q. Student?

A. Student.

Q. Do you know whether that happened?

10 A. I think that's the number that was actually - they were distributed, with that as an intention.

Q. No-one, at least to your knowledge, has actually checked to see whether they are sitting in a library at the school or whether they did actually hand them out to each child?

15

A. No.

Q. The next document is the document about the standard emergency warning signal. That obviously relates to all emergencies, not just bushfires?

20

A. That's correct.

Q. And essentially informs residents about what the signal means and how to --

25

A. It was part of a national launch that was given publicity at the time and it was used in the 2001 fires. In fact, that is the only time prior to that that it has been used for an actual emergency.

30

Q. But it doesn't in terms provide any advice or guidance about what to do if you are faced with a bushfire as such?

A. No.

35

Q. The next document in the folder is similarly a document about the emergency warning; is that correct?

40

A. Yes. That was the material that was distributed, as I understand it, when it was launched.

Q. Similarly, that is limited to explaining what the SEWS is and how it works. Again, it doesn't deal with any specific type of emergency?

45

A. What its purpose is, yes.

Q. I think the next document is another fridge magnet?

A. That is correct.

5 Q. The summary provided to us says:

"Outlines actions to undertake before the bushfire season and then during and after a bushfire occurs. Also contains advice if
10 caught in a fire either driving or on foot."

There is nothing there that explains what the distribution of this document was. As I understand the section in relation to the "Will
15 you survive?" booklet, it may be that this was distributed with that; is that the position?

A. In more recent times, yes, it formed part of the totality of the information available.

20 Q. So there was no letter box drop in relation to this document?

A. No, not that I'm aware of.

Q. That does include a summary of what to do if a
25 bushfire approaches in the bottom part of the second side of that document?

A. That's correct.

Q. The next document is, I think you will agree
30 with me, a general emergency document and isn't bushfire specific; is that correct? It is described as "Emergency information about households having an emergency plan and survival
35 kit prepared and including information on the standard emergency warning signal"?

A. That provides information about the emergency kit which is referred to in the documents.

Q. That is a kit that is designed to be available
40 for a whole range of emergencies, if I can suggest that, things like having torches and the like?

A. Yes.

Q. The next document is simply a statement of the
45 circulation of that emergency "Don't be scared" document?

A. Yes, when it was first published and then

updated reprints of it.

Q. The next one is a document; 2001 is the date given to it. It is an in-house produced booklet:

5

"This is used extensively in visits to schools and at fetes, Canberra Shows and other community forums and is very popular with the children."

10 A. As I understand it, the material for this pre-dated 2001. But I could not find definitive evidence in ESB that gave me an exact date. So all I could come forward with, in putting it together, was the date that we knew it was
15 definitely available because of the volunteer support officer that took this as a bit of a project. So, as I understand it, and Peter Lucas-Smith may be able to offer more information about his recollections of the earlier versions, I
20 could not find that definitive evidence in ESB at that particular stage.

Q. Again the focus there was on school children; is that correct?

25 A. Yes. Often it has been demonstrated I think nationally, and Emergency Management of Australia believes that focusing on school children is also a way of getting information into the home. That's with a number of programs, not just
30 bushfire.

Q. What was that belief based on, Mr Castle?

A. The belief that parts of curriculums and so forth have an advantage in actually involving
35 parents and getting the information into the home.

Q. Was any assessment done as to what extent schools were using this material or whether it was getting back to the home from the school?

40 A. By ESB?

Q. Or by anyone to your knowledge?

A. I think there have been a number of national investigations, particularly curriculums and so forth, but I am not aware specifically of that
45 evidence and can bring it forward.

MR WOODWARD: Your Worship, I am not sure whether you wanted to take a break.

SHORT ADJOURNMENT [3.06pm]

5

RESUMED [3.24pm]

MR WOODWARD: Q. I think we had gone past the colouring booklet and were at the next document, which I think is the SEWS warning issued on 24 December 2001 in relation to fires at that time; is that correct?

A. Yes, as I understand it, yes.

15 Q. The actual content of the announcement appears on the third page of that document. After identifying some particular areas of Canberra that were potentially affected, there is a list of things that people hearing this message are to do. That is:

20 "Close windows and doors, protect yourself from smoke and radiant heat. If your house backs parkland wet down your house, fences and the vegetation surrounding your property, move your pets indoors, do not travel by foot" - et cetera - "if you intend to evacuate do so early"

30 Some information about dialling 000 and finally "remain calm". Was that the full extent of the signal at that time to your recollection, Mr Castle?

A. Yes, that was my understanding.

35

Q. Do you know who prepared that document - I should say that part of it that I have drawn your attention to?

40 A. I presume Peter Lucas-Smith had some input into it specifically. But I don't know who actually prepared it.

Q. Do you know why the third bullet point refers only to houses backing parkland?

45 A. No, I don't.

Q. The next document relates to public health

information concerning smoke during the December 2001 fires; is that correct?

5 A. It was designed firstly to indicate the cessation of the broadcasting but it was also providing further information about smoke and also about total fire bans, because I believe there was a total fire ban that had been imposed.

10 Q. What I will do with the next document - there is a copy of that same document in the brief at [DUS.AFP.0001.0588]. The copy in the folder begins with the important bushfire safety message and then has attached to it some information concerning I think a fuel reduction burn proposed
15 for Gosin Hill; is that correct, and a considerable amount of information concerning fuel management generally?

20 A. Yes, but it goes on with Aranda bushland and indicates various areas I think; McArthur Hill, Wanniassa Hill, Cooleman Ridge - gives the help line. And Red Hill is the last one, I think.

Q. Is that an indication of the areas that were targeted by this mail out?

25 A. My understanding is that these were areas that were identified where additional information was going to be done and hazard reduction was done along the back fences, as I understand it, of particular areas. As I understand, it was a
30 cooperative process between Environment ACT and the Bushfire Service.

35 Q. I want to come back to the content of the letter. Just to clarify the level of circulation, the document summary says:

40 "This letter was distributed to residents advising about fuel reduction work that they should carry out. Later notices were distributed referring to the letter and advising of strategic fuel reductions to be done by the ACT government in various areas adjoining the residences."

45 So referring for the moment to the first three or four pages of the document in the folder, which appear to include a copy of the envelope in which

it was sent to the householder and then the actual message itself covering two pages, then what appears to be an envelope "bushfire fuel hazard reduction notification." Firstly, that part of it
5 comprising the bushfire safety message, are you able to say to whom that was sent?

A. No.

Q. Was the circulation of it determined by first
10 identifying those residents that might be affected by the fuel reduction program? Perhaps to put it another way, was the idea that this letter, an important bushfire safety message, was to be circulated to those residents that might be
15 affected by a proposed fuel reduction burn?

A. I didn't have specific input into this. As I said, I believe it was a cooperative arrangement between the Bushfire Service - I was aware it was going on, but not the detail of where it was going
20 to. As I understand it, the particular areas of bushfire fuel reduction with some targeted areas and particularly along back fences and interface areas. That's what I think the basis of it was.

Q. Perhaps looking at it from another
25 perspective, can we say this: as best as far as you were aware, it wasn't widespread distribution to all people on the interface, it was targeted to those that were identified to be adjacent to areas
30 that were subject to fuel reduction or you don't --

A. That may be one and the same. It wasn't a general mail out to every householder that lived on an interface. Again, I think that's a cost
35 issue.

Q. Yes, I understand. That document is [DUS.AFP.0001.0587]

A. Is that in this?
40

Q. That is the same document. What is in the brief already is the letter "An important bushfire safety message". It is a two-page letter and a covering envelope. Not all the material that
45 follows about the feul reduction burns. If we go to the next page there is a handwritten note at the top "Final signed copy 17 January 2002". Does

that accord with your recollection of when this was sent?

5 A. No, I don't have intimate knowledge of that. What rains true, as I understand it Environment ACT.

Q. I might ask you one thing about the content. On the top of page 2 --

10 A. Being 2 of the message?

Q. At the top of page 2 there is a list of things you can do if you decide to stay and protect your property?

15 A. Yes.

Q. It says:

20 "Turn off gas and power, fill bath tub with water, plug downpipes with rags and fill gutters with water. Remove curtains and furniture. Wear clothing that covers arms and legs. Quickly extinguish any fires at or near your home while they are small."

25 Focusing on one point of that, the second bullet point, "fill bath tub with water" - do you think that is a sufficient explanation as to what the purpose of that suggestion is?

30 A. I think we could improve on that and I believe we have.

Q. So the answer is you don't think it is sufficient?

35 A. I don't think the particular purpose to everybody was perhaps quite as clear as it could be. But I think - like other pieces of information also refer to buckets and tubs and stuff like that, any receptacles. I think that was the improvement that we subsequently made.

40 THE CORONER: The intention is not for people to perhaps immerse themselves in the tub but to have a source of water available.

45 THE WITNESS: That's correct, your Worship.

MR WOODWARD: Q. Incidentally, who could we ask

about that document, Mr Castle? Who was responsible for drafting and who might be able to tell us the extent of the circulation?

5 A. As far as the bushfire is concerned, Peter Lucas-Smith, but I think it's probably more somebody in Environment ACT. I think that was really the source of it. They determine the areas, because it was part of the fuel reduction process.

10

Q. The next document in the folder behind tab 13 appears to be a schedule setting out the presentations done by, it would appear, volunteer brigades in various forums during 2002. That would appear to be the case?

15

A. That would be correct.

Q. And the information there is that volunteer brigades - would that be all bush volunteer brigades around the ACT?

20

A. I'm not too sure whether every brigade actually participated in this program. I'm not too sure.

25 Q. I suppose what I am asking, is that a complete list of what was presented by any or every bushfire brigade in that period?

30

A. It may not because I think, as Roberta Adel, it may be understated that the brigades don't always notify all the events that actually supported. Some are initiatives off their own bat, or just somebody inviting the local brigade to actually attend.

35 Q. That shows at least so far as it was reported four presentations to schools during the 2002 year; that's a total for the whole of the ACT; is that correct?

40

A. That is in relation to the volunteer brigades. As you can understand, volunteers are not generally around when kids are in school. That's by the volunteers.

45 Q. Was anyone else doing presentations to schools - putting aside the urban fire brigade and that they might be giving information about smoke alarms - did anyone else give presentations to

schools focused on bushfire safety?

A. There is a fire education program that the ACT Fire Brigade provides to schools, I think in kinders and in year 1s. Generally it tends to focus on structural, but is not only restricted to structural. We haven't included the schedule of all of the targeted theme.

Q. "16 presentations to community groups for the year. Logistic support for community events." I assume that is to be distinguished from presentations, in the sense, logistic support could cover anything from providing cups of tea to providing some kind of information about bushfire safety, could it?

A. It could and it could also be marshalling, those sorts of assistance.

Q. If it was more in the nature of presentation, presumably it would be included in the 16; would that be correct?

A. Yes.

Q. And fundraising activities a total of six. They may or may not include delivering information about bushfire safety, is that fair?

A. Yes. They are more likely to have the information available.

Q. You are unable to say, certainly based on that document, but generally what areas, if any, were targeted or who the beneficiaries of those presentations were?

A. I can't actually say which particular areas. But there is mention in there of one in particular, and that was to Joan Smith.

Q. I will come to that. It is picked up in later documents. As far as you know, a number of them could have been to rural areas?

A. Unlikely. There is not schools and community events a huge area in the rural population in Canberra.

Q. The next document is an Environment ACT and Urban Services document, community thanks for bushfire prevention work. There are quotes from

Dr Maxine Cooper, the Executive Director of Environment ACT, and a short list of things residents can do to help reduce fire hazards around the home:

5

"Clearing gutters, connecting hoses that will reach all corners of the yard, storing flammable liquids and fire wood away from the home and keeping backyard lawns short and watered".

10

Was this a media release?

A. As I understand it, it was. As I understand it, it was put out by Environment ACT and followed the work that was actually done in those particular targeted areas, I believe. But it actually has a broader message than just the targeted, I note in there.

15

Q. That is the same areas that I think you referred to earlier as perhaps being the recipients of the letter?

20

A. Yes, I understand that.

Q. Next document is "back fence survival meter, version 1.1, January 2000". That doesn't seem to get a mention in --

25

A. Yes, it is actually tab 15. You will note that it is actually in the box in relation to the press release because the press release referred to the websites. In fact, I noticed one of the earlier documents referred to this same website which gives people the opportunity to look at doing their own calculations in an interactive way as to what is the survivability or back fence survival in terms of answering questions in relation to threats of bushfires. It is an interactive site; it is part of the ESB website.

30

35

Q. So it seems to be focused almost exclusively, is it not, Mr Castle, on the back fence itself?

40

A. No, there are two. One is a back fence and one is a house survival meter.

Q. Just looking at the house survival meter, Mr Castle, apart from issues of plants and so on, the only question that would appear that deals

45

with risk is the last one:

"What is the nearby wildfire fuel load (click here for examples)"

5

How would a person say in Duffy interpret that?

A. I don't think they could. I think out of all of the questions here, that's the more technical question.

10

Q. Indeed if you were in an area like that or perhaps even had a house that backed onto an urban park you wouldn't - and even if you could understand fuel loads - it would be pretty low level, wouldn't it?

15

A. I think it actually says "click here for examples". That is designed to take people to some examples that they can then assess roughly what that's likely to be. As it reads, as you were reading it, people knowing whether it is up to 3 tonnes per hectare or whatever is not a thing that the individual would walk around. It does say "click here for examples" and it takes you to some indications.

25

Q. Is this still live, this document?

A. I understand it is.

Q. We will check overnight if you can't answer this: do you know for example what someone who lived or backed onto an urban park - so in other words had mown grass for some distance behind their homes - what response they would get to clicking this "click here for example" section?

30

A. I don't know.

Q. Do you know if it deals with someone who may be up to 100 metres from a forested area?

A. No, I don't know.

40

Q. The next document is one that is referred to in the ESB submission and therefore is in the bundle that some parties have got. For those who don't have the full set, it is described in the submission at page 67, as I understand it - do correct me if this isn't the document that is being referred to:

45

"In a major two-page colour spread in the
'Canberra Times' on 28 August 2002" --

Is that what this document is?

5 A. I'm not too sure of the date. It is that
document. I just noticed the copy I have got says
22 August.

10 Q. I think the date doesn't match. I am not
aware of there being any other document that fits
that description.

A. This was a two-page colour spread.

15 Q. It states:

"... on what public could do to mitigate
potential effects of disasters. The Bushfire
Service advice was specifically aimed at what
people could do to prepare their homes for
20 bushfires."

That two-page colour spread, Mr Castle, is
[ESB.GSO.0005.0297]. I don't mean in any sense to
be critical of this - it appears almost entirely,
25 apart from the little block section at the bottom
of one of the two pages, just to be a summary of
what various people or a day in the life of ACT
Emergency Services; is that correct?

30 A. That's what it is actually headed.

Q. So on its face, apart from that little block
down the bottom, it doesn't seem to be directed at
warning residents about bushfire risk and the
like?

35 A. No, but it is taking every opportunity to
provide information to the Canberra community.
What I indicated that our messages within that
particular block rather than saying what we are,
we would use the opportunity "in the day of the
40 life of" to focus on emergency services to focus
on prevention. So in each of the sections for
each of the services, the idea was to give some
specific message in there. In the Bushfire
Service we concentrated on what people could do.

45 Q. I am trying to find the Bushfire Service photo
section.

A. You mean a photo?

Q. Well, I must say when I first read the document the only part of it that seemed to me to
5 be relevant, at least to the issue that was being addressed in the ESB submission, was that paragraph that appears in the box at the bottom "ACT Emergency Bureau, ACT Bushfire Service"?

A. Yes.
10

Q. It explains what the Bushfire Service does and has:

15 "What can you do to prepare your home for bushfires this summer? Clear gutters of leaves, bark and twigs. Connect hoses that will reach all corners. Clear dry timber, vegetation rubbish. Clear a fire break at least 2 metres wide between your property and
20 the adjoining bush".

Is there anything else in this that I am missing in this two-page spread that would assist a Canberra resident to understand a risk to them of
25 bushfire and what to do if confronted with a bushfire?

A. No, there's not. I think you are playing down the value of using every opportunity to provide information to the public. I think that's what we
30 set out to do in this; in other words, you use a multi approach. This was about a day in the life of ACT Emergency Services with each of the services given some visual impact. It is common. I think it is one the features that the 'Canberra
35 Times' has done on a number of occasions. We took this opportunity in my view to take a pro-active to include some element in there. That's what that did. I don't think it actually set out to suggest that this was the only one.
40

Q. I am not suggesting that. Was it drawing attention to the portrayal of this document in the ESB submission, I suggest to you, suggesting something a little more extensive than what
45 appears. On page 67 it reads:

"In a major two-page colour spread in the

5 'Canberra Times', agencies of ESB provided
advice on what the public could do to
mitigate the potential effects of disasters.
Bushfire Service advice was specifically
aimed at what people could do to prepare
their homes for bushfires."

10 I was getting you to confirm the only part of the
two-page spread that actually fits that
description is that small section on the bottom of
the second page?

15 A. I don't think the submission in McLeod said
anything different or purported to be - it said
what it was. It provided advice on what public
could do to mitigate the potential effects of
disasters. I was taking an all hazards approach.
That is what the whole box along the bottom was
actually done for. All I've said is "the specific
bushfire advice was what to do". There was no
20 intent to portray it up as anything other than
what it was. We provided a copy of this to
Mr McLeod.

25 Q. Perhaps I should ask you: is this in effect a
duplicate of the folder that was provided to
Mr McLeod?

30 A. No. No. Mr McLeod's was put together fairly
quickly to meet the tight deadlines and to get the
content approach.

Q. Is it the case then what Mr McLeod had was the
smaller number of documents that are actually
identified in that section of the --

35 A. I couldn't be 100 per cent sure whether that
was the totality of the documents that were
supplied to Mr McLeod.

40 Q. The next document is an article in the
'Tuggeranong Chronicle' which is also in the small
bundle for 15 October 2002?

A. Yes.

Q. That reads:

45 "With an exceptionally dry winter already
marked by unseasonable bushfires in New South
Wales Canberrans have been warned they can

face the worst bushfires of 20 years."

There is a quote from Mr Lucas-Smith. A little further down:

5

"Two small grass fires recently indicated things are drying up," Mr Lucas-Smith said. "We're expecting a long and severe season, extending well into April. We don't expect any real problems until the end of November, however.

10

In the next column over at the bottom he talks about the fires of the previous year. He then continues with:

15

"With strong winds and little substantial rainfall predicted for the remainder of this year", Mr Lucas-Smith said, "This year's fire season was at the mercy of the weather. The thing that pushes us over the edge is the wind. If there is no wind we still have fires but not nearly as severe," he said. "The wind will dictate the severity of the fire season."

20

25

I take it they were sentiments that you both understood and agreed with at the time they were expressed?

30

A. Me personally?

Q. Yes.

A. Yes, I think so.

35

Q. There is another article, the next document in the bundle, again that was in the small bundle entitled "Prepare now for bushfire season". This was an article on 22 October in the 'Canberra Times'. There is discussion about:

40

"Authorities have warned Canberrans to start preparing for a dangerous bushfire season with above-average summer temperatures predicted amid worsening drought conditions."

45

There are then some quotes from Mr Lucas-Smith.

5 "Conditions were much worse than this time
last year" - it refers to the El Nino effect
- "at this stage we are not calling the
bushfire early but we are observing it very
closely and alerting people to the fact that
they need to start preparing their homes now.
Residents living on the fringe of bushland
have been advised to clear a fire break of at
least 2 metres between their fence and
10 adjoining bush".

It says:

15 "Could be as easy as getting out there with
the lawn mower and clearing off the grass."

I suggest to you, Mr Castle, someone reading that
would not consider themselves within the group
that Mr Lucas-Smith at least is identifying in
20 that quote unless they are living directly
adjacent to bushland?

A. I think somebody that is living on the fringe
that is actually adjacent to bushland over their
back fence or interface over their back fence,
25 yes.

Q. Because the advice is to clear at least
2 metres between the back fence and the bushland;
isn't it?

30 A. That's what the advice says.

Q. So again, someone living on Eucumbene Drive in
Duffy could be forgiven for thinking that didn't
apply to them?

35 A. I presume mowing over their back fence, no.

Q. The next document is another --

A. I might add, I note that that also refers to
the standard emergency warning signal and that it
40 is a method of alerting residents.

Q. We will come back to that, Mr Castle. The
next document is another article it says from the
chronicle. Is that a reference to the
45 'Tuggeranong Chronicle' again?

A. The chronicle has a number of chronicles
across Canberra.

Q. On October the 29th:

5 "To mark the start of the official bushfire
season this week the ACT Bushfire Service has
again warned all Canberrans to be vigilant
when it comes to fire prevention. More than
10 half of the ACT consists of national parks,
nature reserves, pine plantations and urban
parks. This combined with one of the driest
winters on record has authorities predicting
this year's bushfire season will be the worst
of 20 years. To reduce this risk, the ACT
15 government land agencies have conducted
hazard reduction burns in several areas.
Areas off the Tuggeranong Parkway and near
the Orana school in Weston were cleared and
potential hazards in areas such as Gossin
Hill, Red Hill and Coleman Ridge have also
20 been removed."

Then it deals with matters unrelated to bushfires.
That's a similar message to the one in the
'Tuggeranong Chronicle'. The next document is a
document headed "ACT Bushfire Service bushfire
25 safety tips". It is described in the summary
document as "email from Amy Lowe attaching
information published in Defence newsletter". Was
this a document published in the Defence
newsletter?

30 A. I understand that to be the case.

Q. You are not aware it was published anywhere
else?

35 A. No.

Q. Again a similar message to one of the fridge
magnets we looked at before, largely dealing with
preparation pre-fire season with one or two items
relevant to the fire actually approaching your
40 home?

A. That's correct.

Q. I will try and get through a couple more
quickly. The next one is an extract from the ABC
45 online service "ACT bushfire season starts early".
Again the message from Mr Lucas-Smith about
residents being vigilant:

5 "If people live in houses that back onto
grass and bushland areas, they really need to
be having a very close look in their own
backyards and also over the back fence to see
if they can build some sort of defensive
zone," he said, "even if it means getting the
mower over the back fence and mowing about
5-metre wide strip around your back fence and
just making sure that your hoses can reach
10 all the corners of your backyard and house."

Again, a similar message to the one that was
referred to in the 'Chronicle'?

15 A. Yes.

Q. Do you know whether that went beyond just the
online version of ABC or was it --

20 A. That particular advice on that particular day,
I'm not too sure.

Q. The next one is maybe part of the bundle, the
'Canberra Times' of Tuesday November 5, 2002
entitled "Extra volunteers in training for
Canberra's bushfire season". Again, ACT Bushfire
25 Service trained an extra 100 volunteers in
preparation for this year's bushfire season;
warned residents to be particularly vigilant.
There is reference to a fire that actually
occurred at that stage on O'Connor Ridge. There
30 are some quotes from Mr Tony Graham, who was the
operations manager at ESB; that's correct?

A. Operations manager of the Bushfire Emergency
Service.

35 Q. I beg your pardon; thank you. He said:

"The fire at Namadgi was the first major
break-out of the bushfire season and had
burnt to 12 hectares since Sunday afternoon.
40 The cause is not yet known.

Mr Graham said the fire meant an early start
to the bushfire season and extra volunteers
and senior officer were in early training for
45 summer."

Little further down:

5 "Mr Graham said these conditions - that is
the level of dryness - were normally seen
about five weeks later in the year. He urged
residents whose houses backed onto grass and
bushland areas to clear vegetation near their
properties."

10 MR WOODWARD: If that is a convenient time, your
Worship. I will hopefully finish these early
tomorrow.

THE CORONER: We will adjourn until 10 o'clock
tomorrow morning.

15 **MATTER ADJOURNED AT 4PM UNTIL TUESDAY**
24 FEBRUARY 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

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

DAY 15

Tuesday, 24 February 2004

[10.15am]

5 MR WOODWARD: Could Mr Castle be recalled.

MR JOHNSON: Could I just raise one issue whilst
he is coming to the witness box. In the
transcript there are a number of matters which I
10 wanted to draw attention to be corrected. We
haven't been going through the process of seeking
to fix any errors if they appear. But there are a
number at page 1218 and following which basically
get the speaker mixed up so that there are things
15 which are, according to the transcript, said by me
which are said by Mr Lasry and vice versa. To
anyone who may be looking at this transcript they
may be a little confused. Could I just for the
record draw those to attention.

20

At page 1218 at line 12 there is a passage which
is attributed to me which was in fact Mr Lasry.
What was happening at this point I think was that
Mr Lasry had shown Mr Lucas-Smith in
25 re-examination a chart and was seeking his answer
as to whether he knew who had written it. At line
12 it should be Mr Lasry instead of me. At line
19 it says "Mr Woodward". I think that in fact
should be you. It should say "The Coroner". At
30 line 21 it has my name and it should be
"Mr Lucas-Smith". At line 24 it has "Mr Woodward"
and it should be "Mr Lasry". At line 44 it has me
and it should be "Mr Lasry".

35 Then again at page 1224 at line 40 it has me and
that should be "Mr Lasry". At page 1225 at line
17 it has "Mr Woodward" and that should be "The
Coroner". Again, not that it makes great
difference, at line 27 it has the statement, "We
40 will take the morning break" being attributed to
Mr Woodward. But I do not think he was saying
when the break was going to occur. I think that
clearly is your Worship. That is obviously just a
formal matter.

45

But perhaps the other matters where there is some
substance, it perhaps is important so that down

the track someone doesn't look at this and perhaps
get a little confused. Line 25 on page 1225
attributes something to Mr Stitt and it should be
Mr Lucas-Smith.

5

THE CORONER: Thank you, Mr Johnson. I have just
received a message that yesterday's transcript
from 1191 onwards is to be reloaded due to a
number of errors. But I am grateful to you for
10 bringing those matters to my attention.

<MICHAEL JOHN CASTLE, RE-SWORN

<EXAMINATION-IN-CHIEF BY MR WOODWARD CONTINUING

15

MR WOODWARD: Q. Mr Castle, just before the
adjournment we were going through the folder of
material on community awareness. I am not sure
whether we got past this. If we could start at
20 tab 21. Do you have that folder?

A. Could I apologise, your Worship; the folder is
in my car. Someone is going to retrieve it at the
moment. I apologise for that.

25 Q. These ones I think we had already covered.
There is one you might recall: "ACT bushfire
season starts early". That was an article
extracted from ABC Online. I assume it also
appeared in other ABC releases of some kind. That
30 includes a quote from Mr Lucas-Smith:

"If people live in houses that back onto
grass and bushland areas they really need to
be having a very close look in their
35 backyards and also over the back fence to see
if they can build some sort of defensive
zone."

40 The next one behind tab 22 is an article in the
'Canberra Times'. That discusses briefly a fire
which had occurred at that time in the Namadgi
National Park and it includes some comments from
Mr Graham, one of which was he says:

45 "He urged residents whose houses backed onto
grass and bushland areas to clear the
vegetation near their properties."

Just pausing there, it is the case that is a common theme in these publications to identify people who live in properties that are adjacent to or back onto bushland or grassed areas that need to be concerned to clear up the areas immediately adjacent to their homes as part of their bushfire preparation?

5 A. That's correct, because people who have a road around them already have a space.

10

Q. The next item, and again I don't think you are disadvantaged by not having it in front of you, is an email from Amy Lowe to someone at the ABC. It sets out some details as to what the effect of the total fire ban is. It doesn't, at least on its face, do anything other than indicate what restrictions apply in the course of a fire ban, although at the bottom it does have again:

20 "Prepare your home for bushfires this summer. Keep dry timber, vegetation and rubbish well away. Keep grass around the house short and green. Clear a fire break at least two metres wide between your property and the adjoining bush, clear undergrowth from fences, remove branches overhanging, clear gutters, connect hoses" - I am going quickly here because it is similar material - "store flammable liquids away, close in open eaves and the space under the house, fit wire screens to windows and doors and vents, form an emergency fire plan with your family, and display emergency phone numbers."

25 30 35 Are you familiar with that general message?

A. Yes, it is the theme that has actually been in a number of pieces of material we have actually mentioned.

40 Q. We don't know, do we, whether this was used by the ABC in any subsequent publications? None appear after that email until one in the 'Canberra Times', which I will come to?

45 A. I believe that that was used for the ABC's website. That's only what I was told.

Q. Now, one that came up yesterday, and what is

included in the folder is an email from Roberta Liddell to you dated 12 February this year which discusses the circumstances in which the members of the Rivers Volunteer Bushfire Brigade and Parks
5 Bushfire Brigade provided an information education session to residents of Chauvel Circle on Sunday, 24 November 2002. The email says:

10 "The session was arranged at the request of Mrs Jane Smyth, one of the residents."

I will read the final paragraph of the email:

15 "Approximately 30 copies (from memory) of the "Will you survive?" booklet were provided to Mrs Smyth prior to the information session. These booklets were delivered to her husband's business premises in Curtin at Mrs Smyth's request. She had anticipated
20 that up to 20 or so neighbours might attend the session and wanted also to be able to put information into letter boxes of those who were unable to attend."

25 Are you able yourself, Mr Castle, to say how many people attended that session which Mrs Smyth arranged?

A. No, I am not. I think she pronounces her name "Smith".

30

Q. Have you spoken to anyone who was present during the session?

A. I have spoken to Mrs Smyth.

35 Q. Did she say to you how many people had attended?

A. No, it was after the fires that she spoke to me and expressed great appreciation for the efforts that were put on and the information that
40 was provided. At that stage I was not aware that she had lost her home, but she elaborated on a whole host of advice that she had been given and said it was very useful and helpful during the fires.

45

Q. This was a session, as you understand it, that was arranged at her initiative?

A. Yes, that's correct. It is similar to the bushfire wires that we are now conducting.

Q. Sorry, the bushfire?

5 A. The bushfire wires program that is now being conducted.

Q. Which is encouraging residents, is it, to initiate these sorts of meetings and sessions?

10 A. Yes, that's correct.

Q. Is that similar to the neighbourhood fire watch program that was referred to - I think I mentioned it - in Mr McBeth's report as being a program that at that stage at least was no longer being pursued?

15 A. I believe it is. It is similar to bushfire blitz and a similar program in New South Wales. Bushfire blitz is actually the Country Fire Authority name for a similar sort of program.

Q. The next document - you are still waiting for your folder, Mr Castle?

25 A. I have that summary. I can recall roughly, I think.

Q. The next couple of documents were generated, if I can use that term, at the time the bushfire fuel management plan for the 2002-2004 period was launched. Just on that plan, Mr Castle, in your capacity as chair of the Bushfire Fuel Management Committee - have I got that name right?

A. Yes.

35 Q. Were you satisfied that the two earlier plans were a sufficient response to the concerns that had been raised in the report by Mr McBeth and the subsequent investigation by Mr Glenn?

40 A. I'm not too sure. In a professional sense I could pass a comment about its adequacy per se. We were in an iterative process. The first plan, 1998-2000, was the first. There was not a template, as I understand, that we had, although we had some examples of some other plans much smaller. Of course the attempt in this was to in one whole process devise plans for the whole of the area of the ACT that is represented that

needed bushfire fuel management plans. I think that was some 70 per cent that it covered in the first plan. Those first plans were always considered to be a development process that we
5 would work through because it was required that we repeat them every two years or institute plans every two years. So it was a development process. I'm on record as saying that I thought the
10 2002-2004 plan was a vast improvement and a significant step forward in the development of those plans.

Q. So it follows from that, doesn't it, Mr Castle, in your view, at least, there were some
15 shortcomings in the earlier plans?

A. I think in any development process there are going to be shortcomings, if you take that negative view. If you take the positive view, for the first time in history we had at least
20 attempted to establish plans for 70 per cent of the ACT. In that respect it is a positive aspect of it. They are always going to have areas that can be improved and developed as the learning curve comes into play as well.

25

Q. It was more than just, if I can put it this way, the coverage of the plan, the 70 per cent issue. Wasn't there also concern about the lack of co-operation between the land management
30 agencies and the way they approached fuel management as prescribed by that plan?

A. There were some aspects inherent in that, yes.

Q. Because, as you have just said, Mr Wood in his
35 press release, which is the next document, which is largely concerned with the plan, says:

"This plan is a huge step forward from the previous one."

40

He says, and this is the plan that was launched in November 2002:

"The old plan had over 100 maps. These have
45 now been condensed to 36."

So I think that is reflecting, isn't it, the fact

that there was a much broader scale review of the approach of the plan and, instead of having plans for each agency, they were broad plans that covered whole geographic areas regardless of which agency was responsible?
5

A. Yes, that's correct. That's not necessarily indicative of conflict with the main managers. That was a technical aspect too. They each had their own mapping components and system and their records. So the fact that we were ultimately or they were ultimately able to coordinate and get consolidated maps that had all of the aspects on it with specific zones was a real step forward.
10

Q. But there were some problems with coordination broadly in relation to the earlier plans, weren't there?
15

A. I think there were areas that we could improve.
20

Q. The other point to note in this release, it doesn't deal with any specific advice concerning preparation for bushfires, but Mr Wood is quoted as saying at the bottom of the page and over onto page 2:
25

"It is important to recognise that fuel management alone cannot provide a guarantee that large bushfires will not occur or cause damage in the future', he said. 'Fuel management is only one aspect of the overall ACT fire management strategy. That also includes public education, fast detection and response to fire situations, sensible urban design and reducing the potential for ignition.'"
30
35

Are those sentiments that you agree with or agreed with at the time?

A. The folder has arrived. Could I actually read that, if I may, your Worship?
40

THE CORONER: Yes.

MR WOODWARD: When it arrives, it is behind tab 25.
45

A. Behind tab?

Q. Tab 25.

A. Could you ask the question again?

Q. I just asked whether the last complete
5 paragraph on page 1 which quotes Mr Wood and the
first paragraph on page 2 are sentiments that you
would agree with?

A. Yes, that's correct. I would agree with
those.

10

Q. It is the case, isn't it, Mr Castle, that fast
detection and suppression is a common feature of
the material that the ESB has published over the
years in relation to its approach to fire
15 management in the ACT?

A. Yes.

Q. Can I ask you to go to the next document --

A. Can I just point out that that did have on the
20 bottom of that "Tips on how to prepare your home
for bushfires this summer", which is a very
significant aspect of the information provided.

Q. This was sent to media outlets?

A. As I understand it, it is a press release that
25 has gone out to the media.

Q. We see in the third bullet point - I am sorry;
I apologise for this, your Worship. I missed
30 that. I had assumed it was something else. It
says:

"If your property joins bushland, you should
clear a fire break at least two metres wide
35 between your property and the adjoining
bush."

A. That's correct. The rest of the points don't
have that same "if your property adjoins"; they
are general advice on how to prepare your home for
40 bushfires generally.

Q. The next document, Mr Castle, is an article in
the 'Canberra Times' on Friday 29 November which,
it would appear, actually has those bullet points
45 as an overlay on the photograph there. It
includes a number of quotes from I think largely
Mr Lucas-Smith. I will pick a couple of those.

The article commences:

5 "Last season's bushfires" - that's a
reference to the bushfires in December 2001 -
"were probably only an entree for the fire
season ahead with authorities warning
yesterday that conditions were worse than
those before the 1983 Ash Wednesday fires."

10 That was something you were aware of in
November 2002?

A. I believe it was drawn to our attention.

15 Q. Was it something you were aware of, you
personally?

A. Yes, I had heard those phrases.

Q. Did you agree with them?

20 A. I don't have the expertise to say whether it
was, and I was not involved in the Ash Wednesday.
So all I can say is that people advised me that
those conditions were worse and I accept --

Q. You had no reason --

25 A. No reason to actually disagree with that.

Q. If I can jump down to - Mr Lucas-Smith makes
some remarks about land management agencies. He
says:

30 "What we desperately need to do is to get the
land management agencies working with the
community and with each other to ensure that
there's not a continuous run of fuel up to
35 the back fences or the edges of the community
because that will determine fire intensity."

Mr Lucas-Smith said:

40 "Clearing the bush would make a big
difference, enabling some fires to be stopped
quickly before they spread. This was
particularly important this year as the
season was expected to be bad."

45

There is then a direct quote from him:

5 "'What we saw last year was in real terms probably only an entree to what is potentially going to occur this year', he said. Mr Lucas-Smith said the conditions were even worse than they were at the end of 1982 before the Ash Wednesday bushfires in Victoria and large fires in the ACT/New South Wales."

10 There is then references to the plan. So I assume, as you would understand it, Mr Castle, those were views that certainly Mr Lucas-Smith held in November 2002?

15 A. Yes, I believe so. But I think what you have actually left out is the preceding paragraph that said:

20 "Mr Lucas-Smith said clearing the bush that can fuel fires was extremely important and urged residents living near bushland to also do their part."

25 Then he went on to have all those quotes that you just attributed. So it actually gives it a context.

Q. Yes.

30 A. And so it ends up with I think attributing to the Urban Services Minister Bill Wood.

Q. Sorry; are you saying that these remarks, the effect of that is that section I just quoted, were Mr Wood's not Mr Lucas-Smith's?

35 A. No, no. I am saying that the quotes that you read out had a context that led into that which you did not read out.

40 Q. I will read that paragraph. You are quite right. It says:

 "Mr Lucas-Smith said clearing the bush that can fuel fires was extremely important and urged residents living near bushland to also do their part."

45 A. Then he went on to that paragraph that talks about partnership with the community between the land managers and the community.

Q. I don't now recall. Did you agree with me that the views expressed in essence that December 2001 was really only an entree to what is potentially going to occur this year and where
5 Mr Lucas-Smith said "conditions were even worse than they were at the end of 1982 before Ash Wednesday" - I think I asked you whether --
A. You asked me that, and I answered that that was my understanding and advised.

10

Q. It appears to be his view at the time?
A. That's what I understand.

Q. The document under tab 27 is just a short
15 article in the 'Canberra Times', December 4, indicating there is a total fire ban that day or the next day, I assume?

A. Yes.

20 Q. That day.

A. It talks about the potential to increase the risk of fires; the reason for the total fire ban.

Q. The next document is another email that has
25 been sent by Cecilia Bourke. Who is Cecilia Bourke, Mr Castle, do you know?

A. She, I believe, had some public relations responsibilities within the Department of Urban Services working specifically for I think
30 Environment ACT.

Q. I shouldn't have put that --

A. Her position is down the bottom.

35 Q. Media and public relations manager with Environment ACT. She is sending to, it would appear, Mr Lucas-Smith a copy of a document sent to Minister Wood's office which looks very much like, if I may say, the sort of information that
40 was provided in some of those fridge magnets and that sort of material; is that a fair summary?

A. Yes, it's about what to do in preparing for the bushfires. It is what to do if people are caught in a bushfire. It talks about survival
45 requirements and it talks about specific things for preparing for the bushfire season.

Q. It talks about if caught on foot, survival requirements; if caught driving, emergency survival requirements, including dangers of dehydration and smoke inhalation. Then it has a section on preparing for the bushfire season:

"The following precautions which you may choose to discuss with your neighbours can dramatically improve the bushfire safety around your home."

And, again, a similar message to the previous ones we have referred to about gutters and so on. Then the next paragraph:

"If you live near or back onto bushland, invest in a bushfire emergency kit which should include a steel bucket, torch, batteries, overalls and a hat et cetera."

Do you know whether that document found its way into any publications that were subsequently published?

A. I believe that is the basis for a subsequent publication in the 'Canberra Times'.

Q. I will come to that in a moment. Anywhere else, to your knowledge?

A. I believe it was posted on the Environment ACT website. It actually references that. It also references that "house survival meter" website and the "fence survival meter" website which we spoke about yesterday, and it also gives a reference to the ESB website which had material on it as well about hazards and risks.

Q. The next document under tab 29 is, as I understand it - and I think Mr Lucas-Smith was asked about a document similar to this that is in the brief which I will not go to unless you are assisted by it - related to community service announcements which essentially related to arson problems; is that correct?

A. That was the reason and the purpose of actually putting together what we intended to be a three-part series of messages to the community. This was the first of those such messages. It had

as its purpose to try and inform the community about arson and its risk. But it also had an awareness message component in it as well. So it wasn't just aimed at arson.

5

Q. Is there a record anywhere of what you have described as the awareness component?

A. The visual - it was a visual. It was a 30-second community service announcement. The visual was indicating backgrounds of fire, animals, firefighters, as the words up in the box in the overview in the front says. There were some words over that spoke about the loss of homes and property. The last voiceover I think it was had the message, "Bushfires: are you prepared for the impact?" It was, I suppose, asking the question of people generally. That has, I suppose, a very strong message with those visuals we believed in providing the caution to the community about bushfires. Are you prepared for the impact? If, I suppose, people felt the answer to that was, "No, I'm not", there were a number of avenues to go and get the information.

25 Q. Are you able to say what the visuals depicted? You say it is fire, kangaroos and firefighters. Was it essentially of bushland, trees and forests?

A. I don't know. I can't remember exactly what the visual was.

30

Q. Did it depict an urban area, Mr Castle?

A. I don't recall. The visual is available. Related to that, it was actually shown on 64 occasions on Southern Cross 10 and 107 on WIN TV, as I understand it, over the period starting across the two channels on 15 December 2002 even running through to 1 February 2003. In the material I think we provided there are the exact dates and times at which that particular visual was actually run.

40

Q. The next document is an email, the point of which seems to be a note that the Canberra Connect homepage now features bushfire safety tips?

45 A. Yes.

Q. Can we assume from 20 December 2002 that those

were features on the Canberra Connect homepage?
A. That is what this email advises me that it was.

5 Q. Are you able to say which bushfire safety tips? Are they the ones we have been referring to earlier, clearing gutters and so on?

A. I think it would be the same as what was provided in that indication of the one that went
10 to the 'Canberra Times', those tips.

Q. We will come to that next. That is behind tab 31. "Tips for fire safety at home and travelling". I think it more or less, perhaps not
15 verbatim, but certainly has most of the contents of that document sent by Celia Bourke which we discussed earlier. It includes references:

20 "Tips to prepare your home for the bushfires this summer: clear dry timber, vegetation and rubbish well away from the house; keep grass around the house short and green; if your property joins bushland, clear a fire break at least two metres wide between your
25 property and the adjoining bush; clear undergrowth; connect hoses that will reach all corners; flammable liquids."

30 There is then a section on "if caught in bushfire on foot". There is another section "if caught in a fire driving". Then the same section that I read to you earlier:

35 "If you live near or back onto bushland, invest in a bushfire emergency kit."

A. I would venture to suggest a large number of people actually live near or back onto a bushland.

Q. Sorry?

40 A. A large portion of the Canberra population would live near or back onto a bushland.

Q. Yes. That is in the opening paragraphs?

A. No, that's what you are actually saying; if
45 you live near. The point I am making is it doesn't just say, "If you live on the bushland, back onto." It says "near."

Q. It says, "If you live near or back onto bushland." I read that, didn't I?

A. Sorry.

5 Q. Tab 32 is --

A. That also - in the quote at the start Mr Lucas-Smith says "dry conditions" and indicates that every windy day potentially causes a significant problem. So there is a quote from him
10 about the potential of windy days.

Q. Tab 32, another total fire ban on 7 January.

A. Has that same reason as to why.

15 Q. Yes. "Hot and windy conditions, extreme bushfire danger." The final document, and I think this is included in the little bundle, for those who have that, is what appears to be results of searches done on a Reame news line facility, I
20 assume, because it doesn't have full text of entries, but rather a short description of what the relevant item included. I want to go to some of these because they are lengthy and, for instance, there is quite a bit in there of quotes
25 shortly after the fires in December 2001 and other matters of that kind.

If I can go to the second page of that document, on a slightly different subject. If I can ask you
30 about one item that appears there on Monday, 7 January 2002. There is a reference here to a news item the text of which:

35 "A new study by CSIRO scientists in Canberra shows that the traditional fire danger meter is seriously inaccurate. Grabs of Phil Cheney CSIRO, "The fire behaviour predictions don't work well for different forests" Peter Lucas-Smith ACT Fire Service "we know the
40 limitations of the fire danger meters."

Was that something you were aware of at that time, the issue about the accuracy of fire danger meters?

45 A. Broadly. Phil Cheney was involved in Project Vesta, which was, as I understand it, trying to look at different vegetation types and

particularly extreme fires.

Q. And the fact that the fire danger meters were based on his investigations, to that point,
5 understating the rate of spread?

A. I believe that was what Mr Cheney is actually setting out to prove in Project Vesta and provide some information about what rates might be. So it is trying to have the improvement process, not
10 just to prove perhaps at the top end they are not as good as they could be.

Q. But I think the theme was, wasn't it, Mr Castle, they tend to underestimate fire spread;
15 that doesn't say that in that grab there, but is that your understanding?

A. My understanding is that it underestimates it at a very extreme range, not totally.

Q. Maybe that is something I should take up with someone like Mr McRae?
20

A. Yes. I don't have that expertise. That's my understanding. You asked for my understanding.

Q. If I can jump forward to page 4 of this part of the bundle. Just by way of perhaps a sample, halfway down the page there is a reference to an item on 4 November which picks up some of the things that were dealt with in some of the
25
30 articles.

Uhlmann interviews Peter Lucas-Smith ACT Fire Brigade about fires in the ACT. He says that he attended five grass and bush fires over
35 the weekend. He says this is a little unexpected for this time of year. He suggests that people who live in places that back onto bush should look at building some kind of defensive strip and also to clean out the gutters."
40

The next item:

"The head of bushfire control has issued a warning after the weekend after several bush and scrub fires were attended to in Canberra. Grabs of Peter Lucas-Smith, ACT Bushfire
45

Service, who says "people need to be vigilant ahead of the bushfire season."

5 There is quite a few similar articles. Just over the page, 5 December 2002 Canberra 2CC, Kane Bond. The third one down:

10 "Bond interviews Peter Lucas-Smith ACT Fire Service about fire conditions in the ACT. He advises people how to prepare for a possible fire."

15 Over the page there are references to grabs of Mr Lucas-Smith saying that conditions are hot and people need to clean up their property. Property owners need to do everything to protect their property.

20 In the next part of the bundle, which is two or three pages further on it is headed page 2 of 13, there is a reference to Thursday, 3 January 2002:

25 "Fire crews estimate that more than 160 homes have been destroyed by the fires that have raged across NSW since Christmas Eve. Grabs of Tony Graham ACT Bushfire Service "doesn't mean that you're safe at all."

30 I am not sure what the context of that comment was:

"Peter Lucas-Smith Chief Fire Control Officer "get over the back fence and mow it."

35 And there is a reference to keeping trees away from powerlines. I appreciate these are grabs of obviously longer interviews, but they give the theme.

40 Two pages further on there is again items referring to this season, that is the 2003 season being the worst bushfire season ever --

A. Which item are you on?

45 Q. That is at the very bottom of the page. I think the last three items all say that. Jumping back up to the third item on the page, "Interview

with Tony Graham" talking about the fire at that time in Namadgi:

5 "Graham says to make sure that anyone verging on park area keeps their yard tidy."

Just one other item I will just ask you about, Mr Castle. On page 6, two pages further on, there are a number of similar themes, second from the bottom:

15 "Residents in the ACT are being praised for taking vigilant measures towards reducing fire dangers."

That is 3 December 2002. Are you able to recall what that specifically is referring to, what it was that the residents were doing?

A. No, I'm not.

20 Q. As I said, I will try not to be too selective, Mr Castle, there are a number of other articles in here about firefighters going to the south coast and so on which no doubt Mr Johnson can take you to any that I have missed in due course.

25 A. One caught my eye. One in 'Canberra Times' on page 8. It just caught my eye turning over. It mentions Joan Smyth of Chapman. It is Thursday, 5 December. It refers to fires in the sort of borders areas. I don't know the context in which that is actually recorded. It is obviously somebody in the community had reason to speak. She had had the benefit of that program.

35 Q. I can't find which one you are referring to?

A. Page 8, 5 December the 'Canberra Times' reference. Right down the bottom it refers to "refers to: acting ... Joan Smyth of Chapman".

40 Q. Doing a quick tally of all that material, Mr Castle, the "Will You Survive?" document, as I understand it is, as I think it is described in the summary, primary education document at the time that was available from - I shouldn't say
45 "described as", I thought it had been. It doesn't actually. Perhaps I can ask you the question: was this the primary education tool that was being

used by the ESB in terms of leaflets and so on for the public?

A. It was possibly the primary source of the information.

5

Q. Although, I think you agreed, we covered yesterday the fact that there is at least one depiction of what appears to be a more urban area, there is also a preponderance of material dealing with country properties. In particular on the fifth page there is "Prepare For Your Survival Now. Equipment for you to consider at your country home." If you look at the very final page of the document it has the final message:

15

"You can preserve and protect your environment if you make a positive effort to remove fire hazards."

20 There is a picture underneath it of what is clearly a large farming property. Is that correct.

A. I would agree that looks to be. The other reference you said is on the second last page?

25

Q. No, third last page. "Prepare For Survival now. Equipment for you to consider at your country home".

A. Okay.

30

Q. Would you agree or not, Mr Castle, that if a person who perhaps lived on Eucumbene Drive or Warragamba Drive was at a fair or a place of that type and was shown this document they might be forgiven for thinking that it didn't apply to them?

35

A. I don't think I could assess whether that was the case. It would depend on their own thoughts about their own property.

40

Q. In the material that we have gone through, can you point to anything that would indicate to a person, perhaps excluding someone who doesn't have a back fence that backs onto an area of park or forest or bush, would be suggesting to them that you are a person who is at risk of the effects of bushfire?

45

A. I think general education level of people would assess that if they live in what is described as a "bush capital" there is some understanding of what that means. Each of those
5 items that we have gone through at various stages, I think I pointed out, that it doesn't only refer to people that back onto a bushland.

Q. I suggest to you, Mr Castle, that is the
10 overwhelming emphasis in all the material I have taken you to, that the people who need to be concerned about these issues are people who are either in the bush or who have houses that back onto bushland, forests or parks?

15 A. That is the higher risk.

Q. The Canberra urban area, particularly if you think about Warragamba Drive, Eucumbene Drive and perhaps one or two streets back from there, it is
20 an area that is quite unlike places like the Dandenongs and Mt Macedon in Victoria and the Adelaide Hills in South Australia and the Blue Mountains in New South Wales, isn't it?

A. Yes.

25 Q. That is very much a traditional - what, it is not even quarter acre blocks. I suggest they are smaller than that. It is a traditional urban area, unless you leave your home and walk some
30 distance, no real sense that you are in the bush or near the bush?

A. I think if you go up onto some of the lookout landmarks and look over the landscape one of the things that changes in Canberra over the period is
35 it is renowned for its trees in the suburbs. People take a pride in their gardens and what they actually plant. The thing I have noticed over the years from those landmarks is you can depict a suburb, that is, about five years in development,
40 trees are up over the houses and the houses disappear.

In terms of the traditional urban development in other capital cities, I think Canberra is known as
45 the bush capital. And there is more vegetation in the area than in other traditional cities that you are trying to portray.

Q. You keep referring to the "bush capital". For the people living in urban Duffy, that doesn't necessarily translate to the bushfire capital, does it, Mr Castle?

5 A. No, I don't think it does.

Q. I want to put to you, I appreciate you made the comment yesterday that Mr McBeth's report, at least insofar as he conducted inquiries concerning
10 the perception of people, was very much at best a straw poll. But I want to put to you what conclusions he drew and his comments and ask you whether you agree this is a fair assessment, at least as far as you knew, of the people or the
15 attitude of people, or you are in a position to say he is wrong about these things. This is at page 21 of Mr McBeth's report, which is [AFP.AFP.0087.0005].

20 At the top of the page he mentioned - among other places - he visited houses off Warragamba Road, Canberra Nature Park, Aranda, Black Mountain, Dryandra Motor Village and houses off Caswell Drive and other areas. He posed a number of
25 questions to people he bumped into, in effect, and he spoke to in total 21 people. He says:

30 "They had only a vague understanding that land management authorities are accountable for the land management function, the fuel management function. Poor recognition that individual property owners have, if nothing else, a moral obligation to protect personal assets."

35 A. Could I ask where you are reading from?

Q. I am sorry, 0027 is the actual page number. At the bottom of that page --

40 A. Could I just see those locations again up the top?

Q. Now, back down to the bottom where I was reading - and I am not suggesting, Mr Castle, that this is anything like a thorough survey; it is
45 really to get your reaction to some remarks that he makes - he says:

5 "There was poor recognition that individual property owners have, if nothing else, a moral obligation to protect personal assets, thus assisting in the protection of neighbours and hence the community as a whole."

Over the page at the top:

10 "The majority 'cleaned up' for visual or aesthetic reasons around the home, few had any comprehension of the flame length or flame height that could be generated from
15 vegetation in their area or radiant heat loads produced from relatively low fuel masses under extreme fire weather conditions."

He then talks about some issues relating more specifically to fuel management, which I won't read. If I can go up to the next page to his conclusions --

A. Before you leave that page --

25 Q. Did you want to go back to another part?

A. Yes, before you leave that page.

Q. Could you go back to the previous page?

30 A. And scroll down. Just to point out that "two persons recognised the cause and effect relationship of fire destroying neighbourhood assets".

35 Q. He did say, and I was coming to that, that two of the people he spoke to seemed to understand that issue.

A. You were about to leave that page, though. It says "two persons recognised". Out of his sample, that is 10 per cent; two out of 21.

40

Q. Yes, it is. I thought the part I was about to read to you actually referred to those two people. Perhaps you are right. You are right; he certainly does make that point, that two of the
45 people he spoke to - in fact I should take you to this. It is over on the previous page to that one. It is the second last complete paragraph.

He says:

5 "I spoke with 21 people in all. My approach was a shock to most, as it was dark, cold and miserable."

He says:

10 "However, their grasp of the issues were surprisingly poor for residents of the 'bush capital'. Only two out of the 21 demonstrated any broad understanding of the issues and the potential for fire disasters."

15 As you say, that is 10 per cent. Two pages further on, the conclusion --

A. If that goes for the population, that is 30,000 people.

20 Q. I will come back to that, Mr Castle. He says in his conclusions:

25 "In summary, and consistent with most urban communities throughout Australia, the urban populace perceives bushfire prevention and protection as someone else's problem. Apathy and complacency are the order of the day, with an overwhelming subconscious attitude that bushfires won't happen, and if one does
30 'me and mine won't be affected'."

Are you able to say that that was an attitude that was not prevalent in January 2003?

35 A. I think all emergency managers right throughout the country and perhaps even world-wide face an issue of "it won't happen to me". It is the same as people taking road safety: "It won't happen to me. I won't have that accident." In terms of general community knowledge and
40 understanding, there is almost an optimistic view that "it won't happen to me".

45 Q. I take it your answer to that question is essentially yes, is it, Mr Castle; that you had no reason to think that that was not a view that was prevalent in January 2003 in relation to bushfires?

A. No, I don't think I would actually go as far as saying yes at 2003 because of the efforts that we had actually put in, particularly since the 2001 fires, and all of this material we put there, including the media and the information that we had provided. I think there was an expectation there was a greater understanding than that perhaps portrays.

10 Q. He then makes the point:

15 "The Canberra urban rural populace is, however, somewhat different from similar communities in comparable areas throughout the Commonwealth, Blue Mountains, Dandenongs, Mt Lofty Ranges in that these communities have to a degree developed over three to four generations from a rural, agricultural, horticultural or forestry industry base."

20

He then talks about how, as a result of that exposure to bushfires, they have a more developed understanding of the risk. He concludes that paragraph:

25

"Consequently no imperative exists in the minds of Canberrans to change the status quo."

30 He then goes on and says this:

35 "The 'bush capital' Canberra populace as a whole migrated to the capital with its industry or enterprise base being predominantly government administration and ancillary services. The vast majority of these people came from other urban communities with no tradition, experience or understanding of living in the bush or with successive bushfires."

40

Is that a view you would agree with?

A. No, I don't think I do.

45 Q. Is it your position that the majority of the people came from a rural populace, is it?

A. No, I was about to actually elaborate what I

don't agree with. I doubt if the people in the Blue Mountains and the Dandenongs were predominantly rural based people. If you go down --

5

Q. I am not asking about the rural Dandenongs, Mr Castle. I am focusing on Canberra.

A. I think he is drawing an analogy, and he is trying to draw a difference between it. That's all I am saying.

10

Q. Let's ignore what he says about the Blue Mountains because it really isn't important in that paragraph:

15

"The 'bush capital' Canberra populace as a whole migrated to the capital with its industry or enterprise base being predominantly government, administration or ancillary services. The vast majority of these people came from other urban communities with no tradition, experience or understanding of living in the bush or with successive bushfires."

20

25

Taking that paragraph in isolation, and in particular the last sentence, is that something that you would agree with?

A. I presume so. I have no reason to doubt that it is not. But the point I was making is nor did the people of the Blue Mountains and some of those other areas that are quoted, and I think taking it out of context that has a problem.

30

Q. Except that he hasn't used any statistics to back up what he has said. Certainly, as far as Canberra is concerned, that would appear to be a fair assessment of the nature of the Canberra populace as at 2003 and today, for that matter?

35

A. I think - I have no reason nor evidence that I'm aware of that specifically refutes that, but I don't see a statistical analysis that asserts that either. There is a common view that this was a Public Service town, but nothing about where people came from.

40

45

Q. I want to come back to an issue I raised with

you before. If you were a person living in the suburb of Duffy, for example, whose house did not back onto bushland or park or forest, I suggest that you could be forgiven for not appreciating that the community awareness material that I've
5 gone through with you simply didn't relate or wasn't relevant to you?

A. You could be forgiven if you had that view, but that does not mean to say that they had that
10 view and that they weren't taking heed of the information or the efforts that we had put into advising people that there were risks.

Q. You were not as at January 2003 in a position to say with any confidence that people in those
15 sorts of areas were aware that they were exposed to the risk of bushfire?

A. And I think I said yesterday I had no reason to doubt that they were not.

20

Q. I am going to put it to you again. You were not able to be confident as at January 2003 that people living in areas like Duffy and along Eucumbene Drive and Warragamba Avenue had an
25 understanding that they were exposed to the effects of bushfire?

A. I had no reason to doubt that they were not aware, just as I had no reason to doubt that there are other sections within the community that had
30 that.

Q. But you were not in a position to be confident that they did, were you, Mr Castle?

A. I think I had the same level of confidence.
35

Q. As what?

A. That --

Q. Let's put it in the positive. Were you
40 confident, as at January 2003, that the people living in areas such as Duffy, along those roads I have identified and perhaps a few streets in, understood that they were exposed to the risk of bushfire?

A. I think the events of 2001 gave them a greater understanding of their awareness. Therefore I
45 think as at January 2003 they would have had a

realisation that there was some risk to them.

Q. As at 2003 is it your evidence that you were confident that they knew that they were exposed to the risk of bushfire?

A. I had no reason to believe that it was not.

Q. Mr Castle, I think I have asked that question several different times and several different ways and no-one has yet objected. Her Worship has not stopped me. It is not a complicated question. I will ask it again. I want you, if you can, give me a yes or no answer. As at 2003, that is January 2003, is it your evidence that you were confident that those residents I've identified knew that they were exposed to the risk of bushfire?

A. I believe they would have had a degree of understanding of the risk.

20

Q. You were confident about that?

A. I believe I was confident that they had a degree of understanding about the risk.

Q. That confidence, I assume, was based on your knowledge that they had been the recipients of this information that we have just been through?

A. Variety of opportunities where that information has been provided into the public arena.

30

Q. None of that information identifies for those residents directly that they were at risk, does it, Mr Castle?

A. Provided specifically to the people of those streets?

35

Q. Yes.

A. I've already said we did not specifically address those streets.

40

Q. Even assuming that those people happened to be reading the paper on the relevant day or watching the television or received a fridge magnet or went to a community event where these documents were available, there is nothing in them that identifies for those people that they are at risk,

45

at direct personal risk, that their homes are at direct personal risk from bushfire?

A. I don't think anybody envisaged the devastation of January the 18th.

5

Q. No --

A. And that's what I think you are asking me.

Q. No, that's not what I am asking you. I'm asking you about a theoretical risk at this stage. I am asking you about people who lived in urban Canberra in the streets I've identified. There is nothing in that material that says to them, "Look, if you don't back on to bushland or if you don't live near a forest you are still at risk"?

15

A. I think you are turning the information around. I've actually already portrayed I think throughout some of that that it doesn't only aim at people on the bush interface that live on, as you say, or back onto parkland; but they are at the higher level of risk than those that don't.

20

Q. So you are satisfied, are you, that this material that was provided was giving a sufficiently strong message to those residents that I've asked you about that they were at risk from bushfire?

25

A. I think I said yesterday we can always improve and do more about our community education.

30

Q. So you are not satisfied?

A. That's not what I said.

Q. Well, were you satisfied that the message was getting through?

35

A. At that particular time I believe we had done everything that we could at that stage, and with the level of resources that I had in the bureau over the years to actually provide that information.

40

Q. Was resources a problem? If you had more resources for community education what else would you have done, do you think?

45

A. Absolutely. We would have probably instituted the bushfire blitz program earlier.

Q. That would have been helpful, wouldn't it, to those residents to help them understand that they were at risk?

5 A. Yes. But you can only lead people to certain information. And I believe within --

Q. What I suggest to you, Mr Castle, if the people don't appreciate the fundamental fact that they live in an area or in a house that is at risk of bushfire they are not going to absorb it, are they?

15 A. I think anybody that doesn't realise that they are at potential risk - it is back to that complacency that you referred to earlier.

Q. I will just conclude this topic by going back to your statement, Mr Castle, at paragraph 32. You talk about the risk management unit. I think you say in your statement that the unit is presently embryonic and presumably that was the position in January 2003?

A. That was the position in 2003. More resources have been provided since.

25 Q. What was the process for co-ordinating in the period covered by this material? Was the risk management unit at that time responsible for co-ordinating the dissemination of that material?

30 A. Initially it was individual services, and to some extent is still without the resources in this community education public relations section in this risk management unit. That still has a partnership role between the services. But this was the coordination area that I was trying to grow and trying to implement but had not yet.

Q. And hadn't as at January 2000?

40 A. Because of the resources. I had added one person through that, who was relatively new to that area.

Q. The risk management unit at that time, I think you said yesterday, the community education component of it before the risk management unit was established had, I think, two or three people?

A. Two.

Q. And they are now under Mr McRae; is that right?

A. He's the acting manager.

5 Q. Why is he still acting, Mr Castle?

A. That was a recruitment process, and the availability of resources trying to ensure that I could actually provide and get somebody of sufficient expertise, I suppose, go through a selection process. It was making the resources available to recruit somebody.

10 Q. So he was given, in effect, an extra job until someone could be found to discretely take on that role?

A. He was acting as the manager.

MR WOODWARD: I am about to move to another topic. Is that a convenient time?

20

THE CORONER: Yes. That is a convenient time.

SHORT ADJOURNMENT [11.22am]

25 **RESUMED [11.45am]**

MR WOODWARD: Q. I just want to go reasonably quickly through your statement in a period up to the point where it starts to deal with the fires, Mr Castle. Starting on paragraph 35 you talk about the structure of the Bushfire Service. You mention Mr Lucas-Smith's role. You also refer to the operations manager being responsible for the operation of both services. That position is held by Mr Tony Graham?

35

A. That's correct.

Q. Were you involved in the recruitment of Mr Graham for that position?

40

A. No.

Q. When was he recruited?

A. Other than I would have signed off the appointment, I think.

45

Q. Are you able to say at the time he was appointed to that position what bushfire

experience he had?

A. No, I am not.

5 Q. You then go on to deal with the different
components of the organisation of which you were
executive director. I don't want to, by skipping
over them, be seen to be understating them, but it
is generally uncontroversial, if I can say that.
10 You refer in paragraph 46 to the fact of your
chairing the Bushfire Fuel Management Committee,
which we have discussed. In paragraph 51 --

15 A. I should actually correct in that paragraph
46, it is a mere minor point, it should be in
accordance with section 11A of the Bushfire Act.

Q. That is capital A?

A. Yes, capital A.

20 Q. As I have said, you referred to the McBeth
report in paragraph 47. Then you deal with more
recent events under that heading at paragraph 51.
I think we covered this, but you say in your
statement at paragraph 51:

25 "There were dramatic changes and significant
improvements to consider. Publishing was
delayed."

30 There was a hazard assessment performed and
generally you confirmed the position that was
articulated by Mr Wood in that release that the
new plan was a significant step forward.

A. That's correct.

35 Q. You say in paragraph 52:

40 "The land management agencies and the
Bushfire Service were now working
cooperatively."

I don't want to over-emphasis it, but is the
reference to "now" to be taken as meaning that
that hadn't been happening before?

45 A. This was trying to portray that that was now a
much more cooperative arrangement. There had been
co-operation but this was now a vast improvement.
I think that coordination between the areas of

function, so cooperatively they were actually thinking more of the whole, the parcel of land that they may have individually divided up responsibilities for in the past.

5

Q. You actually talk about the management agencies and the Bushfire Service. It seems to me you are making the point not only as between the agencies themselves but also as between the agencies on the one hand and the Bushfire Service on the other?

10

A. I believe what I was thinking was a reference to the greater involvement of the hazard maps and being able to analyse the hazards.

15

Q. There had been concerns expressed over the years by Mr Lucas-Smith and others in the Bushfire Service about lack of action in relation to particularly prescribed burning, hadn't there, Mr Castle?

20

A. Yes, yes.

Q. And the new plan was, in part, intended to address those concerns?

25

A. Yes.

Q. Your statement then deals with the 2001 fires.

A. Yes.

30

Q. Mr Lucas-Smith was asked some questions about this, and you say in paragraph 54 there was a series of debriefs following those fires amongst interested stakeholders, I suppose. Were you present at those?

35

A. Not for the totality of the operational levels. I wasn't present for the whole of the operational, only the very start of it.

Q. You were, I assume, informed as to what the results of the debriefs were, what reforms were thought necessary?

40

A. Broadly, yes.

Q. Mr Lucas-Smith has given some evidence about the various reforms that were identified and implementation of which had begun before January 2003, is that --

45

A. Yes.

Q. You say in your statement, paragraph 54:

5 "With the exception of two or three of those
recommendations, the rest were implemented or
were in the process of implementation before
January 2003."

10 Are you able to say off-hand what the two or three
were that weren't in the process?

A. No. But what I'm referring to there is the
Emergency Management Committee strategic level
debrief.

15

Q. Yes.

A. No, not off the top of my head.

Q. In the final part of that paragraph you talk
20 about during 2002 you worked with Canberra Connect
to help them assist to provide information during
emergencies. Those arrangements were finalised on
18 December 2002. Can you be more specific about
what those arrangements were?

25 A. Yes, I can. In about the middle of the year
we commenced discussions with Canberra Connect on
a way to try and relieve some of the load of 000s,
which is a common occurrence in large emergencies.
That's national. Every emergency agency faces
30 that. We were investigating the concept of having
a 1800 number.

We opened discussions with Canberra Connect and
they did some analysis for us to their capability
35 and we pursued those discussions. I was very
pleased with the approach they could actually
take. They could scale up in terms of operators.
The idea being they would be a source of
information to the public and relieve the pressure
40 on 000.

I also met with a group of public relations
network that were right around the ACT government,
and between those two, this was part of the
45 process. But the Canberra Connect, we worked very
closely with them to work up a proposal, which
they then took to their board and got funding for

and approval to set it up. It has an acronym - Canberra Connect Emergency Information Centre, I think was the acronym. They put their proposal to their board. What they said they could do was use
5 the 13 Act 1 number which is 132281 number and have a series of scaling up of operators to cater for peak loads. We put that in place. As I said there, those arrangements as to how we would do that were finalised on 18 December.

10

Q. So in practical terms, the arrangement that was put in place there was to provide, in effect, an additional inquiry number other than 000 where people with concerns about an emergency could make
15 an inquiry without actually calling the emergency services?

A. That's correct. It also offered the website capability as well. So we could actually provide information both in a call operator sense and in a
20 website. The idea was to have a link, somebody at the operations centre that could actually provide that information direct onto the supervisor's PC, as I understand it, in the call centre. The idea of that, with that publicity to the general public
25 about what they could do, and it would relieve, hopefully some of the pressure on 000.

Q. The process that you have described, as I understand it, dealt with if you like the hardware
30 associated with that process rather than actually the content or the way in which warnings might be made, how the messages are given across, that kind of thing. It was more concerned with the infrastructure; is that correct?

A. The infrastructure and the process of how it would actually get from the sections to the call
35 centre and their procedures as to how they would escalate it.

Q. Marika Harvey has provided a statement to the inquest. Do you know Ms Harvey?

A. Yes, I do.

Q. She refers to her involvement in the fires of
45 2001. Her statement is [ESB.AFP.0111.0196]. She talks in paragraph 11 about an emergency exercise called "Exercise Minotaur" held in August 2002

simulating an outbreak of foot and mouth disease.
Did you have some involvement in that exercise?

A. Yes, I did.

5 Q. She says in paragraph 11:

"This provided the ACT government" --

I assume she means to say --

10

"The opportunity to test the arrangements of
the Emergency management plan" --

and she mentions other departments --

15

"which would have primacy and response for
such an outbreak, random simulation of the
foot and mouth disease outbreak. The
exercise ran over a week but simulated a
20 three month-long incident."

She goes on to say at 0199:

25

"Public communication and information was
identified as being a major issue in managing
the incident, particularly communications
between different jurisdictions, and to
manage and co-ordinate this, a public
relations team was put together to
30 participate in the simulation, including
myself, Amy Lowe and Cecilia Bourke from
Environment ACT."

35

Do you agree that public communications and
information was being identified as being a major
issue in managing that incident?

40

A. That simulation was a national exercise. I
think what she is referring to there particularly
was the information available through the
technical expertise of a myriad of technical
committees that had to meet and agree on what
could be given to the public and what was the
public message. So I think mostly she is
referring there to, you will notice, particular
45 communications between different jurisdictions.

Q. As you understand it, her reference is not to

the process by which information was disseminated generally to the public?

A. No because that was not tested in detail and that was not simulated.

5

Q. She goes on in paragraph 13:

"During the simulation, and as the 2001 fires had already shown us that we needed to keep the public informed, we knew we couldn't focus on media management and forget all the other possible channels of communication such as advertising."

15 Et cetera. Do you agree that that's something that at least was apparent out of the 2001 fires, the need to keep the public informed?

A. Oh, yes, and that's why we actually set about doing with Canberra Connect.

20

Q. So the Canberra Connect arrangements you referred to was the response to that?

A. Yes, in effect.

25 Q. Were there any other measures implemented over the course of that year, either as a result of the 2001 fires or the other matters that led to - I think Mr Lucas-Smith referred to learning from the Linton inquest and from the Ku-ring-gai National Park inquest, specifically in the area of public information, any other action taken in that period?

30 A. Not that I'm aware of in relation to that because I think the material that Mr Lucas-Smith was focusing on operational.

35

Q. Just turning for a moment to perhaps more operational issues. The submission on behalf of ESB and Mr Lucas-Smith deals with - and Mr Lucas-Smith was asked about a document prepared by Mr Rick McRae entitled "Phoenix Imperative" apparently dated some time in February 2002. Are you familiar with that document?

40 A. No. Not intimately, no.

45

Q. Were you present - I think you said you were present in court throughout Mr Lucas-Smith's

evidence?

A. Yes, I was.

5 Q. Do you recall the questions he was asked about that?

A. No, I don't recall the questions.

10 Q. It is headed "The Phoenix Imperative" and is [ESB.DPP.0001.0074]. Essentially it is a document, at least as I read it, that recommends a rigorous and immediate hazard reduction program. The introduction of it beginning:

15 "In recent history Namadgi National Park has rarely carried fire, and when it did they were often very large wildfires - over 20,000 hectares. The Park is in a vicious cycle - by keeping fire out most of the time we are endorsing the occasional very large
20 wildfire."

He goes on to describe the sorts of events that might occur on the second page of the document. Below those bullet points, it says:

25

"Namadgi National Park covers a large fraction of the ACT, and is the area in which extensive landscape fires are most likely to occur. While there are few valued
30 (non-environmental) assets within the park, the exception being the water supply catchments, its neighbours could suffer large losses from fires leaving the park."

35 It talks about the history of fires in the area. At the bottom of the page - this is in February 2002 as I understand it - he is saying:

40 "The potential for a drought to occur shortly as a new El Nino forms in the Pacific Ocean raises the spectre of the highland fuels in the park becoming flammable. Should they be ignited, then a fire could easily become a landscape fire if the FDI is high enough.
45 Difficult access makes rapid suppression harder than elsewhere in the territory."

Over the page he talks about:

5 "There is an obvious need to become
proactive. The best, and perhaps only, tool
for the job is controlled fire."

10 On the final page he provides some final
recommendations at 0078, just under that chart. I
will read to you his recommendations. He says:

"Arising from this discussion are some clear
recommendations.

15 Recommendation 1: a rigorous burning program
needs to be initiated immediately. A "do
nothing" approach is not acceptable."

20 He then goes on to describe the process by which
that process can be implemented. He says at
paragraph 10 - the first recommendation is on the
screen which I have read. The rest of the
recommendations down to 10 deal with the process
for implementing that program and issues of
funding. He says in number 10:

25 "Contingency plans will be needed for the
transitional period in the lead up to optimal
fire ages being established."

30 Were you aware in February 2002, the head of your
risk management unit Mr McRae was recommending
that a rigorous burning program needed to be
initiated immediately and a "do nothing approach"
was not acceptable.

35 A. I understand that's what he was saying.

40 Q. Is that a view that you shared at that time?
A. I think the challenges of the park - because
elsewhere somewhere in that paper I believe he
refers to the dilemma of facing 32,000 hectares
per annum is quite a challenge. It has to be
mosaic - that's my words.

45 Q. Of course it does. It has to be a process
that is a long-term process?

A. That's correct.

Q. I think he is saying in effect that it needs to be begun immediately?

A. Yes.

5 Q. Because it is a long-term process. So the sooner you begin it the better?

A. Yes, yes.

Q. Is that a view you shared?

10 A. I think some aspects, yes.

Q. Are you satisfied that enough was done following the publication of that report to initiate the process as it was recommended by
15 Mr McRae?

A. I think the processes were put in place was the revision - the delay of the 2002/2004 fuel management plan and the hazard analysis which I think lies behind that aspect was incorporated
20 into the 2002/2004 plan. But I also was aware that there was considerable debate as to how that is actually done in a national park. There is a whole Bushfire Research Council being established. And one of the aspects - as I understand, one of
25 the programs is to look at how you can get that balance and where it should be.

I think in the bushfire - in the lead up to the 2002/2004 plan, I believe there were discussions
30 about the challenges that faced and how it could be done in a coordinated and sensitive way within the park.

Q. While those discussions and consideration was going on, the actual burning that Mr McRae was recommending albeit only as a commencement wasn't happening; is that correct?

A. I'm not too sure there was no burning.

40 Q. In the Namadgi?

A. I'm not aware specifically of what burning specifically was being done. I had some recollection --

45 Q. If you don't know, Mr Castle --

A. No, no.

Q. I think Mr Lucas-Smith agreed, as you have said, there were some discussions and the whole issue was being debated during 2002 but there wasn't much being done, at least as Mr McRae would
5 have liked?

A. I don't think so.

Q. I think Mr Lucas-Smith's evidence, particularly at page 781 of the transcript, the
10 program - that is the program recommended by Mr McRae - was never commenced in the 2002-year, calendar year?

A. That may be the case. I have no reason to disagree or have no knowledge of that.

15

Q. It is the case, isn't it, Mr Castle, you were aware that that recommendation had been made by Mr McRae in about February 2002?

A. I was aware of the paper, yes.

20

Q. Were you aware of the recommendation?

A. Read the recommendations, yes.

Q. Just a couple of minor things before we get to the actual events of January. Were you aware of the fire workshop known as the Namadgi fire workshop that was conducted in November 2002?

A. I am aware one took place.

30 Q. Did you have any active involvement in it?

A. No.

Q. Did you see any documents that articulated the outcomes of that workshop?

35 A. No it is my understanding it is a pre-season workshop. Focus was specifically left to the operational people.

Q. Just reading from a document, I will ask you, if you haven't seen that document, whether you were aware this was one of what is described as the outcomes. This is a document [AUS.AFP.0035.0019]. I should perhaps mention, Mr Castle, the exercise, as I apprehend it from
40 the documentation, was one that bore some distinct similarities to what actually occurred.
45

If I could go first to document
[DUS.AFP.0001.0601]. That appears to be a
document that was in effect setting up the
exercise. It states:

5

"The exercise is set up to trial the
responsiveness of ACT government land
management agencies and the Emergency
Services Bureau to a large scale fire in a
10 reasonably remote area within Canberra's
water supply catchment".

It indicates the aims and objectives. I think it
is fair to say that the aims were largely
15 operational. If I can just go forward three pages
to 0603. It sets out the actual scenario that was
being workshopped in November:

"It is January 2003. We are in an el Nino
20 year.

The ACT has just experienced the driest
winter/spring and early summer on record. By
November the Byram-Keetch drought index was
25 132, the highest recorded for so early in the
fire season. The ACT is experiencing its
worst brought on record, with November
temperatures averaging 6.4 degrees Celsius
above average and no significant rainfall
30 since September 2002."

Then it postulates that litter fuels being dry,
moisture content depleted and the ESB and
government land management agencies being on high
35 readiness. That is a very familiar scenario now,
isn't it, Mr Castle?

A. Yes it is. It is fortunate that they chose
that as a scenario, I suppose.

40 Q. Yes. Just turning now to the outcome. I
should ask you, did you have any part in devising
that scenario?

A. No. I didn't. I was aware of discussions
that the executive director of Environment ACT
45 said they were very keen to do such an exercise,
particularly as it related to the catchment, and
they then cooperated between the Bushfire Service

and Environment ACT to come up with this scenario,
as I understand it.

5 Q. The outcomes are set out in a couple of
documents. I will just take you to one of them.
That's the document I had before,
[AUS.AFP.0035.0019]. Just in that passage that is
on the screen you will see:

10 "The Namadgi fire workshop had two purposes:

To come up with a set of guidelines or
parameters of what actions and methods of
suppression can be taken in the Cotter
15 Catchment.

And, what information gaps needed to be
addressed so that a comprehensive fire
management plan and a pre-suppression plan
20 could be developed.

One of the outcomes of the workshop was that,
in any fire situation in the Cotter
Catchment, the ESB would attack the fire
25 aggressively. If the Parks and Conservation
Service had any priority areas that needed to
be met, they had to be articulated clearly,
and in a timely manner, to ESB."

30 There is references then to fuel management and
some other administrative issues, protection of
the corroborree frog habitat. And then towards
the bottom of the page a summary of the
discussions held at the exercise:

35 "... it was agreed that the information
required by ESB fell into the following
categories: elevation, vegetation, soil
profiles mapping; track/trail standards,
40 float accessibility; water points; sensitive
components; environmental consequences; fuel
loads currently, and acceptable loads for
various communities; helipads and possible
helicopter sites."

45 Just dealing with perhaps each of those in turn,
going to what appears to be the outcome - that is

first identify and that the ESB would attack the fire aggressively - is that something you were aware was an outcome of this exercise in November 2002?

5 A. No, I'm not aware of these specific outcomes but I am aware that that is a philosophy espoused by the Bushfire Service in the ACT.

Q. It is one you would endorse, I assume?

10 A. Yes.

Q. You weren't aware of these recommendations in those terms?

15 A. No.

Q. So I should ask you though, in relation to those references down the bottom, the bullet points, are you aware what, if anything, was done in the period after 8 November to progress the provision of that information to the ESB?

20 A. No, I'm not. They are generally the aspects that needed to come from the land managers about those things.

25 Q. That is what it says, "it was agreed that the information required by ESB" - this is information is being recognised that ESB needs. That's why I am asking you do you know --

30 A. Particularly the Bushfire Service.

Q. Do you know how much of it was available or made available in the period between then and January?

35 A. No, I don't. I believe they were working on it. But I don't know what was provided.

Q. Your statement, just returning to that, Mr Castle, in paragraphs 56 to 59 discussions deficiencies in the facility systems in Curtin, which I think are matters addressed in some detail by Mr McLeod?

A. That's correct.

45 Q. Then you deal with the events of the actual fires. Before I get on to those, can I ask you this general question: with the information that had been circulated by your organisation, ESB, in

the period leading up to January, including all of that material that we have been through yesterday and today and comments by Mr Lucas-Smith that 2001 was only an entree to what was going to happen in
5 2002/3, are you able to indicate what, if anything, was done in terms of preparing for that bushfire season that recognised those extreme conditions; that is, operation preparedness?

A. Each of the services actually go through
10 reviewing and revising their operations and processes. I can't say that I can point to any one specific thing in an operational sense that was specifically over and above what a preparation could be. But I believe Mr Lucas-Smith would be
15 the more appropriate person to answer.

Q. I think he was asked questions about that. I am sure I will be corrected if I am wrong, but my impression of his evidence was that the level of
20 readiness during the period, after or during that fire season was simply the standard level of readiness that would have applied based on what the fire danger for the day was?

A. But I think that's a process that can occur in
25 any season, and the readiness approach and process is already set in SOPs, standard operating procedures.

Q. What I am trying to ascertain, and I think the
30 answer is clear, but I am just checking it with you, nothing extra was done to recognise the particularly extreme conditions that you were facing this year?

A. I'm not aware of anything that specifically
35 comes to mind that hits me from an operational sense that was enunciated as being over and above, and this was because of. That's what I am trying to say, I think.

Q. Is that something that concerned you,
40 Mr Castle, given all these predictions throughout the previous year, including comments by Mr Lucas-Smith that this is the worst fire season and probably worse than Ash Wednesday, that
45 something extra wasn't done to ensure that everyone was as prepared as they possibly could be for this season?

5 A. I had the same confidence that I think Mr Lucas-Smith had that everything was done. I can't think of specific aspects that would have, other than providing more resources, which is a funding issue.

Q. I think the answer to my question was, you weren't concerned?

10 A. No, I don't believe I was.

Q. Just on that subject, that is the subject of the concern generally about the forthcoming season, it appears that on Wednesday 13 November 2002, you might have heard 15 Mr Lucas-Smith asked about this in document [ESB.AFP.0110.0834] the Legislative Assembly passed a resolution in terms that are now on the screen:

20 "(1) Decry the loss of property and the extensive loss of natural bushland and pine forest in summer 2001-2002;

25 (2) notes that but for the excellent work undertaken by the ACT Rural Fire Services and Emergency Services greater devastation would have occurred;

30 (3) majority of the fires were caused by human intervention."

And more particularly:

35 "(4) notes that the fast approaching summer contains bushfire conditions that are anticipated to eclipse those of 2001-2002 with severe weather conditions likely to exacerbate a desperately dry situation; and

40 (5) notes the importance of the Government's current fire safety education programmes in ACT schools and also programmes aimed at arson offenders in the ACT."

45 The document then attaches material that we have already covered in the discussion about the series of television advertisements on issues relating to

arson. Did you have any involvement in that resolution being passed; Mr Castle?

A. No, I'm not a member of the Legislative Assembly.

5

Q. I understand that. Did you provide any advice or assistance to those who proposed or passed that resolution?

A. Could I ask whose signature is on the bottom of this document?

10

Q. Yes, of course. The bottom of the document, if you then turn it over to the next page, under "issues", the signature is yours. However, you just merely quoted a resolution that had been passed and this document relates to the publicity program. So I don't think your signature on it necessarily means you had some involvement in the resolution itself. Did you?

15

A. No, not that I'm aware.

20

Q. I think Mr Lucas-Smith speculated that it might have been a resolution proposed by the opposition; is that right?

A. I believe that is the case.

25

Q. You didn't assist with the drafting of that resolution?

A. No, absolutely not. And nor would I expect to. Could I actually just go back: You asked me questions and in the back of my brain for additional aspects. There were hazard reduction burns which we used as opportunities for people to gain experience in hot fire training as well. I think that was an additional aspect that was taken into account from an operational sense.

30

35

Q. A training opportunity?

A. A training opportunity.

40

Q. Do you know where those burns were?

A. Yes. They were on Narrabundah Hill and near the Orana school and on Lady Denman Drive.

45

Q. One of the things that Mr Lucas-Smith was asked about in that context was the steps taken to ensure that there was an adequate availability of

heavy plant; is that something that you have any knowledge of whether or not anything of that kind was done?

A. No.

5

Q. The same statement commencing on page 14 at paragraph 60:

10 "ESB routinely monitors the Bureau of Meteorology website. Mr Peter Lucas-Smith alerted me that severe lightning strikes had occurred."

15 This is on 8 January. You refer to the bushfire detection towers. The top of the next page you say:

20 "My role from the 8th wasn't that significant early on. The fires were remote and there were many of them over a large area. It was really a matter of supporting and reporting the situation upwards to Government. For example, I would brief Tim Keady, the Chief Executive, Department of Justice and
25 Community Safety and ministers."

30 Can you give us a general impression, Mr Castle, of firstly when you started to involve Mr Keady in that process you have described and how often you were conducting briefings with him?

A. It's my practice over many years that I have been with the Emergency Services Bureau, I report through - since 1995 I think - the chief executive Justice and Community Safety and that's the
35 process of providing information also to ministers. I also develop working relationships with minister's advisers. It was my role that I saw that I would advise from time to time both the chief executive of the department and also --

40

Q. That's Mr Keady?

A. That's Mr Keady. And generally an adviser to the minister of significant events that the agencies within the bureau were involved in. And
45 this, at this stage, just formed one such occasion, that there were fires, that there were fires up in the hills.

Q. Can I take it from that answer that you spoke to him - the first occasion you spoke to him was on about the eighth of January?

A. I probably did.

5

Q. Do you recall at that stage having any or giving any briefings or information to ministers, including the Chief Minister?

A. No. No, I did not.

10

Q. When do you recall first providing a briefing to the Chief Minister in relation to fires?

A. Me personally - as I understand it, the Chief Minister was on leave until Monday the 13th.

15

Q. So that, as best as you recall, was the first day you spoke to him personally?

A. Yes, he came out for a briefing.

20

Q. What about other ministers?

A. Our minister - I'm not too sure - I recall talking --

Q. Your statement says, "I would brief Tim Keady and ministers," plural. I am trying to get a sense from you, Mr Castle, how often you were speaking to ministers and, having done that, find out who you were speaking to?

A. At that stage not a great deal, and I suppose that was a general overview.

Q. I am actually asking about a general overview at this stage. Over the period, that is from 8 to 18 January, how often were you briefing ministers?

A. Ministers, not very often. Mr Keady, probably - I was having discussions daily. He spent some time out in ESB on each day, as I understand as we went into the following week. On these days, no.

40

Q. I think Mr Lucas-Smith in his evidence said essentially you, rather than him, were briefing Mr Keady; that was your responsibility?

A. Yes, that's correct.

45

Q. Mr Lucas-Smith in his statement describes about being informed about the fires at 3.25pm and

assembling the Service Management Team. Did you have any role in determining who would fulfil what functional role within the SMT?

A. No.

5

Q. Mr Lucas-Smith didn't consult you about that?

A. No, nor would I expect him to. That's an operational matter.

10 Q. You were probably present when Mr Lucas-Smith was asked, but Mr Bartlett arrived at the ESB at one point and he was a Deputy Chief Fire Control Officer; is that correct?

A. Yes.

15

Q. As were Mr Graham and Mr Arthur Sayer; is that your understanding?

A. That's my understanding.

20 Q. Of those three individuals, did you have a view at the time, Mr Castle, as to which had the most bushfire fighting experience?

A. I don't think I was privy, nor considered that.

25

Q. As a general proposition, would you agree that - you have done some ICS training, haven't you?

A. Yes.

30

Q. Would you agree that the functional role of operations manager in a firefight, bush fighting a wildfire, it would be desirable, wouldn't it, to have your most experienced bushfire fighter in that role?

35

A. Sorry, what was the position that you were suggesting?

Q. Operations officer under the ICS.

40

A. I think that depends where they are located. In the field that may be the case. In a headquarters, that may be people that fill a particular function.

45

Q. You would know from your training, wouldn't you, Mr Castle, that the operations officer under ICS, at least, is a person who makes at least

initially, and subject to the oversight of the incident controller, all the strategic decisions in relation to fighting the fire?

A. Yes, that's correct.

5

Q. Wouldn't it follow from that that the person who is making those strategic decisions about fighting the fire would be someone, if possible, that has a considerable amount of experience in fighting fires?

10

A. I'm not too sure it follows fighting fires, but --

Q. Well, maybe not hands-on firefighting, but certainly some involvement in hands-on firefighting would certainly be a help?

15

A. That would be an advantage.

Q. And a significant amount of experience in running a firefight would be desirable?

20

A. I think desirable.

Q. Mr Graham, in his statement, referring to the evening of the eighth refers to - I won't take you to the passage because I think you have said already in your statement that you weren't very actively involved at this stage - he refers to:

25

"Throughout the afternoon into the evening the SMT met to discuss a range of issues including the need for overnight deployment."

30

That is Mr Graham's statement at page 16. Were you involved in any of those meetings or discussions?

35

A. No.

Q. Do you recall being present on the eighth at any point during a discussion where the need for overnight deployment was raised?

40

A. No.

Q. Where were you physically on the afternoon/evening of the eighth, were you at Curtin?

45

A. Without checking my diary, I believe I probably was. I could check my diary overnight.

Q. But to the extent that even if you were, you weren't actually participating in these operational discussions?

A. That's not my role.

5

Q. I'm not being critical of you.

A. No, no that's not my role. I wouldn't expect to be.

10 Q. You are aware, aren't you, that that evening a meeting was held at Queanbeyan?

A. With Mr Peter Lucas-Smith.

Q. That's right. Not with you?

15 A. No.

Q. Were you aware on 8 January that Mr Lucas-Smith and Mr McRae went to Queanbeyan to meet with members of the New South Wales Parks and Wildlife Service team fighting the McIntyre's Hut fire?

20 A. I'm aware Mr Lucas-Smith went. I don't know who he took with him, whether it was Mr McRae. If he says that is the case then I have no reason to doubt that.

Q. Were you aware of that meeting, that it occurred on the night or was it something --

A. I believe so.

30

Q. Did you have a discussion with Mr Lucas-Smith or Mr McRae that evening after their return from that meeting?

A. I doubt it.

35

Q. I think the evidence is that they returned at around 9 o'clock that evening. Do you know whether or not you were still at ESB at that time?

40 A. No. I can check that with my diary overnight, probably.

Q. That may not be important, Mr Castle. You don't recall having a discussion with Mr McRae or Mr Lucas-Smith about that meeting?

45 A. No. I work long hours. That was my want, but whether that was - I was still there at 9 and whether I actually discussed it I don't recall.

Q. Do you recall getting any information that night about the status of the McIntyre's Hut fire?

A. No, not to my knowledge.

5 Q. You said you weren't involved in any discussions with any members of the SMT on the question of overnight deployment. Were you aware on that night that there was any issue or
10 consideration being given to whether there should be overnight firefighting on any of the fires in the ACT?

A. Not that I can recall.

Q. Have you discussed that with anyone since?

15 A. Yes, with Mr Peter Lucas-Smith.

Q. Was that shortly after or at some point in the period since?

20 A. No. I think it's the period since.

Q. What has Mr Lucas-Smith said to you about that issue, Mr Castle?

25 A. That I think there were safety considerations about leaving people overnight.

Q. That's what he told you, is it?

A. As best as I can recall over the period.

30 Q. Has he ever expressed to you a view about whether or not it was an appropriate decision to take personnel off the fire ground that night?

A. I think there has been much discussion that I was present with in the McLeod Inquiry about that.

35 Q. Has he expressed a view to you about that decision?

A. That I think he supports the people in the field.

40 Q. He said in evidence here that if he had been in the position of the people in the field he probably would have made a different decision. Has he discussed that with you?

45 A. I don't recall.

Q. Your statement then goes on to the morning of 9 January.

A. That's correct.

Q. You say in paragraph 62:

5 "I was not directly involved in the
management of the firefighting effort. My
role was to support emergency management and
guide resources to assist where I could."

10 In that sentence when you say "guide resources"
what's that a reference to?

A. If they need additional resources they don't
have that we could actually provide from somewhere
else, then I look at the aspects as to what we
15 could do.

Q. So it is getting resources from elsewhere, in
effect?

A. In effect, yes. Or it may be budget
20 considerations. They may have some issues that
they want to raise with me, as they do in terms of
operational sense. But throughout this emergency
I don't believe budgets actually came into it.

25 Q. You refer to the fact that Mr Lucas-Smith
invited you to fly with him for a reconnaissance
over the fires but he went to Yarrowlumla, so
Mr McRae, who needed to map the extent of the
fires, went on the flight instead?

30 A. That's correct.

Q. You accompanied him?

A. That's correct.

35 Q. What was the purpose of your accompanying
Mr McRae on that flight?

A. Purely as an overview. To get an
understanding of what they were facing.

40 Q. You don't have any experience as an air
observer, fire air observer?

A. No, no. But the position I have adopted all
along is that I don't want to take the seat of
somebody that could. But that wasn't the case.

45

Q. I asked you some questions a minute ago about
the issue of overnight firefighting and the fact

that it was an issue. That was certainly the subject of the submissions to Mr McLeod and so on. Had you checked your diary to see where you were on the night of the eighth before making your statement?

5

A. I don't - before making this statement?

Q. Yes.

A. I may have. I don't recall.

10

Q. You knew, didn't you, that that was a topic of some controversy; that is, the decision to withdraw personnel on the night of the eighth?

A. Subsequently, yes.

15

Q. You didn't think it was appropriate to check whether you might have been around when that decision was being made?

A. No. I don't get involved in operational decision.

20

Q. You may not get involved, but you were present during a number of meetings and discussions where operational issues were discussed?

25

A. Subsequently, yes.

Q. So you may have heard things being said?

A. I don't recall.

30

Q. I want to ask you briefly, before I get to the detail of the reconnaissance flight, Mr Castle, on the morning of the ninth - we don't have a precise time - but we understand before 9am Mr Lucas-Smith was interviewed on the ABC radio in relation to the fires. Document [DPP.DPP.0004.0002]. I see you have a version of that transcript in front of you, Mr Castle?

35

A. Yes, I do.

40

Q. You will see then, and on screen, Mr Lucas-Smith is being asked what the situation is at the moment. He responded:

45

"We've still got two fires in the ACT in Namadgi National Park which are uncontained but small, and we've got crews going there now, helicopters already in the air and

working over those fires, as we speak, and we expect to have them rounded up fairly early this morning."

5 Did you have any discussions with Mr Lucas-Smith before you went on that flight with Mr McRae?

A. No, I don't believe I did.

Q. Are you able to say --

10 A. Sorry. I think he actually offered me to go with him.

Q. Did he at that stage indicate what his view was of the state of the fires at that point?

15 A. No, I don't think we --

Q. Did you get a sense from anyone that morning that there was a view that it was expected to have the ACT fires rounded up fairly early that morning?

20 A. I may have.

Q. Well, doing the best you can, who is likely --

25 A. I presume Peter.

Q. He may have spoken to you at about the time of this interview and made a comment to you to that effect?

30 A. He may have.

Q. That was before you went on the reconnaissance flight?

A. Yes.

35 Q. Did you, at least before you went, have a view as to whether that was a realistic prospect at that time?

A. I have no idea.

40 Q. You then went on the flight with Mr McRae. As I understand it, I will just check your statement, you say in paragraph 63:

45 "We flew over McIntyre's Hut fire and saw what appeared to be one fire. There was a lot of smoke and it was easy to become disorientated. We also flew over a small

fire to the west."

Just pausing there. That's to the west of the main McIntyre's fire?

5 A. Yes, that's correct.

Q. Are you aware as to whether or not that's what has now since become known as the Baldy Range spot fire that you are referring to?

10 A. I'm not familiar. Is Baldy Range east of McIntyre's or west?

Q. It's east. Sorry, I was getting my sense of direction out there.

15 A. That's right, yes.

Q. Do you know what that fire was to the west of McIntyre's?

20 A. I don't know what its name was.

Q. Did Mr McRae say anything to you about the location of that fire?

25 A. I think we were tasked to go and actually check out what was there. That was my recollection. Small quiet fire with no crowning.

Q. That is the fire to the west of the main McIntyre's fire; is that correct?

30 A. Yes. It was over the Brindabella Valley, I believe.

Q. What did you observe of the McIntyre's fire? You say there was a lot of smoke. Did you see evidence of crowning, or crowning occurring at the time?

35 A. Not that I can recall with McIntyre's. I was concerned, having flown in helicopters but never having flown through - helicopters into smoke, I became rather concerned as to how close we were to the ground, I must admit. But the pilot, I was glad to see, when we came out the other side that it was clear and we were nowhere near the ground.

Q. There was a lot of smoke?

45 A. There was patches. We actually flew through the smoke.

Q. Did you get a sense of the size of the McIntyre's fire when you flew over it and its location?

5 A. No. I don't have that expertise in terms of being able to map. And Rick McRae was actually doing that.

Q. He was doing mapping of the fire?

10 A. Yes.

Q. Was he talking to you as you were going over these fires and expressing views about what he was seeing?

15 A. Generally not. He was obviously concentrating on his mapping. He was talking to the pilot, more giving him directions of what he wanted to see. Even the pilot was expressing opinions, because of the pilot's experience in water bombing fires.

20 Q. Did you get an impression yourself from the flyover as to where that fire sat relative to the ACT?

25 A. That it was across the border - you mean distance?

Q. Yes, distance and what was between it and Canberra?

30 A. I don't think I took that in at that particular time.

Q. Do you recall Mr McRae saying anything to you about that during the flight?

35 A. Not that I can recall. I think we actually - I think we set off with the intention of going over Bendora first. So we tracked towards Bendora and then I don't know whether COMCEN or Rick decided that we go and look at McIntyre's first. It may not - we didn't track directly to McIntyre's, was my recollection.

40 Q. Did Mr McRae say anything to you during the flight about the threats that he identified; that is, what was under threat from the McIntyre's fire?

45 A. No. I don't recall specifically. No.

Q. You, no doubt, observed Mr McRae taking notes

as you were flying over the fires?

A. Yes, I did.

Q. You then, I think, after viewing the
5 McIntyre's fire went next to Gingera. You say in
your statement:

10 "Other areas flying over included fire at Mt
Gingera. I could see the fire at Mount
Morgan and a large fire near Yarrongabilli
Caves although we didn't fly over them. We
had crews on the ground fighting the
15 Stockyard fire and we were able to speak to
them while plotting the fire from above. I
could see tall flames licking up trees and
was aware of the tricky winds that were
blowing up gullies generally from the
south-east. Rick was able to give crews
20 advice from above as to the best side of the
fire from which to attack it. These were
rake-hoe teams and were on the north -
west-north west side of the fire."

25 You then talk about the Bendora fire and make
similar comments about that. So during the flight
Mr McRae was actually communicating with ground
crews; is that correct?

A. Yeah, he did. Because as we approached we had
troops who asked a question as to "what was the
30 fire like on this side or that side". He did
actually communicate with the ground crew.

Q. What was he saying?

A. He answered the advice. That was which side
35 was the best side to attack from. I think they
were asking at that stage - and I am talking about
I think it is Stockyard - I think they were asking
what it was like on the north, because they were
west north-west.

40

Q. When you say you could see tall flames licking
up trees, were the fires actually crowning at that
stage?

A. No, I don't believe so.

45

Q. I think that is sometimes described as
"candling", the way the fire runs up the bark; is

that correct?

A. You have a more technical explanation than I have. I would say "licking up a tree". If that's a technical term for it, yes.

5

Q. The flames were running up the trees. You say tall flames. They remained tall because they were going up the tree.

A. That was my layman's description of it.

10

Q. Again, do you recall Mr McRae during the flight identifying any particular threats from the other fires that you flew over, the Bendora and the Gingera and the Stockyard?

15

A. Not that I can specifically recall him relating. He was talking to the pilot a fair bit. Between them they were actually sizing up and agreeing "what do you estimate it to be? What do you estimate it to be?" He was concerned about the, Yarrongabilli the large fire out at the Yarrongabilli Caves down near there, which I think is quite substantially to the south-west of the ACT.

20

25

Q. Are you aware when Mr McRae returned to the ESB - perhaps I should ask you this: did you have any discussions with Mr McRae after the fire about what he observed and what views he formed?

A. No.

30

Q. Are you aware that he then, on returning, typed up his notes and put them on the ESB website?

35

A. No, I wasn't aware that he actually did that at the time.

Q. In his statement he says he took photos of the fires during his flight; do you recall that?

A. Yes, he did.

40

Q. "Stockyard Fire was burning back on itself and flame height was about 1 metre"; do you agree with that observation?

45

A. He would be more expert than me in being able to judge that from the air. I found that particularly difficult from the air. I'm not expert in that at all.

Q. He says - this is in his statement paragraphs 40-41 - that he gave copies of the notes that he made to Mr Lucas-Smith, Mr Graham and Mr Ingram. Did he not give them to you?

5 A. No.

Q. He notes in his --

A. Nor would I expect him to.

10 Q. I am not being critical of him --

A. No, no I wouldn't expect to receive them, that's all.

Q. He says in his notes that he took during the flight and as transcribed by him at apparently 11am - perhaps if we go to that document [ESB.AFP.0110.0761]. He has created a table in respect of each of the fires. Perhaps we will go through them just in the order in which he has put them there. Bendora fire he describes backing with 1.5 metre flames to the north-west, north-east. Hot with 2-metre flames on the south-west. Out on the south-east along the road. Threats to Cotter catchment."

25

I take it you didn't take issue with his assessment of that from your own observation.

A. No. I think that accords with what I saw.

30 Q. He goes on to the McIntyre's Hut fire in the next block. He describes the fuel and terrain. "Main fire 300 hectares". He gives a grid reference and refers to spot fires including the Baldy Range spot fire. "All fires growing.

35 Access off Two Sticks Road. Behaviour: Mostly backing flames 0.5" - that's 50 centimetres - "to 1.5 metres. Some hot spots". He says "threats: ACT especially pines, private property" --

40 A. Sorry, that is point 5 of a metre; half of a metre.

Q. Didn't I say 50 centimetres?

A. Oh, sorry.

45 Q. "ACT especially pines, private property, powerlines". So that's an identification, isn't it, Mr Castle, of a threat to the pines in the

ACT?

A. Yes, I believe so.

5 Q. Did you make that observation yourself from the location of the McIntyre's fire that it may threaten the ACT pines?

10 A. No, I didn't make that observation at that particular time. As I said to you, I found it rather disorienting to be flying around - because he was actually trying to map the fire. They were trying to map each of those. At times - if you have ever flown in a helicopter turning on its side looking down, you don't get much of a view plus at times we were in smoke.

15

Q. But you have got no reason to disagree with his assessment of that as a threat?

A. Oh, no. No.

20 Q. Indeed, Mr Lucas-Smith in his evidence said, I think on a number of occasions, from the moment the McIntyre's Hut fire started he was concerned about the Uriarra pines and the threat to the Uriarra pines?

25 A. Yes.

Q. Is that something you became aware of at least on the ninth, Mr Castle?

A. Probably on the ninth at some stage.

30

Q. Could I ask you this question: when did you first form the view that there was a cause for concern for the urban environment from any of these fires?

35 A. Cause for concern?

Q. Yes.

40 A. I think that depends on what you actually - each person actually describes as "concern". Was it likely to come in a direction towards the urban part of Canberra at some stage? The answer to that would be yes.

45 Q. When did that view form in your mind that it was likely that it would come towards the urban area of the ACT?

A. The general direction would - I am not talking

about the fire actually reaching the urban edge,
I'm saying coming in a direction towards.
Whenever the wind was going to turn north-west.

5 Q. All right. Let's go back to my original
question then. When did you first form the view
that there was a cause for concern for the urban
environment from any of these fires?

A. I think it's in a gradation of concern. I
10 don't think I was actually concerned. If you are
actually facing and talking about the 18th of
January, then I didn't form that until probably
about between 1 and 1.30, when it crossed the
Murrumbidgee. But concerned, so that sort of
15 potential. I suppose overall concern about that
we were east of fires, probably early days.

Q. I don't understand that answer, Mr Castle, I'm
20 sorry. I think it is quite a simple question. I
am trying to find out when you first - not on the
18th when you formed a concern - but I want to
know in that period 8-18 January - this obviously
assumes that you did form a view - I am asking you
when you first formed the view that there was
25 cause for concern to the urban environment of
Canberra?

A. I think in a general way conscious from
possibly the 13th, thereabouts, maybe.

30 Q. What was the process of reasoning, at least in
your mind, that led you to that concern or that
realisation that there was a cause for concern?

A. Purely that the fires were of a concern to the
bushfire experts and the possibility that winds
35 from the north-west would bring fires in a general
direction.

Q. And create a concern for the urban
environment?

40 A. Well, to the fact that they were west.
Exactly focused on the urban environment it would
be the rural first in terms of a gradation.

Q. I appreciate that. It obviously passes
45 through the rural area first and so on. I think
you already said that you first formed a view that
there was cause for concern of the urban

environment on about 18 January; is that your evidence?

5 A. I don't think it is a conscious concern expressing that opinion that that could be a concern for us. Is more what I would suggest was my frame of mind.

Q. I am sorry, Mr Castle, you completely lost me with that answer.

10 A. I am saying it could be a concern --

Q. No. What I want to know is when you personally, in your mind, first formed the view - I think you answered me that there is what, a cause for concern on about the 13th?

15 A. I said the 13th.

Q. That is when you said there was a cause for concern for the urban environment?

20 A. I don't think I had consciously thought of it. I would like to review that, if I can.

Q. I think earlier - I can't bring it up, I don't think - you referred to your consciousness as of the 13th, having that concern?

25 A. That could come towards the Canberra urban environment.

Q. No. That there was a cause for concern for the urban environment. I don't want to get lost in semantics. When was there, in your mind, a cause for concern for the urban environment? I think you gave me the answer 13th January. Is that your evidence?

30 A. No, I don't think that's what I was answering.

Q. I will ask it again. When did you first form the view that there was a cause for concern for the urban environment?

40 A. I suppose what I'm having difficulty with is what you are asking me in regards to concern. I have already answered in terms of devastation and specific threat to the urban area. But it's a more general focus on - as I understand it you are asking me in relation to generally did I think that it --

Q. No I'm asking you - sorry to interrupt you, Mr Castle. What I am asking you is when you, in your mind, formed the view that there was a cause for concern for the urban environment; in other words, that things had developed to the point where there was reason to be concerned about the urban environment?

5 A. I think it was probably much later than what I said before.

10 Q. When do you say it was?

A. I think it was probably around about the 16th or 17th.

15 Q. Those days are quite important days, Mr Castle. Can you be more specific? Fifteenth, 16th or 17th - sorry, I shouldn't have said 15th in that. Sixteenth or 17th?

A. I think it was probably more the 17th.

20 MR WOODWARD: Is that a convenient time, your Worship?

THE CORONER: Yes.

25 **LUNCHEON ADJOURNMENT [1.00pm]**

RESUMED [2.05pm]

30 THE CORONER: Before you continue, can I say the corrected transcript from yesterday is now available in the court.

MR WOODWARD: Q. Mr Castle, I asked you some questions before lunch about whether you referred to your diary entry of 8 January for the purposes of preparing your statement. Can I ask you more generally: did you consult your diary at all when you were in the course of preparing your statement.

40 A. Not the electronic diary specifically. I had notes.

Q. You had notes?

45 A. Yes.

Q. Were they written into a diary or just on

loose bits of paper?

A. On pieces of paper.

Q. Were those the notes that were produced to us
5 at least on Friday before last?

A. I believe they are.

Q. I understand they went missing for a period;
is that correct?

10 A. Yes, that's right.

Q. When did you find them?

A. Days before I provided them to counsel.

15 Q. How many days? A matter of a few days, is
that what you are saying?

A. I think it was over a weekend.

Q. You mentioned electronic diary. Do you
20 maintain a paper diary?

A. No, I don't.

Q. So the diary you are referring to when you
said to me that you would check to see whether or
25 not you were present at Curtin on the evening of
the 8th, is that an electronic diary?

A. Yes, I was going to check whether I had any
meetings specifically earmarked in there so that
I could establish times, that is all.

30

Q. Was it your practice to note the dates and
times of meetings in that electronic diary?

A. Specifically set meetings?

35 Q. Yes.

A. Yes.

Q. Are you able to produce a hard copy of
the diary entries for the period 8 to 18 January?

40 A. I believe so, but I believe all of our hard
drives were taken. I can provide that.

Q. When you say "hard drives", are you suggesting
someone took your electronic diary?

45 A. No, the electronic diary is actually direct
linked into the outlook diary.

Q. Is it an outlook diary?

A. Yes, it is.

5 Q. I was not sure whether you meant a palm type product.

A. It is linked. It synchronises. I do that two or three times a day, sometimes.

10 Q. As I understand it, certain electronic documents were taken, but I am not sure that that diary was identified. So if you could please - I call for that hard copy of the entries covering the period 8 to 18 January.

15 Your Worship, although Mr Lucas-Smith is no longer in the box, the reference by Mr Castle to his diary is made - those assisting you wonder whether there were other diaries kept by Mr Lucas-Smith, Mr Graham, Mr McRae, which were not produced.

20 Some notes have been produced. That is certainly the case, your Worship. But if any diaries of that kind do exist, that might note times of meetings and particularly if they note what was discussed, then we would call for those.

25

THE CORONER: Yes, Mr Johnson, if you could make some inquiries.

30 MR JOHNSON: Yes, your Worship. I will seek instructions in relation to those matters and talk to counsel assisting.

MR WOODWARD: I am indebted to my learned friend.

35 Q. Mr Castle, by midday on 9 January you understood, didn't you, that the McIntyre's Hut fire presented a significant threat to the ACT?

40 A. I am not too sure - when you say "significant threat to the ACT", can you be a bit more specific as to what you are asking me?

Q. You understood by midday on 9 January that, for instance, the McIntyre's fire was a major threat to the ACT pines?

45 A. I am not too sure I specifically recall that.

Q. What was your state of mind about the threat

posed by the McIntyre's fire as by midday on the 9th, Mr Castle?

A. About the McIntyre's fire?

5 Q. Yes.

A. I don't think I had formed a specific opinion in my position about that.

10 Q. You knew, didn't you, that the fire was a substantial fire?

A. I can't say that I specifically recall getting information intimately about the size of the fire because we were not concentrating on that. It was not in the ACT. So I don't think I actually
15 formed an opinion.

Q. You said you didn't discuss with Mr McRae's his assessment of the threat to the pines?

A. I don't believe I did.
20

Q. You knew from flying over it that it was of some substance, the fire at McIntyre's?

A. I knew it was actually spread - it was spread out.
25

Q. You knew, didn't you, that it would be a significant or major threat to the ACT, particularly the ACT pines, if there was a wind change to the north-west or to the north
30 north-west?

A. I can't say that I consciously and specifically recall making that conscious assessment.

35 Q. Did you have a general understanding that the prevailing winds in the ACT are to the north north-west?

A. Yes.

40 Q. And you also, I assume, had a general understanding that the weather particularly at that time of year goes in cycles?

A. No, I am not familiar with that.

45 Q. Mr Lucas-Smith, I think, agreed that there is generally an expectation that the wind, particularly during that summer period will at

some point be turning to the north north-west?

A. Yes.

Q. Was that something you were aware of in
5 January?

A. Yes, generally.

Q. Did you have a view on the 9th when that was
likely to happen?

10 A. No.

Q. Could I ask you to have a look at this
document, [ESB.DPP.0001.0071]. Do you recognise
that document, Mr Castle?

15 A. Oh, yes.

Q. That was a note that you sent to Mr Murray,
the chief police officer?

A. Yes.

20

Q. It appears from the first part of it relating
to - is it some sort of brochure entitled
"preparing for the unexpected"? Is that what it
is about?

25 A. I don't recall the brochure but I presume it
did.

Q. Is that title "preparing for the unexpected";
is that the title you gave this e-mail?

30 A. No, I don't believe so.

Q. Can you assist?

A. Can you scroll down? Has it got - can I see
the rest of the lead in?

35

Q. You will have to turn around and face the
stenographer, Mr Castle. He will not be able to
hear you. I appreciate you are trying to look at
the document.

40 A. The original message is from John Murray.

Q. You seem to be replying to it?

A. Yes.

45 Q. You say:

"Thanks for these matters and await any

additional comments your people may have on the brochure."

Do you know what that is about?

5 A. I don't recall the brochure. What I am saying is it might trigger a memory if we could scroll down and see.

10 Q. You then, after referring to what I assume are matters that relate to this brochure, you then give him a position or an update on the position of the fires. You say:

15 "Just for your info, the situation with fires is as follows:"

This is timed at 12.48 on 9 January:

20 "These three fires in remote parts of the ACT Namadgi, one west of Corin Dam and one west of Bendora Dam. Both are being worked on by ground crews and helicopter water bombing. We hope to contain, but depends on wind strengths and direction over the next two
25 days. One other fire is just in the ACT further south and currently has no-one at it but being monitored by air from time to time."

30 That presumably is the Gingera fires, is that correct?

A. Yes, I think so.

35 Q. It goes on:

"One fire also south-west of the ACT in New South Wales which is small at the moment but no resources available from New South Wales national parks due to some 20 other larger
40 fires in surrounding region, Kosciuszko.

Our other major concern was the large series of fires north-west of the ACT in an area known as McIntyre's."
45

You refer to it is as "series of fires", presumably because you were aware at the time that

there was the main fire plus several spot fires;
is that correct?

A. Yes, I believe so.

5 Q. It goes on:

"This is also New South Wales National Parks
and they are attempting to muster resources
for it but will need our assistance. This is
10 a major threat to ACT pines and ultimately
property if the winds turn back to the north
north-west, (possibly two days time) and
present as a very large front heading towards
our north-west border. This series of fires
15 were most noticeable to ACT residents
yesterday afternoon due to smoke covering
Belconnen. With the wind change to the south
it has pushed the smoke away from the ACT
urban area so not as many calls.

20

Our priorities at the moment are to try to
contain those inside the ACT and provide
assistance then to New South Wales National
Parks."

25

Do you recall providing that report to Mr Murray?

A. Yes, I do now.

30 Q. Do you accept that those matters that you
refer to were matters of which you were aware at
midday on 9 January? That is, I will take you
through them: the McIntyre's Hut fire was a major
threat to ACT pines and ultimately property if
the winds turn back to north north-west?

35 A. I presume so, yes.

Q. When you are referring to property there, what
property are you referring to?

A. Probably immediately out of the pines.

40

Q. The Uriarra settlement, perhaps?

A. Could be.

45 Q. Do you recall where that information that you
have put in that document has come from?

A. I presume I obtained it from Peter and his
team.

Q. You don't have a specific recollection of someone giving you information in those terms?

A. They may have, but not that I can specifically recall, no.

5

Q. Is it possible that it was Mr McRae providing you with some of that information at or after the fly-over?

A. It could have been.

10

Q. It is probably no coincidence, is it, Mr Castle, that he in his notes at the time has identified ACT, especially pines, private property and power lines in his summary of what he observed during the fly-over?

15

A. That could well be so.

Q. Does it assist your memory as to whether or not you had these notes at that time, these notes by Mr McRae?

20

A. No, it doesn't. Generally I have retained everything and provided that. I don't have those and I don't recall actually being provided with those notes.

25

Q. It indicates, doesn't it, Mr Castle, that at that stage at least, there was a concern about the winds turning back to the north north-west, possibly two days time?

30

A. Yes, that's correct.

Q. Do you know where that information came from, that possibility - who flagged that possibility?

35

A. No, I presume it would have come from planning or Rick's area. Whether I got it from operations, whether I got it from Peter Lucas-Smith or whether I got it from Rick, I am not aware. Could I just see the time that that was again?

40

Q. It is timed at 12.48.08pm.

A. No. It doesn't.

Q. Did you have a sense, having seen that file note that you sent to Mr Murray, Mr Castle, that on the 9th, particularly the McIntyre's Hut fire posed any threat to the urban area of Canberra?

45

A. Sorry, I missed the start of your question.

Q. Did you have a sense, given what you apparently had in your mind on 9 January based on this e-mail, as to whether the McIntyre's fire presented any threat to the urban areas of
5 Canberra?

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

Q. None at all?

A. Not that - no, in a general sense coming from
10 the north-west. But not as a threat.

Q. Sorry, not as a threat?

A. Not as a specific threat, no.

15 Q. So you had a sense that it was out to the north-west?

A. Yes.

Q. You had a sense that it was possible, indeed
20 within two days that there might be north to north-west winds affecting that fire?

A. Yes, the purpose of this was to give Mr Murray just a heads-up of what I think we knew about the particular fires at that time.
25

Q. You have described in your words a "north north-west wind would present as a very large front heading towards our north-west border"?

A. Mm-hm.
30

Q. What I am seeking to ascertain, Mr Castle, is whether that translates into a large fire crossing the north-west border into the Uriarra pine plantation. That at least translates into that,
35 doesn't it?

A. I think it does, but it also indicates that there is no resources on it at the moment. But New South Wales are mustering those.

40 Q. Sorry.

A. It indicates there were no resources from New South Wales but they were mustering it - well, that's what I think it indicates.

45 Q. You talk about a major threat to the ACT pines coming from that fire.

A. Mm-hm.

Q. And if there was a change, a very large front heading towards our north-west border. So you at least identified a large front from a large fire heading towards the north-west border?

5 A. Yes.

Q. That translates, doesn't it, into a large fire entering the Uriarra pine plantation?

10 A. If you take that to its logical evolution.

Q. It is a matter of geography, isn't it?

A. Yes, logical evolution.

15 Q. If you go that far, do you recognise, based on that assessment, a threat to the Canberra urban area?

A. I don't think in those specific terms it does.

20 Q. I understand the email does not, but in your mind?

A. No, I don't think it does.

25 Q. No, when you say "it", what I am seeking to ascertain is whether in your mind at that time you identified any threat to the Canberra urban area?

A. No, I don't believe I did.

30 Q. There is reference in the statements, Mr Castle, and we can go to them if it assists, to there being a planning meeting on the afternoon of 9 January where the situation presumably in relation to the fires in the ACT was reviewed. I think Mr Lucas-Smith does not give a time, but presumably some time in the afternoon. Did you attend that meeting?

35 A. Not that I am aware of, no.

Q. Was it your practice at any point during the fires to attend planning meetings?

40 A. What I called the briefings --

Q. Yes?

A. The 9 o'clock and the 9.30 and 4 o'clock?

45 Q. Yes.

A. Yes, it was, as it progressed into the next week.

Q. I think it is clear on the evidence that the meetings at that time were occurring, even as early as the 9th although no formal minutes were being taken at that time. Do you agree with that?

5 A. That is what I understand, yes.

Q. Were you attending those meetings in those early days?

A. No, I don't believe I was.

10

Q. In his statement Mr McRae, paragraph 51, refers to the meeting being at 4.30pm, and he describes it as a meeting of - perhaps I should get his words precisely. This is at paragraph 51 of the statement of Mr McRae, which is [ESB.AFP.0110.0481]. Mr McRae says at paragraph 51 on page 0491:

15

20 "Consistent with the approach taken during the December 2001 bushfires, Peter Lucas-Smith instigated a system of formal meetings twice daily involving all stakeholders to discuss events occurring at that time. The stakeholders were the four
25 members of the SMT, and representatives from the ACT Fire Brigade, ACT Forests and Environment ACT (which covers management of national parks and nature reserves).
The first meeting happened that night,
30 9 January 2003, at approximately 4.30."

Were you present at that meeting?

A. I don't particularly recall being there. I was still going about my normal ESB duties, as I understand it, on that particular early days.

35

Q. In your role as executive director of the ESB, presumably you were concerned to obtain the most recent information you could about the current status of the fires?

40

A. That could well be the case. But I don't recall attending that meeting.

Q. You don't recall attending it?

45

A. No.

Q. Is that something you might have in your

diary, that sort of meeting?

A. Not that SMT, I wouldn't think so. What is likely to be in there is whether I was somewhere else at that particular time.

5

Q. Did you have at or about that time any understanding from discussions with Mr Lucas-Smith or anyone else as to how the firefight was going as at that time?

10 A. Nothing sticks in my mind specifically about the firefight at that time.

Q. Does anything stick in your mind in relation to what was to be done at that point about
15 overnight firefighting?

A. No.

Q. So you had - as best you can recall, at that time - you had no knowledge one way or the other
20 as to whether crews were going to fight those fires overnight?

A. Not that I can recall.

Q. I will just ask you to have a look at this
25 document just while we are on that subject [AFP.AFP.0003.0390]. This is a document shown to Mr Lucas-Smith during his evidence. It appears to be a situation report at least signed by Mr Graham, and it appears to be in his handwriting
30 for the Stockyard fire. If we go down to the bottom of the document, you will see showing as the control objective:

35 "Crews withdrawing, too fatigued to continue. Water bombing completed. Active fire left unattended".

Q. Were you aware on the night of the 9th or the afternoon of the 9th that there was to be no
40 one attending at the Stockyard fire from about that time?

A. I was not aware of the specific operational deployments of people at that particular time.

45 Q. It is one thing not to be aware, Mr Castle, of the precise nature of any deployment; but I suggest it is another thing for the person in

your position to be aware that there was no deployment at all on the fires overnight?

A. I think I need to clarify my position is administrative, not operational.

5

Q. I understand that.

A. Therefore it would not surprise me to find that there were operational decisions being made that I was not aware of.

10

Q. You were --

A. I thought that was what you asked me, whether I was aware of the --

15

Q. Yes, I understand you say you were not aware of it and explained why.

A. Yes.

20

Q. You were from that day, indeed from the day before, at least one of the people who was the main - you and Mr Lucas-Smith were the main point of contact for the media in relation to the current status of these fires?

A. At this early stage, I am not too sure I was.

25

Q. So you say you hadn't been dealing with media inquiries in relation to the fires in the ACT at any time on the 9th?

A. Not that I can specifically recall.

30

Q. But nevertheless no doubt you had an expectation that that was something that would be occurring by that time, that you would be giving the media information about the fires?

35

A. If that was on the plan and we were getting specific calls about it, then as it escalated so it would be the case.

40

Q. No doubt you were conscious of the fact that if Mr Keady or for that matter the Chief Minister were to get on the phone wanting some information about these fires, their first point of contact is likely to be you; isn't it?

A. That's correct.

45

Q. So wasn't it important in those circumstances for you to be up to date about what action was

being undertaken to combat these fires?

5 A. Not minute by minute or hour by hour. If Mr Keady rang me and had specific questions and wanted an update, then I would actually go away and find it out. But as I said to you, as I recall in these early days I was going about my normal duties in ESB, as well as keeping across --

10 Q. As at the night of 9 January, you had no knowledge one way or the other as to whether there was anyone in attendance and fighting the fires at Stockyard or Gingera?

15 A. I don't believe that I had any knowledge of that at all.

20 Q. For completeness I will get you to have a look at [ESB.AFP.0110.0726]. Did you have an understanding by the end of let's say 6pm on the 9th that Bendora was the fire of most concern to those in operations of the three in the ACT?

A. I believe so.

25 Q. If I can get you to go down to the bottom of this document it says, "crews withdrawing, fire broken containment lines. Active fire left unattended."

Is that a document that you were aware of on the night of the 9th?

30 A. No, nor would I expect to be, because that is an incident control and I don't think I saw any such documents in that form.

35 Q. Is it something you would have liked to have known, Mr Castle, on the night of the 9th, that there would be no one at any of these fires that night?

A. I am not too sure for what purpose.

40 Q. Well, I think I have indicated a couple of purposes. The first is if you were contacted by the government or by the media about that? Is it something you would have liked to have known on the night of the 9th, that there would be no-one on any of these fires overnight?

45 A. I am not too sure, not in an operational role that I would be seeking that out and like to know.

5 You, I think, started to go into asking a question about, for instance, if Mr Keady or whatever rang me. And I think I have already explained that if that was the case then I would go out and find specific information, and that was a normal procedure that I would do. So I didn't keep specific up-to-date operational minute by minute knowledge, which is what I think you are asking me.

10

Q. A decision not to have crews on any of the fires for the whole of the night of the 9th is hardly minute by minute, is it?

15 A. I believe that is an operational decision that would be based on the expertise, and I don't have the expertise in that area.

20 Q. No, I am not suggesting that you might have influenced the decision or been part of it, Mr Castle. What I am asking you is whether it was one you needed to be aware of.

A. I don't think so because I am not operationally responsible.

25 Q. But you are the person who was providing information to the government and media on that issue, on what was happening, what steps were being taken.

30 A. At later stages I was. At this particular stage it varied, depending whether it was an operational matter, and I think if I was specifically asked that and asked about the detail, I would actually defer to the operational expertise because I don't have that.

35

Q. I take it you are now aware that there was no one present at any of the fires on the night of the 9th?

A. Yes.

40

45 Q. Is that a matter that given, as I think you have already agreed, one of the key elements of the approach by the Bushfire Service to firefighting in the ACT was to attack fires aggressively, and that was one of the outcomes from the Namadgi workshop, among other things, does it concern you that there was no one present

operationally attending to those fires at all overnight?

A. I think aspects of occupational health and safety and requirements of fire fighters safety I know is of a high priority to the Bushfire Service. And therefore, if that was the reason that I subsequently learnt, and I believe that was the reason, then I would support their professional judgment.

10

Q. When you say you believed that was the reason, how did you become aware of that?

A. In the subsequent discussions with the McLeod Inquiry.

15

Q. With the McLeod Inquiry - is that information you provided?

A. No. I don't think it was.

20

Q. I think it is page 102 of the submission to Mr McLeod which deals with on the 9th and includes the paragraph:

25

"Firefighting crews continued through the day with their containment efforts with limited success. They had to commence their long walk out before dark. Agreement had been reached between the Stockyard Spur fire incident controller and the SMT that due to safety concerns posed by access limitations and the possible dangers of falling trees and branches that crews would not be used overnight. The Gingera fires continued its slow growth as access roads to this fire had the potential to be impacted by both the Bendora fire and the Stockyard Spur fire, SMT decided this fire would not be resourced overnight."

30

35

40

So the sense one gets from that paragraph is that, as you have said, Mr Castle, it was an occupational health and safety decision that led to the withdrawal of crews.

A. That is my understanding, and the --

45

Q. Is that what you were told at the time and had been told subsequently was the reason?

5 A. I am not too sure that was a specific issue on the night of the 9th or being told on the 9th, but I became aware in the preparation in the aftermath of the fires and analysing it and putting together the McLeod report.

Q. Are you able to say who prepared that particular part of the document?

10 A. I would think most of this operational explanation is members of the SMT.

Q. Can you be more specific?

15 A. Rick McRae and Peter Lucas-Smith and probably Tony Graham. But there may have been others who provided input into that as well.

Q. Because Mr Lucas-Smith gave some evidence about that matter at page 876 of the transcript, and he said in summary, and I am paraphrasing.

20 "I agree with Mr Cheney's evidence that the Bendora fire as at 9 January was severely under-resourced and the fire had grown to a size that handline construction with a
25 five-man crew had virtually no chance of success without further back-up. Whoever made the decision at the end of the day on 9 January to withdraw everyone from the Bendora fire was doing that because there
30 was nothing useful they could do given such limited resources."

He then agreed with Mr Lasry that the ESB submission gave a different reason, that is, a
35 reason other than the one that he had just given, as to why the crews were withdrawn. He repeated that the concerns were that there was little value to be gained by overnight crews working direct attack, and he said he didn't know why the ESB
40 submission didn't say that. I think we can take it from that evidence, Mr Castle, that Mr Lucas-Smith at least says that the reason had nothing to do with occupational health and safety. It was simply because there was nothing useful for
45 the personnel to do.

A. That could be the case.

Q. Are you able to explain how an explanation other than the one that we are now given found its way into the submission to Mr McLeod?

A. I think earlier I pointed out that
5 the submission to Mr McLeod was based on the best information available that could be gleaned at that particular time. It did not have all the evidence and analysis that has subsequently
10 been put together. That is largely based on radio transcripts and the like, and for the 2001 fires it took a team I think of three, some three months to actually put together the intricate details of what was then a 52-hour emergency. We are talking
15 about days of activity here, and specific instances of exact times and what the specific reasons were may not have been available. That is an explanation of the difficulties we faced in putting together for Mr McLeod the detail of
20 the fires, and we expressed that at the time.

Q. You said at the time you didn't have the radio transmissions?

A. I am saying a whole host of information as well.

Q. What other information didn't you have?

A. People's logs was a mountain of information that I think that needed to be put together and analysed.

Q. Where do you say that was?

A. That was provided to this inquiry, as I understand it, as a whole host of background information. All I am saying is that the people
35 actually tried to put that together to the best of their ability was based on the information and their recollections at that particular time.

Q. As I understand it, Mr Castle, and I think you
40 did refer to this yesterday about information being unavailable, what in fact the AFP did when they took documents was they took the documents and left copies or left the originals and took
45 copies. So at no time or at least for no extended period of time were the personnel involved in this process without logs and the like. Is that your understanding?

A. My understanding is they took the originals and left photocopies.

Q. And they were all available?

5 A. Yes.

Q. So if it is not that information, you are saying it is the radio transcripts that was the information that was not available?

10 A. All I am saying is that that information adds to the totality of the reasons and people's recollections may be different. The logs and the radio transcripts actually give some of - piecing that information together. And that is
15 an extremely large task.

Q. Assume for the moment, and I am not in a position to say one way or another, and I assume you are not either, there is nothing in the logs
20 that explains or assists in understanding why the crews were withdrawn on the night of the 9th. Are you able to explain why the McLeod submission would provide other than the real reason; namely, that there simply was not enough for them to do?

25 A. No, I don't believe so.

Q. One thing you did, I think, do during the 9th that is referred to in your statement at 3.30pm, Mr Castle, was have a meeting with Maxine Cooper?

30 A. Yes.

Q. You refer to in paragraph 69:

35 " ... Executive Director of Environment ACT to liaise with her on inter-agency support aspects."

"Inter-agency support aspects", is that to do with personnel or equipment or --

40 A. It is because the Bushfire Service comprises both volunteers and departmental firefighters. And those departmental firefighters, a large proportion of them belong in day-to-day work with Environment ACT. So that is just Maxine, I
45 presume - well, she indicates she wanted to talk to me about what support did the Bushfire Service need and commit her organisation to any close

liaison that was necessary.

Q. Presumably that is an arrangement that is understood before the fire season commences?

5 A. Yes, it is.

Q. So what was the specific purpose of the meeting this time? Was it just getting down to matters of detail about who was going to be available and so on?

10 A. I think it was more just committing everything possible that they had, or could do would be available.

15 Q. Were there any discussions at this time about budgetary considerations and who was going to bear the cost and so on of those matters?

A. No.

20 Q. Was that a concern that Maxine Cooper expressed to you?

A. No, I don't believe so.

Q. So as far as you were concerned, she was basically confirming that all of the relevant personnel were available to you, and were simply discussing how best to use them?

25 A. Yes, that's --

30 Q. Your statement mentions that you went on the evening of the 9th with Mr Lucas-Smith to Yarrowlumla Shire control centre for a regional briefing concerning the New South Wales fires and the McIntyre's Hut fire, and that was when

35 Mr Lucas-Smith asked for some further information. Can you recall roughly what time of day that was?

A. I think after 6 o'clock maybe. I think it may have been getting on towards dusk, I am not too sure.

40

Q. What was the purpose of your attendance at that meeting?

A. Purely to be informed, I suppose.

45 Q. Of?

A. Of the cross border arrangements, cross border liaison.

Q. Was there a discussion at the time about the progress of attempts to suppress the McIntyre's Hut fire?

5 A. I only have sketchy memory of that particular meeting. I don't have notes from it.

Q. You refer to the strategy that the New South Wales Parks and Wildlife Service, I assume, were using, and that was power line tracks and easements with back-burning?

10 A. That was generally my understanding.

Q. You say ACT Forests intended to construct a dozer line on our side of the border as well. What was the discussion? What was being discussed about that?

15 A. No, it was not discussed there, I don't believe.

20 Q. I see. So that was not something that was mentioned. Was it something that was discussed with you?

25 A. No, it was mentioned that they were actually, I think, putting one in or intending to put one in.

Q. At that stage the containment lines that were proposed for McIntyre's Hut didn't cross the border, did they?

30 A. No.

Q. Did you have an understanding at the time as to why or what purpose the dozer line on your side of the border - why that was being done?

35 A. Extra protection fall back.

Q. In case the containment lines were breached?

A. I presume so.

40 Q. The dozers at the time were a pretty limited resource so far as the ACT was concerned; is that right?

A. I believe so.

45 Q. Did you have a view as to whether that was an efficient use of those limited resources?

A. No.

Q. Did you discuss that with Mr Lucas-Smith?

A. No, I don't think so.

5 Q. Do you recall any other aspects? Presumably
on your way there and back you had discussions
with Mr Lucas-Smith about how things were going in
the ACT, did you?

A. Presumably, but I don't have specific details
or recollections of those.

10

Q. I think you have answered this already, but
I will double check: do you recall him mentioning
the position in the ACT in relation to overnight
firefighting?

15 A. No.

Q. The following day on the 10th, your statement
says:

20 "I continued with matters unrelated to
the fires except to check with operations
throughout the day. In the evening I did
some radio interviews at 5pm with 666 ABC
radio and with Radio 2CC at 5.45pm providing
25 general situation update information on
the fires."

I just want to ask you before coming to some radio
broadcasts, Mr Castle: Mr McRae in his statement
30 notes that when he arrived at work at 7am, he
checked weather forecasts and reports from crews,
and he notes in his statement that none of
the fires were out that had expanded. That is at
paragraph 53. Did you get a sense at any stage on
35 the 9th or morning of the 10th that there was any
expectation that these fires would
self-extinguish?

A. I heard that comment and Rick made such a
comment to me in the helicopter.

40

Q. In?

A. The helicopter.

Q. That they might extinguish?

45 A. No, that they could extinguish, and we saw
evidence of parts where that had occurred.

Q. That was on the morning of the 9th?

A. That's correct.

Q. Did he say to you at that time if there was a
5 possibility they might actually go out overnight?

A. I don't think he expressed that particular
sentiment.

Q. Apart from that comment made to you during
10 the helicopter flight, did you get a sense from
anyone that there was an expectation that the fire
might actually go out overnight?

A. I don't think one way or the other, but
I don't think so.

15

Q. Did you have any information as at the morning
of the 10th about what had been done overnight?

A. I would have, yes, because I believe
the interview, the radio interview was in
20 the morning.

Q. That is something - perhaps we will go to
that. This is a radio interview conducted at
8.53. Had you spoken to someone before 8.53 to
25 get some information about where things were at?

A. Yes, I believe so.

Q. Who had you spoken to?

A. I can't specifically remember, but it is
30 likely to be operations, Rick McRae or Peter
Lucas-Smith.

Q. What had they told you about overnight
35 firefighting? I see you reading the interview
there, Mr Castle.

A. Yes, I am. I have no specific notes for that
that help that I actually have now. So I don't
recall specifically what the content of that was.

40 Q. The interviewer opens the interview,
[DPP.DPP.0004.0001] by saying this:

45 "Overnight, of course, fire crews in the ACT
have been kept fairly busy with a number of
blazes around the area, especially
the Namadgi and Brindabella National Parks,
also one at Mt Stromlo overnight. Joining me

now is Mike Castle, Director of Emergency Services in the ACT. Good morning, Mike."

5 How did the interviewer have the information that he introduced that interview with?

A. It was common practice amongst the radio, and I believe still is, that a lot of radio stations ring the operational communications centres of both ESB and the police and gain information to run as radio interviews or comments, and I think that is probably where he may have got that earlier. I am not 100 per cent sure, but that was a common practice.

15 Q. So you are saying he didn't get it from you?

A. He didn't get it from me.

Q. Did you speak with him at any point before the interview commenced, do you recall?

20 A. No. Generally I speak to a producer who says who I am going to be talking to. I get no indication as to what they are going to lead in --

Q. Did you hear that part of his broadcast?

25 A. I may have. Sometimes - well, yes, probably.

Q. You didn't think to correct it?

A. Well, it might have been that I actually had no knowledge of specifically what he was talking about.

Q. He was talking about fire crews in the ACT.

A. Yes.

35 Q. Busy with a number of blazes, including especially the Namadgi. So that certainly gives the impression --

A. Well, I read that as being fires in the Namadgi. I mean, if the interviewer led with that, there are fires in the Namadgi, the specific of "overnight crews kept busy" is also journalist licence in some respects - often hear such comments.

45 Q. So you think he has just made that up?

A. No, I am suggesting it might be based on calls that he may have made earlier in the morning or

his producer made.

Q. But if that is the case and someone in operations had told him that fire crews in the ACT
5 had been kept fairly busy with a number of blazes around the area, especially in Namadgi, that is just simply not correct; is it?

A. Not that I know now, no.

10 Q. But you are not able to assist as to where that information came from?

A. No, all I was doing was speculating. You asked me how he might have, and I indicated that was a common practice. So he may have rung
15 somebody. I then read it in the 'Canberra Times'. I don't know what the 'Canberra Times' said for that particular morning.

Q. You say in your --

20 A. Unlikely though it says "overnight", just reading it.

Q. You were asked about:

25 "Have we still got those fires out of control?"

Your response is:

30 "No, they're not contained, Dan. We've actually got a fire in the Bendora, west Bendora Dam"--

A. I think it should be west of Bendora Dam. I think that is what it should be.

35

Q. You go on:

40 "Today we are looking to concentrate our effort on the smallest of those, which is Gingera."

Where did you get that information from?

A. I presume I actually gained that from objectives or information I gained to go and do
45 the interview.

Q. Do you recall who you specifically had spoken

to about that?

A. No.

Q. You then talk about have water bombing on
5 that, and quite a substantial number of crews. You
say, "Bendora is our next priority," you have a
bulldozer there and then concentrate on Stockyard.
You refer to how many people you have got there
and you then say:

10

"And turning to the other one you mentioned,
that is of some significance to us, is
the one in Brindabella National Park, which
is actually in New South Wales, in
15 the McIntyre's Hut area, all of these started
from lightning strikes."

Then you go on to say:

20

"... and that is quite a large fire, it is
about 500 hectares; and we will be assisting
New South Wales, sending tankers and light
units to that later today, with the strategy
I believe they are looking to do is to do
25 some back-burning, to attempt to burn out an
area between the fire fronts and contain
the line."

I imagine that is information you got from your
30 trip to Queanbeyan the night before; is that
correct?

A. Sorry, yes, the strategy, yes.

Q. You are asked:
35

"Any chance that could jump the border?"

You say:

40

"That's our concern, not with the current
wind direction but the strategy is basically
try to contain it on its southern and eastern
flanks working around that direction so that
if the wind changed and came around again
45 from the north north-westerlies, which it was
on the first day, then we have a substantial
area of containment line to stop it coming

in."

5 You are then asked if the fires are threatening property at all and you say, "Not directly at the moment."

10 Someone then rings up about the SouthCare helicopter, and you correct that person by pointing out that it was not - it was going to get fuel, not water. So you are there dealing, aren't you, Mr Castle, with each of the fires in the ACT, and at some length with the current position on the McIntyre's fire?

15 A. Yes.

Q. And presumably that is because you say that is a fire of some concern. You say:

20 A. "It is of some significance to us."
That's correct.

25 Q. Just dealing with the position as you have articulated it there in relation to Gingera, you would have been in court when Mr Lucas-Smith was asked some questions about some evidence of Mr Cooper where he was - he referred to the fact that he had radioed COMCEN saying, "Given the circumstances a small dozer would be best to cut a trail alongside the fire edge at Gingera, which would cause minimal damage and contain the fire". And he goes on later, and this is in the vicinity of paragraph 34, to say that he was informed later by Mr Graham that it was not an option because of the potential for environmental damage. Is that something you were aware of at the time?

35 A. No.

40 Q. Does it surprise you to hear that Mr Graham may have said that, assuming that is the evidence that Mr Cooper will give?

A. I don't know. I couldn't comment one way or the other.

45 Q. Were you aware that there were in effect rules in place that would have precluded what was an appropriate fire containment strategy because of

an overriding concern about areas of the national park?

A. I was not aware that there was such protocols.

5 Q. It would be a surprise, wouldn't it, in the circumstances like this that appropriate strategies could not be implemented because of something like that?

A. I believe so.

10

Q. Mr Graham in his statement in fact says that he met with Environment ACT - sorry, the SMT met with Environment ACT and they gave authority or I think he uses the words "empowered

15 Mr Lucas-Smith to construct fire trails through the Namadgi where necessary, taking into account environmental and heritage issues." I think Mr Lucas-Smith's evidence on this was that it really was not a matter of empowerment. He was
20 simply telling them as a courtesy that is what he was going to do and he didn't feel in any way constrained in making that decision. Is that the position as you understand it, that there was nothing to constrain the ESB from undertaking that
25 kind of containment work?

A. That is my understanding.

Q. At 1401 on 10 January Mr Castle, a media update is issued [ESB.AFP.0110.0288]. Mr Castle,
30 this is the first of this type of media update that we have available to us. Are you able to say whether or not any of this type of document of which we saw a number after this time were issued before about this time on 10 January?

35 A. I am not aware that they were in this format.

Q. So would it surprise you that this was the first one?

40 A. No, it wouldn't surprise me if this is the first one.

Q. Again, this was a matter that Mr Lucas-Smith was asked about. I think he initially at least gave evidence that you in effect signed off on
45 media updates of this kind, but he was ultimately responsible for what was in them. I hope I am not doing his evidence a disservice. I think that is

dealt with at pages 927 and 924 of the transcript.
What was the process for the issue of these
documents, Mr Castle?

5 A. In effect the operational information was
obtained from operations or planning.

Q. When you say "was obtained", it would assist
if you could indicate by whom?

10 A. It would have been the media person who was
there. At this stage I think that was Amy Lowe.

Q. Yes.

15 A. She would gain the information - this
pro forma, this format is something that I think
had been devised after the 2001 fires.

Q. Yes.

20 A. And then would seek the clearance basically
from the operational people, and that could be
Tony Graham, Rick McRae or Peter Lucas-Smith.
Invariably it was Peter if he was available.

Q. Yes.

25 A. Then generally they would run it past me
purely to issue it and issue it under ESB. But if
I was not available, then Peter may have cleared
it and said it was okay to go.

30 Q. All right. If you were available, you would
in effect sign off on these --

A. I would say it is okay to go.

35 Q. Did you in doing that make any inquiries
as - I am not talking about this one in particular
at the moment - but as a matter of general
practice, did you make inquiries as to whether
the information in it was correct or did you just
assume that what you were being given was
accurate?

40 A. If it didn't look correct or if there was
something that stood out and I thought there was
something that needed further clarification, then
I would actually seek that. If it was specific
information about a particular fact that I was not
45 aware of at that particular time, then I might
actually go and check it or ask them to check it
before.

Q. So it was not just a rubber stamping exercise as far as you were concerned?

A. No, I was trying to provide the value added of actually clearing some of it.

5

Q. In cases where the press release contains a quote or what purports to be a quote from generally yourself or Mr Lucas-Smith, how did that go in there, Mr Castle, as a general rule?

10 A. As a general practice, preparing these professional type media releases, some of the facts are desirable to attribute to a person of authority. So that may have been actually drafted in that particular way, but in clearing
15 it, is this the sort of information that the individual that is being quoted would generally agree with.

Q. If it was you, say, who was approving it but
20 it was quoting Mr Lucas-Smith, would you check whether those were at least views that he held?

A. I would expect that the people that had attributed it to him would have actually checked in the first instance. And I might ask them that,
25 "have you checked this with Peter? Is that okay?" Generally that was the process.

Q. If you were quoted you would expect at least,
30 particularly if he didn't approve it, that someone would have asked you, "Well, are you happy with what we are attributing to you?"

A. Yes.

MR WOODWARD: Your Worship, is that a convenient
35 time?

THE CORONER: Yes.

40 **SHORT ADJOURNMENT [3.05pm]**

RESUMED [3.20pm]

THE CORONER: Yes, Mr Woodward.

45 THE WITNESS: Your Worship, is it all right if I eat these to try and clear the frog in my throat?

THE CORONER: Please do.

MR WOODWARD: Q. I want to ask you one or two
question about this document. The part of it up
5 on the screen is not the full document, so we will
start with that one. It just comprises a fax
cover.

A. I have it in front of me.

10 Q. Sorry?

A. I think I have it in front of me.

Q. The next page of that one is another version
and it includes some handwriting which I think is
15 yours. We will come to that in a minute - all
right, we will come to it now. Is that your
handwriting on that document?

A. Yes.

20 Q. I will ask you about that in a moment. Before
we get there, the quote from Mr Lucas-Smith refers
first to:

25 "Crews are working on containing the three
ACT fires, but we expect these to continue
burning at least for the next few days.

We are focusing the majority of our resources
on the fire at Bendora, but are continuing to
30 monitor and tend to the other fires. We are
also keeping informed about two New South
Wales that are close to the ACT borders, one
at McIntyre's Hut at the north-west and
the other at Mt Morgan to the south of
35 the ACT."

There is then a description of the fire status for
each of the fires which could fairly be described
as a more technical statement of the fire and what
40 it might threaten; is that correct?

A. Yes, it was trying to actually give this
template, if you like, as to what its size was.

Q. Yes. Bendora is 200 hectares at this point;
45 Gingera, 40 hectares; and Stockyard, 84. Then in
relation to that type of detail, so far as the New
South Wales fires are concerned:

"Further information on the New South Wales fires can be obtained from the National Parks and Wildlife Service at Queanbeyan."

5 I should perhaps just finish off with that. There is then a section on what resources are deployed by the ACT, how much damage has been done, road closures and what I assume is a pro forma note about reporting fires or suspicious activity.
10 Then the third page of the release is actually a map of what is understood at that stage to be the fire locations within the ACT. Do you agree with that?

A. Yes.

15

Q. Just going back to the first page of the release, which is the second page of the document in the system, you say there:

20 "We are also keeping informed about two New South Wales fires that are close to the ACT, one at McIntyre's to the north-east and another at Mt Morgan" --

A. North-west.

25

Q. I beg your pardon - "north-west and another at Mt Morgan to the south of ACT". That is true, isn't it, Mr Castle; you were certainly keeping informed about those fires?

30 A. Yes, through the liaison.

Q. In fact, as you heard Mr Lucas-Smith say, at that time it was the McIntyre's Hut fire that was the fire of greatest concern to certainly
35 Mr Lucas-Smith; is that correct?

A. I understand so.

Q. I suggest that someone reading that would have an expectation, Mr Castle, that if there was
40 something about one of those fires that the ACT community needed to know about, that you would let them know?

A. You could read that into it.

45 Q. Well, is there another way - if someone is keeping informed, you are saying:

"We are also keeping informed about two New South Wales fires."

5 I suggest you would read into it that, if there was a concern about one of those fires for the ACT, you would let them know.

A. I believe so.

10 Q. I think, as I pointed out, you spent quite a bit of time in your radio interview that morning talking about the McIntyre's Hut fire, didn't you?

A. Yes.

15 Q. We are still on 10 January. I just lost my dates for a moment there. You attended I think another meeting at Queanbeyan - I am sorry - yes, that is another meeting on 10 January, is that correct, in the afternoon?

A. Yes.

20

Q. You deal with this in paragraph 73 and following of your statement?

A. I think 74.

25 Q. I am sorry, you are quite right. In 73 you mention that you continue with matters unrelated to the fires except to check with operations throughout the day. When you use "operations" in that context, are you using the term in
30 the technical ICS sense or are you just checking with people who can tell you how the operations are going?

A. As opposed to day-to-day business.

35 Q. You are not referring to Mr Graham and his unit specifically?

A. No.

40 Q. Then you say in 74:

"In the evening, at approximately 6pm, Mr Lucas-Smith asked me to go to RFS control centre in Queanbeyan to convey to NSW RFS that the maximum resources that ACT could
45 provide for assistance for the proposed back-burning off the power lines road was four tankers and four light units."

And you were accompanied by Tony Bartlett.

A. That's correct.

5 Q. That is in effect a response that the ESB is giving to the request of the evening before for assistance in relation to that back burn; is that correct?

A. I wouldn't be 100 per cent sure if that was the first response.

10

Q. I am sorry; maybe it had been communicated earlier?

A. It may have.

15

Q. That was the decision that the ESB ultimately made, to provide that level of assistance, namely four tankers and four light units?

A. That was the decision operationally by Peter Lucas-Smith as to all he could afford to release.

20

Q. That was because the Bendora fire and the other fires were becoming a much more significant exercise in terms of containment?

A. That's correct.

25

Q. You were accompanied by Tony Bartlett; is that correct?

A. Yes.

30

Q. Did you discuss with Mr Bartlett at that stage how things were going in relation to the fires, what his assessment of the situation was?

A. We may have in the drive over there, but I don't recall what was discussed specifically or
35 the detail.

Q. Nothing sticks out in your mind?

A. No.

40

Q. Are you able to say why Mr Tony Bartlett accompanied you on that? What was the purpose of his presence?

A. I believe his concern about the McIntyre's Hut fire and the effort and the approach that New
45 South Wales were taking in relation to the pines.

Q. Because he was obviously intensely concerned

about a potential for the exposure to his asset, namely the Uriarra plantation; is that correct?

A. Yes, that he is responsible for, yes.

5 Q. You attended the planning meeting you say in paragraph 75 conducted by Mr Bruce Arthur, along with a number of the IMT and Mr Neil Cooper. You then say:

10 "There was considerable debate as to how they would coordinate the back-burning operation due to the narrow/winding nature of the access road forming the containment."

15 I assume that should read "line". Just pausing there, when you say "considerable debate", did it elevate to the point of some disagreement over the approach?

A. It was internal within the IMT, within the New South Wales centre, mainly about how they would actually manage access and the way in which they would light the burn.

Q. I see. So this was debate among the Queanbeyan IMT, not between yourself, Mr Cooper and Mr Bartlett on the one hand and the New South Wales people on the other?

A. I think Mr Cooper had some comments in there. I am not too sure whether Tony Bartlett did.

30 I think I offered a purely layman's version. The debate was whether crews would work towards each other with one access road. I suggested purely from a layman's point of view if that was a concern about crews facing each other on a one-way track, then I suggested if they were going to start at the middle axis and work nose to tail, if you understand it, I said that possibly is a solution purely from a layman's point of view. Because I could see the debate was how they would actually organise, where would they light the burn from, which crew would approach from which one and what resources were going to be used.

Q. Was part of the discussion, and in particular the part Mr Cooper was involved in, around the question of whether or not it would be possible to actually start burning or doing

the back burn or burning out before the containment line was complete? Was that discussed?

A. I don't recall. Sorry, ask me that again?

5

Q. Was part of the debate the issue of whether the burning-out operation would commence before the containment line was complete? So, in other words, as the containment line was being constructed, that burning would commence?

10

A. I vaguely recall he may have mentioned that, but what I have written down there are the main points that I remembered from the meeting and the discussion.

15

Q. You have said in there that Mr Bartlett suggested that Mr Cooper could be the division commander coordinating the back burn due to his experience, but New South Wales indicated that the responsibility should be a New South Wales person for legal reasons. Did you think that Mr Bartlett's suggestion was a good one?

20

A. I thought Tony's suggestion about experience, because there was discussion about who was actually going to be the divisional commander who would be responsible for this - and Tony's suggestion I thought was a good one, given my understanding of Neil Cooper's experience in that sort of area.

25

30

Q. As I understand it, you understood at least that the reason given for not agreeing to that suggestion was legal reasons?

A. My understanding was that New South Wales indicated that, from a responsibility point of view, it was their responsibility in case the back burn went wrong, or got away or didn't go as planned, and therefore they believed that it should be a New South Wales person in charge of it.

35

40

Q. Do you think that is a difficulty, Mr Castle, that should be considered by Her Worship, the fact that - let's assume for the moment that Mr Cooper was in fact the best person for the job available at that time, that that sort of consideration would prevent his being given that task?

45

A. I am not too sure at the end of the day that was the only reason. It was one of the reasons. I could not comment on the experience and the best person for the day. It was a suggestion by Tony.
5 I have no reason to doubt Neil's experience. There was some discussion about experience.

But, back to your question, there are jurisdictional aspects. I am not familiar
10 with - if your Worship made some comment about that, that would be for your Worship's consideration. But it does appear on the face value of it that if that was an impediment to
15 having it accepted in terms of how it should be done and the most efficient way of doing it and who should be in charge of that, then that may be something that needs further discussion.

Q. The last comment you make, you say
20 the decision was eventually made about how to progress that containment line and then you go on in paragraph 77 to say:

25 "After the meeting, Bruce Arthur indicated that he had been able to convince RFS HQ to provide more helicopter resources for his section 44 area due to his concern over the Baldy Hill trail section and potential to impact across the ACT border into the pines."
30

So that was a matter discussed at that meeting?

A. No, it was afterwards.

Q. I beg your pardon; you say after the meeting.

35 A. What was discussed was he was attempting to get more helicopter resources.

Q. Did that happen while you were still at Queanbeyan that he got that information?

40 A. Yes, I understand he did.

Q. He mentioned that to you before you left Queanbeyan?

45 A. Yes, he did. He actually said he had expressed the justification was partly that potential to impact into the pines.

Q. That was a potential that was certainly recognised at that meeting?

A. I believe, yes, by the New South Wales people, they recognised that that south-east and eastern edge was a priority.
5

Q. That was essentially why Mr Bartlett was present?

A. Yes. I believe also - bear in mind that I was nervous about going to represent Peter Lucas-Smith. I am not operational, and I stress that, and therefore I was very comfortable when Peter suggested that Tony Bartlett I think also go with me, because Tony has the operational knowledge. I said to Peter I was confident in actually expressing the resources but, if it was more than that, and bear in mind we did already have a liaison officer there - so I felt comfortable in having that task given to me in the sense representing the jurisdiction.
10
15
20

Q. Mr Bartlett being present, as I understand what you are saying --

A. Yes.
25

Q. -- being a person with significant expertise in bushfire fighting?

A. Yes.

Q. Indeed he is one of the deputy CFCOs, isn't he?
30

A. I believe so.

Q. Did you report on that meeting when you got back to Curtin to Mr Lucas-Smith?
35

A. I believe I actually reported back to Peter Lucas-Smith my understanding of the meeting and that they had accepted the four tankers and four light units. There was some concern by New South Wales that that was all we could spare.
40

Q. Expressed at that meeting?

A. Yes, it was.

Q. What? How was that expressed?
45

A. There was some debate by some of the people in New South Wales that that was not nearly enough.

They were after 20 and 20, I think.

Q. They were critical of the lack of commitment to the fire?

5 A. I think they were expressing an expectation that this was the only fire that we were fighting and that we should provide all that they requested. But, as I think I pointed out in saying the four tankers and four light units, that
10 still represented a significant proportion of our resources and for us was still a commitment.

Q. Were they expressing that view because they too recognised that, albeit burning at that time
15 in New South Wales, that fire was a significant threat to the ACT?

A. I don't think it was couched in those particular terms.

20 Q. When you returned and reported on your discussions to Mr Lucas-Smith, did you have a more general discussion with Mr Lucas-Smith about how things were going from the ACT perspective?

A. Do you mean about now what was back in
25 the ACT?

Q. Yes.

A. Not that I can specifically recall, but we probably did.

30

Q. Did you have any discussion with him about what the plans were that night for overnight firefighting?

A. No, not that I am aware of.

35

Q. Were you aware that that night it was proposed that there would be an overnight crew on the Bendora fire?

A. I don't think I had an expectation or a
40 discussion either way.

Q. Either way?

A. No.

45 Q. Moving to 11 January, your statement has one paragraph for that date, paragraph 79, being a Saturday. You came into work in the afternoon to

check on things and to see how people were holding up as they had been working long hours:

5 "At this time the incident was gradually scaling up in terms of our incident management response. We had some volunteers from headquarters ESB helping with logistics" --

10 A. That is in fact Emergency Services Brigade as distinct from ESB.

Q. Yes. It goes on:

15 " ... helping with logistics but they weren't overwhelmed at that particular stage. Resources utilised in the early stages were sufficient to support the operations."

20 Just on that issue, are you referring there to resources generally, Mr Castle, or just resources of the SMT?

A. I think I am referring to the resources within the headquarters.

25 Q. It was your position or at least understanding at that stage that there were enough people to fulfil all the roles that needed to be fulfilled at that time?

30 A. I think I am actually referring to the logistics and the back-up support where I say about volunteers from headquarters --

Q. You mean people to operate fax machines and answer phones and that kind of thing?

35 A. Logistics, which was their functions.

Q. In the logistics section of the SMT, is that --

40 A. Particularly.

Q. Logistics being the section responsible for finding and allocating resources?

A. Not so much allocating; finding.

45 Q. What was the position with other parts of the SMT, at least as you understood it, on the 11th? Were they sufficiently resourced?

A. I had no indication that they were experiencing any difficulties or needed additional at that particular stage.

5 Q. You say in your final sentence:

"Resources utilised in the early stages were sufficient to support the operations."

10 Is that again operations in a general sense?

A. Layman - yes.

Q. That would include the actual firefighting in the field?

15 A. I don't think it was written that way.

Q. So what were you intending to --

A. I am talking about the support arrangements as opposed to the operations - the operational field
20 firefighters.

Q. You are talking about headquarters rather than out in the field?

A. Yes.
25

Q. What was your understanding of the position out in the field? Were there enough resources out there?

A. I can't say it was specifically discussed or
30 brought to my attention that there weren't or whatever.

Q. I mentioned to you earlier that Mr Lucas-Smith agreed with the view expressed by Mr Cheney that
35 at least about that time the Bendora fire was severely under-resourced. Is that something you were aware of at the time?

A. No.

40 Q. So no-one had brought that to your attention?

A. Not that I specifically recall.

Q. You were aware, I take it - no, I shouldn't. I should ask: although resources were allocated to
45 Bendora overnight, no resources were allocated to either Gingera or Stockyard. Indeed there were no resources at Stockyard at all during the whole of

the 11th. Is that something you were aware of?
A. On the 11th, I can't say that I have got anything specifically that leads me to know that.

5 Q. I said I would ask you and I have neglected to do so, Mr Castle, regarding the media update on 10 January which is document [ESB.AFP.0110.0288]. I think you agreed that the handwriting --

10 A. I have just found it. It says "no crews" against Stockyard.

Q. Yes, you have made a note at least on the 10th against that; "no crews" against Stockyard Spur fire?

15 A. Yes.

Q. In relation to Bendora you have notes "another dozer tomorrow. Four tankers, four light units, three RAFT, three choppers and SouthCare bombing and aerial"?

A. I think that is actually "four choppers including SouthCare".

25 Q. Yes:

"Gingera fire: still crews patrolling to stop crossing. Easterly" --

A. "At night".

30 Q. "And variable." These appear to be notes that you jotted down perhaps at a planning meeting; is that possible?

35 A. I think I might have been using the 10th of January's media for notes I may have made on the 11th when I came in.

Q. I see.

40 A. So, although it is actually on a media release of the 10th, the fact that it had been issued, it may have just been convenient notetaking for me.

Q. Yes. In what form had you been taking those notes?

45 A. Just an update as to what was going on.

Q. So you could have been speaking to Mr Lucas-Smith?

A. I could have.

Q. Could it have been at one of the planning meetings that were going on at that stage?

5 A. I don't know what time the 11th was, if there was one.

Q. Are you able to say by the 11th as to whether you started to attend the morning and afternoon
10 planning meetings?

A. No, not on the 11th, I didn't.

Q. You didn't?

15 A. No, not on the 11th.

Q. So it appears, does it, that you were aware, apparently on the 11th, that there were no crews on Stockyard?

20 A. That is what my notes indicate and I think that is what they relate to. They are not as at the 10th, I think they are as at the 11th. I think that is the case.

Q. Did you raise with Mr Lucas-Smith or anyone a
25 concern about that?

30 A. My understanding of the explanation was offered that access and the ability to concentrate the resources and having to go past one fire to get to another and concern about access and safety issues about that as well, as I understand it, because the one access road was down the Mt Franklin Road.

35 Q. Yes. So you did have some concerns or questions about it, but you were satisfied with the explanation; is that what you are saying?

40 A. I am not too sure I had the concerns first and then was advised, but it might have been there are no crews on there and the reason given.

Q. Moving to the 12th, there is a further media update issued at 9.50am on Sunday, 12 January, [ESB.AFP.0012.0391]. Again it states:

45 "ACT firefighters are continuing to battle three fires in Namadgi National Park which have continued to grow substantially in

the past 24 hours, Chief Fire Control Officer Peter Lucas-Smith said today.

5 The three fires at Bendora, Gingera, Stockyard Spur in the national park."

Then there are some quotes:

10 "'We have a lot of resources deployed fighting these fires working around the clock on "12-on 12-off" shifts. Crews worked all night last night on containment lines, and we undertook a controlled backburn at
15 the Bendora fire in an effort to contain the fire. This was due to the difficulty in extinguishing the original fire in such difficult terrain.'"

He then says:

20 "'All three ACT fires are expected to continue to burn for at least some time to come, and could threaten the Cotter catchment if not contained.

25 We are focusing the majority of our resources on the fires at Bendora and Gingera, but we are continuing to monitor and attend to the fire at Stockyard. We are also keeping
30 informed about two New South Wales fires that are close to the ACT border, one at McIntyres Hut to the north-west and one at Mt Morgan to the south-west of the ACT."

35 In relation to that last sentence, Mr Castle, that is I think almost in identical terms to the sentence in the previous media release I asked you about?

A. I think it is.

40 Q. So we can assume that people are continuing to get the same impression from that that if there were a problem with those fires, as you were keeping them informed, you would let them know?

45 A. I think so.

Q. Did Mr Lucas-Smith at that time on the Sunday

morning when I think you were at Curtin - you say in your statement all day - indicate to you what he meant by "some time to come"?

A. No, I don't think so, not specifically.

5

Q. Did you have a sense from your discussions with him up to that time or with planning or anyone else as to how much longer or how long it was going to take to get those fires under control?

10

A. No, I don't think so.

Q. I am sorry to jump around, Mr Castle, but so I can keep it roughly in chronological order, one of the notes that was made on that media update which I took you to before has been drawn to my attention. That is [ESB.AFP.0110.0288].

15

A. Is that the one with the handwriting on it?

20

Q. Yes, that's correct. On the second page, alongside "Reporting fires or suspicious activity", I think reading correctly "Yarrongabilli is huge", that is the Yarrongabilli fires in New South Wales, I take it?

25

A. Mm-hm.

Q. "Point 4 of a person per fire", is that what that says?

A. I think it does.

30

Q. Then under that "equivalent 1939 fires". What is that a reference to?

A. I don't actually know.

35

Q. Are you familiar with the fires of 1939?

A. No.

40

Q. I don't mean personally, but are you familiar that there were substantial wildfires affecting a number of areas, including the ACT I believe in 1939?

A. A number of people have told me that that was the case.

45

Q. Doing the best you can, who is giving you this information?

A. I think that sort of comment may have come

from Rick McRae - "Yarrongabilli is huge".
I don't know what the reference and I have no idea
why I wrote it down, the "point 4". I don't know
what that refers to.

5

Q. Is that your reading of the --

A. I think that is what it says. Yes, my
handwriting, that reads "point 4 of a person per
fire", but I don't know what that means.

10

Q. "Equivalent of 1939 fires"?

A. Yes, I don't know what that means. They might
be separate. They might be separate facts.

15

Q. Yes.

A. They are my scribbles.

Q. But obviously, given that you have indicated
you don't know what they mean --

20

A. No.

Q. You have just written down something someone
else has said?

A. Yes.

25

Q. On Sunday you were there all day, that is
the 12th. You refer in your statement to this:

30

"Mr Lucas-Smith made attempts to contact Phil
Koperberg at the New South Wales Rural Fire
Service in Sydney to determine what aerial
assets and support might be available.

I understand that Phil was not available and
Peter spoke with Alan Brinkworth.

35

I understand that Alan Brinkworth indicated
that the air operations person, Marian
Carmichael, would contact Peter."

40

Is that something Mr Lucas-Smith told you at
the time he was trying to do?

A. Yes. He told me that he had already
attempted to contact --

Q. And he had been given that information?

45

A. So that is after the event, yes.

Q. I see. So was it your impression, at least

from that discussion, Mr Castle, that resources were becoming a problem on the 12th - or the lack of them?

5 A. I think there were specific aspects that Peter was attempting to source. He was sounding out the possibility and what was available, particularly aerial.

10 Q. Did you have a sense that there were problems with ground resources as well at that time?

A. I don't recall specific aspects as to at that particular time, but he may have been, and that may have been the support might be available.

15 Q. You say in paragraph 1:

"I recall hearing" --

A. 81.

20 Q. I am sorry, paragraph 81:

"I recall hearing that the fires were significant and causing concern in New South Wales near the south-west border of the ACT. It became exceedingly difficult to actually get crews in to the fires" --

I assume you are now talking about the ACT fires?

A. Yes, I am.

30

Q. It goes on:

" -- with safety of personnel being of some concern. The fires were almost in a straight line down the main access road from the north, the Mt Franklin Road."

35

A. Yes.

Q. Who do you recall hearing that from?

40

A. It may well have been Rick or somebody. Maybe from - I don't know. In fact that may belong to the previous paragraph in some respects. It fits, just looking at that now.

45

Q. The reference to "The fires were significant and causing concern in New South Wales near the south-west border with the ACT"; what is that

a reference to?

A. I think that might have been a reference to Peter's feedback in paragraph 80. I might have the paragraphs in the wrong spot.

5

Q. Could it also be that you had heard by that stage that the fires - that is the ACT fires - were moving in a westerly direction towards the New South Wales border?

10 A. Oh, it could be. Yes, I don't recall specifically what I had in mind about that.

Q. In any event --

15 A. I see what you are saying, yes. That the fires were - I had in my mind Yarrongabilli earlier, yes.

Q. So you now think it is a reference to the ACT fires moving west?

20 A. I think it is the ACT fires moving west.

Q. That would suggest, wouldn't it, that at that time at least, Mr Castle, the problem was getting bigger with the ACT fires?

25 A. I am not too sure that specifically relates to that.

Q. When you take those two things together, you said that Mr Lucas-Smith was making efforts to contact Mr Koperberg --

30 A. This is in the evening. I believe this is the evening --

Q. This is the evening of the 12th?

35 A. This is referring to the evening.

Q. Is it? It is not clear from your statement, I don't think.

40 A. No, I don't think so. But I actually then go on and talk about the following discussions about EMA.

Q. Yes, I will come to that. I hadn't understood that was in the evening. Perhaps if I can check one thing with you about the morning. You probably heard the evidence of Mr Cooper that was put to Mr Lucas-Smith when he, in around paragraph

44, was expressing concern that there was no incident management team set up overnight at Curtin so no incident action plan, and that he said to Tony Bartlett, who arrived on the fire ground to take over from him that morning, he might as well piss on it, and that was a reference to the fact that, in his view at least, there were significantly inadequate resources being provided to support that fire. Was that something that was brought to your attention during the day of the 12th?

A. No, I don't think so.

Q. Were you aware that there was a problem with the number of resources being deployed to Bendora?

A. Not directly, no.

Q. Indirectly?

A. No, I don't think so.

20

Q. Moving to that evening, as I now understand it, you say that Mr Lucas-Smith was attempting to contact Mr Koperberg to get additional resources. You are hearing I again assume in the evening that the fires were significant and causing concern because of their move towards the New South Wales border, problems about safety?

A. "Concerning New South Wales near the south-west border", you actually said. I didn't say that because they were actually moving --

Q. You are saying --

A. I am saying they are causing some concern to New South Wales.

35

Q. Concern to New South Wales?

A. In New South Wales; concern in New South Wales.

40

Q. Where is the concern existing, if I can put it that way?

A. The concern is in New South Wales, I believe.

Q. So with New South Wales personnel?

A. I believe so.

45

Q. They are the ones who are concerned?

A. I think so.

5 Q. I see. But you are hearing at least that the fires - and that is a reference to the ACT fires - were significant?

A. Yes.

10 Q. And it was getting exceedingly difficult to get crews to the fires?

A. That is my understanding.

15 Q. As I have indicated, Mr Lucas-Smith is endeavouring to get aerial resources. Were you aware that at about 1500, about 3pm, Mr Graham, according to his statement, was told that "Bendora had broken its lines which required new fallback positions; the fire was on both sides of the Mt Franklin Road and there were safety
20 concerns for crews"? That is consistent with your paragraph 81, isn't it, Mr Castle, where you say "safety of personnel"?

25 A. I am saying safety of personnel and getting down the main access road, and that was - from the start earlier there were no resources on Stockyard Spur, and I said that that was consistent.

30 Q. Were you aware of the detail that Bendora had actually broken its lines by 3 o'clock that day?

A. I don't think so, and I am not too sure that accords with Mr Cheney's evidence. I have reviewed Mr Cheney's evidence and I don't think those times are right.

35

Q. We will be able to check that overnight. I will ask you just one more question.

40 Mr Lucas-Smith in his statement says that at about 4 o'clock the Stockyard fire crossed the Mt Franklin Road north of Pryor's Hut. When you take all those things together, I suggest, Mr Castle, things are starting to get difficult at that point. Is that something you were aware of?

A. Not directly, no, not operationally.

45

Q. But it was at that point that you were asked or about that time you were asked by

Mr Lucas-Smith to contact Emergency Management Australia and get some further assistance?

A. No. That was in the evening.

5 Q. Yes, you told me this was in the evening.

A. Sorry, I thought you were referring back to 3 o'clock or 4 o'clock.

Q. From 3, 4, 5, into the evening. How late in
10 the evening did you contact the EMA?

A. I had my requests. Late, is my understanding, in the evening.

Q. 2030, at half past 8? You say in the request,
15 which I will come to tomorrow, "Mike Castle verbally made this request at" --

A. Approximately 2030 hours on Sunday; that is correct.

20 MR WOODWARD: Is that a convenient time, your Worship?

THE CORONER: Yes. We will adjourn till tomorrow morning at 10 o'clock.

25

**HEARING ADJOURNED UNTIL WEDNESDAY,
25 FEBRUARY 2004, AT 10.00AM.**

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

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

DAY 16

Wednesday, 25

February 2004

THE CORONER: Mr Castle, if you would take
the oath again, please.

5

<MICHAEL JOHN CASTLE, RE-SWORN

<EXAMINATION-IN-CHIEF BY MR WOODWARD CONTINUING

10 MR WOODWARD: Q. Mr Castle, you have been
provided this morning with what I take to be a
print dump from your Outlook Express or Outlook
calendar; is that correct?

A. Yes, that's correct.

15

Q. I see that just going to the 8th --

A. I actually don't have a copy in front of me,
but that is all right.

20 MR JOHNSON: He can have mine.

MR WOODWARD: Q. I think the series of questions
that precipitated the request for this related to
8 January, and you don't appear to have any
25 entries in your diary, at least, after 3.30pm that
day.

A. That's correct.

30 Q. So can we take it then it is reasonably likely
that you were still at work in the evening at
the time the management of the fires was first
being established?

A. Yes, possibly.

35 Q. But you have no recollection of any
discussions with Mr Lucas-Smith in particular
about what was proposed in relation to
the management of the fires?

A. No.

40

Q. At that time?

A. No, I don't believe so.

45 Q. At the end of yesterday I was asking you some
questions about the afternoon of 12 January, but
seeing your diary has reminded me to ask you
something about what happened on the 10th. You

have there a note of a radio interview with Leanne Scott from Radio 666 between 5 and 5.15pm; is that correct?

A. Yes, it appears so.

5

Q. Your Worship, we have only recently identified that interview on the various radio files that were provided, or that have been obtained and had that transcribed. It is document

10 [DPP.DPP.0003.0212]. Unfortunately I don't think I have copies for parties, but we do have it up on the screen. So if everyone could bear with me in relation to that. There are a couple of things in relation to that interview I wanted to ask you
15 about, Mr Castle. I understand that is an interview conducted during Drive Time on January 10, 2003; is that correct?

A. I presume so.

20 Q. There is some comment beginning about the fires, and you refer to the fact that there were three fires. The interviewer, Leanne Scott, asks or suggests to you that the Bendora fire would be the closest to the suburbs. Your
25 response to that is:

"Closest in terms of access. In terms of distance, I suppose, yes. If you drew a straight line between there and the suburbs
30 that would be the closest to the suburbs, but we've also got to be conscious of our water catchment area because fire that ravages our water catchment does have an impact on purity and those sorts of things. So we have got to
35 be mindful of that in actually our strategies."

You were asked which ones you were targeting. You say:

40

"We tried to concentrate on Gingera that morning. I would like to be able to say that they are all under control, but we don't. It's a large task. None of these fires we
45 can actually get direct water from tankers with hoses deployed to."

That is not, in a sense, strictly correct because there were tankers at least attempting direct attack on parts of the Bendora fire by the 10th, weren't there?

5 A. That may be the case.

Q. Then you talk a little bit about the process of getting to the fires. Then over the page you are asked:

10

"It is very dangerous, bushfire fighting, I would imagine, in those remote areas."

You say:

15

"Yes, it is, and of course we are conscious of - at the moment we have got winds that are generally south south-easterly with the easterlies in the evening. That actually tends to push it sort of along parallel to the border and even slightly towards over the border. But we have a responsibility to ensure that it doesn't leave the ACT. But more pertinently we are conscious of wind changes. Our prevailing winds are normally north north-westerlies, and if those sorts of winds return, probably into next week" --

20

25

I think the 10th was a Friday.

30

A. Yes.

Q. You continue:

35

-- "then we would face bigger threats and more issues within the ACT. So it is in our interests to try and get around these, but what we are finding is that direct attack is too large a task and it would be fine if we only had one fire to deal with."

40

I take it from that that by that time at least you were conscious of the difficulties that were being posed and the lack of success that was being achieved with direct attack and the move at about that time to an indirect attack strategy?

45

A. I believe so.

Q. You talk there about the prevailing winds which I think I asked you about yesterday. When you say, "We would face bigger threats and more issues within the ACT". What are you referring to there?
5

A. Generally that it will come back in the direction of the ACT.

Q. They were already in the ACT?

10 A. Yes, sorry, out of the hills.

Q. Come out of the hills?

A. Yes.

15 Q. Down at the bottom of the page you were asked - you continue to talk about the overall strategy:

"Try to look at what strategies, and even concentrate more on a particular fire.
20 The down side, of course, is whilst we leave the others unattended they continue to grow."

You are then asked about some issues - over the page - about equipment being used and
25 helicopters. Then the interviewer moves to discuss, after signing you off, at the bottom of the page, then introduces John Ross, spokesman for the New South Wales National Parks and Wildlife Service. "Hello, John." He then provides a
30 description of fires in New South Wales and in the Snowy Mountains. At the top of the next page:

"Unfortunately we do have more than the ACT. It is hard to put an exact figure ... looking
35 at something in the order of close to 50 fires burning in Kosciuszko National Park, about 30 of those in the southern section of the park and probably about 16 in the northern section."

40

He is then asked:

"Are there any close to the ACT?"

45 He says:

"The largest one that is close to the ACT is

5 actually burning adjacent to the southern
area of the ACT close to the Namadgi National
Park, that's Mt Morgan, which is just to the
east of Tantangara Reservoir. It's burning
in a fairly remote area. Obviously we will
be cooperating closely with the ACT
authorities over that one, if it looks like
it may cross the border, but it does border
with Namadgi National Park so it is all
10 fairly remote country."

The interview then goes on for some pages, three
pages, to page 6, Mr Castle, and discusses issues
like the fact that they had only just started to
15 mop up the - I am not sure I have pronounced this
correctly - Bladbo fires and other matters. But
interestingly, Mr Ross does not once mention
the McIntyre's Hut fire in his description. Do
you have any idea why he may have overlooked that
20 one?

A. No idea. Just two pages back, when they
say --

25 Q. The interviewer says on page 2:

"Interviewer: Now you've got three.

Castle: Yes.

30 Interviewer: But, mind you, it is not as many
as New South Wales.

35 Castle: No. Collectively, and I suppose from
that perspective, you know, there are some
very large fires in New South Wales.

Interviewer: We will be talking in fact to
John Ross in just a moment."

40 THE CORONER: Who is John Ross?

MR WOODWARD: He is said by the interviewer to be,
your Worship, spokesman for the New South Wales
National Parks and Wildlife Service. He seemed to
45 be speaking in relation to all of the fires
through the Kosciuszko National Park.

THE CORONER: Did you know him, Mr Castle?

A. No, your Worship.

MR WOODWARD: Do you know whether he is a media
5 person or an operational firefighter?

A. I have no idea.

Q. Mr Castle, I think at the end of yesterday
I was asking you some questions about
10 the afternoon and evening of 12 January, being a
Sunday, when you were present at Curtin all day.
I think one of your last responses - I do not have
the transcript with me - when I was asking you
about whether the fire had crossed the Mt Franklin
15 Road, you said that you were not sure - I think
you were indicating that you were not sure that
what Mr Graham said in his statement was actually
consistent with Mr Cheney's description of
the fire spread.

20 A. Yes.

Q. Do you recall saying something like that?

A. Yes.

25 Q. I thought it might be useful to just read that
part of Mr Cheney's report, which appears at
page 31 to 32 of his document. I am sorry,
I don't have a number for that. He says:

30 "During the morning and early afternoon
the northern flank of the fire spread into
Bushranger Creek" --

I think this must be Bendora.

35 A. Yes, it is.

Q. He continues:

40 "Spread into Bushranger Creek and fire crews
were attempting to contain the fire along the
Moonlight Hollow Road. The southern flank of
the fire continued to burn south and by 1500
hours it had crossed Bendora Creek and had
burnt up towards - this is the top of
45 the ridge line between Bendora Creek and
Collins Creek. The attempt to contain the
fire along the border fire break to the west

was unsuccessful and the fire had spotted across the break and was burning down towards the Mt Franklin Road to the west of Bendora hill."

5

That, I think, seems to be consistent with what Mr Graham says in his statement. I am just trying to find the reference. At 1500, this is paragraph 58, he was told that Bendora had broken its lines which required a new fall back position. The fire was on both sides of Mt Franklin Road and there were safety concerns for crews, he says. That is paragraph 88.

10
15
20
A. That is not consistent, as I understand it. It is on both sides of Mt Franklin Road. It is not what is described as you read out there. 1500 hours it crossed Bendora Creek and burned upwards towards the top of the ridge line. Burning down towards the Mt Franklin Road. I don't think it is until 1540, and even at 1630hours the wind strength increased in the east and fire broke away.

25
Q. You don't think it is until --

A. The next paragraph goes on to say:

"At 1540 hours the fire spotted across Moonlight Hollow Road which is still to the east of Mt Franklin - in several places."

30

If you turn the page it says:

"At 1630 hours the wind strength increase from the east and the fire broke away across Moonlight Hollow Road. Made a moderately severe run-up onto Bushrangers Hill and started for at least six spots across the border into Brindabella National Park."

35
40
Q. Do you accept Mr Cheney's interpretation of what was occurring at the time?

A. I have no reason to doubt that.

45
Q. Perhaps in relation to its location, with reference to Mt Franklin Road, there appears to be some divergence at least by a couple of hours, but they do appear to be consistent to the extent that

both Mr Graham and Mr Cheney indicate that the fire had broken its lines; in other words, Mr Cheney is saying the attempt to contain the fire along the border fire break to the west was unsuccessful and the fire had spotted across this break and was burning down towards Mt Franklin Road to the west. Mr Graham says, at least initially, he was told at 1500 Bendora had broken its lines which required a new fall back position.

A. If you go to - I am not being pedantic, but you are saying it broke its containment lines. I am not too sure the fire break was a containment line. I don't think it is all that significant, but the maps actually say 11 January, 2400 hours. My reading of that, it was across the border break, and I think that the Mt Franklin Road was the containment line.

Q. It appears from what Mr Cheney says at that stage the Bendora break was the containment line. We can perhaps look at it over lunch, because it requires referencing a lot of material. But that is certainly consistent with my recollection of the evidence, that the Bendora break at one point was a proposed containment line. Do you agree with that?

A. I think at some stage. But all I am saying is the map that he also tendered and showed the progression I think shows at 2400 hours on the 11th, the night before at midnight, that it had actually gone across that. So whether the Bendora - the border break, what is it called?

Q. What Mr Cheney says is:

"The attempt to contain the fire along the border fire break to the west was unsuccessful."

40

A. Yes. What I am saying is the map shows that at 2400 hours on the night before, that, I think, it had actually crossed what is referred to as the border break. So, therefore, saying that the attempt to contain it, the fire along the border break at 1500 was not the case at

midnight the night before. What I think is more significant is what it actually then did and spot, which is the next map that he has, which is the 2400 situation, which has significant spots
5 down in the valley.

All I am saying is that that particular part, which is what I thought you were asking about with the break, it is just an interpretation of what
10 was the line of containment at that stage.
I don't think it is all that significant.

Q. In any event, Mr Castle, you would agree that Mr Graham certainly says that he was told at 1500
15 hours, 3 o'clock, that Bendora had broken its lines which required a new fall back position. So certainly the fire crews were struggling to contain the growth of the fire at that time?
A. Oh, probably.

20

Q. Sorry?
A. Probably.

Q. That was certainly Mr Graham's understanding?
25 A. That is Mr Graham's understanding, yes.

Q. Was that something you were aware of at the time?
A. I don't think specifically. I may or may not
30 have.

Q. During the afternoon and into the early evening of the 12th of January what was your understanding of the attempts of suppression? How
35 were they going?
A. I don't think I have a specific recollection other than it was posing difficult with the easterly winds.

Q. Yes. They were having difficulty with easterly winds, and in fact at 4pm, according to his statement, Mr Lucas-Smith says that the Stockyard fire had crossed the Mt Franklin Road north of Pryor's Hut. Is that something you
40 were aware of at the time?
45 A. I don't think specifically.

Q. But the general impression one gets, Mr Castle, from at least those sources and indeed from the reconstruction by Mr Cheney, although the timing might be somewhat out in one or other
5 of these, that the fire was growing outside containment lines and fall back positions were being established; that's correct, isn't it? That is what these statements would indicate?

10 A. That is what those statements indicate, yes.

Q. You are saying it is not something you were aware of one way or the other on the night or the evening or the afternoon of the 12th?

15 A. It depends. What, into the evening? I think there was an evening briefing at some stage, but I don't know what time that was.

Q. I will come to that. It seems to be 4pm, which is probably afternoon. So you have no present recollection of what you understood to be the state of the suppression effort at that time?

A. I don't think specifically, no.

Q. There was a briefing, according to Mr Graham, at 4pm on the 12th. He refers to that at paragraph 91 of his statement. You might recall Mr Lucas-Smith being asked about some notes that Mr Graham prepared, and I think he indicated that he understood that those were probably notes which
25 Mr Graham had talked to at the meeting on the 12th, the afternoon, at around 1600. The document number is [ESB.AFP.0009.0328]. He deals with each of the fires in turn. Beginning with Bendora:
30

35 "Effort continuing on the fire near Bushrangers Creek. Water bombing to quieten the fire behaviour down. South-eastern edges fairly quiet with the fire trickling down to
40 the road. But tonight the crews are going to put in a back-burn along Moonlight Hollow Road up to Gravel Road."

In relation to Gingera:

45 "Still no-one on this fire. Air observers show it is still to the west of Mt Franklin

Road."

Stockyard Spur:

5 "Morass Flats and Cheyenne Flats showered
with burning material. Most active - with a
grid reference - very active - with another
grid reference - running up slope to Morass
10 Flats, about 30-metres from there. Flame
heights two-and-a-half to 3 metres."

He talks about the winds and he mentions
the tanker is that the one that had gone through
the bridge at that time or was that later?

15 A. No. That's later. I think the tanker went off
the road.

Q. There is a note about Mt Morgan. You were
present at that briefing?

20 A. I believe so.

Q. What was your impression of the information
that was being provided to those present as to
the progress of the suppression effort? You have
25 a note of it there, do you, Mr Castle?

A. Yes, I do. The notes I have got is:

"Bushrangers Creek water bombing on
the north-west. Proposed back-burning on
30 the northern flank. Gingera preferably
resource a crew to ensure not crossing
the road to the east."

Q. Sorry, what was that about --

35 A. It says:

"Preferably to ensure not crossing the road
to the east. Stockyard growing to the north
and north-east."

40

Q. Stockyard growing, did you say?

A. Yes.

Q. It seems that Stockyard was a little bit of a
45 problem, and the others - it is a bit difficult to
tell, isn't it, Mr Castle?

A. Yes.

Q. But it appears that the growth of the fires -
the fires are continuing to grow, you would agree?
A. Yes, it would appear so.

5 Q. At that stage at least, and when you couple
that with what Mr Lucas-Smith and Mr Graham have
heard during the day, they are not having much
success in containing the fires at that point?

A. Not to the west. But that indicated quiet on
10 south south-east whatever.

Q. Yes. The difficulty is on the west, and it
appears breaking control lines during
the afternoon; would you agree with that?

15 A. Based on Mr Cheney's, yes. But that does not
say that.

Q. No, but Mr Graham in his statement says that
he was told that at 2 o'clock?

20 A. Yes, but that is not in the briefing.

Q. Yes, I understand that. I am not saying you
were aware of that at the time, or at least not
aware of that from that meeting, or your notes
25 don't confirm --

A. No.

Q. The next document I want to show you,
Mr Castle, the last for the 12th, is what I assume
30 was the last media update for that day. It is
document [ESB.AFP.0014.0268]. Having regard to
what you said about the process of the approval
for this documents, you have provided some detail:

35 "While the fires in the Namadgi National Park
have continued to grow during the day ...
requiring heavy resourcing fires have managed
to reduce the rate of spread."

40 Apparently you said:

"While we have been successful in reducing
the growth rate of these fires, we are still
expecting all three fires to continue burning
45 for at least some time to come."

That is actually not the position as at 6.30, is

it, Mr Castle?

5 A. I am not too sure. I am not the expert about growth rate, but the first sentence does indicate that they continued to grow. I think what that is trying to reflect is that the efforts of firefighters have had some effect in actually reducing the rate of growth of that; they are my words.

10 Q. I think you agree with me that at least all indications were that during the course of the afternoon --

A. They are growing.

15 Q. -- they are growing?

A. Yes, that's correct.

20 Q. That, I would suggest to you, provides a more optimistic outlook than was the reality; doesn't it?

A. I am not too sure it does.

Q. It says:

25 "We have been successful in reducing the growth rate of these fires. We are still expecting all three fires to continue burning for at least some time to come."

30 So based on what the position was in fact at that time, I suggest to you that is an overly optimistic view?

A. That may be the case.

35 Q. In fact Mr Lucas-Smith, when he was asked about that document, said at transcript page 975 that that was in fact misleading; they were the words he used in relation to that press release. Do you agree with that?

40 A. I wouldn't use the word "misleading", no.

Q. You prefer "overly optimistic"?

A. I would say the first part is actually factual and it is growing, and I think that is optimistic.

45

Q. What was put to Mr Lucas-Smith was:

5 "Anyone reading that media release,
the public included, would be totally misled
by it, whether deliberately or innocently as
to what was actually happening with these
fires. The fires were expanding. The growth
rate was not slowing. The rate of spread was
not slowing. The fires were expanding,
weren't they?"

10 Mr Lucas-Smith answered:

"It would appear so."

15 It was put to him that that should have been put
in the media release; namely, that it had broken
control lines and so on. His response to that
was:

20 "At the end of the day it is my media
release. You can obviously see there is no
statement from me in there."

The statement is from you, isn't it, Mr Castle?

25 A. It was drafted for my release.

Q. Yes. The statement is from you, isn't it,
Mr Castle?

A. In the press release is attributed to me, yes.

30 Q. Are you able to say, having regard to what you
said yesterday about the process of approval, when
this was delivered to you what you did?

35 A. No, I can't. There was an earlier draft that
those were not attributed to me. And I have in my
notes that the focus for media in that briefing
was about making opportunities. So perhaps my
attention was actually focused on the bottom parts
of the press release without specifically checking
the top part.

40 Q. When you say there were earlier drafts with
statements not attributed to you, do you have
copies of those?

45 A. I have a copy.

Q. Do you? Those, as far as I know, have not
been provided to us, Mr Castle. Could I have a

look at that, please?

A. It has an AFP number on it.

Q. They probably were given to us then. So
5 the quote was originally attributed to
Mr Lucas-Smith in this draft?

A. It would appear so, but it was not released
that way.

10 Q. As far as I can tell --

A. The words are the same --

Q. Well --

A. -- I think.

15

Q. No, they are not. I will hand this back to
you. I am sorry, I don't have a copy. It starts
off the same way:

20 "The three fires in the Namadgi have
continued to grow."

Then the quote begins:

25 "We are now expecting all three fires to
continue burning for at least some time to
come. If they are not contained they could
threaten the Cotter catchment, and there is
also some risk to the Bendora and Corin water
30 storages. ACTEW is currently reviewing
contingency arrangements including
the availability of water experts."

35 A. Is the first sentence the same?

Q. I beg your pardon?

A. Is the first sentence the same?

40 Q. Not quite. The first sentence reads:

"The three fires in the Namadgi National Park
have continued to grow during the day-to-day,
requiring heavy resourcing. Chief Fire
45 Control Officer for the ACT Peter Lucas-Smith
said."

That is an accurate statement, isn't it,
Mr Castle?

A. It would appear so.

5 Q. The paragraph that I have read to you from
the final version about being successful in
reducing growth and so on is directly at odds with
that paragraph, isn't it?

A. It would appear so.

10

Q. In fact, the whole of that paragraph that
I read to you before, "while we have been
successful in following", is a paragraph that has
been introduced. Can you explain

15 the circumstances in which that whole paragraph
which was attributed to you in the ultimate draft
was introduced?

A. I presume picking up the water bombing and
some success that they had on one of the flanks.

20 That is all I can presume. I don't recall
specifically.

Q. Did someone say, "Look, we need to get
the message across that we are having some success
25 in this effort"?

A. I don't know whether somebody specifically
said that. I don't think so.

Q. You didn't say anything like that?

30 A. Not that I recall.

Q. Did you see this first draft, the one where
the quote is attributed to Mr Lucas-Smith?

A. I don't know.

35

Q. What would be the process by which this draft
was produced, which had no reference to any
success in relation to the fighting of the fires,
the paragraph that talks about success will have
40 been added?

A. I don't know.

Q. Who is likely to have put that in there?

A. It could have been me, from the briefing.

45

Q. It could have been you?

A. It could have been me from the briefing

picking up on the successful aspects of Bendora where they had been water bombing and having some success also on the south-east flanks.

5 Q. Is it your evidence that that is the sort of addition that if you were given this draft, for instance, the one you have provided to me, you would read it and think, "Well, I think I should add something", and that is the paragraph you have
10 added.

A. No, not necessarily. In fact I rarely did that.

Q. Who drafted it then?

15 A. I presume the media cell, based on the information at that particular time.

Q. Who in the media cell?

A. I am not too sure who was there on that day.
20 I think it would have been Marika Harvey, perhaps. But it is based on information that they got.

Q. Thank you. Is there a concern at this stage, Mr Castle, more generally to provide, if you like,
25 both a summary of what was going on but also provide some slightly more optimistic outlooks and so on in this sort of document?

A. No, not consciously, I don't think, except to recognise the individual efforts of
30 the firefighters.

MR WOODWARD: Your Worship, I think in the circumstances we can certainly arrange extra copies of this. so you will get yours back,
35 Mr Castle. This should be tendered.

THE CORONER: That is an earlier draft.

MR WOODWARD: It is a draft of a media release for
40 the Sunday of 12 January 2003. It does not have a time.

THE CORONER: That earlier draft of the media release of Sunday 12 January 2003 will be exhibit
45 0023.

EXHIBIT #23 - EARLIER DRAFT OF THE MEDIA RELEASE

OF SUNDAY 12/01/2003 ADMITTED WITHOUT OBJECTION

MR WOODWARD: Mr Castle, just one final thing
about the actual final media release, which is up
5 on the screen still. Again, we have the statement
almost in identical - in fact I think it is in
identical terms to the one I referred you to:

10 "We are also keeping informed about two New
South Wales fires that are close to the ACT
borders. One at McIntyre's Hut and the other
at Mt Morgan."

Again, I ask you that would give the impression to
15 someone reading this press release that if there
were any problem with any of those fires they
would be alerted to it by you?

A. I am not too sure. I think that is actually
indicating that there is close liaison. I don't
20 think there is any specific inference about what
the future may hold.

Q. Mr Castle, you would be keeping informed about
it for a reason, wouldn't you? Obviously you
25 wouldn't be saying this in a press release unless
you were wanting to reassure the public that you
were keeping informed about the fire that was in
New South Wales?

A. I suppose there is an indication in there that
30 there is that link and liaison.

Q. And that anyone reading that would form a view
or have an expectation that if there was something
about one of those fires that the community needed
35 to know, you would let them know about it?

A. I think that is the case with any of
the fires.

Q. Including fires in New South Wales?

40 A. To the best of the knowledge that comes in,
yes.

Q. In fact, if you look at the last page, and if
I can take you to that, please Mr Castle, it
45 contains the map. On this occasion both McIntyre
fires and Mt Morgan fires are shown on that map.
That's correct, isn't it?

A. Yes.

Q. I think we agreed yesterday late at 2030 on
the evening of the 12th that you contacted
5 Emergency Management Australia and asked for
Commonwealth assistance; that's correct, isn't?

A. Somewhere around about that time, yes.

Q. That was following a conversation between
10 yourself and Mr Lucas-Smith when he indicated to
you that more resources were needed?

A. Yes.

Q. And that is because it was becoming clear, at
15 least to him, and I think this was his evidence,
that it was no longer possible to get these fires
under control with the resources he had available
at that time?

A. I am not too sure those were his exact words,
20 but he needed additional resources.

Q. And that was certainly the implication to you,
and him asking you to proceed with that process?

A. Yes, that is my understanding.
25

Q. Again, his evidence at page 977,
Mr Lucas-Smith was asked, after a reference to
what was to be requested:

30 "Does that reflect a situation whereas at
the night of the 12th it was becoming
apparent to you and probably to Mr Castle and
perhaps to others, with all the resources
available these fires were now going to be
35 extremely difficult to control."

He responded:

40 "Absolutely."

So you would agree that that was a view that you
shared?

A. I believe that I shared the view that there
were extra resources needed to try and contain it.
45

Q. Who did you speak to at EMA?

A. Don Patterson, I think.

Q. Was he your contact for all these requests, or did it depend on who was at the other end of the phone?

A. It is a duty officer system.

5

Q. I see. So your recollection is that he was the person you spoke to on the night of the 12th?

A. It may have been that there was a duty officer who then actually contacted Don Patterson who actually then --

10

Q. I see. Was it Mr Patterson you spoke to on each of the occasions?

A. On this particular occasion it was Don Patterson that actually - I interchanged with with the specific request.

15

Q. What is his position, Mr Castle, at EMA?

A. I don't know what his title is. He is one of the people that looks after interstate assistance.

20

Q. Where is he based?

A. Northborne Avenue, in Canberra.

25

Q. They have offices in other states, don't they?

A. No. At that particular time they were part of the Defence Department, and they were located on Northborne Avenue. They have a training institute called EMAI, Emergency Management Australia Institute, which is like a training colleague.

30

Q. That is in Bendigo, isn't it?

A. No, Mt Macedon, out of Melbourne.

35

Q. I asked you yesterday some questions about the process of making that request. Obviously it requires some formality; you would agree with that?

A. Yes.

40

Q. Although on this occasion you made the verbal or oral request first and then followed that up with the paperwork the next day?

A. That is fairly normal. So the process is you make a verbal request, an interchange of why and what you need --

45

Q. Just focusing for a moment on the why. Is that something you discussed when you requested the equipment, so when you make the verbal request?

5 A. In general terms, but not the specifics as such.

Q. But, in any event, you then confirm that in writing?

10 A. You actually follow it up with some paperwork so they then have a paper trail and a record of the request.

Q. Would generally what is in the paperwork reflect what you have said on the phone?

15 A. Oh, it may. It may not. It might be more formal.

Q. As I think you said, it might have been the day before yesterday, it is necessary for you to provide a reasonably frank description of the current status of the event so that the person receiving the request is able to understand and assess whether the request is appropriate; is that right?

25 A. It is a justification process. One of the tests really is what resources the state has and what efforts have been made to obtain locally resourced - sort of local resources. So you are justifying to the Commonwealth why they should actually provide assistance.

Q. Yes. In order to do that, you need to give, as I have asked, a reasonably frank assessment of the current state of the, in this case, fire emergency that you were requesting a response to?

35 A. Frank, as best can be put to justify the resources.

40 Q. I see. You certainly don't overstate the position; that wouldn't be appropriate, would it?

A. I wouldn't want to mislead.

45 Q. I will come to that --

A. However, he did come back to me.

Q. That night?

A. Yes.

Q. And what did he say?

5 A. And asked further questions.

Q. What questions did he ask?

A. In the back of my mind, "Why do you need these
particular resources? What efforts have you done?
10 What is the reason?" So it was not just accept.
It was an interchange, because the process in
the first instance is to get the justification at
that stage for the minutes for the Defence to
agree.

15

Q. I see. What did you say to him when he asked
you to justify the request?

A. I don't recall specifically.

20 Q. Do you have any notes of that conversation?

A. Only of what I actually asked for.

Q. I should say, your Worship, I have not asked
Mr Castle about the notes he has in front of him.
25 We were provided, and I asked Mr Castle yesterday
about the notes that he found, as I understand it,
shortly before the inquest started. I think it
was when you moved offices, is that correct?

A. That's correct.

30

Q. I have been through them and could not find
anything that I could interpret as being of
relevance. Perhaps if you have them in front of
you, if you are referring to them, I might ask you
35 from time to time, as it may be that I was not
able to tell the date.

A. I sequentially numbered them as best I could,
because some of them were in pads. One was
actually in a pad. They were different pieces of
40 paper, and I tried to sequentially number them for
you.

Q. I did notice they were numbered, but
the bundle we were given was all over the place.
45 So I don't know whether someone had mixed them up
in the process?

A. That is probably because they were on separate

pieces of paper. There was probably a bundle that at some stage became more ordered, but the first ones were different pieces of paper. You can see by the various pads and notes.

5

Q. Yes, I understand. All right, moving to the morning of the 13th - and I will come to that formalised request shortly - actually, maybe something you became aware of in the morning, but did you have an understanding at either the evening of the 12th or the morning of the 13th, Mr Castle, about what level of manning was being provided for the SMT overnight?

10

A. No.

15

Q. Is that something you were asked about?

A. No, I don't think so.

Q. You were never asked by Mr Lucas-Smith or anyone else for assistance to provide additional personnel to provide an overnight planning cell, for instance?

20

A. Not that I can recall. Much later. In fact, I think after the emergency we were.

25

Q. That's right, after the emergency a considerable number of additional people were brought in --

A. Defence as well.

30

Q. Were those personnel available, let's say, on the 13th?

A. The Defence personnel?

Q. Or anyone? The sort of personnel who were then after the 18th obtained to scale up, I think the expression is, the IMT for night-time operations? Were those sort of personnel at least theoretically available on the 12th?

35

A. I have no idea. The ones that I am specifically referring to, I made a specific request to Defence for people with operations centre experience, not necessarily operational firefighting experience. That was purely on running operations centres. I was after logistics people and operational centre, purely from a processing point of view.

40

45

Q. Was there any reason why, again in theory, that request could not have been made as early as the 12th?

5 A. I don't think it would have focused on that particular aspect because it was more the machinery, the pace of the effort going on, not the expertise. Because as I just said, they didn't - we didn't focus on people with fire --

10 Q. I understand at the time no-one perceived the need apparently for that level of staffing. But if someone had on the 12th or 13th or at any time before the 18th perceived the need for additional personnel to provide support for an overnight SMT in any roles, in theory you could have made that request at that time?

15 A. Unlikely that the Commonwealth would actually have it.

20 Q. What is the difference between then and the 18th, other than the fact that --

A. Because you asked specifically SMT.

25 Q. The sort of people you got after the 18th of January, were those sort of people available to you, in theory, on the 12th?

30 A. Oh, I suppose so, if the request was there. But at that stage too I think the incident had been going much longer when we asked for it on the 18th.

Q. Yes, I understand. You say early on in your statement at paragraph 85 on the 13th you were busy conducting media reports.

35

"The usual early morning fly over 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, Tim Keady, Rob Tonkin and Alan Thompson, (senior executives from the ACT Public Service)."

40

About what time was that briefing, Mr Castle?

45 A. 10.30, 11.30, I think.

Q. Do you have any notes of that briefing?

A. No, I don't think so. No.

Q. Who asked for the briefing?

A. It may have come from ministerial level. It
5 may have come from Tim Keady. I don't recall.

Q. It didn't come from you or Mr Lucas-Smith
suggesting that that occurred?

A. No. Well, not that I can recall.
10

Q. Where was the briefing? It was at Curtin?

A. I believe so.

Q. You have listed all the people present. Was
15 anyone there taking notes of the briefing?

A. No, not that I am aware of.

Q. As I understand it, and I think Mr Lucas-Smith
gave this evidence, this is a briefing that
20 occurred shortly before Mr Stanhope and
Mr Lucas-Smith went on the helicopter flight; is
that correct?

A. That's correct.

25 Q. How long did the briefing last?

A. I don't recall. I am not conscious of how
long it actually took.

Q. I want you to do the best you can, Mr Castle.
30 I appreciate it is a while ago. Tell her Worship
what was said during the course of that briefing
and by whom. I don't need it verbatim, but if you
can do that, that would be terrific. If you
cannot, just give us the best you can, the effect
35 of what people were asking and what responses they
were getting?

A. Honestly, your Worship, it does not - this
particular briefing does not stick in my mind at
all. I don't have any notes of it. I don't
40 recall the specifics of it. I don't even know
whether I was there for the totality of it, to be
quite honest.

Q. It was at a time when the fires had been now
45 burning for five days.

A. Yes.

Q. There was some concern in the community, wasn't there, about the smoke and what that meant, particularly for the people of Canberra?

5 A. I would need to try and check the notes of what the wind forecasts - on one of the days when the wind turned back there was concern about the smoke.

10 Q. It may or may not have been smoke over the suburbs, but certainly the smoke in the hills was very visible, particularly from the McIntyre's fire; you would agree with that?

15 A. My understanding is to a lesser extent because there were easterlies blowing. That is what I am saying, I am not too sure which day.

20 Q. You, in the period leading up to 8 January, provided a very, in one sense, frank but certainly a very worrying prediction as to what the weather conditions meant for fire that year; you and Mr Lucas-Smith and others?

A. Right.

25 Q. That is correct?

A. You mean prior?

Q. Yes, before the fire started?

A. Yes.

30 Q. Mr Lucas-Smith had said as recently as November that the December 2001 fires were just an entree to what was to occur?

A. Yes.

35 Q. And ministers, including Minister Wood, had been involved in the launch of the fuel management plan and were certainly conscious, I suggest, of what was being said by Mr Lucas-Smith and by you and others about how volatile the season was.

40 A. Probably.

45 Q. And these were fires that had been now burning for five days, and you were not at that stage having much success in controlling them; that is true?

A. Not in some of the directions, no.

Q. Did anyone, on behalf of the government, Mr Stanhope, Mr Keady, Mr Tonkin, raise with you, you know, what is going to happen with these fires?

5 A. Not that I can recall directly.

Q. Did they refer to the fact that you warned the Canberra community of the volatile season and ask you, "What is going to happen?"

10 A. I don't think - I don't recall specific mention of that or that phraseology.

Q. Do you have any recollection at all as to why the briefing was called at that time?

15 A. I think that was Mr Stanhope's first day back off leave.

Q. Yes. And no doubt he was very concerned about the fact that these fires had been burning for five days?

20 A. Probably.

Q. Did he express that concern to you, that you can recall it?

25 A. Not that I can recall directly.

Q. Was anyone in that group, Mr Keady, Mr Tonkin, Mr Thompson, expressing concern about the fact that the fires were still uncontrolled and burning in the hills to the west of Canberra?

30 A. They may have.

Q. It is likely, isn't it, Mr Castle?

35 A. It is likely.

Q. What did you or Mr Lucas-Smith - I take it it was just the two of you on behalf of ESB present?

A. I don't recall to be quite honest.

40 Q. Certainly the two of you were there?

A. I think so.

Q. What did either you or Mr Lucas-Smith say in response to those concerns?

45 A. I don't know. Honestly.

Q. You just have no recollection?

A. I have no recollection of that briefing.

Q. Did Mr Wood, in his capacity as Minister for Police and Emergency Services, talk to you about
5 what the demands might be on his area of responsibility over the forthcoming days?

A. Sorry, did Mr Peter Lucas-Smith?

Q. No, Mr Wood in his capacity as Minister for
10 Police and Emergency Services, was he saying, "Look, what sort of demands are going to be made on people in my department over the next while?"

A. He is our department as well.

15 Q. Yes. All right, and your department. Was he concerned about resources, for instance? Do you remember him raising that issue?

A. Not directly.

20 Q. So your mind is a blank about what occurred?

A. It is, I have to admit.

Q. It would have been a reasonably important meeting, wouldn't it, Mr Castle?

25 A. Yes. What I have actually said is I am not 100 per cent sure I was there for the whole briefing.

Q. You were certainly there for a part of it?

30 A. I believe so.

Q. I think the timing - and we went through this with Mr Lucas-Smith, and I will not do it with you again - but it seems likely that if you were to
35 have got to the media, which you did, at 11.55, that could only have occurred if at about that same time Mr Lucas-Smith and Mr Stanhope set off from Curtin for them to get to Weston, in order for the two of them to get onto the helicopter,
40 which I think occurred very soon after midday. So it seems likely that you were there for a good part of the briefing?

A. Possibly.

45 Q. I will ask you again. Although you say you were not sure that you were there for the whole briefing, it was a very important meeting at that

time; would you agree with that?

A. Yes, I think so.

5 Q. You were meeting with some very senior politicians and in effect your boss; is that correct?

A. Yes.

10 Q. I suggest to you that you were at that stage performing one of the most important roles that you have - given that you are not an operational firefighter - to brief the government?

15 A. Yes, but in the details of what the purpose of this briefing was, to give an operations briefing, as I understand.

Q. So are you saying you didn't do much of the talking?

20 A. No.

Q. You would have been very concerned to hear what Mr Lucas-Smith was saying about operational issues?

25 A. Well, I presume so.

Q. You have said in media releases the day before that the fires are going to keep burning for some time to come. Was there any concern expressed? Presumably that sentiment was repeated on that morning?

30 A. I presume so. I don't recall. Honestly, I have no recollection of it, as I said before.

35 Q. All right. You say you don't recall anyone, apart from yourself and Mr Lucas-Smith, being present. Was Kate Keane there, at that briefing?

A. I am not too sure.

40 Q. Is it possible?
A. Probably not.

Q. Were you sitting around a table, Mr Castle?

45 A. Your Worship, I cannot even remember whether it was conducted in the boardroom or in my office, but probably in the boardroom.

Q. Would it be normal for you to have someone

there as a notetaker at that kind of meeting?

A. No, not necessarily.

Q. Mr Castle, your statement, after referring to
5 the briefing then goes on to refer in paragraph 86
to:

10 "Kate Keane issued a warning order on this
day as a courtesy notice advising members of
the Emergency Management Committee of
the situation. Two such warning e-mails were
sent."

15 I don't appear to have a copy of that document
with me, Mr Castle, but my recollection is that
that is a similar document to what was in
the media update; is that correct? Do you have a
copy of it there?

A. No.

20

Q. I might see if we can find that over lunch and
come back to it.

A. On the 13th? Yes, I do.

25 Q. You do have it?

A. Yes.

30 Q. Could I have a look at it, please. This
appears to be an e-mail sent on 13 January at
2.55pm to a large number of people, including Ian
Bennett, yourself, Amy Lowe, Mr Lucas-Smith and
others:

35 "Good afternoon everyone. Please note that
there are currently three uncontained fires
within the ACT. There is a fire at Mt
Gingera and a fire at Stockyard Spur, both
near Corin Dam and a large fire close to
40 Bendora Dam. There is also a large
uncontained fire in New South Wales close to
the north-west border that has the potential
to pose a serious threat to the ACT. Remote
area firefighting resources are being
45 employed, including construction of fire
breaks and aerial water bombing. EMA has
authorised our two requests for Commonwealth
physical assistance, four helicopters, four

dozers and a large jet A1 fuel tanker.
Defence will be providing these resources for
a period of 7 days. Gary" --

5 Do you know whether that is "Smith" or "Smyth"?

A. I think that one is Smyth.

Q. It continues:

10 -- "is the Defence liaison officer based from
Sydney. Approximately an hour ago, hour and
a half ago one of the ACT contract
helicopters crashed into Bendora Dam.
The pilot was the only person on board and is
15 currently being assessed at the Canberra
Hospital. Please note that we may require a
liaison officer from some agencies to assist
with the response to and recovery from the
fires and the aircraft accident. We will
20 contact you as required. Please contact me
if you require further information."

You say in your statement that two of these
e-mails were sent. When was the other one sent?

25 A. Oh, much later. The 15th or somewhere
thereabouts.

Q. Do you have a copy of that?

A. It is the 17th.

30

Q. It is the 17th, is it?

A. It has an AFP number.

Q. Yes, I think that might be part of the brief.

35 A. It is. It has a code down the bottom.

Q. At 10.55 on that day, that is a few hours
before this e-mail was sent, the request, formal
request, for Commonwealth assistance was finalised
40 [ESB.AFP.0007.0025]. This is numbered as ACT0001
in the section under "situation", you set out
I think there what we discussed earlier; namely,
your assessment of the situation to enable
the recipient of this document to assess
45 the appropriateness of the request; is that
correct?

A. Yes.

Q. It says:

5 "There are currently three uncontained bushfires within the ACT that are threatening the ACT water catchment areas. Another large fire just outside the ACT border to the north-west is also causing serious concern with a further fire in NSW just to the south-west. Containment of the fires has
10 been unsuccessful to date due to the remote and difficult terrain. ACT Government resources are severely stretched responding to both the ACT and assisting with the NSW fires. Remote area firefighting techniques
15 are being employed, including construction of fire breaks, and aerial water bombing and reconnaissance assistance are considered vital in this campaign."

20 You then set out details of the resources that are then in place. You say in the second line, the second sentence:

25 "The campaign has been operating 24 hours for five days and is expected to continue for possibly up to two weeks."

You are there requesting resources for the ACT, aren't you, Mr Castle?

30 A. Yes, that is right.

Q. You are referring to the ACT campaign, aren't you?

35 A. I think so, yes.

Q. That is not true, is it? The campaign had been operating for 24 hours for five days?

A. You mean insofar as the first two days?

40 Q. That's correct. There was no-one there during the night on the first of those two days?

A. No. You are correct.

45 Q. You then go on to deal with the aerial resources and then you say - I will just go back to the start of the sentence:

5 "In addition, the ACT has received some assistance from the helicopters under NSW control, but these are increasingly being deployed full-time to attack the McIntyre's fire just to the north-west of the ACT. This fire is very large and with a wind change and no containment poses a substantial threat to the ACT.

10 NSW are not able to provide further assistance due to large fires located further to the south-west of the ACT."

15 Over the page you set out the specific requests and details of delivery. At the bottom you say under "remarks":

20 "Mike Castle verbally made this request at approximately 2030 hours on Sunday, 12th January 2003."

Does that summarise the situation, under "own resources" section summaries what you said on the Sunday night?

25 A. I don't think in that detail.

30 Q. At that stage I think you had said in some of the media interviews earlier over the course of the weekend and on the Friday that there was a possibility of a wind change coming next week, you said; is that correct?

A. I believe so.

35 Q. So you saw that as a possibility, that it would come that week - during the week?

A. At some stage.

40 Q. You have said, particularly in the section under "own resources":

"This fire is very large with a wind change and no containment poses a substantial threat to the ACT."

45 In your mind on the morning of the 13th of January 2003 did that threat, Mr Castle, extend to the Canberra urban area?

A. I don't believe so in a specific way.

Q. Let's not worry about a specific way. Even in a general way are you postulating a threat to
5 the Canberra urban area?

A. I don't think I was specifically postulating a threat to the urban area.

Q. You are not in the letter. In your mind was
10 there a potential threat to the Canberra urban area on Monday, 13 January?

A. Sorry, was there a?

Q. Potential threat?

15 A. Oh, I think there was always a potential threat from the north-west. I think I said that yesterday.

Q. I don't think you did, Mr Castle. Was it a
20 genuine threat?

A. Is it a genuine threat?

Q. On 13 January 2003 did you see it in your mind
25 as a genuine threat? That is something other than something that was fanciful or totally unrealistic?

A. I don't think it was fanciful or totally unrealistic.

30 Q. So you would agree that it was a genuine threat?

A. I am expressing there that there is, without
containment. And it does say "no containment,
35 poses a substantial threat".

Q. No, you say "threat to the ACT". What I am
asking you, was there a genuine threat on
the 13th, in your mind, to the urban area?

40 A. I don't think I could be that specific.

Q. When you say you don't think you could be that
specific --

45 A. Because it depends on the severity of winds that we were actually going to get. It depends on terrain --

Q. Sorry to interrupt you, Mr Castle, but you say

"this fire is very large and with a wind change and no containment poses a substantial threat to the ACT". So you are at least postulating in that letter the possibility of, firstly, the wind
5 change; and secondly, no containment at that time, aren't you?

A. Oh, yes, that's correct.

Q. In those circumstances, the ones you have
10 postulated, a wind change and no containment, was there a genuine threat to the ACT urban area?

A. I don't think I could say that there was definitely.

Q. Well, I don't care about definitely. A threat
15 is necessarily not definite. If it was definite it would be much easier for everybody. A risk or a threat is something that may not happen, isn't it?

20 A. Yes, I suppose so.

Q. So what I am asking you about is: was
the position in your mind on 13 January that with
the wind change and no containment the McIntyre's
25 Hut fire was a genuine threat to the Canberra urban area?

A. I am not too sure I could say yes to that.

Q. Well, do you say no, it wasn't in your mind a
30 genuine threat?

A. I think it was a potential. There was a potential to come towards the ACT.

Q. You agreed with me earlier that the threat was
35 not fanciful or totally unrealistic?

A. No. That is what I am referring to there.

Q. I was asking you --

40 A. Oh, in relation to the urban area.

Q. Yes, I was asking you about the urban edge,
the urban area.

A. I don't believe at that stage it was a
substantial threat to the urban area.

45 Q. All right. Let's back off from "substantial", because substantial is something that is probably

more than 50 per cent, isn't it?

A. If you want to give it that definition.
I can't say --

5 Q. What I want to know is whether it was a
genuine threat; whether it was more than something
that was fanciful or totally unrealistic?

MR JOHNSON: Hasn't that been asked and answered,
10 your Worship. I am conscious words are being
used, and words are what has to be used because it
is question and answer. But at the end of the day
I think what the witness has said now, on more
15 than one occasion, was that it was not a
fanciful or unrealistic threat. That is the
formula that has been put. He has accepted that.
I would ask that it be treated as a question asked
and answered.

20 THE CORONER: I don't have a very clear answer to
it, Mr Johnson. At one stage it was asked of
Mr Castle whether it was a genuine threat, and
I thought that you agreed that it was a
substantial threat. Now you are saying that it
25 was always a potential threat, but not a
substantial threat in your mind to the urban
areas. So I am not very clear. So if Mr Woodward
can clarify it in some way.

30 MR JOHNSON: Certain --

THE CORONER: I would appreciate an answer,
Mr Johnson.

35 MR JOHNSON: Having regard to what your Worship
said, I think the substantial threat to the ACT,
the witness had clarified. There was further
questioning: was that to the ACT or to the urban
edge? I don't think he has accepted substantial
40 threat to the urban edge.

THE CORONER: That has now changed, yes.

MR JOHNSON: Perhaps it is a matter of looking at
45 the transcript tomorrow to see what it says.
The basis of the objection essentially is that
the questions that have been recently asked have

been asked and answered. Maybe there is another question my friend wants to put to seek to clarify the witness's position.

5 MR WOODWARD: If I could just briefly respond, your Worship. I think what became apparent in that exchange, and I think your Worship is absolutely right, it appears that at least part of
10 Mr Castle's answer, although I had asked about the urban edge, he subsequently suggested or said something that suggested he thought I was talking about what was in this document. So I will, if I may, have another go.

15 Q. Mr Castle, on Monday, 13 January, in your mind with a wind change and no containment of the McIntyre's fire, was there a genuine threat to the Canberra urban area?

A. I don't believe at that stage.
20

Q. You didn't believe there was a genuine threat on Monday, the 13th, in the morning?

A. To the urban environment, the urban edge.

25 Q. When did you form the view, Mr Castle, that there was a genuine threat to the urban area of Canberra, from any of these fires?

A. I think on the evening of the 17th.

30 Q. On the evening of the 17th was the first time you felt that there was a genuine threat to the urban area of Canberra; is that your evidence?

Let me make something clear, Mr Castle. I am not asking you about what actually happened. I am not
35 asking you to say that you thought there was a genuine threat that the impact with the ferocity that occurred was possible to foresee at any time before that. I am asking you about any impact on the Canberra area; do you understand that?

40 A. Yes. I think there was always a potential for some impact from a fire in the west, no matter where it was located. So potential.

45 Q. There is always a potential threat - if there is a fire to the west of Canberra, as you have postulated in this letter, and you have said it is a very large fire, and there is no wind change and

no containment, you say there is potential for impact on the Canberra urban area?

5 A. I think what you are trying to draw me the distinction of is, and I am trying to get it clear in my mind, I am thinking of all of the factors that lead to a particular risk and threat, and the difference between risk I suppose and threat, to the Canberra urban environment, and when did I actually form that.

10

In a general sense it is always there. The risk is there. The same as the risk is from a storm that is actually coming in as to what it could actually do. What eventuates, and when you actually form whether the threat is substantial or the degree of that, that is the problem I am having difficulty with, your Worship, and that is what I am trying to enunciate. If I am not being clear there --

20

Q. Let me put it in these terms, because I don't want there to be any misunderstanding. I am not asking you at the moment as to whether, and if so when, you thought a fire would impact on the Canberra urban area with the ferocity that occurred. At this stage, say on about the 13th or indeed from the 9th - I don't think anyone could predict whether a fire burning to the west of Canberra would - how it may impact upon the area. What I am asking you about is the possibility of impact, some impact on the urban area. What I want to know is whether, when you wrote these words in this letter, "this fire is very large and with the wind change and no containment poses a substantial threat to the ACT", were you there, or was it the fact that in your mind that without containment and with a wind change there was a genuine threat of an impact on the urban area?

35 A. Could I answer first by clarifying - sorry, not clarifying but restating? You are saying nobody could predict that on the 18th, the impact on the 18th, the devastation. But what degree of that is the issue, and I --

45 Q. No, I don't really want to get into degrees of impact.

A. But that is what you are asking me. Did

I anticipate an impact on the urban edge? Isn't that what you are, in effect, asking me?

5 Q. Yes, I am asking you about an impact, but I don't want to confuse the issue --

A. The degree.

10 Q. I want you to qualify your answer by saying, "I didn't anticipate the impact that occurred". What I want to know is whether you anticipated an impact or could have anticipated an impact. You had a lot of difficulty with this issue when I raised it with you before.

15 A. Yes, I did.

20 Q. Your answer - I was not able to bring it up at the time, but I can refer you to it now - at page 1364 of the transcript, I was asking you at that stage, "When did you first form the view that there was a cause for concern for the urban environment."

After a number of attempts you said at line 25:

25 "I think in a general way conscious from possibly the 13th, thereabouts, maybe."

30 I understood at that point at least your answer to be saying in effect that on 13th January you were conscious of a concern to the urban environment?

A. That could be the case.

35 Q. So you now agree with that? I should say, to be fair to you, Mr Castle, later on when I pressed the issue you stepped back, if I may say, to some extent, from that answer, and by the end of the exchange I think you were postulating that it may be around the 16th or 17th --

40 A. That is the same difficulty I am actually having again today, because it does depend on a degree of concern.

45 Q. That is why I want to avoid it this time. I don't want you at this stage to at least attempt to work out in your mind whether you had identified a degree of impact. At this stage I am asking about some impact.

A. Yes, but you are asking about the degree of concern I had.

Q. Well, no. I am asking about any concern.
5 Whether you --

A. Any concern. That is a degree.

Q. Well --

A. I either have no concern or some concern, and
10 then we are into a degree. I am sorry,
your Worship.

THE CORONER: That is probably the way to approach
it. Did you think in your mind at all, even a
15 small concern?

A. I think there was a small concern, if we can
put it in degrees.

THE CORONER: But a genuine concern? It wasn't a
20 fanciful prospect or proposition?

A. Not being a firefighter, some concern from a
layman's point of view is probably the best that
I can describe it. But it is the degree, and now
what I seem to be - been drawn on is the degree to
25 which that is actually being done.

THE CORONER: Are you saying now that on the 13th
you recognised that there was the potential for
some threat --

30 A. I think, your Worship, what --

THE CORONER: -- to the urban edge.

A. I think what I am referring to is with no
containment and all those caveats that Mr Woodward
35 is actually saying in there, and therefore
the degree of concern is based on the facts known
at that particular time. Some of those factors
are clearly enunciated in there, I think.
Therefore, whether I had a concern perhaps was a
40 concern from a layman's point of view, but large
fire burning to the west, some concern about
the ultimate ability of the fire to reach an urban
environment. But did I ask somebody specifically
qualified in that? I don't think I did.
45

MR WOODWARD: Q. I think we got there in the end,
Mr Castle. On the 13th you had some concern that

with no containment and with the necessary wind conditions of impact on the urban area of Canberra?

5 A. I think that is what you were putting to me, Mr Woodward, and I see no reason in those words there to actually disagree with that violently.

Q. All right.

10 A. But I would stress I think it is a degree.

Q. But I think you agreed with her Worship when she said it was not a matter of something that was either fanciful or totally unrealistic?

15 A. I don't have that expertise, no.

Q. You weren't, in your mind, saying, "This is something I can just ignore?"

20 A. Oh, no, I don't think anyone was saying that either.

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

25 THE CORONER: Yes, we will take the morning adjournment.

SHORT ADJOURNMENT [11.28am]

RESUMED [11.50am]

30 MR WOODWARD: Q. Mr Castle, I mean no disrespect in what I am about to say, but it is the case, isn't it, that you were not in a position to add much value to the process or to dealing with this
35 fire in terms of operational requirements and strategies and so on for fighting the fire?

A. No.

40 Q. So can I suggest to you that your role during the course of the fire perhaps can be summarised as being primarily three things, and please add to the list if you think I have missed something out, to liaise with and brief the government on
45 the emergency situation as it was unfolding; do you agree with that as being one of your substantial roles in this period?

A. It is a role, but not necessarily on

the detail. If they actually want to know the detail and the specifics and answer it from a firefighting point of view, then I don't have that expertise.

5

Q. I understand that. If they are interested to know some more detailed operational information other than the sort of thing that you were able to pass on from your discussions, they would need to go to someone who had more expertise in that area?

10

A. And more experience in fighting fires and dealing with the operations, yes.

Q. But you were the first point of contact, weren't you, Mr Castle, for dealings with government?

15

A. Not always, but generally, yes.

Q. It was certainly one of your areas the responsibility. If, for instance, there was a question that needed to be answered, the buck stopped with you on that issue?

20

A. I suppose at the end of the day the expertise is put together and I actually provide an answer up.

25

Q. The other role you had during this period was to take some of the load in relation to liaising with the media?

30

A. That's correct.

Q. And in fact you had a regular arrangement for an interview on most mornings, didn't you?

35

A. Yes, and as I explained yesterday that was desirable to relieve the pressure on the operations centre and the communications centre which, as I indicated yesterday, journalists do have a habit of actually ringing in directly to those because they have those numbers.

40

Q. That was a significant role for you during the fire?

A. It became, yes.

45

Q. Presumably thirdly, and perhaps more generally, your obligation included in your capacity as executive director of the Emergency

Services Bureau ensuring that throughout this process the bureau was continuing to fulfil its mission, which included notifying the public about emergency situations and issuing warnings?

5 A. I think that is the same as keeping the media informed as a methodology.

Q. It is one thing --

A. Yes.

10

Q. -- to give the media an update about what is happening with a fire, but it is probably the key role of the Emergency Services Bureau in terms of its dealings with the public to notify the public about emergency situations and issue warnings; is that correct?

15

A. I think so.

Q. I think I read to you from your submission to Mr McLeod where that was identified as an important part of the mission of the ESB, page 19?

20

A. Yes.

Q. And ultimately it is your responsibility to ensure that that mission is fulfilled?

25

A. Yes, it is, but there is a distinction between administrative and operational, and that verges on that fine line.

Q. I understand that from time to time in order to fulfil that obligation you would need information from those closer to the event in order to pass that on. Is that the point you are making?

30

35 A. No, I am also making the point that often the authority and the authority view of what actually needs to be given sometimes comes from the operational people themselves.

Q. I see. But it would be your responsibility ultimately to make sure that was happening?

40

A. In an administrative sense, I suppose, yes.

Q. Just so I understand your evidence about the question I asked you this morning in relation to the briefing that you refer to in your statement as "early on the 13th", that was

45

the first briefing during this firefight that you had given in fact to any of those people, is that the case, other than perhaps Mr Keady?

A. That may not be the case.

5

Q. Certainly the first briefing attended by the Chief Minister himself, Mr Stanhope?

A. Yes.

10 Q. As well as the Minister for Police and Emergency Services?

A. That was the first meeting out there that I can recall.

15 Q. Mr Keady, Mr Tonkin and Mr Thompson are all very senior executives from the ACT Public Service?

A. Yes, I'm --

20 Q. Those are the people you have identified in your statement as being present?

A. I believe they were.

25 Q. Is there any reason now to think that your statement is wrong about that?

A. I wouldn't be - I am not 100 per cent sure about exactly who was in that briefing, but I think that is the case.

30 Q. You certainly, as I understand it --

A. I think Mr Keady was there.

Q. Mr Keady was there, who is your boss in effect?

35 A. Yes.

Q. The Chief Minister?

A. The Chief Minister was there. That was the purpose of the briefing.

40

Q. And Mr Wood was certainly there?

A. I think so, yes.

45 Q. And is it your evidence that you don't remember anything at all about that briefing?

A. That's correct.

Q. That is doing the best you can do?

A. That is honestly the best I can do. I have no recollection of that briefing or the contents of it.

5

Q. I want to ask you another general question, Mr Castle. I have actually written the question down so if I need to repeat it I can. At any point in the period up to and including 18 January did you or anyone in your hearing raise an issue about alarming the public?

10

A. I don't recall.

Q. Is it possible?

15

A. In a general way it could be.

Q. Is it possible that at some point in this period someone has said, "Look, we need to be careful" or something to the effect of, "We need to be careful about not being too alarmist or not alarming the public"?

20

A. I don't recall specifically.

Q. I am always concerned when a witness answers "specifically" --

25

A. No, you asked me some specific words.

Q. I am trying to make it clear that I don't want you to be constrained by the words that I am using. That is why I said "to the effect of". What I want you to say is whether or not you can recall anyone saying something to the effect of, "Look, it is important that we do not alarm the public"?

30

A. I don't recall that.

35

Q. You don't recall that ever being discussed?

A. I don't recall.

Q. Is it possible that it was?

40

A. In a general way it may have.

Q. Was there a concern in your mind not to be too alarmist in the messages you were delivering?

45

A. I don't think that was the intention. I noticed in one of the interviews I used the phrase "not to be too alarmed".

Q. That is true, and I will come to that in a moment. But was that remark by you in that interview and in fact in subsequent interviews - was that something that you personally felt you
5 needed to be careful about or was it something that someone said something to you about?

A. I think it is in answer to a specific question, and it is trying to give a balance is all I think I am suggesting.
10

Q. You were trying to give a balanced outlook as to the level of concern that people should have?

A. I think that is probably the best way to put it.
15

Q. But it is not something, as far as you can recall, that anyone said to you, "Look, we do need to be careful" or to the effect of "We do need to be careful not to alarm the public"?

A. I have already said I don't recall any.
20

Q. Was there a concern in your mind as to how the public and the community might react if they were told about the seriousness of the event that was unfolding?
25

A. No, I don't think so.

Q. Were you worried at some point during the period up to 18 January that you might, by the way in which the message was delivered, create
30 panic?

A. I think that is always a possibility in the business of emergency services. How you say things in the media can have an effect on people.
35

Q. Are you conscious of tempering your language in order to avoid that?

A. Not per se.

Q. Not?
40

A. No, not per se.

Q. I will come to that interview that I think you were referring to, Mr Castle. It is timed at
45 about 11.55 on 13 January, which is the Monday. It is document [DPP.DPP.0004.0003].

The interviewer who you then refer to as Keri, are

you able to give the interviewer's full name?

A. Keri Phillips, I think it is.

Q. She begins the interview by saying this:

5

"Anyone who was driving around Canberra over the weekend would have been shocked and appalled to see the plumes of smoke rising up over the Brindabella's and it apparently is the case that two bushfires in the Namadgi National Park have spread across the border into New South Wales and fires, at least, some of these fires are burning out of control at the moment."

10

15

Then she introduces you and says you had stepped out of a briefing that you had given to the Chief Minister to talk to you on 666 ABC Canberra, "Thanks for taking the time". I think, although the timing was tight, it seems certainly possible that the briefing with the Chief Minister would have ended, because I think the evidence is they got on the helicopter at about 12.10; is that your recollection?

20

25

A. That is as I understand it.

Q. Do you have any recollection of leaving the briefing before it had finished?

A. Not to my knowledge. I don't recall.

30

Q. As I think you have agreed, Mr Castle, it was an important briefing with a number of, at least as far as you were concerned, very important people present. Do you recall saying, "Sorry, I have to duck out and speak to the ABC", or anything of that kind?

35

A. Given that I actually don't have a recollection of that specific briefing, I don't recall.

40

Q. It is not likely that you would have given priority to an ABC interview to a briefing to the Chief Minister and the other gentlemen we have identified?

45

A. It is probably the case that they said I would be available when it was finished.

Q. Did you hear the interviewer at the beginning of that interview talk about people being shocked and appalled to see the plumes of smoke?

A. I don't recall.

5

Q. Does it surprise you that the interviewer would say that on the 13th?

A. No, not particularly.

10 Q. I suggest that it is consistent, isn't it, with the fact that certainly people had been seeing smoke in the ranges and were clearly concerned about it?

A. Obviously as this announcer has said, yes.

15

Q. She then says, after introducing you:

20 "When we have been reporting that these fires have been burning out of control, is that a worry? I mean, when they are out of control, does that mean larger catastrophes lie ahead?"

You respond to that by saying:

25

30 "Well, not to be too alarmed, Keri, but they are serious. They are uncontained, so out of control sounds a little bit more dramatic, perhaps, than the terminology that we use. 'Uncontained'. We have resources on it - we look at particular outbreaks and that is where we use the aircraft to water bomb them, but we don't have a continuous containment line, nowhere near that potential yet, around
35 any of those fires."

She says:

40

"Yeah, so is this a great concern?"

You say:

45

"It is to the extent that we are always susceptible to wind changes, and at this stage, we have been getting winds mainly from the easterly direction, swinging north - south-east, round even potentially,

today, to the north-east which has the - has the potential to spread the fires as they slightly change, but our most prevailing winds is from the north north-westerly and that gives us 180 degrees, and would bring the fire back into us and back on to us in a much wider front. So that is the concern that we actually have."

10 Who do you mean by "us" in that paragraph, Mr Castle?

A. Collectively I think the operations, the totality of it.

15 Q. The reality is that the event that you have described, namely the prevailing winds occurring and turning 180 degrees, it would bring the fire back towards Canberra, wouldn't it?

A. Yes.

20

Q. I don't want to leave anything out, Mr Castle. You have the interview there in front of you. If I skip something that you feel is important, please let me know. I was going to jump over the page to where the interviewer says:

25

"Does ACT Emergency Services have enough resources to handle these fires?"

30 You say:

"I suppose the answer to that is no, we would never have enough resources for judicial use of it."

35

What do you mean by that, the reference to --

A. I do outline the problem, as we do not have a containment line around them.

40 Q. So in effect you are saying it would always be good to have more?

A. In this, yes.

45 Q. You then talk about the request to the Commonwealth Attorney-General and the assistance you had been offered at that stage.

A. In fact I may have - given it is contemporary,

I might have it wrong. They may have already moved from the Department of Defence. I said earlier, your Worship, that at this stage I thought they were the defence department. But
5 this triggers a memory. I am not too sure when EMA moved from the defence department to being the responsibility of the Attorney-General's, and by this comment it must have been that that had already occurred. I thought that actually
10 occurred last year, but I obviously have that wrong. So when I said before the Department of Defence, it is actually the Attorney-General, because they are part of the Attorney-General's; so, yes.

15

Q. That did not affect in any practical way either the process for requesting resources or the sorts of resources you could request?

A. No, except that the resources that we would
20 ask the Commonwealth for are the resources that the Commonwealth has.

Q. Yes. But at the end of the day, as was the case, they came from the Department of
25 Defence?

A. Well, that is where some of them came from. I mean, in terms of recovery, they came from Family Services - Family and Community Services, I think it is now called.

30

Q. In terms of firefighting resources, they generally came from the Department of Defence itself?

A. In fact, in terms of firefighting resources
35 the Defence Force has extremely limited - but the resources that we were provided with predominantly came from the Defence Force.

Q. The interviewer, after you have described
40 that, says:

"Will it be enough, and will it be in time?"

What do you think she was asking you when she said
45 "in time"? She was presumably referring back to your comment about the wind change, was she?

MR JOHNSON: We have a transcript which has the words of the questioner and the words of the interviewee, Mr Castle. In the end, a close textual analysis of course is a matter that can be
5 the subject of questioning and submission to an extent, but trying to work out what is in the mind of the interviewer, one can see what the question was and what the answer was.

10 One can also see in the context of questions being asked that Mr Castle was saying things, obviously publicly on the radio, which are a matter of record. I would submit that, although the process does require some questioning of Mr Castle about
15 what was in his mind and what was being said from time to time, and this is a good example of things that were being said to the Canberra community, the close analysis and asking the witness to effectively read the mind of the interviewer is
20 beyond both the role of the witness and the scope of the inquiry.

MR WOODWARD: I accept that, your Worship. I will not press it.

25 MR JOHNSON: I ask that that perhaps might be borne in mind for the balance of the examination.

THE CORONER: Yes.

30 MR WOODWARD: I am not conscious of asking a similar question before, but I will certainly bear it in mind, your Worship.

35 THE CORONER: Thank you.

MR WOODWARD: Mr Castle, you then go on in your answer to that question to say:

40 "We would always like more. These are very large fires ... we have a very large fire which was responsible for a lot of the smoke initially that people were concerned about in the Belconnen area. It is actually burning
45 to the north-west of the ACT border, but again, with prevailing winds from that direction, would come back on a very large

front. So with the cooperation also and assistance of New South Wales mutually planning objectives, you know, we are looking at - they are looking at their resources too,
5 but, I suppose, with all of the rest of the fires in the south-east of Australia, across Victoria and New South Wales everybody's quite stretched in terms of the resources."

10

You are talking there about the McIntyre's fire?

A. When I am talking about the first part of that, yes.

15

Q. And when you say "with prevailing winds from that direction would come back on a very large front", that is the McIntyre's fire you are talking about there?

A. Yes.

20

Q. She then asks:

"If that wind does swing around to the north-west, could it come as far as Canberra? Could it threaten Canberra?"
25

Your response to that is:

"I wouldn't want to be that dramatic."
30

You then go on to describe - you try to establish a series of containment lines, talking about significant fires:

35

"Whilst people can see them as smoke, the smoke as you indicated is going away from us, so they don't look particularly large from down in the urban area, but they could present quite a - quite a significant impact,
40 but there is a lot between where they currently are and the urban edge."

Is there any reason why you could not have said in that response, Mr Castle, "Yes, they could threaten Canberra"?
45

A. I think that is actually what I am saying. I am giving a balanced view there.

Q. Well -

A. She has said that. I am saying I don't think I want to be that dramatic and I am trying to point out I think quite honestly that there is a
5 lot between there and the Canberra edge. With hindsight, I suppose I could have said yes.

Q. Because that was the position, wasn't it?

A. Could it threaten Canberra?
10

Q. Yes.

A. Well, I suppose yes.

Q. But you are concerned to somewhat at least
15 downplay that threat by saying, "I wouldn't want to be that dramatic". You do not actually say yes. You go on and say, "Quite a significant impact, but there is a lot between where they currently are and the urban edge."

A. That is what I said.
20

Q. Someone, I suggest to you, reading that would be thinking, "Well, Mr Castle is not concerned about the urban edge at the moment," wouldn't
25 they?

MR JOHNSON: As to that, I object. This person would not read it. I assume they were hearing it. This is a radio broadcast. Secondly, what this
30 means in the end will be a matter for submission to your Worship. But a fair reading of this would be that what Mr Castle is saying is exactly what he did say. He was not saying there was no threat. He was acknowledging that the fires were
35 some considerable distance from the urban area, which was a matter of fact, and he was obviously not saying there was no threat. Now, that is a matter for submission, ultimately.

40 To ask the witness to interpret at this distance after the calamitous events of 18 January what he said then, in my submission, is both unfair and unhelpful at this time. It will be a matter - if it is said that what the witness said was, "Could
45 it threaten Canberra? No," that is not what he said. What he did say is what is there. It is against the background of an interviewer who

introduced the question, "Are there larger catastrophes lying ahead?" He said, "Not to be too alarmed" - he is not saying "don't be alarmed at all" - he said, "They are serious. We are
5 susceptible to wind changes. The most prevailing wind is from the north-west. It would bring the fires back into us and back on to us on a much wider front. That is the concern we actually have."

10

He is sharing that concern with the Canberra community. "Could it threaten Canberra?" He is not saying no. Reading this as a whole, I would submit the type of lawyer's analysis which is now
15 being given to this document is not fair to the witness. I would submit it should be read and understood as a whole and, as a whole, it can be understood as giving a message.

20 Now, I am rising at this time, partly also because this is obviously taking a considerable time. In the end, it will be for your Worship to determine issues arising from this on all the evidence. Clearly there is an opportunity to ask the witness
25 to comment on matters, but to effectively relive the interview in some way and to read the mind of the interviewer and to look at the answers closely is unrealistic in my submission, and I would object to the questions on this basis. If there
30 is some proposition to be put, let it be put. But I would object to the question and the use which is being made of this at this stage.

35 THE CORONER: Thank you, Mr Johnson.

MR WOODWARD: Your Worship, my learned friend is absolutely right. Ultimately it will be a matter of submission, and it must at least be possible that a submission could be made about this that it
40 was not a sufficiently clear message. If Mr Castle is now saying, "Well, in this response I was warning Canberra that there could be an impact or there was a threat", it is at least open for someone to submit that this is not how this
45 should be read. All I was merely doing was giving him the opportunity to express his own view about that. But if my learned friend --

THE CORONER: I will allow you to continue with this. Mr Johnson, I see these questions in relation to this particular interview with the ABC as part of the earlier questions that Mr Woodward
5 asked about whether or not there was a concern about panicking the public or not providing perhaps sufficient information to the public because of the concern that the public would panic, and it is in that context. Certainly if
10 you look at the questions that the interviewer is asking, I am not suggesting that the interviewer was in a panic, but the interviewer is at that date, which is the 13th, at 11.55, expressing concern and alarm.

15 Mr Castle is being asked questions or being asked to respond to an alarm that I see the interviewer has. I think it is quite legitimate to ask Mr Castle about what he understood was the threat
20 and to question him about the language that he used in trying to perhaps somehow modify the concern that the interviewer is expressing. The question, "Could it threaten Canberra", that is about as direct a question on the 13th as one
25 could get. Presumably, this is the way I take it, given that the fires are already in Canberra, when the interviewer is asking, "Could it threaten Canberra," that is the urban edge. They are the suburbs.

30 MR JOHNSON: And this is on the 13th --

THE CORONER: And this is on the 13th.

35 MR JOHNSON: He says, "They could present quite a significant impact, but there is a lot between where they currently are and the urban edge." That in particular read in the context of what he had said on the previous page, "Not to be too
40 alarmed, but they are serious", he says. Obviously what I am doing now is getting into the area which is essentially one of submissions, because ultimately that is what this will come to.

45 This, I would submit, shows the witness answering questions at a time which was still five days before the fires actually reached the urban edge,

as it turned out, and it was certainly not discounting the possibility that that may occur and in fact was referring to the possible effect of wind change in that context.

5

In the end, it is an area where there can be questioning of him as to his thought processes and what he was saying to the Canberra community. But I would submit that this issue has essentially
10 been explored sufficiently at this time.

THE CORONER: I suspect it is another attempt to give Mr Castle an opportunity to say what exactly was his feeling or his thought on the 13th about
15 the threat and the potential threat of the fire, or of the fires, to the city. So on that basis I will allow Mr Woodward to continue. Mr Castle is answering fairly much consistently to the questions that were asked before
20 the morning tea adjournment.

MR JOHNSON: Could I indicate, your Worship, that what your Worship has put I don't have any difficulty with. But the question was: what would
25 a reader learn from this? Apart from the fact it would not be a reader, it would be a listener, I would object to that question and I would maintain that objection.

30 THE CORONER: That is perhaps a little bit unfair.

MR WOODWARD: Q. Mr Castle, focusing on what you intended to convey, is it in fact the case that in that answer to the question, "Could it threaten
35 Canberra," which Her Worship is quite correct is a very direct question, you were intending to warn people that it could threaten Canberra?

A. I think that is the general intent because, as I have already highlighted, "quite a significant
40 impact, but there is a lot between". So it is trying to give the balanced view of what lies potentially ahead with the unknown.

Q. That is consistent, isn't it, Mr Castle, with
45 the fact that on that day you yourself thought there was a genuine threat to the urban edge?

A. I think that wording is consistent with what

I answered previously.

Q. I suggest to you, Mr Castle, that what you are
in fact doing in that answer - or it may be
5 suggested and I will suggest it to you - is
downplaying the threat; do you agree with that?

A. No, I don't.

Q. You don't think you are?

10 A. No, I think I am actually trying to give it a
realistic balance.

Q. Were you giving thought at this stage on
the 13th, Mr Castle, as to whether the existence
15 of that threat, at least in your mind, is
something that the community should be more widely
advised of than just on an interview with a
journalist who happened to ask you about
the threat to Canberra?

20 A. Sorry, could I have the first part of
the question again?

Q. Yes, I am sorry. It was rather longwinded.
Were you giving thought at this stage, given that
25 you recognised the threat, to the need to provide
more widespread advice about that threat than
simply responding to a direct question from an
interviewer; in other words, by a media release or
by some other form of wider dissemination?

30 A. No, I don't think it was my conscious thought
at that particular stage.

Q. To do that?

A. No.

35

Q. Despite the fact that at that stage you did
have a concern for the urban area?

A. I go back to my earlier answer. That concern
was one of some concern; it is a degree.

40

Q. Despite the fact that you had some concern,
you were not thinking at that stage about, "We
should start telling people about this"?

45 A. I could not enunciate that, other than what
has actually been said there.

Q. So you think that was sufficient by the 13th,

do you? You just simply say, "I would not want to be that dramatic. There is a lot between where they currently are and the urban edge"?

5 A. I didn't see that that was the cause to put out a separate media release.

Q. You then in your statement discuss the circumstances of the helicopter crash. It was a significant event and required additional
10 resources to be diverted, didn't it, Mr Castle?

A. Yes, it did.

Q. So far as the firefight was concerned, however, there was a planning meeting as always on
15 the afternoon of 13 January at about 6 o'clock. Did you attend that meeting?

A. I might have attended for part of it.

Q. Mr Graham refers to it in his statement at
20 paragraph 106 and also document [ESB.AFP.0005.0252], which is again what I understand or at least what Mr Lucas-Smith thought might be his speaking notes for that meeting. Do you recognise those notes, by
25 the way?

A. Do I recognise them?

Q. Yes. Were they ever shown to you at the time?

30 A. No.

Q. Do you have any reason to disagree with Mr Lucas-Smith that they appear to be speaking notes that Mr Graham used at the meeting?

35 A. No, I have no basis on which to disagree.

Q. He provides an update according to this note of the position of the various fires. Although part of the actual names of the fires are obscured, it appears he begins with the Bendora
40 fire:

45 "This fire continues to be held along Mt Franklin Road to the west of Bendora. It has not broken its southern line as it moves slowly towards Warks Flat Rock spur. The northern flank north of Bushrangers Creek still burns relatively unchecked though not

with too much intensity."

He talks about what is proposed for that night:

5 "Stockyard Spur: Arthur/Nick flying it now to look at the value of some of their proposed containment lines. At the same time they will map all fires."

10 The final one, which I think is Gingera:

"Don't believe it has crossed Mt Franklin Road, though this has not yet been verified."

15 Over the page he says:

"New South Wales Rural fire service provided us with a jet ranger this afternoon. This continued water bombing along with FB7. SouthCare also had to drop its water bucket" - I assume that is a reference to - to perform its rescue. This made the bucket temporarily inoperative. It is expected back in use tomorrow.

25 Mt Ginini: New South Wales crew has provided a crew to protect the Mt Ginini communications complex."

30 Is that, as you understood or as you recall it, a fair description of what was occurring at about 6 o'clock on the 13th?

A. I have no specific recollection of that.

35 Q. You don't recall the meeting?

A. Not specifically.

Q. Mr Lucas-Smith was asked about another document that appears to have been produced it would seem a little bit before that meeting and possibly with the meeting in mind, but we will need to ask the author about that. It is [ESB.AFP.0026.0278]. This is a fire situation analysis form in the AIIMS format for what is described as the Brindabella complex which encompasses the three fires.

If we jump to the second page, because I don't want to go through this in detail, you might recall Mr Lucas-Smith being asked about particularly the third alternative down the page,
5 which has an estimated date of control in mid-February and estimated size control, 80,000. Do you recall seeing documents like this at planning meetings or at other times?

A. No.
10

Q. I take it you don't recall seeing this particular document at any time?

A. No.

15 Q. Do you understand or have any understanding of why an alternative 3 like the one that is in there would be postulated when clearly it is outside the legitimate planning process?

20 MR JOHNSON: Could I object to that. It has been made clear by the witness and I think accepted by my learned friend that he is not an operational person. To ask him a question that may involve
25 exploring alternatives that seem to have an operational flavour would not be helpful, I would submit.

THE CORONER: That is a fair comment, Mr Johnson.

30 MR WOODWARD: Q. I meant to ask you earlier when we were discussing Mr Cheney's assessment of the fire spread, yesterday you mentioned I think with some authority, and I don't want to overstate it, Mr Cheney's Project Vesta work. Are you
35 familiar with that work in broad terms or are you familiar with the fact that he has been doing it?

A. Yes, only in so far as I was aware of the project.

40 Q. I take it that you were aware of Mr Cheney's reputation in the fire behaviour area before these fires, were you?

A. I understand he is a renowned researcher who has published quite a number of publications.

45

Q. I think some have described him as the pre-eminent fire behaviour expert in

Australia. Would you say that was overstating his reputation?

A. I would not want to comment about that. I don't think I have any basis on which to make a comment.

Q. But you are aware, aren't you, that he is considered one of the most prominent experts in Australia; that is his reputation?

MR JOHNSON: That has been established, I think, your Worship. I think the witness accepted the first proposition that Mr Cheney is well known. Beyond that, I think he has been asked the same question over and over again when he is really not able to advance it. I would object to the repeated questioning on that basis.

MR WOODWARD: Your Worship, I wanted to make it clear that I was asking - and it was obviously because it was a clumsy question - for what Mr Castle understood at the time of the fires, not currently understands. Perhaps I did not make that clear.

Q. Is that what you understood at the time of the fires, of his reputation?

A. I knew Phil Cheney had had discussions with him over the years. I knew his expertise.

Q. And you knew of his reputation?

A. As a fire behaviour and a researcher, yes.

Q. I think you called him a renowned researcher who had published a number of publications. That was something you understood at the time of the fires, wasn't it?

A. I think so, yes.

Q. You say in your statement at paragraph 89 that you made another request through the Commonwealth for a jet A1 aviation fuel tanker with a 10,000-litre capacity:

"At the same time I had confirmation of the previous request about dozers."

What I was keen to establish, Mr Castle, was: was that a separate request in effect to the one that you had made the previous night, or was it just an add-on to that, as it were?

5 A. No, it is a separate request.

Q. I see you looking at a request there. Is that one numbered 0002?

A. Yes.

10

Q. Could I see that, please, Mr Castle.

MR WOODWARD: This is something I was conscious, your Worship, that for some reason we had overlooked or didn't have. So it is not in the brief. The set that we had goes from 1 to 3.

15

THE CORONER: This is the actual request form to the Commonwealth?

20

MR WOODWARD: Yes.

Q. So this was a request made on 13 January. You say in your statement that you made the request. Did it go through the normal procedure of a telephone call followed up by a formal request, or was this just straight into writing, this one?

25

A. That is likely - it is likely to have been a verbal request in the first instance.

30

Q. Made during the morning of the 13th?

A. I believe so. In fact I don't know whether it references it or not.

Q. It does. It says somewhat surprisingly, given that the origin of the letter is timed at 12.20, that you verbally confirmed this request at approximately 1300.

35

A. That may have been made after - sometimes it might be, if you like, your Worship, a heads-up to the Commonwealth. They like advance information of what we are thinking, if that is going to be a request.

40

Q. You said in the situation section, "Fire situation as per request ACT0001", and you add:

45

5 "The ACT is experiencing difficulty in
obtaining sufficient quantities of aviation
fuel due to the large number of aerial
resources being deployed to the significant
fires within the ACT and New South Wales.
Due to the remote area of the fire, travel
time for helicopter refuelling also needs to
be kept to a minimum to ensure the greatest
number of resources are deployed on to
10 fires."

In that context you are dealing with a specific
requirement. That then leads to the request for
the jet A1 aviation fuel tanker?

15 A. That's correct.

MR WOODWARD: Your Worship, it is something that
I think probably should become part of the brief.
So again, Mr Castle, if I could keep this for a
20 moment, I will tender that. I might also at
the same time tender the e-mail from Kate Keane
which was discussed in the evidence this morning.

THE CORONER: So the e-mail from Kate Keane, which
25 is dated I think 13 January, will become exhibit
0024. These documents will be returned to you,
Mr Castle, for your own records.

THE WITNESS: Yes, that will be fine.

30

**EXHIBIT #24 - E-MAIL FROM KATE KEANE DATED
13/01/2003 ADMITTED WITHOUT OBJECTION**

THE CORONER: And the request to Emergency
35 Management Australia dated 13 January 2003 will be
exhibit 0025.

THE WITNESS: Your Worship, for reference you may
want to give it, rather than the date, the number,
40 because they are numbered. That is 002, I think.

MR WOODWARD: 0002, I think.

THE CORONER: I don't have that in front of me.
45

THE WITNESS: Sorry, it is on the document. Each
of the requests have - we tried to sequentially

number them.

THE CORONER: So request ACT0002.

5 THE WITNESS: Yes, I am just saying from a
reference point of view, the date, time and the
reference perhaps.

10 THE CORONER: 13 January, ACT0002. 1220 hours.

**EXHIBIT #25 - EMERGENCY MANAGEMENT AUSTRALIA DATED
13/01/2003, ACT0002, 1220 HOURS ADMITTED WITHOUT
OBJECTION**

15 MR WOODWARD: Q. That planning meeting was at
6 o'clock that afternoon, that is on the 13th,
Mr Castle. You are aware, aren't you, that some
time in the late afternoon or evening of that day
Mr Lucas-Smith took a phone call from Mr Cheney?

20 A. I don't have - that is on the 13th?

Q. His evidence and Mr Cheney's was that
the phone call occurred some time on
the afternoon/evening of the 13th?

25 A. If you are asking me did I know he had
actually taken it, I don't know.

Q. You know about it now, don't you?

30 A. I know about it now, yes.

Q. What I wanted to ask you, and I don't think
anyone has been able to be precise about the time,
but if it had occurred before 1800, before that
planning meeting, do you recall any mention of
35 that phone call at the planning meeting at 6pm?

A. Given that I have scant knowledge of that
particular planning meeting, no, I don't.
The reason I say that is the helicopter crash
posed quite significant impact on the bureau.
40 There were debriefings that did occur, and I was
conscious of that. So how that fitted in and that
may have actually crossed over in terms of
the planning briefing.

45 I am not aware, your Worship, at this stage
whether I can recall those specific events,
because I have to say most of my focus at that

time was trying to coordinate the resources and establish the other function of dealing with the significant impact of the helicopter crash.

5 Q. I note your diary says, it is the only item for that day, 13 January - you have 1400 to 1500, "briefing session". Is that a reference to the planning meeting or something else?

10 A. No, I don't know. You have an excerpt out of my diary. Some of those may be put in there --

Q. And never happened?

A. And never happened.

15 Q. I understand that. Putting aside whether anything was said at the planning meeting at 6pm, Mr Castle, do you recall Mr Lucas-Smith at any stage on the evening of 13 January, that is the Monday, mentioning to you that he had taken a
20 call from Mr Cheney?

A. Not that I can specifically recall.

Q. You were no doubt speaking to him during the course of the afternoon and evening?

25 A. You would have to be aware that Mr Lucas-Smith was intimately involved in the helicopter crash and most of the discussion I think that I had with Mr Lucas-Smith at that stage was in relation to the helicopter crash. I don't recall specifically
30 him having a discussion with me about it.

Q. Do you recall him mentioning it at all that evening, because he came back that evening - I don't think there is any doubt about that?

35 A. Not that I am aware of. I don't know.

Q. It is possible?

A. He may have.

40 Q. Do you think you would remember if Mr Lucas-Smith had come to you on that evening and said, "I have just taken a phone call from Mr Cheney and he is doing an interview with WIN television and he is going to say, 'The fire is
45 likely to come into Canberra,' or something to that effect"? Is that something you would remember?

A. Possibly.

Q. But you don't remember?

A. I don't recall.

5

Q. Moving over to the 14th then, Mr Castle, you say in your statement:

10 "Two Seahawks and two Squirrels were ready
for water bombing aerial reconnaissance
deployment on this day. Tony Bartlett was
air operations controller, as part of
the incident management team. The inversion
15 layers and smoke from the fires limited air
operations though."

When you say "Tony Bartlett was air operations
controller as part of the incident management
20 team", he was based at Curtin in that role, was
he, or not?

A. I believe so, but he may have located to where
the aircraft are at one stage; I am not too sure.

25 Q. You go on to say:

"At this time Belconnen was engulfed in
smoke."

30 Do you know what time of day you are talking about
when you say "at this time" in your statement?

A. Some time during the day, I think.

35 Q. During the morning perhaps? I only ask you
this because you did do an interview, it would
appear, at about 6.15 that morning. I just wanted
to try and work out whether that was something you
were aware of before or after the interview?

A. It may have been after. It would depend on
the weather.

40

Q. I will ask you about the interview. This is
document [DPP.DPP.0004.0004]. The interviewer
commences, according to the transcript,
the interview:

45

"ACT firefighters are hopeful of containing
at least one of the fires burning within

the Namadgi National Park. Back-burning, combined with a westerly wind change, is expected to direct the Bendora fire back towards containment lines. The bushfire services' Mike Castle says navy helicopters will be used for water-bombing today, and bulldozers will also be brought in for an all-out assault on the fire. But he says, there is concern the wind change could see new outbreaks from fires burning over the border in New South Wales."

So the reference by the interviewer there is to the New South Wales fires, and the grab from you - but correct me if I am wrong - appears to be in reference to those fires. You say:

"Unfortunately, it could, and we are meeting again this morning - our planning teams are meeting to work out the joint strategy particularly for the fire on the north-west of us in the Brindabella National Park."

That is the McIntyre's fire, isn't it, Mr Castle?
A. Yes, that's correct.

Q. It goes on:

"... and that was the largest fire in the particular region, and growing at the same relative rates that our fires have grown."

So what you are doing there, I think, is saying, if I understand it, that this was already the largest fire and it is growing as much as all the other fires are growing, so it is becoming a concern; is that how we should read that?

A. I think you will find it was growing within the containment lines.

Q. I understand that. But when you say, "That was the largest fire in the particular region and growing at the same relative rates that our fires have grown", what I understand you to be saying, but correct me if I am wrong, was that this was already a large fire and it is also growing like

all the other ones?

A. Yes. The point I am actually making is that at some stage the maps we actually provided showed the total containment of McIntyre's and did not
5 show the individual fire within that. So it showed the total burn-out of the containment strategy.

Q. Now I am confused, Mr Castle.

10 A. I am --

Q. I thought your point was quite a simple one and I don't think there is any doubt --

15 A. No, it is growing within.

Q. I see.

A. But could I also say that this may not have been a direct interview. This may have been what they call a news grab.

20

Q. It may have been, but it appears at least it was your voice --

A. Yes, it is me. My answer is there.

25 Q. You are responding to a comment and perhaps it was not a question asked of you, rather than someone introducing the grab?

A. That is what I am saying.

30 Q. It states:

"But he says there is concern the wind change could see new outbreaks from fires burning over the border in New South Wales."

35

You are saying it could; that is, you are agreeing, apparently, that the wind change could see new outbreaks from fires burning over the border of New South Wales?

40 A. But the point I am actually making is whether that was the question that was put to me.

Q. I understand that.

45 A. But the inference of linking it is that is what it appears to be being said.

Q. Then you go on to talk about the McIntyre's

fire, so that at least links to that extent.

A. My comment is in relation, as I see it - where I refer to Brindabella National Park, that is the fire, that is McIntyre's. But it is a bit
5 interesting that it says, "Unfortunately, it could, and we are meeting again this morning." That seems a little out of context. All I am saying is this looks to be a news grab to me.

10 Q. Yes, I understand that. But certainly you are not having any difficulty in --

A. No, not in what I have said.

15 Q. And you are not having any difficulty in providing information about the McIntyre's Hut fire?

A. Within the information we have, yes.

20 MR JOHNSON: Could I just raise this on this issue, your Worship: some of these transcripts of course have "interviewer", and this is one where it is a very short transcript and one wonders whether it is, as Mr Castle has raised, a news grab or an interview. Are counsel assisting able
25 to assure those here that it is an interview as opposed to a news item just so that we understand the status of this? Obviously where there is question answer, question answer, as with a number of the others, there is no difficulty. But with
30 this one if something is said to flow from what the interviewer says and its relationship to what Mr Castle says, then it may be important to know whether in fact what the so-called interviewer says was something that was known to Mr Castle.
35 This may be part of a news item where, from time to time, a news reader reads out something and there is a grab, to use the term that has been used by Mr Castle, of what he has said in some interview, obviously which has been held earlier.

40 At this time I don't know and I was just wondering if there could be some indication, particularly with these shorter ones, so that we understand whether they are part of an interview or merely --

45 THE CORONER: Or whether they are just part of a comment that was made in response to something

else that might have been asked at some other time.

MR JOHNSON: Yes.

5

THE CORONER: It is quite relevant to know, I would think, Mr Woodward, the context in which this is being put forward.

10 MR WOODWARD: We are not in a position to give that assurance, particularly in relation to these ones. What we can do, however, if there is a concern by any party that there is a risk that a particular interview might be misunderstood or
15 misinterpreted, then we can make what is called the wav file, which is a digitised version of the actual interview, available to them so that they can draw any conclusions they want to draw from that document.

20

In the case of this particular one, your Worship, I was seeking really to do no more than to establish that the reference, just taking the response from Mr Castle in isolation, was a
25 reference to the McIntyre's fire. But if there is a concern on the part of any party that there is scope for misunderstanding, then certainly we will do what we can to make that file available.

30 THE CORONER: Thank you.

MR WOODWARD: It is theoretically possible to have it played, but it is inconvenient, if I can just put it that way. But, again, if there are
35 particular files that people either want to listen to or want played, that can be arranged with a reasonable amount of notice. I do not mean by that days; I just mean 15 minutes or over a break or whatever.

40

THE CORONER: That just might help solve any issues or clarify any questions.

MR WOODWARD: Q. Mr Castle, 14 January at 9.30am
45 was the very first time at which there was a planning meeting at which formal minutes were taken; is that your recollection?

A. That is my recollection.

Q. Could I just ask you some general questions about two things. Firstly, the process by which
5 that came to occur - that is, a decision appears to have been made, "We need to formalise this process" - was that something you precipitated or somebody else?

10 A. No, I don't believe so.

Q. Are you aware who did?

A. It may have been Peter Lucas-Smith.

Q. Although I am sure this changed or ebbed and
15 flowed as the days progressed, as a very general comment, these meetings were held twice each day at around 9.30 or 9 o'clock and then again at around 4 o'clock; is that correct?

20 A. I think it is 9.30 and 4 is what was settled on.

Q. Except for the Friday, where I think it is correct to say it was deferred until 6pm that night. We will come to that. Generally speaking,
25 who was present at those meetings from that date? I notice that none of the planning minutes have an "in attendance" section, and no doubt that is because it would have been very onerous to have done that each time because people, I expect, were
30 coming and going. As a general rule, who was expected to attend these meetings?

A. I am not too sure who was expected to. Probably in the first instance members of the SMT, senior management team.
35

Q. I think it is important, as best we can, to try to identify people by name. So that was Mr McRae in his capacity as the planning officer, Mr Graham in his capacity as the operations
40 officer, and Mr Ingram in his capacity as the logistics officer; is that correct?

A. Yes, although that varied. There were rosters as the days progressed.

45 Q. They were generally there for the daytime work, weren't they, those three gentlemen?

A. Sometimes logistics was Wayne Willimott.

Q. Mr Lucas-Smith in his capacity as the incident controller was present at most of these?

A. That is my understanding.

5 Q. And you?

A. I tried to be there, yes.

Q. I suppose to save us asking the question each time, do you recall any that you missed?

10 A. I think that is easier when we come to it.

Q. All right. That is fair enough. So we have got five people at this stage --

A. I think there were quite a few more.

15

Q. I think you have given us the names of the notetakers, both of whom appeared to be present at both meetings. That was Kate Keane and I have forgotten --

20 A. Jillian Ferry.

Q. So that gets us to seven. Were members of each of the cells normally present as well?

A. Sometimes. Sometimes not.

25

Q. Giving us a general estimate, on average how many people were present at these meetings?

A. It could have been up to 20.

30 Q. I think Mr Lucas-Smith, and I am not criticising him for this, may have been overstating it because of the circumstances, but I think at one stage there he said there might have been as many as 40 there?

35 A. As it progressed, yes.

Q. So it was increasing as the week went on?

A. Yes, and as more liaison people came. For instance, defence liaison generally attended.

40

Q. So also all of the liaison people were present?

A. Yes.

45 Q. From New South Wales Rural Fire Service, if I can say "slash New South Wales Parks and Wildlife Service", Mr Good was there from time to

time?

A. He was one of the people that came. I don't know how many times he specifically came. I think he was the planning officer over there.

5

Q. He was.

A. But I am not too sure. I don't recall him actually attending every one. It was quite a variety.

10

Q. Was there always someone there from New South Wales?

A. I am not 100 per cent sure that everyone --

15

Q. As best you can recall, there was generally someone there at each of the meetings from New South Wales?

A. Generally, yes. I think - maybe on one or two occasions there was our liaison person from there who came back.

20

Q. That would include Mr Cooper?

A. Whether he was the one or not.

25

Q. How long did they generally last?

A. Off the top of my head, about an hour.

30

Q. As I understand it, from the evidence of Mr Lucas-Smith, they generally involved each of the planning units - sorry, each of the units within the SMT providing a report on current status?

A. That was the general overview and direction that they actually took.

35

Q. What planning was done at the planning meeting, to your recollection, generally?

A. I think general strategies, general objectives.

40

Q. Was it generally a matter of confirming - for example, Mr Graham would give a report on what had been happening and what strategies were being pursued, and then there would be a discussion about whether they were appropriate strategies, or were you actually devising strategies at the meeting?

45

A. I think at times it was a bit of both.

Q. What role did you generally play during the meetings, Mr Castle?

5 A. Not specifically any role.

Q. So --

A. I didn't chair it.

10 Q. Who did chair it?

A. Mr Lucas-Smith.

Q. If he was not present, and I think there was at least one meeting he was not - I don't think
15 you were present either, so we will come to that in a minute.

A. Mr Keady was there from time to time.

Q. Thank you for raising that, because I was
20 meaning to ask. When you say "from time to time", can you give us an impression of whether he was there for just about every meeting?

A. A large number of them is my recollection.

25 Q. Do you know, for instance, whether he was there on the 14th?

A. I wouldn't know specifics, no.

Q. Did that result from a discussion that you had
30 with him where you said something to the effect of, "We are going to be holding these daily planning meetings. You should come along"?

A. I think he was already aware that the daily planning meetings were going on.

35

Q. Could he have been at some before this date?

A. He may have, yes.

Q. I asked you about the notetaking, and I do not
40 mean in any sense any criticism of the notetakers in this question, particularly as I think you pointed out yesterday these were people who were not trained to take shorthand or trained in the way that people in this courtroom are. So
45 they were no doubt doing their best to note down things that were said as the meeting progressed and then they would take those notes away and, as

I understand what you said, they took it in turns to put together the minutes based on those notes. Do you agree with that?

5 A. Whether they took it in turns, I don't know what arrangement they specifically came to. Between them they produced the notes.

10 Q. In those circumstances, and this is where I want to make clear I am not critical at all, there would be occasions where they would have a list of notes and they would paraphrase in effect the conversation rather than do a verbatim transcription?

15 A. They were not verbatim; they were minutes.

20 Q. So from time to time there would be things that possibly they had written in their notes that did not make it into the minutes simply because they paraphrased an exchange into one sentence or one paragraph?

A. That may be, or there were slight differences between them and they had to decide which was the way in which they then actually typed the minutes.

25 Q. But you could be confident, couldn't you, that whilst things may have been left out, and I make no criticism of this, when the actual formal minutes were prepared the reverse would not be true, would it? They would have only written down in their notes things that they had actually heard 30 said during the course of the meeting?

A. I presume so.

35 Q. So the notes would be an accurate contemporaneous statement of what people were saying at particular points during the meeting?

A. I would presume so.

40 Q. That was the only role those two people had at the meeting, wasn't it, to take the notes?

A. Yes.

45 Q. Just dealing briefly with the minutes of the 14th at 9am, [ESB.AFP.0110.0782], at page 2, under the heading "Planning - weather", that is 0783, it would appear Mr McRae is reporting:

"Winds today will flow in a north-west direction. The wind direction will change to an easterly this evening ... Rick McRae has requested a special Bendora weather forecast.
5 It was considered important for fire managers to know when the wind will change ...

Planning members received handouts depicting 30 tonnes per hectare fuel loads and
10 10 tonnes per hectare fuel loads showing average flat ground rate of spread."

Do you recall what areas those fuel load handouts related to? Was it the area of the Bendora fire?
15 A. I do not recall them at all, but if I read that correctly that may be a theoretical.

Q. I see. So it could just be --
A. Showing average flat ground rate of spread.
20

Q. In those different fuel loads?
A. If you get a 30-tonne hectare and you get a 10-tonne; that is the way I read it.

Q. Did you have an understanding at that time of what the fuel loads were that the firefighters were confronting?
A. Your Worship, I am not a fire expert. I have no idea what a 30-tonne hectare is.
25 30

Q. I appreciate that. I did not ask that question very well. Was that ever something that was discussed in your presence?
A. What discussed?
35

Q. The fuel loads in the areas that the firefighters were working?
A. It may have - it would have been in one ear and out the other, to be quite honest. It does
40 not mean anything to me.

Q. I notice there is a reference there to Mr Roger Good saying something, after Mr McRae has said, "We may need a Bureau of Meteorology liaison officer in the planning cell," and Mr Good has
45 apparently said they had one for their operations, and Mr McRae stated, "The overall weather pattern

is for easterly air flows for the next few days."
That was the position with the weather as you
recall it at that time?

5 A. Not specifically, but if that is what it says
there, then it must have been.

Q. That bureau liaison officer was subsequently
arranged and you had someone briefing the meeting
from the bureau every morning from then on, didn't
10 you?

A. I didn't. Mr McRae arranged that, I believe.

Q. I am sorry, I didn't mean to imply you
arranged it personally. That is what happened,
15 isn't it?

A. My recollection, vaguely, yes.

Q. As appears in later sets of minutes,
Mr Castle, there is no media section in these
20 minutes, and I notice in paragraph 92 of your
statement you say, this is for the 14th:

25 "The media cell was established at ESB on an
ongoing roster basis. There were discussions
with Canberra Connect ... and taking over
the role as Webmaster. In addition, I was
having the overnight duty manager in Curtin
telephone me at 6am each morning with a
30 briefing on any significant developments so
I could provide news grabs for the media.
This relieves the early morning media
pressure on operations. Regular morning news
grabs were provided to ABC, 2CC, Canberra
FM."

35 Can we take it, what you are saying in paragraph
92, that those are things that were being done
during the day on the 14th?

A. The news grabs?

40 Q. No, I think it is clear that had been
happening probably before then, yes. But
the establishment of the media cell on an ongoing
roster basis, for instance?

45 A. Excuse me, yes.

Q. Is that the explanation as to why there is not

a media section in these minutes?

A. Sorry?

Q. That is, if you like, the ramping up of
5 the media cell which appears to have occurred on
the 14th - is that why there is no media section
in the minutes?

A. That could well be.

10 Q. I see the time. Just one final question about
that. You now know, don't you, Mr Castle, that
the previous afternoon or evening Mr Lucas-Smith
had spoken to Mr Cheney and he had indicated his
15 view concerning the risk to Canberra from
the fires. Do you recall him raising that at any
point during that meeting at 9.30 that morning?

A. At the morning briefing?

Q. Yes.

20 A. Not that I can recall specifically.

Q. Do you recall him at any time before the 4.30
planning meeting that afternoon mentioning that he
had received that phone call?

25 A. I don't think so. It doesn't stick in my
mind.

Q. Well, does it stick in your mind that, when he
mentioned it at the 4.30 meeting, that was
30 the first you had heard of it?

A. I think so.

Q. Does that surprise you, that he had not
mentioned it to you before 24 hours after it had
35 occurred almost?

A. Maybe, but I don't have a recollection of it.

Q. Does it surprise you that he had not mentioned
it to you before?

40 A. I would point out he had participated in a
rescue --

Q. I understand he did, but on the afternoon of
the 13th?

45 A. That didn't just go away. The impact of that,
I am sure, was still in his mind. All I am saying
is: does it surprise me, given that he had

actually just participated the previous day in a rescue? Absolutely not.

5 Q. As far as you can recall, the first you heard of it was that afternoon at 4.30; is that correct?

A. That is the best of my recollection.

10 MR WOODWARD: Is that a convenient time, Your Worship?

THE CORONER: Yes, we will take the luncheon adjournment.

15 **LUNCHEON ADJOURNMENT** [1.05pm]

RESUMED [2.00pm]

20 MR WOODWARD: Q. Mr Castle, we were making our way through the events of 14 January. At 11am that day there was a media update issued. It is document [ESB.AFP.0019.0032]. This appears to differ a little from earlier ones, Mr Castle, in that it doesn't have what we saw in the earlier ones - the quote from anyone preceding the more
25 technical details that tended to come towards the end of the earlier media releases; do you agree with that?

A. That's correct.

30 Q. It seems to launch straight into the size, the issue of weather and resources and so on. Are you able to assist us as to whether that was simply because there was nothing that could usefully be said at this stage or was there some policy change
35 about these releases at that point?

A. No, I don't think it was conscious. I don't think it was any intended specific change other than following a format.

40 Q. You I think on several occasions in various documents and transcripts certainly had a consciousness in your mind that a wind change posed a threat for the ACT, and I will just use that term generally, leading to the expansion and
45 more difficulties with the McIntyre's Hut fire in particular but also the other fires, weren't you?

A. That is what we established earlier.

Q. I know you say you aren't an expert in it, but you were certainly aware, because you said so a number of times, that a wind change to the north north-west would make things difficult; is that correct?
5

A. Yes.

Q. There was planning meeting on the afternoon of 14 January for which we have minutes. They are at [ESB.AFP.0110.0775]. Were you present at that meeting at 4pm that day?
10

A. Yes, it appears so.

Q. When you say "appears so", how have you satisfied yourself about that, Mr Castle?
15

A. I've got very brief notes, but I also note in my diary that I had a meeting with Mr Keady at 4.30.

Q. So it is likely, is it, that both you and Mr Keady - do you remember what you did? Did you go from your meeting with Mr Keady into the planning meeting or how did that happen?
20

A. I'm not too sure. It is just that it has a break in my notes. It barely starts. So I may have gone into Mr Keady. I don't recall.
25

Q. It seems from comments that are made towards the end of the notes you were certainly there at some point. Were you there, do you believe, from the beginning of that meeting or do you remember coming into it --
30

A. I see where I recorded two comments. I must have been there. It is just that I don't have the notes for it. I must have been there.
35

Q. You must have been there?

A. Yes.

Q. Mr Keady was there as well, wasn't he?
40

A. He may have been.

Q. Well, there are comments attributed to him, so presumably --

A. Sorry. Yes. Yes.
45

Q. Can we take it that both of you, or at least

as far as you can recall, were present throughout the meeting?

A. Yes, I think so.

5 Q. As was the practice, there is a report provided in respect of each of the fires, including the McIntyre's fire. Then there is a report by planning on page 2, 0776:

10 "Rick McRae reported that the planning cell is experiencing problems in obtaining data and they are taking steps to rectify this. The planning cell is working on building
15 stronger relationships with New South Wales Rural Fire Service to obtain a line scanning capability. Mr McRae reported on a tri-state agreement between Victoria, New South Wales and the ACT in order to share mapping
20 information data and to avoid duplication."

20

Do you recall that discussion, Mr Castle?

A. I recall Rick mentioning trying to tap into various - such sources.

25 Q. Do you know why, at least up to that time, the planning unit hadn't been given access or didn't have access to those facilities?

A. I think it is a technical aspect.

30 Q. You think it was a technical reason rather than a relationship reason?

A. A bit of both; but more a technical, being able to get the line scans.

35 Q. He then goes on - when I say "he", it appears at least from the minutes, but correct me if I am wrong, Mr McRae then gave a report on weather - and he says:

40 "The inversion level today made fire behaviour hard to predict."

Does that sound like Mr McRae to you?

A. Probably.

45

Q. He says:

5 "Long-term weather outlook details the temperature for Saturday at 35 degrees, with temperatures for Sunday, Monday and Tuesday being hot with stronger north-westerly winds. Mr McRae stated this forecast indicates that strategies will be harder to complete and hold after Friday evening."

Do you recall him saying that?

10 A. No, not directly.

Q. These are the winds that you had been fearing; aren't they, Mr Castle?

15 A. They are generally the winds that we have been talking about.

Q. And now they are no longer a matter of speculation; they are actually being forecast by experts?

20 A. Yes.

Q. And is that something that sticks in your mind, that now we are reaching the point where these feared wind changes are now being forecast by the experts?

25 A. On the Tuesday?

Q. Yes.

30 A. The fact that they are now actually forecast, they were still forecast earlier, so I'm not too sure what you are asking me. They were always a possibility. They were always forecast next week. It is now next week. There are forecasts there that are indicating actually into the longer term. So they are forecasting north-westerlies.

Q. That's right. And high temperatures?

A. Mmm-hmm. Yes.

40 Q. It is the fact, isn't it, Mr Castle, that these were the sorts of weather conditions that you had been saying in the various interviews that were going to present a problem?

A. Yes.

45

Q. Your planning officer is telling you, "High temperatures Saturday, with temperatures for

Sunday, Monday and Tuesday being hot with strong north-westerly winds"?

A. Yes.

5 Q. He indicates in that passage, at least it would appear, that the "forecast indicates that strategies will be harder to complete and hold after Friday evening". The impression given by the minute is that things are taking a turn for
10 the worst from Saturday. Is that the impression you had?

A. I presume so. But you are reading from a set of minutes that were not available at the time.

15 Q. I understand that. Presumably these are things that are being said in the meeting?

A. Yes. My notes are actually sketchy on that, as I have already said. So it is whatever I actually record at that particular time.

20

Q. You were there hearing this, weren't you?

A. I presume so.

Q. At least one of the notetakers seems to be
25 entirely consistent with the minute on that matter in document [ESB.AFP.0110.0033]. In the middle of the second page, 0034 - can I ask you: do you recognise which of the two notetakers this one is?

A. Would not have a clue.

30

Q. It looks as though:

"Weather today hard to define. Inversion today. Full of smoke. No wind."

35 A. Sorry, which paragraph are you reading from? Okay. Yes, I am with you now.

Q. It says:

40

"Long-term outlook, Saturday 35 degrees. Sunday MT" - presumably that is Monday/Tuesday - "hot, strong north-west winds."

45 It looks like:

"Consider" - or something - "Friday for

strategies, otherwise difficult."

5 So it would appear Mr McRae has said in the meeting that these are the expected conditions for the forthcoming weekend and it is going to be difficult to hold strategies after Friday evening; is that the sense that you were given at the meeting?

10 A. That's what it appears to be.

Q. Do you have no recollection of these things being said, Mr Castle?

A. Not directly, no.

15 Q. Sorry?

A. Not directly.

20 Q. When you say "not directly", are you assisted by the minutes, is that what you are saying, that you can --

A. They are a record of minutes of what was said. But you are asking me: do I actually recall those words? No.

25 Q. Do you recall a general sense from what Mr McRae was saying that things were going to turn nasty after Friday?

A. What it says in the minutes I presume was what was said.

30 Q. I appreciate that's what the minutes say. Do you recall having that sense when you were at the meeting?

A. No.

35 Q. But you would agree, wouldn't you, that certainly what is being forecast is stronger north-westerly winds?

A. Yes.

40 Q. There is then a number of planning issues. Again, if there is some matter in the minutes that you want to draw her Worship's attention to, please don't hesitate to do so. What I would like
45 to do now is ask you about the section that appears under "Media". You were present in court when Mr Lucas-Smith was asked about this, weren't

you?

A. Sorry? I was present in court, yes.

Q. Just starting at the actual minute of that,
5 [ESB.AFP.0110.0775], at 778.

A. What is this you are bringing up?

Q. I am about to read from the minutes, and the
10 second to final page, under the heading "Media".
As I recall your evidence before lunch, you don't
recall this discussion between Mr Lucas-Smith and
Mr Cheney occurring or at least being aware of it
at any time before this meeting; is that the case?

A. Not my understanding. Not my recall.
15

Q. So this is the first you have heard of it.
Mr Lucas-Smith apparently is stating, according to
the minute:

20 "... Phil Cheney (fire behaviour expert) has
conducted an interview with WIN TV".

Can we take it that those sitting at the meeting
at this time, as far as they were concerned this
25 was an interview that had already occurred?

A. I'm not too sure.

Q. What was your understanding of what
Mr Lucas-Smith was saying?

30 A. That he was likely to be interviewed, I think.

Q. So you do recall that, do you?

A. I believe so.

35 Q. Well, if that's what Mr Lucas-Smith was
saying, why has the minute-taker recorded that as
far as Mr Lucas-Smith's report was concerned the
interview appears to have already occurred?

40 MR JOHNSON: How can the witness answer that, your
Worship? He is working off his memory. He is
looking at the minute. How can he explain what
the minute-taker has or hasn't put? It is not the
witness's document. I would submit it will not
45 assist you.

THE CORONER: That is a fair comment too,

Mr Woodward.

MR WOODWARD: Thank you, your Worship.

5 Q. You do have a memory of this part of the meeting, do you?

A. I have a memory of a discussion about an intended interview.

10 Q. In your mind, when this discussion occurred, the interview, as distinct from the broadcast of the interview - both of those were still something that was going to happen?

A. I believe so.

15

Q. I should clarify that because I put two propositions to you. In your mind and your recollection is that you were discussing an interview where both the interview and the broadcast of the interview were still to take place?

20

A. I'm not too sure that I can split either of those; just that it was going to. Now, whether that was the interview still to be done or the broadcast still to be done, I'm not aware.

25

Q. You would agree that the minute would suggest that at least the interview itself has already occurred?

30

A. That's what the minute seems to --

Q. The minute records:

35

"Mr Cheney stated that any strong westerly gusts of wind could turn the fire towards urban areas".

Now, what I want to ask you, as you do seem to have a recollection of this part of the meeting, Mr Castle, is to as best you can identify the speaker in relation to these items. Someone has apparently said - it is clear, I think, and I don't think there is any dispute, that it was Mr Lucas-Smith at least talking when he described his conversation with Mr Cheney and what Mr Cheney had said to him; would you agree with that? That is, the first two sentences are things that

40

45

Mr Lucas-Smith is saying?

A. If the minute-taker is correct, yes.

5 Q. Do you have the handwritten notes there in front of you?

A. I have a set. I have what appears to be [ESB.AFP.0110.0058].

10 Q. 58?

A. 58.

Q. That is the page number. You don't have the one that is numbered, at least on the first page of the note, 0033?

15 A. I don't appear to.

Q. I will ask that to be brought up on the screen, page 0038. It is in the middle of the page:

20

"Media - WIN TV Phil Cheney fire behaviour expert CSIRO (cons expert in Australia)."

Do you know what was being said there?

25 A. No.

Q. Can I suggest to you it reads as if someone was saying "considered" or something about his expertise relative to others in Australia; was that mentioned, to your recollection?

30

A. No.

Q. So you can't assist at all in what was said about the level of Mr Cheney's expertise, if anything?

35

A. No.

Q. It goes on:

40

"Any strong gusts from west bring fire into city".

If you have the other document at 0058, if you turn to that you would agree it says:

45

"Phil Cheney fire behaviour expert interview told any strong winds from west into Canberra

City."

A. Yes.

Q. What you are being told there, Mr Castle, is
5 not as the minutes would perhaps suggest - again,
I don't make any criticism in relation to this -
that they are just bringing the fire towards urban
areas. Mr Lucas-Smith appears to be reporting
that it will bring the fire into the city. Does
10 that accord with your recollection that's what
Mr Lucas-Smith said Mr Cheney had told him?

A. I have no reason to doubt what somebody has
actually taken down. But whether he said that or
whether that's somebody's interpretation of
15 "into", "towards" I have no reason to --

Q. What I suggest to you, it appears those same
words appear in both sets of minutes. It seems
likely, doesn't it, that what Mr Lucas-Smith has
20 told the meeting is that Mr Cheney had said
"strong winds from west into Canberra City"?

A. I presume so.

Q. Just stopping there, Mr Castle - if that
25 appears to be the case, and I think you have
agreed that was said - did that concern you, that
Mr Cheney, someone who you have described as
renowned as a fire behaviour researcher, is saying
that this fire, if winds go to the west, is going
30 to turn around and come into the Canberra City?

A. I suppose so.

Q. Well, do you remember being concerned about
it?

35 A. No, not directly.

Q. Can you explain that, Mr Castle; that someone
of Mr Cheney's level of expertise is predicting
that the fire will come into the city and you just
40 don't recall being concerned about it?

A. I don't think it changed the level of
understanding that I already had.

Q. Because on the afternoon of the 14th are you
45 saying, Mr Castle, you already had a level of
understanding that strong winds from the west
would bring the fire into the Canberra City; is

that the position?

A. No, that's not what I am saying. I said "had a concern", and I think that's what we went to before.

5

Q. Mr Cheney is not saying apparently that he is concerned about it. He is saying it will happen. What Mr Lucas-Smith seems to be reporting is that Mr Cheney will say that strong winds from the west will bring the fire into Canberra City?

10

A. Doesn't use the words "will". It says "into the city".

Q. All right. The word "will" doesn't appear, but that is the sense of the sentence, I suggest to you. "Any strong gust from west bring fire into city."

15

A. And the people who took those notes interpreted that as towards the urban areas.

20

Q. No, let's not --

A. You are asking me what my opinion is and my interpretation. I don't have the minutes. These are minutes that are purported to be put together from these notes, and you are asking me for my opinion --

25

Q. I am asking for your recollection. I am hoping you are assisted by this document to recall what it was that Mr Lucas-Smith was saying was said by Mr Cheney to him. These minutes would suggest, I suggest to you, that Mr Lucas-Smith said that Mr Cheney has said "any strong winds from west into Canberra City"; that is the fire will come into the city. I suggest that's what that minute records - the note records?

30

35

A. Yes, that may be the case. That's what that minute records.

Q. I think you agreed earlier that these people taking these notes would have been doing their best at this time to write down what was actually being said?

40

A. Yes.

45

Q. And in those circumstances we can take it, can't we, that's what Mr Lucas-Smith is saying?

MR JOHNSON: I object. If this is to be done, and to be done in such detail, perhaps it is appropriate to call the minute-takers first to give their best recollection of what was said
5 which they made handwritten notes of. One has the handwritten notes which obviously are effectively shorthand - not in the literal sense - and then in the typed minutes the word "could". On the evidence, as I understand it, the typed minutes
10 are prepared by the people who take the handwritten notes.

It is interesting in any event to look at what Mr Cheney said. I am conscious that what is being
15 asked at this stage is what is it that Mr Lucas-Smith said to the meeting. But --

MR WOODWARD: Your Worship, it might be appropriate before this goes any further that the
20 witness goes outside.

THE CORONER: Could you please wait outside for a moment, Mr Castle.

25 **<THE WITNESS WITHDREW**

MR JOHNSON: If one goes back to the root of what was said, page 434, Mr Cheney said:

30 "If they asked me I would have to tell them that in my opinion it was a very dangerous situation and that these fires were likely to burn into Canberra."

35 At page 494 of the transcript, at line 43, he was asked:

40 "Q. Now, in the course of that information did you say to Mr Lucas-Smith words to the effect that any strong westerly gusts of winds could turn the fires towards the urban area?"

45 "A. Well, words to that effect, yes. I don't know that I would have used 'gusts', but a strong westerly wind would be expected later in the week."

That's the totality of the evidence on this issue from Mr Cheney. There was some evidence from Mr Lucas-Smith last week. I am conscious that what the present witness is being asked is what
5 does he recall being said at a meeting at which certainly there was no presence of Mr Cheney. But, if the witness is being asked, using other people's handwritten notes, to effectively fill in possible blanks or gaps, in my submission that is
10 not fair. If he was being asked about his own notes, it may be that that could be done. But that is not what is happening now.

I would submit that if the issue is looking at the
15 handwritten notes of these two persons who have been named, "What do you think was being said there," he has explained his position, and he has explained it by reference to the handwritten notes and the typed minutes. I would submit that, if my
20 friend wishes to go into this in this very close forensic detail, it may be that these minute-takers should be called first.

THE CORONER: What do you say, Mr Woodward? It is
25 difficult to ask Mr Castle, is it not, to interpret what somebody else has written? I appreciate that what you are trying to, I suppose, ask from Mr Castle is what exactly he remembered of the meeting. But it is probably not fair to
30 ask him to interpret what somebody else has written.

MR WOODWARD: Your Worship, it is obviously the
inelegance of my question. Certainly that is what
35 I was attempting to do. I was hoping he might be assisted by the actual notes, which he has agreed when I asked him this morning - and subject to the qualification that these note-takers are obviously not trained stenographers - are likely to be an
40 accurate representation of what people were actually saying, as distinct from the more interpretive approach in the minutes. That's why I wanted to take him to this to see if he could assist from his memory as to what he recalls about
45 what was said.

It is perhaps curious, or perhaps it isn't, that

this was precisely the way the matter was
approached with Mr Lucas-Smith, and I suspect this
has something to do with the quality of the
questions rather than anything else. There was no
5 objection taken when the same approach was taken
with Mr Lucas-Smith on this issue. He ultimately
agreed that it was clear from those notes that he
had reported, and frankly I think what Mr Cheney's
evidence is on this point is entirely irrelevant -
10 entirely misses the point.

What I am testing with this witness --

15 THE CORONER: Is what he recalls of what
Mr Lucas-Smith had said.

MR WOODWARD: What was being said at the meeting.
It is clear that we will have to call these
note-takers, regrettably, because there appears to
20 be now at least on behalf of the ESB an issue
raised as to the accuracy of these notes,
notwithstanding the fact that Mr Castle appeared
to agree that they were likely to be accurate.

25 What I am seeking to do is to ask him about his
recollection, and I am inviting him to get
assistance from the notes. If I have, and it
would be inadvertently, asked him to try to
interpret the note-taker's mind, then I apologise
30 for that and certainly withdraw that question and
I am content to approach it again and make it
clear to Mr Castle that what I was seeking to do
was to help him to assist his memory by referring
to what he has described as being accurate notes
35 of this meeting.

THE CORONER: Because that is really all he can
do, just comment on what he recalls was said.

40 MR WOODWARD: It really would not assist your
Worship to know how Mr Castle might interpret
these notes. That is only something that the
note-taker could assist your Worship with if there
was a dispute about whether the notes were
45 accurate.

THE CORONER: I thought that Mr Lucas-Smith also

agreed that the notes were accurate.

MR WOODWARD: I believe he did. He went a bit
further at page 989 and accepted that what he
5 reported Mr Cheney had said, putting aside whether
or not Mr Cheney had said this to him, was that
the fire would come into the city.

THE CORONER: Which is exactly what is written in
10 those notes.

MR WOODWARD: And both sets of notes being taken
independently by two people. It seems to me it is
only fair - indeed, it would be unfair of me to be
15 asking Mr Castle to try and speculate about his
memory as to these matters without taking him to
these notes, because they are contemporaneous
notes of what was occurring at a meeting at which
he says he was present.

20 I will certainly do my best not to ask him to
interpret what the notes may mean but rather to
use it as a guide for him as to what may have been
said.

25 THE CORONER: It is valid, Mr Johnson, for
Mr Castle's recollection to be tested.

MR JOHNSON: Indeed.

30 THE CORONER: If it means attempting to assist him
by making reference to the notes and perhaps
teasing his memory out a little bit, that's a
legitimate process. But certainly not to ask him
35 to interpret what somebody else has written;
I agree with you.

MR JOHNSON: The basis for the objection
essentially is because counsel assisting was
40 inserting the word "will", which does not appear
in the handwritten notes.

What one makes of the handwritten notes ultimately
will be a matter for the totality of the evidence,
45 presumably including the notetakers, if they are
called. One can see the word "could" is what
appears in the typed-up minutes. At page 989 of

the transcript Mr Lucas-Smith was asked at line 40
by Mr Lasry:

5 "Q. From those notes it appears clear, I
suggest, that you were told by Mr Cheney that
he held the view that, given the particular
weather conditions, north-westerly wind, that
the fire could burn into Canberra?

10 "A. It would appear so, yes."

Obviously the word "could" is in the typed
version. The word "could" or "will" is not in the
handwritten ones, and that is because obviously
they are in the nature of notes rather than a
15 transcript. What I am seeking to object to is the
effort by counsel assisting to treat the
handwritten notes as if the word "will" was in
there. That is really the nub of the objection.

20 I would submit that what was put and accepted by
Mr Lucas-Smith at page 989 is inevitable because
that is in the typed-up notes. But it is the
difference between "could" and "will", and "will"
does not appear in either the typed or handwritten
25 notes.

MR WOODWARD: If the objection is to the word
"will", I withdraw it.

30 MR JOHNSON: That might solve the problem.

THE CORONER: It might.

<MICHAEL JOHN CASTLE

[2.40pm]

35 MR WOODWARD: Q. Mr Castle, just so we are clear,
what I am endeavouring to do - you have said, I
think, that you do have a recollection of this
part of the meeting - is doing the best you can to
40 tell her Worship what that recollection is. I am
inviting you to look at the notes, particularly
the notes rather than the minutes, given that you
have agreed that they are likely to be more
accurate, albeit a truncated indication of what
45 was said, to assist your memory. I am trying to
do it in parts because it appears there was an
exchange occurring.

At the moment I am concentrating on what appears to have been Mr Lucas-Smith's report to the meeting about what Mr Cheney had said to him. The notes suggest "any strong gusts from W", which I
5 assume is west, "bring fire into city". That seems to be consistent in both sets of the notes although in the other set, "Told any strong winds from W into Canberra City". Now, what is your
10 recollection of that? Is that consistent with those notes, Mr Castle?

A. I don't have that strong recollection of exactly those words. I recall the mention of Phil Cheney going to do an interview. This doesn't specifically in parts, but I do read down and I
15 have highlighted that I then actually question what are the most threatening winds.

Q. I want to come to that. In fact you seem to do it twice. That's why I wanted to do it in
20 bits. Did you have a sense at that point, based on those notes and your memory, that what Mr Cheney was effectively saying was that strong gusts of wind from the west would bring the fire into Canberra?

25 MR JOHNSON: Could I object. Could I suggest that the witness be asked to give his best recollection of what was said. Different words are being used. That may be the shortest and most direct way.

30 THE CORONER: It might be better to ask Mr Castle to say exactly - as best you can what you can recall being said, Mr Castle.

35 THE WITNESS: Your Worship, I don't have a strong recollection other than there was an interview to be done, and the advice I believe was Mr Lucas-Smith indicating that. Then the specific
40 interchange, this triggers memory about the winds, north, north-west, because that does make a significant difference as to what the direction and what the impact on potential fires are. That's probably the sum total of my recollection of actually trying to clarify that. So, I think
45 that's - I don't have a strong exact recollection of exactly what words and who said what. As I said, I've got some starts of - minutes, but they

are very sketchy.

MR WOODWARD: Q. They don't refer to this section at all, I take it?

5 A. No. My notes actually refer to what appears to be a more pressing task, and that is ground-to-air communications, which was an area that I was specifically then looking to do from a Commonwealth request point of view.

10

So I don't think this was not strong in it. That flows from earlier parts where "MC" - I presume Mike Castle - "to request ground to air". I don't have a strong recollection of this particular part, but obviously by my questioning trying to figure out what this means.

15

THE CORONER: You recall reference made to Mr Cheney?

20

A. Yes, I do.

THE CORONER: And to a briefing or an interview that he was going to provide to a television station?

25

A. To a television station, that's what I understand.

THE CORONER: And something about winds?

30

A. Yes.

THE CORONER: And nothing about city, you don't recall, because this is mentioned on the briefing papers or the minutes taken?

35

A. Not directly, other than I am actually deemed reported as asking - almost repeating the phrase. But I don't recall that specific --

THE CORONER: You don't recall any reference being made to "city"?

40

A. No, not that specific, your Worship. I don't have a recollection per se towards the city and the use of that word, although it is purported to be that I have just rephrased it. But I don't have a recollection that that was the word I used.

45

MR WOODWARD: Your Worship, in my submission, this is a matter of significance in this inquest. It

would appear, at least on the face of it, that on the evening of 14 January Mr Phil Cheney, who is acknowledged by the minutes to be a fire behaviour expert with CSIRO, is being reported as someone
5 who is about to say in an interview that west winds will bring the fire into the city.

On any view that is a significant bit of information, in my submission, for this meeting to
10 be receiving. I, with respect, would submit that I am entitled, using these notes, to test further Mr Castle's recollection about particular comments that are made and in particular comments that appear to be, by the notes, attributed to him.
15

Although he has said that is the extent of his recollection, with your Worship's permission I would like to go to specific references in the note and test him again on whether he recalls
20 those matters.

THE CORONER: I think that is fair, Mr Woodward. I will allow you to do that.

25 MR WOODWARD: If your Worship pleases.

Q. In the notes on the screen, it appears after the report has been given or the note Mr Lucas-Smith has said what he understood
30 Mr Cheney was going to say, there is a note there that says:

"Upset not forecasting west winds."

35 Doing the best you can, Mr Castle, are you able to say what that note is referring to, whether someone was upset?

A. I don't recall.

40 Q. In the actual minutes themselves - I am not asking you to comment on this - it seems that after the report, so again consistent with the notes, the person typing the minutes has put in:

45 "There are currently no westerly winds forecast."

Do you recall someone making that comment?

A. No, not directly.

Q. Would you agree that that would be
5 inconsistent, wouldn't it, with the report that
has just come from Mr McRae earlier in the meeting
that stronger north-westerly winds are forecast
for the weekend and the following week - or at
least for Monday, Tuesday?

10 A. Inconsistent, did you say?

Q. Yes.

A. Yes.

15 Q. You don't recall being conscious of that at
the time?

A. I don't recall it now, no.

Q. The note I think you have in front of you --

20 A. Uses slightly different words.

Q. - then has a reference in these terms, and it
is not the one on the screen but you have it in
front of you.

25 A. Yes, I do.

Q. Then says:

30 "Media attention on this aspect. Marika
filled in questions."

Do you know what that is a reference to?

A. I think she may have indicated that she was
either likely or was fielding questions.

35

Q. On what?

A. On that aspect.

Q. On Mr Cheney's interview or on what Mr Cheney
40 was saying?

A. Possibly - I don't know. I'm just - I am
trying to recall whether it was said "likely to
field questions" or whether it was "fielding
questions".

45

Q. I see. That note you have in front of you has
the reference "not forecasting west winds", which

I have asked you about?

A. Yes.

5 Q. The next thing that that note shows, and it is
in fact in both notes, so it also appears there,
and your initials "MC" are there - I assume there
is no-one else with those initials?

A. I don't think so; not in the meeting, I don't
think.

10

Q. It states:

"If fires not contained, what wind changes
will bring fires into city?"

15

A. Yes.

Q. Do you agree that that is something you might
have said at the meeting?

A. That's something I might have said, yes.

20

Q. As I read it - and correct me if I am wrong -
you are asking the experts, "Well, what wind
changes will bring the fire into the city?"

A. Yes, I believe so.

25

Q. Do you recall asking that?

A. I don't recall that, no.

30 Q. I referred you earlier to the fact that you
were certainly conscious of wind changes and the
effect on the fires, and you seem there to be
asking for more information about all that; is
that true?

A. Yes.

35

Q. Do you recall getting an answer to that
question?

A. No.

40 Q. Perhaps leave that for a moment. The next
item at least in the handwritten note you have,
and again it appears in the other one, although it
is a little less legible - the one on the screen
you have got a squiggle in the left "source of",
45 and then the letters "REA" and then "ADV of threat
to public". Do you see that on the screen in
about the middle?

A. Yes, I do.

Q. In the other set of notes it appears the other
note-taker has written "ESB to be reasonable
5 advice re threat". Have you any recollection at
all what that's about?

A. No, I'm not.

Q. I will suggest an interpretation of it,
10 Mr Castle, and ask you whether you have any
recollection of this type of discussion occurring
at the meeting. I suggest to you that it seems to
be a comment that Mr Cheney may be saying
something, but it is the ESB that should be the
15 entity giving advice about threats; do you recall
any discussion along those lines?

A. Not specifically, no.

Q. Would it surprise you that such a discussion
20 occurred?

A. I don't think it would surprise me to be
trying to ensure that the advice is coordinated,
if there is advice going.

Q. The ESB is the agency responsible for
25 providing advice and warnings to the community,
isn't it?

A. The ESB collectively through its agencies as
well.

30

Q. And a coordinated approach is appropriate?

A. Yes.

Q. This doesn't appear in the note that is on the
35 screen, but it does appear in the one that is in
front of you. Again you appear to be asking,
"Which are more threatening winds"?

A. Yes.

Q. That is a note attributed to you. You seem
40 now to have asked twice about that. Did you get
an answer to the question that time?

A. It doesn't appear so in terms of what the
note-taker is concerned.

45

Q. The note I think that you have, Mr Castle,
again has a slightly more detailed reference which

appears to have been picked up in the actual minutes. I will come back to that. Perhaps just asking you about the note in front of you: would you agree that in the margin there appears to be

5 "TK"?

A. I think it is slightly more than that.

Q. "Tim K"?

A. I think it is "Tim K".

10

Q. It is "W change". Do you understand that to mean wind change?

A. I believe so. That's what I would expect.

15 Q. "Would make things dif" - presumably difficult - "putting in place measures to control". Do you agree that's what the note appears to say?

A. That's what the note appears to say.

20 Q. In the handwritten notes on the screen there is no attribution, but a similar reference appears, "Acknowledge W wind will make harder things in place". That's in the note that is up on the screen?

25 A. It appears to be.

Q. The minute-taker, on compiling the minutes, has written:

30 "Tim Keady suggested that, while the westerly wind direction would make operations difficult, we are currently implementing measures to control this possibility."

35 Firstly, Mr Castle, do you remember Mr Keady making a comment to that effect?

A. I think I recall Mr Keady making a comment. I don't recall specifically whether it was to that specific effect, but that appears to be an

40 attribution.

Q. Sorry, he was making a contribution to that discussion?

A. An attribution to him.

45

Q. I didn't quite hear what you said. I think you said you do recall Mr Keady making a comment?

A. A comment.

Q. On this subject?

A. I believe so.

5

Q. I take it you would agree with Mr Lucas-Smith that you are not aware that Mr Keady has any expertise certainly not in firefighting or forecasting, does he?

10 A. I don't believe so.

Q. Not to your knowledge at least?

A. Nor do I.

15 Q. I think you have made that clear. Are you aware whether Mr Keady has any expertise in those areas?

A. No, I'm not, actually.

20 Q. You're not one way or the other?

A. No.

Q. We can ask him.

25 A. He was responsible for the New South Wales Rural Fire Service at some stage, I believe.

Q. Was he?

A. In New South Wales - sorry that's --

30 Q. Do you understand --

A. Sorry, I need to clarify that - in a hierarchy of reporting. I am not purporting that he was the head of the New South Wales Rural Fire Service.

35 Q. Doing the best you can, Mr Castle, what did you understand Mr Keady to be suggesting or what do you recall Mr Keady was suggesting by that passage attributed to him?

40 A. I presume it was trying to indicate that there were measures of control.

Q. By way of a response presumably to what Mr Cheney is reported to be likely to say?

45 A. I'm not too sure by way of a response but by way of the information, yes.

Q. At least in the typewritten minutes there is a

reference "there was discussion regarding appropriate media response". I assume that is a response to Mr Cheney, is it?

A. I presume so.

5

Q. Mr Keady appears to have suggested, as I have read to you already, what the minutes would suggest at least is a form of response; would you agree with that?

10 A. That's what the minutes appear to reflect.

Q. You have no reason to disagree that those notes and that minute is a generally accurate record of what was said by him?

15 A. As far as I can recall.

Q. You recall I referred you to the reference to Marika Harvey fielding questions?

A. Yes.

20

Q. What's your recollection, Mr Castle, of the overall feeling among those at the meeting based on things that were said about what Mr Cheney was saying? Did you get a sense that there was a need for a response?

25

MR JOHNSON: I object. It is a question about overall feeling. The witness, I think, has been taken to the typed notes, the two handwritten sets of notes. He has been asked his recollection. He has been taken through the portions which appear to attribute things to himself. But now to come back to overall feeling, in my submission, shouldn't be allowed. The question is: what does he recall as being said, insofar as he can recall it - his recollection aided by such contemporaneous documents as they are. But "overall feeling" is, in my submission, not a fair question or one that should be allowed. The question is "what was said so far as he can recall".

30

35

40

MR WOODWARD: With respect, I am entitled to ask, in my submission, what Mr Castle's recollection is of the impression he was left with as a result of this exchange. Mr Castle has had a great deal of difficulty remembering the detail of what was

45

going on at this meeting. He can't, he says,
remember specific words said. He said that many
times. In those circumstances, in my submission,
I should be permitted to ask him, "Well, if you
5 can't remember exactly what you were saying and
what others were saying, what was your impression
of the discussion at that meeting?" I would say
it again, and perhaps this is why the objections
are so frequent: this is a matter of significance.

10

THE CORONER: It is not unfair to Mr Castle to ask
him that question. He may or may not be able to
answer it, but the question is not unfair.

15

MR JOHNSON: If I could indicate the reason why
the objections are frequent is because of the
question not because of the subject. If I could
indicate this: it is not a matter of impression.
If a witness cannot remember to the best of their
recollection the actual words, they may be asked,
20 "What was the substance of what was said," but not
an impression or a feeling or a gut feeling - that
hasn't been used yet, but impression or feeling -
what was the substance of what was said --

25

THE CORONER: He has been asked that.

30

MR JOHNSON: "The vibes" has been suggested. I
hope that word doesn't get used, apart from the
fact that I have just used it.

35

Really, there has to be a limit. I am conscious
that what my friend wants to do is take the
witness as far as he can. But the substance of
what was said is a traditional term used in court
proceedings. If he can't remember the words, what
was the substance? But "impression" is far too
vague a term. I would ask that the word
"substance" be used, as to which I have no
40 objection.

45

THE CORONER: I think we have gone past the
substance. We have tried to ask Mr Castle to
recollect exactly what was said, and that is the
substance. He was there; he was part of the
discussion that was going on at this particular
time on this particular subject. It may well be

that there were other bits and pieces of conversation that aren't recorded that may well give him an impression of what was happening and what the feeling in the meeting was. It is not
5 unfair to ask him that.

MR JOHNSON: That would be part of the substance, because it would arise from what was said.

10 THE CORONER: He can't recall what was said, Mr Johnson, in great detail.

MR JOHNSON: On that basis, I submit the question should not be allowed.

15

THE CORONER: How much weight can --

MR JOHNSON: I put the submission, your Worship.

20 THE CORONER: I understand. How much weight can ultimately be attributed to it is another matter, but it is not unfair to ask him that at this stage.

25 MR JOHNSON: There were, of course, a number of persons there, the precise number yet to be determined. Is the impression to be that of everyone or some - those who spoke; those who didn't? If it was a conversation, one against
30 one, then perhaps there may be something to it. But the impression or feeling of the meeting is, in my submission, particularly given multiple attendants, a concept which is difficult to translate into a question that will help and an
35 answer that will help. That is all I wanted to put.

MR WOODWARD: Can I add to what your Worship said. I wasn't asking about the impression of others at
40 the meeting. That would clearly be objectionable. I was asking Mr Castle's impression of the way the this issue was left at the meeting.

I may be missing something, but it seems to me
45 that is vitally important for this reason: this gentleman has indicated he is the officer ultimately responsible for keeping the public

informed about threats to the public. It is very important, in my submission, for your Worship to know what was in his mind in relation to his fulfilling of that responsibility. If he left the meeting with a particular impression in his mind, it would then be appropriate to find out how he acted on that. Your Worship is also right, it is a matter of weight. But it is a matter that will assist your Worship, in my submission.

5
10

THE CORONER: I will allow you to ask the question, Mr Woodward.

MR WOODWARD: If your Worship please.

15

THE WITNESS: Could I actually clarify: you indicated that the ESB is ultimately responsible for advice to the community. But I am part of a government department, a government organisation, and I report to people. I report to Mr Keady as well, who reports to ministerial level.

20

Therefore, I take counsel and advice from somebody who is more senior to me as part of that process. That person was here as well. I am just making the point that that all forms part of the process.

25

MR WOODWARD: Q. Are you indicating by that comment, Mr Castle, that ultimately it is Mr Keady who is responsible for what the public is told about any threat that might exist?

30

A. No. What I am saying is that it is part of the process of forming the information and being able to seek counsel and advice on that.

35

Q. I did think, and maybe I did get it wrong, that you agreed that given the mission that --
A. The ESB.

Q. Page 19 of the ESB submission. In the area of "Preparedness", which you have identified on page 17 under the heading "General":

40

"The ESB provides a range of emergency services and related functions consistent with its obligation to the ACT Government."

45

That's obviously under the broad head of "The mission", which is at the top of the page:

5 "To work with the community; to preserve
 life, property and the environment."

You set out there then the various components, if
you like, of that obligation: "compliance,
community education, awareness and assistance,
10 preparedness, response and recovery". I did take
you to all of this, but under the heading of
"Preparedness" you have identified that one of the
obligations of your organisation is:

15 "Readiness of resources to respond to
 emergencies comprising aspects such as
 operational training, standby, resource
 deployment and disposition, notifying the
 public about emergency situations and issuing
20 warnings".

So that is an obligation of the ESB, isn't it,
Mr Castle?

A. Oh, yes.
25

Q. Are you indicating to her Worship in that
comment you made that that is a shared obligation;
there are other people who have it as well? Is
that the substance of what you are saying?

30 A. I think all I am indicating is that we are
part of a government department that has a variety
of functions, one of which is that.

Q. Does that to some extent qualify what I have
35 just read to you?

A. No, I don't think so - not directly.

Q. So you do accept that the ESB was responsible
for issuing warnings?

40 A. Yes.

Q. In light of that responsibility, Mr Castle,
what was your impression of the way that issue was
left - how Mr Cheney's proposed interview was
45 going to be dealt with within the ESB?

A. I think the detail was left up in the air, to
some extent.

Q. So, Mr Keady is suggesting, "While westerly wind direction would make operations difficult, we are currently implementing measures to control this possibility". I suggest to you that what is
5 being articulated there is a response to Mr Cheney's interview?

A. It appears to be.

Q. I suggest to you also that that response is
10 being formulated, to some extent at least, to counter what Mr Cheney was going to be saying in the press, as you understood it?

A. That could be the case.

Q. If that could be the case, Mr Castle, why
15 would it be necessary for the ESB to be countering at that point a suggestion that the fire could come into Canberra under a westerly wind?

A. I don't think that's what is actually being
20 encountered, in your words.

Q. What do you think is being countered?

A. The direction of the wind and whether that is
25 actually likely to bring it into the city.

Q. You were obviously concerned about the direction of the wind?

A. Yes.

Q. And Mr McRae has reported that there is to be
30 north-westerly winds. Mr Cheney is saying a westerly wind apparently would bring the fire into the city. Why would you be wanting to counter that?

A. I'm not too sure "counter". The word
35 "counter" is your word.

Q. It is my word, but it is one you agreed with, I believe, or at least said was possible?

A. An interpretation of that could be possible.
40 You asked me about Mr Keady's suggestion, I believe, didn't you?

Q. I think I asked you:
45

"Q. I suggest to you also that the response is being formulated, to some extent at least,

to counter what Mr Cheney was going to be saying in the press ...

"A. That could be the case.

5 "Q. If that could be the case ... why would it be necessary for the ESB to be countering ... a suggestion that fire could come into Canberra under a westerly wind?"

A. Okay.

10

Q. What is your answer to that question? Why would it be necessary for the ESB to be countering Mr Cheney's likely remarks?

15 A. I don't think it would be. You just said I answered to the previous question "could".

Q. Yes, I accept that. If it could be the case, presumably there would be a reason for that?

20 A. I'm answering that I don't think there would be a reason to counter that.

Q. There would be no reason for the ESB to --

25 A. If the westerly winds were forecast and if the westerly winds were coming and that was what was being said, then if that was the case then I presume --

30 Q. You wouldn't want to counter it, would you, because that is true; that is what would happen, isn't it?

A. Towards the city.

35 Q. We will get back to that, Mr Castle. I think you have accepted that the note says "into the city" - "could come into the city"?

A. That's what the note says.

40 Q. I think you agreed that the note was more accurate. I'm not saying "will"; I will be very careful not to say "will" - "could bring the wind into the city". That is what could happen, isn't it, Mr Castle?

45 A. It could, uncontained, depending on the strength of the winds, the vegetation in between and all those caveats, and that's what I believe I have been saying all along. It depends.

Q. It does depend. What Mr Cheney is saying, and I think you are agreeing, is there would be no reason to counter someone who is a fire behaviour expert who is apparently going to say that, under strong westerly gusts of wind, the fire could come into the city. There would be no reason to counter that, would there?

5
A. If he is in full knowledge of all of the benefits and aspect going on at that time, I presume not.

Q. Well, more generally, Mr Castle, that was your view, wasn't it, at that time; that, subject to the qualifications you've referred to, if there were strong westerly or westerly gusts of wind --

15
A. North-westerlies I think I said.

Q. All right. North-westerlies, then that could bring the fire into the city?

20
A. I think I said - and it depends on all those caveats.

Q. Yes. But, subject to those caveats, it could?

25
A. Yes.

MR WOODWARD: I see we have gone to 10 past 3, your Worship. Maybe a short break?

THE CORONER: We will take a short break.

30
SHORT ADJOURNMENT [3.10pm]

RESUMED [3.20pm]

35
MR WOODWARD: Q. Mr Castle, I just wanted to ask you about a point you made before, after the debate we had about the question, when you asked to clarify something. You indicated that the ESB is ultimately responsible to advice to the community:

40

"But I am part of a government department, a government organisation and I report to people. I report to Mr Keady as well who reports to the ministerial level."

45

You then went on:

"Therefore I take counsel and advice from somebody who is more senior to me as part of that process".

5 Are you indicating there that you took advice, either specifically or in general, from people like Mr Keady about how you should carry out your function of advising the community?

10 A. I think I meant what I said insofar as at times Mr Keady provides guidance if I seek it.

Q. Is what you are saying that you seek guidance from Mr Keady on the way you should approach this issue or that role of the ESB; is that right?

15 A. Oh, no, I am not saying specifically in relation to that. Generally I am saying --

Q. Did you get any direction or advice from Mr Keady or anyone else in the hierarchy that you have described about how you approached the issue or how to approach giving warnings to the public?

A. Throughout the whole of the --

Q. Throughout the whole of the period?

25 A. I think at various times approaches were discussed.

Q. Who with?

30 A. At various times maybe Mr Keady.

Q. You say "various times". How often?

A. I couldn't say. I don't recall specifically.

Q. A number of occasions or one or two?

35 A. Maybe a number of occasions.

Q. What was the advice that Mr Keady was giving you about those matters?

40 A. I don't recall specifically. I'm not saying specific advice.

Q. What was the thrust or substance of the advice that he was giving you about the way in which the message should be given to the community?

45 A. I don't recall.

Q. I think you have agreed with me, Mr Castle, it

is an important part of your role --

A. Yes.

5 Q. -- and no doubt it was something that you were quite sensitive to at the time; that is, how to get the message across?

A. I don't think I was sensitive to it. I think I was more attuned to getting across as best as we possibly could. In that respect I might ask
10 Mr Keady, "Do you think this is appropriate?" because he was also attending some of those briefings. So I think it is fairly natural for me after some of those briefings to discuss --

15 Q. You know, don't you, Mr Castle, the issue with the way in which the community was informed about the fire emergency is an issue of great controversy; don't you?

A. I understand so.

20

Q. You knew that on and from 18 January, didn't you?

A. There was --

25 Q. Perhaps 19th or 20th?

A. After the event, yes.

Q. Soon after the event you knew that there was a lot of concern being expressed in the community
30 about lack of warning?

A. The degree of warning, yes.

Q. You would, no doubt, I think have given a lot of thought at that time to whether you could say
35 that you'd fulfilled your obligation to provide adequate warning; that's right, isn't it?

A. I think so.

Q. You would no doubt have been conscious at that
40 time that you sought advice from apparently Mr Keady on that very issue?

A. Sorry, after the event are you saying?

Q. After the event you would have been, as part
45 of that process that you were no doubt undergoing --

A. Yes.

Q. -- you would have been at that time acutely conscious that that was an issue that you consulted Mr Keady about during the period of the fires; is that correct?

5 A. I'm not too sure I quite understand the question.

Q. I think your evidence was quite clearly that you did consult Mr Keady on occasions --

10 A. Yes.

Q. -- about the way in which the message should be got across; that's correct?

15 A. Yes.

Q. You knew after the fires, very soon after the fires, that the issue of the adequacy of the warning was an issue of great controversy; didn't you?

20 A. Yes.

Q. So you would no doubt have reflected at that time on the discussions you had with Mr Keady on that very issue?

25 A. No, I don't think I've actually reflected specifically on which - because you asked me on how many occasions and which ones.

Q. Let's not get too bogged down in the detail of how many and which ones. You would have certainly reflected on the fact that you had at least consulted others about how to get the message across, including Mr Keady?

30 A. Take advice.
35

Q. I'm focusing at the moment - perhaps if I can make it clear - I am focusing on your discussions with Mr Keady on that issue. You were, no doubt, thinking then about the discussions you'd had with Mr Keady on that topic?

40 A. Yes.

Q. What I want to suggest to you, Mr Castle, doing the best you can and thinking about what has been a very controversial issue since that time, you must recall what some of the things Mr Keady was saying to you about that issue?

45

A. Not in the specific.

Q. Let's get away from the specifics.

5 A. But I think that's relevant, your Worship. I think it actually goes to what the specifics are at a particular time when I am preparing the particular piece of advice.

10 Q. What sort of things was Mr Keady saying to you about how the message should be delivered?

15 A. I don't think that was the nature of it. I suppose it is - if we have prepared advice and he has attended the briefing and he is actually there when we are discussing what the particular press release should say or whatever, then he may well offer his opinion.

Q. And what, suggest actual drafting changes?

20 A. I'm not too sure that he would specifically do that. It would be based on impression.

Q. If he wasn't suggesting drafting changes, he was suggesting perhaps the way more broadly the message should be approached, was he?

25 A. Possibly.

Q. What was he saying about that?

A. I don't recall.

30 Q. I think you can do better than that, Mr Castle. This is a matter of great controversy only within a few days of that period and you, no doubt, were reflecting at that time on how you went about formulating the message to the
35 community?

A. I think I was actually going about telling the community what we actually knew and what the advice was that I had been given by the fire experts. That's what I am saying.
40

Q. You had been providing media updates and giving information to the community?

A. Yes.

45 Q. You say you were taking advice from time to time about that?

A. Yes.

Q. Including from Mr Keady. You must have known at that time that people were going to be critical of the way in which that message was delivered?

5 A. I don't think there's anything specific that I can point to that Mr Keady gave a direction to.

Q. All right. If you can't provide a specific drafting amendment or specific media update that he might have commented on, if you can, could you 10 indicate to her Worship what the broad thrust of Mr Keady's advice to you was, the substance of it?

15 A. I think it relates to the general impressions that he might have got out of a briefing that I attended as well, my notes and then what was actually said.

Q. No doubt it was based on what was discussed but I want an impression from you - I want you to do your best, Mr Castle, to indicate what it was, 20 what sort of the approach Mr Keady was advocating or suggesting to you?

25 A. I don't think he was suggesting a particular approach. I think he was actually reinforcing and confirming what I was saying was correct.

Q. You are unable here today to indicate any particular occasion on which he said, "Look, I think we should amend that document or amend that release or add something to that release"?

30 A. No, I don't recall a specific occasion when that has occurred.

Q. Have you spoken since the events of January to Mr Keady, Mr Castle?

35 A. I did report to Mr Keady and continued to and still continue to, although not in his current position.

Q. Have you discussed with him specifically in 40 the period since 18 January the issue of the adequacy of the warning to the community?

A. Not that I can recall directly.

Q. Not at all?

45 A. I don't think so.

Q. You and Mr Keady both knew, didn't you - I

shouldn't ask you what Mr Keady knew - you knew, I think you have agreed, that the issue of warning was a key issue in the minds of the Canberra community after the 18th?

5 A. Yes.

Q. Are you seriously suggesting that is not a topic that you and Mr Keady have ever discussed since then?

10 A. I'm suggesting that we didn't discuss the substance or I believe we discussed that we gave people what we believed to the best of our knowledge was the information at the time.

15 Q. That was the substance of your discussions with Mr Keady, was it? You both decided that you did the best you could to inform the community about the adequacy of the warnings?

20 A. Based on the information that I had at the time.

Q. There is a document which I was proposing to come to later but I will come to it now, Mr Castle. It is [AFP.AFP.0001.0920]. These are notes taken by Mandy Newton - taken for her after the events of the 18th. On the fifth page of that document 0924, there is a note that starts:

30 "Tim Keady. Community protection."

I can indicate to you this is some time I think around 20th January. It says:

35 "Strategy - concern over lack of advice Saturday."

Do you recall having a discussion or being part of a discussion on or about the 20th with Commander Newton and Mr Keady over that issue?

40 A. On when?

Q. On about the 20th of January?

A. Not that I can recall, no.

45 Q. I suggest to you what that note is indicating, and we will ask Commander Newton about it, is that someone is suggesting that there is at that time a

concern over the lack of advice given on Saturday. There is a strategy being discussed. You have no recollection of there being a discussion of a strategy being developed to deal with the concern
5 over lack of advice on Saturday; do you know anything about that at all?

A. Am I purported to be at this discussion?

Q. No, you are not, Mr Castle. I don't know
10 whether you were present or not. I am seeking to find out whether you were.

A. Not that I recall.

Q. Whether you were at the discussion or not, do
15 you recall at any time being involved or hearing of a strategy being developed about the concern over lack of advice on Saturday?

A. No. Not in those terms.

Q. Perhaps not in those terms. What about any
20 strategy?

A. Any strategy - I'm not aware.

Q. Was anyone giving you advice about this time
25 or after or indeed at any time during January in relation to the message to be given to the community that it should be a message that is optimistic, doesn't cause alarm?

A. I think you asked me that before. I believe I
30 don't recall any such specific occasion.

Q. I always worry when you use the word
"specific", Mr Castle. Was there any indication
35 given to you or advice given to you that it was important to be - not too alarmist or negative or something of that kind in the advice that was being given to the community and the stories that were being told?

A. I don't recall.

40

Q. By about the 14th of January the level of
media interest was developing in the fires in fact nationally. That's correct; isn't it?

A. That may be the case.

45

Q. Marika Harvey in her statement at
[ESB.AFP.0111.0196], paragraph 22, says:

"From Monday 14th January."

I think she means Monday 13 January because later
on in the statement she talks about the helicopter
5 in the dam.

A. I think that was the focus.

Q. This is actually before. She deals with that
later:

10

"From Monday - I think what she means is from
Monday 13 January - we started getting a lot
of national media interest. Because
parliament wasn't sitting, there were press
15 gallery reporters that were beginning to take
a lot of interest. They wanted photo
opportunities and particularly wanted to get
up in helicopters and film the fires. Roads
were being closed."

20

She then talks about the logistics of getting
media crews up over the fires. She confirms there
is a heightened interest certainly from the media
from about the 13th of January. I think you would
25 agree that was happening?

A. That was also heightened by the helicopter
crash as well.

Q. She is actually talking about before that
30 because she goes on to deal with the helicopter
crash in the next paragraph. She says:

"The day the helicopter came down in the dam,
it had a big impact on our workload."

35

She is suggesting there is a heightening media
interest even before then; would you agree with
that?

A. I'm not so sure that I can recall specifically
40 before that, before Monday.

Q. Sorry, I should say before Monday. I mean on
Monday before the helicopter crash?

A. I think that is splitting hairs.

45

Q. No doubt she can clarify this in due course.
In the meantime, she appears to be talking about

heightened media interest in the fires and press gallery reporters wanting to get photo opportunities and particularly from helicopters. I think she is talking about a heightened media interest in the fires. Would you agree from Monday, 14 January, there was a heightened media interest, including a national media interest, in the fires?

5
A. I --

10
Q. It is not something you are conscious of?
A. No. No.

Q. You don't refer in your statement to the planning meeting on the 14th, that afternoon planning meeting, do you, Mr Castle? You deal with the 14th of January on page 20 in four paragraphs. Have you got those paragraphs - 90, 91, 92 and 93?

15
20
A. Yes.

Q. The meeting in the afternoon of the 14th of January at which you were clearly present doesn't feature. Is there a reason for that?

25
A. I'm not too sure that I feature too many of the briefings at all.

Q. They were an important source of information for you; weren't they, Mr Castle?

30
A. They were, yes.

Q. They were probably, at least at the time they occurred, the most reliable source of information for you about what was happening with the fires?

35
A. Yes, or direct conversations.

Q. Just before I do leave that meeting completely, yesterday - it may have been the day before - when this issue of concern to the urban area of Canberra first arose, I asked you at one point what your thought processes were in relation to that. This is commencing at page 1363 and the part I want to ask you about is at page 1364 at lines 25-33. I accept that the evidence moved on from here. This is where you gave the answer in response to my question about a concern for the urban environment:

"A. I think in a general way conscious from possibly the 13th, thereabouts, maybe.

5 "Q. What was the process of reasoning at least in your mind that led you to that concern or that realisation that there was cause for concern?

10 "A. Purely that the fires were of a concern to the bushfire experts, and the possibility that winds from the north-west would bring fires in a general direction."

We then had three pages of discussion about what is meant by "concern". The part I want to ask but is your reference there to the "bushfire experts". Who are you including in that expression?

A. I'm actually talking about the people that are responsible for operations of the bushfire.

20 Q. That is Mr McRae, Mr Lucas-Smith. Was Mr Cheney in your mind in that context?

A. I don't think so.

25 Q. Moving to the 15th of January, Mr Castle, the main thing that happened on that day, and you refer to it in your statement - firstly there was the usual planning meeting. In your statement you say:

30 "The weather forecast at the 0930 briefing was indicating that Saturday would be a bad bushfire day. But Monday the 20th would be even more extreme (higher temperatures and stronger winds than forecast for Saturday)."

35 You then go on to talk about yourself and Mr Lucas-Smith holding the briefings. Do you recall that 9.30 was the first day that a representative of the bureau was present at the planning meetings?

40 A. That's what - yes.

Q. So you were getting information on the weather directly from - on that day it was a Mr Mason?

45 A. Yes.

Q. Mr Mason, in his evidence at transcript

page 91 - he begins referring to the briefing that he gave on the 15th at page 89 of the transcript. He goes through the forecast he gave that day, and at page 92 says:

5

"Q. And then for Saturday it obviously starts with your information that there was a front approaching the ACT north-west to westerly winds; is that right?

10

"A. Yes, north to north-west winds. Thirty to 40 kilometres an hour. Trajectory for New South Wales and Southern Queensland forecast minimum 15, maximum temperature 35-degree plus."

15

Now, did you understand at the time, Mr Castle, that the forecasting that Mr Mason was doing tended to be focused on what is generally understood as the forecast period, which is a 4-day period?

20

A. I can't say that I was expert at that time.

25

Q. That tended to be the way he would - he would be forecasting up to 4 days, as best he could, and would occasionally make comments on the period after those four days?

A. Whether that was conscious in my mind in the very first day he started to do the briefing, I'm not too sure.

30

Q. But you were certainly conscious for every day he was going forward, the forecasts were more and more unreliable?

A. Yes.

35

Q. It was then asked of him:

40

"Q. So, the pattern so far - this is on the 15th, the Wednesday - obviously Saturday was the worst of those days from a fire weather situation?

"A. Yes."

45

Do you have any recollection yourself, Mr Castle, as to why - I am not saying you are alone in this - the impression seems to have developed that Monday was going to be the worst day?

A. Purely because as it reads there "temperatures expect to be in the high 30s and wind speeds 35 to 45, gusting 60".

5 Q. You are reading from the minutes of the meeting?

A. Yes, I am.

Q. How was that different from the --

10 A. That accords with my note.

Q. The difference, I suggest to you, at least in the minutes, the wind speed on Saturday is 30-40 kilometres per hour, dry air and on the 15 Monday, which I think you have agreed, is obviously a less reliable forecast because it is further out?

A. I'm saying that I'm not specifically aware at that particular time on that particular day of the 20 forecasting out as to the - I'm not a weather expert.

Q. I understand you are not. I think you would agree with me that you would understand, forecasts 25 being what it is, the further out it is the less reliable it is?

A. Yes.

Q. Are you saying the best you can do is the 30 reason that Monday was seen as being a day of particular concern, or at least more concern than Saturday, was because you got temperatures in the high 30s as distinct from 35 plus. I suggest to you that is really the same thing, isn't it?

35 A. Could be.

Q. On Saturday he is saying temperature is 35 degrees plus and on Monday expected to be in the high 30s?

40 A. Yes.

Q. Do you see any difference between those two?

A. Depends how it is expressed. Yes, I do. I mean 35 plus could be 36. High 30s could be 38, 45 39.

Q. They could equally mean the same thing,

couldn't they?

A. They could.

5 Q. And the wind speeds given for the Saturday are
"freshening to 30 to 40 kilometres and Monday's
forecast is 35-45 kilometres gusting at
60 kilometres plus". Is it the wind speed, do you
think, that has precipitated the concern about
Monday being the worst day?

10 A. Look, fire people tend to focus very much on
the speed of the wind.

15 Q. But you agree, don't you, that the impression
was certainly being given that Saturday was a bad
day?

A. Yes.

20 Q. Over the page, Mr Castle, now that we have the
minutes up, and perhaps we should bring them up
[ESB.AFP.0110.0142]. I will get you to look first
under the heading "planning issues" at the top of
page 0144:

25 "The weather briefing would indicate that
Monday is the operational deadline to secure
operational strategies."

Do you recall who made that remark?

A. No.

30

Q. Do you have any recollection as to why or
whether it was discussed as to why the - whereas
the previous minutes for the 14th the suggestion,
at least from Mr McRae, was that Friday was the
35 deadline. It is now out to Monday?

A. No.

40 Q. Because it is the case, isn't it, Mr Castle,
that putting aside whether Friday was worse or
not, that the forecast for Saturday hadn't
changed, had it; it was still going to be a bad
day?

A. Yes.

45 Q. You don't recall any discussion about how
another two days have now been allowed to get your
strategies in place?

A. No.

Q. Under the heading "media" further down the page there is a reference to you saying,
5 apparently in the second paragraph.

10 "Steve Amos is taking some members of the media to Namadgi National Park for some photos and footage vision. Mr Castle stated that some positive aspects should now be made public."

Why were you concerned to make positive aspects made public, Mr Castle?

15 A. I think to give some indication of some of the successes we'd had.

Q. Well, as distinct from what?

20 A. The fact that we hadn't put the fires out. There is value in people being recognised for the efforts that they've actually done in a positive sense.

25 Q. So your concern at that time was, if you like, a morale motivation for that?

30 A. There is some element of that because it goes on to talk about Pryor's Hut and the small successes that we had actually had. And significant efforts by people at the time to put that in and to try to recognise that is worth while from a morale point of view in your own workforce, including the volunteers.

35 Q. And no doubt that is appropriate. I suppose the question is, Mr Castle, this is at a time when, at best if you like, the bad news stories - namely the extent of the threat to the ACT in particular the Canberra urban area - hadn't been receiving a great deal of attention, had it?

40 A. The potential bad news, no.

45 Q. If you look at the notes of that reference which is [ESB.AFP.0110.0166] at page 0171. It would appear the expression you in fact used, again assuming this is an accurate note, was the expression "positive spin"; do you recall using that expression?

A. No, I don't.

Q. Is it an expression you are familiar with?

A. Well, I've heard the phrase.

5

Q. Do you think you didn't say that; is that what you are saying?

A. I don't recall saying that specifically.

10 Q. The note has "MC" so it appears to be attributed to you "positive spin". Have you got any reason to doubt that that is an accurate note?

15 A. I have no recollection of actually saying that specific word. But the context in which it was actually said is to try and put, as I understand, the corroborative facts and all those sorts of positive aspects in there.

20 Q. I think the next thing that happens on the 15th, so far as more significant events are concerned, you mention in your statement that on the 15th you made a request to the Commonwealth for 3,000-litre or larger water tanker. That is at paragraph 97. That was followed up, wasn't it, Mr Castle, with, as usual, a more formal document; is that correct?

25 A. Yes.

30 Q. So the request was - I see the formal document is timed at 1300 hours, 1pm. So can we assume your request was actually made earlier than that on this occasion:

35 "Mike Castle verbally confirmed this request at approximately 1250."

Does that sound about right?

A. Yes, that is 10 minutes earlier.

40 Q. In [ESB.AFP.0110.0115] in the heading under "situation", you have provided an update, as it were, of the position. This differs significantly from the earlier "situation" part of the letter. You say in that section:

45

"Two of the three fires have now joined, forming two large fires. The weather

5 forecast for the weekend and early next week predicts temperatures in the high 30s with strong winds gusting to over 60 kilometres an hour from the north-west, causing concern for the ACT urban environment. The current inversion layer has reduced visibility preventing aerial water bombing operations, which has impacted on the ACT's ability to implement successful control strategies."

10 Then you refer to the helicopter accident. To the extent that there was any doubt before, Mr Castle, can we assume that at least by the 15th, in your mind, the predicted weather conditions were causing concern for the ACT urban environment?

15 A. That's what those words say. It's based on, as I understand it, not containing - not being contained.

20 Q. It doesn't actually say that.

A. No.

Q. I accept obviously if the fire is contained then it reduces --

25 A. That's the degree that I was actually referring to before.

30 Q. I suggest to you now the degree, because of the difficulties you are actually referring to there and most particularly the forthcoming weather, I suggest to you that that degree has grown; hasn't it, Mr Castle? Your degree of concern is no longer small; is it?

35 A. With the potential for the wind change, yes.

Q. It is actually forecast. There is no suggestion that it is not coming?

40 A. No. What it doesn't say is what's the success before then, because this is the strategies.

Q. I understand that. Obviously you are asking for more resources --

A. Yes.

45 Q. -- to improve your prospects?

A. Yes.

Q. But as at that time with those strong winds you had a real concern, didn't you, for the ACT urban environment?

5 A. I think as it says - you keep changing the word - causing concern.

Q. We can all read the words. I'm asking you what was in your mind at this time two days after you first had a concern. What I am suggesting to you is that concern has now increased; hasn't it?

10 A. I think it has probably increased with a prospect of winds coming.

Q. The words that follow "the current inversion layer has reduced visibility" - I won't go back to it, but that seems to be similar to something that was in the minutes that was attributed to Mr McRae. Is that the sort of language you would normally use, Mr Castle?

15 A. No.

Q. So we can assume that, in at least that part of it, you have been assisted by someone in that regard?

20 A. Somebody drafted this.

Q. Someone drafted it for you, did they?

A. Yes.

30 Q. Who did that?

A. Generally Kate, Kate Keane.

Q. Where would Kate Keane have obtained that information about the "strong winds gusting and causing concern for the ACT urban environment"; do you know?

35 A. I presume from the briefing because she was attending the briefings and doing the minutes, as I indicated to you.

40

Q. Can we assume then that Kate Keane has formed the impression from that briefing - I assume you are referring to the planning meeting that morning; is that correct?

45 A. I'm suggesting - you asked me where she would get it. I said yes, in terms of the high winds and strong winds gusting, yes.

Q. Is your memory that this document came to you in this form?

A. I don't recall exactly whether I changed any of the words; I may have.

5

Q. Do you recall adding the words "with strong winds gusting" et cetera "causing concern for the ACT urban environment"?

A. I have no idea.

10

Q. But you were comfortable - because you had said you certainly don't want to mislead when you prepare these letters - to indicate that that was your concern at that time?

A. I think, since I signed it, that must have been.

Q. Do you recall discussing with Ms Keane, if she did bring this to you in this form more or less, that passage?

A. No. Because in some respects that part of it is not all that relevant to the request.

Q. To the request, no. And you can't assist, can you, to indicate - assuming it did come to you as drafted like this - other than suggesting that perhaps the information came out of the meeting, as to where she got that information from?

A. No.

30

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

THE CORONER: Yes. The inquiry is adjourned until tomorrow morning.

35

**MATTER ADJOURNED AT 4.01PM UNTIL THURSDAY,
26 FEBRUARY 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

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

DAY 17

Thursday, 26 February 2004

<MICHAEL JOHN CASTLE, RE-SWORN

5 <EXAMINATION-IN-CHIEF BY MR WOODWARD

MR WOODWARD: Q. Mr Castle, yesterday I was asking you a series of questions about the nature of the assistance plus the instructions that you were receiving from Mr Keady about, in general terms, the messages that should be going out to the public concerning the fires. Have you had a chance to reflect on that further overnight?

10 A. I didn't specifically think about it.

15

Q. Do you have anything else you want to say to her Worship about that? Were you able to recall any further incidents or, as I asked you yesterday, a general impression of what sort of message or the sort of instruction that you were getting from Mr Keady about that?

20 A. No.

Q. My questions yesterday were restricted to Mr Keady. I think it was him you referred to when you first raised the matter yesterday. Were you getting instructions or advice from anyone else - I don't mean by this to look at the media unit; I am looking at Mr Keady and above, if I can put it that way - about the message to the public?

25 A. Not to my knowledge.

Q. That's a slightly strange answer, Mr Castle. When you say not to your knowledge, my question was: were you getting instructions or advice from anyone in the hierarchy other than Mr Keady about how the messages should be delivered to the public?

35 A. No.

40

Q. I just wanted to give you an opportunity in relation to this document that is on screen. I asked you yesterday, and I think we covered it at some length, the part further down the page where you talk about causing concerns for the urban environment. When Mr Lucas-Smith was asked about that at transcript 1046, his response was to the

45

effect of that those were your words and he would not have used those words. Does that surprise you that he responded in that way?

A. I presume that was his opinion.

5

Q. Did you have a sense at that time from your discussions with Mr Lucas-Smith, which were I think relatively frequent, weren't they, during that period?

10 A. Oh, yes.

Q. Did you have a sense from him that he thought the concern for the urban environment - or that he thought it was less of a concern than you did?

15 A. Less of a concern?

Q. Yes. Was he giving you the impression that he was less concerned than you were about the urban environment?

20 A. I suppose it's all in the degree, but, no.

Q. Can you think of any reason why he would have said, "Look, I would not have used those words"?

A. No, I don't.

25

Q. Getting back to the 15th. You refer in your statement, paragraph 98, to Mr Lucas-Smith hearing from your liaison officer - this is in paragraph 98, page 21 of your statement - at Queanbeyan that Mr Koperberg was there and was about to leave. Mr Lucas-Smith asked Mr Koperberg to wait and Mr Lucas-Smith went immediately to meet with Mr Koperberg. Were you aware that he was going to meet with Mr Koperberg or did you hear about all of this after the event?

30

A. I may have heard that he had gone.

Q. That was late morning, around late morning, midday on the 15th; is that correct?

40 A. I believe so.

Q. You then say in your statement:

"Peter met with Phil Koperberg and the Director General of New South Wales Parks and Wildlife Service."

45

That's Mr Gilligan, isn't it?

A. I understand that.

Q. Mr Lucas-Smith also indicated there were a
5 number of other people present, including Mr Bruce
Arthur; were you aware of that at that time?

A. Sorry, that there were other people there?

Q. Yes, apart from Mr Koperberg and Mr Gilligan?

10 A. No, I was not aware.

Q. You did not attend the meeting, did you?

A. No.

15 Q. You say on his return to Curtin:

"Peter indicated to me that Phil had agreed
to provide four task forces each of five
units with enough personnel for 24-hour
20 operations. He had also requested an
Incident Management Team with the task forces
also cable of 24-hour operations. Peter
expected the total personnel to exceed 200.
They were expected to arrive in time to
25 commence operations at 1800 hours on
16 January."

Is that a summary, Mr Castle, of what Mr Koperberg
told you about that meeting?

30 A. No, Mr Koperberg --

Q. I beg your pardon; Mr Lucas-Smith told you
about that meeting?

A. I believe so.

35

Q. Doing the best you can, Mr Castle, can you
recall anything else Mr Lucas-Smith said to you
about the meeting or the information that he had
got at that meeting?

40 A. I think he may have indicated that
Mr Koperberg was optimistic about the McIntyre's
Hut fire operations.

Q. I appreciate it is some time ago, but that is
45 a reasonably important bit of news, isn't it,
Mr Castle?

A. Yes. The difficulty I am having with it is

then or later.

Q. I see. When you say it may have been later, if you had heard about that, are you saying it was
5 some time that day at least?

A. It may have been the next.

Q. It may have been the next day?

A. Yes.

10

Q. Putting aside for the moment precisely when you heard about it, whether it was that day or the next, can you be a little bit more specific about what Mr Koperberg was apparently to have said to
15 Mr Lucas-Smith?

A. No, not exactly, no.

Q. Mr Lucas-Smith in his statement at paragraphs 82-83 - this is in the middle of page 20, the
20 middle of paragraph 82 - says:

"I drove over there immediately and provided a briefing on the situation in the ACT. I then asked him what his level of confidence was in relation to the McIntyre's Hut fire and he, Mr Gilligan and Mr Arthur expressed great confidence that they had the fire contained and that it was not going to be an issue for the ACT."
25

30

Do you recall Mr Lucas-Smith on the Wednesday or perhaps even the Thursday going that far when he was telling you about that; namely, it's not going to be an issue for the ACT?

A. That generally accords with what I recall just then in terms that they were optimistic about the fire. But those exact words --
35

Q. There is potentially some difference, isn't there, Mr Castle, between someone being optimistic about their ability to control a fire on the one hand and saying, "Look, it's not going to be a problem for the ACT" on the other? Certainly the latter is an optimistic expression, but from your perspective it is effectively saying to you, "You can put it out of your reckoning," isn't it?
40

A. The latter, are you suggesting?
45

Q. That's what I am asking you. Was that the impression you had from Mr Lucas-Smith; "We no longer need to worry about the McIntyre's Hut fire"?

5 A. That could well have been the tone. I suppose I used the words that they were optimistic about containing it.

Q. So you think perhaps saying that it was just something you could now completely put out of your reckoning might be overstating the level of optimism?

A. The containment we could not worry about.

15 Q. In fact shortly after that time of Mr Lucas-Smith's return, Mr Koperberg gave a brief interview - it appears to be a brief interview - that was broadcast on television where he said, and this is document [DPP.DPP.0005.0005]:

20

"This is probably the worst threat to this part of the state in many, many decades."

A. Could you bring that up, if that is possible?

25 Q. While that is happening, I will start reading it. It says:

"This is probably the worst threat to this part" - I might have the number wrong.

30 A. If it is the same document, it is 0004.0005.

Q. Thank you for that, Mr Castle. So you have read that?

A. Yes.

35

Q. He says in that most pertinently:

"The Brindabella complex of fires are certainly a potential threat to some very valuable assets, not the least being some mature pine forests on the board of Canberra, and indeed, the ACT itself. The weather is going to deteriorate again at the weekend, and possibly quite severely. The job is still ahead of us."

45

That doesn't sound terribly optimistic, does it,

Mr Castle?

A. Not in those - not in those particular words.

Q. Were you aware that he had made that statement
5 to the media on the Wednesday afternoon?

A. Not at that particular time, no.

Q. What about later on?

A. I understand I heard that he had done an
10 interview, but I didn't see it.

Q. And did you --

A. This is --

15 Q. Were you told that it was perhaps something
that was a little bit inconsistent with what
Mr Lucas-Smith had apparently been told; was that
issue discussed?

A. No, I don't think it was. This is an excerpt
20 out of it.

Q. I understand that.

A. I don't know what the rest of the interview
said.

25

Q. When Mr Lucas-Smith was asked about this, and
he was specifically asked whether he got on to the
phone to Mr Koperberg and said, "Look, what's
going on? This is not what you told me," he said
30 he didn't do that. Someone else was looking after
it, in summary. When asked further about it - at
transcript page 1038 - he said Mr Keady was going
to ring Mr Koperberg and find out why he was
saying something to the media that was apparently
35 different to what was being said privately to
Mr Lucas-Smith. Do you recall that happening?

A. That was my understanding at the time.

Q. Why was Mr Keady ringing Mr Koperberg?

40 A. I presume the difference of opinion.

Q. Well, you were aware then, weren't you, that
there was a difference of opinion?

A. Oh, sorry, yes, yes.

45

Q. That was something that was no doubt of
concern, that apparently Mr Koperberg was saying

to Mr Lucas-Smith, "You don't need to worry about the McIntyre's Hut fire," whereas on the ABC he is saying it is still a serious problem?

5 A. He's saying it is certainly a potential threat.

Q. It was sufficiently different, the emphasis he was giving, that it caused a discussion, no doubt, to be held and a phone call to be made by
10 Mr Keady; is that right?

A. Yes.

Q. Before the phone call was made, were you involved in any discussions about the phone call
15 being made?

A. No.

Q. Why was Mr Keady making the phone call, do you know?

20 A. He knows Mr Koperberg.

Q. Were you present when Mr Keady made the phone call?

25 A. No.

Q. Did Mr Keady make the phone call?

A. I believe he did.

Q. Did he come and tell you that he had done it?

30 A. I believe he did.

Q. What did he say was Mr Koperberg's response to him when he raised --

35 A. I think all he said was he had a discussion with Phil Koperberg.

Q. You, no doubt, were interested to know what the outcome of that discussion was?

40 A. I think the discussion was about making comments critical of the ACT.

Q. Was there discussion about the fact that he was saying something different to the media than he had said to Mr Lucas-Smith?

45 A. I don't think that was the specific feedback that we got from Mr Keady.

Q. Did Mr Keady, do you know, say words to the effect, "So what is the position"?

A. No, I don't know.

5 Q. You don't know?

A. No, I don't know.

Q. He didn't mention to you that that was a topic that he had discussed?

10 A. No. No, he didn't.

Q. You were present in court, I think - I will just cover this briefly - when the transcript of Mr Koperberg's subsequent interview I think in March with 'Stateline' was read and Mr Lucas-Smith was asked questions about it; do you recall that?

15 A. I don't recall that specific --

Q. I don't want to go to it in detail because you were obviously on the edges of this. You recall, do you, in that interview Mr Koperberg was asked about the interchange or interplay during the meeting with Mr Lucas-Smith and he was asked by the interviewer what sort of comments were made, what sort of emotive comments, and Phil Koperberg apparently said to her:

"Well, um, Canberra is going to get hammered, for argument's sake."

30

Do you recall Mr Lucas-Smith saying, when he was telling you about the meeting, that these sort of comments were being made?

A. At the time?

35

Q. Yes.

A. No, and I think in that 'Stateline' program that was when Mr Koperberg was being asked about a vigorous debate and I think he recognised that Mr Lucas-Smith wasn't there.

40

Q. No, I think what he said, Mr Castle, there was certainly no emotive language being used by him or Mr Lucas-Smith or any of their senior people. But he certainly seemed to be suggesting that someone in the vicinity of the meeting had been making emotive comments like "Canberra is going to get

45

hammered"; but you don't recall anything being said to you?

A. No.

5 Q. Just so we don't leave it out, Mr Castle, a little bit after the request for Commonwealth physical assistance that appears at about the same time - there were two requests for Commonwealth assistance?

10 A. At the same time.

Q. At the same time?

A. That's correct.

15 Q. They both contain the same reference to concern for the ACT urban environment?

A. Yes. They were drafted at the same time; sent at the same time, as I understand it. They may have been the result of two separate phone calls simultaneously. They were drafted as two separate requests, just so the purpose is actually clear, that's all.

25 Q. At 4pm that day there was a further planning meeting. Did you attend that meeting?

A. Sorry, we are on the?

Q. On 15 January, 1600 hours.

A. Yes, I did.

30

Q. In your diary notes, Mr Castle, you've got a note there "1430 to 1630 Tim Keady". Can we take it that you had arranged to meet with Mr Keady at some point that afternoon?

35 A. I think that was a regular entry in my diary for briefing.

40 Q. If it is, it is the only time it has appeared in those terms. Is it possible that there is a special arrangement to meet with Mr Keady - I will obviously come back to this - because you were at that stage aware that you would be giving a briefing to the cabinet the following morning?

A. That may well have been the purpose.

45

Q. To prepare for that briefing?

A. Yes.

Q. It appears from the minutes, and correct me if I am wrong, both you and Mr Keady appear first to attend the planning meeting at 4pm and then presumably met to discuss the briefing to the cabinet?
5

A. I presume so.

Q. Well, the sequence may be important, Mr Castle. So, doing the best you can, is that how it happened; the two of you went to the planning meeting and sat down together to discuss the cabinet briefing?
10

A. We may have done it in reverse.

Q. It would be useful, wouldn't it, to have had the information out of the planning meeting?
15

A. Oh, yes, I presume so. Are you asking me is that what occurred? I have to say, I don't know.

Q. But both things were happening at about the same time, were they, that the planning meeting was occurring and you and Mr Keady were thinking about the cabinet briefing the following morning?
20

A. Yes.

25

Q. No doubt what was discussed at the planning meeting that evening were important things in your mind for the purposes of the briefing the next day?

A. It would have been.
30

Q. Again we have the minutes and some notes of the minutes which are generally consistent. There are a couple of things I would like to
35

specifically ask you about. In relation to the McIntyre's fire, just looking for the moment at the formal minutes document [ESB.AFP.0020.0368], there is a general discussion of fire operations presumably - perhaps I should ask you this.

Mr Lucas-Smith appears at the commencement of the meeting to have talked about the request for assistance from the New South Wales Rural Fire Service and what was to be done with that additional resource. Do you recall him mentioning at the meeting to those gathered there anything else about his discussion with Mr Koperberg?
40
45

A. No.

Q. Do you recall him saying, "Look, they are telling us in New South Wales that the McIntyre's Hut fire is not going to be an issue for us here"?

5 A. I don't recall him specifically saying that to the meeting.

Q. That's an important piece of news, isn't it?

A. Yes, I would think so.

10 Q. Can you think of why he or even you, for that matter, given you were also aware of that message of optimism that had been received, raised that during the meeting?

A. No, I can't say.

15

Q. There is a discussion about what appeared to be the three fires or now two fires, I think?

A. Yes.

20 Q. Perhaps the three in the ACT, and Mr Graham provides a report on operations and provides a more specific briefing paper which accompanied the minutes. At the top of the second page Mr Lucas-Smith appears to have contributed to the discussion by stating, "The fire growth to the west will be limited, however the fires may grow rapidly to the east over the next few days." So that's towards urban Canberra, isn't it?

25

A. That's towards grasslands that precede it, but it's towards the general direction of Canberra.

30

Q. Yes, it is. It states:

35 "There is a danger point on Mt Franklin Road where there is a steep run up ... need to liaise with Bruce Arthur ..."

There is a general concern being expressed, it would appear, by Mr Lucas-Smith of the possibility of dangerous fire behaviour and obviously a concern for the safety of crews. There is then a section on McIntyre's fire:

40

45 "The South and East boundaries of the McIntyre's Fire have been contained. They are experiencing difficulties in the north to north-west boundary, which is currently being

5 managed by Yass Shire on behalf of
Yarrowlumla. Heavy plant and resources are
having difficulty holding the fire and they
are also having trouble holding the fire on
the north-east side of Doctor's Flat Road."

10 Were you aware at the time, Mr Castle, and I think
I am right in this, that Doctor's Flat Road was
the eastern containment line effectively of the
fire?

A. I think it is the north-eastern.

Q. It was on the north-eastern corner?

15 A. Yes.

Q. Although the note certainly confirms south and
east boundaries have been contained, if there are
still problems with the north-east corner that
would suggest that it is an issue, continuing to
20 be an issue for the ACT, doesn't it?

A. Less.

Q. Well, under a north-westerly?

25 A. Under a north-westerly.

Q. If there is a breakaway from the north-east
corner and a north-westerly wind, under the
influence of a north-westerly wind that is going
to push it down towards the ACT and Canberra?

30 A. Slightly.

Q. And into the Uriarra pines?

35 A. I'm not too sure of the exact - I'm not too
sure of that.

Q. I know that this is with the benefit of
hindsight, Mr Castle, but that's what happened,
isn't it, initially?

40 A. I believe it did. But I am not too sure it
broke out over Doctor's Flat Road.

Q. But certainly one of the break-outs was up on
the north-eastern corner?

45 A. I believe so, yes.

Q. It doesn't say in that, does it, "They are
telling us we don't need to worry about it"?

A. Well, that's the general impression of it being contained, particularly on the south-east boundaries.

5 Q. Now, the next section is Mr McRae reporting on what the planning unit has been up to. He states:

10 "... Monday will potentially present the worst Fire Weather Forecasts seen in a long time. The Fire Danger Index is forecast to be within the range of 110-140. Mr McRae stated we need to be as ready as possible for these extraordinary conditions.

15 There was discussion over the proposed containment lines ...

20 Mr McRae warned that if the fire reached any of the worst case containment lines, then there are potentially public land, infrastructure, property and assets impacted upon.

25 The main focus is where we are currently working, and to keep in mind future impacts ..."

30 Just if I may, Mr Castle, just to the notes that were taken about this discussion firstly, document [ESB.AFP.0110.0159] at page 0161 - do you have that set of notes?

A. Yes, it appears so.

35 Q. Is that one you have in front of you?

A. I don't have that code at the bottom. That appears to be, yes.

40 Q. What these notes suggest is that what Mr McRae has actually said are words to the effect of:

"Worst fires of careers. Monday worst fire weather forecast of careers."

45 He has got:

"1:20-year fire. 1:40-year fire whether forecast on Monday."

Do you recall him saying that?

A. I don't recall specifically other than that sits in my mind with saying that Monday was going to be the worst day.

5

Q. Well, he was saying that the conditions at this stage for Monday were going to be a 1:20-year fire and a 1:40-year fire weather forecast; do you remember him saying that?

10 A. Not specifically, no.

Q. What I might do first is go to the other set of notes. Just finishing that off, he says, "Need to be as ready as possible," which is certainly consistent with the minute. In the other set of notes, [ESB.AFP.0110.0154], he apparently said:

20 "Worst fires of careers. Monday worst weather potential. 1 in 20, 1 in 40-year fire forecast for Monday. Ian's figures FD index 110-140 - not good. Ash Wednesday were 103."

25 Is that a reference, do you think, to Mr Ian Mason?

A. I have no idea.

Q. Were there any other Ians present at the meeting, that you recall?

30 A. Well, there is Ian Bennett. Whether he was present --

Q. Is it likely that Mr Bennett was giving figures that would assist to provide a fire danger index?

35 A. It is Mr McRae talking, is it?

Q. Yes, it is Mr McRae talking.

40 A. It is likely to be Ian Mason.

Q. It says:

"Need to be ready. Lousy weather forecast."

45 In his statement at 101 and following Mr McRae says he actually reviewed fire weather forecasts and so on with Mr Mason before the 9.30 planning

meeting:

5 "Mr Mason told me that the forecast for that day, Thursday and Friday, was similar weather to that then being experienced" - that is then being Wednesday - "meaning very warm dry weather and a mild wind predominantly from the east. However, he forecast some time after that Friday morning, conditions would change. He forecast much higher temperatures" - I should bring this up. It is [ESB.AFP.0110.0481]. This is Mr McRae's statement to the inquest at 0502:

15 "... after that Friday morning, conditions would change. He forecast much higher temperatures into the high 30s, winds instead coming from the northwest and very low humidity. These features combined to create a forecast of extreme fire danger. The expression 'extreme fire danger' has a technical meaning, namely that the features produce a reading of 50 or greater on the McArthur Fire Danger Index. Mr Mason subsequently reported this forecast at the planning meeting that morning."

Mr McRae then says in paragraph 102:

30 "After Mr Mason had presented his forecast, I commented on what should be understood by it. In particular I said words to the effect of: 'Gentlemen, we currently have the worst fire situation you will see in your careers. And you have just heard a forecast for the worst fire weather you will experience in your careers. Do the maths'."

40 Now, it seems that Mr McRae, if one looks at the notes, may have been talking about the 4pm planning meeting when he made those comments. But, putting that to one side, do you recall him saying words to that effect?

A. Those specific words?

45

Q. Yes.

A. No.

Q. Do you recall him saying, "We currently have the worst fire situation you will see in your careers"?

A. No.

5

Q. This is pretty alarming stuff coming from a fire behaviour expert, isn't it, Mr Castle?

A. Yes.

10 Q. And are you saying it really doesn't stick in your mind that your fire behaviour expert is saying on the afternoon of the 15th, "We are about to see the worst fire situation in your careers"?

15 A. I don't remember that phrase, but I do remember that it was being forecast as a bad day. Monday was being forecast as a bad day. I have already said that.

20 Q. I have taken you to the two passages in the notes which record him saying "worst forecast of careers". It seems that his recollection is pretty good?

A. Yes. I'm not doubting that he said it.

25 Q. What he then says, just to complete it:

30 "I then elaborated on this broad statement by explaining that we could expect large fire runs from any of the fires in a southeast direction. However this was a comment about possibilities commencing at the earliest on Saturday, and I therefore did not speculate on where these fire runs might occur pending developments over that day and the following

35 two days. I said that the big question was when over the four-day period 18-21 January 2003 these adverse weather conditions would occur."

40 Do you remember him saying something to that effect?

A. No, and I don't see it in the notetaker's either.

45 Q. When Mr McRae, as best you can, Mr Castle, was talking about the worst fires and so on, did you understand him to be including in his comments the

McIntyre's fire as potentially being part of that alarming prospect?

A. I think, having heard there was containment, not specifically.

5

Q. He could have been?

A. He could have been.

Q. We will need to ask him about that?

10 A. Yes.

Q. Now, either shortly before, but I suggest to you probably shortly after, you then went to or sat down with Mr Keady to prepare for the cabinet briefing; didn't you?

15

A. That's what my diary says.

Q. And no doubt you were very concerned to provide the cabinet, the government, with as much information as they could reasonably absorb about what was ahead of them in the forthcoming few days?

20

A. Probably.

Q. Are you able to say, Mr Castle, presumably you completed your cabinet briefing paper after the planning meeting or not?

25

A. It may have started in draft before.

Q. So it was probably finished some time later that evening?

30

A. I think so.

Q. So, no doubt Mr McRae's words - no doubt, as you say, he was saying them at the time - would have been ringing in your ears when you sat down to prepare that or finalise that document?

35

A. I presume I was conscious of it. I'm not too sure "ringing in my ears".

40

Q. In any event, that document was completed some time that evening?

A. I believe so.

Q. Just before we leave the planning meeting in the afternoon of the 15th, just go back to the handwritten notes. [ESB.AFP.0110.0159].

45

A. Is that the first one or the second one?

Q. It depends which order you put them in your folder. It was the one that was up on the screen.
5 I think it is the one you do have with you. It is the second last page. Just right down the bottom of that page there is a note:

10 "WIN want Bulls Head shift change at 7am.
Will continue to get new footage requests."

There is a note down there, "TK prefer" - it is hard to tell what that is, but it may be the word "now". Then there is a hyphen, and what looks
15 like "pot", and then there is a dot which would suggest that a word has been shortened, "Fri am". Do you know what that is a reference to?

A. In the first part I think you will find it is indicating that there had been requests to get
20 footage of the shift change at Bulls Head. So get some file footage.

Q. What is Mr Keady saying? Are the first three words suggesting he is saying, "This is something
25 that should be done now"?

A. Yes, I have no idea what the other is.

Q. Is it possible that what he is suggesting there or can you recall that what he was
30 effectively suggesting was, "Do this now because things are going to get more difficult towards the end of the week"?

A. I have no idea reading into it what that means.
35

Q. I don't either.

A. I have no idea.

Q. Why would Mr Keady prefer that it was done
40 now?

A. I have no idea.

Q. Just the last thing for the 15th, Mr Castle, is a document [ESB.AFP.0008.0336]. This is a
45 media release on the letterhead of New South Wales Rural Fire Service. Headed up:

"RFS crews sent to assist with ACT fires."

The first two paragraphs just provide a bit of a background about the fires:

5

"This is likely to blow these fires" - I should read that:

10 "Several bushfires burning in the Namadgi National Park south west of the Capital were originally burning within the ACT and moved into NSW under south-easterly winds. The current forecast is for wind to shift to the" - it says "south-west"?

15 A. It says "south-west".

Q. Someone has crossed it out and put "north". It says:

20 "... and begin to pick up coming into the weekend. This is likely to blow these fires and a third, currently burning in NSW in the Brindabella National Park/Goodradigbee River area, back towards the city."

25

Two things about that. I take it that you agree that clearly is a mistake; it should be "north-west"?

A. I think so.

30

Q. The fire being referred to in that last sentence is clearly the McIntyre's fire?

A. I believe so.

35 Q. It says:

40 "NSW Rural Fire Service Commissioner, Phil Koperberg said, 'The ACT Emergency Services Bureau has requested our assistance in the form of additional tankers and firefighters. Our volunteer firefighters are eager to help, just as the ACT firefighters were quick to lend us assistance when we were in need during the Christmas 2001 and other recent
45 fires.'"

He then goes on to say:

5 "The current weather forecast, and the fact
that vegetation in the southern part of NSW
and the ACT is extremely dry, means the
potential for fire to impact on increasingly
more populated areas is very high."

Do you see that, Mr Castle?

A. Yes, I do.

10 Q. Did you see that release on the evening of
Wednesday, 15 January?

A. No, I didn't.

15 Q. Would you agree that what Mr Koperberg at
least is quoted to have said there again doesn't
sit comfortably with what he has apparently said
to Mr Lucas-Smith earlier in the day to the effect
that the McIntyre's fire won't be a problem for
the ACT?

20 A. Yes.

Q. Have you seen this release at any time? You
have it in your folder, so I assume you have seen
it before?

25 A. I have seen it now.

Q. Have you made any inquiries at any time as to
whether this release was available to anyone
within the ESB on the night of the 15th?

30 A. No.

35 Q. I'm not sure weather you can assist with this,
but across the top on my copy one can just see
what looks like a fax transmission imprint. It is
much clearer on that copy?

A. Yes.

Q. Do you know what that fax number is?

40 A. It starts in a Sydney number. 029 is a Sydney
number.

Q. "State OPS"?

A. "State OPS" I presume would be Rosehill.

45 Q. So you are not able to tell her Worship
whether or not this is something that your
operations people had the benefit of that night?

A. I would think it is unlikely.

Q. Did you have a system for monitoring what was coming out of the New South Wales Rural Fire Service in terms of press releases and so on?

A. I believe Amy Lowe, our media person, at stages would talk to Cameron Wade.

Q. And no doubt that would be important to be keeping track of what the New South Wales Rural Fire Service was saying about the fires, particularly the ones close to the border?

A. Yes, I would presume so.

Q. But you are saying that is something we would need to ask Amy Lowe about?

A. I would think so. I had not seen these until a week ago.

Q. This is the last thing I want to ask you about for the 15th, Mr Castle. It is an email that has been sent by Mr Val Jeffery or a letter that has been sent by Mr Val Jeffery to, it would appear, the people in his area. It is not clear. We will no doubt ask him about it. It is document [ESB.AFP.0012.0113]. You might recall Mr Lucas-Smith being asked about this. He is providing an update of the current status of the fires in the first paragraph:

"Even if these fires are brought under control before the inevitable windy north to north-west change arrives, it will be almost impossible to hold them within containment lines. The only thing that can prevent this occurrence is good rain. I must say that there is no indication that this rainfall may arrive.

In short, I am writing to warn you that there is a very real possibility that these fires will break out of the mountains. At this stage it is looking like this could happen about Monday or Tuesday. Be aware that we have sitting to our west ready to hit us, a combination of the disastrous 1939 Brindabella fires plus the 1983 Gudgenby

scenario.

5 When these fires break out of the mountains
 they will burn virtually all our country.
 Suppression forces will be overwhelmed, so
 you will need to ensure that you are well
 prepared to protect your own property, and
 this can be very successful with a few simple
 precautions and preparations."

10 He then sets out a list of things that people can
 do. He says down the bottom after listing those
 items, including "keep filled buckets around your
 buildings, complete with a mop, if possible":

15 "I don't want to alarm people, just to
 forewarn you, all the best and keep safe.
 Cheers. Val Jeffrey."

20 He then provides some information about water
 pressure. Have you seen that document before this
 inquest?

A. About a week ago.

25 Q. Have you made inquiries as to whether it was
 something that was available to the SMT or anyone
 within Curtin at the time it was sent?

30 A. No, I don't think it was available. I would
 point out that it is very much oriented to the
 rural community.

Q. It is.

35 A. Particularly "muster stock into your bear
 paddocks; make sure your weed spray units or pumps
 are set up and filled with water ready to go". It
 does say "our country".

40 Q. I accept all that, Mr Castle. Do you think in
 those circumstances he is overstating the
 position?

A. This is potentially at the 15th?

Q. It appears so from that note at the top. It
 looks like "circulated 15/1/03"?

45 A. It says "a real possibility that these fires
 will break out of the mountains"; that is a
 possibility.

Q. Yes, "a real possibility", he says. Do you think it was a real possibility at that time?

A. On the 15th? I'm not too sure at that particular time, in my opinion.

5

Q. Let's assume --

A. But I'm not a firefighter.

Q. Let us take the end of the 15th, after the planning meeting where Mr McRae has provided, on any view, a very stark prognosis of the next few days. It is a real possibility at that stage, isn't it?

A. It may have been. But the positive aspect, I suppose, balances that we were due to get 200 firefighters per shift and 20 appliances.

Q. So that is increasing the chance that containment efforts might be successful?

A. I believe so.

Q. But it's always the case, isn't it, Mr Castle, that those containment efforts might fail?

A. There is always a possibility.

25

Q. With the weather conditions that were now foreshadowed, that possibility was becoming a real possibility?

A. Yes.

30

Q. What Mr Val Jeffrey is doing in this letter, at least so far as the people in his area are concerned down at Tharwa, is saying, "I don't want to alarm people, but I want to tell you what may happen," isn't he?

35

A. Yes, I think he is actually telling the rural community predominantly that it will come out of the mountains and they are immediately adjoining the mountains.

40

Q. He doesn't limit himself - he talks about "these fires". So he is obviously talking about more than just the Stockyard fire, isn't he?

A. I presume so.

45

Q. He is saying, "We have sitting to our west ready to sit us a combination of the disastrous

1939 Brindabella fires plus the 1983 Gudgenby scenarios". Those were fires that both affected the Canberra urban area, weren't they?

5 A. I don't have that in the back of my mind. I don't have that same degree of knowledge about those particular fires as both Val Jeffery would and some of the firefighters.

10 Q. Let us accept that obviously he is focusing on the area that is relevant to him.

A. Yes.

15 Q. Is that something either at the planning meeting or at any time during the 15th, and particularly after the planning meeting, anyone at ESB was giving consideration to - starting to forewarn people about what might happen?

20 MR JOHNSON: That's obviously to his knowledge. He can only speak for what he knew. It is a general question. There are many people at ESB. I take it that is the qualification.

25 THE CORONER: I think that is probably right, Mr Johnson.

30 MR WOODWARD: Sorry, I didn't make that clear enough. I was certainly asking about what you knew on that night.

Q. Was anything being done to your knowledge to begin to warn or provide these sorts of warnings to the ACT community, including urban Canberra, at about this time on the 15th?

35 A. No.

Q. Why not?

40 A. I suppose the expectation that with added resources and some successes that it would not - we would be successful in containment, based on the McIntyre's as well.

45 Q. You see, what is puzzling me about this, Mr Castle, is that you that night had prepared and were going to deliver to the cabinet the following morning the cabinet briefing paper that mentions, among other things, a threat to the urban area. I

will come to it in more detail later. You have had Mr McRae talk in absolutely stark terms about the forthcoming fire weather. You are getting some extra resources, but New South Wales Rural
5 Fire Service are apparently saying there is potential for the fire to move towards increasingly more populated areas, saying the potential for the fire to impact on increasingly more populated areas is very high. You have got
10 Mr Jeffery being concerned not to alarm but providing a warning, "This is what may happen." Why is not the ESB at that time providing similar warnings to the Canberra people?

A. Along the lines of Mr Jeffery; is that what
15 you are asking? What I am actually asking you is what do you mean by "warnings".

Q. What I mean, Mr Castle, and I want to be careful not to get bogged down in the precise
20 wording, but a warning to the effect that there is a chance that if these fires aren't contained there will be an impact on urban Canberra.

A. I thought in some of those media releases we spoke about yesterday I had in general terms
25 spoken about that potential.

Q. I want to suggest to you that you, in a very indirect way, in a response to a question - this is the only occasion on which it has occurred -
30 you didn't rule out the possibility, but you certainly didn't rule it in. What I suggest to you is that - really rule it in. What I am asking you, Mr Castle, is why by now, late on the 15th, people weren't within the ESB starting to plan to
35 provide warnings to the public of Canberra and the people of Canberra that there was a distinct possibility that they could be affected by fire at some point over the next five days?

A. I think you asked me whether warnings were
40 being given, didn't you?

Q. I am asking you why they weren't being given?
A. That's a different question than what you just asked me. I thought you just asked me planning.
45 Sorry; you asked me why anybody in ESB was not planning to. That is the question I thought you just asked me.

Q. That is a fair point. Perhaps answer that question then. Why wasn't some planning being done for that?

5 A. I think in terms of the availability, the processes we were putting in place, there was planning being done about what advice and how it would be given.

10 Q. Let's find out first, what was that planning? What was nature of that planning?

15 A. I think in general terms the nature of advice to how to prepare for your home and those sorts of aspects. It was available and, if needed to be, could actually be activated straightaway.

Q. Let's get to the point --

A. But there was not a specific suburb by suburb plan in that sense.

20 Q. I am not even suggesting a suburb by suburb plan. You said that there was information out there that could be activated, I think were your words --

25 A. No, information available within ESB that could be.

Q. That could be activated?

A. It could be used.

30 Q. Why wasn't it used at that time? On 15 January why weren't you saying to the people of Canberra, "Look, you better go and look at all this information we have provided to you because there is now a risk that you will be impacted by fire"?

35 A. I don't know.

40 Q. I imagine it is something you have given a lot of thought to over the months since the fires, Mr Castle; is that right?

A. Yes.

45 Q. Are you able to offer any explanation to her Worship and indeed the people of Canberra as to why, when you were getting this information on the 15th and you were passing it over to the cabinet on the 16th, it wasn't information that was being

given to the community and the people of Canberra?

A. I think we underestimated - sorry, we overestimated the success.

5 Q. I suppose what puzzles me most, Mr Castle, is that you acknowledge that there was always a chance you would fail. What I don't understand is why, having acknowledged that, you aren't at least going out there and saying to the people, "Look,
10 we may not succeed. We hope we will, but we may not succeed and this may be the consequence of us not succeeding"?

A. I think with hindsight that is a very good decision, and I think I have said that; that with
15 hindsight we provided more warning in subsequent days.

Q. What was stopping you --

A. And I think that's the learning --
20

Q. I appreciate that, and that's why we are all here.

A. Yes.

25 Q. What was stopping you, at least in your mind, from going out to the Canberra people on the night of the 15th or indeed the morning of the 16th and saying, "Look, this is a risk and this is what you need to do about it"?

30 A. I don't think there was anything conscious stopping in my mind. We just didn't do it.

Q. I want to move to the cabinet briefing on the morning of the 16th. It is the first thing that
35 you deal with in your statement in paragraph 100, page 21 of your statement:

"On the 16th Peter Lucas-Smith, Tim Keady and I briefed cabinet in the morning. This
40 briefing comprised information about the fires, what assistance had been sought from the Commonwealth and mechanisms of that process and the continuing liaison with New South Wales. Potential vulnerable areas were
45 identified in broad terms. There was discussion as to the process of declaring a state of emergency. I went on to advise

cabinet of the process involved in that
eventuality. We offered advice on the
potential risk to urban areas due to the
extent of the fire front."

5

That's true, that paragraph?

A. I believe so.

Q. When you say you offered advice, was that
10 something you recall actually speaking about?

A. In general terms.

Q. That would not be surprising, would it,
15 Mr Castle, because it is something you dealt with
in your briefing paper?

A. Yes.

Q. You spoke to that briefing paper, didn't you?
20 I should not say "you". Yourself, Mr Lucas-Smith
and Mr Keady spoke to that briefing paper?

A. Yes.

Q. It is your recollection in the course of - I
25 won't limit it to you. In the course of that
speaking to, the issue of the risk to the urban
areas was discussed or was raised or mentioned?

A. In general terms, yes.

Q. What I would like you to do - and to be fair
30 to you, Mr Castle, we have received recently a
video which includes some footage of that
briefing. I will play it in a moment. I want to
give you the opportunity that, if there is
anything else other than what is mentioned in your
35 statement or what we have just discussed that you
recall mentioning during the briefing, then by all
means mention it now or, if you prefer, we can
play the video and you can do so afterwards. Is
there anything else that sticks in your mind that
40 was discussed or questions asked?

A. Not that I can recall.

Q. You will no doubt have noted from the evidence
45 of Mr Lucas-Smith that emphasis was given to the
sentence on page 2 of the briefing paper under
"New South Wales fires" and the third bullet
point - this is [DPP.DPP.0003.0078] - where it

says in the second sentence:

5 "However, with stronger winds from the north-west there is always the potential for spotting over the containment lines which has potential serious impact to ACT forest pines and subsequently the urban area."

10 So we just delete the reference there to the pines for the moment. That would be read, I suggest to you, "which has potential serious impact to the urban area"; do you agree with that?

A. It could be read that way.

15 Q. That's the way you would read it, wouldn't you, as a matter of English grammar?

A. That's the way you would read it.

20 Q. As I understand what you are saying, that was a matter that was discussed in general terms or raised?

A. In general terms, yes.

25 Q. Perhaps I should ask you this: in the discussion that occurred, was there any qualifications put or any sense in which this sentence was downplayed in the discussions?

A. Not that I'm aware of.

30 MR WOODWARD: Your Worship, if that is a convenient time, what I propose to do is ask that the video be played. What I will do, if I can - this may be a little cumbersome. Unfortunately we only got this recently, so we don't have a
35 transcript of it. What I would like to do is play it through once and interrupt during the video to identify who the speakers are and to get a general sense of what was being said. Then I would like to play it through uninterrupted, and I am hoping
40 that it may be possible to get a transcript of it while we are here. But that is not essential. Obviously we can still do that later on if necessary.

45 THE CORONER: How long is the video?

MR WOODWARD: It is not long. It is a couple of

minutes.

Q. As I understand it, Mr Castle, this is a video of that cabinet briefing.

5

(Video played)

MR WOODWARD: Q. Perhaps we could pause it there.

A. Could I move out of the box?

10

Q. It might assist, with your Worship's consent, if Mr Castle were to go to the screen and point to each of the individuals and let us know who they are.

15

THE CORONER: Just for the sake of recording and also for the people who are in court 9 listening, that black box on the side of the screen is a microphone. So if you could, please, Mr Castle, direct your comments into the microphone.

20

MR WOODWARD: Q. Can you as best you can identify who each of the people in the screen are?

A. Mr Tonkin, Chief Executive of the Chief Minister's Department; Mr Mark Kwaitkowski, cabinet secretariat; Mr Ted Quinlan, Treasurer and a number of other portfolios; Mr Keady; and I think that lady is from the cabinet secretariat as well. I am not familiar with that lady.

25
30

(Video played)

MR WOODWARD: Q. Can we just go back a bit --

A. And identify the other people on the other side?

35

Q. Yes, please.

A. That is Jon Stanhope, the Chief Minister. That is Simon Corbell, Minister for Health. That is Mr Bill Wood, Minister for Police and Emergency Services. That's Peter Lucas-Smith and that's me.

40

(Video played)

MR WOODWARD: Q. Did you hear what you were saying there?

A. Yes.

45

Q. That sounds very like what Mr McRae was saying to you the night before?

A. Yes.

5 (Video played)

MR WOODWARD: What we didn't hear then, and we will play it through - we won't try to transcribe it; the volume is not good enough - but I have had
10 the benefit of hearing it on a small unit and it is much more audible. So we will try and get it.

Q. Mr Castle, I would like, if we can, to play it through once more and you will pick up, before
15 Mr Lucas-Smith speaks, I think it is Mr Wood makes a comment about the comparison between these fires and the fires in 2001, and I think the response that he gets is something to the effect of "these are going to be worse" or "this is worse than
20 2001". If you could try in particular to concentrate on that.

A. (Witness nods).

(Video replayed)

25

MR WOODWARD: Q. I think he said something about it being something of a fire a year ago that was a pretty bad day.

A. I just said "yes".

30

Q. We might try it once more, that section, and then play it through to the end.

(Video replayed)

35

A. I just say "yes".

MR JOHNSON: Your Worship, that is the first time I have had a chance to see that tape and see what it says. Obviously a transcript of what is said
40 on it would be helpful to all those appearing before you. It is difficult to hear and make out precisely what is said. I could understand some bits and not others. Might that be done today so it is available to us? It is only a couple of
45 minutes. It may be someone with the appropriate headphones et cetera can produce a transcript that would be relatively short today.

The second thing is, I wanted to ask, and I don't know if counsel assisting is in a position to answer this: in looking at it there seemed to be a break at one stage. Mr Castle was speaking and then suddenly it is in the middle of Mr Lucas-Smith speaking. As to whether there was something turned off and turned on, whether there is more to this tape or whether there is any information to explain what seems to be not a continuous process, at least to the observer, I don't know if counsel assisting has any information on that front at this stage. It would certainly help to understand that as well if there is any information.

15 THE CORONER: Certainly. Do you know, Mr Woodward, just on the second part of that --

20 MR WOODWARD: The answer is yes and no. The answer is we know that is all there is. I would certainly agree with my learned friend - in fact I would say there is more than one break. I think there were several spots where clearly it is cut over into a different section. But unfortunately that is all the ABC were able to give us and, as I understand it, that is all they have.

25 THE CORONER: Mr Castle might be able to help with that if he is questioned about that.

30 MR WOODWARD: That is right. We would have done it sooner, but I was hoping we might have reached it yesterday, and that is why we didn't do a transcript.

35 THE CORONER: Is it possible to do a transcript of that today?

40 MR WOODWARD: We will certainly endeavour to do that. We will try to arrange that in the morning break.

45 Q. I appreciate that in the absence of a transcript it might be difficult for you, but just a couple of general questions. There was one point in Mr Lucas-Smith's presentation where he was talking about the containment lines being put

around the McIntyre's Hut fire. After the vision moved off him you heard him saying, "They are putting in a line up here and are having some difficulties with that." I assume he was referring to McIntyre's because he was saying "they". That would be consistent, wouldn't it, with the fact that at least part of the containment lines around McIntyre's were still subject to some difficulty?

5

10 A. I think all around the top, round to the north-west as well.

Q. He said something about spectacular fire runs or something like that?

15 A. I think he might have been referring to internal.

Q. Within the containment lines?

A. Yes. Yes, uphill slopes.

20

Q. And he was talking about the McIntyre's fire?

A. I believe so.

Q. It was very difficult to hear that comment made by Minister Wood, but are you satisfied that you left everyone present there with the impression that what was being faced now was a worse fire event than the year before?

25

A. I'm not too sure about that. All I said was, yes, it was a bad day last year. I didn't say that this was worse.

30

Q. Well, putting aside that particular --

A. But I had actually already referred to, as you pointed out, Mr McRae's phraseology.

35

Q. If you are saying it was a 1:20-year fire and 1:40-year fire weather --

A. I don't think I referred entirely to that.

40

Q. Presumably anyone hearing that would know that you were saying we are in a worse situation than we were with the fires last year; would you agree with that?

45

A. Potentially, yes.

Q. The reason I ask that, Mr Castle, is because

Mr Quinlan who was present at that briefing appears to have considered - has spoken, it seems, to Megan Doherty at the 'Canberra Times' about the briefing and at least he is quoted to have said
5 last Thursday, the 19th of February, about the briefing:

"Cabinet was told that Monday, January 20 - not Saturday - would be the danger day."

10

You would agree with that?

A. Yes.

Q. He says:

15

"And an event similar to the 2001 fires might be likely but not a 40-foot firestorm."

He is then quoted:

20

"I left meeting thinking 'yes, we have a problem perhaps a repeat of the 2001 fires but nothing that would have come anywhere near the firestorm that hit'."

25

No doubt he is right about the firestorm that hit. Do you think he was left with the impression that there would be simply a repeat of 2001?

A. I can't comment --

30

MR JOHNSON: I object. There is a fragment. It is, I would submit, plainly a rule in courts that witnesses are not asked to comment on other people's views or versions in that sort of way.

35

And if it is to be done, let the witness be asked his best recollection of what was said in its entirety with respect to the 2001 fires.

40

It will not help your Worship, in my submission, and it is not fair to this witness - or indeed others who may be called - or this witness to be asked to comment on something that is in the newspaper recently. It should not be allowed, in my submission.

45

Let the witness be asked his best recollection of what was said, if anything, about the 2001 fires.

Ultimately it will be for your Worship to determine what persons, having heard no doubt other witnesses who were at that meeting, what was said about that issue and what your Worship finds was the consequence or the state of mind the persons may have about that issue.

I would submit that the present question should not be allowed.

THE CORONER: Thank you, Mr Johnson. What do you say, Mr Woodward?

MR WOODWARD: Mr Quinlan appears to have chosen to speak to the media about the impression he was left with after that meeting. It seemed to me only fair, given that has occurred, to give Mr Castle the opportunity to comment on whether or not that was the impression he felt the meeting should have been left with.

If it is to be limited to his recollection of what he said about the 2001 fires then I don't want to press the point. It seemed to me only fair if comments are being made to the press which are suggesting that the cabinet wasn't being given a true picture, then Mr Castle should be entitled to comment on that. I accept that I may have put that better, but perhaps if I can just put it in those general terms.

Q. Having heard that exchange, Mr Castle --

THE CORONER: I think it is important to appreciate the impression that Mr Castle intended to leave or to give to the cabinet and why Mr Quinlan is making comment. I don't know what he was asked necessarily. I did hear part of that but I don't recall the whole context of that. If Mr Quinlan is making comment now about the impression he was left with, I think it is only fair for Mr Castle to be asked questions to explain whether or not that was the impression that he intended to leave or whether Mr Quinlan misunderstood.

MR JOHNSON: It is this problem of impression

again, your Worship. Let us try, if we can, to find out the witness's recollection of what was said on that subject matter.

5 THE CORONER: We have the tape of that.

MR JOHNSON: We have a tape which is 2 minutes long. There has not been a question yet to the witness, but I doubt very much he will say that is
10 the total cabinet briefing. Obviously more was said. Rather than asking the witness at this stage to comment on some article in the newspaper, why not ask the witness what was said to the best of his recollection about the 2001 fires? That
15 would be the starting point, in my submission, not the impression that others might have been left with or the impression that he might have intended - let us find out firstly what he has to say as to his recollection of what was said.

20

That, in my submission, is the only way of having an appropriate evidentiary starting point. Rather than moving directly to impressions and asking the witness to comment on a newspaper. I would ask
25 your Worship to invite counsel assisting to take that approach so that there is some evidentiary foundation.

THE CORONER: It might be better to put the whole
30 context, Mr Woodward, and perhaps rather than impression - intention. What was the intention of the briefing and what did you intend to convey.

MR WOODWARD: I thought I had, your Worship, and
35 we can check the transcript. I thought I had done my best to exhaust Mr Castle's memory on what he said about the 2001 fires and how he compared them. I had specifically asked him what his recollection was about those matters. I thought
40 that, having exhausted his memory and he was having trouble, it was then I asked him - I put this apparent quote to him and asked him to give his response, in effect. "Is that a fair comment that what was left in the minds of the cabinet, in
45 his mind, was that what they were intending to convey, that we have just got a repeat of 2001 or something more"? I didn't want to press that but

it seemed to me only appropriate --

THE CORONER: I will allow you to explore that a bit further, in fairness to Mr Castle.

5

MR WOODWARD: Q. Mr Castle, You have heard the exchange that has occurred, does that comment that Mr Quinlan apparently made about the impression he had, does that surprise you?

10

MR JOHNSON: Just to that, your Worship, can I just say this: as to whether a witness is surprised by some impression - I am conscious that is an issue which your Worship wants to have explored and I don't have any difficulty with it. As I understood it, the starting point was something was said by Mr Wood - it had to be played a couple of times before we could understand it. The question was: did that relate to the 2001 fires?

15
20

I don't think the witness has been asked: to your recollection was anything said during the whole briefing in relation to the 2001 fires? If I am wrong in that respect, I am wrong. But I thought the clarification only related to what was on the video where Mr Wood said something and Mr Castle said something, which I think was "yes".

25

I would ask again that, rather than asking the witness whether he is surprised by something that someone else says, he is asked what his best recollection is. It may be there isn't any more. I don't know because the question hasn't been asked as to what was said about the 2001 fires at the briefing. To move directly to whether he is surprised by something that someone else has purportedly said in a newspaper is, in my submission, not appropriate and not the way to explore the issue.

30

35

40

THE CORONER: Perhaps, Mr Woodward, if you just clarify that that is the extent of the information provided on the 2001 fire and maybe "surprise" is not right word. Maybe if you go back to "your original impression" or "what was your intention".

45

MR WOODWARD: Q. Mr Castle, doing the best you can, was there a discussion during the meeting about how does this compare with 2001?

5 A. I don't think that was specifically relayed in any specific way. That's a comment that Mr Wood is I think referring to the day.

Q. Presumably the worst day of that --

10 A. Yes.

Q. Perhaps if I can put this general question to you: I have read to you what Mr Quinlan apparently said. Is there anything you want to say in response to that?

15 A. No.

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

20 THE CORONER: Yes, we will have the adjournment.

MR ARCHER: Before your Worship rises, can I raise a matter that will affect people's planning today. I understand that counsel assisting will now
25 traverse matters that have a particular interest for those I represent. When I spoke to counsel assisting this morning, there was some confidence that he might finish his cross-examining by lunchtime. I am not sure if he still has that
30 confidence. I suspect he may go past that.

Until now, I have been the first across the Bar table to cross-examine, as it were, or to further cross-examine the witness. Because Mr Castle's
35 statement does not traverse in any detail at all some of the events that are about to be canvassed, I would want to seek some instructions from relevant witnesses in relation to what he may say. Normally that would be a matter of discussing them
40 over the phone. But in relation to Commander Newton, she is actually in hospital at the moment and I won't be able to do that today.

Mr Stitt has indicated to me that he would
45 otherwise would want to go first in the cross-examination, and I have no objection to that. I may make an application this afternoon to

defer my cross-examination to allow me to get some instructions in relation to those matters that I anticipate counsel assisting is about to canvass.

5 THE CORONER: I do not have a difficulty with that. It depends on whether or not you can come to some arrangement with Mr Johnson, I suspect.

MR JOHNSON: I have indicated, your Worship, that
10 I wouldn't want to go before Mr Archer but I have a suspicion that time will run out today.

THE CORONER: I think you may be right,
15 Mr Johnson.

MR JOHNSON: I have that feeling in my heart of hearts that by 4 o'clock we may be at the point where Mr Archer has to make an application.

20 THE CORONER: We will just see how the time fares later in the afternoon. I certainly understand your position, Mr Archer and will give that some consideration if that does happen. We will adjourn.

25

SHORT ADJOURNMENT [11.30am]

RESUMED [12.00pm]

30 MR WOODWARD: Q. I should have asked you a preliminary question about that briefing, Mr Castle: who arranged or asked for the briefing. I will ask that in two parts. Who asked for the briefing?

35 A. Mr Keady suggested I prepare for a briefing.

Q. Do you know if Mr Keady said to you whether it was something that the government had asked him to arrange or was it something he did of his own
40 initiative?

A. He may have done it of his own initiative and then suggested.

Q. Do you know why it was being videotaped?

45 A. I have no idea.

Q. That was not something that was arranged from

the ESB point of view, I take it?

A. No. I thought it was one of those where often the media are allowed in to take file footage of the meeting and then go. I don't know.

5

THE CORONER: Mr Woodward, was the video done by the media?

MR WOODWARD: It was provided to us by the ABC. I should also mention, we now have a transcript; it is being done. The instructing solicitor has gone back to check it through, so we will certainly have something by the end of lunchtime, if not before.

15

Q. Did you observe people there taking notes, in particular the minutes secretary taking notes of what was being said?

A. No.

20

Q. You didn't notice that?

A. No.

Q. Did you see one of the ministers tapping on a keyboard. Was that something you were conscious of at the time?

25

A. No.

Q. When I say "ministers", it may in fact have been one of the senior public servants but there was someone there doing that?

30

A. (shook head).

Q. Just getting back to the content of the briefing. I think you agreed when we spoke about it earlier that the question or the issue that is referred to in the cabinet briefing paper about potential for impact on the urban area was raised during the briefing. You say in your statement:

40

"We offered advice on the potential risk to urban areas."

Can you recall any questions being asked or any clarification being sought on that issue by anyone present?

45

A. No.

Q. The minute that is being provided, which apparently is a minute of that briefing, is at [DPP.DPP.003.0084]. While that is being brought up, again I should ask you the question my learned
5 friend Mr Johnson pointed out I hadn't asked: the video footage it appears had been cut in several places. Would you agree with that?

A. Oh, yes.

10 Q. Can you recall how long the actual briefing took?

A. No. I've tried to, in my own mind - it was scheduled for 9 o'clock. Whether we started on time, I'm not too sure. The totality might have
15 gone for half an hour - I'm not too sure. Sorry, no.

Q. About half an hour?

A. No, I think it was longer than that.
20

Q. You think it was longer than half an hour?

A. I think by the time we took the maps up and took the maps down, it may have been
25 three-quarters to an hour.

Q. We may have misheard Mr Lucas-Smith, but he made some reference to the map being - he said something about a matter being 48 hours ago. Is
30 it your understanding that the map on the wall was effectively 48 hours out of date?

A. No.

Q. You don't recall that?

A. No.
35

Q. Was there any difficulty at that stage in producing a map that was more up to date, that are you aware of?

A. Yes. The technology to actually produce it
40 was difficult.

Q. Was difficult?

A. Yes.

45 Q. Could that be an explanation as to why, when you were giving the briefing, the map --

A. May have been.

Q. I should just complete the issue about the timing. So we can take it the video is only a very short extract of what was actually discussed?

A. I believe so - oh, yes, it is. Sorry.

5

Q. The minute, too, is rather brief, Mr Castle. I assume you would agree it certainly doesn't constitute a summary of everything that was raised during the meeting?

10 A. No.

Q. One of the things in particular that is referred to in subparagraph (c) is that the cabinet:

15

"Noted that a public information system has been put in place and will be activated as required by ESB in consultation with the Department of Urban Services".

20

Can you elaborate on what was being asked at the cabinet briefing about that public information system?

25 A. That was the reference to the Canberra Connect arrangements that I had put in place.

Q. Was there any discussion as to when those would be activated?

30 A. No.

Q. Did anyone present ask you, "Look, when is that going to happen"?

35 A. No, I think we were more talking about the system and how it would actually work.

40

Q. In paragraph (d) the minute notes "if the situation deteriorates" and then talks about the process by which a state of emergency can be declared. Can we take it from that it was certainly within the contemplation of those present that there was a distinct possibility of the situation deteriorating?

45 A. I think it was discussed in the context of "what ifs".

Q. And one of the "what ifs", it would seem, possibly required the declaration of the state of

emergency?

A. I briefed them on the process of a declaration of emergency.

5 Q. Did you do that because it was possible, presumably that that is something that might have to happen?

A. Given we were talking about emergency management as well and the totality of
10 arrangements, because it had been something in 2001 that was considered. I briefed them on the process purely so they were aware as ministers.

15 Q. Did you say to them, "Look, this is something we may have to do"?

A. Not in that tone - not in that way, no.

20 Q. Did you say in any way or give the impression that there was a possibility that a state of emergency may need to be declared at some point in the next few days?

A. I think I gave a truthful indication that it was always a possibility in an emergency.

25 Q. Obviously that is suggesting - by doing that were you seeking to make it clear that, at least on one scenario, things could be very serious?

A. I suppose you could read that into it. But I don't think I actually specifically led it that
30 way.

35 Q. Why not, Mr Castle, given what we have --

A. I think it was just in that possibility, as I indicated before, in terms of emergencies.

40 Q. Is it your memory that with this discussion of potential effect to the urban area and talking about state of emergency anyone raised with you the issue of whether something should be going out right then to the public?

A. No, I don't think it was raised.

45 Q. Was there any discussion at all about, apart from talking about Canberra Connect and the processes associated with that, the need to warn the public?

A. No, I don't think so.

Q. Were you given any advice or any instructions during that meeting about the process of alerting the public to the forthcoming potential danger?

A. No.

5

Q. None at all?

A. No.

Q. The next thing you reach in your statement at paragraph 101, Mr Castle, is the briefing which you say you gave to Mr Murray and Commander Newton?

10 A. Yes.

15 Q. You say:

"In the afternoon I briefed John Murray, Chief Police Officer with the Australian Federal Police, and Mandy Newton, commander operations support AFP, based on the cabinet briefing we had done in the morning. Peter briefed the fire brigade management team at the same time."

20
25 Pausing there. Is the effect of what you are saying there that Mr Lucas-Smith was briefing the fire brigade management team at the same time you were briefing the Chief Police Officer and Mandy Newton?

30 A. I haven't set it out clearly there. As I understand it, the briefing by Peter Lucas-Smith of the fire brigade management was at 2 o'clock. According to my diary, this briefing of John Murray and Mandy Newton started around about 2.30.
35 My recollection is that I started the briefing with John Murray and Mandy Newton and then at some stage was joined by Peter and I think Ian Bennett.

Q. And Ian Bennett who had come from the meeting with the fire brigade personnel?

40 A. I understand that.

Q. Can we take it from that it is your recollection that you weren't present at the meeting at which Mr Lucas-Smith briefed the fire brigade personnel?

45 A. Yes, you can. I was not present.

Q. You were not present?

A. No.

5 Q. I accept that you were not present - I understand you say you weren't present, but you will have heard the evidence Mr Lucas-Smith gave about that and the matters put to him about what was said during that meeting?

A. Yes.

10

Q. Is that something you have discussed with Mr Lucas-Smith at any time since then?

A. No.

15 Q. What was said at that meeting of the fire brigade?

A. Well not - no, I'm aware that was what was in statement.

20 Q. When did you become aware that that was in statements?

A. When the statements were provided to me.

25 Q. Have you spoken with Mr Lucas-Smith, having read those statements, about what people were saying was said at that meeting?

A. Sorry have?

30 Q. Have you spoken to Mr Lucas-Smith about what was in those statements concerning what was said at that meeting?

A. Only to the extent of was he aware of them.

35 Q. What did he say?

A. I think he indicated that he was aware of them, I believe.

40 Q. Did you ask him to elaborate on that? In particular you are aware, aren't you, that Mr Cartwright had done a diary note which suggested that he had given a detailed description of the path of fires in 1939, 1952 and 1985? You are aware that's what the statements you are referring to deal with?

45 A. I haven't focused on those in any detail whatsoever.

Q. I understand you weren't present at the meeting but I am concerned to find out from you when and where you discussed with Mr Lucas-Smith what is said to have occurred at that meeting?

5 A. Only in passing.

Q. You knew, didn't you, when you had that discussion that it was being alleged, at least by some people, that he said at that meeting that, in effect, the fires that were then to the west of Canberra could do the same as those earlier fires; that he also said he didn't want to alarm the public and the media; and that this information was not to leave the room; are you aware that that is what was being said about that meeting?

15 A. I'm aware that's what was in there.

Q. Did you discuss with Mr Lucas-Smith that awareness?

20 A. Not in detail, no.

Q. In general terms?

A. No, not the specifics of it.

25 Q. Has he ever said to you what his view about those matters was?

A. I am trying to recall what his comment may have been. I think he expressed surprise at it. I think that's about the sum extent. I didn't push him - I didn't press for an answer per se.

30 Q. When was the last time you spoke about it with him?

A. Before the hearings commenced, I think.

35 Q. So you haven't spoken to him about it during the hearings?

A. I don't think so.

40 Q. How many times before that have you discussed it with him?

A. I think only the once.

45 Q. Can you think, Mr Castle, of any reason why - we are assuming for the moment this is the evidence, you heard all of the evidence Mr Lucas-Smith was taken to - why he might have

said that that this fire, that is the fires could do the same as the fires in '39, '52 and '85, didn't want to alarm the public and the information was not to leave the room?

5 A. No.

Q. Can't think of any reason why he might have said that?

A. No.

10

Q. So whilst that meeting was concluding, you commenced a briefing with Mandy Newton and John Murray; is that correct?

A. Yes.

15

Q. In your statement you say that you provided them with a briefing "based on the cabinet briefing we had done in the morning". Did you provide them with a copy of the cabinet briefing paper or any similar document?

20

A. I don't think that I actually gave them a copy of the document.

Q. But did you have it with you?

25

A. I believe so, yes.

Q. Did you speak to it?

A. I believe so.

30

Q. Did you, in the course of that meeting, say anything to Commander Newton and Mr Murray about a risk to the urban area?

A. I believe I based it on the cabinet briefing and would have followed this through in its broad content.

35

Q. Is your recollection that at some point during that briefing you said to them in substance what appears on page 2 of that document - we won't go back to it because we have seen it many times - "with stronger winds from the north-west there is always the potential for spotting over the containment lines which has potential serious impact to ACT forest pines and subsequently the urban area"?

40

A. I believe I would have provided that broad information.

Q. You are aware, aren't you, Mr Castle, Mr Murray in his statement specifically says there is no mention of the urban area?

A. Yes.

5

Q. So it is important, I think, that you have an opportunity to be as clear as you can be about that issue. Your answer a moment ago was "I believe I would have said". What is your recollection about what was actually said?

10

A. I don't recall the exact words. I believe I used this document. But I don't believe I gave them a copy. I believe they used the same broad map. So I would have enunciated the locations and so forth. But I may also have given them the feedback that New South Wales was confident in relation to the McIntyre's.

15

Q. Do you recall doing that?

20

A. I may have. I don't specifically recall.

Q. I should have actually asked you, Mr Castle, I am sorry to go back to it: did you say something like that during the New South Wales briefing or Mr Lucas-Smith say something about that - during the cabinet briefing, I am sorry?

25

A. I don't specifically recall whether we did or we didn't.

Q. As I think I said to you earlier, that's a reasonably important detail, isn't it, that the New South Wales firefighters are saying, "We don't need to worry about McIntyre's"; you'd agree with that?

30

A. I think based on the aspect of "McIntyre's fire to the north-west is secure. Containment lines to the south and east following back-burning operations", I think would have expressed in those terms that they were confident in their containment lines.

35

40

Q. You would have noted, Mr Castle, that is immediately followed with a bullet point, which is part of the McIntyre's fire bullet point: "with stronger winds from the north-west there is always the potential" - I have read it already. I will not read it again?

45

A. Yes.

Q. That is not saying, "We don't have to worry about the McIntyre's fire," is it?

5 A. No. It doesn't say it in those terms.

Q. That was a document that was prepared on the evening of the 15th?

A. Finalised on the evening of the 15th.

10

Q. Given the optimism which apparently Mr Lucas-Smith was expressed based on what he had been told, why doesn't this document in effect repeat what Mr Lucas-Smith was told about the McIntyre's fire not being an issue for the ACT?

15

A. I don't know.

Q. Do you know whether Mr Lucas-Smith saw this briefing paper before it was finalised?

20

A. I'm not too sure of the very last version.

Q. Do you think he would have seen that sentence?

A. He would have seen it before we handed it out.

25

Q. Do you remember him saying to you, "Hang on. That's not what Phil Koperberg's telling me"?

A. No, I don't recall that comment.

30

Q. If he had a difficulty with the way in which the cabinet paper had been put together, no doubt he could have raised that with you?

A. He could have raised that verbally.

Q. You don't remember him doing that?

35

A. Not that I can recall. I don't recall every word that was spoken in there either.

40

Q. Getting back to the meeting with John Murray. I should read to you what he says in his statement. It is at page 3. No doubt this will be dealt with in due course with you by Mr Archer. To be fair to you, I should indicate that Ms Newton doesn't seem to say one way or the other what her position was on this.

45

Mr Murray is reasonably unequivocal. After referring to the meeting saying:

"Present were you, Mr Lucas-Smith - this is at page 2 of his statement - Mr Ian Bennett and Kate Keane were all present.

5 Mr Lucas-Smith advised us of the developing fire situation to the west of Canberra. He told us there was a possibility of high fire risk to the territory in the coming week. He described how on the coming weekend, 18th and 10 19th, the weather patterns were expected to produce high winds and temperatures. This was expected to create a moderate risk which would escalate to severe on Monday 20 January. Because of the unpredictable nature of the weather there was a chance that the 15 conditions might have become severe on Sunday. There was no reference to the possibility of urban Canberra being under threat."

20 Q. You think he is wrong about that?

A. I believe so. As I say, I believe I followed the cabinet document as a broad briefing.

25 Q. And mentioned the possibility of urban Canberra being under threat?

A. I believe I went through the document and would have mentioned those points.

30 Q. Can I just ask you about one other thing that he said was said there where he is talking about the weekend. He described how "on the coming weekend the weather patterns were expected to produce higher winds and temperatures. This was 35 expected to create a moderate risk which would escalate to severe on Monday, 20 January". It was never suggested that the weather on Saturday was going to create only a moderate risk; was it?

A. No, I don't believe so.

40 Q. There is an issue, isn't there, about the fact that Monday relative to Saturday - whether Monday was --

A. Was going to be worse.

45 Q. But it was never suggested, was it, that Monday wasn't also a bad day?

A. No, I don't believe so.

Q. That's my mistake - Saturday.

A. Saturday.

5 Q. So is it likely that someone has said in that meeting, or do you recall anyone saying at the meeting that Saturday was only a moderate risk?

A. No, I don't believe so.

Q. So Mr Murray may have got that wrong as well?

10 A. He may have. But he also mentioned Sunday, and I don't think Sunday was ever considered in the terms that Mr Murray has mentioned there.

Q. No doubt you will be asked about that in due course. Again, Mr Castle, there is some at least confusion in my mind about - was there also a briefing of the ACT Ambulance Service some time during that afternoon?

15 A. I believe they actually participated in the briefing where the fire brigade was.

Q. That was the same briefing. There wasn't a separate?

25 A. No. I don't believe so.

Q. I know we are jumping back a bit in time. You weren't present at the planning meeting on the morning of 16 January, were you?

30 A. No.

Q. I will just ask you a couple of things about that in the sense of whether you subsequently learned anything about the issues that appear to be under discussion during that meeting. Do you have the planning meeting minutes there? This is document [ESB.AFP.0004.0219]. This is the morning of the 16th, 0930 hours.

35 A. Yes.

40 Q. As previously, the minutes begin with update on operations. Then over the page on 0220 include the weather forecast which, as I understand it, is a summary of what has been said at the meeting by I think it was Mr Mason that day, from the bureau. You weren't present so it is perhaps not fair to ask you that.

45 A. I wasn't present.

Q. You see at the top of the page:

5 "ACT Fire Brigade and the ACT Ambulance
Service are to meet to discuss urban
contingencies."

5: Now those two organisations are broadly under
your banner, aren't they, Mr Castle?

10 A. Administratively, yes.

Q. Are you aware as to what, firstly, had led to
the ACT Fire Brigade and Ambulance Service
discussing urban contingencies?

15 A. Not specifically.

Q. Well what about --

A. Well, no.

20 Q. Do you know what contingencies they were
discussing or came to discuss?

A. No.

Q. Were you part of any such discussions?

25 A. No.

Q. Going to the weather, down the page:

30 "Saturday. The maximum temperature is
expected to be in the mid to high 30s.
North-west winds are expected ahead of cool
change, with speeds 25-30 kilometres gusting
up 40 kilometres up to 60 kilometres. Low RH
expected at 15-20 per cent."

35 Sunday we see "potentially some respite" and so
on:

40 "Monday. An approaching front is expected to
bring temperatures in the high 30s,
potentially 40 degrees. Winds from the
north-west at 20-30 kilometres with strong
gusts of 50-60 kilometres plus. The timing of
the change is potentially late Monday or
possibly Tuesday."

45 Does that reflect, as you understand it, the
weather information that was being provided to

your bureau at that time?

A. I have no reason to doubt it, but I wasn't there.

5 Q. No, I understand that. I would ask you to comment on this. The forecast for Saturday and Monday, to the extent that there are differences, I suggest to you that they are very minor differences?

10 A. Sorry?

Q. Do you accept there are differences between the forecasts for Saturday and Monday, they are rather minor differences; aren't they?

15 A. I'm not a weather expert.

Q. I understand that. What I am concerned about is what is being reported to the meeting?

20 A. It is still - the gusting winds are of some significance. I notice that it is 50 to 60 plus, which is some more than 40 up to 60. The range is slightly more. But when you say "slightly", I think that does have some significant effect.

25 Q. There is no suggestion, is there, that although perhaps one could argue that that is suggesting - that is certainly suggesting that Monday is going to be a bad day?

A. Yes.

30

Q. Perhaps a worse day. There is no suggestion, is there, that Saturday is also not a very bad day?

A. Oh, no, no.

35

Q. That was the understanding, wasn't it?

A. I think that was becoming the realisation that Saturday was going to be --

40 Q. Was going to be bad; you agree with that?

A. I believe so.

45 Q. Perhaps on that subject I ask you to look at that this document [ESB.AFP.0007.0229]. This appears to be a weather forecast. Just to be fair to you, Mr Castle, I am not sure of the source of it. I think it may be a document that was being

generated out of New South Wales, possibly of Queanbeyan. It may also have been a document that was provided to the ESB. Does it look at all familiar to you?

5 A. No.

Q. You see there under "Saturday" there is a highlighted section with asterisks "extreme fire weather day" giving a summary of the weather which is quite similar to what is in the ESB planning minutes. There is a note down the bottom:

15 "Severe fire conditions expected to place pressure on containment lines on the east/south east sections of the lines."

You are unable to assist us as to whether that is McIntyre's or some other --

20 A. I have no idea.

Q. Just quickly going over the page to Monday do you see it says there "severe fire weather day" with asterisks. I accept what you say you are not a weather expert. Is it your understanding that "extreme" is one rung up from "severe" in terms of fire weather prediction?

25 A. I don't know.

Q. You don't believe you've seen this document before?

30 A. No.

Q. There were some briefings of meetings among members of each of the Ambulance Service and the ACT Fire Brigade following the briefing from Mr Lucas-Smith at 2pm that day. Did you attend or were you present for any of those?

35 A. No.

40 Q. Were you aware they were going on?

A. No.

Q. Were you at any stage told or provided with minutes as to what was being discussed at those meetings?

45 A. No.

Q. I'll just ask you quickly then about one of those. It is document [ESB.AFP.0016.0441]. In the first bullet point:

5 "The 9.30 briefing on the fire situation
indicated that the ACT is facing a very real
threat to property from this situation, with
Monday 20/1/03 presenting extreme conditions.
Peter Lucas-Smith has indicated that we are
10 expecting extremely poor outcomes from these
fires. The conditions will potentially be
worse than the Ash Wednesday fires, and there
is potential for the Stockyard and Bendora
fires to join."

15 I think that may have already happened by then,
Mr Castle, or was it that night? I am sorry I
shouldn't be testing you on that. We will come
back to it:

20 "Spot fires will present a huge danger in the
forest and potentially in the urban area of
the ACT. Peter Lucas-Smith advised that if
the fires enter the pine forests, he will
25 remove his firefighters due to the extreme
danger."

It appears certainly the message that the
Ambulance Service was getting was one that things
30 were starting to look reasonably dire at that
stage; would you agree with that?

A. I'm surprised at some of the phraseology there
given the general briefings.

35 Q. I know the overview apparently starts or
refers to the 9.30 briefing. We know that
Mr Lucas-Smith wasn't around at 9.30?

A. That's correct.

40 Q. So the references there to Mr Lucas-Smith
indicating certain things is either incorrect or
it is a reference to what was discussed in fact at
the 2 o'clock briefing?

A. It may well have been.

45 Q. Did you have any discussions with Mr Paulsen
or anyone else at the ACT Ambulance Service about

the sorts of issues that are raised in this minute?

A. No.

5 Q. You didn't?

A. No.

Q. Apart from the meeting at 2pm on that day, are you able to indicate or do you have any knowledge as to where that information might have come from?

10 A. No.

Q. Is it possible that it has come from somewhere other than that meeting, the 2pm?

15 A. Not that I would be aware of. But that doesn't mean to say that that doesn't mean that David Dutton wouldn't go and actually ask if he wanted clarification.

20 Q. That is actually what I was about to come to. Would David Dutton have had access if he wanted to to people like Rick McRae?

A. All of the services have access to everybody in the ESB.

25

Q. The next thing you get to in your statement is that you say:

30 "In the afternoon (approximately 5pm) I went to meet the New South Wales Rural Fire Service task force and welcome them to the ACT on behalf of the government and ESB".

35 There had been a planning meeting or planning meeting had occurred at 4pm that day. Were you present at that meeting, Mr Castle?

A. This is what, the 16th?

Q. That's right. The afternoon of the 16th.

40 A. I had some very brief notes. It may be that I actually left the meeting to go out to the Federal Highway.

45 Q. The minutes of that planning meeting [ESB.AFP.0010.0168] refer to under the heading "planning" a briefing provided by Nic Gellie on the potential fire behaviour of the Stockyard Fire

and outlined the risk areas to focus on. Do you remember Mr Gellie giving that outline?

A. I don't - no, I don't specifically remember Nic Gellie doing a briefing.

5

Q. I thought the pronunciation was "Gellie" but you are not sure?

A. It may well be. I would hate to mispronounce somebody's name.

10

Q. So you have no memory of that?

A. No.

Q. Over on the second page of the minutes you see the weather. This is on Thursday afternoon:

15

"The Bureau of Meteorology has issued a fire weather warning for tomorrow. Due to the weather forecast, there will be a total fire ban tomorrow, extending through until midnight Tuesday, 21 January 2003. It was reported that the fire danger rating for tomorrow is expected to be within the range of 46-50, and worse on Saturday."

20

25

Do you remember the weather being discussed and that total fire ban being discussed?

A. I think I recall a total fire ban being recommended, implemented.

30

Q. Did you have any part in the decision to issue a five-day total fire ban?

A. No. I'm not operational. I have never been involved in declaring total fire bans - never in all of my experience in ESB.

35

Q. Is it something that Mr Lucas-Smith ever consulted you about?

A. No. He used to advise me. Nor would I expect to.

40

Q. In your statement you describe meeting the New South Wales Rural Fire Service task force. You say in paragraph 102:

45

"I had Amy Lowe travel with me to coordinate the media with the NSW RFS liaison officer.

We met them near the junction of Federal Highway and Mildura Road. After media interviews we travelled with them with police escort to their accommodation to motels in the Narrabundah area. The night shift then prepared to deploy to the SMT area of Stockyard fire to do back-burning from a containment line."

10 Did you provide at that time any information to any members of the task force about the current status of the ACT fires?

A. No. It wasn't my role.

15 Q. I understand it wasn't your role. Did you give them any kind of update about, for example, what you had learned from the planning meeting a short time earlier?

20 A. No. At the Federal Highway junction, it was purely a PR stop. The briefing was to occur when they reached their motels.

Q. Do you know who gave that briefing at that time, at the motels?

25 A. It may have been Arthur Sayer. There were a number of people there looking after logistics as well. It may have been Arthur. I don't think I stayed for the operational briefing as such.

30 Q. By about that time, Mr Castle, presumably - I should ask you: had your concerns about the risk to the urban area diminished from the position, say, on the previous day?

A. Yes, I think they had.

35

Q. Why was that?

A. Because I think the confidence expressed by New South Wales in terms of the containments and the arrival of the extra resources from New South Wales.

40

Q. So you were hopeful then that the prospect of getting in those containment lines and keeping them was improving?

45 A. Yes.

Q. But I assume you were still aware that there

was always a risk that that would fail?

A. Mindful that there could be spotovers.

5 Q. That afternoon it would appear at about the same time you were meeting with New South Wales task force Mr Lucas-Smith gave an interview to the ABC [DPP.DPP.0004.0006]. Were you listening to that interview?

10 A. No.

Q. You will see there that halfway down the page discussion about the need to:

15 "... get back-burning operation in tonight to protect the south east corner of the fire so, when the north-westerlies do come, it will hopefully prevent the spotting across into unburnt areas outside of our containment line.

20 Interviewer: And with those winds, when you talk about the spotting, that would be fires spotting close to here, to the ACT, am I right about that?

25 Lucas-Smith: No, not really, it's - certainly, it'll spot - it's in the ACT already."

30 Interviewer: Oh, I'm sorry, yes. But closer to the suburbs?

Lucas-Smith: Closer to the suburbs, no that's not right.

35 He then says:

40 "... it'll go to the southeast part of Namadgi, more into the - back into the western side of the Cotter River, and toward Mount Gudgenby".

There is then a discussion about putting the back-burn in and 'Elvis' the helicopter. It would appear that Mr Lucas-Smith is there confining himself to fires in the ACT; is that correct?

A. It appears so.

Q. What was your understanding about that time or did you have any knowledge of the extent to which fires under extreme conditions can spot and send embers?

5 A. No, I'm not a firefighter. I rely on the advice.

Q. Did you have an understanding in a theoretical sense at the time of the distance fires can send spots or what are known as spots or embers?

10 A. No. I'm not a firefighter.

Q. I understand you are not a fighter. But you had been the executive director of ESB for many years and had attended briefings and planning meetings?

15 A. Yes.

Q. I am asking you whether you had an understanding of - you understood the fire sent spots under extreme conditions?

A. Yes, I do. I don't have the intimate knowledge or really a feeling or understanding of how far and what conditions and that relates --

25

Q. You never heard it said under certain conditions fires in certain areas, particularly eucalypt areas, can send spots up to 30 kilometres. Is that something you are aware of?

30

A. I've not heard that.

Q. What about less than that? What about 10 kilometres?

35

A. Not specific to vegetation. I had heard 10 kilometres.

Q. That it is possible for a fire to send spots up to 10 kilometres?

40

A. Yes.

Q. That was something you were aware of at about this time?

45

A. I'm not sure that I was consciously aware of that.

Q. Well, that sort of understanding, did you have

that understanding as at the time of the fires in January or before them?

A. Sorry, you could ask the question again?

5 Q. Did you have a general understanding that a fire could spot for 10 kilometres, putting aside the vegetation, before the fires in January; is that something you were aware of before then?

A. I think that's theoretical.

10

Q. It is theoretical. I am asking whether you understood that theory?

A. No, I didn't understand that theory.

15

Q. Were you aware of it?

A. Was I aware that fires can spot? Yes. I had heard 10 kilometres. Putting all that together, I'm not the expert. I don't actually understand that and what type of vegetation.

20

Q. You are aware that it could do it?

A. I was aware that fires generally could spot.

Q. Up to 10?

25

A. I had heard that.

Q. Before the fires in January? What I am trying to find out, Mr Castle, is whether it was something you learned during the fires or whether it was something you were already aware of?

30

A. I think I actually learned it during the fires. I don't think it had been intimately drawn to my knowledge because we had not had fires of that significance.

35

Q. So is what you are saying now, you weren't aware of it before the fires but you learnt of it during the fires?

40

A. You are asking me the specific distance and had I heard of 10 kilometres. I believe what I answered to that was, "Yes, I'd heard it." Whether I'd heard it and understood that before these fires, I got greater understanding during these fires.

45

Q. I'll try to be as specific as I can. Before the fires in January, had you heard that fires

could spot for up to 10 - or 10 kilometres or that sort of distance?

5 A. I don't think I can be that specific, your Worship. I don't know when I actually formed that view.

Q. You say in your statement paragraph 103:

10 "Based on the forecast weather and fire danger indices the CFCO issued a total fire ban to commence at 0100 hours on 17th January to last for five days. This was the first time such a continuous total fire ban had been declared and the gravity of the
15 situation leading to this ban was provided to the media."

Can I ask you about that sentence, Mr Castle, "The gravity of the situation leading to this ban was provided to the media". In what form was that
20 done?

A. I can't find specific reference to that. It was an impression that I had when I actually did the statement. But I can't find specifically,
25 other than to emphasise in our discussions. But whether it was specifically - I mean it is not in the total fire ban other than to say it is 5 days. I do recall at the time stressing this was most unusual. I don't recall specifically where.

30

Q. The situation certainly was grave, wasn't it?

A. In terms of the total fire bans, yes.

35 Q. The situation leading to the total fire ban, what you are saying in that --

A. The total fire ban, it was a significant aspect that indicated that the fire weather warnings were relevant for those days over that period, yes.

40

Q. That sentence goes further than that, doesn't it? You are not just saying declaring a total fire ban for 5 days is serious; you are saying that but you are going steps further and saying
45 the gravity of the situation leading to this ban. So the situation at that time leading to the total fire ban was grave, wasn't it, Mr Castle?

A. I'm not too sure I'm accurate on that.

Q. Are you saying it wasn't grave?

5 A. I'm saying that I believe the situation was potentially serious.

Q. Your recollection when you prepared your statement was that the seriousness of the situation was provided to the media?

10 A. That was my recollection at that stage when I did the statement.

Q. But you have been unable to find anything, have you, Mr Castle, that confirms that
15 recollection; in other words, there is nothing that you have been able to find that says to the media, "The situation is potentially grave" - I think were your words - "that's why we are declaring a five-day total fire ban"?

20 A. Not that I can see at the moment, no.

Q. There wasn't, was there? There was nothing going out to the media to that effect.

25 A. To that effect. The reason why?

Q. Yes.

A. Not that I can see from the response.

Q. Just a very quick matter so you have an
30 opportunity to comment on it. In document [ESB.AFP.0008.0404] you might recall Mr Lucas-Smith being asked about this document which is a fax sent by Mr Alan Wade to apparently JD and PJP, which Mr Lucas-Smith thought, although
35 he wasn't sure, might be people with ActewAGL. Do you know who those two initials might relate to "JD" and "PJP"?

A. JD might be John Demke.

40 Q. That is what Mr Lucas-Smith thought?

A. I don't know who PJP is.

Q. Mr Demke and Mr Wade both with ActewAGL?

45 A. Yes, that's my understanding.

Q. That paragraph under "fire behaviour":

5 "Fire ecologist Nick Gelling - I think that should be Nic Gellie - provided a detailed brief on fire behaviour and options for the southern flank of this fire. Off-the-record (in a post session briefing) he provided a more candid assessment ... "

Do you know anything about that off-the-record briefing?

10 A. No, I don't.

Q. Do you know why Mr Gellie would be giving an off-the-record briefing? Presumably the reference to the session is a reference to the 4pm planning meeting, is it?

A. What time is it - can you go back up?

Q. 7.45 this document is timed at.

A. I presume so.
20

Q. Do you have any reason or know of any reason why Mr Gellie would be giving more candid briefings outside the planning meeting?

A. No, I don't. I would be surprised.
25

Q. I think the next document is one that you refer to very early on in your statement. It is another update from Kate Keane [ESB.AFP.0110.0896] it is in the form of an email.

30 A. What are the last numbers?

Q. 0896. I think you said on two occasions Kate Keane sent an email and you provided a copy of the first. Is this the second one?

35 A. That's my understanding.

Q. That's a document that it would appear was first sent at 6.26pm on Thursday, 16 January?

A. Yes.
40

Q. To, among others, Ian Bennett, Mr Lucas-Smith - I can't see your name there, Mr Castle. Did you receive it?

A. Yes, I am.
45

Q. You are there, are you?

A. Yes.

Q. You are there; you are quite right. She provides a general update of the fire situation giving the size of Bendora forming the recipients of the total fire ban. Then says:

5

" Monday's forecast to have the worst fire danger indices for the past 20 years, with the potential for a very high temperature and strong north-westerly winds."

10

She talks about your task force and additional resources being provided.

Over the page she says:

15

"Maxine Cooper has met with the rural lessees to provide an update on the rural bushfire situation."

20 Were you involved in that process at all - the liaison with the rural lessees?

A. No, Maxine said she would undertake that. They have a strong ongoing working relationship, as I understand it, in a forum and meet from time to time. So I think what she was indicating is she would actually meet with that. You will see "provided a liaison officer for the lessees".

25

Q. But you weren't involved in that?

30

A. No.

Q. She talks about ActewAGL liaison officers in the planning cell, briefing to cabinet was conducted, and:

35

"John Murray and Commander Mandy Newton was also briefed this afternoon. Depending on the outcomes of the next 24 hours and the severity of the weather, there may be a need for increased coordination until next week".

40

Do you know what she is referring to there?

A. I think she may mean "into next week".

45 Q. Did you assist her with the preparation of this document?

A. No.

Q. Do you know where she has got the information from?

A. She is one of the notetakers, I presume. She would have taken that information mostly off that.
5 It was not unusual to brief members of the Emergency Management Committee.

Q. That is largely what that was intended to do?

A. That's correct.
10

Q. I notice, Mr Castle, Ms Keane hasn't repeated the sorts of matters that were being referred to in the cabinet briefing paper about potential effect to the urban area. Do you know why that
15 is?

A. No.

Q. Lastly, on the 16th, Mr Castle, what I want to ask you about is another New South Wales Rural
20 Fire Service media release [NSP.AFP.0047.0407]. It begins with a reference to the New South Wales firefighters working on control lines including the fires that have now - your fires that have now crossed into New South Wales:

25 "Containment strategies are progressing well on the fires, which were caused by lightning strikes last Wednesday.

30 Properties in the Brindabella Valley are not under direct threat at the moment. Fighters are concerned that wind changes predicted Saturday will increase pressure on the line and force fires back towards the ACT."

35 That doesn't sound, does it, Mr Castle, like --
A. Sorry?

Q. "Properties in the Brindabella Valley are not
40 under direct threat"?

A. Sorry, I am on the wrong day.

Q. Do you have a different --

A. No, I was on the 17th. Sorry.
45

THE CORONER: What is the date of that one?

MR WOODWARD: This one has a date - it actually appears to have been printed, if you look at the bottom right-hand corner on 27 February 2003. I think it has been printed from some sort of web page or something of that kind because on the left-hand side you will see it says "2016.1.2003" which I took to be an indication that the date was 16 January.

THE CORONER: The very top line says, "Thursday, 16 January 2003". The first paragraph I should say.

MR WOODWARD: Yes, of course.

Q. We don't know what time, but it doesn't sound as though, although it is said containment strategies are progressing well, it doesn't sound as though New South Wales Rural Fire Service at least are saying that the fire in the Brindabella Valley is not a problem for the ACT, not an issue, does it?

A. Sorry, you are referring to the third paragraph?

Q. I am.

A. "properties in the Brindabella Valley are not under direct threat at the moment. Will increase pressure on lines and force fires back towards the ACT". Well if he is talking about the Brindabella Valley that is actually the fires are coming out of the Brindabella Valley. He may not actually --

Q. Which fire --

A. He may not be talking about McIntyre's Hut fire in that particular case. Because you will recall that the other fires are down in the Brindabella Valley and that paragraph starts "properties in the Brindabella Valley are not under direct threat at the moment".

Q. So your understanding is that might be a reference to the Stockyard and Bendora fires?

A. Yes. Because there was concern with easterlies the properties in the Brindabella Valley under threat. I think this is just saying with that change that will actually bring it back

up toward the ACT. Back up through areas that actually are burnt.

Q. Under the specific heading "fighters contain
5 McIntyre's Hut fire - Brindabella National Park"
there is a reference to the number of fighters:

10 "Containment was achieved with the completion
of back-burning yesterday and aggressive mop
up and patrol of these lines today.
Intensive ground and air patrols will
continue to be conducted as active fire
remains along the Goodradigbee River.

15 Aerial incendiary drops on the north eastern
area of the fire, east of the Baldy Range,
has been planned for this afternoon, if
weather conditions permit.

20 West north-west winds expected Saturday and
Sunday will pressure lines to the east and
south-east and force the fire to the ACT
border."

25 The ACT border is outside the area of the
containment lines isn't it, Mr Castle?

A. Yes.

30 Q. So, it follows from that comment, doesn't it,
that by forcing the fire to the border they have
gone over the containment lines?

A. They had fall back containment lines.

35 Q. So I will suggest to you they are not
suggesting, are they, in that document that the
McIntyre's fire will not be an issue for the ACT?
I know they say earlier that containment --

40 A. If you like they are being very positive in
three paragraphs and then in one sentence actually
having some doubt. So on the balance of
probability that is being fairly optimistic, in my
calculation.

45 Q. It is partings of it sound optimistic. But
the final sentence does suggest that there --

A. There is some doubt.

Q. Well it says "will pressure lines to the east and south-east and force the fire to the ACT border". It is saying, isn't it, it will happen and the fire will be forced to the border. So
5 that's an issue for the ACT, isn't it?

A. It says "will pressure lines" and --

Q. "Will pressure lines to the east and south-east and force" - and therefore should be
10 read "will force the fire to the border"; that's certainly one reading of it; isn't it?

A. Yes.

Q. That's a problem for the ACT; isn't it?

15 A. If that was to occur.

Q. If that was to occur?

A. Yes.

20 Q. That would suggest it is an issue for the ACT, wouldn't it?

A. Possibly.

Q. Just one final question before --

25 A. It says to, and I did use again the words fall back containments on the border.

Q. Just one final question before the luncheon adjournment. As at that time, namely the evening
30 of Thursday, 16 January, in your mind were any of the fires, by that I mean the ones in the ACT and McIntyre's, they were still a threat to the urban area, weren't they?

35 A. Yes. But less of a concern than I had earlier.

Q. But the threat still existed, didn't it?

A. I think there is a threat there.

40 MR WOODWARD: Is that a convenient time, your Worship?

THE CORONER: Yes. We will take the luncheon adjournment.

45

LUNCHEON ADJOURNMENT

[1.02pm]

RESUMED

[2.00pm]

MR WOODWARD: Your Worship, I have just been handed a transcript of the video, which I will
5 hand out. I should indicate that, as you would have gathered from the video itself, there is a lack of clarity in some areas. The person doing the transcript has tended to - it has been checked by our instructing solicitor who herself has
10 endeavoured to do the best she could to pick up the words. Where it appeared to the transcriber that there was a break in transmission, then that has been indicated in the text.

15 What we will endeavour to do, and I cannot give a time for this yet, but certainly we will endeavour to arrange this over the course of the next day or so, is make either a copy of the tape available, additional copies available. So if anyone is
20 concerned that a particular word may be incorrect or wants themselves to verify it, then that can be done.

THE CORONER: Thank you, Mr Woodward.
25

MR WOODWARD: Q. Mr Castle, I think we had got to the end of the 16th just before the luncheon adjournment. I was asking you about whether, in your mind at least, there was still a threat to
30 the Canberra urban area at that time. I think, but correct me if I am wrong, you agreed that there was still a threat?

A. Yes.

35 Q. In your statement at paragraph 105 on page 22, you begin the 17th by saying:

"The situation report I received at 6am advised that the back-burn had not gone ahead
40 on the eastern or south-eastern containment line of the Stockyard fire. A tanker had gone through a bridge cutting off access/egress, making it too dangerous for crews to do the back-burn. My early morning
45 media interview stressed the five-day total fire ban."

We don't appear to have a transcript of those interviews, Mr Castle. Can you perhaps indicate what you meant by "stressed the five-day total fire ban situation"?

5 A. No.

Q. Do you have some transcript there, do you?

A. No. I have some Rehame one-liners.

10 Q. Do they give an indication of what you were saying that morning? Could I see those, please, Mr Castle. Do you know what search was done in order to - perhaps if I could have the whole bundle, please.

15 A. Yes, they are duplicate.

Q. I might have the one that is highlighted, if you don't mind. These tabs you have put on it, are they the dates?

20 A. Yes, they are just dates.

Q. This would suggest, Mr Castle, that you have said to radio 104.7FM at 6am on the 17th - not you have said but what was said:

25

"Firefighters battling fires in Namadgi National Park are expecting worse weather conditions. Grabs of Mick Castle Emergency Service Bureau who says that conditions are totally dry."

30

A. Yes.

Q. What were you endeavouring to indicate by that, Mr Castle?

35 A. Just I presumed that there were dry conditions.

Q. You have said in your statement you were emphasising or stressing the five-day total fire ban situation. How were you doing that?

40

A. I suppose stressing the weather.

Q. There is another one here, Mr Castle, I see at 8.06am, Canberra 2CC, Mike Jeffreys:

45

"Jeffreys interviews Mike Castle ACT Emergency Services about the Namadgi fires.

5 Castle says that winds will push flames and smoke back towards Canberra putting pressure on firefighters. Castle says that a fire truck put two wheels through a bridge last night whilst back-burning. A rock crossing has been made."

A. Yes.

10 Q. Does that assist you to indicate what it was that you were stressing about the conditions?

A. I think it is the winds and the fact that it is actually putting pressure on us.

15 Q. So would you say at that stage you were indicating by that that conditions were worsening?

A. On that particular day I think expected to. It is "am".

20 Q. Yes.

A. I think expected to.

25 Q. Expecting to worsen, yes. Perhaps what I will do, Mr Castle, if you don't mind, is I will swap you now your set for the duplicate set, and I will tender that, your Worship. I will arrange for copies to be taken and get a duplicate set back to you in due course.

A. Is it possible if I could have the clip. Thank you.

30

THE CORONER: These are Rehame news lines from what appears to be 10 January 2003 through to 10pm, Saturday 18 January 2003, some 21 pages. Those pages in this document will become exhibit 35 0026.

EXHIBIT #26 - REHAME NEWS LINES FROM 10/01/2003 TO 10 PM 18/01/2003 ADMITTED WITHOUT OBJECTION

40 MR WOODWARD: If your Worship please.

45 Q. Mr Castle, the night before it would seem Mr Peter Lucas-Smith was spoken to by Megan Doherty in the 'Canberra Times'. The document [ESB.AFP.0110.0973] is an article which I think Mr Lucas-Smith described as being, if you like, precipitated or directed at the five-day total

fire ban information; is that your memory?

A. Yes.

Q. Down at the bottom of column 1:

5

"ACT Bushfire and Emergency Services director Peter Lucas-Smith said the next five days would be critical, with temperatures today forecast to rise to 36 degrees - that is today being Friday - humidity falling and winds shifting to the north-west sweeping flames and smoke towards Canberra. Conditions could worsen even further on Monday or Tuesday. We are right now at the crunch point."

10
15

You would agree with that? That was the position as at the evening of the 16th?

A. I believe so.

20

Q. Down at the bottom of that middle column, there is a quote from Mr Lucas-Smith where he says:

25

"At the moment I don't think there is any threat to the urban edge of Canberra," Mr Lucas-Smith said. "We will certainly see a lot more smoke than what we have seen in the last few days."

30

I want to suggest to you, Mr Castle, that on the evening of the 16th and certainly on the morning of the 17th, on any view of the position, that simply is not a true statement. What do you say about that?

35

A. I think he says "at the moment".

Q. Well, I don't want to get into a semantic exercise, Mr Castle, but I think you would agree that a threat is something that is in prospect, isn't it? It is something that may or may not happen in the future, by definition? That is correct, isn't it?

40

A. The potential, yes.

45

Q. That is the case, isn't it? A threat is something that may or may not happen in

the future. If it is happening now, it is not a threat any more, it is a reality, isn't it?

A. I suppose so.

5 Q. So to say "at the moment I don't think there is any threat," is he basically saying, "As I stand here speaking to Megan Doherty, I don't think there is any risk or threat to the urban edge of Canberra", that is the effect of what he
10 is saying?

MR JOHNSON: Could I object to that, your Worship. This is a comment that was taken up with the previous witness, who was the speaker.
15 Whether this or is not correct, let alone true - the concepts are different, it will be a matter for your Worship to determine in due course - but asking the witness to comment on this when it is not his words that are being used is, in my
20 submission, asking this witness to form a view which is ultimately for your Worship to form.

THE CORONER: It is a view that is quite appropriate for Mr Castle to have formed or not to have formed on that particular day as well. That
25 is all that is being asked, whether or not that view is his view.

MR JOHNSON: If he is asked, did he read this
30 paper, did he see what it said, did he have a view at that time - that may be different. But that is not what the witness is being asked to do. He is being asked to look at this, not on the basis of being something he saw at the time; he is being
35 asked now in the witness box to exercise in the giving of a critique of what someone else --

THE CORONER: No, he is simply being asked whether or not that was his view, whether that was a
40 correct view and whether that was his view. That is as I understand the question, Mr Woodward.

MR WOODWARD: Yes.

45 THE CORONER: That that is a correct view from his perspective. He cannot comment on what was in Mr Lucas-Smith's mind, but he can certainly be

asked whether or not that view is the correct view.

MR JOHNSON: If he is asked that question.

5 I don't think that that is the question that was asked, but if that question is asked what in his mind was that view correct at that time, I would not object to that question. But that I think was not the question that was asked.

10

THE CORONER: I might have misunderstood Mr Woodward's question.

MR JOHNSON: Perhaps your Worship's concept of
15 the purpose of the question may be a little different to the actual question. I have indicated that, if the question that has been indicated by your Worship is asked, I will not object. But I think it is a little different to
20 using the present witness as in fact a commentator on someone else done differently to the way that has been suggested by your Worship.

THE CORONER: We might have to go back,
25 Mr Woodward, to the question that you originally asked. I might have misunderstood your question.

MR WOODWARD: Perhaps in case it is raised again as to the accuracy or not of this quote, at
30 transcript page 1090, I think it is lines 50 to 20, that is where Mr Lucas-Smith was asked about this, the question is:

35 "Q.Is the quote I have just read to you a quote that came from a discussion between you and Megan Doherty the night before?

"A.I believe it is reasonably correct, yes."

40 Then he was specifically asked about the relevant issue, namely whether I understood there to be a threat. I am asking this witness, and I am concerned, your Worship, about two things: firstly, it seems to me the word "threat" is a word of common English usage. It is a simple word
45 and I was concerned because perhaps not coincidentally Mr Lucas-Smith, when he was asked this question, sought to respond to it in exactly

the same way by trying to make something of
the point "at the moment". And I was concerned to
make sure that there was no doubt that that is not
an answer to the question, if I could put it that
5 way, and we needed to understand or at least
I needed to be satisfied that your Worship
understood what Mr Castle was saying and what he
understood by the word "threat", as a term. Then
I think I did put to him at one point, and maybe
10 we were then distracted, about whether he thought
that was a true statement.

THE CORONER: Which is asking him his opinion of
that statement.

15 MR WOODWARD: Yes. In his view, in his mind.
I think I had established with him already that he
believed, at least as at that evening and
the following morning, there was still a threat.
20 my learned leader is trying to find me a
definition of the word "threat". It appears at
least in some dictionary that a threat is an
indication of impending danger or harm, one that
is regarded as a possible danger, a menace. So it
25 is something inevitably - I should not use
the word "inevitably" - it is something that
necessarily is something that is in the future at
the time it is being talked about; isn't that
right?

30 A. I draw a distinction between risk and threat.

Q. All right --

A. And the way I have just heard you define
threat, I would say that is relative to time, time
35 is relevant. So at that moment, I don't think
there is any threat, is probably my view as well.
But is there a risk? Then I think there is.

THE CORONER: I don't understand that at all. Do
40 you mean at that moment - do you mean at
the moment that Mr Peter Lucas-Smith is giving
this interview?

A. I think so.

45 THE CORONER: At that instant, at that particular
moment, that in the next five minutes there is a
threat to the urban edge, or what exactly do you

mean by when you say "at that moment"? Because --
A. I mean at that particular time. There comes a
point when I think that does become increased.
The word "any" means not ever, at all. I suppose
5 that goes back to turning on the word "any", what
is the degree of threat. But I am thinking of
the risk that a fire could come. Was there any
threat right at that particular time? No, not to
the urban edge. That is what I think I am
10 actually forming the view.

THE CORONER: On 17 January?

A. Yes.

15 MR WOODWARD: Well, your Worship, I am concerned
that there is an issue here about what is
the generally stood meaning of threat. I don't
think there can be any serious suggestion that
there is a threat other than that is in prospect.
20 It is something that may happen or may not happen
in the future. If it is actually happening at
the time, then it is no longer a threat, it is a
reality. In my submission, there is really --

25 Q. I suggest to you, Mr Castle, and provide you
with an opportunity to comment - the purposes of a
discussion about what is going to happen, there is
no difference, no practical difference, between
the word "risk" and "threat". They are both
30 things that may happen in the future. They may
not happen, but they may happen. Do you agree
with that?

A. Yes, I think in the emergency management field
there is a specific definition of risk, hazard and
35 I am not too sure about threat - I am just trying
in my own mind. I don't hold those definitions in
my head.

Q. Well, let's assume for the moment - let me put
40 this to you, Mr Castle. If we can assume for
the moment that, for all relevant purposes, risk
and threat do mean the same thing - no, I will
withdraw that. Let me suggest to you that a
threat, and I think I did ask you to comment, is
45 something that is in prospect, isn't it, something
that may happen?

A. I think that is what you are proposing.

Q. Do you agree?

A. Could I have the definition read out again, if that is possible?

5 Q. It is an indication of impending danger or
harm. So it is saying, "Standing right here at
the moment, is there a possibility in the future
that something - there may be a danger or harm?"
"Impending" means it may or may not happen in
10 the future.

A. I think there is any danger in any
circumstances where there is a fire burning.

15 Q. No, no, Mr Castle. The other option which is
given which is perhaps a little easier, one that
is regarded as a possible danger, a menace. So it
is something that may happen or something that may
not happen; do you agree with that?

A. In that definition, yes.

20

Q. That is a fair definition, isn't it? It is a
commonly accepted understanding of what "threat"
means. It means something that may or may not
happen in the future?

25 A. I presume so.

Q. No --

A. I presume based on that definition, yes.

30 Q. No, in your mind a threat is something that
may or may not happen in the future?

A. Yes.

35 Q. For Mr Lucas-Smith to be saying on the evening
of --

THE CORONER: The 16th, I think it was. I said
the 17th.

40 MR WOODWARD: Yes, the evening of the 16th of
January, that "I don't think there is any threat,
none at all" - "I don't think there is any threat
to the urban edge of Canberra" is just wrong,
isn't it?

45 A. On the face of the words that are written
there, it appears so.

Q. I want to ask you again, because we have now gone forward a couple of days, can you think of any reason why Mr Lucas-Smith would be indicating to a newspaper journalist, and assuming as one
5 would that it was going to be published, that there was not any threat to the urban edge of Canberra on the night of 16 January? Why would he be doing that?

10 A. I don't know. Maybe - I don't know.

Q. Have you discussed that with him since?

A. No.

Q. Not at all?

15 A. No.

Q. Is it any coincidence or do you think it is just a coincidence, Mr Castle, that earlier in the day, at least on several versions of
20 the meeting at 2pm, Mr Lucas-Smith is saying, "Look, this is the information I am giving you about these fires," referring to a threat to the urban edge, and then saying, "I don't want this information to leave the room".

25 MR JOHNSON: Could I object, your Worship. At this stage one is stretching the point. Mr Lucas-Smith is not in the witness box. He has been; he has been asked about this. It would seem
30 that, on the basis of some witnesses who are to come, there is to be a version of certain things that were said --

MR WOODWARD: Your Worship, could I ask that
35 the witness leave the court, please.

THE CORONER: Yes, Mr Castle, if you could just wait outside, please.

40 MR JOHNSON: I didn't know that that is what counsel assisting wished to say.

THE CORONER: I understand.

45 <THE WITNESS WITHDREW

MR JOHNSON: This witness has said, firstly, he

was not at the fire brigade briefing. Secondly,
he didn't know, until more recent times, that
there is a suggestion that something was said by
Mr Lucas-Smith at the fire brigade meeting in
5 relation to something not leaving the room. There
seems to be an issue in the proceedings. Where it
goes is a matter for future evidence. But to ask
this witness who was not at the fire brigade
meeting and who didn't speak to the 'Canberra
10 Times' journalist to then speculate effectively as
to whether there might be some link between what
some witnesses say was said by Mr Lucas-Smith and
what was or was not said to a journalist is
really --

15

THE CORONER: It was said to the journalist,
because Mr Lucas-Smith admitted he said it to
the journalist.

20 MR JOHNSON: Yes, but to invite Mr Castle to
become a commentator on an issue, effectively to
try and get inside Mr Lucas-Smith's mind, on this
issue at least, on the current state of
the evidence there is not a concession from
25 Mr Lucas-Smith that he said something like that is
really unhelpful.

Now if at some future time it is thought that
there is some point in asking Mr Castle about
30 this, then he can be recalled. He may be
recalled. But to do it now is inviting a
commentary from the witness based upon a
hypothesis about which the witness has no direct
knowledge and as to which any answer he gives
35 would be speculative. So I would object to it.

I am conscious that this is an inquiry where there
are many aspects where your Worship is most
interested for entirely understandable reasons to
40 explore the thought process of people at different
times. But this, in my submission, crosses
the line and it is really asking this witness to
try to guess and speculate on something. If
counsel assisting ultimately have a submission to
45 put in this respect or a proposition to put to
Mr Lucas-Smith, then perhaps he can put it to him.
But to ask this witness to comment on it is

neither appropriate nor helpful, I would submit,
at this stage of the proceedings.

THE CORONER: What do you say, Mr Woodward?

5

MR WOODWARD: Your Worship, just as a general
comment, it is something that perhaps could have
been put better. The issue, as your Worship will
no doubt have been alive to, and I have asked
10 Mr Castle before about whether or not there are
any advice or instructions or anything of that
kind being given in relation to the way in which a
message should be given to the public - my learned
friend is quite right to put that to him in a way
15 of asking about whether or not there is a
coincidence is perhaps not a particularly elegant
way to do it. But I did want to give him
the opportunity once more, and I appreciate that
I had done it earlier but it was in respect to an
20 earlier time and it seems that I do need to be
very careful with this witness to be quite clear
about what time I am talking about. And it is
possible that, whilst his answer was true as of
the 15th, maybe something changed afterwards. So
25 I was really just concerned to give him an
opportunity to alert your Worship if by this stage
he was aware of anything that was constraining
either himself or Mr Lucas-Smith in what they
might say to the public. Perhaps if I put it that
30 way --

THE CORONER: Perhaps if you phrase it in that
way.

35 MR JOHNSON: If it is put in that way, I do not
anticipate, subject to hearing how the question is
put, that there will be an objection. But it was
the way it was being approached that was the basis
for me objecting.

40

THE CORONER: I understand. Again, I look at that
question as being, in fairness to Mr Castle, to
give him an opportunity to hear and to respond to
that issue, or to the question that Mr Woodward
45 wants to ask him. That is in fairness to him.

MR JOHNSON: And I have no difficulty with

propositions being put before him for comment.
But what he was really being asked to do was to
join one piece of evidence with another piece of
evidence when he is not a party to either piece of
5 evidence and to speculate as to an outcome. That
is not being done in fairness to the witness,
I would suggest, if it was done that way. In fact
it would be contrary to that. If it is done
differently, I can understand what the basis may
10 be. But it can be done in a far more direct way,
I would submit.

THE CORONER: And specifically linking or rather
asking him about this date as opposed to the other
15 date, because there are gaps in his recollection
and there are gaps in his notes and in his minutes
and in his diary. So I don't believe that
Mr Castle is necessarily going to volunteer any
information. So in fairness to him, he should be
20 asked the question and given an opportunity to
deny it, if that is the case. So if Mr Castle
could be brought back in, please.

MR WOODWARD: If your Worship please.
25

<MICHAEL JOHN CASTLE

MR WOODWARD: Q. Mr Castle, in view of
the matters we have been discussing, I want to ask
30 you again: as at the evening of the 16th or
morning of 17 January, was there anything of which
you were aware that was operating to constrain
either yourself or Mr Lucas-Smith in what you
could say to the public about the threat from
35 these fires?

A. No, absolutely not.

Q. Can you comment at all then or give any other
explanation as to your knowledge as to why
40 Mr Lucas-Smith might have said on the evening that
there was not any threat?

A. No.

Q. On the morning of the 17th, Mr Castle, you
45 have referred in your statement to media
interviews. You then refer at paragraph 106 to
the 9.30 briefing of the New South Wales RFS

liaison officer. You say:

"A member of the New South Wales parks and
wildlife whose name I did not know" --

5

Do you know who that was now?

A. No, I have no idea.

Q. It goes on:

10

"... advised that the aerial ignition in the
north/north east section of McIntyre's had
not been done the previous evening but was
intended to be done that morning.

15

Operations, planning and CFCO objected to
the aerial ignition under the forecast
worsening weather conditions. I believe
operations indicated that our liaison officer
at Queanbeyan had disagreed with the proposed
aerial ignition. After the conclusion of
the 9.30 briefing, I specifically
recall reinforcing directly to the NSW RFS
liaison officer that we had objected to
the aerial ignition and he should advise NSW
RFS centre at Queanbeyan of ACT objections to
the aerial ignition."

20

25

That was a matter of considerable concern to
the people you mentioned there, the CFCO and
operations and planning, wasn't it?

30

A. I think so.

Q. Because the forecast was that weather
conditions were going to worsen during the day; is
that correct?

35

A. Yes.

Q. And perhaps if you could tell Her Worship what
your understanding was of what they were saying
about why they were concerned at the prospect of
aerial ignitions being undertaken under those
worsening conditions?

40

A. You mean, my impression of why?

45

Q. Yes. Perhaps not your impression, if you can,
Mr Castle, your recollection of what was said
about it. If you can't recall it verbatim, of

course, just the substance.

A. I think the concern was that aerial incendiary is not accurate like drip torches and somebody actually using it for back-burning or burning.

5 Aerial incendiary is exactly that. It depends on the device, I believe. Putting fire into an area with less precision on worsening fire danger days was risky.

10 Q. Because it increases the intensity of the overall fire, doesn't it?

A. It increases the size of it and the area being burnt.

15 Q. Was it your understanding at the time that the area that was still to be burnt out within the McIntyre's Hut containment lines was still quite a substantial area?

A. I believe so.

20

Q. So the prospect of ignitions being created on a high or severe fire weather day or at least becoming severe made the thing a lot more risky?

A. Yes, I believe so.

25

Q. Was there any discussion at the meeting about what the consequences of those risks might be?

A. No, I don't think so.

30 Q. Did you understand, based on what was said, that this may pose a risk to the containment lines?

A. It depends where it was lit up.

35 Q. I think, as you were saying, it is something you have little control over - dropping incendiaries. So obviously that is not going to be something that can be easily controlled?

40 A. No, but it depends where on the fire it was actually going to be conducted.

Q. Was it your understanding, based on what was said, that that is what the concern was about?

A. Yes.

45

Q. Mr Lucas-Smith - his evidence I think it is at page 1098 - referred to strong words being

exchanged about that issue. Do you recall that?

A. In the briefing?

Q. Well, that is what I was not clear on. Was
5 the New South Wales liaison officer present during
the planning meeting?

A. Yes, that is my understanding.

Q. And were strong words being expressed to that
10 person?

A. I don't recall strong words.

Q. But certainly the feelings were reasonably
strong?

15 A. Yes.

Q. Just going to the minutes of that planning
meeting, Mr Castle. They refer under
the McIntyre's Hut fire to the commencement of
20 the incendiary work. They don't refer
specifically to what you have mentioned in your
statement; namely expressing the need to express
some objection. But you obviously recall that is
what ultimately was done?

25 A. As the meeting broke up.

Q. I may have done the note taker a disservice.
It may have been brought up a bit later on.
Planning - again, you have the weather situation.
30 You were present - I think I asked you this - at
this meeting?

A. I think, yes, I believe so.

Q. Again, I think it was Mr Mason that morning
35 giving the weather summary; is that correct?

A. I am not too sure who it was over the many
days. There was a roster. But whether Ian Mason
was there, I am not too sure. Somebody from
the weather bureau, I believe.

40

Q. I think from my memory of the evidence,
Mr Castle, in the first phase Mr Mason was
the person who did it on each of the mornings
until the 18th, when it was Mr Davis, I think. Is
45 that your memory?

A. That could well be, I just don't recall who it
was.

Q. What is set out here apparently is what that person is forecasting; is that right?

A. Yes, I think so.

5 Q. It states:

"The Saturday north-west winds are expected 20-25 kilometres gusting 45 kilometres, possibly as high as 60. Pulling back to a westerly direction. An easterly change is expected after 2200 hours. Maximum temperature is expected is 37, dew point 0 to 2 per cent. Conditions slightly less severe on Sunday."

15

Then on Monday:

"Lighter winds are expected early in the morning tending north-west late morning. 20-30 kilometres, gusting 40 kilometres plus."

20

Those wind conditions are actually somewhat less severe than Saturday by this time, aren't they?

25 A. Yes.

Q. Was it your recollection that at this stage at least it looked as though Saturday was looking as though it might be a worse day than Monday?

30 A. On that forecast, yes.

Q. Was that discussed? That is, "Monday is not looking quite so bad now, but Saturday is still looking bad"?

35 A. I don't recall that, no.

Q. We have, apart from the actual notes, which because they are not in my papers would suggest do not add anything to the minutes, there are a couple of other notes or what appear to be notes of that meeting. The first is a book or a bundle of notes taken by Marika Harvey. The document number is [ESB.AFP.0024.0002]. At 0006 of that document you will see at the top there "Friday am update, 17/1/03". Scroll down a little bit.

40

I accept it is hard to read these notes because of the way they have been photocopied:

45

"McIntyre's Hut - heavy aerial incendiary."

Do you agree that appears to be notes of
the planning meeting that morning?

5 A. Yes, I presume.

Q. Over the page, at the top of the page,
Ms Harvey says "Today Sat bad." So it appears she
is saying Friday, today, and Saturday and both
10 bad. Then:

"Maybe respite Sunday. Monday bad" --

And then that word - it is difficult to read
15 the next one, but it seems to follow by the line:

"Not as bad as expected."

So is that the position as at Friday morning that,
20 although Monday had been thought to be the worst
day, that was now changing?

A. It would appear so, yes.

Q. Similarly, I will just draw your attention to
25 some notes that Mr McRae appears to have taken at
that same meeting, although it is less clear that
that is what notes he has taken. But I will take
you to them. [ESB.AFP.0110.0911]. It is
possible, Mr Castle, that these are notes perhaps
30 taken during a private discussion with Mr Mason or
at some time before the planning meeting, because
two pages further on - and there is no need to go
to them - it appears Mr McRae has put in "planning
meeting".

35

But just looking at this particular page you will
see what he has written down at the bottom there:

40 "Saturday" - I am not sure what that first
word is; maybe "west or even south-west"
I assume that is a reference to the winds -
"Pm winds" I think perhaps. "Front late,
after 10pm maybe later as easterly."

45 So it is consistent with the forecast that was
given to the planning meeting?

A. I think so, yes.

Q. Maybe it does not matter too much. Over the page, you will see under "Mon":

5 "Light winds easterly north-west, 20-30, 40.
Maybe less wind than Saturday."

So again that would seem to be suggesting that the weather information is indicating that Saturday is now going to be the worst day in the forecast period?

10 A. It would appear so.

Q. Was that something you were conscious of on the morning of Friday, the 17th?

15 A. Of which days were going to be the significant, yes.

Q. Sorry, I didn't hear the first part.

20 A. Yes, I think so.

Q. Mr Castle, the next thing you deal with in your statement is the media conference that was held on the 17th with Mr Lucas-Smith. You would have been in court when that short grab of that conference was aired. I think you would agree with what Mr Lucas-Smith says, and this is document [DPP.DPP.0004.0046]:

30 "Well, I - the fires are a fair way with away from the edge of the urban area of the ACT, the chance of them hitting the urban edge is pretty slim."

Do you remember him saying that at that media conference?

35 A. Yes.

Q. And I understand his evidence is that he was there talking about - he was responding to a question that was asking about the ACT fires; is that your understanding?

40 A. That is my understanding.

Q. Is there any discussion to your recollection during that meeting of the New South Wales fires, and in particular McIntyre's?

45 A. During this conference?

Q. During that media conference.

A. No. It was followed by a specific press conference by Cameron Wade from the NSW Rural Fire Service. Sorry, was there any mention?

5

Q. Yes.

A. I don't --

Q. Do you have your own transcript of that conference or any other record of it, Mr Castle?

10 A. I have a transcript.

Q. Of the entire conference?

A. Yes.

15

Q. Do you know where that has come from?

A. Provided to me.

Q. We don't have that, Mr Castle, so I am going to have to ask you to let me have it or a copy of it, if you have one. Who provided that to you?

A. I believe counsel; I believe the government solicitor.

25 Q. Do you know where they got it from?

A. I presume the ABC, I presume.

Q. So you don't know; you are just guessing.

A. No.

30

Q. So this is a note, is it, of the conference on Friday the 17th?

A. Sorry?

35 Q. This is a transcript of the conference on Friday the 17th, is it?

A. That is what it says it is.

Q. As you recall it, that is what was said; is that right?

40 A. That is what I understand.

MR WOODWARD: I am sorry about this, your Worship. We were not aware that anyone had a transcript of that full conference.

45

THE CORONER: It should have been provided to you,

though.

MR WOODWARD: Well, I would have thought so.

5 MR JOHNSON: I must say, your Worship, I would
have taken it that that would have been obtained
as part of the general gathering of materials from
the media. As I understood it, what counsel
10 assisting had put forward were extracts from time
to time. I have assumed, perhaps wrongly, that
they had all the material that was available from
the media sources. If it is a transcript that we
have, we will happily make it available. But
15 I would have thought that is the sort of material
the police would have in the first place.

If that is a misunderstanding on our part, that is
unfortunate. But I had assumed that all of this
material in this very exhaustive investigation had
20 been obtained from readily available sources in
the media.

MR WOODWARD: Well, if it was not clear,
your Worship, when this inquest started that we
25 had been selective, in my submission it certainly
would have been clear when Mr Lucas-Smith gave
evidence about this that we were relying only on
what that little grab was and we had nothing else
available at that time.

30 MR JOHNSON: Well, your Worship, all I can say is,
and this may be a situation where there is a
misunderstanding between counsel, I did not know
that that is all that was had. I had assumed that
35 that was all that was relied upon. But at this
time it is probably not being helpful or advancing
the inquiry to have this publicly discussed, and
if it is not available it can readily be made
available, as indeed --

40 THE CORONER: I am just concerned now as to what
other information you seem to have in those
folders, Mr Castle, that nobody else is privy to.

45 MR WOODWARD: So am I, your Worship. This
document appears to begin from page 9 of 39, and
maybe the first 8 pages have information in them.

It may be that they are already conferences that we have been provided transcripts of. But that puts me at some disadvantage, your Worship.

5 What I propose to do, your Worship, is I will deal with the conference in generality for the moment. Mr Stitt has foreshadowed to all counsel and no one has raised an objection that, with your Worship's permission, he would like to
10 undertake his examination of Mr Castle this afternoon so that he won't be with us at least full time thereafter, and certainly there is no difficulty with that from our perspective.

15 If I could just deal with one general question first, then perhaps we could take a short break, and Mr Stitt could then ask any questions he has. And then I will continue, because the way things are going, it is clear I will not finish.

20

THE CORONER: You are not going to finish this afternoon.

MR WOODWARD: Q. Mr Castle, in your statement at
25 page 107 you say, in effect you interpret Mr Lucas-Smith --

THE CORONER: Paragraph 107.

30 MR WOODWARD: Sorry, your Worship, that is correct - paragraph 107. You re-phrase in a sense or paraphrase Mr Lucas-Smith's statement:

35 "He stated - that is Mr Lucas-Smith stated - at that conference that there was not a great likelihood of the ACT fires coming and threatening the suburbs under a north-westerly wind."

40 The next sentence is the one I want to ask you about:

45 "The agreement and protocols we had in place with New South Wales was that we would talk about the ACT fires only. If anyone wanted detail on New South Wales fires, they needed to contact the New South Wales media staff.

Phil Koperberg had a media person sent to the ACT, I think on Thursday 16 January."

Do you see that?

5 A. Yes.

Q. How long had that agreement and those protocols been in place, Mr Castle?

10 A. Only I think when they actually sent their media person.

Q. You thought that happened on Thursday the 16th, do you?

15 A. I believe he came on Thursday the 16th. What we were actually trying to provide was what we would talk about, the specifics of the fires. But we had - before that in terms of, I am not too sure it is agreement, maybe that is --

20 Q. Overstatement?

A. Yes, an overstatement. More an understanding was probably more the case.

25 Q. I suggest to you that the word "agreement" and protocols at least --

A. Sounds more formal.

Q. It sounds formal, doesn't it?

30 A. Yes.

Q. It sounds in fact like something in writing, doesn't it?

A. Well, it could, but it does not say that, and I didn't mean that.

35

Q. I take it there is nothing in writing?

A. No.

40 Q. You heard Mr Lucas-Smith in his evidence say that he was not aware of any agreement or protocols?

A. No.

45 Q. First I should ask you: who is the person you are referring to, the media liaison person?

A. Cameron Wade in the first instance.

Q. When you say "in the first instance", was he the one who was there from the 16th effectively to the 18th?

A. There may have been some time when he wasn't.

5

Q. When you say "in place with New South Wales", you are referring there to New South Wales Rural Fire Service?

A. Yes.

10

Q. And that is whom Mr Cameron Wade represented?

A. Yes.

Q. Who was a party to the agreement and protocols?

15

A. I already said it was just an understanding. I think that is an overstatement, agreement and protocols.

Q. It is a pretty important issue, isn't it, Mr Castle?

20

A. Well, yes.

Q. Why would you, in your statement, be overstating the nature of the agreement or the understanding that you had with New South Wales about who was talking about what?

25

A. Why would I overstate?

Q. Why would you be suggesting that there was an agreement and protocols when in fact it seems at best it is an understanding?

30

MR JOHNSON: Your Worship, I object. Is it going to be helpful? If he is saying that there is an understanding, an agreement and a protocol, at this stage, your Worship, if there is said to be --

35

MR WOODWARD: Your Worship, I am going to have to ask the witness to leave the room.

40

MR JOHNSON: I will sit down, your Worship. I would submit it is unhelpful.

THE CORONER: It is helpful. I disagree with you, Mr Johnson. It is helpful because on reading that I immediately took the view that there was a

45

written agreement. That is the view that I had.
Now we are being told that it is not a protocol,
it is not a written agreement, it is an
understanding. So the question is legitimate,
5 Mr Johnson.

MR JOHNSON: If your Worship please.

MR WOODWARD: Q. Why would you have elevated it
10 in your statement to something as formal as an
agreement and protocols?

A. I don't think I intentionally elevated it.
I think that was my words of a discussion and out
of that agreement that "we will talk about this
15 "and "you will talk about that".

Q. But you knew, didn't you, when you prepared
your statement, Mr Castle, that there was intense
interest in the question as to why on the 17th at
20 noon it at least appeared from that short grab by
Mr Lucas-Smith, which is all we had at the time,
that he was saying that the chances of the fires
reaching the suburbs were slim. You knew that was
a very important issue, didn't you?

25 A. I knew that the media had focused on that.

Q. Yes. What I want to suggest to you is that in
that paragraph what you are trying to do is to
justify, by reference to an agreement and
30 protocols, the fact that Mr Lucas-Smith has
understated the threat to Canberra in that
conference?

A. Oh, no. No.

35 Q. I asked you at the beginning of your evidence
if there was anything in this document that you
wanted to change or correct, didn't I, Mr Castle?

A. Yes, you did.

40 Q. You were aware that Mr Lucas-Smith by that
time had given evidence that there was not an
agreement and protocol?

A. Yes.

45 Q. Did you think it was appropriate at that point
to perhaps point out to Her Worship that in fact
you had overstated what was in place?

A. Your Worship, what I - I took that to be is what I am now saying - that it was a verbal agreement, discussion.

5 Q. They are your words, aren't they, Mr Castle?

A. Yes, they are. But what I am saying, your Worship, no, I didn't think that was out of keeping with what I am saying, that that is what it was.

10

Q. Did you get any assistance with the drafting of this statement?

A. The statement was taken by a firm engaged to actually assist in the taking of the statement.

15

Q. You sat down, did you, with someone from that firm and gave them, based on the documents you had at the time, and so on, your best memory of what was going on during that period?

20 A. I believe so.

Q. Did that person then produce a draft for you?

A. I believe so.

25 Q. Do you recall whether you said to that person at that time that there was an agreement and protocols in place with New South Wales?

A. No, I don't believe - I don't know.

30 Q. You don't know. Did you, before you signed the statement, show the draft to anyone else?

A. No, I don't believe so. No.

35 Q. Did you get legal advice about it, before you signed it?

A. No.

Q. You didn't?

A. I don't think so.

40

Q. All right. What were the terms of the understanding, as you now describe it, Mr Castle?

45 A. I believe that we would focus on the ACT fires and any comment in relation to the New South Wales fires would actually - should be sought from the New South Wales Rural Fire Service, and we

gave I believe that in a number of media releases earlier.

5 Q. You did. When you say in paragraph 8:

"ESB press releases consistently only referred to the Bendora and Stockyard fires and stated that information on McIntyre's Hut and Mt Morgan fires in the New South Wales could be obtained from the Rural Fire Service media unit."

15 I accept that is certainly the case, that those media statements all do contain a reference to that. But it is not true, is it, Mr Castle, to say that "ESB press releases consistently only referred to the Bendora and Stockyard fires"?

A. Do you mean that we may have mentioned --

20 Q. I asked you on several occasions - I made a point of asking you about earlier media releases, Mr Castle, where you were saying in that media release, "We are keeping informed about the McIntyre's fire," and I asked you whether that meant someone reading that would understand you were saying, "If there was a problem with McIntyre's we would let you know," and you agreed with me. So you were talking about McIntyre's in those earlier media releases, weren't you?

25 A. Earlier on I believe we were. Then there was a point when we were not, I don't think - is there?

35 Q. There were also a number of interviews that you gave where, and I again asked you specifically about this, you seemed quite happy and free to speak about the McIntyre's fire, and did so; that is right, isn't it?

A. Yes, I think so.

40

Q. And I asked you - you didn't seem to be reticent in discussing the McIntyre's fire during any of those media briefings?

A. If asked, yes.

45

Q. So it is just not correct to say that ESB press releases consistently only referred to

Bendora and Stockyard, is it?

A. Possibly not.

5 Q. Well, when you say "possibly not", it just isn't, is it?

A. Consistently, no.

Q. You say in your next paragraph:

10 "So right from the early days we agreed with New South Wales that they would talk about the fires that they were managing and we would talk about the fires we were managing."

15 That is not right either, is it, Mr Castle?

A. I suppose what I am referring to is the specifics of the individual, what the fires are doing. I haven't enunciated that carefully and, as you have pointed out, that is not strictly
20 correct.

Q. I think you are now saying, as I understand it, this understanding, as you now describe it, began with the arrival of the media person on
25 16 January?

A. I believe it was more discussed in specifics, because that is why he attended the 17th.

Q. So you are now saying that in fact
30 the understanding existed at or about 8 January, when you say early days?

A. It may have - I believe Amy Lowe was talking to their media person and trying to coordinate what was actually being said. It was my
35 understanding that from early days there was that co-ordination, and the specifics of what was happening with the McIntyre's Hut fire in detail was actually always - well --

40 Q. But that is not what this says, is it, Mr Castle. This says, "You agreed New South Wales would talk about the fires they were managing and we will talk about the fires we were managing." That is not co-ordination; that is saying, "We
45 will leave you to talk about the McIntyre's fire and we will talk about Bendora and Stockyard"?

A. I think that is generally what my

understanding was.

Q. Yes, but that is not what happened, is it, because you were talking about McIntyre's?

5 A. If asked, I gave a general answer to the question. So, strictly speaking, no.

Q. Just so I understand the position as I now think you are saying, probably as early as
10 8 January there was some understanding in place that you would talk about Bendora and Stockyard and they would talk about New South Wales, and that understanding was somehow reiterated or
15 discussed further on about 16 January; is that right?

A. I am not too sure it specifically started on the 8th.

Q. What did you mean by "earlier days"?

20 A. I think when co-ordination of who was looking after it, we had people on McIntyre's to start with. It may have been when we no longer had a direct involvement in McIntyre's and it was liaison. That is when it was more the case we
25 were relying on the advice coming from New South Wales Rural Fire Service, and therefore so as we could - because of the inter jurisdiction, we could not have the up-to-date information. We felt that the media and the information should
30 come from the jurisdictions which were managing those particular fires.

Q. Did someone discussed that, did they, with media people at New South Wales Rural Fire
35 Service.

A. I am not 100 per cent sure. Amy Lowe may have, because I know she was talking to Cameron Wade.

40 Q. So we will need to ask Amy Lowe about that?

A. That is the possibility, yes.

Q. But it is not the case, is it, Mr Castle, then that the reason - perhaps I should ask you this
45 first. As I generally understand what you are saying, if you were asked about the McIntyre's fire there would be nothing to preclude you from

providing comment on it; is that right?

A. That is generally in what I knew, but if I felt that there was actually more detail and it was going to go into what are the objectives here,
5 then I would refer them to --

Q. But there was nothing to prevent either yourself or Mr Lucas-Smith, if asked, or if it was appropriate to do so, at any time up to the 18th
10 to give your assessment, as well you knew it, of the McIntyre's fire? There was nothing formal preventing you from doing that, was there?

A. Nothing formal. I suppose a courtesy in that they are not under our jurisdiction, those
15 firefighters, and the management of it was not under our jurisdiction. So it was more a courtesy.

Q. All right. So it is not correct then to say,
20 is it, that the reason Mr Lucas-Smith at the media conference at 12 noon didn't mention the McIntyre's fire is because he was constrained by some kind of agreement or protocol? That would be correct, would it?

A. I don't think I used the word "constrained".
25

Q. No, I know you don't. But I am asking you as a general proposition - ?

A. No, I don't think he was constrained.
30

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

THE CORONER: Yes, we will take a short
35 adjournment.

SHORT ADJOURNMENT [3.05pm]

RESUMED [3.17pm]
40

MR WOODWARD: Your Worship, just before Mr Stitt commences his cross-examination, this document is certainly in my mind, and it could be simply a matter of misunderstanding and we can inquire
45 about that, but it does raise a concern about what else there may be. I would think it would be appropriate to endeavour to deal with it

informally, but at least if at this stage it would be possible for us to have access to Mr Castle's folders, subject to anything that may be privileged, which may have protection for reason
5 of legal professional privilege in them, we would like the opportunity at the end of the day before they leave the courtroom to know what is in them and identify anything that we think might assist your Worship.

10 Then perhaps to the extent that Mr Castle does not have the full set of documents, perhaps in informal discussions we can try and sort out as best we can what is out there we do not know about
15 and obtain copies of that; so this problem does not arise again.

THE CORONER: Do you have a difficulty with that, Mr Castle? Is there anything in those folders
20 that you may wish to claim privilege on, any document?

A. Your Worship, I think I would like to speak to counsel before I answer that. Not that I am aware of, but I do not know what that means to me, to be
25 quite honest.

MR WOODWARD: I would prefer they didn't leave the courtroom while that issue is being resolved.

30 THE CORONER: Sorry?

MR WOODWARD: I would prefer if that could be done immediately after court.

35 THE CORONER: Yes, before the documents leave the court.

MR WOODWARD: Yes. If your Worship pleases.

40 THE CORONER: If you would leave your documents in court then but do not provide any access to them until such time as you have had an opportunity to speak with counsel.

45 MR WOODWARD: Thank you, your Worship.

THE CORONER: Mr Stitt, do you wish to ask some

questions?

<CROSS-EXAMINATION BY MR STITT

5 MR STITT: Could I say I am grateful to
your Worship and my learned friend, and can I just
confirm what my learned friend counsel assisting
has said, that we take the view that our interest
10 is somewhat now limited and indeed perhaps
peripheral. We would not wish to be here all
the time but do not wish to be discourteous to
the court. My learned friend has undertaken to me
to indicate when and if there are witnesses that
15 may affect our interest, and given a list. If
your Worship would permit us to conduct ourselves
on that basis, it would not then be necessary for
us to be here all the time.

20 THE CORONER: That is certainly acceptable,
Mr Stitt.

MR STITT: As your Worship pleases. My questions
to Mr Castle will be relatively brief in subject
25 matter.

Q. Mr Castle, you were asked some questions about
the document entitled "Will you survive?" Do you
have a copy of that in front of you?

30 A. No.

Q. Might he be given a copy, please. While that
is coming, you agreed that that was the document
described as the primary community education
document for the ACT community; was that your
35 understanding of it?

A. Yes, I think they were the words in
the summary, yes.

40 Q. Looking at it, do you agree that it is a
document which provided information to
householders about bushfire and the way to cope?

A. Yes.

45 Q. Was that a document which you would expect
people to rely upon?

A. Yes.

Q. And to act upon the information contained within it?

A. Yes.

5 Q. You were asked a number of questions which suggested that this document was only directed to rural householders. Could I direct you, please, to the page that starts, "When the fire comes", and under the subheading "What will happen". Do
10 you have that there?

A. Yes.

Q. Do you see halfway down the page it says:

15 "Dozens of homes will be under attack by the oncoming fire at the same time."

A. Yes.

Q. Do you agree that that does not refer to a
20 rural situation, if there are dozens of homes under attack at the same time by the fire?

A. The picture gives the impression that it is urban.

25 Q. Well, I was actually going to take you to the picture next, but do you agree that that on its plain reading refers to the suburban household situation?

A. I think it could be both in the words.

30

Q. But, as you rightly point out, the photograph plainly refers to an urban situation?

A. Yes.

35 Q. And that, I suggest, is further confirmed, if you go over the page to the heading "sprinkler systems", at the end of the second line it says:

40 "Do not rely on mains water except to help replenish the water tanks."

Mains water would be referring only to suburban houses, would it not?

A. I am sorry, I am not too sure where you are.

45

Q. Under the heading "Sprinkler systems"; do you have that?

A. Yes, I do now.

Q. The second line:

5 "Do not rely on mains water except to
replenish the water tanks."

That I suggest to you plainly refers to a suburban
situation, mains water does not ordinarily apply
10 to rural situations, does it?

A. No, but replenish water tanks is not a common
thing, in the --

Q. But where it is saying "do not rely on mains
15 water", that is because I take it of your
understanding of the common knowledge that if
every household uses all of its hoses at the same
time that the water pressure will decrease?

A. Yes.

20

Q. Is that why it is suggested, as you understand
it, that there should be portable pumps to ensure
perhaps sufficient water pressure?

A. I think that is what that is implying.

25

Q. In other words, it is suggesting and directing
to people who are in this situation that they
could not rely on mains water and that they should
in fact have a portable pump to ensure sufficient
30 water pressure; is that your understanding of it?

A. That is the way I read it.

Q. The booklet also deals, does it not, with
the question of the intensity of the fire which
35 might be encountered; is that your understanding
of it?

A. Um --

Q. In fairness to you, would you look at, first
40 of all the heading "inspect", the man standing on
the ladder wearing a hat. Do you have that?

A. Yes.

45

Q. Do you see there it says:

"breathing through a wet towel helps protect
you from super heated air"?

A. Yes.

Q. Do you agree that is referring to air which is super heated by the intensity of the fire?

5 A. Yes.

Q. The reference to the part of the booklet headed "Inside" also, I suggest, refers to the radiant heat from the intensity of the fire.
10 Look at the words "windows are a weak point" et cetera. That there is referring again to the intensity of the radiant heat which may be encountered, is it not?

15 A. I presume so.

Q. It is intended to provide an overview to the householder as to what they can do to survive both their life and their property?

20 A. Yes. You asked specifically, though, about radiant heat.

Q. Well, windows are a weak point?

A. Yes.

25 Q. And there is not much doubt, may I suggest, if you go back to the section headed "The sprinkler system", it is talking about radiant heat where it says, "Plastic pipes may melt". That is from the heat of the intensity of the fire, is it not?

30 A. The reference to - where is it? Is it on sprinkler systems?

Q. It is in the second paragraph:

35 "If plastic pipes are used they must be installed et cetera so they will not melt."

40 It is directing the attention of the householder to the fact that the heat is so intense that it could in fact melt plastic pipes; isn't that so?

A. Oh, sorry, yes. I was looking for the plastic. Yes.

Q. It says "plastic pipes et cetera"?

45 A. Yes, I could not see it.

Q. And talking about them melting?

A. Yes.

Q. You heard Mr Cheney's evidence - you were in court when Mr Cheney told us that the heat
5 generated by fires such as these - the temperature can be of the range of 1,000 to 1,200 degrees centigrade; did you recall that evidence?

A. Your Worship, I was not in court for every day of Mr Cheney's evidence.

10

Q. I don't want you to be at any disadvantage, but was it your understanding at the time this booklet was being disseminated that the heat
15 intensity from fires such as the ones with which we are dealing could reach considerably high temperatures?

A. In a layman's view, yes. As I indicated, I am not a firefighter.

20 Q. No, I understand that, and I am going to come to that in a moment. But speaking overall, was it your understanding when this sort of information was being disseminated to the householders of Canberra that what they were likely to confront
25 was a fire of intense heat?

A. I need to just be clear that when I referred to the dates and when this was generally distributed to the back fence, I was not in the bureau. But if since then, as it has been
30 used as an ongoing booklet, yes.

Q. Thank you. You have been at all times careful to point out that you do not possess the relevant expertise or experience in dealing with bushfires,
35 and I don't want to take you to the repeated occasions when you have made that plain beyond argument.

A. Yes.

40 Q. That is your position, is it not?

A. Yes.

Q. May we take it from that that you did not involve yourself in any operational decisions
45 affecting the relevant bushfire with which Her Worship is concerned?

A. Yes.

Q. May we also take it that you did not involve yourself with any decision relevant to the nature or extent of the fire?

A. I am not too sure --

5

Q. Anything to do with the nature of the fire that was operational, you were not involved; is that correct?

A. Oh, sorry, operational, no.

10

Q. Anything to do with the extent of the fire which was operational, you were not involved with that either, is that so?

A. No.

15

Q. It is correct that what I am saying, is that so?

A. Yes.

20

Q. Does it also follow that any prediction about the speed of the fire or when or where it would strike or spread in an operational sense, you were again not involved; is that so?

A. Sorry, not involved in the prediction of?

25

The first part of --

Q. Prediction or prognostication as to the speed of the fire or when or where it would impact on the built environment, for example, you were not involved?

30

A. No.

Q. Does it follow that you were not involved in any decision involving the relevant utilities of the ACT, such as electricity, water, sewerage or gas?

35

A. Any decisions, no.

Q. You were not involved in any operational decisions as to when or where any such utility should be shut down, is that so?

40

A. No.

Q. You did not give any operational direction to anybody from the utilities about those matters?

45

A. No.

Q. Is that correct?

A. Yes, it is correct.

5 Q. You did in your statement, at paragraph 87,
talk about the helicopter crash in the Bendora
Dam, and you talked about the way in which that
was dealt with. You have talked about
the potential contamination of the water supply by
fuels from the helicopter. Do you remember making
10 reference to that in paragraph 87 of your
statement?

A. Yes.

15 Q. I understand from the answers which you have
just given that you were not involved in any
operational decision. But in fact a request and
direction was given from the ESB to ACTEW to
assist with the helicopter crash so far as
questions of water purity, water contamination and
20 the like were concerned?

A. Yes.

Q. And ActewAGL, having received such a request
or direction, complied with it?

25 A. Yes.

Q. Was that your understanding?

A. Yes.

30 Q. They provided whatever assistance was required
and requested in order to ensure that the water
supply remained uncontaminated by that helicopter
crash?

35 A. That was my understanding.

Q. You gave brief evidence about your
understanding of the declaration of the state of
emergency. I just want to ask you a couple of
questions about that. Was that understanding
40 directed to, firstly, the operation of
the Emergency Management Act? Was that your --

A. Sorry, could you ask the question again?

45 Q. Yes, I will. Did you have any understanding
as to how the declaration of the state of
emergency would operate in the framework of
the Emergency Management Act?

A. Yes.

Q. Did that understanding embrace the concept that there was an emergency plan which would be
5 activated by the declaration of a state of emergency?

A. Yes.

Q. Was your understanding that under
10 the Emergency Management Act questions of control, shutting off or disconnecting any supply of fuel, gas, electricity or water was controlled by the declaration of the state of emergency?

A. Yes.

15

Q. Did you also understand that there could be no direction under the emergency plan to a utility to shut off, control, disconnect or deal with any fuel, gas, electricity, or supply unless and until
20 the emergency plan was in operation?

A. The Emergency Management Act is an overarching act, as I understand it, in which case if something can be done under an existing act it did not necessarily require the territory controller
25 to invoke that particular power, if it could be done under an existing provision.

Q. I understand you are not a lawyer and I don't want you to be led into any error. But may
30 I remind you that subsection 27(1) of the Emergency Management Act says this:

"Notwithstanding the provisions of any other law, for the purpose of managing a declared
35 emergency" - and it is only a declared emergency - "the controller, by instrument, may authorise a member of an agency or a member of an organisation" --

40 And there are a whole lot of things listed - but one of them is to "control, shut off or disconnect any supply of fuel, gas, electricity, or water". Did you not understand that that was the statutory framework within which a declaration of emergency
45 would operate?

A. Yes.

Q. Wasn't that the reason that you were talking to the cabinet and to Mr Stanhope on the 18th - I withdraw the word "cabinet" - about whether or not a declaration of emergency should be declared?
5

A. Sorry, could you ask that question again?

Q. Was it not in the context of that statutory framework that you were talking to Mr Stanhope about the declaration of a state of emergency?
10

A. Yes.

Q. So that in fact the declared emergency could be then dealt with in the way that the statutory framework lays down; was that not your understanding?
15

A. Yes.

Q. Do you recall precisely when the state of emergency was declared?
20

A. 2.45 is my recollection.

Q. Was it your understanding that prior to that date any attempt to control, shut off, disconnect or disconnect any supply of fuel, gas, electricity, or water would not be operating in accordance with that statutory framework?
25

A. Prior to declaration?

Q. Yes.
30

A. It would not be activated by that.

Q. Yes.

A. That is was not live unless the declaration, is that what you are asking me?
35

Q. I am just simply asking you of your understanding of the statutory framework in which you were operating on 18 January, your understanding of it. Was that your understanding of it?
40

A. Yes.

Q. One final thing: the agreement to which you have referred and which has become exhibit 21, the agreement between the ESB and the Australian Federal Police which was signed by you - do you
45

know the document?

A. Yes.

5 Q. Would you like to have it in your hand before
you answer the question?

A. That would help.

10 Q. Do you recall it?

A. Yes, I recall.

15 Q. Before that agreement was signed by you, did
you obtain any legal advice about it?

A. I think Mr Keady may have seen it.

20 Q. I see. Is Mr Keady a lawyer?

A. I understand he is.

25 Q. Did he give you legal advice about the effect
or the legal effect of that agreement before you
20 signed it?

A. Your Worship, I am not familiar with legal
advice in the context in which it is being asked.
Can somebody --

30 Q. I don't want to confuse you. We will take it
a step at a time. You said Mr Keady. Did
Mr Keady give you an advice before this agreement
was signed by you?

35 A. I think Mr Keady may have had some suggestions
about particular words.

40 Q. So he did give you some advice?

A. I think so.

45 Q. You understood that this agreement, amongst
other things, is directed to the question of
evacuation of citizens from their home?

A. Yes.

50 Q. Did you get any advice as to the legal basis
upon which that evacuation might be carried out so
as not to breach any law?

A. Not that I am aware of.

55 Q. One final thing: may we take it that at no
time during this entire event did you give any
direction or instruction that people should be

evacuated from their home?

A. No.

MR STITT: Thank you. Nothing further.

5

THE CORONER: Thank you, Mr Stitt. Yes,
Mr Woodward.

<EXAMINATION-IN-CHIEF BY MR WOODWARD CONTINUING

10

MR WOODWARD: Q. Mr Castle, I have had an opportunity to read the transcript of the full briefing. do you have any other copies of that there?

15

A. No.

Q. What I would like to do is to read sections of it and, to the extent that you can, I will ask you questions about it. Firstly, is it your understanding that the interview that appears to have followed, certainly in the transcript, with Mr Wade took place immediately after your - did you leave the seats and Mr Wade then occupied it?

20

A. Yes.

25

Q. Did you or Mr Lucas-Smith remain or anyone else on behalf of ESB remain in the area and listen to what Mr Wade had to say?

30

A. I think I may have stayed for a period.

Q. For the whole of the rest of the interview?

A. No, I don't think so.

Q. Do you have recollection now of the sorts of things Mr Wade was saying?

35

A. No. No, not without the transcript in front of me.

Q. All right. That is fair enough. What I will endeavour to do at some point, probably today, is get you to, if you can, indicate what parts of it you remember hearing and what parts of it you do not remember hearing, and when you might have left.

45

Again, just a general question: you no doubt recall Mr Lucas-Smith's evidence that, in his mind

at least, "impact on the urban edge of Canberra was inevitable", when he found out on the morning of the 18th that the McIntyre's fire had crossed the border and was into the Uriarra pines. Do you
5 recall he gave that evidence in substance?

A. Yes.

Q. The interview with yourself and Mr Lucas-Smith begins with a general review and it does appear,
10 if I may say from the overall context, that your focus is on the ACT fires but you don't - at least according to this transcript - anywhere say, "Look, we are discussing the ACT fires, and anything we say does not relate to the McIntyre's
15 fires. You have to ask Mr Wade about that"?

A. No, I didn't specifically say that.

Q. Mr Lucas-Smith on the first page of the transcript says:
20

"The fires in the ACT are still within containment lines that we've established over the last week in our efforts to contain these fires... The main fires are still well back
25 from those containment lines but under our current weather conditions the chances of those fires approaching our containment lines in a rapid sort of a way which may cause some spotting and crossover is a concern to us,
30 particularly as the wind conditions and temperatures rise this afternoon, later today. At the present time the fires are still within the containment lines."

35 He is then asked some questions about the pressure on firefighters and so on. On the third page he is asked:

40 "Is it likely that you will have to evacuate property?"

He answers:

45 "Have to evacuate properties, did you say? No, at the present time the fire is under the current weather conditions, if the fire does escape our containment lines it will

burn in a south-easterly direction further
into the Namadgi National Park. However,
I think that under the current conditions,
the conditions we are likely to face in
5 the next few days, it is very prudent to
ensure if you live adjacent to Namadgi
National Park in any way, you need to be
making sure that you have taken precautions
around the property to ensure that have
10 cleared around your household you have
decided what it is you are going to do should
the fire start approaching that way, or if
you will stay or if you will evacuate. If
you are going to evacuate, you need to do
15 that early."

He is asked about the Tidbinbilla tracking station
and indicates he is not aware of any threat to it
at that time. He is then asked about the plan of
20 attack over the next five days with the weather
conditions. We then get the section of
the transcript that was picked up in the video
where he is asked, and we didn't have the question
before:

25 "How far are the fires from Canberra and what
are the chances it will reach edge?"

As we know, Mr Lucas-Smith responds:

30 "The fires are a fair way, I have measured it
in kilometres - I think he may have said
I haven't measured - and they're a fair way
away from the edge of the urban area of
35 the ACT. Under a north-west wind conditions
the chances of meeting the urban edge is
pretty slim."

Just pausing there, Mr Castle - you have read this
40 transcript before, I take it?

A. Yes.

Q. It is your position, as I understand your
statement, that Mr Lucas-Smith was there talking
45 about the ACT fires; is that correct?

A. That is my belief.

Q. Is that something you think that was made sufficiently clear to the media personnel present, that your comments were restricted to the ACT fires?

5 A. Only by - well, we didn't draw it to their attention, but only by the introduction and the discussion that preceded that.

Q. All right. A little further on he is asked - there is discussion about the possibility of jumping containment lines:

"Going into the weekend what's your level of anxiety?"

15

He says:

"I don't think it's that much different from what I have had in the last week and we've been fighting some very, very difficult fires in difficult terrain and this is just another part of it. We're certainly getting to the point where it's becoming the most critical."

20

25 A few pages later on he is taken back to the question about people living adjacent to the Namadgi, and he was asked:

"People who live adjacent to the Namadgi National Park should prepare in a worst case scenario. What does that actually mean, should they pack a bag in case they have to make an emergency?"

30

35 He says:

"I think that there's certainly that people who live in the rural areas understand what the impacts or potential impacts of fire is."

40

Just pausing there, Mr Castle, I think we can take it from his reference in that answer to rural areas, and references to being adjacent to the Namadgi, that all these comments are by reference to people who are living physically adjacent to the Namadgi. So we are talking about people living in rural areas only at that point?

45

A. I believe that is the case.

Q. And that would be a fair impression for anyone hearing this to draw?

5 A. I believe so.

Q. Is it fair to say, Mr Castle, that at no point in this interview do yourself or Mr Lucas-Smith indicate that there is any threat to the urban
10 area; is that right?

A. I don't believe so.

Q. Why is that, Mr Castle?

A. I suppose because I don't consider, with
15 the - what day are we at, the 16th?

Q. The 17th, midday.

A. I suppose because a degree of focus on the ACT fires and a degree of confidence still by New
20 South Wales about the McIntyre's.

Q. Let's go to that. Mr Wade commences the interview, and as I understand it you basically just did a bit of an interchange with
25 him at the media conference?

A. Yes, I understand so.

Q. You said you were there for part of the time. Was Mr Lucas-Smith there for part of the time as
30 well?

A. I don't recall.

Q. Where were you? Were you standing off camera or sitting in the back? Where did you go to?

35 A. I don't think I stayed long.

Q. For as long as you did stay, where were you?

A. Out of camera.

40 Q. Just standing out of camera?

A. Yes, it has a set of stairs that go up.

Q. I see. Is Mr Lucas-Smith standing next to you?

45 A. No, I don't believe so.

Q. So as best you can recall, Mr Lucas-Smith just

left immediately?

A. I think so.

5 Q. The information that was about to be relayed about the New South Wales fires was certainly of some interest to you, wasn't it?

A. Yes.

10 Q. So why is it that you didn't - neither yourself nor Mr Lucas-Smith - I should only ask about yourself. If you left before it finished - why didn't you stay to hear what Mr Wade had to say?

15 A. I possibly did, but I think further down in the interview he started to talk more about Kosciuszko and Thredbo and that.

Q. All right.

20 A. And it may have been at that point that --

Q. In the first part of his presentation or what he is saying to the media, he says this - he starts by saying:

25 "The McIntyre Hut fire burning to the direct west of Canberra in New South Wales, now burnt out some 8,000 hectares is also still burning within containment lines, although the containment lines on the south-eastern
30 side are only very small really."

That is the crucial side from your perspective, south-eastern?

A. Yes.

35

Q. It goes on:

40 "They're 500 metres or so in depth and we are expecting those to be tested fairly extensively today."

Wouldn't that have been somewhat alarming, that news, Mr Castle?

A. I suppose so.

45

Q. As best you can recall - this is the first few words of his presentation - you were still there?

A. I believe so.

Q. It goes on:

5 "Already the wind conditions up in that area
have strengthened from the north-west, which
means fire crews at the moment on
the south-eastern side - again that is
the crucial side - of the McIntyre's Hut fire
10 are working very hard, as we speak at
the moment, to try and contain those
containment lines. The fire is about two
kilometres from pine plantations in the ACT.
We do have resources on the edge of
15 the border there and on the edge of the pine
plantations. At this stage also some 13
aircraft are working in the area, keeping a
very close eye out for spot fires and so
forth. At this stage there is not threat to
20 any property in the area, it is more those
pine plantations we're keeping a close eye
on."

I want to suggest to you, Mr Castle, that
25 the substance of what Mr Wade is saying is that,
"We are doing our best to hold these containment
lines, but it is very much a touch and go at
the moment".

A. Yes, you could read it that way. He does
30 indicate the number of aircraft and those aircraft
were being successful, is my understanding.

Q. But he is certainly acknowledging a real
threat, isn't he, to the pine plantations?

35 A. He is acknowledging there is a potential
threat to the pine plantation.

Q. Potential threat is a bit of a tautology,
isn't it? It is a real threat?

40 A. It is a potential. It has not got there.

Q. I don't want to get into the debate again.
"So with the change of wind, is it changing
threat?" he is asked. He answers:

45 "It certainly has as similar to the ACT
situation, the threat was on the western side

5 with the easterly and south-easterly, that has totally turned around, the threat is now to the southern and eastern sides and of course that means it's more heading back toward the ACT."

Were you still there when he was saying that, Mr Castle?

10 A. Probably.

Q. Do you know what, if any, of this part of the media conference was broadcast within Canberra?

15 A. No.

Q. Did you have any reason to be confident at the time that what Mr Wade was saying about these fires would become known to the Canberra public shortly after that conference?

20 A. Insofar as they were broadcast, the interviews.

Q. But you didn't know, did you, that that would happen? You had no control over that, did you?

25 A. No.

Q. Was anyone checking to see whether this sort of information was being relayed by the media to the Canberra public?

30 A. I don't think - I don't recall any specific process.

Q. So the position is that, as at that day and the next, you couldn't be confident, you had no way of knowing, that this information was actually broadcast in Canberra?

35 A. No.

Q. You don't know?

40 A. No.

Q. And you didn't know then either, did you?

A. No.

45 Q. He then talks about the level of resources on McIntyre's Hut - I think he is talking about is McIntyre's Hut, where he says:

"The fire activity is being described to me as fairly intense and fuel loads that they're experiencing there also the wind conditions picking up as We speak are making
5 the situation more desperate as the day goes on. We are expecting this to continue for the next few days."

Do you remember him using the word "desperate"?

10 A. No, that doesn't --

Q. Doesn't stick in your mind?

A. No.

15 Q. Do you think you were still there at this stage? It is only a few moments into the conference?

A. Possibly. I don't recall.

20 Q. He is still talking about the McIntyre's Hut fire, so it is not as though he has gone on to a subject that is of no interest to you?

A. No.

25 Q. So it is likely you were still there, isn't it?

A. Possibly.

Q. It goes on:

30

"For example, between the ACT and the hut fire there are at least 200 firefighters from NSW, other areas of NSW as well as those local crews from Yarrowlumlula. We also have
35 the National Parks and Wildlife Service crews working in the area and the same can also be said for the Kosciuszko fires and the fires burning to the south of Tumut. A lot of
40 resources have been brought into those areas."

So that is confirming your understanding that everything is being done to try to hold those containment lines?

45 A. They have a lot of resources on it.

Q. Yes. He is then asked some questions about

fires generally in New South Wales, and he does, a page or so later on, talk about they are not evacuating Thredbo or other parts. Do you think that might have been the stage at which you left?

5 A. It may well have been.

Q. Because a little bit further on he is brought back to the pine plantation, and no doubt I will be corrected if I am wrong, but a reading of it certainly would suggest he is referring back to the pine plantations that he was talking about earlier; namely, the Canberra ones. He is asked:

15 "What's the level of threat to the pine plantation that you refer to from which the fires (undecipherable)?"

His answer is:

20 "Speaking with the incident controllers there is a certain concern for it. It's two kilometres or so. We have seen spotting activity up to a kilometre, kilometre and a half with these fires. So we have staged resources on the border" --

We can take it that is the ACT border?

A. I presume so.

30 Q. It goes on:

35 "... We certainly are looking at what We can do as a secondary containment should it break the containment there. There is a real threat to that pine forest but at this stage everything is holding at the moment."

Do you recall him saying that?

40 A. No, I don't.

Q. It is more or less a repetition to what he said before, isn't it, where he talked about the threat to the pine plantation?

45 A. And he refers to the resources on it.

Q. Yes, he does. Mr Castle, he is certainly recognising, isn't he, in those sections I have

read to you, a real threat to the pine plantation?
A. He uses those words.

5 Q. And it is the case, isn't it, and I asked you
this before, that it was when the pine plantation
was impacted by the fire early the following
morning that Mr Lucas-Smith formed in his mind
the view that it was inevitable that there would
be an impact on Canberra; isn't that right?

10 A. I believe that is what he said.

Q. Did he share that view with you at any point,
Mr Castle?

15 A. Not that I am aware of.

Q. You don't recall him saying that to you?

A. No.

20 Q. In your mind at midday on Friday the 17th, did
you understand there still be to a threat to those
pine plantations?

A. Did I understand there to be a threat?

Q. Yes?

25 A. To those pine plantations. I think there was
some threat to the pine plantations due to
the proximity.

30 Q. In fact that was a threat that Mr McRae
identified on the 9th January, isn't it, in his
notes that We talked about a few days ago?

A. I don't recall.

35 Q. Well, do you accept from me that he has
identified the McIntyre's Hut fire as presenting a
threat to the pine plantations in the ACT?

A. Yes.

Q. On 9 January?

40 A. He may have.

45 Q. Just going back to what We know at least what
appears to have been broadcast, namely that short
grab from Mr Lucas-Smith about the chances of it
reaching the urban edge being slim, do you recall
that day any more of that media conference than
was shown in court being broadcast, or was it --

A. Sorry, say that again?

Q. The short grab of Mr Lucas-Smith saying in that media conference on the 17th:

5

"The fires are a fair way away and they are a fair way away from the edge under a north north-west conditions. The chances of meeting the urban edge is pretty slim."

10

Can you recall as to whether on the Friday, the day of the press conference, any more of that conference than you saw in court was broadcast, or was it only that short grab?

15

A. I didn't see the news.

Q. You didn't see it that day?

A. No.

20

Q. I will ask you: did you know on the 17th what of that media conference had been broadcast?

A. No.

Q. So it is possible that none of it had been?

25

A. Unlikely.

Q. All right.

30

MR JOHNSON: Could I just ask, your Worship, bearing in mind the need for some examination of the folder and the question of the privilege claim and that, if that is a suitable time, might the adjournment be taken now, because it will be necessary for certain things to happen, as I understand it, with counsel in court for a period. I don't want to cut my friend off --

35

THE CORONER: But you have.

40

MR JOHNSON: I have and, to be frank, I probably do want to cut him off because what I would like to do, bearing in mind that task which has been identified by him is to seek to undertake that task and have it progressed. I think it is now 4 o'clock.

45

THE CORONER: I will see how much longer

Mr Woodward has to go in his train of thought or
train of questioning.

5 MR WOODWARD: Your Worship, I was reaching
the point where I was about to ask probably a
difficult question. So I am content to leave it
at that point. Maybe Mr Johnson is on an earlier
flight than me.

10 MR JOHNSON: I am not on a flight at all,
your Worship. Indeed We have a conference in
Canberra, which I do have to try to attend to as
well in relation to this matter.

15 MR WOODWARD: I am content for your Worship to
adjourn.

20 THE CORONER: I was content to sit on a bit longer
if that was needed or desirable. But will We
adjourn now?

MR WOODWARD: Your Worship, I will be some time
yet, I think.

25 THE CORONER: I appreciate that you were not going
to finish today, Mr Woodward. So you have agreed,
Mr Castle, to leave your folder or the documents
in the custody of the court and not to remove any
of those documents pending advice that you have
30 from counsel. We will adjourn until 10am Monday
morning.

**ADJOURNED AT 4.03PM UNTIL MONDAY, 1 MARCH 2004, AT
10.00AM.**

35

40

45

TRANSCRIPT OF PROCEEDINGS

CORONER'S COURT OF THE
AUSTRALIAN CAPITAL TERRITORY

MRS M. DOOGAN, CORONER

CF No 154 of 2003

CANBERRA

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

DAY 18

Monday, 1 March 2004

THE CORONER: Are you ready to continue,
Mr Woodward?

5

MR WOODWARD: Yes, your Worship.

<MICHAEL JOHN CASTLE, RESWORN

10 <EXAMINATION-IN-CHIEF BY MR WOODWARD

MR WOODWARD: Q. Mr Castle, I understand that on
reflection in relation to some questions you were
asked on Thursday, you have asked for an
15 opportunity to explain in more detail some
evidence you gave on Thursday about
the preparation of your statement, is that
correct?

A. Yes.

20

Q. Reference to the relevant transcript is at
page 1641, when I asked you about the process by
which your statement was prepared. You explained
how you sat down with someone and prepared it.
25 I asked you about what you said at the time about
the protocols. I asked you before you signed the
statement did you show the draft to anyone else.
You said:

30 "No, I don't believe so, no.

"Q. Did you get any legal advice about it
before you signed it?

"A. No.

35

"Q. You didn't?

"A. I don't think so."

Is that the passage you wanted to clarify?

40 A. Yes, that's correct.

Q. What is the position?

A. The draft, as I indicated, was backwards and
forwards. But then it was requested that we
45 finalise the draft fairly quickly and Mr McCarthy
assisted in that process.

Q. I see. I asked the questions particularly in the context of paragraph 107, and the reference in that to protocols and agreements. Was that something you discussed with Mr McCarthy, that part of the statement?

A. No, not that I can recall.

Q. As best as you can recall, were those paragraphs in the statement from an early stage in the drafting process?

A. I don't recall when I used those terms.

Q. As I understand it you sit down with a person who then prepared a first draft. Was it likely that it was something you said in that initial meeting or meetings when the draft was prepared?

A. It may have been on the questioning, "What do you mean" and I said "agreement, protocols".

Q. Then it appeared in a number of drafts and you eventually signed the statement in that form?

A. Yes.

MR WOODWARD: Your Worship I believe has been handed this morning a copy of the transcript of the various media briefings that occurred on the 16th, 17th and 18 January, being a transcript prepared based on, as I understand it, a video tape of those three conferences.

THE CORONER: Yes, I have that, Mr Woodward, thank you.

MR WOODWARD: Q. Provided by the ABC, which means, unfortunately, Mr Castle, we do have to go back just briefly to the 16th, even though we have gone on to the 17th, because there are things I want to ask you about.

You recall I took you to the article in the 'Canberra Times' quoting from Mr Lucas-Smith in effect that "I don't think there is any threat to the urban edge of Canberra", or words to that effect. Do you recall me asking you about that article on Thursday?

A. No, not specifically. Generally, yes.

Q. The evidence where that is dealt with starts at about page 1622, and goes on a few pages. But on page 1624 I suggested to you that those words or what Mr Lucas-Smith had said apparently some
5 time on the 16th and was reported in the 'Canberra Times' on the morning of the 17th was wrong.
I put to you:

"Q. Yes, the evening of the 16th?"
10 "A. I don't think there is any threat, none at all" - this is 1624 at line 40 - "I don't think there is any threat to the urban edge of Canberra."

15 "Q. That is just wrong, isn't it?"

You answered:

20 "A. On the face of the words that are written there, it appears so."

Mr Castle, if I could ask you to look at the transcript, if you have it there, of
25 the conference that occurred on the 16th of January, at page 4 of 39. Do you have that page there?

A. Yes, I do.

30 Q. The transcript shows that Mr Lucas-Smith was asked about how far away it appears at least the section "media: "How far, indecipherable." He answers:

35 "There is still a long way, over 20 kilometres away, if you talk about Canberra, it is the urban development areas. They are over 20 kilometres away from the urban areas. At the moment I don't think
40 there is any threat to the urban areas. Certainly see a lot more smoke than what we have seen in the last few days and even the smoke haze that we have had for the last two days they will see a lot more thicker
45 smoke over the next few days, but the fire's got a long way before it starts threatening the ACT community."

It would appear, Mr Castle, that those are very similar, if not almost identical to what appears in the 'Canberra Times', which would suggest that the 'Canberra Times' or what Megan Doherty was
5 doing was actually quoting from the press conference. Do you agree with that?

A. It may well be.

Q. So that presumably if what Mr Lucas-Smith is
10 reported to have said in the 'Canberra Times', if you have agreed with me that that was wrong? We now have a precise transcript of what he said at the media conference:

15 "At the moment I don't think there is any threat to urban areas."

That too would appear be to wrong too, wouldn't it?

A. That is what he is thinking.

20

Q. Did he discuss that with you at the time, what his thinking was on threats to the urban area?

A. Not that I can recall.

25 Q. The difficulty, Mr Castle, is the 16th, as you know, that morning, you and Mr Lucas-Smith were in a cabinet briefing where, on your evidence, you discussed an exposure to the urban edge. Indeed, the cabinet briefing paper refers to it, and then
30 at least on one version of events at 2pm - I understand these press conferences occurred around about midday?

A. Yes, around about then.

35 Q. So 2pm, one or two hours after this conference has occurred, Mr Lucas-Smith is telling people in a meeting of the ACT Fire Brigade and of the Ambulance Service that these fires could do similar things to what the fires of 1939 and so on
40 did and affect the urban area. And then on your evidence something similar is being said, or at least a repeat of what was said to the cabinet was being said to Mr Murray and Ms Newton at the 2.30 briefing. Again, a reference to a threat to
45 the urban edge in broad terms. Can you explain why Mr Lucas-Smith would be saying something to the Canberra public in a media conference that is

different from what he is saying two hours later to the fire brigade or to the police?

5 A. No, I can't, other than he may have been thinking starts to threaten the community. He may have been thinking about immediate; in other words, that time frame. But that's - I don't know.

10 Q. When these transcripts were received by you, Mr Castle, did you sit down and discuss them with Mr Lucas-Smith and what was in them?

A. Not that I can recall.

15 Q. You obviously sat down and made some notes and comments on them, is that correct?

A. That is only very recently.

Q. That's relatively recent, is it? About when did you do that?

20 A. When I was preparing for the coronial.

Q. So in the last week or so?

25 A. Well, prior to it actually starting. Me organising the documents that I needed to prepare.

Q. So in the week or two leading up to the commencement of this hearing?

30 A. It may have even been the week before last when I was organising the documents, and I was actually highlighting, or whatever.

Q. So you didn't highlight them when you first got them from Mr Bayliss, is that correct?

35 A. No.

Q. When you were doing the highlighting a week or two ago were you doing that on your own or sitting with someone and discussing it?

40 A. No, on my own.

Q. Can I ask you to turn to page 13. We spent some time yesterday - that is page 13 of the 39.

A. That is on the 17th.

45 Q. That is on the conference of the 17th?

A. I have them split up into days.

Q. This is the portion of the conference that was the subject of the video part that was played and so on.

A. Yes.

5

Q. That handwriting that appears there is yours?

A. Yes, that's right.

Q. What do you mean in that marginal note "accepted advice"? What advice are you referring to?

A. I think that is me accepting what Mr Lucas-Smith is actually saying, that they are a fair way away from the edge of the urban area of the ACT.

Q. So you are saying that is advice - that is what Mr Lucas-Smith was saying to the media - you took from him as advice also to you about the current state of the exposure of the urban edge; is that right?

A. Yes, I believe so.

Q. All right. Just while we are still on that conference, Mr Castle, page 17 of that conference, Mr Lucas-Smith - and I have taken you to sections of this already in some detail - but there is one thing I wanted to ask you about.

30 THE CORONER: Page?

MR WOODWARD: Page 17 of 39, down the bottom of the page, in the last complete paragraph, Peter Lucas-Smith, he says:

35

"I think there is certainly that people who live in the rural areas understand what the impacts or the potential impacts of fire is."

40 Obviously you cannot interpret what he is saying, Mr Castle, but is that a topic you discussed with Mr Lucas-Smith, the general level of awareness of people in rural areas about the potential impact of fire?

45 A. No, I don't believe so.

Q. Never?

A. Before the event?

Q. At any time.

A. I may have over the years.

5

Q. Has Mr Lucas-Smith expressed that sort of view to you over the years about the level of understanding of people in rural areas?

A. I think various landowners may have even demonstrated, because some of them are members of the Bushfire Service.

Q. Have you ever discussed with Mr Lucas-Smith what the people in urban areas understand about the potential impact of fire?

A. Not in the context here. The reverse I presume you are saying.

Q. Well, Mr Lucas-Smith, in his statement here, seems to be singling out people in the rural areas as having an understanding. He does not refer to people in urban areas. What I am concerned to know is whether you have ever discussed with Mr Lucas-Smith his views about the level of understanding of people in urban areas of the risk of bushfire?

A. I think there is a lot of content in which you have just asked me. I think we have discussed at various stages information along the lines of the programs that we went through in detail.

Q. Have you ever heard him express a view about the level of understanding of people in urban areas about the risk of bushfire?

A. He may have.

Q. Do you recall what he said?

A. No.

Q. What his view was?

A. No.

Q. Whether you recall his precise words, do you have a recollection of what his general view about that subject was?

A. No, I don't think I have a view about what his general view was.

Q. One way or the other?

A. I don't think so.

5 Q. So either before or after these fires he has
not said to you in words, or in substance, "Look,
I think the people in urban areas either do or do
not understand what risks they face?" Has he ever
said something of that effect to you?

10 A. Not to that effect.

Q. Anything about his knowledge or his belief
about the level of understanding in urban areas?

15 A. I don't think I could say one way or
the other.

Q. Mr Castle, on Thursday, before Mr Stitt asked
you some questions, and before and after, I was
asking you about the agreements and protocols
referred to in paragraph 107 of your statement.

20 I want to go back to that. Trying to get
the chronology as straight as we can, as
I understand it you talked about there being some
co-ordination in place from early on in the fires,
and that co-ordination was something Ms Amy Lowe
25 was involved in; is that correct?

A. I think I said she may have been. There may
have been discussions. There were discussions
between her and New South Wales, as I understand
it.

30 Q. Did she tell you what the effect of those
discussions were?

A. Not that I can recall.

35 Q. On what basis did you say in your statement,
at paragraph 108:

40 "So right from the early days we agreed with
New South Wales that they would talk about
the fires they were managing and we would
talk about the fires we were managing."

45 Putting aside the question of agreement or
understanding, on what basis did you say in your
statement that from the early days there was an
agreement or understanding to that effect?

A. I think it was the courtesy of talking about

the jurisdiction responsibilities.

Q. I see. You did refer to courtesy on Friday,
and I suppose that was the part where I was
5 unclear. Is what you are saying, in effect,
Mr Castle, that the nature of the understanding
was simply a position that you, as the ESB took,
that you thought it was appropriate only to talk
about things for which you were responsible; is
10 that how it started?

A. I think even back in 2001 when we actually
brought people in, what we tried to do was
actually have the people who were supporting talk
about their particular aspects. So I think in
15 terms of the courtesy, I think it is based on
jurisdiction.

Q. I understand that. But what I am trying to do
is get a sense of whether there was - I suppose
20 what the lawyers would call - a meeting of minds,
a point between someone on behalf of ESB and
someone on behalf of New South Wales where this
understanding developed or from which this
understanding developed, or whether it was simply
25 something that the ESB unilaterally felt it was an
appropriate way to conduct itself?

A. I suppose it was - I don't think it was a
meeting - I don't think it was a meeting of
the minds. You mean, did we actually discuss it
30 and then agree?

Q. Yes.

A. Not that I can specifically recall, but
I think the fact that the liaison was going on
35 between the two agencies, I think there was a
deferment by all that they would actually look
after the details of the fires that were in their
areas.

Q. All right. So you are saying that just
developed in a practical way, but there was never,
as far as you know, any point where people sat
down and actually came to an understanding about
it?

A. I don't think there was a formal
45 understanding, or a point in time where I could
definitely say that there was an understanding.

Q. All right. I was asking there specifically about what you have described in your statement as "the early days". I now want to go to what I understood you to be saying on Thursday, that
5 when Mr Wade was appointed as the liaison person, which you think you thought was on about the 16th?
A. I think he arrived on the 16th.

Q. That understanding, if you like, firmed up in
10 some way, is that what happened?

A. I think they then had a representative there that was knowledgeable and had intimate dealings with their own jurisdictions. I think that was the point in which I felt there was an
15 understanding.

Q. All right. I gather from what you are saying, Mr Castle, there was never any discussion with Cameron Wade, at least in which you were present
20 or told about, at which the terms of that understanding were articulated or someone said, "Look, I think it is appropriate that you deal with the New South Wales fires and we will deal with the ACT fires"; is that the position?

A. I think it may have come after the discussion
25 with Mr Keady and Mr Koperberg.

Q. That is on the telephone after the 15th - on the 15th of January?

A. I think it may have been.
30

Q. When you say it may have come after, are you saying it was during that conversation that the understanding may have arisen?

A. It may have.
35

Q. What were you told about that conversation that led you to that view, Mr Castle?

A. I think Mr Koperberg would actually make
40 comments about their situations, their fires.

Q. As I understand it, Mr Castle, and we may need to go back to the passage, but Mr Koperberg's comments on the Wednesday afternoon, they were
45 largely directed at McIntyre's, weren't they?

A. I thought he said in the state.

Q. Perhaps we should have a look at it.

A. You said in the state and in the ACT.

Q. That was the television comment. I think that
5 precipitated that phone call, is that right, as
I understand it?

A. I think so.

Q. I am reading from a summary I have of it, but
10 I think it is a word-for-word transcription:

"This is probably the worst threat to this
part of the state in many decades.
The Brindabella complex of fires cause
15 certainly a potential threat to some very
valuable assets not the least being some
mature pine forests on the border of
Canberra, and indeed the ACT itself.
The weather is going to deteriorate again at
20 the weekend and possibly quite severely.
The job is still ahead of us."

He seems there to be talking only about New South
Wales' responsibilities, doesn't he, Mr Castle?

25 A. He does.

Q. Why would Mr Keady be concerned to discuss
with him a concern about the area on which each of
them comments when it appears he does not seem to
30 have transgressed that position?

A. I don't know.

Q. Is it the case, or is it your understanding,
Mr Castle, that that understanding was discussed
35 between Mr Keady and Mr Koperberg on the Wednesday
evening during that phone call that has been
referred to?

A. I can only presume.

40 Q. Why do you presume that?

A. Because I thought that is what Mr Keady was
going to talk to Mr Koperberg about.

Q. Presumably at some point shortly after
45 the 15th is it the position you became aware that
there was an understanding that each would talk
about their own fires?

A. I think - it was my understanding that the courtesy, the understanding would be that.

Q. Did Mr Keady say anything to you about it?

5 A. Not that I can recall directly.

Q. Did you discuss it with Mr Wade on the Thursday when he arrived?

10 A. I don't think I saw him arrive, and I don't think I had any detailed discussions with him.

Q. So it is the position that you didn't have any - you personally didn't have any discussions with Mr Wade where either an existing
15 understanding was spoken of or one was confirmed or --

A. It may have been in leading up to the 17th, the way in which it was actually arranged, that he would actually follow us.

20

Q. So you are saying, are you, that the way in which particularly the conference on the 17th was held gave rise to your belief that such an understanding existed; is that the position?

25 A. Yes, contributed to it.

Q. But is it the case, Mr Castle, that you personally at no time had any conversation with anyone on behalf of New South Wales Rural Fire
30 Service in which the existence of this understanding was discussed?

A. Sorry, I didn't catch the start.

Q. Is it the case that at no time did you have a
35 conversation with anyone on behalf of New South Wales Rural Fire Service during which this understanding was discussed?

40 A. I don't think I can be as definite as that, "no time". In some of the conversations it may have been raised, but not to my conscious recollection.

Q. All right. Do you recall having a discussion
45 with anyone else, and that is someone like Amy Lowe or Mr Lucas-Smith, where they said in words or in substance, "Look, we have spoken with Cameron Wade or someone else and this is

the understanding in relation to the way in which we will discuss these fires"?

A. Not that I can recall directly.

5 Q. You see, the difficulty, Mr Castle, is that on a reading of paragraphs 107 and 108 one is left with the clear impression that there was a protocol, an agreement or an understanding - and I don't want to get caught on the terminology -
10 under which you and Mr Lucas-Smith were effectively precluded from discussing details or, more importantly, threats from the McIntyre's Hut fire; and that is just not the case, is it?

A. I don't think that is what I am trying to
15 portray there. I think what we are trying to say is the detail and the specifics of what it is about the fires was being concentrated on in both jurisdictions.

20 Q. You understood when you prepared your statement, didn't you, Mr Castle, and we have been through this before, that there was a real issue about the adequacy of the warning given to the Canberra community in relation to the threat
25 posed by these fires, including McIntyre's Hut?

A. Oh, yes.

Q. And you were sensitive, weren't you, to the fact that on the 17th at midday Mr Lucas-Smith
30 is saying in a conference with the media the chances of the fire hitting the urban edge was slim, weren't you?

A. Oh, yes, I was there.

35 Q. And certainly after the event you were very sensitive to the fact that he dramatically understated the threat?

A. They are your words. I don't know whether we
40 "dramatically understated the threat" at that particular time.

Q. It certainly became apparent afterwards, and this time I am happy for you, with the benefit of the hindsight, it certainly became apparent
45 afterwards that he had dramatically understated the threat, hadn't he?

A. With hindsight.

Q. That was something of which you were aware when you prepared your statement, wasn't it?

A. I am not too sure that I had it in my conscious that that was dramatically understated.

5

Q. All right. Again, we don't want to get too bogged down in the terminology, but you were conscious that there was scope for significant criticism to be made of the lack of clarity and the lack of warning that had been given during that conference on the 17th; that is right, isn't it?

10

A. I think I have said with hindsight we would do better.

15

Q. That is right. That was something you were acutely conscious of when you came to prepare your statement?

A. I was conscious of it.

20

Q. What I want to suggest to you, Mr Castle, that in drafting paragraphs 107 and 108 you were, after the event, trying to, in effect, establish some excuse or explanation as to why more was not said on the 17th; that is the purpose of 107 and 108, isn't it?

25

A. No, I don't believe it is. What I believe it is truthfully trying to indicate that in terms of what we were trying to do is give the information that I, we, thought was possible, and all I was pointing out there was the aspects of what we were talking about and, I believe, that we were talking about the fires in our area predominantly.

30

Q. That may be the case when you analyse the transcript, Mr Castle, but at the moment what I am analysing is your statement. Where at paragraphs 107 and 108 what you are effectively saying to the reader is, I suggest to you, is "look, the reason we didn't talk more about the threat from McIntyre's is because we had an agreement or protocol in place with New South Wales which effectively meant we were not able to". That is what you are trying to say there, isn't it?

35

40

45

A. No, I don't think I'm saying that. I'm saying if we were asked we truthfully gave what our

impression was, but I think in most of those it was indicated, "but you should check with New South Wales for the detail, they can actually talk knowledgeable". All I am trying to portray is that truthfully what I believe we were saying at that particular time.

Q. The true position is, if you had been asked about the threat from McIntyre's Hut or if it had come up, there was nothing stopping you from talking about it, was there?

A. The threat to --

Q. To the ACT?

A. I don't think there was anything specifically other than a courtesy, that the details, and it would have that caveat on it, and that is what I understood to be portraying in those paragraphs.

Q. I think what you are saying is if someone asked about the detailed operational issues, that is how many tankers are on the north-west corner or what back-burning is being done, you might have a problem with that because it is not something you are responsible for; that is right, isn't it?

A. I don't think it was limited to the specifics of the actual operations and what the tankers were, the strategies, the objectives, and overall impressions.

Q. What about threats?

A. Well, I suppose from their perspective they commented on the threat. I think from our perspective - I don't think there was anything specifically other than in the back of my mind, my mind at least, an understanding of that is what we were doing.

Q. But you were commenting on the ACT fires?

A. Yes. But I mean even mine, I would actually talk about what our assistance was or - I can't recall exact references in all the media interviews that I did - but I may have. But I was conscious, I think, of that courtesy, and that is all I am trying to portray there, that it was a courtesy and that is why I think the press conference of the 17th was set up that way.

Q. Well, it appears that was the logistics of the press conference, Mr Castle. What you have said in paragraph 17 is that Mr Lucas-Smith stated there was not a great likelihood of the ACT
5 fires - he did not actually say that, did he. He just said "the fires"?

A. Yes.

Q. Coming and threatening the suburbs under a
10 north-westerly wind. You then say:

"The agreement and the protocols we had in place with New South Wales was that we would talk about the ACT fires only. If anyone
15 wanted detail on the New South Wales fires they needed to contact the New South Wales media staff. Phil Koperberg had had a media person sent to the ACT on the 16th."

20 You then say in paragraph 108:

"ESB releases consistently only referred to Bendora fires."

25 I think you agreed with me yesterday that that is not true?

A. Not in the very first days when we had involvement.

30 Q. And indeed, you were continuing to comment on, at least in interviews on the McIntyre's Hut fire in the days leading up to this conference, weren't you?

A. Sorry, in the?

35

Q. The days leading up to this media conference?

A. I was?

40 Q. Continuing to comment on aspects of the McIntyre's Hut fire in the various interviews you were conducting?

A. I think I said at various times I may have commented on McIntyre's.

45 Q. "So right from the early days we agreed with New South Wales that they would talk about the fires they were managing and we would talk

about the fires we were managing."

You are now accepting, aren't you, that there was no such agreement?

5 A. I think --

Q. There was not --

A. There was no formal agreement.

10 Q. Well, I think you have said, and even a lay person, Mr Castle, understands that an agreement is, at least to some extent, where two people sit down and come to a conclusion about something. What you are saying to me, as I understand it now,
15 there was nothing like that. It was simply a view that was formed and a courtesy that was offered?

A. I think it was a reciprocal courtesy.

20 Q. But there was no point at which anyone sat down and said "Look, this is what we should do." You said that earlier?

A. I don't recall anybody specially saying that is what we would have done. But that was the impression.

25

Q. I want to suggest to you that the reason you have elevated the nature of that arrangement in these two paragraphs is in order to explain after the event why more was not said at that media
30 conference about the threat to the Canberra suburbs?

A. No, I don't think - that was not the purpose of that at all.

35 Q. So we can take it from that, can we, Mr Castle, that if a threat to the Canberra suburbs was perceived, there was nothing that either you or Mr Lucas-Smith needed to - no approval or no step that needed to be taken in
40 order to alert the Canberra community that the threat existed?

A. Put in those terms, I suppose not, other than - I mean, if that was the specific case, then operations might talk to operations and actually
45 form --

Q. And get that information?

A. And get that information.

Q. After the press conference on the 17th, Mr Castle, or apparently at about the same time
5 there was a media update provided. That is document [ESB.AFP.0110.0900]. Similar to the last one I took you to some time ago now, Mr Castle, this one does not begin with the quotes or anything of that kind. It just launches into the,
10 if I can use the expression, more technical information about what is happening to each of the Bendora and Stockyard fires, and then has the reference to obtaining information.

15 "Information on McIntyre's Hut and Mt Morgan fires can be obtained from the Rural Fire Service."

Is that correct?

20 A. Yes.

Q. It also refers in the last page to the Canberra Connect website being established.

A. Yes.

25

Q. And contains a map of the various fires, including the McIntyre's Hut fire. There seemed to be some uncertainty, if I can use that expression, during the course of Mr Lucas-Smith's
30 evidence about the point at which the ESB media updates began including information for the benefit of residents or the people of Canberra about what to do if affected or threatened by a bushfire. No such information appears in this
35 document. Is it your understanding that at least at no point up to 12 noon on Friday - apart from references to the Canberra Connect website - did any media releases contain information to assist residents as to what they should do if threatened
40 by fire?

A. I wouldn't be 100 per cent certain, but I don't think so.

Q. We don't seem to have any that would suggest
45 that they were. I will come to what appears to be the first one and ask you again about it then. At about the same time it would appear the New South

Wales Rural Fire Service is putting out a media release [NSP.AFP.0047.0409]. It appears to start dealing with specific fires, or more specific information, about the third or fourth paragraph
5 down.

A. Yes.

Q. It says:

10 "Containment lines on McIntyre's Hut fire will be tested - Brindabella National Park. Containment lines are complete on this fire, however, they will be tested today. There is
15 currently no immediate threat to any property. Firefighters are concerned that strong wind gusts could cause spot overs which could impact major pine plantations in the ACT."

20 A little further down, "aerial incendiary drops are being considered today depending on weather conditions". Are you aware as to whether or not this press release was available to you, or did
25 you have it at about this time, about noon on Friday the 17th?

A. I don't think we did. I think it is issued out of Sydney.

30 Q. Did you have an arrangement or a system in place at ESB where someone monitored New South Wales Rural Fire Service media releases for what they were saying in the press?

A. There may have been in the media unit.

35 Q. Apart from going to the website or following the suggestion in the media release that you issued, how would a Canberra resident go about finding out what was occurring in relation to the McIntyre's Hut fire, Mr Castle?

40 A. I think, I presume they could ring - I mean, they could ring Canberra Connect.

45 Q. And are you able to say now if they asked about the New South Wales fires or McIntyre's Hut fire what they would have been told by Canberra Connect?

A. I don't know. I can only presume that they

would be directed to a source, and it would have either come to ESB or to Queanbeyan in the first instance.

5 Q. If it had come to ESB where would that have inquiry then gone?

A. Probably into the media area in the first instance.

10 Q. The ESB media area?

A. Probably.

Q. And where would they have been sent then?

15 A. They may have, depending on the nature of the question, they may have actually been given a number in Queanbeyan.

Q. That is a reasonably - I should not say
20 onerous - certainly it is not a very straightforward way of finding out how Canberra may be threatened, or even the ACT may be threatened by these fires, is it, Mr Castle?

A. No, it is not a direct method.

25 Q. It is the case, isn't it, that you rely on the media, and to having received a media release such as this to then put that information out to the community?

A. Yes, we rely on the media.

30

Q. They may or may not include in any press clipping or any other document that they issue that, "Look, if you want to hear about the New South Wales fires you have to ring Queanbeyan".

35 They would not necessarily be hearing that, would they?

A. I am not too sure. Possibly not.

40 Q. Did you have any way of knowing whether or not the ACT media were getting these releases from the New South Wales Rural Fire Service?

A. Not at the time, no. Not that I am aware of.

45 Q. As far as you are aware, at about midday on that day, the 17th, was anything being published to the community, the Canberra community, the ACT community, about threats from the McIntyre's Hut

fire?

A. Not that I am aware of.

5 Q. Was there any system in place to check as to whether that was occurring?

A. There may have been in the media cell.

10 Q. Who should we ask about that?

A. I presume Marika Harvey.

15 Q. At this time, Mr Castle, obviously those involved in operations were preoccupied, it is fair to say, with the task of actually fighting the Stockyard and Bendora fires, weren't they?

A. I presume so.

20 Q. You, I think you told us a number of times, had no role at all in that process, did you?

A. No.

25 Q. What were you doing, Mr Castle, during the 17th to ensure that people in Canberra were getting the information they needed about the threat being posed by these three fires?

A. I suppose it goes back to we didn't think there was an immediate threat. So in that respect I don't think I was focused on a specific immediate threat.

30 Q. On the material we have seen, at least some of it was suggesting that, although that appears to have changed on Friday morning, but let me ask you: did you understand there could well be a threat by Monday, when particularly bad weather was anticipated?

35 A. I presume that with that bad weather there could be.

40 Q. Let's assume that was reliable information. That is still only two days away, including a weekend, isn't it?

A. It depends how you measure the 24-hour period.

45 Q. All right. Two to three days?

A. Yes.

Q. People were thinking about whether or not to

go away for the weekend, down to the beach?

A. They could be.

Q. That is a pretty common thing for Canberrans
5 at that time of year, isn't it?

A. I presume so.

Q. Anyone who read the 'Canberra Times' that
morning would have seen Mr Lucas-Smith saying,
10 "Don't worry, there is not any threat", isn't he?

A. I accept what you said.

Q. Perhaps I should ask you this: in those
circumstances why wasn't something being done, at
15 least by midday on the Friday, to let people know,
Mr Castle, that there was at least a risk; maybe
not an immediate risk, but certainly a risk that
some time over the weekend, or perhaps on Monday,
that they may personally be affected by bushfire?

20 A. I don't think I could say that.

Q. You couldn't say that?

A. I don't think I could personally say that.

25 Q. Well, what is the down side, Mr Castle, even
if in your mind it was a remote risk, for you as
the Emergency Services Bureau to tell people,
"Look, we don't think it is a serious risk, but it
is a possibility." To use your words, it is a
30 potential threat. It may happen some time, it may
happen in a day, it may be two or three days off,
but just be aware that this may be coming"; why
wouldn't you tell people that?

35 A. I don't think there was any conscious reason,
and with hindsight I wish I had.

Q. No-one is going to blame you if you are wrong
and the fire is stopped, are they?

A. No.

40

Q. As I understand what you are saying, at this
stage on the 17th there was nothing at all in
terms of instruction or advice that you were
getting or anyone else in ESB was getting which
45 inhibited in any way you going out with that kind
of message; is that the position?

A. I think so.

Q. At 3.30pm on Friday 17 January, or about that time, it appears that a media update was in the course of being drafted [ESB.AFP.0110.0904]. Is that your handwriting?

5 A. No.

Q. Do you know whose it is?

A. I believe it is Mr Keady's.

10 Q. Mr Keady's?

A. I believe so.

Q. This draft shows you being quoted as saying - perhaps I should read the whole thing:

15

"ACT Emergency Services Bureau Executive Director Mike Castle said today that the smoke that is currently blanketing the ACT is coming from the McIntyre's Hut fire in New South Wales, and that residents should not be unduly concerned as the NSW Rural Fire Service reports that the fire is still well within containment lines."

20

25 Just reading the draft without the amendments:

"Mr Castle said, however, that residents in some areas may see flying embers and xxx, but not to be concerned??"

30

Whose drafting is that?

A. Whose?

Q. Who has drafted that original draft, do you know?

35

A. I presume the media cell.

Q. They seem to be sort of leaving it open as to whether or not people should be concerned. Did you see the draft in this form?

40

A. I don't think so.

Q. Can you assist? Do you have any knowledge of what the media cell was endeavouring to get assistance about when they are saying "not to be too concerned??"

45

A. No.

Q. All right. It says:

5 "Mr Castle said the residents can access
the latest ACT bushfire information through
Canberra Connect. Provide information on
status of both the Bendora and Stockyard
fires, land and property damage, weather,
total fire bans, roads and nature park
closures."

10

At least in the first paragraph what this message
is saying, and I should say the first paragraph
appears in what I understand is the final draft,
and I will come to that, or the release that went
15 out - I will come to that in a moment - it is
talking about the New South Wales fire and saying.

20 "Residents should not be unduly concerned as
the New South Wales Rural Fire Service
reports that the fire is still well within
containment lines."

That is not quite what the Rural Fire Service is
saying, is it, Mr Castle, at that stage?

25 A. It is not --

Q. At least it is part of what they are saying
but it is not all of what they are saying, is it?

A. That is not what went out.

30

Q. The document that I understood to be the one
that went out is a document that is at
[ESB.AFP.0110.0910]. Is that what went out?

A. I believe so.

35

Q. I am not sure what the difference is in that
first paragraph?

A. It does not have the word "well".

40 Q. Is still within containment lines?

A. That is my understanding.

Q. Did someone suggest that the word "well"
should come out?

45 A. I presume so.

Q. It wasn't you?

A. It may have been.

Q. Working on the final draft, that is not the full story that in fact the New South Wales Rural Fire Service is providing, is it? What the Rural Fire Service was saying at 12 noon in that media release I took you to earlier is they say "containment lines are complete on this fire", and then in the same sentence:

10

"However, they will be tested today. There is currently no immediate threat to any property. Firefighters are concerned that strong wind gusts could cause spot overs which could impact major pine plantations in the ACT".

15

That is what their 12 noon release said, isn't it?

A. Yes.

20

Q. Are you able to say why those slightly more pessimistic aspects of what New South Wales Rural Fire Service is saying didn't make their way into the ESB's release?

25

A. I presume it was not communicated or was not discussed.

Q. So something must have been discussed because apparently New South Wales Rural Fire Service reports that the fire is still within containment lines. That got into the release?

30

A. Yes.

Q. Are you suggesting that perhaps that part was picked up from the --

35

A. I presume so.

Q. But you would agree, wouldn't you, Mr Castle, that if that has come out of the New South Wales Rural Fire Service release at 12 noon or some other information, it is giving the good news but not the slightly more pessimistic aspect, isn't it?

40

A. It is not stating the whole amount of what New South Wales said.

45

Q. Again, are you able to say why that more

cautionary tone does not appear in this ESB release?

A. No.

5 Q. We then have what appears to be the quote:

10 "'Because of the prevailing winds, ash and burnt materials may be deposited in some suburban areas of Canberra', Mr Castle said. The McIntyre's Hut fire and the two fires in the ACT continue to be closely monitored both on the ground and from the air."

15 Then you refer to the possibility of accessing the Canberra Connect website. This is perhaps --
A. And the call centre.

20 Q. Yes, thank you. This may be a little awkward for John, but if you could compare that to the previous draft, it appears that Mr Keady has redrafted or suggested a redraft in similar effect but not identical. What he is suggesting is:

25 "Mr Castle said however that because of prevailing wind conditions, ash and burnt material may be deposited in some suburban areas of Canberra."

30 You may be able to assist here, Mr Castle. The first word in the amendment down the bottom, it looks like "the", but it does not make sense if it is.

A. It does look like "the".

35 Q. I will just read it. Assuming that is the word "the" because it looks like a capital T:

40 "May be deposited in some suburban areas of Canberra. The - this and other fires affecting the ACT continue from the ground and the air."

Is that what it appears to say to you?

A. That is what it appears to say.

45

Q. So Mr Keady obviously has made some suggestions about how that should be put; is that

correct?

A. It would appear so.

Q. And someone has tidied that up, is that what
5 has happened?

A. It looks like somebody has put that into
quotes.

Q. How is it that Mr Keady, the head of your
10 department, Mr Castle, is drafting amendments to
media releases going out by the ESB?

A. He attended the briefings and spent a
considerable amount of time there. So I presume
he is providing constructive input.

15

Q. Isn't that your role, Mr Castle?

A. Yes.

Q. I understand he may have had some information
20 based on the planning meetings, and his attendance
at them, but how is it part of Mr Keady's role to
be settling in effect, or commenting or amending a
press release by the ESB?

A. I presume it is actually putting input into
25 it, asked by people who may have - he may have
gone and spoken to somebody.

Q. It seems, if I may say so, an odd thing for
someone in his position to be doing?

30 A. I think he was highly interested in this part
of his department.

Q. And presumably vitally interested in
the message that was going out to the community?

35 A. I don't know.

Q. Did you discuss this with him?

A. This particular aspect?

40 Q. Well, perhaps more generally first, did you
discuss with him the issue of the pre-releases
that are going out and what tone should be
adopted?

A. I don't believe we discussed it in the way you
45 put it.

Q. In what circumstances was he being approached,

to your knowledge, by people in the media cell and not you? Why was that happening?

5 A. He might have been there available, seeking some words, some input. He is the Chief Executive of the department, so I suppose --

Q. But he does not have any relevant training, or it would appear, in operations or anything of that kind?

10 A. Not that I am aware of.

Q. Do you know whether he has any media training or anything of that kind?

15 A. I wouldn't know.

Q. You don't recall specifically the circumstances in which he came to be suggesting how this release should be drafted?

20 A. No.

Q. I should ask you again, Mr Castle: I suggest to you that the overwhelming effect again of this release in the way that it provides the positive side of the story, namely New South Wales are saying the fires are still within containment lines, people should not be unduly concerned, the overall effect of it does seem to suggest that there really isn't too much to be concerned about at this time; isn't it? Is that a fair reading of the document?

30 A. I think you are actually changing "unduly concerned". Don't have any concern or --

35 Q. Sorry, I thought I used those words. But the overall effect is that people are thinking, "Well, everything seems as though it is under control"?

40 A. At this particular time, I think that was the - that is the message there.

Q. Do you think it would be unreasonable for someone, having looked at that, to think, "I am sure if there was anything to be concerned about they would be telling us"; that wouldn't be unreasonable, would it?

45 A. With hindsight, no.

Q. If you were reading this at the time, assuming you got access to the whole of the media release or the whole thing was reported, it would be reasonable for you to think that there was really
5 nothing to be concerned about at this stage from these fires, including McIntyre's?

A. No, I think - you have used the words "nothing to be concerned about". I don't think that says
10 "nothing".

Q. It certainly does not say there is a threat from these fires, does it, Mr Castle?

A. It does not use the word "threat".

15 Q. It does not say what the New South Wales Rural Fire Service was saying, that there was a chance that it may break containment lines or that it might spot over and threaten the Uriarra pine plantation?

20 A. No, it does not say that.

Q. So it would be reasonable for someone reading it to think, really, "I am sure if there was anything, any threat, they would be saying it"?

25 A. People could presume that.

Q. In the brief there is a short transcript of - I don't want to say interview, Mr Castle, because it is one of those that could well be
30 simply an interviewer or radio announcer making a statement followed by a grab from you.

A. I think it is a grab.

Q. Just excuse me for a moment. I have jumped
35 ahead of myself. I just wanted to ask you about an e-mail that Kate Keane has apparently sent to a number of people, including yourself. I think it is document [ESB.AFP.0014.0317]. She is sending it - is this to the Emergency Management
40 Committee? Is that the recipients, as far as you know, Mr Castle?

A. I think this, in effect, yes. But I think there are some extra people in there as well.

45 Q. Because the subject of the e-mail is establishing an evacuation contingency working group, is that correct?

A. Yes, that appears so.

Q. It says:

5 "Please note that information and daily
updates regarding the bushfires can now be
obtained from the Canberra Connect website.
The weather conditions over the following
10 five days present extreme fire danger and
significant work is being undertaken to
ensure secure control lines are in place.
The ACT Fire Brigade will be forming an
evacuation contingency working group, as a
15 preparedness measure only and will be seeking
appropriate agency representatives. There is
no immediate requirement to evacuate areas."

Then she warns people who are likely to be
contacted about this working group. Were you to
20 have any role in relation to the working group,
Mr Castle?

A. I don't believe so. I am not sure I was aware
at that particular time that that was going ahead.

25 Q. You seem to be one of the recipients, but you
may not have read it at the time?

A. Yes, that is right.

Q. Did you know at the time - perhaps if I say
30 this - on the Friday that this working group was
being established?

A. I am not too sure at the time.

Q. I will now go to the radio 2CC at 1630,
35 [DPP.DPP.0004.0008]. The interviewer begins by
providing a bit of background.

"It is reported that evacuation plans are
being considered for the Thredbo ski village.
40 The village is packed with summer holiday
tourists. Mike Castle from Emergency
Services says fierce conditions in the ACT
probably won't improve this weekend."

45 I think, as you rightly say, this seems to be a
grab from something you have said:

5 "Today will not be a good day fire
weather-wise, and the same probably for
tomorrow. If we can continue to pick up any
spot fires that do come over with the water
bombing aircraft. If they are close to our
containment lines and within hose length,
then we can put crews on it. But if not then
it is back to that sort of rugged country
again and water bombing and then pull back
10 outside those containment lines to establish
new containment lines."

Do you recall where the information that you have
apparently provided there came from, Mr Castle?

15 A. No. It may have been earlier in the - I can
only presume that it was earlier in the day,
because it says "today will not be a good fire
day".

20 Q. You were certainly aware, weren't you, by that
stage for the potential for spotting to make it
very difficult to maintain containment lines?

A. With the weather.

25 Q. With the weather deteriorating; is that
correct?

A. At this time at 1630?

Q. Well, during the course of the day?

30 A. With the weather worsening, there is always
the chance of spotting.

Q. Because you know enough about fire behaviour
and the way fires burn to know that it is one
35 thing to have a containment line all the way
around a fire, but if you have substantial unburnt
areas within containment lines and weather
conditions deteriorate, the main threat to
the containment lines is spotting over those lines
40 and new fires beginning outside the lines; is that
something you understood at the time?

A. In a general sense, yes.

Q. That is the risk that you are referring to in
45 that update?

A. I presume so.

Q. You had no reason, one way or the other, did you, to know whether the New South Wales Rural Fire Service was dealing with exactly the same sorts of problems; was that something you thought
5 about at the time?

A. Not consciously.

Q. Well, just as a general question, we have seen references in material to the containment lines
10 being complete and so on. Did you have any reason to think that so far as McIntyre's Hut fire was concerned that the New South Wales Rural Fire Service were going to have fewer problems than your people were going to have on these other
15 fires?

A. I think they had a lot more aircraft than we did, so in that respect, possibly, yes.

Q. Is it the case or were you aware at the time
20 that they had a very substantial area still to burn out within containment lines?

A. I cannot say that I was conscious of how much was burnt and how much was not.

Q. Were you aware of the containment lines and the concern that had been expressed in the various media releases, including I think by Mr Wade that day, that containment lines particularly on the south and eastern side of McIntyre's Hut were
30 quite shallow?

A. I don't think - well, I think that was what Mr Wade said in the press conference midday.

Q. You think you might have been conscious about
35 that from the conference at midday?

A. I may have heard it, I was conscious of it.

Q. Just remind me, Mr Castle, in terms of hierarchy, your position also has you as being
40 effectively responsible for the ACT Fire Brigade as another part of the ESB; is that correct?

A. Administratively.

Q. Did you have any operational position or role
45 in relation to the fire brigade?

A. No. Not that I am aware of.

Q. Are you aware that on 3 October 2000 under section 5.1 of the Administration Act Mr Gary Humphreys delegated to yourself, being the person at that time executive director of the ESB, and to Mr Keady, a number of delegations, in particular the power to supervise or direct the performance of functions, duties and powers of the fire commissioner; is that something you were aware of at the time, that you had been delegated those powers? You would be, wouldn't you?

A. I was aware of the delegations. It was largely for administrative purposes, is my understanding.

Q. I am not sure what section 12 of the Fire Brigade Administrative Act 1974 says, but it appears that you have been delegated a specific power under that section to supervise or direct the performance of functions, duties and powers of the fire commissioner?

A. I think that was in relation to his contract.

Q. What aspect of his contract?

A. I think the performance of it, in the reporting, I think.

Q. At least in theory it would appear to have given you power to give directions to the fire commissioner about operational matters, doesn't it?

A. I don't think that was the intention of that at all.

Q. Have you ever exercised those powers or drawn to anyone's attention that you were in a position to exercise those powers?

A. No, I don't believe so.

Q. Were you monitoring what the fire brigade was doing to prepare itself for the deteriorating weather conditions in relation to these fires on about the 17th?

A. Not in a direct sense, no.

Q. Did you attend any meetings of the fire brigade?

A. No. No, not convened by them. Sorry. I

mean, I attended the meeting where we actually discussed the retrieval of the helicopter. That involved the fire brigade, because I actually asked the fire commissioner to form a separate
5 incident management team.

Q. Are you aware on about the 17th - I don't know the precise date - that the fire brigade was establishing its own IMT, incident management
10 team, in preparation for the forthcoming weekend?

A. I think I was aware that they were actually looking at a whole range of contingencies in terms of disposition and their own role.

15 Q. Can I ask you to have a look at [ESB.AFP.0110.0860]. It is a document headed "Incident Action Plan, ACT Fire Brigade."

It is dated as at 17 January, 1630. It says:
20

"January '03, bushfires McIntyre's Hut, Bendora dam, Stockyard, Mt Morgan, urban and rural/urban interface."

25 What would that be a reference to, Mr Castle, do you know?

A. Sorry, the heading?

Q. The words "urban and rural/urban interface",
30 given this is an incident action plan apparently being established by the ACT Fire Brigade?

A. I presume the city and the rural urban.

Q. So can we take it then that at least as far as
35 you know this incident action plan is directed both at - it is certainly, among other things - the urban area?

A. It would appear to be.

40 Q. Under the heading "Situation":

"Due to prevailing and forecast weather conditions fires in the Brindabella mountains and Namadgi National Park ..."

45 That would seem to be a reference, among others, to the McIntyre's Hut fire?

A. It would appear so.

Q. It continues:

5 "... are approaching Canberra, from
approximately 20 kilometres to the west, with
spotting near Tidbinbilla and Corin Dam.
Control lines have been established in order
to contain the fires to the mountains. At
10 present all bushfire resources are committed
to firefighting operations in the mountains.
However if spotting occurs in front of
the fire or breaches of the fire line, that
bring the fire close to Canberra, the ACT
15 Fire Brigade is the primary response agency
for the Canberra urban area and some
properties east of the mountains close to
Canberra.

20 Spot fires may occur up to 10-15 kilometres
in front of fires. Predominant NW winds are
likely to initially cause grass fires within
5 kilometres of Canberra's western boundary,
and later to structures and bushland areas
25 within the Canberra urban area. A number of
isolated structures that include Mt Stromlo
water treatment, and the observatory, Tharwa
village, lower Molonglo water treatment works
and other significant buildings such as
30 Lanyon homestead."

It goes on to mention farms and properties:

35 "The brigade has all urban pumpers manned,
with three heavy tankers crewed."

"Strategy":

40 "To protect life, property and
the environment within ACT boundaries and
assist the Rural Fire Service in protecting
life, property and the environment outside
the ACT boundary."

45 Then over the page, some general information,
"courses open", and then "response":

"Structures, built up area, as per SOP4."

That is "standard operating procedure", is it, number 4?

5 A. I presume "SOP" stands for "standard operating procedure".

Q. It says:

10 "Cottage fires. Two pumpers for first alarm. Outside built up area two pumpers and tanker for first alarm. Grass/bushfire."

And nominating the relevant SOPs for those. Is that a document you saw on the 17th?

15 A. No.

Q. Were you circulated with these IAPs?

A. No.

20

Q. Are you able to say where the author of this document, who no doubt we will try to track down, has got the information under the heading "Situation"?

25 A. I would not know.

Q. It is likely to be, isn't it, at least in part, based on what was said during the briefing at 2 o'clock, the previous day?

30 A. I have no idea. I could not comment.

Q. But certainly it appears at least the ACT Fire Brigade are starting to prepare for an impact on the ACT or Canberra urban area, aren't they?

35 A. By the nature of the heading.

Q. Yes. And also by the specific words "If spotting occurs in front of the fire, bring the fire lines close to Canberra", and those other references to structure and bushland within the Canberra urban area?

40 A. I presume so.

Q. Did you have any role or were you informed by Mr Bennett or anyone else with the ACT Fire Brigade about the fact that they were taking these steps?

45

A. I think he may have indicated that they were looking at contingencies.

Q. Did he say that to you?

5 A. He may have.

Q. What was your response?

A. I don't recall. I am not too sure it needed a response.

10

Q. When you say "looking at contingencies", Mr Castle, those contingencies include the impact of fire on the urban edge, don't they?

A. And also structures in the non-built up area.

15

Q. He actually say "to structures and bushland areas within the Canberra urban areas". That is one of the contingencies?

A. One of the contingencies.

20

Q. What other contingencies was he discussing with you?

A. All I am saying is from the document I read that.

25

Q. What contingencies was he discussing with you?

A. I don't recall specifically what contingencies. I don't think we went into that detail.

30

Q. Do you recall him mentioning the observatory, the Stromlo observatory?

A. Not that I can recall.

35

Q. At that time is it true to say that the only fire threatening the Stromlo observatory was the McIntyre's Hut fire? Is that your understanding?

A. With a north-westerly wind I presume that is the case.

40

Q. Can we rule out Bendora and Stockyard fires that may affect Stromlo observatory, can we, under the forecast weather conditions?

45 A. Under the forecast.

Q. So we can take it at least one of

the contingencies this paper is referring to is the McIntyre's Hut fire reaching the Stromlo observatory?

A. I presume so.

5

Q. Which means that it has got into the Stromlo pines?

A. If you extrapolate that, yes.

10 Q. Are you able to assist at all as to where this information is coming from at 4.30pm on 17 January?

A. No.

15 Q. Were these things you were aware of or had anyone mentioned to you at 4.30pm on 17 January, that structures such as the observatory might be at risk?

A. No, I don't believe so.

20

Q. Just one other matter before we take a break, Mr Castle. You made other requests for Commonwealth assistance during Friday the 17th, is that correct, at least one? Document [ESB.AFP.0110.0929].

25

A. Is that 005?

Q. That is 005, yes. Again, the third page of that document there are two fax covers. I notice, incidentally, the second fax cover - and you don't need to go back to it - is to Major Gary Smyth. Is he someone you were dealing with in relation to these requests?

30

A. Me personally, no. He is the Defence liaison person.

35

Q. You weren't dealing with him personally?

A. Not directly, no. I am not too sure whether he was in Canberra at that stage. They comes from Sydney, that support centre.

40

Q. Under the "Situation" section we have seen documents similar to this before:

45

"The bushfires that commenced on 8 January continue. The weather forecast for the weekend and early next week predicts

temperatures in the high 30s with strong winds gusting to over 60 kilometres per hour from the north-west, causing concern for the ACT urban environment. Fire operations are currently focusing on strengthening control lines, however there is potential for 10" --

10 I presume you don't mean 10-metre, do you, Mr Castle that should be 10-kilometre?

A. It possibly could be.

Q. It continues:

15 "Spot fires threatening the containment lines."

Is that the state of your mind as at 4.30 on 17 January?

20 A. It would appear so from this.

Q. Do you remember thinking at 4.30 on 17 January about, among other things, the potential threat to the urban environment?

25 A. I think it is the same - exactly the same words that I used earlier. And I don't think - concentration on that would have been focused on what the request was.

30 Q. Isn't the reference to 10 kilometres --

A. That is new.

Q. That is new, isn't it?

A. That is new.

35

Q. Where did that information come from?

A. I don't know. As I said, these were drafted probably by Kate Keane. She may have actually put that in there.

40

Q. Did you ask anyone about what the implications of a 10-kilometre spot fire might be, for example, within the McIntyre's Hut fire?

A. I don't think it was conscious.

45

Q. It is only a matter of geography. A 10-kilometre spot fire is going to potentially

carry fire certainly into the Uriarra pine plantation, isn't it?

A. Into the Uriarra, yes.

5 Q. And it is less than 10 kilometres from the most eastern side of that plantation into the Stromlo pine plantation, isn't it? Considerably less?

A. I don't know what the distance is.

10

Q. Is that something you discussed with someone on Friday? "Look, is it possible that these spot fires are going to carry this fire all the way to Canberra"?

15 A. Not that I can recall.

Q. So your best recollection in reference to that reference to the spot fires is that is something that Kate Keane put in there, is it?

20 A. I am saying they were drafted by Kate. She may well have taken that out of briefing material, or whatever. I am not conscious that I specifically sat down and drafted every one of those.

25

Q. Do you recall drafting those words?

A. No, not specifically.

30 Q. You certainly would have read it before you signed off on it, wouldn't you?

A. I presume that I would have read through it, but I might not have been concentrating specifically on every content of it.

35 Q. You don't remember being concerned that in a letter that is going out on the 17th that people are talking about 10-kilometre spot fires?

A. That I don't know, no.

40 MR WOODWARD: Is that a convenient time, your Worship?

THE CORONER: Yes, we will take the morning adjournment.

45

SHORT ADJOURNMENT

[11.30am]

RESUMED

[11.55am]

MR WOODWARD: Q. Mr Castle, I will just quickly
ask you about a transcript again. It appears this
5 may not be an interview, rather just a grab. We
seem to have adopted that expression. The
document number is [DPP.DPP.0004.0009]. It
appears to have occurred at around 5pm on
the 17th. The radio announcer says:

10 "Winds are causing concern for crews who say
the blazes could be pushed across lines and
flying embers may start spot fires. Mike
Castle from Emergency Services says
15 the Bendora fire front has been meeting with
containment lines."

You are quoted as follows:

20 "With the Bendora fire, our containment lines
along that sort of easterly and
south-easterly corner, the back-burn had gone
in and met the fire front, it is just a case
of how far it is likely to spot, as opposed
25 to a fire front, the fire front coming
towards it, we had even cut some trees down
and done that sort of preparation, but it is
the spotting distance, fanned by the strong
winds, that's sort of the most concern."

30 Again, I appreciate you are probably unable to say
when that grab is taken from. It appears to be
something that you would have been saying on
the 17th; do you agree with that?

35 A. It could well be, yes.

Q. That was about the time - is that your
memory - when the back-burn on Bendora is meeting
the head of the fire?

40 A. I have no idea what out of context I would
have actually, but I presume so.

Q. Are you again aware as a matter of a general
understanding of fire behaviour that often where
45 two fires meet that is a time at which you get
some of the most significant spotting activity out
of the fire?

A. No, I am not aware of that.

Q. Is that something you are aware of?

A. No.

5

Q. That seems to be the event that you are expressing concern about there, that is when the fire front meets the fire - the back-burn coming towards it, that spotting is going to be the issue.

10

A. I don't think it - I am not aware that the spotting increases where two fires meet. I am not that orientated. I could not say. It appears to me that all I am saying is that spotting is likely to occur over - I don't think I can say any more than that.

15

Q. Mr Castle, the next document I want to ask you about is an ACT Ambulance Service memorandum, [ESB.AFP.0042.0150]. It is a memorandum from David Dutton to all staff headed up "ACT Ambulance Service". Who is Mr Dutton?

20

A. He is one of the operations managers.

25

Q. Within the ACT Ambulance Service?

A. Yes.

Q. Where does he sit in the hierarchy?

30

A. He reports, I think at that particular stage, to the Acting Director of ACT Ambulance.

Q. Which is Mr Paulsen?

A. The acting director of that time was Mr Quiggin, I think.

35

Q. Wasn't Mr Paulsen around at that time?

A. Mr Paulsen had been put on the computer aided dispatch project.

40

Q. I see. So Mr Dutton was at this time reporting to Mr Quiggin?

A. I think that was the case.

45

Q. These are people again all under you ultimately, aren't they? I should not say "ultimately"; at least you are the next step-up?

A. They are part of the Emergency Services

Bureau.

Q. So you have, I think you would say, administrative responsibility for these people?

5 A. That's correct.

Q. If we could go down to the header of that memorandum. Is that familiar to you? Do you remember seeing that?

10 A. No.

Q. The second page of it, just so I can tell you, appears to have at the bottom "last printed 17 January 03, 1629." So to some extent that appears to time it at about 4.30 again on 17 January. Under "Current situation":

20 "There have been significant and rapid developments during this afternoon/evening (Friday). Fire has jumped to the eastern side of Corin Dam and there is also now fire near the Tidbinbilla Nature Reserve. There is significant concern that the fire could spread to pine forests and rapidly move towards Canberra. Staging points at Bulls Head (Bendora fire) and Orroral Valley tracking station (Stockyard fire) have been closed down and fire resources reallocated to patrolling Paddy's River Road. Ambulance is providing continued 24/7 support to fire operations with 2 units (1 ACT and 1 NSW) at stand-by locations in this area:

35 Then under the heading "Forecast for ambulance operations":

40 "Extreme fire weather conditions are forecast for Saturday 18 January. Continued ambulance support 24/7 for fire operations. Expanded ambulance operations directly related to the fires having the potential to impact upon rural communities to the south of Canberra and the suburban fringe."

45 So, Mr Castle, again it would appear that part of the ESB - in this case the Ambulance Service - is also preparing for impact on the urban fringe;

that is correct, isn't it?

A. There is a potential.

5 Q. They are making preparations for that event,
aren't they?

A. Has a potential, yes; that is what it says.

Q. I am not suggesting that it was already there,
Mr Castle, by the Friday.

10 A. No.

Q. Under "Forecast for ambulance operations"
the note is:

15 "Extreme fire weather conditions are forecast
for Saturday 18 January."

There is no reference to Monday. Is it your
recollection that by about this time, that is late
20 Friday afternoon, the focus - to the extent that
there had been a focus on Monday - was shifting
now back to Friday - I beg your pardon, to
Saturday?

25 A. I think so.

Q. Because I think I took you last Thursday to
some notes that were suggesting that at a planning
meeting that morning it looked as if Monday may
not be as bad as expected?

30 A. I think that was the case.

Q. That is your recollection?

A. Yes, I believe so.

35 Q. Well, are you able to say whether in your mind
on Thursday it was Friday that was going to be
the real concern for the forecast period in terms
of the usual forecast period of four to five
days - sorry, I beg your pardon, Saturday was
40 going to be the day of real concern over that
period?

A. I think the first concern, yes.

45 Q. There was a planning meeting on the evening of
17 January at 1800 hours, at 6pm. Did you attend
that planning meeting?

A. Yes.

Q. It starts off in the usual way with a report of fire operations, document [ESB.AFP.0110.0865]. Bendora fire. I will not read all of it, but just pick up a few items. The second paragraph:

5

"Information from NSW PWS reports the fire is near Brindabella Road, travelling to the south-east, between Piccadilly Circus and Brindabella. The fire is expected to cross Brindabella Road before 1830 hours. All crews were requested to leave the area at 1750. There is a possibility that this fire resulted from spotting from the McIntyre's fire."

10

15

Did you understand this to be a fire that was occurring outside the McIntyre's fire control lines, Mr Castle?

20

A. I can't say that this specifically focused on that. I thought this was talking about down in the Brindabella Valley, so the bottom of - I don't recall that comment.

25

Q. But if it is between Piccadilly Circus and Brindabella, doesn't that mean it has left the Brindabella Valley, or I suppose it is difficult to know?

A. No, it is on a slope.

30

Q. It goes on:

"It was reported during the meeting that a fire is now burning on both sides of the Mt Franklin Road, north of Bull's Head. Egress may prove problematical, however resources are able to get to Bull's Head, the arboretum or Bendora Hut."

35

40

What do you understand that to be saying, Mr Castle? Is there perhaps a typo there and it is "resources are not able to get to" - I am not sure I understand the reference to "however". Are you able to assist?

45

A. I am not either, and I am not intimately aware of the operations specifically.

Q. It goes on:

5 "There is an uncontained spot over in the
north-east corner of the Bendora Fire. Crews
withdrew to the Bull's Head survival shelter.
Water bombing was not possible on this spot
over as aircraft were deployed to knocking
down the spot over on the east side of Corin
Dam. There was a spot fire north of Bendora.
The fire crossed Brindabella Creek, and is
10 expected to cross the ridge 1.5 kilometres
north of the creek.

15 Stockyard fire. Crew were withdrawn at 1600
hours today to the Glendale for staging prior
to being deployed to Tidbinbilla Nature
Reserve and Paddy's River for structural
protection."

Just a little further down:

20 "Peter Lucas-Smith enquired about an
unconfirmed report that a military dozer had
been burnt over on the Mt Franklin Road.
There was no operator involved ... A spot
over is reported east of Mt Franklin Road.
25 There was an additional report of a fire on
both sides of the sealed road, less than 1km
from Smoker's Gap Trail."

30 Just pausing there, Mr Castle, I appreciate you
may not have been on top of the detail of all
the operational activity, but did you have an
impression as to the - what was your view about
the position that had been reached at that time in
relation to the control of these fires?

35 A. I am not too sure off --

Q. Can I suggest to you that a strong indication
from all of that is that the firefighting
authorities at all fires are losing control,
40 rapidly losing control of these fires; is that a
fair summary?

A. "Losing control" I am not too sure is
the operational term, but there are spot overs, it
would appear.

45

Q. What did you understand? The references to
crews withdrawing from various different places

and fires being on both sides of roads and spots and so on, what was your understanding as at 6pm on the 17th as to how the suppression effort was going?

5 A. There were concerns that it had actually got away.

Q. Can I check it from your notes or from your recollection, Mr Castle: is Mr Keady at this meeting?

10 A. I don't honestly know.

Q. You don't know?

15 A. I don't know.

Q. It is likely, isn't it? That is a pretty crucial time.

A. He may have been, but I don't know.

20 Q. Over the page, 0866, Mr McRae provides his planning summary:

"Rick McRae stated that we need to assess the risks of the new situation, given the weather and fire behaviour conditions. Rick provided an overview of unattended fire behaviour for various periods until tomorrow afternoon. 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. Planning is to provide a map of predicted unattended rate of spread.

35 There is a significant threat to the pine plantation as a result of the McIntyre's fire."

Mr Castle, the predictions are being performed because of that significant threat, aren't they?

40 A. The risks, yes.

Q. Because of the significant threat to the pine plantations, it is necessary at that point to undertake an exercise to determine where the fire might reach, assuming it is uncontained?

45 A. Yes.

Q. Over the next day at least?

A. That is my understanding of it.

5 Q. Because, as we all know, you don't put
firefighters into a pine plantation - that was
something you were aware of at the time, wasn't
it?

A. I heard Mr Lucas-Smith say that.

10 Q. If there is a significant threat to the pine
plantation, the significant threat really
continues throughout all of those potential areas
for impact, doesn't it?

15 A. It depends when it gets into the grasslands
whether it is easier to control.

Q. Were you getting an indication from those
present at the meeting that that was something
that would happen?

20 A. I think there was always the understanding
that between the pines - between the Murrumbidgee
and the urban edge there is grasslands.

25 Q. What were you being told that meant,
Mr Castle?

A. Specifically at that particular stage I am not
too sure anything specifically was mentioned as
such.

30 Q. At least Mr McRae is saying at that meeting,
is he not, that if this fire is not contained, and
that is always a risk, isn't it, Mr Castle?

A. Yes.

35 Q. And it is a risk that is being realised as
the meeting is going on with all of the spot overs
that are occurring?

A. That it will not be contained, yes.

40 Q. And that in those circumstances, I suggest to
you, by that stage what Mr McRae was saying was
there was a significant risk that the fire would
reach Narrabundah Hill by 2000 hours?

45 A. He says there is potential for the fire to
reach, yes.

Q. What was your level of concern at this stage,

Mr Castle, about those areas that he is identifying could be impacted within 24 hours or 26 hours?

5 A. I don't have the operational knowledge to assess specifically what that means in firefighting --

Q. But you know where Narrabundah Hill is, don't you, or you did then?

10 A. I know where Narrabundah Hill is.

Q. You know it is a pine plantation effectively that sits just above Duffy, isn't it?

15 A. Narrabundah Hill had a hazard reduced side to it. There are some pines still on Narrabundah Hill, but the whole hill is not covered by pines and was not covered by pines.

Q. But there was a plantation there at the time?

20 A. There is part of a plantation.

Q. You knew or you had heard already and in documents yourself had signed that there was spotting of up to 10 kilometres that day, and possible?

25 A. Potential.

Q. So what was your level of concern for areas such as, let's start with Narrabundah Hill, as at 6pm on Friday the 17th?

30 A. I suppose less concern for there than the rural.

Q. Why was that, Mr Castle; because that was going to happen earlier?

35 A. No, because of the grasslands in between, and there would be areas where it would come out of the pines.

40 Q. All right. So we know that there is a significant risk or a significant threat to the rural areas, aren't there, at that time?

A. There is a risk to the rural areas.

45 Q. I suggest to you at that stage - relative not to the rural area, Mr Castle, but relative to the level of concerns you had held in days leading

up to the 17th, what was your concern on the evening of the 17th? What was your level of concern? Was it still small?

5 A. Confidence - some confidence or confidence in the ability for people to suppress, I suppose, was still my frame of mind.

10 Q. What is the other side of that though, Mr Castle? I was not asking you for the upside risk. I am asking you what was your view as to the - well, I will ask the question again. What was your level of concern by 6pm on Friday relative to the small concern that you say you held as early as the 13th?

15 A. Some higher level of concern.

Q. It was significantly higher, wasn't it, Mr Castle, by then?

20 A. I think to the rural area.

Q. No, I am asking about the urban area.

A. The urban area?

Q. Yes.

25 A. Personally, I don't have that operational experience and understanding to base that on a specific level, other than a layman's view, and that is that I am guided by the advice --

30 Q. The advice you were getting. What I am saying to you, Mr Castle, is the advice you were getting from your fire behaviour expert, Mr McRae, is that "uncontained these fires will be potentially at Narrabundah Hill by 2000 hours".

35 A. But I also rely on the totality of the Bushfire Service and all the experts that are there to give me what that is. I hear what the planner is saying.

40 Q. What I am trying to get a sense of, Mr Castle, is sitting at that meeting and hearing this report from Mr McRae whom you - I should ask you this: Mr McRae is someone you have no doubt worked with or known for some years; is that correct?

45 A. Yes.

Q. And he is a fire behaviour expert?

A. I think so.

Q. Is he someone who you would be relying on to give you as much information as possible about the potential areas of risk?

A. That is the role, yes.

Q. You would rely on him to do that, wouldn't you?

10 A. Yes.

Q. He is someone who is telling you, among others, at 6pm on Friday the 17th that "uncontained these fires will be at Narrabundah Hill by 2000 hours"?

15 A. No, "unattended". That is different. "Unattended" means that there is absolutely nobody working on it. That is what I interpret that to be, and therefore "unattended" means that - that 20 is the way I interpret it.

Q. So you are saying as at 6pm on Friday you didn't understand there to be a significant threat to the urban area of Canberra?

25 A. I said there is some concern, because potentially Narrabundah Hill, if you read literally what is there.

Q. Yes.

30 A. But bear in mind that we are now analysing these words in detail. "Unattended" stuck in my mind, but not the detail that I specifically wrote down at that particular time.

35 Q. In this context, is there a realistic difference between "unattended" and "uncontained"? It really means much the same thing given - and I put this to you in this way - that you have heard that you don't fight fires or at least 40 Mr Lucas-Smith certainly would not have his firefighters in pine plantations, and that is really what is at least between McIntyre's Hut fire and the Murrumbidgee River, isn't it? The Uriarra pine plantations occupy a huge part of 45 that area?

A. A huge part of it.

Q. And it is a relatively short distance, I suggest to you about five to six kilometres from the end, if you like, of the eastern side of Uriarra to the Mt Stromlo pine plantation?

5 A. That could be the case.

Q. And in those circumstances you don't fight fires in pine plantations. What Mr McRae is doing is assessing what is going to happen if these
10 fires are not contained and they burn through Uriarra, across the Murrumbidgee and then into the Mt Stromlo pine plantation?

A. Through the grasslands in between.

15 Q. That's right.

A. Yes.

Q. But that is what he is postulating there?

A. Unattended, yes.

20

Q. So is it your position that, sitting there at 6pm on the night of the 17th, you were more concerned than you had been up to that point about the urban areas of Canberra?

25 A. Probably more concerned.

Q. Indeed, Mr Lucas-Smith in the next section of the minutes outlined the objectives for the evening and tomorrow:

30

"These include monitoring the fire growth and obtain situation reports from the field, alter the strategy of indirect attack to property protection and perform aerial
35 operations, and to determine the best way of stopping the fire from reaching the pine plantation and beyond. Crews will not be placed near the fire line tomorrow."

40 Q. So isn't that in effect what Mr Lucas-Smith is saying, that he is not going to have the crews attending the fire line tomorrow?

A. I don't know what that means, operationally.

45 Q. Is that something you recall him saying?

A. No, not specifically.

Q. Did you draw a connection between him saying, "We are not going to have fire lines or crews placed near the fire line tomorrow" - and I am not suggesting for a moment that that is an
5 inappropriate position to take - did you make a connection between that and Mr McRae indicating that unattended these fires would be at Narrabundah Hill by 2000 hours?

A. No, I think you are drawing more operational
10 experience into the interpretation of this than I actually have.

Q. You have indicated you don't get involved in these sorts of operational decisions. Just
15 reading that superficially and assuming something to this effect was said, Mr Lucas-Smith is basically saying, "Operationally we are not going to have firefighters near the fire line tomorrow, so the fires will be unattended, and we are going
20 to move to property protection." That is what he is saying there, isn't it?

A. I don't know. I presume.

Q. You are saying that you didn't at that time
25 draw a connection between what Mr Lucas-Smith is there saying and Mr McRae providing an outlook for unattended fire behaviour?

A. Not that I can recall.

Q. Based on the totality of the information that
30 had been provided to you at that point in the meeting, the situation was looking generally, I suggest to you, somewhat dire, wasn't it, Mr Castle?

A. I am not too sure.

Q. Ultimately you are responsible, aren't you,
Mr Castle, to ensure that the ESB mission, which I have taken you to before, is fulfilled and among
40 other things that warnings are issued to the public at the first opportunity; that is right, isn't it?

A. I think - yes.

Q. Isn't it part of your responsibility to be
45 asking these people, asking Peter Lucas-Smith and Rick McRae, "Look" - they are all in the meeting

together - "what does this mean for the urban area of Canberra? Does this mean that the fire is likely to be in the urban area of Canberra by tomorrow night?"

5 A. I suppose if you put it that way.

Q. Did you ask that question?

A. I don't recall asking that specific question.

10 Q. Did you ask any questions about the threat to the urban area at that time?

A. Not that I can specifically recall.

Q. Why not, Mr Castle?

15 A. I suppose it was an optimistic view of the ability to suppress.

Q. That was the position you were taking, that fingers crossed everything will be okay; is that what it was?

20 A. No, I don't think it was fingers crossed.

Q. I suggest it is more than optimistic. It is wishful thinking, isn't it, Mr Castle?

25 A. It could be.

Q. It is not the role of the Emergency Services Bureau or any emergency service, I suggest to you, to take the most optimistic outlook of an emergency situation, is it?

30 A. No.

Q. It is the role of the Emergency Services Bureau and emergency services generally to take something much closer to the worst case scenario, isn't it?

35 A. Yes, it is.

Q. And to warn people who may be affected by that scenario that they may be affected?

40 A. I think if the extent and the area is specifically known.

Q. Well, is that right, Mr Castle? Does it really matter if you don't have the precise idea of the extent or the precise area? Isn't it enough to know that there is a threat to go out to

people, at least those identified in Mr McRae's assessment of the potential for uncontained fire, and say, "Look, we don't know whether this is going to happen, but it might and you need to start preparing for this"?

5 A. I think with hindsight it is, yes.

Q. It is not really necessary though to have hindsight, is it, Mr Castle? I know we are all assisted by it but, if you put together the material that has been brought forward through to this planning meeting process on the evening of the 17th, I suggest that it is not really a matter of hindsight at that point, is it? It is really a matter of saying, "Well, look, on one scenario, albeit the pessimistic scenario, there is going to be an effect in the urban area. We need to be out there telling people about it"?

15 A. I think in the conscious, time is involved as to when, and I think the perspective and the focus might not have been on the urgency.

Q. Certainly the operations people, I could understand, would be focusing on that. But you were not concerned with that. I suggest that your focus at this stage - did you have other things that were distracting you from thinking about the need to warn the Canberra community at this time?

25 A. There was a lot going on. I am not too sure that I could specifically point to anything.

Q. It was becoming a pretty significant - at that stage at least it must have been a priority, surely, for you?

35 A. I think - yes.

Q. As best you can, Mr Castle, what if any discussion occurred at that meeting about the need to start warning the public in the urban areas - Mr Lucas-Smith has already given evidence about what was being done in the rural areas - but in the urban areas about the risk of impact on those areas?

40 A. I don't think there was a specific discussion in there about the urban areas.

Q. Well, can you say positively that there was no discussion about planning to warn the urban community, or is it a matter of lack of recollection?

5 A. I don't think it would have been put in those particular terms.

Q. It was not discussed as you can recall?

10 A. Not in - no, I think the focus was on the rural.

Q. I want to ask you just about a reference in Marika Harvey's notebook, which appears to be at least a note taken during the course of
15 the update. It is in document [ESB.AFP.0024.0002], starting at page 0008. You will see she has written at the top of this notebook, and again I appreciate this is sometimes difficult to read, "17 January, Friday pm update".
20 She seems to have written "18pm". That would appear to be a reference to the planning meeting at 6pm that evening?

A. I presume so.

25 Q. Over the page, I just want to ask you whether this assists your memory at all, just in that top section:

30 "Mount Franklin" - something - "Bulls Head, fire both sides of road. Plenty safe refuge in black areas in Bendora."

Then under that it looks like, "Now threat from McIntyre's Hut" underlined. Does that seem to be
35 what that says?

A. It appears to be "threat from McIntyre's Hut".

Q. I am just wondering what that scribble at the top may be.

40 A. It could well be.

Q. We will ask Ms Harvey about that. "Staffing just for web et cetera". Do you know what she is referring to there?

45 A. No, I don't.

Q. Do you recall any conversation about

staffing - presumably that is a reference to Canberra Connect, is it?

A. I presume so, but I don't have anything in my notes that assist.

5

Q. I notice there is no media section in the minutes, and this would appear to be a discussion that might have occurred during Mr Graham's report by the reference to Bull's Head. She then has a note:

10

"Public warning? Evacuation? Media filming spots safe suggestions?"

15 Does that assist you at all, particularly to the reference to public warning under the reference to McIntyre's Hut?

A. Does it assist me?

20 Q. Does it assist your recollection as to whether or not there were any discussions about the need for public warning in connection with the threat from McIntyre's Hut?

A. I don't recall.

25

Q. Were you aware whether there was any information going back to government about the threats that had been identified in that planning meeting, particularly those by Mr McRae?

30

A. I am not aware of specifics.

Q. Well, did you make any calls to anyone following that meeting or during the meeting about what you were learning as to the potential effect of the fire in areas, including Narrabundah Hill?

35

A. Mr Keady may have been there. I don't recall.

Q. Did you personally get on the phone to anyone else in government that night and discuss the current state of things?

40

A. I may have called Mr Keady.

Q. You may have phoned Mr Keady?

A. Later.

45

Q. I will ask you about that in a moment. Why would you have phoned him if he was at

the meeting?

A. It might have been later.

Q. I see. You recall a conversation with him
5 later that night, do you?

A. I believe so.

Q. When did that occur?

A. Late, I think, after or during or after
10 the discussions about ringing the rural community.

Q. I see. That was the rural community mainly to
the south of Canberra, or was it --

A. I think --
15

Q. Did it include anyone who might be affected by
the Uriarra or Pierce's Creek or --

A. I am not 100 per cent sure there.

Q. All right. So what prompted you to call
Mr Keady?

A. I think perhaps to give him the update on
the calling process.

Q. Did you give him that update?

A. I presume I did.

Q. Have you got notes there of a conversation
with Mr Keady?

A. No, I don't.
30

Q. What has prompted your memory of making that
call?

A. My telephone.
35

Q. Your telephone records?

A. (Witness nods).

Q. As best as you can recall, what did Mr Keady
40 say to you at that point about where things were,
the current status of the suppression effort and
other matters connected with the fire?

A. I don't think I could concentrate - I don't
think I have a specific recollection of any one
45 specific call and the detail of it.

Q. Was he asking you or do you recall in

substance him asking you about the threat to the urban area of Canberra during any calls that evening?

A. I don't know.

5

Q. Is it likely that he did?

A. I don't know.

THE CORONER: Are you seriously saying, Mr Castle, that you have absolutely no recollection of this phone call? Is that what you are saying?

A. I don't recall the specifics of what was discussed.

15 THE CORONER: Did you initiate the phone call?

A. Yes, I think --

THE CORONER: You rang Mr Keady; he didn't ring you?

20 A. I think so.

THE CORONER: You can't recall whether or not you discussed any of the information that you were talking about in the meeting just shortly before?

25 A. I think what I am saying, your Worship, is that I gave him an update on the warnings to the rural communities which was the focus of that particular time. Whether we discussed the urban edge, I don't recall - honestly.

30

MR WOODWARD: Q. We have a document, Mr Castle, and I don't know how reliable the time is for it, [ESB.DPP.0001.0039]. It appears to be some sort of table or schedule being prepared, and I will not speculate any more about what it is, Mr Castle. But there is a handwritten note on the bottom right-hand corner which is not yet in screen. You will see down there "17/1/03, 8.11pm". That appears someone has written the document file string there and a date and a time. Do you recognise that handwriting?

40

A. No, I don't.

45 Q. Until we can find the author, which may or may not be Marika Harvey, all I can tell you is that it appears it is a document prepared at 8.11pm on the 17th. Can I just take you back to the section

in the sort of blocks in the top left-hand corner. You will see "Key messages", "Communications mediums", "Timing" and under that what appear to be some bullet points about plans in relation to
5 the fires. Under the heading "Key messages":

"Fire status, control strategy, evacuation information, tips for property protection and bushfire safety, weather and fire bans, road
10 and park closures, who to contact for further information."

Under "Communications mediums" there is a reference to direct contact, telephone and vehicle
15 visits; general media; Canberra Connect; "How do we keep them informed about their properties if they have been evacuated" and so on. Are you familiar with the circumstances in which this document was prepared?

20 A. No, I am not.

Q. Can you assist us as to who is likely to have been involved in its preparation?

25 A. Other than I presume Marika Harvey or the cell.

Q. Or?

A. The cell.

30 Q. I have just been informed that the handwriting on it is that of one of the members of the AFP who made a note of that information when it was downloaded from the ESB. So it appears that is a transcription of the information that was provided
35 about the document on the computer which would suggest the time may be reasonably accurate. So you cannot assist us with that?

A. No, I can't.

40 Q. Do you recall any discussion that evening with the media cell where some planning was being done for the next few days in terms of this sort of thing, what messages were to go out and so on?

A. Not directly; not that I can recall.

45

Q. Did you, after the planning meeting, participate in any meetings with individuals or

collectively members of the media cell to discuss what was going to happen from that point forward in relation to messages to the community?

A. No, I don't think I sat down with them.

5

Q. All right. Did you have any knowledge of what they were doing, if anything, in relation to the process of preparing for how the community was going to be kept up to date with information about all the fires?

10

A. I think, as I said, the focus on the rural community and liaison with Canberra Connect.

Q. So the focus at that stage for the media cell was to get in touch with the rural communities and make those calls and so on; is that the position?

15

A. I believe so.

Q. Was there any discussion that you can recall during that evening at any time about a process for informing the urban community?

20

A. Not that I can recall directly, no.

Q. All right. At 2030 hours, Mr Castle, another request for Commonwealth assistance appears to have been prepared. This is document [ESB.AFP.0110.0921]. After a few fax covers and transmission reports you will find the same form as earlier requests. This is request 0006.

25

A. Yes.

30

Q. 0925 is where I am trying to get to. Just scrolling down, you will see it is request number 0006. Without jumping forward, Mr Castle, there does not appear to be a reference in this document to a verbal request. Do you recall making a verbal request before this document was sent?

35

A. I have a post-it note with Don Patterson's number on it. So I may have.

40

Q. Does that have a time on it, Mr Castle?

A. No, it doesn't, I am sorry.

Q. Do you recall how long before the written request was sent you made that contact?

45

A. No. It may have been to discuss the specifics of what I was after.

Q. So it may have been after the --

A. Been after. I am not too sure.

Q. All right. The situation section again
5 describes the situation:

"Further to request ACT0005, numerous spot
fires have significantly spread the fires.
The predicted unattended rate of spread, with
10 the current extreme fire weather conditions,
indicate the fires will spread into rural
residential areas. Current operational focus
is on identifying assets under potential
threat and determining protection strategies.
15 There is also a concern over significant
assets at risks associated with spot fires
from the NSW McIntyre's fire."

Is that your work, that paragraph, Mr Castle?

20 A. I don't recall specifically who drafted it and
what I may have actually amended or added to.

Q. But you certainly would have read it before or
as you signed it?

25 A. I presume I read it before I signed it.

Q. You are repeating there, aren't you, or at
least picking up themes from the planning meeting
where you say:

30

"The predicted unattended rate of spread,
the fires will spread into rural residential
areas."

35 Do you know which fires you were referring to
there? Were you talking about all the fires?

A. I think I am talking about the southern fires.

Q. It says:

40

"Current operational focus is on identifying
assets under potential threat and determining
protection strategies."

45 That is essentially what Mr McRae was doing,
wasn't it, for the purposes of the planning
meeting; he was identifying potential assets under

threat on unattended fire scenarios?

A. I believe so.

Q. And that included, didn't it, the Mt Stromlo
5 Observatory and Narrabundah Hill?

A. As he has said.

Q. Yes. Because those were assets under
potential threat, weren't they, at that time?

10 A. Under potential.

Q. It goes on:

15 "There is also a concern over significant
assets at risks associated with spot fires
from the NSW McIntyre's fire."

What do you believe that is a reference to?

20 A. I think that is referring to the same
phraseology somebody else has used about
the pines.

Q. So that you understand to be a reference to
the Uriarra pine plantations?

25 A. I believe so.

Q. Did you have an understanding at that stage as
to whether those spot fires were already
threatening Uriarra pines or again was that just a
30 potential?

A. I am not too sure of the exact - I don't know
whether they had spotted at that stage.

Q. But certainly the potential was recognised,
35 wasn't it, for that to occur?

A. That is what that ...

Q. It appears that one of the - I should not say
one of the last things done that day, but in terms
of media and communications, a media update was
40 sent out dated 2050 on Friday 17 January, document
[ESB.AFP.0110.0905]. Mr Castle, we I think only
have one page of that media release. Do you have
further pages?

45 A. I think I have an AFP code reference to a
second page.

Q. Could I have a look at that just to check whether that says anything?

A. Sure.

5 Q. I don't know how it got separated. I will come to the first page. Do you still have a copy of the second page, your own copy?

A. Sorry?

10 Q. The second page of that document?

A. No. I have another copy of the front page.

Q. The heading on the top of the second page is:

15 "Road and nature park closes. New information. Tidbinbilla Nature Reserve is closed to the public. Brindabella Road has been closed at the intersection of Uriarra settlement through to New South Wales. All
20 public barbecues have been turned off. Boboyan Road is closed from south top Naas Road. Potter camping ground is closed."

25 There is a reference that the ACT community can now access the latest ACT bushfire information through Canberra Connect. So it would appear at least in terms of the current fire status there is nothing of substance on the second page. So
30 I will hand that back to you and just check whether you agree with that, Mr Castle.

A. It is mainly the road closures and the source of Canberra Connect.

35 MR WOODWARD: We do have the second page, and perhaps rather than tender that, your Worship, given that it is part of a document that is already in the brief, we will just make sure the brief is updated to include that second page.

40 THE CORONER: So that second page of the media update, dated 17 January, at 2050 hours will be exhibit 0027.

45 **EXHIBIT #27 - SECOND PAGE OF MEDIA UPDATE DATED 17/01/2003 ADMITTED WITHOUT OBJECTION**

MR WOODWARD: Q. What this says about the fire

status on the first page, Mr Castle:

5 "The adverse weather conditions experienced
in the ACT today have caused a number of spot
fires across containment lines, which have
not been contained.

10 The current threat to property in Tidbinbilla
is serious, with ACT Fire Brigade, ACT
Bushfire Service, and NSW Rural Fire Service
crews deployed to the area to assist with
property protection.

15 West to north-westerly winds are expected to
ease overnight, but with stronger
north-westerly winds expected from
mid-morning tomorrow. This will result in
significant smoke over the urban area.

20 The ACT will be coordinating with NSW to
manage a spot fire from the McIntyre's Hut
fire, close to the ACT border. Ground crews
and aerial operations continue to monitor all
spot fires.

25 The bushfire logistical support staging areas
are being relocated tonight from Bulls
Head ..." and so on.

30 Did you assist with the preparation of this media
update, Mr Castle?

A. I may have.

Q. Do you know whether Mr Keady did?

35 A. Not that I am aware of.

Q. It appears to be saying that there is already
a spot fire close to the ACT border. That would
suggest, Mr Castle, that it is a spot fire outside
40 the containment lines. Is that your understanding
as at that time on the Friday evening, that there
was a spot fire outside the McIntyre's containment
lines?

45 A. It must have been. I thought it was later,
but it must have been.

Q. Apart from referring to the Canberra Connect

website, I take it you would agree with me there is nothing in this update that either identifies a threat to the urban area?

5 A. No, but could I say that I recall that one of the primary reasons for putting this out was the indication that the North Curtin district playing fields would be closed because we intended to relocate, and a degree of time was involved in organising that through Urban Services.

10

Q. There would be no reason, would there, Mr Castle, why a media update that went out at 10 to 9pm on Friday 17 January could not have included information about the potential threat to

15

A. No.

Q. Have you got any idea why that was not done?

20 A. It might have been the preoccupation with the rural area.

Q. Do you recall it being discussed?

A. Not that I can recall.

25 Q. No-one talking to you at least or mentioning to you in the media cell or otherwise, "Shouldn't we be sending a media release about threats to the urban area or wider potential threats"?

A. I don't think so.

30

Q. There is nothing in that document, is there, Mr Castle, about what people should do if affected by a bushfire in any way?

A. No.

35

Q. Mr Castle, we have been provided with a statement prepared for the purposes of this inquest by Natalie Larkins, a reporter with the ABC, who says she spoke to you on the morning, she says, just after 6am of the 18th. The document number is [DPP.DPP.0003.0054], commencing at 0055, which is page 2 of her statement, down the bottom of the page. Have you had an opportunity to look at this statement before

40

45 today, Mr Castle?

A. I have seen the handwritten one.

Q. That is in the brief as well, your Worship,
but because it is at least very similar to
the written one we thought it was better to go
with the written one at this stage. If there are
5 any differences of which you are aware, Mr Castle,
do not hesitate to point those out. She says at
the bottom of that page:

10 "I then contacted the weather bureau - this
is on the morning of Saturday the 18th, quite
early - to get an indication of the weather
conditions we were to expect that day.
I recall being told that we were to expect
15 'extreme, adverse weather conditions with
strong winds from the north-west to west and
high temperatures'.

This conversation gave me a clear focus for
my interview with Mike Castle. Just after
20 6am I had a phone interview with Mike Castle.
During this interview we discussed the fact
that the fires at Bendora and Stockyard Spur
had broken their containment lines overnight
and crews were battling spot fires from the
25 McIntyre's Hut fire."

I understand the sense of what Ms Larkins later
says is that this is just a discussion she is
having with you and it is not something that is
30 being aired at this stage; she is just getting
information. Is that your understanding?

A. I think she might have had the tape rolling so
she could then use grabs from parts of it, but
I am not 100 per cent sure.

35

Q. We can ask her about that. We do not appear
to have a transcript at least at this stage of
that particular discussion.

A. No, it was not a live to air; not that
40 I recall.

Q. When you spoke to her, had you obtained an
update by that stage from anyone about where
things were at?

A. I had had a telephone conversation with
45 operations.

Q. Were you at Curtin when this discussion with Natalie Larkins took place?

A. No, I was at home.

5 Q. You were still at home, were you?

A. Yes.

Q. Did you phone operations in order to get an update for the purposes of this discussions, or
10 was it --

A. They were generally contacting me.

Q. I see you are looking at some notes there. Do you have notes of your discussions with
15 operations, do you?

A. Yes, they are in my notes that you have already.

Q. I am not saying we do not have them. I just
20 may not have been able to identify what they were. I might, given the time, have a look at those over lunch. Just getting back to Natalie Larkins's statement, she talks about the fact that "45
25 residents in Tidbinbilla area had been placed on alert. He was emphatic that people had not been evacuated, merely warned". Is that the position, that you were emphatic about that, Mr Castle?

A. I am not too sure "emphatic". I indicated that nobody had been evacuated to my knowledge.

30

Q. Just generally, Mr Castle, do you know what, if any, warnings were going out to the forestry settlements by this time, late Friday, early Saturday - Uriarra in particular?

35 A. No, I am not.

Q. Were they part of the ring-around the night before, do you know?

A. I believe Housing participated in
40 the ring-around, and those settlements I think are ACT Housing.

Q. May have been responsible for contacting those settlements?

45 A. I think they may have.

Q. Who is likely to be in a better position to

assist us with that?

A. I don't know who was there from ACT Housing.

Q. Who was liaising with ACT Housing?

5 A. I think there may have been somebody in the media cell that was from Housing, but I am not 100 per cent sure about that.

Q. Just going over to the top of the next page:

10

"We discussed what resources were being utilised.

15 We discussed weather conditions. He admitted the conditions were awful and were placing pressure on all fronts. We spoke about how the fires had broken their containment lines and were expected to join up."

20 Do you remember saying that?

A. Not specifically.

Q. Do you have a recollection, if you had said that, as to what fires you would be talking about?

25 A. She goes on to --

Q. Say Bendora and Stockyard, yes. Do you remember saying that you were expecting that to happen?

30 A. No, I don't. It is not in my notes, but I may have.

Q. It goes on:

35 "He did not elaborate as to when or where they were expected to join. I used a portion of this part of his interview in the subsequent broadcast at 7.55am.

40 We spoke of the possibility of fires entering the Uriarra pine forest. At that stage they hadn't entered the pine plantations. He stated that the smoke was so thick they couldn't see the spot fires.

45

We briefly discussed the McIntyre's Hut fire. He indicated that they would only focus on

that fire once it came into the ACT."

Do you recall saying that?

A. I don't recall saying it.

5

Q. Assuming that she has accurately recorded what you said, is that the position as at the morning of the 18th, that you would only focus on that fire once it came into the ACT?

10 A. I am not too sure what I mean by that. I mean, focus - we were aware, I suppose, but focus on that fire once it came into the ACT.

15 Q. You were certainly concerned about it, weren't you?

A. Yes.

Q. But operationally it was not something you were giving attention to?

20 A. No.

Q. It goes on:

25 "I have some notes that would indicate I asked whether the fire was likely to enter Canberra. I don't recall the specifics, but he responded that he appreciated community concerns, but gave no indication that there was any risk to Canberra."

30

Is that true, Mr Castle?

A. I don't know.

35 Q. Do you recall saying anything about risks to Canberra to Ms Larkins?

A. I don't know.

40 Q. Do you recall saying that there was no risk to Canberra or there was minimal risk or words of that kind?

A. No, I don't know.

Q. Do you recall her asking about risks to Canberra?

45 A. No, I don't, to be quite honest.

Q. At that point, based on what you understood

the position to be, had she asked what would your answer have been, Mr Castle? What was your state of mind then about the risks to Canberra?

5 A. I think it would have been still no immediate threat.

Q. So --

A. With hindsight --

10 Q. Is it possible that you said something like that to her, that there was no immediate threat to Canberra?

A. I could have, but I don't know.

15 Q. Did you speak to Mr Lucas-Smith before this discussion with Ms Larkins?

A. No, I doubt if I would have.

20 Q. So who was it at operations you spoke to to get the information?

A. I don't know who the overnight operations duty person was. I didn't record it.

25 Q. So it would have been the overnight person, would it?

A. It would have been the overnight --

Q. I see. So would that have been --

30 A. It may have been Tony Graham. I don't know what time.

Q. It appears that it was before 6am.

A. Generally --

35 Q. Or about 6am.

A. Generally the arrangement was either 5 to 6 or 6 o'clock, so that by 6.15 I could actually talk to journalists.

40 Q. Was that normally Mr Jamison you would speak to?

A. Whoever it was. Sometimes it was Tony Graham, and it depended what time he came in and whether it was overnight.

45

Q. In his statement, Mr Lucas-Smith indicated that he started work that morning at 5am. Are you

confident you didn't speak to him to get that information that morning?

A. I don't think I did.

5 MR WOODWARD: With your Worship's permission, given the time, if I could just borrow your note briefly, Mr Castle, over the luncheon adjournment and we will come back to this after lunch, if your Worship pleases, if that is a convenient
10 time?

THE CORONER: Yes, it is a convenient time. We will take the luncheon adjournment.

15 **LUNCHEON ADJOURNMENT** [1.00pm]

RESUMED [2.00pm]

20 THE CORONER: Before you start, Mr Woodward, Mr Castle, I want to say something to you. I am sure you know the purpose of this inquiry is to try and find out what happened and importantly why it happened. The reason for that is so that we, as a community, can prevent anything like this
25 from happening again.

You are an important witness, Mr Castle. I am of the view, I could be wrong, that you have information and evidence - because of your unique
30 position - that perhaps no other witness may have. I don't know that, but that is just what I presume.

I just ask you, Mr Castle, to try to do the best
35 you can, to be of assistance to this inquiry and just try to remember as much as you can. If this information doesn't come from you and you are the only person who knows it, then we may not have the benefit of that. I ask you to do that if you
40 would.

THE WITNESS: Sure, your Worship.

45 MR WOODWARD: Q. Mr Castle, I just wanted to briefly go back to the Friday evening just because we have had a look at your phone records when you made that reference to your discussions with

Mr Keady. It would appear that you had a discussion with Mr Keady firstly at 7.10pm which lasted for a minute and 34 seconds, and then again at 9.51pm which appears to have lasted for 7
5 minutes and 40 seconds.

That first call at 7.10pm, Mr Castle, it would appear, although brief, to have only been an hour and 10 minutes after the planning meeting at 1800
10 commenced. I am wondering whether that assists at all in your recalling whether or not he was there for all or part of that 6pm planning meeting.

A. It may be the case that he wasn't there. I may have rung him afterwards. That's probably a
15 logical explanation.

Q. I don't want you to give me his home address, but do you have any idea how long it takes him to get from Curtin to where he lives, if that is his
20 home number?

A. Where he was living at that time was within walking distance. It is very close.

Q. It is also possible he was present at the meeting and then went home shortly afterwards?
25

A. He may have. I wouldn't want to commit him. I don't recall whether he was at that specific - he was at a number.

Q. Do you recall trying to think back to the mood of that meeting and the information that was being given and, as I understand what Mr Lucas-Smith said, at that point we don't know precisely which maps were on the wall but there were maps on the
35 wall at that stage. The planning cell was doing - I think you might recall in Mr Lucas-Smith's evidence there was a map which showed various times at which the fire might impact upon certain areas that was up on the wall that it appears
40 Mr McRae was talking to when he was giving his descriptions about Narrabundah Hill. Doing the best you can to remember that meeting, do you recall Mr Keady being there and asking questions about these matters?

A. No, I'm sorry, I don't.
45

Q. Just before we leave those two phone calls,

can you recall what the first call might have been about, that shorter one at 7.10pm?

A. Can I just review my note? 7.10 was after the briefing.

5

Q. The briefing was at 6. Do you recall how long it went for? They normally went for --

A. They varied, to be quite honest. My recollection was a desire to limit them to about
10 an hour at maximum.

Q. So you --

A. That first one may have been to - I'm just - this one may have been about pulling out of the
15 two logistics bases, camps, with a view to - in particular North Curtin oval because that --

Q. Have you got a note there that is assisting you with that recollection?

A. No. No. It is my recollection of what came
20 out of the meeting where I specifically remember also trying to find out rangers, who was responsible. I think in the end Allen Thompson rang me or through the rangers or through
25 Environment ACT with a view to ensuring that the arrangements would be in place, of all things, sprinklers turned off. It was a focus on that. It may have been me talking to Mr Keady about that specific and the need to actually contact Alan
30 Thompson or whatever. I think - that was my focus, I have to say, after that particular meeting, I believe.

Q. Your focus was the evacuation of which of the
35 two - sorry, the leaving of that particular staging area, was it?

A. It was Bulls Head, and the desire to actually pull that, and there was another one that had been just established, I think, or may have been
40 operating right down the bottom in Orroral Valley.

Q. What was Mr Keady's interest in that information, do you think?

A. I suppose purely to keep him up to date with
45 what was occurring.

Q. If he wasn't at the meeting, Mr Castle, at

either that conversation which appears to have been relatively short or the later one, would you have passed on to him the information about - if I can use the term - threat analysis that had been
5 undertaken by the planning cell?

A. I'm not too sure I would have passed on the threat analysis as it is outlined in those minutes. As I explained a number of times, those minutes were not available to us at that time. So
10 what I would have used were my own notes of what I actually took.

Q. But it is the case, isn't it, Mr Castle, that Mr McRae, as I understand it - at least
15 Mr Lucas-Smith's evidence had a map up on the wall or up somewhere where these various arches of impact were diagrammatically displayed and was talking to that; was that your memory of that meeting at 6 o'clock on Friday night?

20 A. I believe so. I don't have it specifically --

Q. Can you bring back into your mind - I don't think anyone suggested that kind of analysis was being performed at least to that detail in terms
25 of its potential effect towards the Canberra urban area at any point before that meeting. Is that the position?

A. Sorry, you asked me whether --

30 Q. It was an awkward question. Do you recall at any time before the meeting at 6pm on the 17th having a presentation or description to you present at the meeting of impact that close to the urban edge of Canberra, potential impact?

35 A. I don't think so.

Q. It was a pretty significant stage in the process to have someone with the authority of Mr McRae in terms of fire behaviour presenting to
40 the meeting at 6pm on Friday that the fire could be impacting and drawing arcs that get as close to the Canberra urban area as Narrabundah Hill and Belconnen?

A. I would think so.
45

Q. Can you recall in your mind the circumstances of that meeting?

A. The circumstances?

Q. Well, what was going on in your mind as Mr McRae was describing these potential impact areas?
5

A. I suppose that there was a possibility that the fire would come out of the hills.

Q. Because, I suggest to you, Mr Castle, it seems surprising, if I can put it that way, that you would come out of that meeting with a focus on the moving of staging areas and not focusing on the fact that someone of Mr McRae's authority and experience is saying by 2100 hours tomorrow these
10
15 fires are going to be impacting upon Narrabundah Hill and possibly Belconnen and other places like that?

A. I suppose I have already said the other aspect was focusing on the rural.
20

Q. So those two things were the focus in your mind at least, the potential impact on rural areas and the moving of staging areas?

A. I think they were the two - they're the two
25 that even feature in my --

Q. That appear in your notes?

A. Yes.

Q. I want to try and get a bit of a sense of how you perceived your role at about that time, say, late on the 17th or early on the 18th. Presumably your other duties had taken a back seat, that is duties outside the actual - these fires that were
30
35 burning east of Canberra?

A. They tended to accept - I have a recollection - can I actually get my diary?

Q. Yes. Certainly.

A. No.
40

Q. I can't find my copy of it.

A. No, no, there is nothing there. I thought it was the briefing of the Russians, but I think that
45 was the Friday before. It was the day the event started.

Q. Is it your recollection then that your other duties, meaning duties outside the concerns of these fires, were taking a back seat?

5 A. Some were related to the fires. I might be signing orders or purchase or delegations or whatever. But effectively I was concentrating on supporting the operations.

10 Q. When you say "supporting the operations", can you try and give us a bit of an idea of the sorts of things you had been called upon to do in that role at that time, Friday and early in the Saturday morning?

15 A. I don't recall specifically what I was doing minute by minute or even time blocks.

20 Q. Perhaps not the detail of what you were doing, but how did you perceive at that time your role? What were your main concerns at that point in time?

A. Preparing information that I could obtain. Looking at, I suppose, the templates that we were using for the media advice.

25 Q. So if I could perhaps encapsulate that, you were still very much involved and it was part of your role to continue to liaise with the media?

30 A. I saw that as a dual role really with the operational service, which was the Bushfire Service which was Peter Lucas-Smith who had the detailed fire knowledge and could answer questions. I could not answer specific questions about what was likely "what if this" so too much of the "what ifs".

35 Q. So you were doing what you could, subject to your limited knowledge, to take some of the load off the operational people in relation to media liaison?

40 A. That's my understanding.

Q. That's one thing. You were sharing that role with Mr Lucas-Smith, I think you just said. Is that correct?

45 A. Yes.

Q. Were you also continuing at that time or did

you see at that time a significant part of your role to inform government and keep government informed as to the progress of the firefight?

A. In a general way, yes, I think so.

5

Q. You are in a sense the eyes and ears of the Minister, aren't you, within the ESB?

A. Yes.

10 Q. Perhaps I should ask you: in a practical sense how were you discharging that obligation? Who were you talking to?

15 A. Given Mr Keady's primary involvement, I tended with that to actually keep Mr Keady involved. At times Mr Keady spoke to the Minister as well. I don't think I rang the Minister direct.

Q. In that period? In those couple of days?

A. I don't think so.

20

THE CORONER: When you are talking about "minister", which minister do you mean, Mr Castle?

A. At that stage Mr Wood was due to go on leave that Friday night.

25

MR WOODWARD: Q. Is it the case that he actually went on leave shortly after the briefing on the 16th, to your knowledge?

30 A. I don't know. I don't think he ever went. I think he was in Canberra. He may have been on leave. I thought my recollection is that the ministerial arrangements were to be from the weekend. But he may have. I'm not too sure.

35 Q. But were you --

A. I think we were advised, I think on the Friday, that the Chief Minister would be the acting Minister for Police and Emergency Services in the absence of Minister Wood.

40

Q. Who advised you of that?

A. I think Mr Keady did, I think.

45 Q. As far as you were concerned, can you recall any direct contact between yourself and a minister, any minister, in the period say on the Friday night or Saturday morning?

A. I think in my phone there may be a reference to "Chief Minister" but I don't know who - what time and.

5 Q. We will see if there is any reference there, Mr Castle. You said that you understood that Mr Keady was speaking to the Minister. Did he tell you about his discussions, any of his
10 discussions with presumably it was Mr Stanhope, was it, on the Friday?

A. I'm not too sure the exact changeover. My recollection now is I don't know exactly when that changeover was. I probably did know at the time but I haven't recalled that.

15 Q. Did Mr Keady tell you that he was speaking to the Minister or words to that effect?

A. I don't know. I don't recall that actually being a point of discussion.

20 Q. As far as discharging your obligation to inform government, as I understand it, what you are saying is that you were satisfied that you discharged that obligation by ensuring Mr Keady
25 was up to date; is that the position?

A. That was the main way that I have historically kept ministers informed. I don't have a direct reporting chain to the Minister.

30 Q. So you really left that up to Mr Keady, did you?

A. At this stage I probably did.

35 Q. Did you have a sense, say, during the day on Friday, just for the moment, as to whether Mr Keady was speaking regularly to whoever the relevant minister was or were particular briefings occurring that you were aware of?

A. Mr Keady has a variety of interactions and
40 opportunities I think. I am not aware specifically of the mechanisms that he uses.

45 Q. Can you recall him coming to you at any stage and saying, "Look, I need to give an update to the Minister. What's the current position"?

A. I don't recall him coming to me specifically for that.

Q. I was asking you just before the luncheon adjournment, Mr Castle, about your discussion with Natalie Larkins, or I was putting to you passages from her statement. I think I specifically got on to that part of her statement on page 3 where she says:

10 "He responded that he appreciated community concerns but gave no indication that there was any risk to Canberra."

You indicated to her, apparently, that you would be available to do a live 'on-air' interview. Then she says in the next paragraph down:

15 "Mike Castle subsequently participated in a live interview that went to air at 7.30am. This interview largely covered the same information he had given me. In summary he gave the impression that there was no threat east of the Murrumbidgee River."

Do you agree that's a fair summary of the interview, Mr Castle?

25 A. I didn't use the words "no threat". I said I indicated people should stay east of the Murrumbidgee. They were the words I believe I used.

30 Q. "Should stay east of the Murrumbidgee"?
A. That's correct.

Q. I'll take you to the interview, but you didn't mention that there was a threat east of the Murrumbidgee, did you?

35 A. No.

Q. Mr Castle, at this time Mr Lucas-Smith has been at ESB since 5am. Is there any reason why you didn't speak to him before speaking to Ms Larkins at 6am?

40 A. I might not have known that he was there.

Q. When did you yourself arrive at the ESB that morning?

45 A. I think in time for the 9.30 - 9 o'clock briefing. Somewhere around about there: maybe

between 8.30 and 9.

Q. The interview which I will come to in a moment, Mr Castle, it is timed in the transcript we have got at about 7.30. Is that your recollection about when that interview with ABC was?

A. That's my recollection. What I don't know is whether it was actually aired live at that time. But the indication of the interview appears that it does appear to be live.

Q. Where were you when that interview was conducted?

A. I believe I was still at home, I think.

Q. Had you spoken to Mr Lucas-Smith at any stage before that interview?

A. I don't believe so.

Q. The best you can, can you identify who it was you spoke to on the morning of the 18th in order to get the information - and it is provided in some detail, I suggest - that you then passed on to listeners of ABC 666 at 7.30 that morning?

A. Who did I speak to?

Q. Yes.

A. I think there was one of a number of people that I had spoken to over the length of the whole emergency. Who it was specifically on this particular day, I don't recall. But the --

Q. Sorry to interrupt. You said you had spoken to someone. We have established you weren't sure whether it was the overnight incident management team representative or Mr Graham possibly before you spoke to Natalie Larkins at 6am?

A. Yes.

Q. Did you have another conversation with anyone between that and when you gave the live to air interview at about 7.30?

A. I don't think so. I think I was actually getting dressed, having a shower and having breakfast.

Q. Before I do, there is a reference in your phone records to a telephone conversation that you apparently had with Mr Keady on his mobile phone at 11.20. There is a reference here item 33 in
5 your phone record "17 January, 2320". I don't know what the column heading relates to but it just says Lyons which is the location of the mobile phone tower. It says off peak. You have written in the margin "Tim Keady home". Can you
10 see that reference, Mr Castle?

A. Yes, I can.

Q. Was that to Mr Keady's home phone or was it to a mobile?

15 A. No, I believe it's a home phone.

Q. That's a phone call at 11.20pm?

A. Yes.

20 Q. It is quite late. That is a phone call that appears to have a duration of 13 minutes and 52 seconds. It is quite a long phone call, isn't it?

A. Yes.

25 Q. These are phone records from your office?

A. No, I think that's from my mobile.

Q. Are you able to say where you physically were at that time on Friday night?

30 A. I may have been travelling.

Q. What did you discuss with Mr Keady during that conversation at 11.20pm?

35 A. I don't recall precisely, your Worship. I presume that it was what we had been doing up until that particular time.

Q. So giving a report --

40 A. And indicating probably the process for the following day.

Q. You say you think you were travelling. Do you have a memory of making this call to Mr Keady from your car?

45 A. No.

Q. At 11.20pm on that night?

A. That tended to be probably the time that I was travelling home.

5 Q. And giving him as much information as you could about what you understood to be the current status of the fires at that time.

A. Probably.

10 Q. It appears to be only a relatively short period after the previous - that earlier call was at 9.51, so that was 9 minutes to 10.

A. Yes.

15 Q. You made another call to him at 11.20pm. Does that assist your recollection at all as to what you were ringing him about at that time?

A. No, it doesn't. But it probably was giving him an update and what I was going to be doing the next day.

20

Q. Did that become a practice at this stage, Mr Castle; the last thing, you would call Mr Keady and give him that kind of update on your way home or at the end of the day?

25 A. Not necessarily.

Q. Not necessarily?

A. No, not necessarily.

30 Q. That's what you think you were doing at this time?

A. That's what I think I was doing at this particular time.

35 Q. Things hadn't improved, had they, Mr Castle, between the planning meeting at 6 o'clock and when you made that call to Mr Keady at 20 past 11 that night in terms of suppression of the fires?

40 A. No, I don't believe so.

Q. Do you recall in your own mind at that stage appreciating that things were actually taking a significant turn for the worst by then?

45 A. Sorry, do I appreciate - sorry, I missed it.

Q. Do you recall at about that time being aware by quite late that night that things had in fact

taken by then a significant turn for the worst?

A. I think that was the case that evening.

5 Q. That evening. They were getting worse as the evening progressed?

A. I'm not too sure they got any worse during the evening.

10 Q. Are you able to say whether during that conversation you had any discussion with Mr Keady about the potential for impact on the urban area of Canberra and planning for that prospect?

15 A. I honestly don't recall whether I did or I didn't. I'm sorry your Worship, I honestly cannot. I may have, but I can't say one way or the other.

20 Q. Do you recall discussing with Mr Keady the need to bring government up to date about where things were at and the threats that had been identified by that time?

25 A. I don't specifically recall the content and the direction of that. I believe I would have been as accurate as I could possibly be in what I had been told and the views.

30 Q. If you were saying to Mr Keady at about that time, or indeed any time that evening, "Look, our fire behaviour expert is saying that in effect there is a risk to the urban edge of Canberra," presumably Mr Keady would have been discussing with you how that was going to be addressed, what messages were going to be sent to the community. Do you recall discussing anything of that kind with him?

35 A. No, I don't. I'm sorry. I honestly can't recall.

40 Q. The interview on the morning of the 18th [DPP.DPP.0004.0007]. I am not sure whether I asked you this specific question so I will just check. Do you recall having a discussion with Mr Lucas-Smith at any time before this interview occurred?

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

Q. You don't think you did?

A. I don't think so.

Q. If you had I imagine you would have expected him to tell you by that time he had reached the
5 view that an impact on the urban edge was inevitable. You would expect that, wouldn't you?

A. If that's what he said, yes.

Q. He said that in his evidence. That was his
10 view by that time. You would have expected him to pass that view on to you, wouldn't you?

A. I would expect so.

Q. If he didn't do it before 7.30, can you recall
15 at any point during the morning of the 18th where Mr Lucas-Smith said in words or in substance, "This fire is going to hit Canberra urban area"?

A. Not that I can recall. Can I just check. Not that I can see from my note.

20

Q. Did it surprise you when you heard Mr Lucas-Smith give that evidence that that was his view by 7.30am on Saturday?

A. Yes, it did.

25

Q. Because that's important information for you to pass on to government, isn't it?

A. Yes, it would have been.

30 Q. And to the community?

A. Yes, it would have been.

Q. When did you first understand from Mr Lucas-Smith at least that he had formed that
35 view; firstly, during that day that he had formed a view that there would be an impact on the Canberra urban area?

A. When did he inform me?

40 Q. Yes, did he at any stage during - I am assuming, maybe he didn't - perhaps I should ask it this way: at any stage during Saturday the 18th did Mr Lucas-Smith say to you in words or in
45 substance, "This fire is going to impact upon the urban area, or one of these fires"?

A. I think the first time I became aware of that was in the media briefing.

Q. At noon?

A. Yes.

Q. I will come to that later. You don't recall
5 him before that media briefing saying to you,
"Look, this fire" - whether it was McIntyre's or
whatever - "is going to affect urban Canberra"?

A. I thought you asked me "inevitable". No, I
don't think I went into that briefing knowing that
10 that was the case.

Q. I just want to ask you a couple of questions
about what you said during that briefing. Down at
the bottom of the first page - have you read the
15 document, Mr Castle, the briefing?

A. Sorry, which one?

Q. I shouldn't have said "briefing". It is the
interview I you gave to radio ABC at 7.30am on
20 18 January.

A. The interview, sorry, yes.

Q. Do you have that?

A. Yes.
25

Q. I don't want to go through it in detail,
Mr Castle. Some of it we have covered already in
terms that are similar to what you discussed with
Larkins. If there is anything you want to draw
30 attention to, please do so. I want to take you
first to the bottom of the page where the
interviewer asks you:

"Interviewer: Right. Those property losses,
35 are they the first property losses in these
fires as far as we know, or the first
significant ones.

Castle: That's correct, as I understand the
40 position.

Interviewer: Are we expecting more today?

Castle: what we're expecting, of course, is
45 not necessarily property damage.

Interviewer: No.

Castle: It does then depend on, in some respects, first of all, in the rural areas, how people have actually prepared around their immediate property. People that live
5 in the rural environment do have expertise and understand that they live in that sort of an environment and, as I've explained to some people, it's - the individual property
10 threats is some way similar to what could happen if it started on their particular property. But of course, with our resources stretched, the precautions that they will have taken around their immediate home will
15 assist in actually surviving that fire.

Interviewer: Right. Which are the greatest areas of concern at this point, Mike?

Castle: The ones that are probably closest
20 out in the ranges would be the Paddys River's Road area, which is the road that runs in a great arc around from Tharwa, west and then around near Paddy's River and comes back in through the top of the Cotter and --
25

Interviewer: Right. And are you asking people to prepare for evacuation?

Castle: Really, it is their decision in the
30 first instance. Peter Lucas-Smith said yesterday, the preparations that people can do around their own home actually assists. Properties have best chance of success if
35 people stay with their property, however, they need to be confident that they can actually deal with that sort of approach and trauma to having the bushfire come right up to them. Now, some rural people do have that
40 experience and confidence, and if they've done preparations around their home then having a hose sort of that can put out ember attack, because properties are generally not
45 threatened by the immediate fire front, but from ember attack, that gets under eaves, under houses that can cause property damage. So if they are able on-site to extinguish those quickly with a hose that can reach to

all components, then that's a greater chance of survival.

5 Interviewer: With forecast north-west to westerly winds today turning the fire back towards the city what will be your main strategy today, Mike Castle?

10 Castle: Our main strategy is to look at property protection, position our resources where we think they can do the maximum protection, we would ask people to basically stay east of the Murrumbidgee River, that is out of the rural areas and only need to go
15 into those areas."

You talk about access to property and so on. You are asked about coordination with New South Wales:

20 "Substantial coordination, Peter Lucas-Smith, our Chief Fire Control Officer, Bushfire, has had a number of conversations with Bruce Arthur, the incident controller over there, with Yarrowlunla Shire, we also have liaison
25 officers both ways, and keep in constant contact to advise us of any changes, so that we can coordinate."

30 He then asks about road closures. Just going back to those sections I have read out, Mr Castle, beginning with the bottom of the first page where you were asked about potential property damage and you say "not necessarily property damage" and then talk about how people can protect their homes -
35 was that your state of mind at that time on the morning of the 18th, Mr Castle? I realise I am changing the words, tell me if I am overstating it, but it was unlikely that there would be property damage?

40 A. I did not have any expectation that there would be.

45 Q. I want to come back to where you were asked about areas of greatest concern. In response to that you talk about people living in the rural environment do have expertise. Further down you say, "Now, some rural people do have that

experience and confidence." I want to suggest to you that that is no doubt - was that your view at the time that people in rural areas had that degree of confidence and experience? I think you have said already that that was your view?
5

A. Yes, I think so.

Q. I want to suggest to you the focus there on rural does tend to suggest, by exclusion, urban people don't have that same degree of confidence and expertise. Is that a fair reading of what you have said there?
10

A. I think it is saying that rural people have a greater understanding of the threat because they live with it every day.
15

Q. And urban people don't, do they? They don't live with it at all, in fact?

A. I think they do live with it, but they don't live with it every day.
20

Q. It is the case, isn't it, that urban people hadn't been affected by fire - when do you say was the last time? Do you say they were in 2001?

A. No, they weren't - they weren't impacted, I don't think, but it came to their doorsteps.
25

Q. Putting aside 2001, it had been decades since the urban area had been impacted by fire; is that correct?
30

A. That's my understanding.

Q. So you just couldn't make that same sort of assumption about people in the urban area, could you, that they had experience and confidence if they had done preparations around their home and so on?
35

A. I don't think I can have that same degree of confidence.
40

Q. Where you talk about the areas of greatest concern, you mention Paddy's River Road and so on. You don't mention there the forestry settlements at Uriarra.

A. No.
45

Q. Did you have a sense at that time that they

were under threat?

A. No, I didn't, to be quite honest.

5 Q. Does that surprise you, given that the fire was in the Uriarra pines, that someone hadn't told you that that was an area of significant exposure?

A. Yes, it does.

10 Q. You also don't mention the consequences or potential consequences of the analysis that you had been privy to the night before where, for example, the Stromlo pine forest had been identified as an area of potential risk?

A. No, I didn't.

15

Q. And the observatory and so on don't get a mention. Is there any reason you can give us as to why you didn't refer to those as areas of potential risk?

20 A. Only because, as I think I said, my expectation, my understanding was that there was likely to be success when it comes out into the grasslands and there were grasslands in between there. And it was unattended. That was that prediction.

25

30 Q. Did you know what strategies were in place at that time to try and stop the fire from crossing that grass area. Was there any specific strategy of which you were aware that was designed to halt the fire before it crossed that Murrumbidgee corridor?

A. No.

35 Q. Isn't it the case, Mr Castle, at that time most of the ACT resources, if not all of the ACT resources, were concentrated down in the south of the ACT and focusing on the Stockyard and Bendora fires?

40 A. I think so.

45 Q. Were you aware at that time in the morning that in fact there was no containment strategy in relation to the fire coming out of the Uriarra pines and into that grassland area?

A. I don't think so.

Q. You weren't aware or you were aware?

A. No, I don't think I was aware.

5 Q. Because it is the case, isn't it, that it was - although people talk about "unattended", that's precisely what was going to happen, wasn't it; the fire, if it got into the Uriarra pines, would effectively be unattended from that point?

10 A. In the pines it would be.

Q. Well, what about when it left the pines? I suppose that's what I was just asking you about. What strategies did you know were in place to prevent that happening?

15 A. I didn't know what the detailed strategies were, but it was sectorised and incident controllers. As I said, I don't know their incident action plans nor did I see them.

20 Q. So you just didn't know one way or the other what plans were in place to attend the fire once it came through the Uriarra pines?

25 A. No; nor would I expect to from an operational point of view, I have to say.

Q. You would, wouldn't you, Mr Castle? You would expect to be told if there was no strategy to control the fire once it came out of the Uriarra pines?

30 A. I would - I probably would be expected there was no strategy.

35 Q. That's the unattended fire prediction that Mr McRae was doing, isn't it? That's the potential becoming a reality. If it is unattended, it is going to spread through that corridor into the Stromlo plantation?

A. Yes.

40 Q. So you would be concerned to know, wouldn't you, as to whether or not there were strategies in place to prevent that becoming that reality?

A. Yes.

45 Q. Did you ask anyone about what strategies were in place for that?

A. No.

Q. Why not?

A. I suppose I considered that to be the operational and left the operational aspects to focus on that.

5

Q. I understand obviously you are not in a position to control the operational aspects of the fire, Mr Castle, and someone with expertise in that area needs to do that. Isn't it part of your job to know what they are?

10

A. I don't - I didn't see it that way.

Q. Can I ask you to have a look at this document, please, Mr Castle, [ESB.AFP.0110.0693]. This is from OPS planning timed at 9am on 18 January. "Points to note", it says:

15

"Reports of active fire in the Uriarra Two Sticks area."

20

There is a "noted", and that appears to be Mr Tony Graham's initials. Do you recognise those initials?

A. I don't. But it looks like GH - no, I don't recognise the initials.

25

Q. The note then goes on:

"This fire under the influence of westerly north-westerly fire weather has the potential to impact on rural lessees, the Canberra rural/urban interface. From Hawker to Weston Creek from around 1500 this afternoon."

30

That's 3pm. Do you see that?

A. Yes, I see that.

35

Q. That's a pretty accurate prediction as it turned out; isn't it?

A. It would appear so.

40

Q. It says:

"This fire needs to be resourced as a priority."

45

It is a bit difficult to tell down the bottom, but

that appears to be Mr Hilton Taylor's signature roughly in the middle of the page there. Do you recognise his signature?

A. No, I don't.

5

Q. Someone has written what appears to be some units dispatched. Is that your understanding of those notes there "JER10, 21 dispatched"?

A. That's what it looks like.

10

Q. Do you recognise the signature under those notes?

A. No, I don't; I'm sorry.

15

Q. Does that appear to you to be Mr Graham's signature?

A. I'm sorry - I can't say that I recall his signature.

20

Q. To the right a bit further along there is what looks like "RJ Wilson RFS planning". Do you know who that is?

A. No, I don't, I'm sorry.

25

Q. Just to complete the picture "0900". Have you seen this before?

A. No, I haven't.

30

Q. I take it we can take it from that it is not something that was brought to your attention?

A. No.

35

Q. You would expect it to be, wouldn't you, something that someone has predicted; someone in planning is telling operations that the fire is in the Uriarra Two Sticks area, and it has potential to impact upon, among other things, the interface from Hawker to Weston Creek from around 3pm?

40

A. I think I would expect to be advised by the Bushfire Service, not necessarily directly by planning.

45

Q. You expect someone to be telling you that there is a prediction that the fires will be affecting from Hawker to Weston Creek from around 1500?

A. I would think so, if that was their

prediction.

Q. No-one brought that to your attention?

A. No.

5

Q. At paragraph 118 of your statement you say you attended the 0930 briefing, which I understand is your reference to the planning meeting minutes; is that correct?

10 A. Sorry, yes.

Q. Are you referring there to the 9.30 planning meeting?

A. Yes.

15

Q. It says at paragraph 118 of your statement:

"A south-easterly change was expected by approximately 8pm after forecast strong north-westerly winds 35-40 kilometres per hour at high temperatures during the day. The outlook was that fires would be very active in the forests, but greater ability to extinguish when they reached the grassland."

20
25 A. Yes.

Q. Whose outlook was that, Mr Castle?

A. I don't know whose outlook that was. It was given after the weather. I presume it was planning. I'm not 100 per cent sure.

30

Q. You have a note somewhere to that effect, do you?

A. I do.

35

Q. Is that one of the handwritten notes of the --

A. Yes, it is.

Q. Can you find the same reference actually in the minutes themselves?

40

A. I think they are in the minutes. Maybe not. It is in the handwritten versions, I think.

Q. Can we perhaps go to that first and then I will come back to the minutes. It is document [ESB.AFP.0010.0279]. Is that the ones you have or do you have the other set?

45

A. I am sorry; are you talking --

Q. You don't have the number?

A. Are you talking about the --

5

Q. The handwritten ones I am asking you about.

A. I don't have the document number down the bottom.

10 Q. If we could bring that document up. 0278 is the document, and we go to page 0279. [ESB.AFP.0010.0278]. At the second page, in the bottom half of that document, it appears to say:

15 "Rick today" - something - "from 1,000 on fires start making run."

Is that "east to forests"?

A. I think it is probably "east fire behaviour".

20

Q. "Fire behaviour forests. G/land" - which I assume is grasslands - "today may put fire out. In property protection mode. Spot pot" - I assume that is potential - "will be huge. Long distance spot occurring. Crews very aware. Watch outs react and implementation. Safety issues." So you are referring to the "grasslands today may put fire out"?

25

A. Yes.

30

Q. Do you recall Mr McRae saying that - that the fire may go out in the grasslands?

A. No, I think ability to extinguish.

35

Q. Are you able to point to anything else in the minutes, handwritten or otherwise, that indicated what the strategy was to hold the fires in the grasslands?

A. Not that I can point to.

40

Q. Because at that stage, as I understand what had happened the day before and what was happening this morning, essentially all the firefighting resources had moved to property protection, hadn't they?

45

A. I think they had.

Q. So there were no resources at least - or were there, as you understood it - available to stop the run of the fire once it got to the other side of the Uriarra pines?

5 A. No, I'm not too sure that's my understanding.

Q. What was your understanding?

A. My understanding is that there would be resources deployed.

10

Q. Where were they going to come from?

A. I presume the sector that was allocated, the north sector.

15 Q. Did you ask about this, Mr Castle?

A. No --

Q. Did you say, "How are we going to stop the fires in the grasslands"?

20 A. No.

Q. Because what is reported in the minutes and is also referred to in the handwritten notes, which I will come to - if we can go back to [ESB.AFP.0010.0266], under "Planning considerations" on the second page:

25

"There is significant potential for long distance spotting today. Watch outs much be read" - I assume it is 'must' - "and implemented and safety procedures as follows need for wind change updates."

30

A bit further down the page:

35

"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; a potential run from Tidbinbilla impacting on the Bullen Range and ... a potential threat from ... Stockyard ..."

40

45 Q. Now, was Mr Keady present during this meeting, Mr Castle?

A. I believe he was there for this briefing.

Q. What was your reaction, firstly, to being told at 9.30 that your fire behaviour experts are saying a potential impact on Weston Creek to Greenway and south Belconnen?

5 A. I presume some concern.

Q. Certainly more concern than the day before and the day before that?

A. Probably.

10

Q. Because if we go to the actual handwritten notes, Mr Castle - and this is document 0278 at 0280 - you will see that same reference part way down, what the handwritten notes are:

15

"High levels of exposure. Potential run from McIntyre's SE W-Creek to Greenway."

20 It appears that Mr McRae, who is making that assessment, is saying that it is not just a potential; it is actually a high level of exposure. Do you recall that being said?

A. I don't remember those exact words.

25 Q. You have no reason to think the notes are wrong about what was said there?

A. No.

30 Q. What was your feeling at this stage, Mr Castle? You said certainly more concerned. How concerned were you on hearing that there were high levels of exposure arising from the McIntyre's fire?

A. Concerned, I suppose.

35

Q. In the media section on the last page of the minutes there's a couple of bullet points at 0268:

40 "Mike Castle to determine regular radio interview times."

What was that discussion about, Mr Castle?

45 A. I think that was attempting to provide information on a regular basis as we became aware of it.

Q. So what were you to go and do - go and get in

touch with the radio stations or someone on your behalf and set up some specific times for you to brief the media?

5 A. I'm not too sure - well, we were still intending to have the regular briefing at 12 midday.

10 Q. That is two-and-a-half hours or thereabouts hence, isn't it? So you would want to be telling people before then, wouldn't you?

A. If I had specific information as to where it was and what I could factually say.

15 Q. I want to ask you about that, Mr Castle. You can provide information about a threat and a high level of exposure where you have been told that the potential area of impact is Weston Creek and Greenway, can't you?

20 A. With hindsight I could have. I suppose I regret that I didn't.

25 Q. Because Mr Lucas-Smith, in his evidence, talked about the fact that one of the reasons that one of the things he was concerned about was that he couldn't say precisely where and when this impact was going to occur and therefore he was reluctant to speculate, or words to that effect; do you recall that?

30 A. Yes, I do.

Q. He said at page 1128, line 0-10 - this was in the context of the conference, which I will come to:

35 "Q. What was that as far as you were concerned something that was in your mind that you were worried about alarming people if you told them in fact you were of the view that some effect on the suburbs was by now inevitable?

40 "A. As I said before, I think from my point of view if I'm going to make such statements then I want to do so with fact and I want to be able to answer all the questions that are a consequence of making such a statement."
45

That just can't be right, can it, Mr Castle? You

can warn people about a threat without having every precise detail of where it is going to occur?

A. I think you can, to some extent.

5

Q. Obviously the more information you have got the better. But you don't wait until you know precisely where it is going to hit before you start telling people about it?

10 A. That's - I mean, a general warning you could give.

Q. That's right. I will come to the conference at noon. I should just ask you, because it is at this point in the chronology where apparently Mandy Newton was endeavouring to contact you in the period during the morning about the potential impact of the fire. Do you recall getting messages from her during the course of the morning up to the time of the media conference?

20

A. One message on my pager.

Q. Did you attempt to respond to that?

25 A. Not at that particular time, because I was going into the briefing.

Q. So that was shortly before the briefing, was it?

A. I believe so.

30

Q. Natalie Larkins also talks about some difficulty she had in getting you to give a media interview. Do you recall getting messages to call her or anyone else from the ABC?

35 A. From Natalie Larkins I did, yes.

Q. That's a message, was it?

A. Yes.

40 Q. She says at page 4 of her statement - it is just a short passage, so I won't bother to bring it up unless it assists you:

45 "By this time my 11am appointment with Mike Castle was approaching."

You had previously made that appointment with her,

had you?

A. I wasn't aware that I had committed to a particular appointment time.

5 Q. She says:

"I was trying to get in contact with him to confirm and then do the interview. He was continually unavailable. I spoke with his
10 media adviser on a number of occasions as we approached 11am. Eventually she told me he was unavailable."

15 Were you unavailable to the ABC at 11am or about that time, Mr Castle?

A. Not specifically, no.

Q. Do you remember --

20 A. I may have --

Q. Did you ask that a message be sent back to her to say, "Look, he is just not going to be available at 11"?

25 A. I don't recall that, no.

Q. What else were you doing during that morning, Mr Castle, as the media conference at noon was approaching?

30 A. Probably trying to finalise the media handout.

Q. The media?

A. Handout - the press release.

35 Q. Presumably as part of that process you were doing your best to get as much information as you could about the current status of the fires?

A. And the media unit would do that on my behalf.

40 Q. Did you personally speak to anyone in the planning section or in operations about the current status of the fires before you went into the media interview at 12 noon?

A. I don't recall.

45 Q. You don't recall speaking, for example, to Mr Graham that morning?

A. No, I don't recall.

Q. Mr Lucas-Smith?

A. We may have passed in the corridor as we went in.

5 Q. I see. The media interview commenced at 12 noon.

A. I'm not too sure it started directly on time.

Q. Was it before or after that, as you recall?

10 A. After it, I believe.

Q. A little after 12?

A. Some time after 12.

15 MR WOODWARD: I notice the time. Is it convenient to have a short break?

THE CORONER: Yes, we will have the short adjournment.

20

SHORT ADJOURNMENT

[3.10pm]

RESUMED

[3.22pm]

25 MR WOODWARD: Q. Mr Castle, you deal with the press conference a little after 12 noon it seems at paragraph 120 and 121. Actually I should ask you about paragraph 120 first of your statement. You say:

30

"At 11.36am I contacted ABC radio in response to a request for an interview but I got a recorded message back off a reporter. I then gave interviews at 11.36am with Canberra FM and at 11.41am with 2CC. I believe these interviews and subsequent press releases all included advice of what to do if a fire approached residences."

35

40 Did you make that contact to the ABC at 11.36?

A. Yes, I did.

Q. Your recollection is that you got a recorded message at that stage?

45 A. I believe so.

Q. Who did you ask to speak to?

A. I presume Natalie Larkins, because that was the message I was following back.

5 Q. Is that your memory of it? You say you presume, is that who you think you were returning the call to?

A. Yes.

10 Q. You then gave interviews, presumably a short time later, although you say 11.36 with Canberra FM and at 11.41 with 2CC. Do you have transcripts of those interviews, Mr Castle?

A. No, I don't. I don't think they went to air.

15 Q. I see. You say you believe these interviews, just dealing with those at the moment, all included advice on what to do if fire approaches the residents. How was that information conveyed during the interviews?

20 A. I don't know. That may not be 100 per cent accurate. All I am working off is what the script that we were actually going to use at the 12 o'clock I believe had that information in it. I don't --

25

Q. So you may not have provided that information?

A. I may or may not have.

30 Q. Do you remember saying to the journalist you spoke to at those two radio stations, "Look, this is what you have to do" and then tell people --

A. No, I don't directly recall.

35 Q. Certainly the material we have suggests at no time before the press conference Mr Castle was - I leave out of this what might have been available in the Canberra Connect website if someone went to that website - there was no information being circulated at that point about what people should do, to use your words, if fire approached
40 residences; is that how you understand it?

A. I think that's correct.

45 Q. You say in relation to the press conference:

"At the noontime press conference we again warned people to stay away from the fire

5 areas to the west of Canberra. We advised
people of preparative actions that should be
undertaken: connect hoses, move things from
eaves, block downpipes and use water to
dampen areas, and we warned about the
increased concerns from smoke; that kind of
thing. We declared the five-day total fire
ban for the ACT until midnight Tuesday,
21 January."

10

That was done the day before?

A. That was already there.

15 Q. So you didn't do that at that conference, did
you?

A. No. I think that should have perhaps read "we
had declared".

20 Q. I see. It says:

"Information then extended to road closures
and public amenity closures, such as BBQ
areas and the like. The tone of the press
conference was definitely one of worry about
the breakout of the fires from containment
lines. Rob Tonkin, chief executive, Chief
Minister's Department sat at the press
conference table with Peter Lucas-Smith and
I, but was not asked any questions. One
reporter attempted to contrast Peter
Lucas-Smith's comments of the previous day
about no worry with the tone of this press
conference. The significant difference was
that the previous day we had been referring
only to the ACT fires and the NSW RFS
confidence in holding the containment of
McIntyre's."

40 I think we have covered that in enough detail,
Mr Castle. Going back to your remark, "The tone
of the press conference was definitely one of
worry about the break-out" perhaps if you could
tell her Worship what you were trying to convey by
making that point, Mr Castle, about the tone of
the press conference?

45 A. I think the change particularly and not so
much from my introduction but the details that

Peter Lucas-Smith gave. I think that was what I was trying to convey there. That was my understanding.

5 Q. People shouldn't have to try and read things into the tone of a press conference, should they, Mr Castle?

A. No, I don't think so.

10 Q. They should be given the direct information they need to ensure their safety?

A. Yes.

15 Q. In fact, some comments that you made might be said would suggest perhaps people - I will read to you what the transcript shows you said at that conference, which is document [DPP.DPP.0004.0047], I believe. On the second page - I should go back to the bottom of the previous page:

20

"I was asked the fire - the closest fire as the crow flies is probably 8 to 10 kilometres as the crow flies, but of course, there are rural residences in a lot of those grassland areas in between, in some of those smaller valleys and we would ask the residents to be mindful of fire around their property and the protection they can take."

25

30 The reporter says something inaudible - I will just check the other transcript to see if it picks it up. It appears from the transcript that was prepared by the government solicitor, Mr Castle, that the media question is shown as being:

35

"Is that down in the suburbs near Tuggeranong?"

You say:

40

"No. It's rural residents I'm talking about, people out in the rural area, on farms."

45 You are emphasising that it is the people in rural areas who need to be mindful of fire around their property and the protection they can take. You are then asked:

5 "Maybe if I ask Peter to talk specifics about the fires and what we are actually doing, and those - the risk to Canberra is there, we would not want to alarm people but it is some distance yet. We have resources that we would deploy at various stages to provide us maximum property protection."

10 Based on what you had been hearing this morning, Mr Castle, I want to suggest to you again that passage that I have read to you understates the true risk to Canberra?

15 A. I think what I have said there perhaps understates the risk and that was as I believed it to be. But then Peter went on to give the details. That's what I relied on.

20 Q. Mr Castle, I want to ask you a question. I want you to think very carefully about your answer and be mindful of what her Worship said to you earlier this afternoon and remember that you are on your oath: were you under some pressure, any pressure from anyone, not to disclose the true level of the risk that these fires presented to the urban area of Canberra at any time during this period?

A. I don't believe so, your Worship.

30 Q. You said that Mr Tonkin was present at the briefing. Why was Mr Tonkin there?

A. He was one of the chief executives, along with Mr Keady, who had come into the bureau at that stage.

35 Q. Did you speak with him before you went on air for that conference?

A. I think he was in my office.

40 Q. Did either you or Mr Lucas-Smith more importantly tell Mr Tonkin the position in regards to the threat to the urban area at that time?

A. Did we tell him the threat? I think he was at the 9.30 briefing.

45 Q. He was at the 9.30 briefing?

A. I believe so.

Q. As well as Mr Keady?

A. I think so.

Q. Did he indicate that he was reporting to the
5 Chief Minister during that morning?

A. I don't think he told me.

Q. Did either Mr Keady or Mr Tonkin or anybody
else talk to you and Mr Lucas-Smith to your
10 knowledge about the way in which this message
should be delivered to the public?

A. I don't think so.

Q. Are you sure about that?

15 A. To the best of my recollection, I don't
believe I got any such direction.

Q. If it is not a direction, did you feel any
pressure? Did you feel as though you couldn't be
20 completely frank in the way in which you described
the risk?

A. Your Worship I think I was under pressure, but
specifically from there I --

25 Q. Did you feel it might be admitting to some
kind of failure if you had acknowledged at any
stage up to and including 18 January that these
fires were not going to be contained before they
hit the Canberra suburbs?

30 A. No, I don't think I had a sense of failure if
we admitted that. I don't believe there was any
deliberate understating.

Q. Do you want to provide any other explanation
35 as to why, by 12 noon on 18 January, you weren't
giving a clear and explicit warning to the people
that some impact on the urban area of Canberra was
perhaps not inevitable but almost certain to
occur?

40 A. I think what my impression, what my view was
that it would reach the urban edge. But what the
impact would be was perhaps not in my - not to the
forefront of my mind. That's partly I think
because of the 2001 fires and the success we had
45 had in 2001. If that's success. I'm not saying
that 2001 was not an impact, but not on the urban
edge, as such.

Q. See Mr Lucas-Smith at the third page of the transcript in the middle of the page says in this exchange which you refer to in your statement where he is picked up about having said - I think
5 his words the day before slim, the reporter got it wrong, it said minimal. He responded:

"Yeah I think the word "minimal" is your
10 word, but there has always been a chance that the fire would reach the urban area. I think that that chance still exists and it's certainly not out of our planning arrangements but they are precautionary arrangements at this stage."

15 I suggest to you, based on the information available to the ESB, that is understating the likelihood of impact on the urban edge?

A. The likelihood of impact?

20 Q. Yes. To say it is still a chance, that is, it is a chance; it is not a certainty or not even likely, and he is saying they're precautionary arrangements so "we are taking some precautions
25 about this possibility". That's as far as he goes?

A. I think I can rely on his professional judgment.

30 Q. Were you conscious or did Mr Lucas-Smith ever say to you that he felt under pressure not to be completely frank about the risk to the urban area from these fires?

A. No, I don't recall him ever saying that.

35 Q. Not before or since the fires any time?
A. Since the fires?

40 Q. I shouldn't say before. At any time since the fires, either during the period we have identified or at any time since, has Mr Lucas-Smith talked to you about being under some pressure in relation to the way in which the warnings were delivered?

A. No, I don't think so.

45 Q. Mr Castle, the media update went out at 12 noon - presumably while you were still in that

conference or about to go in - that provides information concerning the fire. This is document [ESB.AFP.0014.0375]. I think you have agreed already but I will just check: is this, as far as
5 you are aware, the first time that there was a media release sent out that contained some information about community safety?

A. I think so.

10 Q. It does so effectively at the top of the second page of the document:

15 "Indoor: If fire approaches your house: close all doors and windows, fill the bathtub, any buckets et cetera and soak towels to place in any crevices such as under the door. If you have time and can do it, take down curtains and push furniture away from the windows."

20 It than provides some information about what to do if you are outdoors in relation to outdoor areas. The rest of the press release just deals with road closures and information of that kind. The indoor information, if I can call it that, Mr Castle, is
25 very brief; isn't it?

A. Yes.

30 Q. It doesn't take the position much further than some of the information we looked at earlier as to, for instance, what the purpose of filling the bathtub was?

A. No, it doesn't go into that. It does say buckets, et cetera.

35 Q. Because the reality is if you were hearing that information or receiving that information for the first time; in other words, if you are someone who in the community had never at least understood that there was a risk of bushfire and that you
40 personally may be affected by bushfire, that isn't a lot of information. Would you agree with that?

A. No. That's brief information.

45 Q. Were you involved in the process of deciding how that was to be expressed, that warning?

A. I don't think so.

Q. Do you know where that was specifically sourced from? Was it something that was taken from any particular document, to your knowledge?

5 A. It may - I'm just speculating. It may have come from one of those pamphlets, the advice that we have looked at in detail before.

Q. In your statement you go on to talk about meetings through the early afternoon. This is at
10 paragraph 122:

"The difficult thing was to keep up with information as it came into us. I suppose we started to become concerned about what was
15 likely to threaten us when reports indicated the fire had crossed the Murrumbidgee sometime between 12.30pm and 1.30pm and we started to put out the standard warning emergency signal."

20

I think you agree that you were certainly becoming concerned before the early afternoon of the 18th, weren't you?

25 A. There was concern there, as I have said.

Q. So it was really more a matter of the concern continuing to elevate during the morning; is that correct?

30 A. Into the early afternoon.

Q. Into the early afternoon?

A. Yes.

35 Q. You mention that you weren't intimately aware of the specifics surrounding the fast-moving operational matters and at 1.30pm you distributed the first standard emergency warning signal. Just before we get to that, you had a conversation with Mandy Newton at about 20 past 12 that afternoon;
40 didn't you?

A. It's not my recollection that was the time. I thought it was a bit later.

45 Q. Do you recall the circumstances in which you first spoke to Mandy Newton early that afternoon?

A. The circumstances?

Q. Well, I am being a bit oblique. As I understand it, you tell me if I have this wrong, Mr Jason Byrnes was at Curtin in the early afternoon?

5 A. That's correct.

Q. And he was --

A. He was there from earlier in the day.

10 Q. He received a phone call. Obviously you weren't aware of this at the time, he received a phone call from Mandy Newton and he then handed his phone to you so you could speak to her; is that how you recall it?

15 A. I do now recall being handed the phone by Jason Byrnes.

Q. Are you just not too sure about the time?

A. No.

20

Q. I understand - and no doubt Mr Archer will confirm this - her phone records or the phone records that Mr Byrnes would suggest his phone call with her began at about 12.20, so presumably a short time after that he handed you the phone?

25

A. I thought we were still in the press conference around about that time, but the exact time is not in my recollection.

30 Q. You would agree, would you, it was not long after that sort of time --

A. I don't have an exact recollection of the exact time.

35 Q. Do you recall the conversation?

A. Yes.

Q. Perhaps if in your own words you could tell us how you recall what was discussed with Mandy Newton at that stage?

40

A. I think she indicated that there was a need to, in her view, have a declaration of a state of emergency.

45 Q. Why did she think that was necessary?

A. Sorry?

Q. Did she say why she thought that was necessary?

5 A. I think I might have asked her why did she think that was necessary. To my recollection, the main reason that she advanced was that police needed the powers of evacuation.

Q. What did you say in response to that?

10 A. Sorry?

Q. What did you say about that?

15 A. I believe I indicated that there were not planned evacuations and the Australasian Fire Authorities Council policy that had been agreed to was evacuations were not advised in that sense in the preparation for fire.

Q. What else was discussed, Mr Castle?

20 A. I think it revolved predominantly around the need for the powers for the declaration.

Q. You were present, were you, when I think a section of her statement was read out to you about that telephone conversation?

25 A. Yes.

Q. I will read it to you. It appears at page 21 of her statement. She says towards the top of the page:

30

"At about 12.20pm I rang Sergeant Byrnes at ESB. He was extremely busy liaising with all emergency services, Canberra Connect staff and various chief services. We discussed the
35 current status of the fires and current events at the POC and ESB. From my recollection I then asked Sergeant Byrnes to find Mr Castle because I needed to speak with him. I had not been able to get in contact
40 with him through his normal numbers. Sergeant Byrnes put me on to Mr Castle and I had a conversation with him. During this conversation I clearly articulated my view that a state of emergency needed to be
45 declare and my reasons for wanting him to support a state of emergency."

The document number is [AFP.AFP.0110.0398]. He continues:

5 "During the conversations we said things to the effect of:

He said, 'What does the declaration give?'

10 I said, 'Powers to evacuate if needed'.

He said, 'I don't see a need to evacuate.'

15 I said, 'You can answer to the Coroner if people die'.

He said, 'If people die I will answer to the Coroner.'"

20 Do you agree that is a reasonably accurate summary of the conversation?

A. I was shocked at the last - when I read that. That is not my recollection of the words. I believe that what I answered was that I would stand by the evacuation guidelines.

25 Q. Putting aside what you said, do you recall Mandy Newton saying to you words to the effect that you could answer to the coroner if people die?

30 A. I don't recall the latter part. But she --

Q. You don't recall any reference to the coroner?

A. I recall her indicating that you could answer to the coroner.

35 Q. So you do recall her saying that --

A. I believe words to that effect of some description.

40 Q. You say you didn't respond in the terms that she suggested?

A. I don't believe so.

45 Q. I'll ask you to have a look at document [AFP.AFP.0001.0902] which is some handwritten notes. If you go to the third page of that document 0904 - I should say these I understand to

be all the notes taken by Mandy Newton about the time these events were occurring. If you go down the page to 12.20pm, there is a reference to:

5 "Mike Castles - what does the declaration give? Powers to evacuate needed. Didn't see a need to evacuate. Said would answer to coroner if people died."

10 Do you understand that or what's your memory, is that something she said to you?

A. That could well be the case.

15 Q. Doing the best you can, Mr Castle, what was your actual response to those words? They are a pretty confronting way of putting it to you, aren't they?

A. Yes, they are.

20 Q. Do you recall what your response was?

A. That's why I honestly don't recall the words "if someone died". I do recall "answer to the coroner" but I believe that what I think I answered was "I would stand by the evacuation guidelines" because it is based on the evacuation guidelines. The conversation is based on the evacuation --

30 Q. That is the AFAC paper we have already spoken about.

A. Yes, that's correct. That's to the best of my knowledge. As I said, I was shocked to actually read those.

35 Q. You don't mention that conversation with Mandy Newton in your statement, Mr Castle?

A. No.

40 Q. When did you first become aware that the suggestion was made that you had said to her in response, "I will answer to the coroner if people die"?

A. Only when the statements were provided to me.

45 Q. So after you signed your statement; is that correct?

A. I think that's when.

Q. Just for completeness, Mr Castle, I will ask you about a media update timed 1300pm. It is document [ESB.AFP.0014.0371]. It looks as if, in terms of the detail for the first page and a bit, it doesn't add a great deal to the earlier information. Perhaps I should ask you this. It says there:

10 "The fire has entered the north-west corner of the Uriarra pine plantation."

Is that your understanding of where the fire was at 1pm?

A. I'm not exactly conversant with the description of the Uriarra pine plantation. They seem to have different names. I'm not familiar at all with the exact locations.

Q. I'll ask you about again the information that appears at the top of the second page which is to all intents identical to the previous document. It is still pretty brief, isn't it?

A. I think it is.

Q. I should ask you about what was appearing on the Canberra Connect website as well. There is a document at [ESB.AFP.0009.0095]. This is headed up "time line 0130 Saturday, 18 January 2003". What I will perhaps get you to do, as we go through it, Mr Castle, it is obviously difficult to know when you are dealing with a web page when this sort of information began appearing. I just wanted to ask you about that. Particularly focusing on what appears on the second page of the document where it has "subject: fire prevention" down the bottom:

40 "Personal protection. 1. Protect your exposed skin areas - cover up with natural fibre pants and jumpers if possible.

45 Make a decision. Make an early decision to stay and protect your property or vacate to a safe area. If you decide to vacate, close all windows and doors and leave before the fire front approaches. Take all children and pets with you.

You should only stay if you are confident and
fit enough to fight a fire.
If you decide to stay.
Close all windows and doors.
5 Fill the bathtub and buckets.
Connect hoses to taps."

Et cetera. Do you recall when that sort of
information - I appreciate that that general
10 information was available pre-season but, in the
context of these particular fires, are you able to
say when that information was actually made
available in the context or with the same
information about the fires themselves?

15 A. No, I'm not. There was a change-over of what
was on the ESB website and Canberra Connect taking
that over as well. What was on the ESB website,
I'm not too sure, and then how the relationship
between that and the Canberra Connect.

20 Q. Is it likely that it was there much before
noon on the Saturday, that sort of information -
you know what I mean, that information in the
context of the actual fires about personal
25 protection?

A. I don't know.

Q. You would agree, wouldn't you, that at least
the information about filling the bathtub is even
30 less instructive at least as to what you are
supposed to do with that than the media release.
It simply says "fill the bathtub and buckets", it
doesn't say anything about "soaking towels" and
things?

35 A. No, it doesn't.

Q. Can you assist us as to who would have drafted
or determined what should go into that document?

40 A. No. As I understand it, there were Canberra
Connect people in both the Winchester and in ESB.

Q. You are not able to say where that information
came from?

45 A. No. All I suggest is it may have drawn on the
pamphlets and the material we actually had.

Q. Mr Castle, you deal with the state of the

emergency warning signal, as I read out to you, at paragraph 122:

5 "At about 1.45 we first distributed the SEWS".

A. Yes.

10 Q. The document [ESB.AFP.0110.0768] is what I understand to be, Mr Castle, to be the first standard emergency warning signal. Please correct me if that is wrong. That over the page carries your signature, the date and it is timed at 1405. Do you have any SEWS records that suggest that they went out at any time before 205 in the afternoon?

15 A. There is a document that has an AFP number that is script for - and it is timed at 1335 after the event. I have a recollection that Peter Lucas-Smith said he signed the first one. That's why I'm - but I don't have it.

20 Q. Would the signal have actually been broadcast or sent for broadcast before it was signed off by either yourself or Mr Lucas-Smith?

25 A. No, not normally

30 Q. If there is no other document signed by anyone else, that would suggest that the first time it went out would be some time after 2.05, wouldn't it?

35 A. That would appear to be the case. As I said, I had a recollection. I thought Peter had said that he had signed the first one. But I can't find any - I don't have - I don't have a copy, if there was such, only the 1345 script.

40 Q. The script wouldn't have been used before it was actually signed off by someone, presumably, is that correct?

A. Yes.

45 Q. That's certainly our understanding, Mr Castle. We are not aware of anything earlier than that 2.05 one.

A. All I'm explaining, your Worship, that's why I had in my statement I thought there was 1345.

Q. Now, you say again, the standard emergency warning signal includes - if we go to the previous page - down the bottom it indicates which suburb should be on alert. At the bottom you have got
5 what appears to be the same sort of information as appeared in the media release:

10 "Close all doors and windows. Fill the bathtub, any buckets et cetera and soak towels."

And so on?

A. That's correct.

15 Q. That's more or less what appears in the media update; is that correct?

A. That's correct.

Q. Who drafted or who determined what information
20 was going to be included of that kind was going to be included in this document?

A. I think that may have been run past Peter Lucas-Smith before it came to me.

25 Q. Did you look at that information, Mr Castle?

A. The caution?

Q. The "residents should take the following
precautions"?

30 A. It looked to be in accordance with our brochures and our publications.

Q. Were you satisfied at the time you signed this
35 that it was enough information for people to know what to do if they were threatened by a fire?

A. Probably with my state of mind, at that stage, probably yes. With hindsight, more information could possibly be given. Bear in mind, this has
40 actually got to be read verbatim. Just listing all of those, it is a while - I mean, you are conscious of how much you can get across in what is verbatim got to be given.

Q. We have another one of these timed at 1505,
45 which is document [ESB.AFP.0023.0408]. Do you have that one, Mr Castle?

A. Yes, I do. But it also has 1520 on the bottom

of it. I suppose, like the others, all I tried to analyse was what was the different information? were there additional suburbs. At stages we actually did add suburbs.

5

Q. Add suburbs?

A. Yes. Whether they were added as, this is definitely added in the SEWS. it has got down the bottom 1520, but it is timed 1505 on the cover sheet.

10

Q. In terms of precautionary information, you have added a third bullet to that, or a third bullet has been added which is consistent with the 1300 media alert "if you have time and can do it take down curtains" et cetera. Can you recall why that appears in this one but not in the previous one? Did you say we need to put more information in this?

A. No, it was probably reviewing what was the information that was going out and matching it with the standard information.

20

Q. Yes, I see. There is another document that has the Canberra Connect information as at 21 past 3. So about the same time as this SEWS appears to be going out. It is [CCT.AFP.0060.0030]. At this stage the information that is shown there, Mr Castle, if you can go to the middle of the page, you will see there:

25

30

"New information as at 01.15 northern fire 18,000 hectares. ... Previous information from 12 noon. Northern fire approximately 8,000 hectares. A spot fire from McIntyre's Hut fire in NSW, crossed the ACT border last night. The fire has entered the north-west corner of Uriarra pine plantation."

35

That is pretty old news by then, isn't it, Mr Castle?

40

A. Yes, it is.

Q. Because by that stage it is, I think, isn't it, into the Stromlo pine plantation?

45

A. Sorry, what time is that?

Q. 1521?

A. Yes, I think so.

5 Q. Do you know why it wasn't more up to date the website?

A. I think purely the sheer magnitude of getting the information in, getting it determined and then actually updating it. I notice that some of ours had information back there. So it is actually
10 trying to focus what the new is rather than what is still in there. That's the problem with just updating particular parts, as I understand it.

15 Q. The information on precautions at the top of page 2 of that document is now more in line with the SEWS:

20 "Fill the bathtub, any buckets, et cetera, and soak towels to place in any crevices such as under the door".

A. That could be that the SEWS was actually being virtually updated onto the website. That was my understanding.

25 Q. That would explain why that changed?

A. That was the process that was in place.

MR WOODWARD: I only have probably another 10 minutes to go. Perhaps --

30 THE CORONER: If you are content to keep going?

MR WOODWARD: I am certainly content, but obviously Mr Castle will be in the witness box
35 tomorrow morning in any event.

THE CORONER: You say you have 10 minutes to finish?

40 MR WOODWARD: I would estimate.

THE CORONER: I think it is probably preferable to keep going. Are you happy with that position, Mr Castle?

45 THE WITNESS: That's fine, your Worship.

MR WOODWARD: Q. The declaration of emergency you deal with at paragraphs 123 and following, and you refer to the meeting in your office shortly after 2pm attended by the people whom you list in
5 paragraph 124. Give us, if you can, the general impression or word picture of how this discussion went?

A. Could I correct my statement, your Worship. I did indicate at the start there was a name that I
10 needed to change. Mandy Newton was not present at that meeting. I understand that was Steve Kirby. He came with - he was there prior to, but I understand he accompanied John Murray into it.

15 Q. I don't think there is any dispute there was some debate about the need for a declaration of emergency. Is that your memory of the discussion?

A. Differences of opinion - some debate, if that's the --

20

Q. The debate, at least from Mr Murray's point of view, was that he was pressing for the declaration because it was necessary that there be power for forcible evacuations. That was what he was saying
25 was the reason he felt the state of emergency was appropriate?

A. That was my understanding.

Q. What was your attitude to that, Mr Castle?

30 A. I think the approach being taken by myself and Peter Lucas-Smith is the AFAC, Australasian Fire Authority Council paper position and guidelines and that was that people were best off staying with their home to protect their property. The
35 ember attack, it was likely to be the biggest impact and that people should stay. So we were not at this stage in support of forcible evacuation.

40 Q. That was in substance, was it, why you were saying it was not necessary?

A. That's correct.

Q. You say in your statement at paragraph 127 you
45 produce the AFAC paper and you talk about the collective advice of fire authorities. Mr Murray in his statement talks about at one point in the

meeting yourself, I think it was, Mr Lucas-Smith, and Mr Stanhope and possibly Mr Keady, was it, having a more private discussion about issues; do you recall that?

5 A. No, I don't. I saw that in Mr Murray's statement. I don't recall. I think at one stage I did express some concern that Mr Lucas-Smith was concerned about him being at the control.

10 Q. You say in your statement that you gave advice about the appointment of an ultimate controller?

A. That's correct. That exists in the Act.

15 Q. Paragraph 129:

"Given this apparent concern from the Chief Minister - being the concern about whether or not it was appropriate that the Chief Police Officer be controlling a fire event - you offered him advice that an alternate controller could be appointed as provided in the Act"?

A. That's correct.

25 Q. The Chief Minister was concerned was he or was expressing concern about the promptness of having a Chief Police Officer in charge of the event?

A. Yes.

30 Q. Did he tell you or express a view as to was it simply because it was a fire or were there some other factors of concern?

35 A. No. As I recall it, it was a perception that, with due respect to Mr Murray's operational experience, this was a fire event and the perception that I suppose people could perceive that the Chief Police Officer was in charge of a fire event.

40 Q. That was the advice - he accepted that advice, as I understand it?

A. Collectively I think that was also expressed. It may have also been mentioned by Mr Keady.

45 Q. Given the debate that had occurred, how was that issue about evacuations resolved, Mr Castle, that then led to the declaration of a state of

emergency?

A. I don't think it was specifically resolved in the sense that that power actually came with the declaration. So it was the debate was about
5 whether that power would generate the need.

Q. Presumably that was resolved. Ultimately was that the reason why the declaration went ahead to confer that power?

10 A. I think the reason ultimately the declaration went ahead was I think we may have got additional information from what the fire was doing from Mr McRae or somewhere like that. I think Mr McRae came into the discussion at some stage.

15

Q. And did what?

A. Oh, if I recall, gave us an update as to what they knew about the fire.

20 Q. So he conveyed that things were getting pretty serious, so the evacuation issue became more subsidiary in terms of whether or not a declaration should occur?

A. Yes.

25

Q. Mr Castle, I want to ask you a couple of other brief questions. It is the case, isn't it, on the evening of the 18th obviously, although the substantial impact had been in the area of Duffy
30 and the areas we are familiar with, there were still risks to other areas; is that correct?

A. Yes, I believe so.

Q. At that stage and over the ensuing days a
35 number of things were done to alert the members of the communities of places like Belconnen and others about the risk of fire, including door knocks and that kind of thing?

A. I believe in one area that was undertaken.

40

Q. Are you able to say or is there any reason why had the threat been fully recognised and identified the night before to areas such as Duffy that a similar exercise could not have been
45 undertaken in places like Duffy?

A. I think it is a resource issue. In Belconnen --

Q. Do you have any reason to believe why there weren't police available on the evening of the 17th, for example, to conduct door knocks through the area of Duffy and places like that?

5 A. My understanding when we did them in Dunlop it was not a police undertaking. I understand it was undertaken by SES, State Emergency Service volunteers.

10 Q. There is a reference in the minutes of the Emergency Management Executive Committee which eventually assumed the role of the planning committee [ESB.AFP.0011.0304] at page 2 where under the heading "AFP" is a note:

15

"Assistant Commissioner Andy Hughes reported that police will undertake a door knock tonight of all suburbs listed under threat. A forensic vehicle, that was involved in an accident in the Tuggeranong Parkway, was burnt over"?

20

A. Sorry what day is this?

Q. This is 2211 hours on the 18th?

25

A. It is that evening.

Q. Yes.

A. I wasn't aware. That didn't stick in my mind.

30

Q. Are you aware of any reason why a similar exercise could not have been conducted in the days prior to the 18th?

A. Well, no, other than resources specifically to do it. It is very labour intensive and what areas and what parts of the suburb are done.

35

Q. Presumably, Mr Castle, it was going to be much less of a resource problem on the 17th than on the 18th, at least for the police for instance?

40

A. I see. Yes, I suppose so.

Q. So it is the case, isn't it, that had the risk of a threat been identified, there would have been really nothing to stop that sort of exercise being organised on the night of the 17th or indeed earlier?

45

A. I'm not actually sure what areas we would have

done. If we had done the whole of the urban interface, then I think the resources would not have been there. As I said, as I understand it the particular areas that were done were targeted.

5

Q. Certainly some attempt could have been undertaken to speak to people on that urban rural interface on Eucumbene Drive and Warragamba Avenue?

10 A. Possibly.

Q. It is not really possible --

A. Possible depending on the resourcing.

15 Q. Mr Castle, just two final things. I want to ask you about a document that has been obtained from ESB computer system [ESB.DPP.0001.0065]. I accept that this may be something that we need to ask Marika Harvey about. Under the "ESB media
20 team roles and responsibilities" and under that heading "Marika's key priorities", the first of those is "to protect Mike Castle". Do you know what that is about?

A. This is after the event.

25

Q. It is after the event. I should have made that clear. We think the document was prepared on 20 January.

A. I think people were concerned about my
30 particular state of pressure.

Q. I see.

A. I think that was just to try and ensure that she started to prepare diaries and times.

35

Q. To try and regulate the amount of pressure?

A. Just the amount - there were a lot of people, a lot of media that then wanted particular
40 comment.

40

Q. Mr Castle, the last document I want to ask you about is one you may or may not have seen before [ESB.AFP.0019.0419]. It is a fax from Gaye Campbell from staff development and training to
45 the counselling coordinator of the Police Operations Centre.

I think the first page may be a fax. I don't have the page on mine. I think what has happened is the documents are in the wrong order. That is the problem. I might get you to go to the first page
5 which is actually the second page of the document on the system. Have you seen this document before?

A. No, I haven't.

10 Q. You will see the subject is "report on call regarding fatality in Duffy"?

A. I see it.

15 Q. I won't read it in detail. Perhaps starting:

"I received the message at 10.15 with a request for Peter Lucas-Smith to call Vince Zankin about misinformation regarding safety advice in preparing for the advance of
20 bushfires which has been given out to householders over the radio. The message said that this was in connection with one of the fatalities. I spoke with Peter
25 Lucas-Smith who suggested I call Mr Zankin and get more information. The details of the call are as follows:

Mr Zankin explained that he is a minister of religion who is counselling the husband of
30 the 39-year old woman who died in Duffy. He said she was the mother of three young children and the family are deeply distressed. She had been found in the bath with a wet towel covering her. He said her
35 family felt she would have been following instructions given over the radio about how to keep safe in the event of a fire. They said she was the kind of person to follow instructions precisely. Mr Zankin made it
40 clear he was not calling on behalf of the family, but as a concerned person who felt we must be giving out misinformation and he wanted this rectified for the future. To
45 illustrate this might not be an isolated incident, he said he had heard of other people who had been rescued by neighbours, and they had been found in their baths.

Mr Zankin said he had also left a message with Ken Paulsen, director of ACT Ambulance Service and had called ABC Radio about his concerns. I said I would discuss the matter with Ken Paulsen and call him back.

Ken Paulsen gave me a copy of the Safety Broadcast Alert for Monday, 20 January 2003 (presumably the same one used on Saturday for ABC radio) and two of the points it clearly states under the heading 'What to do when fire approaches' are: fill baths, sinks and buckets with water for extinguishing small fires and for drinking water; place wet towels and blankets against gaps under doors and windows."

Just pausing there, would you agree that is in fact not what the messages were saying in the period up to the 18th and during the 18th of January?

A. Oh, no.

Q. In other words, they have been changed because now you have a clear indication of what filling the bath is for?

A. Yes.

Q. That wasn't clear before then, was it?

A. No. It's clarified here.

Q. Incidentally, I appreciate this is anecdotal, had you received information either on the 18th or after about people being rescued by neighbours and having been found in their baths?

A. No. But I was aware that we had been advised about a fatality of somebody in the bath.

Q. Do you know whether that was the impetus to change the message that was then provided after the 18th?

A. I believe it was.

Q. Is that something you were directly involved in?

A. No, I think I expressed the opinion that the information needed to be clarified. I think the

information is the same that I think was national.

Q. So that people understood the reason why they would be filling their bath?

5 A. That's correct. I think that also was a function, your Worship, of the more recent booklet. It tried to look very carefully at every one of the pieces of advice that we gave people in preparing for the emergency and analyse it very
10 critically in terms of what would somebody actually consider the purpose.

MR WOODWARD: I have no further questions, thank you, your Worship.
15

THE CORONER: Mr Archer, will you be ready to start your cross-examination of Mr Castle tomorrow morning?

20 MR ARCHER: Yes, your Worship.

THE CORONER: We will adjourn until 10 o'clock tomorrow morning then.

25 **MATTER ADJOURNED AT 4.20PM UNTIL TUESDAY,
2 MARCH 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

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

DAY 19

Tuesday, 2 March 2004

[10.15am]

<MICHAEL JOHN CASTLE, RESWORN

5 MR WOODWARD: Your Worship, I should have late
yesterday tended the bundle of telephone records
that have been provided by Mr Castle. I will
perhaps do that now.

10 MR JOHNSON: I think there are a number of private
phone numbers in those records. There may be a
question as to whether it ought to be publicly
available. Obviously there is no problem with it
15 being available to court. I do think that may be
an issue. I just ask that perhaps if there is a
process for them to be --

THE CORONER: I could make an order that they are
not to be made available unless a request is made
20 to me and unless that request is approved. They
are not to be made generally available to the
public or to the press, but certainly counsel can
have access to them.

25 MR JOHNSON: Thank you.

THE CORONER: Mr Castle's telephone records will
be exhibit 0028.

30 **EXHIBIT #0028 - MR CASTLE'S TELEPHONE RECORDS
ADMITTED WITHOUT OBJECTION**

THE CORONER: You have no further questions,
Mr Woodward?

35

MR WOODWARD: No, your Worship.

<CROSS-EXAMINATION BY MR ARCHER

40 MR ARCHER: Q. You have been in the witness box a
fair while, Mr Castle. I do not want to take too
much further of your time. Just by way of some
preliminaries, you have been associated with
management within the emergency services group, if
45 I can put it that way, since about 1994; is that
right?

A. That's correct.

Q. Although you don't have any direct expertise in firefighting, I would imagine that over that period of time, that is from 1994 to 2003, you would have been involved in a lot of incidents
5 dealing with fire?

A. There were a lot of incidents involving fire involving the agencies over that period.

Q. Predominantly over the summer months that
10 involvement would see emergency services responding to fire outbreaks in the national parks and the Brindabella hills?

A. Yes.

Q. In that context and over that period of time you would have had cause to deal with the AFP in that context quite a bit?

A. Yes.

Q. So far as the role of the AFP was concerned in responding to such events, could I read this passage to you. It is a passage I read to Mr Lucas-Smith when he was giving evidence, so you may have heard it before. It is in Mr Murray's
25 submission to the coroner, which is at [AFP.AFP.0110.0001] at page 9 of those submissions. I will read it out. Under the heading "General police responsibilities in ACT emergencies", Mr Murray writes:

30 "Insofar as leadership of large events/emergencies is concerned (outside of a declaration of a state of emergency) there is a reliance on convention rather than
35 prescribed rules. Nonetheless, this has tended to work well and in my time in office the relationship between police and other emergency services has been congenial and cooperative.

40 Police manage the incident scene, maintaining the cordon and undertaking crowd control under advice from the agency that has primary carriage and knowledge of the specific threat
45 at hand. Each emergency service has its own internal command and control structures with cross-agency collaboration occurring via

requests to other institutions. Where
another agency commands the incident, as in
the case of fires, police maintain order at
the scene, may investigate perpetrators or
5 assess and reduce the threat should this be
based on criminal rather than natural causes,
will evacuate areas or put in place road
blocks under advice from other services as
required, and broadcast information to the
10 public via the media unit. If there is a
death or suspicious cause, however, the
incident site becomes a crime scene,
regardless of whether it is a fire incident
or not. Police then manage the incident and
15 control access to the site in order to
preserve and collect evidence."

Does that sound right so far as describing the
police role in emergencies where they are not the
20 lead agency?

A. Yes, as I understand it.

Q. In a fire situation involving attempts by ESB
to suppress a fire out in the Brindabella Ranges,
25 for example, the role the AFP may play is in
relation to road closures?

A. That's predominantly the case, yes.

Q. The purpose of that is to ensure that people
30 are not endangered by going to areas that may be
subject to fire; is that correct?

A. Yes, but it may also be to allow access -
unimpeded access of emergency vehicles as well.

35 Q. So it is a facilitative process?

A. Yes.

Q. So far as directing AFP to do things is
concerned, they are as near as the telephone. You
40 can ring them up, you can ring up John Murray or a
liaison officer that may have been appointed in
relation to a specific event and ask for those
things to be done?

A. Yes.

45

Q. It was not a matter of interpreting the tea
leaves at all; it was simply a telephone call,

"John, I want this done in this way"?

A. It probably didn't rely on a call to John Murray. It was done at operational levels a large proportion of the time - most of the time.

5

Q. So far as that was concerned, that was a process that had historically worked very well?

A. Yes.

10 Q. It had a very recent test, a comparatively recent test, in the 2001 fires?

A. Yes.

15 Q. There is before the coroner a document entitled "Report to the Chief Coroner, Mr Carl, on the bushfire events of December 2001". I think that was a document prepared by Mr Lucas-Smith?

A. Yes.

20 Q. Did you have a role in the preparation of that document?

A. Some input in terms of editing, looking at it, drawing together I suppose parts of the ESB to provide that input so Mr Lucas-Smith could prepare it.

25

30 Q. So far as the general tenor of that document is concerned - I don't want to take you to it at all - so far as it reflected upon the cooperation between the ESB and the AFP, it reported quite favourably in relation to the process of cooperation?

A. I think the relationship is good, excellent.

35 Q. And operationally during that 2001 event a senior police officer was stationed at Curtin and was working sort of shoulder to shoulder, as it were, with members of the ESB in relation to reacting to the fire?

40 A. That's correct.

45 Q. Could the witness be shown the email of 9 January, which is [ESB.DPP.0001.0071]. I think you would recall it. A lot of material has been shown to you. This is one of the documents Mr Woodward took you to which was an email of 9 January 2003, 12.48pm, where you built upon I

think another conversation that you were having with John Murray in another context to give him what you describe as a "heads-up" in relation to the fire that had then broken out?

5 A. I believe so.

Q. Just in relation to the words "I believe so", it is so, isn't it?

10 A. Yes.

Q. I want to avoid the word "believe".

A. Yes.

Q. That is what it is and that's what you did?

15 A. Yes.

Q. It wasn't your intent with that document, was it, to imply or to directly state, indeed, that this fire at that stage represented a threat to urban Canberra?

20 A. No, I don't think so.

Q. "No" is the answer, isn't it? It is not a question of "I don't think so", is it, Mr Castle? You just didn't want to convey such a message, did you?

25 A. I'm not too sure. The answer is no, I didn't convey that.

Q. That wasn't your intent to convey it either?

30 A. No.

Q. Definitely not, was it?

35 A. No. Can I read the whole document?

Q. Absolutely.

A. No.

Q. The Emergency Management Committee was a body that had been set up after the enactment of the Emergency Management Act 1999?

40 A. No, it existed before then.

Q. You were a member of that committee?

45 A. Yes.

Q. You were also, I think, part of the emergency

services forum that John Murray set up in July 2001?

A. Yes.

5 Q. What role did Kate Keane play in relation to that particular body? I am talking about the committee now.

A. She is the only emergency management support officer in Emergency Services Bureau and her
10 responsibility was focused on supporting the Emergency Management Committee and the plans, the updating. She also plays the secretariat for all of the sub-committees.

15 Q. Those I have spoken to in the AFP speak very highly of her abilities. She is a very active person in fulfilling those roles?

A. Very competent.

20 Q. I gather that on a couple of occasions she took it upon herself, did she, to send out some emails to EMC members just alerting them to the present state of the fires?

A. Do you mean during these fires or do you mean
25 generally?

Q. In relation to these fires, the 2003 fires?

A. I may have said, "Kate, I think we need to advise or update Emergency Management Committee
30 members."

Q. In relation to those messages and indeed the message of 9 January that you have just been taken to, if it was the case that you, as a spokesperson
35 for ESB, wanted the police to do something, you would have asked?

A. If I personally did, yes. But if any of the agencies wanted something, then there were a number of mechanisms to do that, yes.
40

Q. But if the ESB wanted the AFP to respond in any way in relation to road closures or evacuations, for example, it was a question of asking?
45

A. Yes.

Q. So far as the AFP being privy to the internal

processes of the ESB is concerned, I suggest to you that they had a liaison officer present at Curtin from the afternoon of the 16th; does that accord with your recollection?

5 A. Yes, I think it followed John Murray's meeting with us.

Q. That briefing took place - we will come to that in a moment - after Sergeant Steve Kirby was sent out to Curtin to act as a liaison officer?

10 A. Yes.

Q. So far as information that was available to ESB before that date, unless canvassed in that briefing, that information would not have been known to the AFP, would it?

15 A. The two communications centres have a direct link, as I understand it, and at operational levels there may have been discussions with a variety of people, but I'm not aware of those.

Q. So, for example, in relation to the conversation that Mr Lucas-Smith had with Mr Cheney, for example, on about 13 January, that was not information that was available to the AFP, was it?

25 A. No, I don't believe so.

Q. It certainly wasn't a subject that you canvassed with anybody from the AFP personally?

30 A. I didn't, no.

Q. So far as information was disseminated to the planning group in the planning meetings in the morning - "planning group" is the wrong word - the individuals that attended the planning meetings each morning, the AFP became privy to information as of the afternoon of the 16th when Sergeant Steve Kirby attended that planning meeting?

35 A. In the planning meetings, yes.

Q. In respect of that briefing of the 16th, you appreciate the sensitivity of that particular piece of evidence; don't you?

40 A. Yes.

Q. You knew from the moment that you were asked

to prepare a statement in relation to this matter that the time and the manner in which information was conveyed by you to outside agency was a matter that the coroner would be concerned with?

5 A. I don't think it was conscious in my mind, but generally, yes.

Q. That morning a briefing had been conducted with cabinet?

10 A. Yes.

Q. For the purposes of that briefing a document had been prepared?

15 A. Yes.

Q. You had some role to play in the preparation of that document?

A. Yes.

20 Q. Mr Keady, I think, had a hand in it as well?

A. Yes, I believe so.

Q. During the conversations that took place with cabinet, amongst other things, the question of a declaration of a state of emergency was discussed; is that right?

25 A. Yes.

Q. How did that conversation arise; do you recall?

30 A. It may have been because the Minister was due to go on leave. That would mean some of the positions would change. It may have been more an overview of taking the opportunity of briefing the
35 Ministers on what is involved in a state of emergency.

Q. I assume there was some context for that discussion that somebody thought it may be an eventuality that arose at some point in the future?

40 A. That could be the case.

Q. If a state of emergency was to be declared, John Murray, as the Chief Police Officer, would be the territory controller?

45 A. Yes.

Q. Was that fact relayed to the cabinet that morning?

A. I think so.

5 Q. Arrangements had been put in place as at the time you attended upon the cabinet for a meeting to take place that afternoon to brief John Murray and Commander Newton in relation to the fires?

10 A. Yes. I think the meeting was set up to follow.

Q. Some days before?

A. Yes.

15 Q. So far as that discussion about the state of emergency was concerned, before you went to the meeting did you envisage that would be an issue that would be raised at the cabinet meeting?

20 A. I don't think I envisaged that directly.

Q. In relation to the people who went to the briefing, the cabinet briefing, that was you and Peter Lucas-Smith?

25 A. Yes.

Q. And Mr Keady, I suppose, strictly, was involved in that briefing process as well?

A. Mr Keady came to the briefing.

30 Q. Did you actually reflect upon whether or not it was advisable to involve the police in that process of the briefing?

A. No.

35 Q. Why was that?

A. I don't think it was the purpose. I think the purpose was to actually brief cabinet on the fires. Indeed the focus was on the fires.

40 Q. At that stage the role of the AFP was sufficiently peripheral not to justify them coming along to the cabinet meeting to have a part in the briefing?

45 A. I believe so.

Q. That briefing in the afternoon occurred at a time after 2 o'clock; didn't it?

A. I believe it was 2.30.

Q. At about the same time there was a briefing conducted, a briefing involving the ACT Fire
5 Brigade and perhaps the Ambulance Service as well. That briefing was led by Peter Lucas-Smith?

A. I believe so.

Q. And you weren't present at that meeting?

10 A. No.

Q. In relation to the briefing in the afternoon, do you now have a recollection of what you said? I understand giving a verbatim account of what was
15 said will be difficult, but do you actually have in your mind now a recollection of what you told Chief Police Officer Murray and Commander Newton?

A. Not directly. I believe I used the cabinet document as the flow of information.

20

Q. There is a choice of words you use which I want to take up with you. You said "not directly" and "I believe". Now, does that mean in fact that you have no recollection of what you said -
25 perhaps I should finish the question - and you are simply reconstructing a version of that conversation or briefing based on what you might have done or would have done given that you had that piece of paper with you?

30 A. That's likely to be the case. I recall talking about the fires.

Q. You recall talking about the fires, but you've got no recollection at all of what was said, do
35 you?

A. Not specifically.

Q. I am going to challenge you again on the word "specifically". Every time you say that word I am
40 going to challenge you. What I suggest to you is that you have no recollection of what was said by you during that briefing.

A. I think I have some recollection.

45 Q. Give me that recollection of what you said?

A. I said where the fires were and described --

Q. You described where the fires were. What did you say?

A. I don't recall the exact words that I said.

5 Q. I am content with the effect of what you said. What did you say?

A. Described where the fires were at that particular stage.

10 Q. What did you say?

A. The fires were in the hills. No, I can't recall exactly the words I used.

Q. Is there anything else that you recall saying?

15 A. No.

Q. Have you got your statement there with you?

A. Yes.

20 Q. Can I get you to turn up paragraph 101 of that statement, please. I will read it out to you:

25 "In the afternoon I briefed John Murray, CPO AFP, and Mandy Newton, Commander Operations Support AFP, based on the cabinet briefing we had done in the morning. Peter briefed the Fire Brigade Management Team at the same time and they looked at containment and deployment strategies. Here is another good example of
30 the two services working together to maximise the effort. They were ensuring that we had all our resources totally deployed as needed through proper planning. It is significant that planning by the fire brigade was taking
35 place at this time. They were participating in briefings routinely from 9th January."

40 Could you satisfy yourself that before 101 and afterwards there is no further reference to that meeting between you and the police?

A. I don't think so without checking, but I don't believe so.

45 Q. That paragraph is wrong, isn't it? Do you recognise there is an error or two contained in it?

A. The fact that I mention "based on a cabinet

briefing".

Q. It doesn't mention that other people were present at the briefing, does it?

5 A. Oh, no, it doesn't.

Q. It doesn't mention that Peter Lucas-Smith was there?

A. No.

10

Q. And he was?

A. He came in.

Q. And Ian Bennett was there too, wasn't he?

15 A. He and Ian I think came in together.

Q. So it wasn't the case that Peter was briefing the Fire Brigade management team at the same time; it is only partly true that, isn't it?

20 A. Partly. He was briefing them at the same time as the staff, yes.

Q. I have read it out. It contains no reference at all to what you actually said?

25 A. No.

Q. From time to time during the long course of evidence when you were being asked by Mr Woodward you had occasion to look to some notes in that folder or folders that you have in front of you. Do you have any note of that conversation?

30

A. No.

Q. Were you in court when Mr Lucas-Smith gave evidence about that conversation?

35

A. I believe so. I think so.

Q. So far as the preponderance of the briefing was concerned, wasn't it the case that Mr Peter Lucas-Smith did most of the talking and not you?

40

A. I'm not sure about that. I started the briefing is what I understand. What proportion then Peter Lucas-Smith came in - but that was the case.

45

Q. Can I just read your evidence on 26 February at page 1593 in relation to what you say happened.

In the question at line 13:

5 "Q. In your statement you say that you provided them with a briefing 'based on the cabinet briefing we had done in the morning'. Did you provide them with a copy of the cabinet briefing paper or any similar document?

10 "A. I don't think I actually gave them a copy of the document."

Is that your recollection still?

A. That's my understanding.

15 Q. It goes on:

"Q. But did you have it with you?

"A. I believe so, yes."

20 Now, there's that word "believe". What does that mean there, "I believe so, yes"? Does that mean, "I've got no recollection of having that document with me, but I assume I did"?

A. That could be the case.

25

Q. It goes on:

"Q. Did you speak to it?

"A. I believe so."

30

Again, what does that mean? Can I suggest to you in fact you assume that you spoke to it but have no specific recollection of having that piece of paper in front of you and using it as a prompt for things to say to those two people.

35

A. No, I don't.

Q. No?

A. No, I don't.

40

Q. So you have no actual recollection of having that piece of paper in front of you and going through the dot points that are contained at various points in that document?

45

A. No, I don't.

Q. The next question:

"Q. Did you, in the course of that meeting, say anything to Commander Newton and Mr Murray about a risk to the urban area?

5 "A. I believe I based it on the cabinet briefing and would have followed this through in its broad content."

You use again the expression "I believe". Do you actually have a recollection of basing the briefing that you gave these two police officers on the content of the cabinet document, or is it an assumption on your behalf that that's what you did?

15 A. It was probably an assumption.

Q. You were then asked:

"Q. Is your recollection that at some point during that briefing you said to them in substance what appears on page 2 of that document - we won't go back to it because we have seen it many times - 'with stronger winds from the north-west there is always the potential for spotting over the containment lines which has potential serious impact to ACT forest pines and subsequently the urban area?

25 "A. I believe I would have provided that broad information."

30 Now, first of all, we will go back to the expression "I believe". Do you actually have a recollection of telling John Murray and Mandy Newton that information that is contained on page 2 of the cabinet briefing document?

35 A. I don't have such a recollection.

Q. Could I take you to 18 January, perhaps to the evening before. The planning meeting that had taken place, and it was deferred until 1800 on the 17th, reference was made during that meeting to a projected spread of the fire that had the fire at Narrabundah Hill I think at about 2000 hours the following day. Do you have the minutes of the planning meeting there?

45 A. Sorry, on the evening of the 17th?

Q. Perhaps it could be brought up;
[ESB.AFP.0110.0865] at 866 if I could, please. Do
you have that under the heading "Planning" on the
second page?

5 A. Yes.

Q. It says:

10 "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."

A. Yes.

15 Q. It says:

"Planning is to provide a map of predicted
unattended rate of spread."

A. Yes.

20

Q. First of all, do you recall that information
being canvassed at the planning meeting that
evening?

25 A. I recall the mention of unattended fire and
the broad predictions.

Q. In relation to the last sentence in that
paragraph:

30 "Planning is to provide a map of predicted
unattended rate of spread."

Was that map produced?

35 A. That may have been the map the next day.

Q. Sorry?

A. That may have been the map the next day.

40 Q. Was the focus of you and Mr Lucas-Smith at
that stage still in relation to the rural areas
predominantly? Had you thought the issue for the
following day was going to be in relation to
property protection in rural areas?

45 A. That was the focus definitely in the evening,
in my mind.

Q. Was that emphasis communicated to the meeting

in any way? Perhaps I will ask a supplementary question that might make it easier for you. We have available to us now the formal minutes that were later produced.

5 A. Yes.

Q. We also have copies of the notes that were taken by the scribes at the time.

A. Yes.

10

Q. So we have the benefit of that. What we don't have the benefit of is how different players or spokespersons had an effect on the tenor of the meeting. You have been to a thousand meetings in your time, and minutes of meetings don't always convey, do they, how particular spokespersons influence the flavour or the tenor of the meeting, do they?

15

A. No, not in - written.

20

Q. They are just very bland documents and everything is given equal weight because it is black and white after the event. But that's not the reality, is it?

25

A. No, no.

Q. What was the tenor of that meeting so far as the priority for the next day was concerned?

A. I think it was focused on the rural area.

30

Q. You say "think". Again, what does that mean? Is that your recollection now, that the emphasis of the meeting was directed at rural property protection?

35

A. That's my recollection.

Q. Yet there it is in black and white. There is a projection given by I assume Rick McRae that there is potential for that fire, if left unattended, to reach Narrabundah Hill by 2000 hours. There it is in black and white. At that stage had you formulated any plans in relation to how that threat, if it materialised, was to be dealt with so far as the urban area of Canberra was concerned?

40

A. I personally, no.

Q. To your knowledge had anybody within ESB formulated such a plan?

A. Not to my knowledge. But --

5 Q. Now the following morning there was again a planning meeting at the usual time, at 9.30am the following morning. The minutes of that meeting are found at [ESB.AFP.0010.0266]. Do you have those minutes available to you?

10 A. I have a set, yes.

Q. The minutes themselves do not contain a reference to the projected fire spread, do you agree with that, so far as giving a time to an estimated rate of spread? Do you agree with that? Just confirm that for yourself. As I understand it, it is three pages of minutes?

A. I can't see any reference to it.

20 Q. Do you have available to you the notes made by the scribes at that meeting?

A. I have a set. I think there are two. I'm not too sure.

25 Q. Would you go to the page which is given a case book number [ESB.AFP.0010.0288].

A. I don't have a code on it.

30 Q. Could that be brought up on the screen. Do you recognise that handwriting?

A. No, I don't.

Q. Do you accept that seems to be a note taken at a particular meeting?

35 A. Yes, it is. Does it have the start?

Q. Sorry?

A. Is that the start of the briefing? I am looking at a page.

40

Q. I don't think it is the start of the briefing, but it is a page from that collection of notes. Perhaps if I could do it this way: could I hand to the witness this collection of documents. What that is, in my collection of materials, is the minutes of the meeting, some weather predictions, some other tables and charts and then some

45

handwritten notes in relation to that briefing.
The tab that you have already identified is the
place I want to ultimately take you to. I want
you to satisfy yourself the point at which I am
5 taking you to seems to be part of the notes that
were taken during that briefing.

A. It appears to be.

Q. Can I have them back and you can follow it on
10 the screen, that particular page. Do you agree
that at some point during that briefing there was
an attempt to predict the rate of spread of the
fire according to an estimate of a particular
time?

15 A. Could you just highlight --

Q. It states, "1200, Uriarra; 1500, Cotter; 1800,
west side Mt Stromlo." Do you actually recall
that discussion at the planning meeting?

20 A. No, I don't recall those specific details.

Q. Do you recall if Superintendent Prince was at
that meeting?

25 A. No, I don't. I don't recall.

Q. So far as Rick McRae's team was concerned - we
haven't heard from Mr McRae; we will in the
fullness of time no doubt - his area, that
planning area, was an area under your control;
30 have I got that right?

A. No.

Q. Did they report ultimately to you?

35 A. No. I am not operational.

Q. Leaving aside that operational business --

A. That is significant.

Q. The staffing arrangements, the budgets and so
40 on for that area I assume fall under your
portfolio responsibility, or have I got it wrong?

A. No, the planning is part of the incident
management team and therefore was operating as
part of the Bushfire Service.

45

Q. The resource that was contained in that area
was a resource that you could call upon as you saw

fit; that is, if you wanted to know something about the fire, you could just go along the corridor, I assume, and ask Rick McRae what the latest was?

5 A. Yes, but I tended to rely on Peter Lucas-Smith. So I tended more to go to Peter Lucas-Smith.

10 Q. So the information that you were getting to that extent was a bit secondhand; is that right?

A. I wasn't going directly to planning.

15 Q. Do you appreciate or is it your perception now, having read all of the material associated with the coronial process, that on that morning of the 18th other people seemed to be going directly to the planning unit to get information from them?

A. People within the incident management team, within operations, yes.

20

Q. Those people would include officers from the ACT Fire Brigade?

A. Could well.

25 Q. The information that they seemed to be getting was information that in their mind suggested there was a very real concern about the fire hitting the western edge of Canberra some time that afternoon?

30 MR JOHNSON: As to that, I object. It is put in a very vague way. At this stage the witness has been in the witness box for six days. If there is a precise piece of evidence, it should be put rather than asking the witness a rolled-up
35 question like that, and that's in fairness to the witness, after being in the box for this length of time, I would submit.

40 THE CORONER: Are you able to identify, Mr Archer, where that information came from exactly?

MR ARCHER: For example, could I have this document brought up, [ESB.AFP.0110.0693].

45 Q. Mr Woodward has already taken you to this document. Did you actually see that?

A. No.

Q. Did you have any conversations with David Prince that morning immediately before the planning meeting that occurred at about 9.30am?

A. Not that I can recall.

5

Q. In your mind's eye at some point during the day did you appreciate that it was inevitable that fire was going to impact upon the western suburbs, in particular Duffy and Chapman?

10 A. I don't think inevitable. I think the possibility - strong possibility.

Q. It hit at about 3 o'clock that afternoon. Did you have an appreciation in the minutes leading up to 3 o'clock that this fire was going to hit Duffy?

A. No, I did not have an appreciation.

Q. Not at all?

20 A. I had an appreciation that it would get to the urban interface and that was more realised when it crossed - when the reports came that it had crossed the Murrumbidgee.

25 Q. As of the 18th, could I just go off on a tangent and ask you what the administrative arrangements were associated with your office at Curtin? You have a mobile phone service?

A. Yes.

30

Q. Was that operating on that morning?

A. I generally turn it off. It goes on to divert.

35 Q. So on that morning your mobile phone was turned off?

A. If I wasn't actually making the call.

Q. Do you have a secretary?

40 A. She was involved in assisting the various staff.

Q. So she wasn't sort of stuck to you, as it were; she was doing other things to assist other people?

45

A. Yes.

Q. Do you have a direct number or did you have a direct number to your office at Curtin?

A. Yes.

5 Q. Was it the case that you were sitting in your office all of the morning of the 18th or you were moving about?

A. No, I was moving around.

10 Q. So if that office number was rung there was no guarantee that you were going to be there to answer it?

A. I had that on divert to my pager.

15 Q. Did you become aware that morning that Commander Newton was trying to contact you?

A. I had a pager, as I think I said, a pager message just at the time we were going into the morning briefing.

20

Q. So it was about 9.30am?

A. Somewhere around about there.

25 Q. That pager, how does that work? Has it a digital screen that says, "Please ring Mandy Newton"?

A. Yes.

30 Q. Is that the message that was displayed?

A. It is in my telephone records.

Q. If you go to an entry at about 9.29am?

A. "Please phone Mandy Newton" and then a telephone number.

35

Q. Did you respond to that message?

A. Not at that particular time.

Q. So when did you?

40 A. I think it was some time after 11.30.

Q. Who did you ring?

A. I rang Mandy Newton's telephone number.

45 Q. Did you speak to her?

A. No.

Q. Did you get an answer to the - it rang. What happened? Did somebody answer or was there a message bank or what?

5 A. It was one of those two. I don't recall exactly. But I did not speak to her.

Q. Did you appreciate that morning that things were moving quite quickly so far as the fire was concerned?

10 A. Not in the morning I didn't.

Q. Not in the morning?

A. No, I didn't in the morning.

15 Q. When the conversation which was the subject of evidence yesterday afternoon was had, that was had after Jason Byrnes, who was by then fulfilling a liaison role at Curtin, walked up to you with a mobile phone in his hand?

20 A. That's what I recall.

Q. We have some telephone records to indicate the call - and this is certainly Commander Newton's recollection - occurred at 12.19pm on the 18th.

25 Now yesterday you indicated that your recollection was that it might have occurred later. Could the witness be shown this document. Do you see an entry there that has been asterisked?

30 A. Yes, I see an entry that is asterisked.

Q. Could I have that document back. Do you see the entry there is for 12.19?

A. The time and date, yes.

35 Q. Do you see how long it lasted for?

A. Yes, I do.

Q. 12.15 - is that what it says; 12 minutes and 15 seconds?

40 A. I think, if that's - yes.

Q. Do you agree that the conversation that you had with Mandy Newton was more than just a few sentences; it went for 12 minutes and 15 seconds?

45 A. That would appear to be the case.

Q. Certain aspects of that conversation were

drawn to your attention on several occasions I think by Mr Woodward in relation to the suggestion of reporting to the coroner. I want to come to that in a moment. There was lots more besides
5 talked about that particular exchange. Do you agree that the effect of what Commander Newton was saying to you was that she was concerned - perhaps I could use the word "alarmed" - about the dangers these fires presented to people at the urban
10 fringe or in the forests; that was the effect of what she was saying?

MR JOHNSON: Is it put that they were the words to the best of the recollection --
15

MR ARCHER: I think it is pretty clear what I am putting.

MR JOHNSON: I would submit not. This witness has
20 been tested at great length at times over the question of best recollection as opposed to effect and substance.

There is a statement from Commander Newton of
25 course, and that says what it says. If it is being put that these words were being put, then the Court should understand and those can understand that that is what the evidence will be that will come from Commander Newton - what is her
30 best recollection of what was said and let that be put to the witness now, rather than just effect, I would submit.

THE CORONER: Mr Castle understands what is meant
35 by the question, I think, Mr Johnson. I will let it stand.

MR ARCHER: Q. That was the effect of it, wasn't it? She was expressing alarm about the dangers
40 these fires presented to people at the urban interface or in places like Uriarra forest?

A. That's not my direct recollection. That's not my direct recollection. My recollection is that
45 most of the conversation was about the need for evacuations.

Q. So there was nothing said about the reason why

people should be evacuated; is that what you are saying? You don't evacuate people for no reason, do you?

5 A. The potential from the fires. The potential from the fires.

Q. It was more than potential. Wasn't Commander Newton saying loud and clear to you that these fires represented a danger to people at the urban fringe?

10 A. I don't recall that.

Q. She was calling for a declaration of a state of emergency?

15 A. That was what I understand she was saying to me.

Q. The evacuation references were in the context of powers that might have been available to the police under a declared state of emergency?

20 A. Yes, that was my understanding.

Q. So far as that conversation is concerned, so far as it related to reporting to the coroner, you said yesterday that you recall Mandy Newton saying something about answering to the coroner?

25 A. I recall mention of the coroner.

Q. You gave evidence yesterday that the first time that you had this conversation drawn to your attention was in the context of reading, I assume, Mandy Newton's statement to prepare for these proceedings?

30 A. In those words, yes.

35 Q. Sorry?

A. Those words, yes.

Q. Well, in fact you knew much earlier than that, didn't you, about this conversation in the terms in which Mandy Newton put it?

40 A. Not that I --

MR JOHNSON: Could the suggestion perhaps be made clear --

45 MR ARCHER: Perhaps if I withdraw that question.

MR JOHNSON: Could I just be heard on this. Again
the witness has been in the box for a number of
days. Is it that part of the conversation that
relates to the reference to "coroner" or is it the
5 conversation generally? I would ask at this stage
the question be put with some specificity so it is
clear what exactly is being put to the witness.

10 THE CORONER: That might be useful, Mr Archer, if
you can.

MR ARCHER: If the Court pleases.

15 Q. In relation to that aspect of the conversation
that dealt with references to the coroner, wasn't
it the case that you knew about Commander Newton's
version of that conversation much earlier than at
the time that you read her statement to prepare
for these proceedings?

20 A. It didn't bring a recollection at all.

Q. In the context of the McLeod Inquiry, do you
recall being confronted in whatever form with that
version of the conversation?

25 A. No, I don't recall that at all.

30 Q. So far as your stated position in that
conversation in respect of the state of
emergency/evacuation issue, why was it that you
were against that idea?

35 A. I think it was the focus on the evacuation and
the powers of evacuation. The reason appeared to
me to be based on needing powers of evacuation. I
did not see that that was in accord with the Fire
Authority's guidelines. That's what I think I
transmitted back to Mandy Newton.

40 Q. I will come to the fire guidelines in a
moment. In relation to the declaration of a state
of emergency there are criteria that apply in
relation to the declaration of a state of
emergency in the Act itself; isn't there?

A. Yes, there are --

45 Q. Wasn't it the case that Commander Newton spent
some time during that conversation making out a
case, as it were, in relation to those criteria

under the Act?

A. I don't recall those specific details being made to me.

5 Q. You've used that word "specific" again. Does that mean that you don't recall her saying that?

A. No, I don't recall her saying that. What I recall is that it appeared to be based, in my recollection, on the need for evacuations.

10

Q. So it is clear, at that point in time when you were arguing the contrary position, as it were, you did not have any appreciation that the fires presented immediate risk to Duffy and Chapman and suburbs such as those?

15

A. No, not immediate risk.

Q. Are you aware now that at the time that conversation took place Commander Newton had had a briefing from Superintendent Prince that morning in relation to the movement of the fire and what it might look like when it came out of the pine forest?

20

A. I am aware now.

25

Q. I just want to read a couple of passages from that statement, which is [AUS.AFP.0070.0002]. At paragraph 27 of that document Acting Superintendent, as he then was, said this:

30

"I attended the Winchester Centre about 1130. I attended a meeting attended by police and public service officers. There were about ten people present. I gave these people a brief overview of where the fires were. I also gave information about the likelihood of fire travel under conditions that were present. On the information I had at that time the fire was expected to reach Duffy at about 1800 that evening. That calculation was made by Nic Gellie - who had significant knowledge on rural fire behaviour. He is an ecological consultant who had volunteered his services to the Emergency Services Bureau. I did advise this meeting that in my opinion once the fire reached Stromlo forest it would take about five to ten minutes to reach the

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top of Mount Stromlo and about another thirty minutes to an hour to reach Eucumbene Drive.

5 I recall that Superintendent Lines asked me what fire fighters, police and residents could expect when the fire arrived. I answered that the height of the flame would be double the height of the material that was burning. Because thirty foot pine trees were
10 in that area, then sixty foot flames could be expected. Chris Lines then asked me if the residents of Duffy should be evacuated. I recall that I told the meeting the normal response to fire, if residents are prepared,
15 is to stay with their houses and fight the fire. I then told the group that in this case the residents were not all prepared and that evacuation should be considered. I do not recall Chris Lines response. The meeting
20 then ended."

That paints a fairly graphic picture of what that fire is going to look like when it came out of the pine trees at Duffy, doesn't it?

25 A. Yes.

Q. Had you known that information at the time you had that conversation with Mandy Newton, would your position have been different in relation to,
30 first of all, the declaration of a state of emergency?

A. In those terms it may have. But the predictions - if I just go back up, the predictions that you draw me to before were 1800
35 on the western side of Stromlo. That puts it some time after 1900 and a wind change was expected somewhere at about 20. All I'm drawing attention to there is --

40 Q. Just leaving aside that element of prediction for the moment.

A. Yes.

45 Q. If you were to assume that in fact the fire was going to come out of the trees, out of the pine forest at Duffy, in the way that Superintendent Lines described it prior to that

wind change, what would your position have been in relation to the declaration of a state of emergency, first of all?

A. I may have reconsidered it.

5

Q. And, secondly, in relation to evacuations?

A. I think the advice may have been different. Sorry, I mean the advice to the community would have stepped up.

10

Q. My question was in relation to the evacuation issue. Would your position on that issue have changed if you had assumed --

A. I think I - I'm guided by the Fire Authority's collective advice that the advice is if people are prepared to stay with their homes.

15

Q. After that conversation concluded it was the case, wasn't it, that a representative of the AFP, Sergeant Kirby, tried again to change your mind and others' minds in relation to that issue of the declaration of a state of emergency and/or evacuations?

20

A. At some time later.

25

Q. At about 12.45, at a quarter to 1, do you recall being in a meeting at Curtin in a room where you were there, Peter Lucas-Smith was there, Tim Keady was there and Sergeant Steve Kirby was there?

30

A. I recall a meeting with those people.

Q. Do you recall that Sergeant Kirby, first of all, was the person who was responsible for convening that meeting; do you accept that that was the case?

35

A. I think he searched us out.

Q. Got you together and asked very directly, I put it to you, your advice in relation to evacuations; asked for a direction to be given by you collectively, being the representatives of ESB and the Department of Justice and Community Safety, to give some advice to the police in relation to what you wanted to happen in relation to evacuations?

40

A. I don't recall the exact conversation.

45

Q. What do you recall?

A. That there was a discussion about the need for a declaration of emergency and that it was based on evacuations.

5

Q. Do you recall Sergeant Kirby saying something to this effect, "Are you saying to me that your advice is that police should not evacuate?"

A. No, I don't recall that.

10

Q. That could have been said and you don't recall it, or you say that that wasn't said?

A. It could have been said. I don't recall it.

15

Q. It could have been said, but you don't recall it?

A. That's correct.

20

Q. So far as a position was being put by those people other than Sergeant Kirby, was it the case that Mr Keady had something to say at that time about whether or not evacuations were going to take place?

A. I don't recall what was exactly said.

25

Q. But do you recall whether or not Mr Keady contributed to that conversation?

A. I think he spoke.

30

Q. Do you recall anything about what he said?

A. I think it was in relation to - well, no, not directly.

35

Q. At that point of time whose call was it in relation to ordering evacuations? To use your word, who operationally had that responsibility to order evacuations?

A. I believe the fire service.

40

Q. Well, that's a body. Who is the individual?

A. It could be the Chief Fire Control Officer or the Fire Commissioner.

45

Q. So either Peter Lucas-Smith or Ian Bennett were the people who had that call?

A. That's my understanding.

Q. Was it your call?

A. No, I don't believe so.

Q. Was it Tim Keady's call?

5 A. I don't think so.

Q. Now Mr Murray arrived at Curtin at about
quarter to 3 to have a third go at this process.
Do you recall him coming to Curtin and a meeting
10 that took place involving a large number of
people?

A. Yes. It was my recollection it was just after
2.

15 Q. I think I should have said 1.45.

A. I don't recall what time he arrived. I recall
a meeting being about 2.

Q. When he arrived did you brief him in relation
20 to the movement of the fire?

A. I don't think I spoke to him before that
collective meeting.

Q. When the meeting commenced did anybody brief
25 the meeting at that stage before any talk of
evacuations or state of emergencies about what the
fires were doing?

A. I think Peter Lucas-Smith may have.

30 Q. Do you recall what he said?

A. No, I don't.

MR ARCHER: I note the time. I won't be too much
longer. I will be another 10 minutes or so.

35

THE CORONER: We might take the morning
adjournment then.

SHORT ADJOURNMENT

[11.30am]

40

RESUMED

[11.52am]

MR ARCHER: Q. Mr Castle, immediately before the
adjournment I was asking you a question in
45 relation to whether or not that collective was
briefed by somebody in relation to the state of
the fires. Do you recall whether or not that was

the case?

A. There were a number of the people in the meeting and Rick McRae was there at one stage. I'm not too sure if he was there from the start,
5 though.

Q. I think you draw her Worship's attention to that yesterday, that Mr McRae may have come into that meeting later; is that your recollection?

10 A. That's my recollection. I can picture where people were standing but not the specifics of when they were there.

Q. Do you recall now whether or not at the start of the meeting there was an attempt by anyone to paint a picture so far as the fire was concerned?

15 A. I think for the benefit of the Chief Minister, I don't specifically recall it. But I believe Mr Lucas-Smith or someone may have actually
20 portrayed that.

Q. Did you play any role in providing a briefing to the meeting about where the fires were at at that particular time?

25 A. I don't believe that I - I am trying to avoid those words - I don't recall that I spoke about the progress of the fires or operational aspects of it.

30 Q. So far as painting a picture of what that fire might look like when it came out of the pine trees at Duffy, was it the case it was Mr Murray who was leading that aspect of the discussion?

35 A. I wouldn't put it in those terms. I think Mr Murray's picture and portrayal was in relation to the Ash Wednesday fires in his experience.

Q. Wasn't he making the point that Ash Wednesday and what he had seen in that content was a good
40 indicator of what the people of Duffy were going to see perhaps that afternoon? Wasn't that the point he was making?

A. I think he was making the point that in his experience houses - he had seen houses explode.
45

Q. He was trying to paint a picture of what the intensity of that fire might be like at the

interface between the houses at Duffy and Chapman and the forest?

5 A. That may have been his intent, but as I understand it he was referring to the Adelaide Hills and the Adelaide Hills are a different circumstance in terms of vegetation. Because I think he said in Adelaide.

10 Q. So far as that picture he painted, we have already heard from experts that he is wrong in relation to just houses exploding. They don't just explode we are told. But in relation to the picture he painted, wasn't that something like the picture we saw or the Court saw on that videotape
15 in the early parts of this inquest?

MR JOHNSON: As to that I would object. Page 14 of Mr Murray's statement he provides a generalised account of what he said at that meeting. It
20 doesn't involve painting any picture by way of prediction. It involves a discussion about Ash Wednesday and evacuation. If Mr Archer is to put to this witness or is to assert that Mr Murray, when he comes to give evidence, is going to give a
25 different version or an amplified version of what he put in his statement, then it ought to be put to Mr Castle as a matter of fairness. It ought not be put in terms of some picture that is said to be painted, which doesn't seem to be the
30 picture painted at page 14 of Mr Murray's statement.

I object to these questions on the basis of painting pictures. Let words be used in the
35 question if that is what it is said that Mr Murray said.

MR ARCHER: I don't press it any further.

40 THE CORONER: That is fair, Mr Archer.

MR ARCHER: I don't press it.

45 Q. At the point that that conversation was taking place, and you can only speak of what was in your mind and what was within your knowledge, what did you understand to be the position in relation to

the threat that the fire posed to areas such as Duffy and Chapman?

5 A. We had already issued the first standard emergency warning signal and so we had indicated that people should prepare for the fire to arrive at the interface. So that was my picture, my view.

10 Q. So we have seen and you have been taken to that standard early warning message that was sent out at 2.05 --

A. I signed it at 1405.

15 Q. Did you have a view then, the time that you put your signature to that document, as to what threat the fire posed to suburbs such as Duffy and Chapman?

20 A. Some threat. But I was aware that Narrabundah Hill had been hazard reduced and I was aware of the setback of Warragamba Avenue. So in general terms, but that wasn't foremost in my mind.

25 Q. Immediately putting your signature to that document, had you spoken to anybody about the fire's movement? Did you go, for example, to Mr McRae or to other operational personnel who had a handle on where the fire was at that particular time and what it looked like?

30 A. I think the difficulty was knowing exactly where the fire was at that particular time. I think that was our collective difficulty. It was moving so fast.

35 Q. Is it fair to say for those reasons at the time you put your signature to that document you weren't quite sure where the fire was?

40 A. I don't believe I knew consciously where the fire was, no, other than it had crossed the Murrumbidgee was the report we actually had. As I said, it was an unconfirmed report. But I am aware of Mr Cheney's evidence that it wasn't the case at that stage, as I understand it. But that was subsequently.

45 Q. Just going back quickly to the conversation that you had with Commander Newton that morning, it was about the declaration of a state of

emergency and evacuations?

A. Yes.

Q. You put a viewpoint to her in relation to
5 those issues?

A. I put a viewpoint that evacuations were not
the process in the guidelines and the powers.

Q. Now operationally, as you have said, that was
10 not your decision, was it?

A. No.

Q. Did you consult with anybody before that
15 conversation with Mandy Newton about that issue,
about whether or not evacuations were appropriate?

A. No. I was aware of the Australasian Fire
Authorities Council's guidelines.

Q. So the answer is no?

20 A. No. I was handed the phone.

Q. Afterwards you obviously put a fairly strong
viewpoint to her in relation to that issue. Did
you immediately then go to somebody who had an
25 operational responsibility in relation to
evacuations and say, "Commander Newton has just
put to me a viewpoint in relation to whether or
not people should be evacuated. I have said I
don't agree. What do you say?"

30 A. I don't recall whether I did or I didn't.

Q. Isn't that something that would stick in your
mind?

35 A. It probably would. But that was the position
of the guidelines.

Q. Let's go to those. Do you have a copy of the
Australasian Fire Authorities Council position
paper on community safety and evacuation during
40 bushfires document in your folder?

A. Yes, I do.

Q. [AFP.AFP.0001.0596].

45 A. I haven't got the version but I have got the
one that is printed out.

Q. You have got your main version of it there?

A. I have one printed out.

Q. I think you were part of the process that saw that particular paper adopted, as I understood your evidence; is that right?

A. The process was that it was agreed by the Australasian Fire Authorities Council, and I am a director of that. I was based on the operational knowledge and the operational subgroup of that council that had prepared that.

Q. So you may be able to assist us in relation to the history of this particular document. Can I put a proposition to you and disagree, if you like. It seems to be a document that was, at least in part, inspired by some incidents that may have occurred in rural areas where people left their homes, were caught by fire as they evacuated and were killed. Did you understand that that was the inspiration for the preparation of this document?

A. That's not my recollection.

Q. What is your recollection?

A. My recollection is that it was a desire by all of the fire authorities to try and get some standardisation and arrangements with police across the whole of Australia as a consistent approach.

Q. So you wouldn't agree that, on the face of it, it seems to have a bit of a rural sort of focus to it?

A. That wasn't the intent. My understanding is that wasn't the intent, and one of the strong advocates of the policy was the president, who is the chief officer, the chief commissioner for Tasmania fire services, which has responsibility for Hobart.

Q. I will put another proposition to you which you can agree or disagree with. It seems to deal with the situation where the fire has moved towards houses quite quickly. It is dealing with that situation of late evacuations and emphasising that late evacuations can be a dangerous thing to undertake; do you agree or disagree with that

situation? The focus of the paper is in relation to those situations where the fire onset relative to the houses that we might be considering is quite rapid. It is making the point that late
5 evacuations can be a dangerous thing?

A. I don't recall it was intended to have that as a focus.

Q. Do you see a heading called "preamble"?

10 A. Yes.

Q. I am not sure if your pagination is the same. Could you go down to the fourth paragraph under the bolded subheading "fire authorities no longer
15 advocate large-scale evacuation of people from areas threatened by bushfires". Do you see that paragraph?

A. Yes, I do.

20 Q. Perhaps read with me as I read it out:

"In modern times there has been a practice in Australia and other places for people to be evacuated from sources of dangers such as
25 bushfires. Simply not being there and exposed to a hazard eliminates the risk. With some natural hazards such as floods and cyclones, there can be sufficient warning time to enable people to leave the area.
30 However, bushfires often occur without warning and move rapidly. Research into Australian bushfire fatalities shows that last-minute evacuations from bushfires contributed to the majority of deaths. Late
35 evacuation is inherently dangerous and can cause greater risks than remaining in the fire area."

I put the suggestion to you that that preamble
40 suggests the focus of the document seems to be in relation to situations where the onset of fire is not or is sudden. You don't agree with that - that is what that preamble suggests?

A. The preamble goes for many paragraphs. That
45 particular part talks about rapid onset - move rapidly.

Q. I put this proposition to you. This document was never intended to be a substitute for planning and decision-making that took account of circumstances that prevailed. It is a guide only,
5 isn't it?

A. It was intended as a guide.

Q. It is not chiselled in stone and you don't simply react as a fire authority on the basis it is better to be in your house than not in your house; that's not the reaction of a responsible fire authority, is it?
10

A. I don't have that expertise to answer that question.
15

Q. You have referred her Worship on a number of occasions to this document as guiding you - perhaps a stronger word is warranted, but I will use the words "guide you" - in your decision-making on the 18th of January. Do you agree you have done that on a number of occasions you say you were operating on that guideline?
20

A. Yes.

Q. But it is only a guideline, isn't it?
25

A. Yes.

Q. You have got to take account of the circumstances that prevail?
30

A. Yes.

Q. Indeed, within the document itself, it makes the point that if a person is not mentally or physically prepared or if they are otherwise vulnerable, if they don't have sufficient water, if they don't have basic firefighting equipment, if they don't have suitable clothing, if they haven't been informed about the fire then it can be dangerous for them to stay in the house?
35

40 A. I'm sorry, were you reading from a dot point?

Q. For example, have a look under the heading "adequate fire protection measures"?

A. Yes.
45

Q. I will take you through those provisions. It says under the heading "defendable space:

5 "The single most important fire protection
measure influencing the safety of people and
their property is the creation of a
'defendable space' around houses and other
buildings."

A. Yes.

10 Q. So if there is not a defendable space, it
becomes more problematic, doesn't it, for a person
to remain in their home? Do you agree with that?

A. Yes.

15 Q. Self-evidently that is so. That is what they
are saying, isn't it?

A. Yes.

20 Q. In the McLeod report there is a photograph, I
think you will recall it, that was taken of
utilities and trailers and trucks and cars lining
up to get into a tip following the events of the
18th of January, in the week following. Do you
remember that photograph?

25 A. I remember a photograph, whether it was in
McLeod or not --

30 Q. What it was was the people of Canberra, having
seen what happened on the 18th and having been
given warnings about these sorts of issues very
conscientiously went to their gardens and started
thinking about things such as defendable space.
They cut down a lot of trees and shrubs and took
them to the tip; didn't they?

35 A. Yes.

40 Q. That hadn't been done in any systematic way in
those residences in Duffy or Chapman prior to the
18th as far as you were aware, had it?

A. No.

45 Q. So far as the information that was available
to these people was concerned, although I'm not
going to revisit the public information campaign,
you have had your say in relation to that - but so
far as telling them that a fire was on their
doorstep, they would be forgiven for assuming they
hadn't been told that was the case at the time the

fire impacted; would you accept that proposition?

A. If they were listening to the radios, they would have.

5 Q. But if they hadn't been listening to the radio at about 2 o'clock on the Saturday afternoon --

A. And they hadn't been outside.

10 Q. Well, that smoke had been in the air for a long time, hadn't it?

A. Smoke had, yes.

15 Q. The information they possessed in relation to that issue you would have to agree was less than ideal?

A. I think I have already said we instituted a campaign to improve that.

20 Q. There could have been no guarantee, and in fact there will be evidence called, that when a fire hits a suburb inevitably the water pressures and water availability is going to be put under a lot of pressure by people hosing down houses. You assume that to be the case?

25 A. Yes.

Q. The person standing there with a dribble of water coming out of a hose, they are not going to do much good with that, are they?

30 A. No. But buckets and whatever can.

35 Q. But assuming the bath hadn't been filled and buckets hadn't been filled, they weren't going to do too much by way of fire prevention with a hose with an amount of water dribbling out the end of it?

40 MR JOHNSON: In the end some of these things may be a matter of submission. There is drilling down to a level of detail as to whether such particular scenarios did or didn't occur as such would be a matter no doubt for future evidence.

45 I think the point is being made, and that there is a concession that the information they had was less than ideal. There has been an acceptance of these matters. Is it necessarily helpful for my

friend to take your Worship to detailed examples of this type which may or may not be within the knowledge of this witness and indeed at this stage I would submit would not help you.

5

MR ARCHER: The witness has repeatedly referred to this document as justification for a point of view that was adhered to with some enthusiasm by those in ESB and others on the afternoon of 18 January. It is a document that is not absolute and is preconditioned on the "stay or go" issue in relation to certain matters having been satisfied. They are set out in the document. I am just going through those elements with this witness to see what his state of mind was in relation to those issues at the time.

It would have been inappropriate for him to have been pushing that point of view if those preconditions were not met.

20

THE CORONER: I will allow you to continue, Mr Archer.

MR ARCHER: Q. In relation to the firefighting equipment, apart from the general information that you have taken us to last week, had there been any specific audits, for example, undertaken in relation to houses in that area to see whether or not they had available to them firefighting equipment?

30

A. No - do you mean publicly available? Is that what you mean?

Q. Yes. Or available within the household, that might be a pump with a hose attached to it?

35

A. No.

Q. The literature that you say was disseminated widely in the lead-up to the season makes the point that protective clothing is an important element in an attempt made by a householder to protect their house?

40

A. Yes.

45

Q. That point is made clear in that literature?

A. I have seen that in "Will you survive?".

Q. You saw in that videotape examples, didn't you, of people wandering around in stubbies, T-shirts and thongs and the like?

A. I saw people.

5

Q. That wasn't appropriate clothing, was it?

A. No.

Q. Could I invite you to turn to the heading under "evacuation considerations"; do you have that one?

A. Yes.

Q. There is a subheading called "self-evacuation"; do you see that?

A. Yes.

Q. It says in the second paragraph:

20 "It is highly recommended that all people who are not physically or mentally prepared to undertake firefighting activities should move to a safe area well ahead of a fire's arrival."

25

The SEWS message aside, are there things that you can point to to suggest that those who fell in that category, that is, those who are not physically or mentally prepared to undertake firefighting activities had been told that they shouldn't be waiting around to fight the fire?

A. No.

Q. Could I invite you now to go to the heading which appears at "information and warnings". This has probably been covered but I will read it out anyway. Do you have that heading?

A. Yes.

Q. Do you see the paragraph:

45 "During the course of a bushfire it is essential that all people in threatened communities have access to accurate information to assist them in their decision-making."

A. Yes.

Q. Leaving aside the SEWS message, in relation to the actual progress of that fire on that day, do
5 you say the people of Duffy had accurate information to assist them in their decision making?

A. I think we didn't have accurate information exactly. But by implication --
10

Q. I accept that. I accept that. The fire was moving quickly and it was difficult to get information about it.

A. Yes.
15

Q. The information shortfall that you suffered was also suffered doubly, I suppose, by those in Duffy and Chapman?

A. Yes.
20

Q. They were completely reliant on information coming from ESB and others and emergency service workers and police to determine where the fire was at a particular time?

A. Yes.
25

Q. And because it did move quickly from Mt Stromlo towards Duffy, that information, if it was made aware to them at all, was given in a very
30 hurried sort of manner?

A. Yes.

Q. So based on those criteria that I have taken you to, wasn't there a case to be made in relation
35 to those nearest the forest in particular that they should be evacuated rather than the contrary position?

A. Everybody, is that what you are --

Q. I will ask it in a different way. Those who were nearest the forest, pine forests, bushlands near the interface at Duffy and Chapman were obviously those greatest at risk. The closest to the pine forest the greater the risk was going to
40 be; do you agree with that general proposition?

A. Yes. Are you saying Chapman is close to the pine forest?
45

Q. Let's concentrate on Duffy.

A. Duffy.

5 Q. Do you say as a general proposition that that is correct?

A. People closest to --

Q. Closest to the --

10 A. Are at greater potential, yes.

Q. Or potential danger?

A. Yes.

15 Q. Danger. Let's use the word "danger". If I could get to the point, I suppose, the SEWS messages that went out were, looking back on it now, were perhaps a bit of a blunt object, weren't they? They attempted to give a standard message to the whole of Canberra. They went out to the whole of Canberra, didn't they?

20 A. They specifically mentioned suburbs; they were not aimed at the whole of Canberra.

25 Q. It was quite a long list of suburbs, weren't there?

A. Initially 13 suburbs. Just by my quick calculation.

30 Q. The decision made by fire officers on the ground was ultimately, notwithstanding this document, "our assessment is in relation to those people in Duffy and Chapman it just simply wasn't safe for them to be there." Is that now a decision that you would criticise?

35 A. Sorry, could you ask me that again?

40 Q. Decisions were made that afternoon by fire officers to direct evacuation of areas within Duffy and Chapman and other places. Do you agree that those decisions were made?

A. As the fire hit, yes.

Q. Do you agree with that?

45 A. Yes.

Q. Are they decisions now that you would criticise?

A. No.

Q. To use the words that Mr Koperberg alleges that he heard on the 15th, if an area was going to get "hammered" it wasn't much point having people there risking their lives?

MR JOHNSON: Could I object. I don't think Mr Koperberg said he used those words.

MR ARCHER: I didn't say that he did.

MR JOHNSON: I object to the question. There have been a series of concessions made by the witness. There has been a lengthy process of examination on matters of detail. The witness has made it quite clear he is not criticising the decisions. He is accepting that more warnings should have been given and earlier. In the face of those concessions, he has been in a fairly constant fashion subject of close examination.

In my submission it will not help you, particularly to seek to link some comment that Mr Koperberg has mentioned in a May 2003 interview as to which there may or may not be some future evidence and to say that that somehow can be linked with the events of the afternoon in the mind of this witness is really not helpful, I would submit.

If there is a direct question that can be put as to what was or wasn't done that afternoon, which hasn't already been asked, it is fair to say most have been. In fact, it is hard to think of a question that hasn't been asked by counsel assisting or Mr Archer, then let it be asked. But at this stage I object to the last question that was put.

MR ARCHER: I take Mr Johnson's points and I conclude my questioning. I have no further questioning.

THE CORONER: Thank you, Mr Johnson.

<CROSS-EXAMINATION BY MR JOHNSON

MR JOHNSON: Q. You have been asked some questions, Mr Castle, about the press releases
5 that were put from the ESB from time to time in the days leading up to 18 January. I think in relation to a number of those press releases, they had a time on them 3pm and such and such a date. I think you are conscious of that.

10
15 Could I ask you whether the printing of a time on the press release was meant to indicate that it was a type of snapshot of the state of the fires at that specified time, or is the time on the press release the time when it was intended the release would be given to the press?

A. I think the times that were put on there were generally reflective of the time that it was given to the press.

20
25 Q. You have been asked a number of questions by Mr Woodward in relation to the process of these press releases being prepared. I don't want to go into all of that again. In circumstances where a press release is going to be given to the media at a particular time and the press release in fact deals with an operational situation like firefighting where circumstances may change, was there an issue as to how one could try to take
30 steps to have as up-to-date information as possible given to the media?

A. I think what particularly the reason for establishing the 12 o'clock or that face-to-face briefing by the media was to attempt to overcome
35 that issue of preparation time, accuracy at a particular time being prepared being produced in sufficient copies. The aim of that press conference, press briefing, was to provide the opportunity to give the up-to-date.

40
45 Q. Was it the case that, over the 10-day period there was a considerable demand, quite understandably, by the media for information from the ESB?

A. Yes.

Q. Was it necessary in those circumstances to try

and ensure that the giving of information to the press could be done in as orderly a fashion as possible?

A. Yes.

5

Q. Both for the purpose of sharing information with the community?

A. Yes.

10 Q. And for the purposes of ensuring that there was, in a sense, not a constant series of demands by the media perhaps on a fractured basis which could be a distraction to the ESB?

15 A. Yes. It followed the practice we had done in the 2001 fires.

Q. Faced with that type of situation, if one wanted to, in effect, not have the media or to deal with the media issue, it may be to say,
20 "Look, we won't issue any press releases. We will just fight the fires as best we can and devote all our resources to that." That might be one approach, which I am not suggesting to you was a desirable one?

25 A. No.

Q. It is necessary to try to share information with the community both in the interests of the right of the community to know and to ensure that
30 the understandable interaction with the media is dealt with in a sensible fashion?

A. Yes.

Q. Issues have been raised with you from time to time that there may have been in effect a movement in the fires or a change in circumstances by the time that you may have been standing in front of a Canberra or by the time that a particular press release had been issued. Have you got an
40 immediate answer to the solution of that problem; namely to give a contemporaneous and accurate summary as to the state of the fires at the time the press had been told of these things or is that an issue of difficulty?

45 A. I think that's an issue of difficulty, of preparing, determining, analysing the information and then providing it in some meaningful way.

Q. Indeed, the whole process of the interaction between the ESB and the media and that very appropriate role and the way in which it may be managed better, do you see that as being something
5 which may be a very useful product from this inquiry that lessons learnt in that respect might give rise to improved practices in that regard?
A. Definitely. After the emergency we did hold debriefs with representatives of as many media
10 that could attend to actually seek their suggestions and information and ways in which we could actually improve the information flow, particularly also facilitating their ability to provide the information back to their studios.

15
Q. You gave some evidence yesterday and I think on earlier days that, certainly at a point on the 17th of January, there were forms of warnings given to rural communities in the form of people
20 getting in touch by telephone with those persons. Can you recall that evidence?
A. Yes, I can.

Q. Can I ask you this directly: why were those
25 warnings being given to those persons in the rural community at that time, as you understood it?
A. As I understood it, there was an immediate threat to the particular areas that they were in. So they were actually rung, as best we could.

30
Q. You have been asked questions by both Mr Woodward and Mr Archer at considerable length about the warnings not given in forms that have been suggested to you to the people on the urban
35 edge. Are you able to explain why warnings were not given to people on the urban edge in the manner that has been suggested to you, as you understand it?

A. As I understand it, purely because the speed
40 of the fire left very little time for us to actually provide a more detailed warning.

Q. You have been asked questions over a number of
45 days as to what was said to the public concerning the level of threat, whether it is in media releases, press conferences or indeed in any other form by persons from the ESB. You have indicated

that more information should have been provided?

A. Yes.

Q. Did you at any stage deliberately understate
5 the risk to the Canberra urban community?

A. No.

Q. Was there any advantage to you in taking the
10 course of deliberately understating to the
Canberra urban community the level of threat?

A. No. None whatsoever.

Q. You were asked some questions today by
15 Mr Archer concerning the briefing of Mr Murray and
others on the 16th of January. You were taken to
that briefing and the fact that you referred in
your statement to the use of the cabinet briefing
document. I don't want to take you through all
20 that again. On the assumption which you have
indicated is an appropriate assumption that you
used the cabinet briefing document during that
briefing, is there any reason why you would not
have told the AFP at that briefing about those
25 parts of the cabinet briefing document which
referred to the urban edge?

A. No, not that I can recall.

MR JOHNSON: Thank you, your Worship. That is all
30 I wish to ask.

THE CORONER: Mr Woodward, do you have any
re-examination?

MR WOODWARD: I do, your Worship. I will
35 endeavour to conclude it this side of lunchtime.

<RE-EXAMINATION BY MR WOODWARD

MR WOODWARD: Just one general question. At the
40 time of the cabinet briefing on the 16th at which
I think you have agreed there was discussion with
cabinet about the declaration of a state of
emergency; in your mind what circumstances would
have given rise to the need to have a state of
45 emergency?

A. Widespread impact, widespread disruption on a
very large scale.

Q. Can I assume when you say "widespread", does that mean including impact on the urban edge or the urban community of Canberra in some way?

A. I mean predominantly.

5

Q. Perhaps turning that around, can you envisage a circumstance in which a declaration of emergency may have been necessary if the fires, in effect, stopped short of affecting the urban community?

10 A. Sorry, I've got to get my mind around - turning it around.

Q. I think you said the sort of situation that in your mind might give rise to a need for a
15 declaration of emergency was if there was widespread impact. I think you said that would be predominantly urban impact. If I can ask the question in reverse. At the time could you have envisaged a circumstance in which a declaration of
20 emergency might be necessary if there had not been impact on the urban area?

A. No. No I don't think so.

Q. So we can take it as a general proposition
25 then you, at least in your mind, were equating declaration of emergency with impact on the urban area?

A. Predominantly, yes.

Q. Mr Castle, we have been provided this morning
30 with some notes taken during the course of the cabinet briefing. I need to ask you some questions about those. What I will do is hand to Mr Castle a copy and also your Worship and my
35 learned friends.

I am informed the bundle of documents you have got
40 comprises two sets of notes of that cabinet briefing which took place commencing at 9am on 16 January. The first set which is headed - there is a stamp "cabinet-in-confidence" under that "cabinet meeting 16 January 2003". underlined are notes taken by Mr Mark Kwiatkowski" who I understand is the cabinet secretary. I think you
45 mentioned he was present?

A. Yes.

MR WOODWARD: The second set of notes - you see the handwriting changes on page 3 - I am informed were notes taken by Ms Claire Wall, who I understand was someone who was at that stage in training in some form in relation to cabinet meetings and she was there taking notes as well.

I have asked for and I don't formally call for the original books in which these notes were taken. Largely so we can check, to the extent it is difficult to read the handwriting, it may be assisted by that. But it may in due course be necessary to have the notetakers called to interpret their own handwriting or provide a transcript of them.

Q. Mr Castle, what I will need to do is take you through both sets of minutes separately and invite you to comment on what appears in them. I appreciate these aren't your documents. It may assist your recollection to have an opportunity to look at this more detailed assessment.

The first set taken by Mr Kwiatkowski "Briefing on bushfire situation" you will see "MFP" and "ES", which I assume is a reference to the Minister for Police and Emergency services and then the words "invited/" it looks like - the context would suggest that the word should be "arranged", but that doesn't appear to be it. But in any event "for briefing by officials Mick Castles and Peter Lucas-Smith, Tim Keady". Is it correct to suggest or is your recollection that those were the circumstances in which this briefing was arranged by invitation of the Minister for Police and Emergency Services?

A. I am not familiar with the higher level. I was asked to go and attend a briefing. I'm not too sure who - that indicates the Minister was actually sponsoring, if that is - I'm not familiar with the cabinet process.

Q. That's Mr Wood, isn't it, at that time?

A. Yes.

Q. It appears, as consistent with the video "Mike Castle tabled briefing" which I assume is a

reference to the briefing paper?

A. Yes.

Q. It says:

5

"Provided overview of weather report, in particular noting that Monday extreme situation."

10 The next note is:

"Peter-provided overview of containment" - and then it's a little difficult to read the next word - "three specific areas. McIntyre (New South Wales) Bendora discussing with New South Wales yesterday."

That would be a reference, would it, Mr Castle, to the meeting which Mr Lucas-Smith had with Mr Koperberg?

20 A. I presume so.

Q. Do you recall or are you assisted by that in your recollection as to what Mr Lucas-Smith said about his meeting with Mr Koperberg?

25 A. No.

Q. To assist you, I should mention below that there is a reference to the number of firefighters coming from New South Wales. There is no reference to him making any comment consistent with his statement that he had been told that the New South Wales fires would not be an issue for the ACT. Do you agree that the minutes don't make any reference to that, at least at that point?

35 A. No. The minutes don't.

Q. Do you have any recollection of him saying something to that effect?

40 A. No.

Q. There is then a T out in the margin, hyphen Q which I assume is for "question re catchment". Do you know who the "T" might be? Could it be Mr Quinlan perhaps; do you have any memory of someone asking about catchment?

45 A. No.

Q. The next one I suggest to you, Mr Castle, and please correct me: it appears in the margin is the letters "CM". That would be Chief Minister, I think?

5 A. I presume.

Q. Then it is "Q-how close McIntyre to nearest forest?" Do you remember him asking that question, the Chief Minister asking that question?

10 A. No.

Q. You don't?

A. No.

15 Q. And I suggest the answer is "approximately 1-2 kilometres". then "discussion: spotting is main problem. Can occur over several kilometres." Does that assist your memory at all, Mr Castle, about a discussion about the possibility of the
20 McIntyre's Hut fire spotting several kilometres?
A. I don't have a direct recollection nor do I actually --

Q. You don't take issue with these notes?

25 A. No.

Q. The next item, I will read this through and then ask you if it assists you in your recollection. In the margin "MFP", which I think
30 we could take to be Minister for Police and Emergency Services. Is there anyone else there that that may relate to?

A. That's the portfolio.

35 Q. Would it suggest that Mr Wood is asking about infrastructure "listed additional. MacGregor substation and lines leading, et cetera". The next one is a little hard to read. Something
40 "lower load but can't go to zero". That would seem to be a reference to electricity supply?

A. That's loads as in supply.

Q. And then "Tim Keady (CE JACS) other important potential effects." Under that he has got
45 "bullet"- I suggest the words there are "urban periphery"; do you agree with that?

A. That's what it appears to be.

Q. Then there is an arrow and what looks like "ANS", and then "urban firefighters" or "urban firefighting". Can you assist her Worship at all as to what the substance of that discussion or that part of the discussion was?

A. No. I don't. I presume that means answer.

Q. Yes. "Urban firefighting"?

A. It could be.

10

Q. Did you know what is being talked about there? No recollection?

A. No, I don't.

15

Q. The next thing is "arsonists-Uriarra Road and" - is that "pos Black Mountain"?

A. Yes, I think so.

Q. Underneath that, "principal threat for major infrastructure and, urban is McIntyre"; do you agree that's what that says?

A. It appears to, yes.

Q. Then there is a reference to "Bendora and Tidbinbilla TS threat or threatened". So that would be the Tidbinbilla tracking station, would it?

A. I think "TS" probably refers to that.

Q. That suggests perhaps - Mr Castle, again this may assist you, the briefing paper you will recall had a heading "Assets under potential threat" [DPP.DPP.0003.0078] and there is a list on page 2 there of assets under threat. Can I suggest to you what appears to be what cabinet seems to be discussing there is the assets under threat. Because there is a reference to additional assets, MacGregor substation, there is a reference to the Tidbinbilla tracking station and the threat to major infrastructure and urban. Does that assist you at all to recall that at that time those were the issuers discussed by the cabinet?

A. It may well have been. But it is using the - yes.

45

Q. It certainly confirms, doesn't it, Mr Castle, at least to this point, that the issue or

possibility of an effect or impact on the urban areas was part of the discussion; it was more than just something that appeared in the briefing paper?

5 A. Yes.

Q. That was your recollection, wasn't it?

A. Yes.

10 Q. Then there is a note at the bottom of the page "may need to be very quick decision made depending on where to deploy resources"; do you recall what was being discussed at that point?

15 A. I can't make out - what do you think the last word on the second last line is?

Q. Second last line "may need to be very quick decision made depending on where to deploy resources"?

20 A. Oh, "Made". That could be the case, yes.

Q. Again, it is not something you have a specific recollection or any recollection about that discussion?

25 A. No.

Q. Over the page continue "bushfire threat. Mike C-provide explanation of when emergency declaration may be made". Again, it looks like "Minister for Police and Emergency Service" something "re resources to monitor re arsonists". Do you recall discussing the arsonists or arson issue?

35 A. I recall it being mentioned. It had been a feature - it is a feature every fire season.

Q. "Tim Keady sustainability issues"; do you know what that is about?

40 A. I think the length, the sustainability of operations, I think.

Q. Wasn't sustainability in terms of conservation-type issues, it was just sustaining the effort?

45 A. No, I think it is sustaining the effort.

Q. "Peter under extreme situation need more

resources. NSW resources made available. Will substantially assist but logistics are problematic"; do you recall what Mr Lucas-Smith was talking about when he said "extreme
5 situation"; what sort of situation he was talking about?

A. Not specifically. I presume worsening.

Q. There is then a discussion about costs
10 associated with the effort to date. I will not read that out in detail. I suggest you talk about the assistance from the Commonwealth and requests to EMA - was that you mentioning those things?

A. Yes.

15

Q. the next thing I want to ask but is again "MFP-question re SES capacity could seek assistance, if necessary, around urban areas". Do you see that?

20 A. Yes, I do.

Q. Do you recall what was being discussed in that context?

25 A. The reference to the SES is a particular service.

Q. I understand. Yes.

30 A. I think there had been assistance by the SES at various aspects in the 2001. We had trained people up to assist with road blocks, so it may have been a reference to that.

35 Q. It appears that Mr Wood, if that is what MFP is a reference to, is saying, "If necessary we can get assistance for urban areas from the SES." That's the effect of that, isn't it?

A. Yes. But the assistance, I'm not too sure what it is.

40 Q. The detail of what it is?

A. No.

45 Q. Again the reference to urban areas would suggest that at least it was in the contemplation of those present that there was a need to consider that issue, at least?

A. Assistance around the urban area.

Q. In effect, you don't need assistance around the urban area unless there is an effect on the urban area, do you?

A. No.

5

Q. "Mike C overview of Emergency Management Act. Minister for Police and Emergency Services request that keep cabinet ministers advised". then the final line above the drawn ruled line says: "S
10 of E" - that would be state of emergency - "would be called when getting major infrastructure loss".

That would be consistent with the question I asked you initially, that is, major infrastructure loss perhaps - I don't want to be unfair to
15 anyone - but that is a euphemism, isn't it, for effect on the urban area?

A. Sorry?

Q. Major infrastructure loss is another way of saying, to use your words earlier, an effect on the urban area, isn't it?

A. It could be. But it could also be a reference to the infrastructure that had been discussed
25 earlier.

Q. But you wouldn't need a declaration of emergency if there was a problem with the Macgregor substation or the Tidbinbilla tracking station, would you?

A. Not the Tidbinbilla tracking station but the MacGregor power station, yes.

Q. You might actually declare a state of emergency if there is an effect on the power station; is that what you are saying?
35

THE WITNESS: Your Worship, could I seek some guidance?

40 THE CORONER: In what regard?

MR WOODWARD: I think Mr Castle is indicating he might like to take some legal advice.

45 THE WITNESS: If I could explain to my counsel then that might clarify. I am happy to explain to you, your Worship.

MR JOHNSON: I don't know if there is any issue of sensitivity that has been raised. Could I ask your Worship to take the luncheon adjournment now. I will talk to Mr Castle and I will talk to
5 Mr Woodward. I don't know if matters of infrastructure have been raised. I don't know if there is some broader issue that is being raised by the witness.

10 MR LASRY: I know this is not my witness; I am sorry to intervene. This is a matter about which I have a continuing concern. I noticed that Mr Castle used the words that he wanted to speak to his counsel.

15 THE WITNESS: Sorry.

MR LASRY: I am not criticising that.

20 THE CORONER: It is not a comment on you.

MR LASRY: There is no-one at the Bar table who is Mr Castle's counsel. Depending on the nature of the issue that he wants to raise, it may again
25 raise the issue that we previously discussed.

THE WITNESS: I am happy to raise it with counsel assisting.

30 MR JOHNSON: Perhaps it is best if counsel assisting and I, or indeed counsel assisting directly, if there is a concern, talk to Mr Castle. It may be his concern is about being asked questions publicly about a matter that may
35 touch upon some issue of security.

THE WITNESS: That's correct.

40 MR JOHNSON: If that is the case, clearly it is in the public interest that it be done in a way that avoids that, as I am sure counsel assisting would agree.

45 THE CORONER: Are you content to raise the matter with Mr Woodward, Mr Castle?

THE WITNESS: Absolutely.

THE CORONER: And your presence as well,
Mr Archer.

5 THE WITNESS: Even a short adjournment. I just
need to explain, I think.

10 THE CORONER: Rather than make it public at this
stage, it might be just as well to do that. Then
I will ask Mr Woodward, because I am content to
keep sitting until we finish with your evidence,
if Mr Woodward is not going to be much longer. If
you are going to be much longer then I will take
the luncheon adjournment.

15 MR WOODWARD: Perhaps the way to do it, if I might
suggest, I will come back to that issue in a
different way which may not put Mr Castle under
that same difficulty. We can discuss over lunch
what the issue is. If it is a matter that needs
20 to be addressed with him he can be recalled at
that point. If not, we can release him. Maybe
that may be the way to do it.

25 THE CORONER: That makes sense. Thank you. I
just noted MFP and MFP&ES, maybe MFP, because
there is a distinction could be the Minister for
Planning, because I not the Minister for Planning
was at that briefing session too.

30 THE WITNESS: Could be.

MR WOODWARD: Thank you, your Worship. That may
well be.

35 Q. Although do you recall the Minister for
Planning talking about SES capacity? That would
be something outside his area of responsibility,
wouldn't it?

40 A. He's a volunteer.

Q. Sorry?

A. He is a volunteer.

45 Q. He is a volunteer personally. I see. Do you
recall him talking about that?

A. No, not directly.

Q. Under the ruled line there is what I think you will agree is a summary of what actually ultimately appeared in the cabinet minute "noted the brief. Cost to date. Planned public info system in consultation between ESB and DUS. Note EMA Act. Declare state of emergency. Note CE JACS will be primary admin person. Note may be necessary to withdraw or cabinet may need to be recalled". Do you have any idea what that - "note may be necessary to withdraw" something. Does that say something "property", do you think, Mr Castle?

A. I don't know.

Q. If you look at the cabinet minute. The cabinet minute reads that "it may be necessary for cabinet to be recalled to decide or if necessary the Chief Minister may decide alone whether to withdraw, abandon or protect specific property or assets". That would be a reference to that, wouldn't it?

A. I presume, so yes.

Q. The next set of minutes, I will take you to a couple of particular passages. These are the Claire Wall set. Most of the way down the page you will see the notetaker has written:

"Under a NW fire."

You have written "wind?" over the top of that:

"the McIntyre's Hut fire."

Q. Do you recall the discussion about what the McIntyre's Hut fire might do under a north-westerly wind?

A. Sorry, down the bottom?

Q. Yes. Almost at the bottom.

A. I think that's just saying under a north-westerly wind the McIntyre - yes, it doesn't finish.

Q. In the other minutes there is a reference to the McIntyre's Hut fire being the principal threat for major infrastructure. It may be a reference

to the same thing?

A. It could well be. In fact it is just after it - this is not being projected.

5 Q. Over the page there is a reference in the middle of the page "fires currently in long chain". Does that assist your memory about what --

A. Sorry. Middle of the page?

10

Q. Right in the middle of the second page of these notes.

A. I think it probably describes the fact that they are down the --

15

Q. Does it assist your memory to remember what was being said about the fires and the threat from the fires, that expression?

A. No. I think it's in the context of resources from the Commonwealth. It may well have been a reference to being spread out.

20

Q. At the bottom of the page "Bill Wood. Will you keep us advised of what you need from us i.e. cabinet"?

25

A. Yes.

Q. The next page, Mr Castle, it appears - the word "press release" there are a couple of notes under that as if they are references back to press release. It says:

30

"Ted will be Acting Minister for Police and Emergency Services."

35

We can take that to be a reference to Ted Quinlan?

A. Yes.

Q. Is that your understanding at the time that Mr Quinlan was going to be the Acting Minister for Police and Emergency Services?

40

A. Minister Wood raised that question with the Chief Minister.

Q. That's not what actually happened is it? It is actually the Chief Minister himself that took up that position?

45

A. No, the Chief Minister said they would discuss that further.

5 Q. Then there is a note "need to be sure that appropriate". Do you know what that's a reference to?

A. That's what I think I actually indicated that the Chief Minister indicated that he would consider that.

10

Q. Is it possible that it is also a reference to the press release being appropriate --

A. No, I don't think so.

15 Q. Then there is again what appear to be, if you compare that to the cabinet minutes and the notes by Mr Kwiatkowski, there is a summary of the actual minute of the notes:

20 "Note brief: Advice on costs. Public info system Activated as nes. Chief Minister can declare a state of emergency. Police Minister Tim Keady will take administrative responsibility."

25

That appears to be the substance of the minute?

A. Yes.

30 Q. Unlike in the other note there are some additional notes in this section which don't appear in the other notes. I will read those to you:

35 "Note that if necessary cabinet may need to be recalled to make quick advice on properties, which assets to save."

40 Sorry, that is part of the minute. Do you recall a discussion about that, which assets were to be given priority and how that was to be sorted out?

A. I think that was a reference to pine forests.

45 Q. It says "now significant. The chance that a SOE - state of emergency - will have to be declared 40 to 60 per cent."

Who said that, Mr Castle?

A. I think that's a question, how significant.

Q. Isn't it fair to interpret that and I suggest
5 to you that it is, that someone is saying the
chance of a state of emergency will have to be
declared and someone maybe is asking that question
and someone has given an answer 40-60 per cent?

A. I think that may have been my estimate. I
10 don't recall using 60. I think I said 40. It
could have then been a range. I think I looked at
Mr Lucas-Smith at that stage to try and get some
indication.

Q. If you looked across to him, did he look
15 alarmed or did he nod his head?

A. I think it was a case of "I don't know".

Q. That would certainly, if that is an accurate
20 note, would certainly have been in your mind at
that time a 40-60 per cent chance of a state of
emergency?

A. It says 60. I honestly don't recall that. I
remember the 40.

Q. You don't recall - this is a contemporaneous
25 note. The notetaker is not likely to have written
down something you didn't say?

A. No, no.

Q. I think you agreed with me at the beginning,
30 didn't you, Mr Castle, that a state of emergency
was something that was likely to occur only if
there was a significant impact on the urban area?
Do you want to revisit that answer?

A. No. I'd like --

Q. That's the issue you want to discuss?

A. Yes, please.

Q. I suppose - perhaps the section of this I want
40 to take you to most importantly, Mr Castle, is
"suburbs of greatest risk Dunlop, Weston Creek" do
you recall that being said?

A. I don't recall that.

45

Q. It appears if one reads this note --

A. Someone, yes.

Q. -- on Thursday 16 January at 9am someone is saying that Weston Creek is a suburb of greatest risk. Do you recall that being said?

A. Honestly, I don't.

5

Q. Who is likely to have said it; doing the best you can, who did say it?

A. I don't recall it being said. But it may have been.

10

Q. I suggest to you it was said?

A. It was said because somebody has written it down.

15

Q. Yes.

A. But I don't know who said it. I don't recall.

Q. You said --

A. I don't recall saying it myself.

20

Q. You said a moment ago you had a mental picture of Mr Lucas-Smith - you exchanging a look with him over this issue of what the chance of a state of emergency would be declared. Do you have a mental picture of the reaction when someone said Weston Creek was at greatest risk - was a suburb of greatest risk on the morning of the 16th?

25

A. No, I don't.

30

Q. Just one final question. In the light of what appears in these notes and which appear to confirm your recollection that the urban edge was a matter of some discussion during the cabinet briefing and the risk to it, some less than almost two hours later Mr Lucas-Smith is in a conference with the media saying he doesn't think there is any threat to the urban edge; can you explain that?

35

A. No, I can't.

40

MR WOODWARD: Subject to the matter that Mr Castle wants to raise, your Worship, that is all I needed to deal with in my re-examination.

45

THE WITNESS: It literally might only take a minute or so.

THE CORONER: That is fine. I will wait, if you

like. That might be better if you can be
released. I don't know about being excused.
There may be a need to recall you at a later
stage, Mr Castle. I will not officially excuse
5 you, but I would release you from further
attendance at the inquiry today subject to what
you want to raise. I will give you an opportunity
to do that. I will come back on the bench in a
couple of minutes if need be; if you let my
10 associate know.

THE WITNESS: I think that is all it will be.

THE CORONER: If not, we will take the luncheon
15 adjournment. But I will just wait and see what
you have to say.

MR ARCHER: If I could just raise one matter of
procedure. I read from a couple of documents when
20 I was cross-examining Mr Castle this morning. I
have been approached by the media in relation to
getting access to those passages in a particular
statement. I am not quite sure what the
appropriate process is in relation to that.

25 THE CORONER: I don't know there is a difficulty
with that.

MR WOODWARD: Can I indicate, before your Worship
30 makes some ruling in relation to that. It has
been our position, as counsel assisting, once a
document has been put to a witness unless it has a
private number of some other issue of that kind,
it has become part of the evidence, it has been
35 made available to the press.

THE CORONER: That's the way I understood it as
well, Mr Archer. That information is available as
well. The only order I have made is in relation
40 to that exhibit which became exhibit 28 which are
the private phone numbers. They are not to be
released without prior reference to me. Any other
information you can certainly make available.

45 MR ARCHER: I was wondering whether if it was a
cleaner process perhaps that those who instruct
counsel assisting be the people who provide it

rather than --

MR JOHNSON: Could I suggest that this be the
subject of discussion between counsel during
5 lunch. Would your Worship adjourn to allow Mr
Castle to go through that process, because I think
this is a matter that doesn't need to be taken up
in public hearing time.

10 THE CORONER: I will do that. I think there is
also access to the transcript. Just in relation
to these cabinet minutes, did you intend to make
them an exhibit?

15 MR WOODWARD: I would tender each of those.
Although your Worship has a bundle in which they
are both contained, I would suggest they be
tendered as separate exhibits. The first set is
handwritten notes of the cabinet meeting
20 16 January by Mark Kwiatkowski.

THE CORONER: That first set of cabinet minutes
dated 16 January by Mr Kwiatkowski will be exhibit
EXH0029.

25 **EXHIBIT #0029 - FIRST SET OF CABINET MINUTES BY
MR KWIATKOWSKI DATED 16/01/2003 ADMITTED WITHOUT
OBJECTION**

30 THE CORONER: The second set of minutes relating
to cabinet meeting of 16 January by Claire Wall
will be exhibit 0030.

35 **EXHIBIT #0030 - SECOND SET OF CABINET MINUTES BY
CLAIRE WALL DATED 16/01/2003 ADMITTED WITHOUT
OBJECTION.**

THE CORONER: I will come back on the bench if
need be. Otherwise we are adjourned until 10
40 past 2 or I will come back if you wish me to.

SHORT ADJOURNMENT [1.09pm]

RESUMED [1.14pm]

45 MR WOODWARD: Your Worship, the matter has been
resolved, certainly to my satisfaction. But what

I would indicate to your Worship, for reasons that I don't need to go into, we would be seeking similar indication or order from your Worship in relation to what is now exhibit 0030 that the first page of that exhibit be withheld from publication either onto the casebook system or being made available to the media, for instance.

THE CORONER: That is the first page of the minutes done by Ms Wall?

MR WOODWARD: That's correct. That overcomes the difficulty. As to the evidence of the witness, I will, if I may, repeat a question that I have requested before.

THE CORONER: Before you do that. I do make that order that the first page of exhibit 0030 is not to be published and not to be made available to any person who is not a party to these proceedings unless the request is made to myself in the first instance. So it is not to be made available to the public.

MR WOODWARD: If your Worship pleases.

Q. Mr Castle, in your evidence I asked you, after going through some issues about the state of emergency, I said:

"Q. So we can take it as a general proposition that you, at least in your mind, were equating the declaration of emergency with impact on the urban area?"

"A. Predominantly, yes."

Is that still your evidence?

A. Yes.

MR WOODWARD: I have nothing further. If your Worship pleases.

THE CORONER: At this stage, you are free to leave. You are excused from today. As I have said, Mr Castle, there is no guarantee that you will not be recalled at a later stage in this inquiry. We will now adjourn until 25 past 2.

Thank you.

<THE WITNESS WITHDREW

5 **LUNCHEON ADJOURNMENT** [1.22pm]

RESUMED [2.30pm]

THE CORONER: Yes, Ms Cronan.

10

MS CRONAN: Your Worship, I call Ian Mountford Bennett.

<IAN MOUNTFORD BENNETT, SWORN

15

<EXAMINATION-IN-CHIEF BY MS CRONAN

Q. Could you please tell the coroner your full name?

20

A. My full name is Ian Mountford Bennett.

Q. And your current occupation?

A. I am - my contract has me as the Fire Commissioner.

25

Q. I think you were the Fire Commissioner in practice in January 2003?

A. Yes, that is correct.

30

Q. After January 2003 some time in February you became ill; is that right?

A. That's correct.

35

Q. Your illness required you being off work for a number of months?

A. Yes, that's correct.

Q. Since then, since about June, have you been on a graduated return to work?

40

A. Yes, I commenced on a graduated return to work program in - on or about 13 June.

Q. What have you been doing since June in your graduated return to work?

45

A. Essentially from that time up until 27 January of this year I was attached to the ACT Government's Bushfire Recovery Task Force. From

27 January I have returned to the Emergency Services Bureau currently undertaking a differing role associated with joint emergency services training.

5

Q. So you are looking after training packages at the moment. Is that effectively what you are doing?

10 A. Yes, well, I mean I think that will flow from this position as it expands, yes.

Q. Is the reason that you have not returned to your role as Fire Commissioner in practice because of your problems with your health?

15 A. Yes, that's correct.

Q. Do you anticipate being well enough to return to that role at some stage in the future?

20 A. It is looking unlikely that I will be in a position to return to my previous position in the near future.

Q. You were appointed Fire Commissioner in October 2000, even though you have been acting in that role since April 2000. It says in your statement that you have been with the ACT Fire Brigade for over 27 years and held various other positions within the Fire Brigade. Could you tell Her Worship with more particularity what qualifications and experience you brought to the role as Fire Commissioner in 2000?

30 A. Yes, essentially I joined the ACT Fire Brigade in 1976 as a recruit firefighter. I progressed through the firefighting ranks and in 1986 was promoted to the rank of station officer. Over 35 the next number of years I performed a variety of roles within the ACT Fire Brigade from operations, a stint in the training section involved in recruit training, moved on to be involved in specialist training and also worked on 40 the administrative side of the organisation.

I was promoted to superintendent in 1994, where I had several roles. One was with the Emergency Services Bureau working in our regional support services, and then later as a superintendent of operations. I continued to do that position until

April 2000, where I then took up the role of acting Fire Commissioner pending the permanent filling of that position.

5 Q. So you have many years experience within the ACT Fire Brigade?

A. Yes.

10 Q. Perhaps if I could ask you to look at your statement, which if you go to page 2, which is [ESB.AFP.0111.0077].

15 THE CORONER: Is that the right reference, Ms Cronan? Is it 0330 perhaps?

MS CRONAN: [ESB.AFP.0111.0077] is the one I have, your Worship. There seems to be more than one.

20 Q. If you go to [AFP.AFP.0110.0330] - thank you. If I could take you to page 2 of that document, paragraph 6, it says:

25 "As Fire Commissioner, I am responsible for the administration and operations of the ACT Fire Brigade, and in particular the administration of the Fire Brigade Administration Act 1974 and the Fire Brigade Act 1957."

30 In practical terms, sir, could you tell the court what was the role of the fire brigade within the ACT under those two pieces of legislation?

35 A. Essentially the first piece of legislation is I guess the employment framework. The ACT Fire Brigade operates under it. It establishes the brigade, it establishes the ranks of the fire service, and incorporates a range of organisational people management arrangements.

40 Where in contrast the Fire Brigade Act of 1957 is the enabling legislation for the control of fires and emergencies and provides the chief officer, which is myself, or the position of Fire Commissioner and members of the brigade with
45 powers to take certain actions and to do certain things, either in preparation for or in response to an emergency call.

Q. In relation to the administration of the brigade, under the administration act is the Fire Commissioner the person who is accountable for the role of the fire brigade under the Fire Brigade Act and the administration act?
5 A. Yes.

Q. In terms of that being you, who were you accountable to as at January 2003?
10 A. Essentially the Fire Brigade Administration Act of 1974, section 12, outlines that the Fire Commissioner is responsible to the minister. However, as it was raised in this court several days ago, coinciding with my appointment to that
15 position was a delegation from the then Minister for Police and Emergency Services. That effectively had me reporting through both the Chief Executive of Justice and Community Safety and the Executive Director of the Emergency
20 Services Bureau for administrative arrangements concerning the fire brigade.

Q. Did you report to them in a linear fashion - to, say, Mr Castle, who then reported to the CEO
25 of JACS?
A. Essentially that was the normal reporting lines. There have been occasions where I have reported straight to Mr Keady.

Q. You say that was in relation to administration of the fire brigade. I take it that reporting was not in relation to any operational activities your brigade conducted?
30 A. No.

Q. Under the Fire Brigade Act, you have responsibility for suppression of fires and ancillary powers and responsibilities to assist you with suppression of fires in the declared
40 urban area; is that correct?
A. That's correct.

Q. I take it then that the fire brigade itself had no corporate responsibilities regarding
45 presuppression activities before the fire season?
A. I am sorry, could you repeat the question, please?

Q. Did the fire brigade have any corporate responsibility for any presuppression activities before the fire season began, such as liaising with other government departments in relation to fuel loads or community education?
5

A. We had involvement in some of those activities. Myself, the Fire Commissioner, was a member of the bushfire fuel management working group basically as, I guess, a stakeholder in the overall situation in relation to fuel management. But specifically and legislatively no direct role.
10

Q. Your practical role would only involve fuel within the declared urban area; is that correct?
15

A. Yes.

Q. What role, if any, did the fire brigade take in community education in relation to fire suppression activities?
20

A. Essentially the fire brigade for a number of years has been focusing the bulk of its community education programs towards urban based fires, I guess more particularly surrounding fires in residential dwellings, campaigns such as promoting the installation of smoke alarms in residences. We have a number of programs that we routinely undertake each year. An example would be the fire education program that we provide to primary school students across the Territory.
25
30

We also have involvement in a joint project through the council of the aged called Clasp, which is an education program targeting the elderly citizens of the ACT. But by and large it is centred around fire safety in the home.
35

Q. At paragraph 7 you say as at January 2003 you had three superintendents and 10 district officers to assist you in the administration of the brigade, although one of the superintendents and two district officers were at that time outposted to the ESB in portfolio management positions, and that the fire brigade was comprised of officers and firefighters operating in a shiftwork environment and a day environment. Your brigade was divided into four platoons, and
40
45

essentially as at that time in paragraph 8 you had 290 full-time firefighters; is that correct?

A. Yes, I believe that is very close to the accurate number.

5

Q. Were those 290 fully operational or were they involved in administrative activities as well?

A. That would have been the full complement of people, members, employed under the Fire Brigade Administration Act, so that encompassed the shift based work force, the administrative work force, and also includes in that any firefighters that may be doing - performing duties for the Emergency Services Bureau, outposted so to speak from the day to day.

15

Q. Do you know in January 2003 how many of your full-time firefighters were actually available to be called up in the event of a fire in

the declared urban area? I understand a lot of people were on leave over the Christmas period.

20

A. Yes, certainly. It is essentially a requirement of all members of the ACT Fire Brigade, regardless of the area that they work in, that they be available subject to any medical conditions that individuals may have at that point

25

in time, that they be available for operations functions should it be required. Historically, from a leave roster point of view, there is

30

usually - there would be some 40 to 50, I am approximating here, firefighters rostered on leave. We have six leave groups and there were

35

also at that time a number of the administrative fire brigade personnel also on leave. I probably have not helped you there. I am trying to do the maths.

Q. You said historically you usually have about 40 or 50 on leave. Would that have been the case over the Christmas period or would you have expected it to be higher?

40

A. The way in which our leave rosters are arranged, we try to apportion or equalise out the amount of people on leave right across the year. So, give or take some individual circumstances, it is a pretty consistent leave pattern from an annual leave point of view.

45

Q. So people who want leave over that period have to get in early and others who --

5 A. It is actually on the roster and you cycle through so, if you are fortunate enough, every six or seven years you end up being rostered for leave over Christmas.

Q. So you had nine fire stations and there was one urban pumper located at each station; is that correct?

10 A. That is the standard crewing at our stations, yes.

Q. You said in paragraph 10:

15 "In addition, most stations have additional specialist vehicles attached to them depending on the station and the recognised fire risks."

20 Could you outline to Her Worship what were those specialist vehicles that you had available to you in January 2003?

25 A. Yes, your Worship. I guess probably the easiest way is to run through each of the stations. In addition to a pumper attached at number 1 station, which is Fyshwick, there is also at that time, going back to January of 2003, a hydraulic platform, which is an aerial appliance
30 designed to assist in major fires and high-rise rescue. There are also some ancillary vehicles attached to that station for I guess routine and not necessarily response related activities, such as the brigade utility for district running.

35 Q. Do those ancillary vehicles carry water?

A. No, they don't. I guess I should say the hydraulic platform does not have its own specific on-board water supply.

40 At Ainslie fire station, in addition to a pumper, in January 2003 it had a breathing apparatus support vehicle, which essentially is used at major fires to coordinate our breathing apparatus
45 procedures and to be on hand to replenish breathing apparatus supplies as they are used in the course of an event. That vehicle also does

not carry water.

5 The Phillip fire station, in addition to having a
pumper also had a hazardous materials response
vehicle. The purpose of this vehicle is it is a
primary response vehicle to calls involving
hazardous materials incidents. This particular
vehicle is cross-crewed by the pumper station. So
10 in effect the same crew will respond either in an
urban pumper or in a hazardous materials response
vehicle, depending on the nature of the call.
This vehicle is a pantech vehicle and again it
does not have its own independent water supply.

15 The Belconnen fire station at that point in time
I believe had only an urban pumper classified as a
heavy rescue vehicle. So it was carrying its own
on-board water supply.

20 The Kambah fire station, in addition to its urban
pumper would have had two water tankers, one heavy
water tanker and one light water tanker. Each of
those vehicles were crewed by two people. Again,
these vehicles were cross-crewed with a pumper
25 crew.

Q. So, if you had your normal shift on, you could
not respond the pumper and the light vehicle?

30 A. Not under normal circumstances. That is
the cross-crewing arrangement. In addition to
those three vehicles, that is the pumper and
the two tankers, they also cross-crew two off-road
rescue vehicles. Essentially these are four-wheel
drive vehicles, Toyota Land Cruisers, which carry
35 a range of rescue equipment that would be used
essentially in a non-urban environment. Again
those vehicles carry - they do not carry their own
water supply.

40 The Charnwood fire station, in addition to a
pumper, also had two water tankers, a heavy and a
light, cross-crewed. The same arrangement for
Chisholm fire station, and the same arrangement
for Greenway fire station. Gungahlin fire
45 station, or the Gungahlin JESC of which the fire
service is one of the response arms, I believe at
that point in time was crewed only with an urban

pumper.

Q. Is that the lot?

A. Yes, I believe it is.

5

Q. If you wanted to put all of those resources into the Canberra area, you would obviously, because a number of stations are cross-crewed, you would need to recall people off shift; is that correct?

10

A. That's correct.

Q. Did you have standard recall procedures for people who weren't actually on shift in any given day?

15

A. As part of day-to-day management of the fire service, yes, we actually maintain a minimum crew size across our district, also including our communication staff of 45 firefighters, that is a combination of officers and firefighters.

20

Q. That is your normal shift?

A. That is a normal shift, and that is referred to or we refer to it as our minimum crew size. If at any stage due to any particular type of absence we drop below that particular figure, we then initiate a re-call based on a roster system which is dependent on which shifts are rostered off at that point in time. It tries to ensure that appropriate breaks have been given between previous shifts. That same arrangement applies if we are looking at escalating our crew sizes above that minimum crew size of 45.

25

30

Q. So your re-call operations involve looking at who has had a break and contacting them?

35

A. Yes, there is a couple of other formulas that we use.

Q. What else is involved?

40

A. To ensure, for example, I guess that we have got the appropriate skill mix, because at some of these stations particular skills are required. That is something that is factored into dependent where the vacancy exists or the role that a particular officer or firefighter needs to perform. It may be narrowed down to a group of

45

people with a particular skill set.

On top of that, again we also try to ensure that overtime is allocated on an equity basis. So again it is essentially the person with the least amount of overtime hours, provided they have the appropriate skills and it is their platoon that is rostered that particular day for the first point of re-call, who would be the first firefighters or officers approached to fill that vacancy.

Q. Did you have any procedures in place as at January 2003, standard procedures or protocols, for obtaining resources from outside the fire brigade if the need arose?

A. We had no specific guidelines. We have - no. Sorry, if I could re-phrase that: there were no formalised arrangements that the ACT Fire Brigade had entered into in relation to re-calling resources.

Q. In your experience had the fire brigade ever had the need to obtain resources from outside the ACT Fire Brigade in order to fight a fire in a declared urban area?

A. Not to my recollection, with the exception perhaps in the 2001 fires where we called upon the Aviation Rescue Firefighting Service to provide assistance for a period of time as the fires moved closer to the Red Hill area. I believe my experience prior to that has always been the fact that the ACT Fire Brigade has been called on by other jurisdictions to respond - to provide assistance elsewhere, predominantly and probably in my time the New South Wales Fire Brigade.

Q. In 2001 what was the assistance provided by the - what was it --

A. The Aviation Rescue Firefighting Service. We called on that service to provide bulk water to I guess the fence line at the back of Red Hill to bolster and to supplement both the ACT Fire Brigade and the ACT bushfire crews that were in attendance at that time.

Q. Prior to January 2003, what kind of exposure did members of the ACT Fire Brigade have to fighting non-structural fires, just in general?

5 A. In general terms, during the course of each fire season, the ACT Fire Brigade responds to a number of fires that are not specifically structural fires. It is difficult to I guess quantify, but it is a common occurrence particularly our cross-crewed stations that have
10 water tankers, that they would respond either as the first call service or in support of the Bushfire Service, dependent on the area, to essentially any fires as the need arises.

15 Q. So they would respond to non-structural bushfires within the declared urban area?

A. Yes, they would.

Q. What about outside the declared urban area?

20 A. Yes, outside the bushfire season normally the fire brigade would be the first response, or they may well respond with some departmental units of the Bushfire Service. During the fire season, responses outside the built-up area are largely
25 dependent on a request from the ACT Bushfire Service.

THE CORONER: I am sorry to interrupt, Ms Cronan. Mr Bennett, is there such a thing as a "declared
30 urban area"? Is that defined --

MS CRONAN: Your Worship, I am just about to get to that.

35 THE CORONER: You are going to get to that; I beg your pardon.

MS CRONAN: I should have clarified that earlier.

40 Q. As far as I have been able to ascertain, the last government notice before the January 2003 fires was dated 27 August 2001. It was a declaration of built-up area by the Minister for Police and Emergency Services. Is that
45 the instrument to your understanding that still operated as at January 2003?

A. I am unsure. I believe so. My understanding

is that the built-up area or the definition of the "built-up area" is changed by gazette notices and I am not at this point in time aware of any subsequent document, no.

5

Q. You are not aware of any such document?

A. Any subsequent to that.

Q. Perhaps if I could show you a copy of that and
10 take you through it. For the record, I am reading
from the government notice dated 27 August 2001,
which under section 3 of the Bushfire Act revoked
all prior declarations or areas described as
15 a built-up area for the purpose of the Act and
declares the area in the first schedule of
the instrument to be a built-up area for
the purposes of the Act.

If you could just look through it. Under
20 paragraph 1 of schedule 1, it refers to "any area
which is within the terms of the Territory plan as
enforced from time to time, subject to a planning
policy listed below", and it lists a number of
planning policies, including residential land use,
25 commercial land use, industrial land use,
community facility land use, restricted access
land use policies, water feature land use,
municipal services land use, entertainment and
accommodation and leisure land use policies, and
30 urban open space and land use policies. Do you
agree?

A. Yes.

Q. That that is what you are responsible for?

35 A. Yes.

Q. And in addition it goes on to name a number of
other areas which relevantly include, I suggest,
40 the Lower Molonglo water quality control centre,
the Uriarra housing settlement, the Pierce's Creek
housing settlement, the Tidbinbilla Deep Space
Tracking Station, the Mt Stromlo Observatory,
the Australian Federal Police Services Centre and
the Stromlo housing settlement. At January 2003
45 was it your understanding that you were, as
Commissioner of the Fire Brigade, responsible for
fire suppression in all of those areas?

A. Yes.

Q. You say at paragraph 13 of your statement:

5 " ... the fire brigade has the responsibility
for all fires occurring within the built-up
areas of the ACT. This contrasts with
the responsibilities given to the Bushfire
Service division of the Emergency Services
10 Bureau, which has responsibility for fire
incidents outside the built-up areas under
the Bushfire Act ...

15 There is some 'cross-over' of
responsibilities between the two bodies."

You have, as you have outlined, legislative powers
to respond in rural areas or where the Chief Fire
Control Officer is not present. At paragraph 15
20 you say:

25 "There is considerable mutual assistance
between the Fire Brigade and the Bushfire
Service, particularly because of the nature
of the Canberra environment. There are areas
within the city limits, which are gazetted as
being outside the built-up urban area, and so
strictly speaking the responsibility of
the Bushfire Service."

30 Then you go on to say that there is some lack of
clarity in relation to what is inside or outside
the built-up area.

35 If I could just take you to the 2001 Christmas
bushfires that were experienced in the ACT - I ask
you firstly to tell the court in general terms how
the Bushfire Service and the Fire Brigade interact
in these sort of grey areas of fires on a normal
40 basis, forgetting 2001. We will explore it in
more detail in 2001. Do you understand that
question?

A. Yes, I think I do. We are talking about a
response where it is not clearly defined as to --
45

Q. Who is responsible?

A. Who is in charge. If I can go back one step,

our operating procedures are quite specific. It is quite clear cut. Obviously if it is an event outside the built-up area, the Fire Brigade places its resources to the service, the Bushfire Service, and vice versa. When the area is not so defined in general terms, I guess in practical terms, it is largely dependent on the first arriving vehicles as to who sets the tactics and the strategies for implementation. What for some time now we have been working towards is a system of unified control and a representative of each of the services works together and jointly to develop strategies to combat the situation. That is the theory.

15

Q. So you work together under the AIIMS system?

A. Yes, and I guess it is dependent largely on the size of the particular incident.

20 Q. In the December 2001 fires, a number of those fires were actually inside the declared urban area; is that correct; for example, O'Connor Ridge, Red Hill?

A. Yes.

25

Q. Was the Stromlo pines inside or outside the declared urban area?

A. I believe it is outside.

30 Q. But those fires from the Stromlo pines actually came into the urban area around the Mint?

A. Yes.

35 Q. And threatened I think the Glenloch Interchange?

A. (Witness nods).

40 Q. Those fires were fought with a combination of Bushfire Service resources and ACT Fire Brigade resources; is that correct?

A. That's correct.

Q. There was one incident controller of those fires?

45 A. I think it was an area of discussion in the subsequent debriefs. Largely to the best of my knowledge --

Q. Sorry, headquarters management team incident controller?

A. There was a service management team from the Bushfire Service. Largely the fire brigade
5 vehicles worked within their own command structure, more with efforts to ensure that collectively we provided the appropriate response and resource.

10 Q. So did you have an incident management team at Curtin as well as --

A. Not a formalised one, not in the 2001 fires.

Q. How did the two control teams integrate?

15 A. Essentially from the communication centre which was responsible for the despatching of those vehicles and then we had, wherever practical or possible, an operations district officer also responding in a command vehicle.

20

Q. There was no impediment that you are aware of at that time to the Bushfire Service responding its resources to those fires inside the declared urban areas?

25 A. Was there an impediment to the Bushfire Service from the ACT Fire Brigade?

Q. Or any impediment that you are aware of during fighting the fires?

30 A. No, not that I am aware.

Q. There have been a number of debriefs since those fires?

35 A. There were.

Q. Has there ever been an impediment that has been suggested?

40 A. There has been some clarity sought on a number of issues, and that has been I guess an ongoing process over the last few years of bringing the two fire services in the territory closer together in an effort to be more cohesive.

45 Q. We will go to 8 January 2003, in paragraph 18 you say you were off duty on that day?

A. On that evening. I had worked during that day, but ...

Q. You saw smoke west of Canberra?

A. Yes.

Q. You say you telephoned COMCEN?

5 A. Yes, I did.

Q. Why did you do that?

A. It is a habit, I guess, that I have got into. I was actually down by the lake foreshores and saw
10 the smoke to the west of Canberra. I had not been aware prior to knocking off work that particular day of any response, specific response by the ACT Fire Brigade. So it was a courtesy call really to see what the situation was and to see whether or
15 not the ACT Fire Brigade had any crews in attendance.

Q. You were told that there is no call on your brigade?

20 A. Yes, the information relayed to me by the officer in the communications centre was that there were fires in the Brindabella area and that the ACT Fire Brigade had not been responded.

25 Q. You were at work on the 9 January, the following day?

A. Yes.

Q. I think in paragraph 19 you say:

30 "I received informal reports about the fires ... but had no involvement with them."

35 A. Yes.

Q. There was an SMT planning meeting that afternoon, wasn't there?

40 A. I have since found out. I was not involved in the SMT at that point in time.

Q. Were you aware that there was a meeting that afternoon?

45 A. I was aware of meetings occurring at this point in time. It was essentially the Bushfire Service dealing with the outbreak of those fires.

Q. Did you talk to anybody involved in the senior management team of the Bushfire Service on that day?

5 A. Not in a formal context in relation to those fires. It would have been more in passing to say, "How is it going?" I had no formal discussions in relation to the fires.

10 Q. Nobody mentioned anything to you about any risk to Canberra from those fires?

A. No.

15 Q. I would like to show you [ESB.AFP.0110.0761]. If you could have a look at the second section relating to McIntyre's Hut fire. Have you ever seen that document before?

A. No, not unless it has been put up on the screen during these proceedings I have not.

20 Q. You have been here most days?

A. I have been for a large majority of the time.

Q. Do you recall seeing it brought up on the screen?

25 A. Yes, I think I do.

Q. Did anybody mention anything to you as of 9 January about the ACT being under threat or especially the pines?

30 A. No, they did not.

35 Q. I could show you now [ESB.DPP.0001.0071]. If you go down to the second last paragraph. Can you see at the top of this is a message from Mr Castle to Mr Murray?

A. Yes.

Q. And it refers in the second last paragraph to:

40 "... a major threat to ACT Pines and ultimately property if the winds turn back to the N/NW (possibly two days time)."

45 A. Yes.

Q. Did Mr Castle, as of 9 January, indicate to you at any time that he thought there was a threat

to the ACT pines and ultimately property if the winds turned to the north/north-west?

A. No, he did not.

5 Q. Can you think of any reason why Mr Castle might indicate that concern to the chief police officer and not to the Fire Commissioner?

A. No. I - no.

10 Q. You know of no reason why?

A. No, I don't.

Q. Given your relationship and close proximity to the Bushfire Service senior members, in the normal
15 course of events, would that be the kind of information you would expect to receive in the role as Fire Commissioner?

A. There has always been an effort to, yes, share
20 information as it becomes relevant to either of the services, I guess, and I certainly did not go seeking information at that point in time. My assessment was that these were remote fires that at that point in time were, I guess, the responsibility of the Bushfire Service.

25

Q. But you would expect them to inform you in the normal course if there was a bushfire which posed a possible threat to the urban area, which was your responsibility?

30 A. Yes, I would.

Q. I think Mr Lucas-Smith did contact you at about 7 o'clock that night and asked if you could discuss possible crewing arrangements?

35 A. That's correct.

Q. He put you on speaker phone so Mr Castle could listen in and approve expenditure for your extra arrangements?

40 A. I guess that was the main reason that Mr Castle was involved in that particular conversation. In effect, what I discussed with Mr Lucas-Smith was a proposition that during stand-up hours, roughly from 9 o'clock to
45 7 o'clock during daylight hours, that we would move away from cross-crewing our water tankers to fully crewing those water tankers. This was to

enable the Bushfire Service to respond more of
their resources to the fires to the west of
Canberra and I gave an undertaking that we would
provide the initial response or weight of attack
5 to fires that may normally have been the first
response of the Bushfire Service closer to
the urban edge of the ACT.

Q. So essentially the stations where you had
10 urban pumpers and heavy or light tankers, whilst
they could normally only deploy one of those
resources because they only had one crew, you were
being asked to fully man those resources by
putting up extra crew members?

15 A. That's correct.

Q. And the reason given was so that you could
respond to bushfires that occurred close to
the urban area --

20 A. That was the result. The reason for
the request, when I spoke to Mr Lucas-Smith, was
to allow he and the Bushfire Service to allocate
more of their resources which would in normal
services be located or held back closer to
25 the urban edge, allow them to deploy more
resources to the fires in the west, the rest of
that being that we would play a larger role or
have a greater capability for the outbreak of any
routine - if there is such a thing as routine
30 fires that may occur either side of the interface.

Q. The expenditure above your normal budget was
approved to enable you to do that?

35 A. Yes, it was.

Q. Did Mr Lucas-Smith say anything or did you get
the impression that there was a problem with
resources in fighting the bushfires as at
9 February?

40 A. I don't believe he said anything specifically
to me on that particular evening other than
the fact that he wanted to be in a position to
respond more resources. But it was a result of
that conversation and the fact that we commenced
45 those ramped-up crewing arrangements and that
I began to attend the Bushfire Service service
management team's meetings the next day.

Q. I think essentially in paragraph 22, in practice that meant you had to find an additional 20 personnel each day for the day shift; is that correct?

5 A. Yes, that is correct. That was in addition to any routine staff shortages that may have brought our numbers underneath that minimum crew size of 45. So in real terms there were days when we were looking for in excess of 20, sometimes approaching
10 30 personnel, for those day shifts.

Q. How many firefighters did you need to man a night shift?

15 A. It is the same 24/7. The minimum crew size under normal arrangements is 45.

Q. Were you required under your arrangements with Mr Lucas-Smith to provide the extra 20 for the night shift?

20 A. No. The terms of the arrangement or the specifics of the arrangement at that point in time was that these enhanced crewing arrangements would be for the stand-up hours. As I mentioned before, essentially from 0900 hours to 1900 hours
25 subject to the weather conditions of the day.

Q. You say in paragraph 24 that on 10 January the fire brigade's activities continued as normal. Your brigade had no active role in the management
30 of the fires burning in the Brindabella. You attended the service management team planning meeting at 900 hours. Can you recall what, if any, the discussions were at the planning meeting that morning?

35 A. I don't recall the specifics. To be honest, I spent a lot of that day trying to orient myself - I had never heard of McIntyre's Hut. So essentially my role on that first day was passive. It continued that for some time. But I was there
40 not so much to contribute at that point in time to the management of those fires but to commence becoming familiar with what the Bushfire Service was undertaking.

45 Q. I take it again in the afternoon - do you have any specific memories of what was said at the afternoon planning meeting?

A. No, I don't, I am sorry.

Q. I take it you were not taking any notes?

5 A. No, I was not. It was, as I said, it really was at that time - obviously my interest had been generated by the fact that we had raised our crew levels and it was more out of just professional interest.

10 MS CRONAN: Did your Worship want to take an afternoon break?

THE CORONER: I think we can proceed since we started a little later this afternoon.

15

MS CRONAN: Q. If we go to 11 January, you were off duty that morning. That was a Saturday. Are you normally off duty on a Saturday?

20 A. I was normally a Monday to Friday man, yes, subject to operational exigencies.

Q. You came in on your day off to the afternoon planning meeting. Was there any particular concern which caused to you come in to attend the afternoon planning meeting?

25

A. No specific concern. It was just something that I decided I would do on the particular day.

Q. When you attended - do you have any recollection now of anything that was specifically discussed at that meeting?

30

A. No, I don't, I am sorry.

Q. Do you have a recollection of whether or not anything said gave you cause for concern at all?

35

A. Not at that point in time.

Q. On the 12th, that was a Sunday. Normally you have Sunday off?

40

A. Yes, I do.

Q. On that day you attended both planning meetings?

A. Yes.

45

Q. Why did you come in to attend both planning meetings?

A. Pretty much the same as my reasons for Saturday. Again, we had been continuing to have these escalated crewing arrangements for several days and it was really just to keep abreast, from
5 a broad sense at that point in time, of whether or not at that point in time there may be any additional escalation for the ACT Fire Brigade.

Q. In terms of covering extra crewing
10 arrangements for the urban area and surrounds?

A. That would be one consideration, and also whether or not it was on the planning horizon that the fire brigade may have a response role to these particular fires.

15

Q. Nothing was said that day to indicate you would need to have a response role, I take it?

A. That's correct.

Q. On the 13th, that was a Monday, you arrived
20 back at work and you attended the morning meeting. Again, do you have any recollection of what was said at that meeting?

A. I am sorry, I don't have any specifics, no.

25

Q. So up until 2 o'clock in the afternoon, was anything said to you throughout that day which indicated to you that the fire brigade may need to have some sort of response role to those fires?

30 A. Not directly to those fires. To date, at that point in time my role was more one of observing, not having had any detailed experience in campaign fires. I was interested in how this situation evolved and, prior to our response on the 13th to
35 Bendora Dam, there had been no approach to me for any additional resources from the ACT Fire Brigade.

Q. Leaving aside the Bendora Dam incident, you
40 attended the afternoon planning meeting, I take it, and received reports of the fires. It says at paragraph 30?

A. Sorry?

45 Q. At paragraph 30 you say you attended the afternoon planning meeting and received reports of the fires. Was anything said to you by

anybody at the planning meeting that gave you any concern for --

5 A. No, I left that meeting with no direct concerns, certainly from an ACT Fire Brigade point of view.

Q. Was Mike Castle at that meeting, do you recall?

10 A. I don't recall whether or not he was at that specific meeting. There were meetings that he did attend. I have not been able to really recall. Aside from I guess the key personnel from the Bushfire Service management team, there were a number of people attending that I was not familiar
15 with and I could not confidently say that he was at that particular meeting.

Q. In the premises that you worked at at Curtin, you were co-located with Peter Lucas-Smith and
20 Mike Castle; is that correct?

A. Broadly speaking, yes. I guess we are in what you would call the same wing.

Q. Same wing of the building?

25 A. Of the building.

Q. So would you normally see each other on a day-to-day basis?

30 A. Yes.

Q. Several times a day?

35 A. Depending on the work commitments and the diary appointments of each of the three of us, it would not be uncommon for us necessarily not to see each other for a particular day. But generally if it is routine administrative work that we are performing then our paths do cross.

40 Q. If I could show you a document [ESB.AFP.0007.0025]. This is a request for Commonwealth assistance from the ESB - or EMA to the Commonwealth. If you have a look at the last paragraph on that document on page 1. You see in relation to the McIntyre's Hut fire it says:

45 "This fire is very large, and with a wind change and no containment poses a substantial

threat to the ACT."

Was that kind of information conveyed to you as of 13 January 2003?

5 A. Not specifically to me. I would assume that it would have been the subject of discussion at one of those meetings on the 13th. At that point in time, it certainly did not cause any reaction, I guess you could say, or concern from my point of
10 view. My focus was on the immediate role of the ACT Fire Brigade. I was aware that Mr Lucas-Smith, I think by that stage, was liaising with the New South Wales Rural Fire Service and I saw our role at that point in time
15 to be a support agency to the Bushfire Service.

Q. Did anybody at ESB indicate to you that there would be a threat to the urban areas of the ACT, as of 13 January?

20 A. No, they did not. Not directly.

Q. Indirectly?

A. I don't believe so, because I certainly did not have a sense or feeling for that at that point
25 in time.

Q. You did have a direct role in proceedings on 13 January. At 2 o'clock the helicopter - you had a report of a helicopter crashing into Bendora
30 Dam?

A. On the Monday?

Q. Yes.

A. Yes.
35

Q. You had a request to coordinate the management and recovery of that helicopter?

A. That's correct.

40 Q. That request came to you from Mike Castle?

A. It did. He asked if the ACT Fire Brigade could coordinate the recovery and the retrieval aspects so as the Bushfire Service management team could concentrate their efforts on the current
45 fires to the west.

Q. Did he saying anything to you about any

problems he had with his resources at that stage, or if he had any problems with resources?

5 A. No, he did not. The initial response to the aircraft down was essentially an ACT Fire Brigade, ACT police and I believe an ACTEW response focusing on - our predominant concern was the potential for contamination of the dam through a fuel leakage that could have resulted from the incident.

10

Q. There was nothing unusual in the request for you to use your resources to respond to that accident?

15 A. Certainly not. The ACT Fire Brigade is equipped to deal and has the capability to deal with hazardous material incidents.

Q. Then your brigade salvage operations continued on Tuesday, 14 January?

20 A. Yes. Again, I believe on recollection the aircraft was still in Bendora Dam overnight. It was a co-ordinated effort between a contracted aircraft salvager, the Australian Federal Police, ACTEW and the fire brigade to ensure that on removal we minimise any potential impact to the water supply.

30 Q. You went to the morning planning meeting on Tuesday 14 January. Look at paragraph 24 of your statement. You say you attended each of those planning meetings on each day after the 10th?

35 A. Yes, I believe so. At the time of compiling this statement, I had in my mind that there were certain planning meetings that I was not in attendance at but I believe that these meetings may well have been after the 18th. So, yes, essentially I believe I was there.

40 Q. Have you got any recollection now what was said at that morning planning meeting?

A. No. No specific reference other than perhaps I reported on what was happening in relation to the downed aircraft.

45 Q. Up until the afternoon of 14 January can you tell us, if you can recall, essentially who attended the morning and afternoon planning

meetings from the 8th to the 14th?

A. I can't comment on the 8th and the 9th because I was not there myself. But from the time I started attending, certainly at the majority was
5 Mr Lucas-Smith, as the convenor of the meetings, his operations officer Mr Graham, planning officer Mr McRae, logistics officer Mr Ingram, at times I believe Mr Castle attended.

10 There were other people attending, but I could not accurately indicate which particular meetings they were at. Certainly from my point of view, dependent on the nature of the work that my senior officers were undertaking, I was getting someone
15 to attend with me. At that point in time I saw it as a potential learning exercise, developmental opportunity, because it is quite uncommon for urban firefighters to be involved in an incident that lasts the duration that to date this
20 particular incident had lasted.

Q. Had you ever been involved in fighting a long campaign fire prior to this case?

A. Certainly not at a command or at a strategic
25 level. I led a task force to Sydney in 1994 in support of the New South Wales Fire Brigade, but my role was one of moving between the operations and the tactical level. So, no, I had at that stage little or no experience in certainly
30 the management of a complex series of wild fires.

Q. The fires you went to in Sydney, did that involve a bushfire coming into an urban area?

A. The 1994 fires in Sydney did involve bushfires
35 encroaching on the urban edge. During my time in Sydney - I was part of the second task force that went down - the major impact had occurred. The task force that I was leading was deployed to the northern suburbs of New South Wales and we
40 were involved in active firefighting from a bushfire context along - I believe it was St Ives Road. There were no structural assets at risk where we were deployed. We essentially formed a buffer between I guess two shires in the northern
45 suburbs.

Q. How long was your involvement with that fire?

A. I believe three days, two nights, I believe.
But I may be out by one night.

5 Q. You attended the afternoon planning session on
the 14th. Could I just ask you to look at
[ESB.AFP.0110.0775] at 0778. If you could go to
the paragraph headed "Media", these are minutes
from the planning meeting at 1600 on 14 January.
I will read it to you:

10

"Peter Lucas-Smith stated that Phil Cheney
(fire behaviour expert) has conducted an
interview with WINTV. Mr Cheney stated that
any strong westerly gusts of wind could turn
15 the fire towards urban areas. There are
currently no westerly winds forecast. There
was a discussion regarding appropriate media
response. Tim Keady suggested that while
the westerly wind direction would make
20 operations difficult, we are currently
implementing measures to control this
possibility."

25 Can I ask you: do you have any recollection
yourself of that particular discussion --

A. I do now. I probably did not prior to
the commencement of these hearing, and this has
occurred I guess on several occasions as I have
listened to evidence being given. I do recall
30 Mr Cheney being mentioned and I recall that it was
in relation to a media interview, yes.

Q. Who do you recall discussing particular
matters?

35 A. I guess - certainly Mr Lucas-Smith was
chairing the meeting and the experience to date
had been that, to a large extent, Mr Lucas-Smith
generated the bulk of discussion. I had a feel -
I cannot be definite, but it was a general
40 conversation. It was discussed openly at
the meeting.

Q. What was the general response to
Mr Lucas-Smith's statement that Phil Cheney had
45 supposedly said on TV that the fire could turn
towards urban areas? What was the response of
people at the meeting?

A. Look, I didn't gain any real sense that it was anything other than Mr Lucas-Smith providing information to the meeting. I guess the fact that it is under the title of "media", it was just something that was reported at the time. It involved some discussion and before, as I understood it, we moved to the next agenda item.

Q. Did you know Mr Cheney before that?

10 A. Yes, I had met Mr Cheney on a number of occasions. I did not know him well, but I attended some of his presentations.

Q. So you were aware of his level of expertise?

15 A. Yes, I was.

Q. Did the information of his predictions cause you any concern?

20 A. No direct concern - but it sort of made sense to me that if there is a fire to the north-west and the winds come from the north-west that is going to head towards the direction of the ACT.

25 Q. Can you recall what discussions, if any, took place about what measures were being implemented at that point to contain the fires to prevent that spread?

30 A. Not specifically, I am sorry. The information - my recollection of any discussions in relation to the McIntyre's fire often involved someone providing us with an update from the New South Wales side, and my observations were that the two - the Rural Fire Service of New South Wales and the ACT Bushfire Service - were jointly dealing with developing the strategies and implementing those strategies.

40 Q. Can you recall if you felt any level of confidence about your ability to do that on this particular day?

A. I personally still had a high level of confidence that these fires would continue to be remote to the ACT.

45 Q. Can you recall now any specific reason that you had for having that level of confidence as at this point in time?

5 A. Primarily it was the distance that they were
and what I guess was almost a layman's
interpretation based on my lack of understanding
of complex bushfire incidents that the slow rate
of spread, coupled with the fact that there
appeared to be significant resources through both
fire services and the use of aircraft. I at that
point in time was very confident that these fires
were not going to pose an immediate threat.

10

Q. And nobody said anything to you to make you
feel any differently at that point in time?

15 A. I came away from that meeting feeling the same
as I guess I did when I went in there, that there
was no immediate cause to my concern from an ACT
Fire Brigade point of view.

20 Q. I would just like to ask you a few questions
about [ESB.AFP.0110.0048] at 0058. I am showing
some handwritten notes that were taken at
the planning meeting on 14 January, 1600.
The notes that were taken there was Phil Cheney,
fire behaviour expert, interview told on strong
winds from west into Canberra city. Do you recall
25 those actual words being used "into Canberra
city"?

30 A. No, I don't recall that - those specific
words. But I have no real sense either way, I am
sorry. I mean, as I said, it sort of makes sense.

30

Q. Do you recall any discussion about what people
at ESB should do, particularly the media liaison
lady, Marika Harvey - what they should do about
fielding questions as a result of this interview?

35 Do you recall that discussion?

A. No, I don't, I am sorry.

Q. I take it you had no notes of --

40 A. I took notes at meetings from time to time,
but based on my absence from the organisation
I have not been able to retrieve or recover any
notes that I took, with the exception of a couple
that - but certainly nothing for this day.

45 Q. Do you recall somebody at that meeting saying,
"Not forecasting westerly winds", that there were
no westerly winds being forecast?

A. Not specifically.

Q. Do you have a general recollection?

A. Yes, probably a general because, as
5 I understood it, those winds weren't predicted
till later in the week. I probably need to be
upfront and say that I am endeavouring not to
comment on information that I have learnt by
sitting in the court as opposed to what my
10 recollections would have been unassisted.

Q. That is a difficulty that you have got, but
are you able to distinguish between things that
maybe you have reconstructed from sitting in court
15 and things that have jogged your actual memory
from sitting in court?

A. There have certainly been occasions where that
has occurred unfortunately, and I am aware of
the sensitivities around this particular issue.
20 I didn't see it - the conversation in the context
certainly wasn't something that stuck in my mind.
I didn't see it as a significant issue. It was a
comment, and then there was some discussion and,
as I said, I believe we moved on to the next item.
25

Q. So after they had moved on to the next
item - I think I have already asked you this -
your comfort level, if I could call it that, in
terms of whether or not the fires would come into
30 Canberra and actually pose a real threat to
the urban area, were you quite comfortable that
that was not going to occur?

A. At that time I was, yes. Obviously --

35 Q. Despite what Phil Cheney had supposedly said
on television?

A. Yes, based on - at that particular time, yes,
I was still comfortable.

40 Q. On what did you base that confidence?

A. Again, as I said, the level of resourcing
between the two bushfire services and
the remoteness at that point in time to, I guess,
the area of the ACT that the ACT Fire Brigade was
45 concentrating on at that particular time.

Q. Nobody had told you that there was a threat to

Canberra in so many terms; is that correct?

A. Yes, that's correct.

Q. Despite the fact you had attended all
5 the planning meetings since the 10th?

A. Yes.

Q. Go to the 15th. You say at paragraph 32 that
10 on Wednesday the 15th the fire brigade again had
no direct involvement with operational matters
associated with the fires, apart from Bendora Dam
salvaging, and you attended both planning
meetings.

15 You say that, as a result of the fires continuing
to burn after now more than a week and
the forecast fire weather conditions, your
concerns were growing. Could you describe or
particularise for the coroner what kind of
20 concerns you were now entertaining, what level of
concern you had?

A. I had a level of concern on several different
fronts. I guess, in the more immediate terms,
I was starting to get concerned about our capacity
25 to continue to provide enhanced crewing
arrangements.

Q. Why were you having difficulty with that?

A. The over time that was being worked was quite
30 significant. By this time, without looking at any
accurate figures, I estimate that we would have
probably had in excess of an extra 150 shifts
worked, which has a significant impact on
the firefighters that are required to do those
35 extra hours. The weather prognosis, as was
mentioned, was not encouraging. And at the same
time I currently had several of my
officers - headquarter officers that at that time
were occupying important positions on leave, and
40 I needed to consider whether or not, as we
continued with this campaign, I would need to
start re-calling headquarter staff.

Q. Did you have any concern growing that those
45 fires that had been burning for so long may
actually eventually impact on the urban area of
Canberra?

A. Not at that point in time. I did have concerns that the level of involvement of the ACT Fire Brigade --

5 Q. The remote firefighting --

A. Yes, in the interface, potentially we would go from being I guess a support agency into the line. We had to date - at that date, I think we are talking Wednesday morning - we had no active
10 involvement in those fires, but it was coming into my thoughts at the time that this may not be the situation for too much longer.

15 Q. Where did you think your brigade would be required to --

A. In that point of time certainly in the rural areas of the ACT. I guess bridging the gap between where Mr Lucas-Smith's resources were and where the ACT Fire Brigade resources were, and
20 actually continuing to expand out.

Q. What information did you have as of the 15th that made you think that your resources may be required to fight the fires in the rural areas?

25 A. Essentially from my point of view, it was the weather forecast that was the trigger for me to I guess start planning for another potential escalation in involvement or in activity levels.

30 Q. Can you recall what time you spoke to Peter Lucas-Smith about asking him to give you a briefing at some stage?

A. Not exactly, but I certainly - it was either during or just after the meeting. I believe it
35 was more than likely to be after that particular meeting, because I left that particular meeting and went to a meeting with the United Firefighters' Union to commence enterprise bargaining negotiations. During an interval in
40 that particular meeting I advised several members there that I had asked for - and Peter had agreed to provide - an update for fire brigade officers the following day.

45 Q. So are you talking about after the afternoon planning meeting?

A. No, sorry, after the morning meeting.

Q. Was there anything said at the morning planning meeting that caused your concerns to grow?

5 A. The weather forecasts, I believe. Without looking at the planning notes, I think that is where the outlook started.

Q. Do you have the planning minutes in front of you?

10 A. I do.

Q. It is [ESB.AFP.0110.0142] at 0143. If you could just tell us - what was it about this weather forecast that caused you concern?

15 A. Well, essentially it was the escalating weather, as I understand this was - prior to this we had been receiving our weather briefings from Rick McRae. I think this was the first meeting that the LO from the Bureau of Meteorology
20 attended, liaison officer, and I could see that again there did not appear to be any relief from the weather conditions in sight. As I mentioned earlier, this began to indicate to me that it is quite likely that we would be required to sustain
25 that increased level of crewing of those vehicles, certainly into the weekend and potentially into the following week, which would --

Q. You were also concerned with going to rural areas to assist the Bushfire Service in rural areas?

30 A. Yes.

Q. Did you ask anybody at that planning meeting whether or not there was any risk of the fire coming into the urban areas of Canberra?

35 A. No, I didn't.

Q. Why not?

40 A. Again, at that point in time I was still comforted by the distance away, the distance that these fires were from the urban edge, and it was not my primary focus at that point in time.

45 Q. But you had some awareness that the north-westerly winds would bring it closer?

A. Yes.

Q. But not into?

A. No.

5 Q. You attended the afternoon planning meeting as well?

A. Yes, I did.

10 Q. Before we leave the morning planning meeting, do you recall Mr McRae being present at that meeting, Rick McRae?

A. Yes. I believe so, yes.

15 Q. Do you recall what he said at that meeting about the fire situation and the weather forecast?

A. Not without some prompting, I don't know.

20 Q. Do you recall Mr McRae saying, after Mr Mason from the Bureau of Meteorology presented his forecast, words to the effect of, "Gentlemen, we are currently having the worst fire situation you will see in your careers, and you have just heard a forecast for the worst fire weather you will experience in your careers. Do the maths." Do you recall him saying that?

25 A. Yes, I do.

Q. What did that indicate to you when you heard that?

30 A. Well, initially that the Bushfire Service was going to have their work cut out for them over the next few days in dealing with this particular incident.

35 Q. Do you recall how other people at the meeting responded to Mr McRae when he said that?

A. Not specifically, no. I recall the statement. I didn't really gauge the reactions of other people.

40 Q. Do you recall him talking about expecting large fire runs from the fires in a south-easterly direction?

A. No, I don't, but it is highly probable that that is what Mr McRae said.

45

Q. You were also at the afternoon planning meeting?

A. Yes, I believe I was.

Q. If I could take you to [ESB.AFP.0020.0368], firstly at 0369. Can I ask you: do you recall who
5 was present at the planning meeting on the afternoon of 15 January?

A. Only the key people, I am sorry. Again, it was essentially the service management team for the Bushfire Service, comprising the four people
10 I have mentioned before.

Q. And Mr Castle and Mr Keady normally came as well?

A. I had seen Mr Keady at meetings prior to that.
15 I don't believe he was a regular, but it is possible that he was there, certainly. The representative from the media cell was there and by this stage I think there may well have been representatives from some of the other agencies
20 concerned.

Q. If I could take you to the top of page 369, do you recall Mr Lucas-Smith stating:

25 "The fire growth to the west will be limited, however the fires may grow rapidly to the east over the next few days."

Do you recall him saying that?

30 A. No, I don't, but I have no reason to doubt that that is what Mr Lucas-Smith said.

Q. Do you have any independent recollection of what was discussed by the SMT at that afternoon
35 planning meeting?

A. No, I am sorry, I don't. I cannot differentiate I guess I could say between - I am having trouble differentiating between information provided certainly at this time, between morning
40 and afternoon briefing sessions. I guess that was the result of me being predominantly focused on what our role was and was likely to be in the shorter term rather than being right across each of the issues in the longer term.

45

Q. Can I just ask you, and I don't want you to tell us necessarily what illness you had, but

the protracted illness you had after the Bushfire Service, is that something that has affected your ability to remember details of these days?

5 A. Quite possibly. It was something that was experienced certainly after January for some time, but I am not sure whether or not about the illness --

10 Q. I don't necessarily want to explore it now but, if it is a problem, we might have to explore it a bit more in detail. But do you consider that that is a problem for you?

15 A. No, I consider that I guess the activity levels essentially from almost this point in time onwards right through to February to a large extent became quite blurry, certainly my own personal circumstances, and I would be surprised if that is not the situation with other people, and that obviously the result of my illness has
20 not aided me in being able to clearly recall specific conversations back 14 months ago.

25 Q. So I think - was there anything said at the afternoon planning meeting which caused you to change your state of mind following the morning planning meeting being, as I understand it, that you may have to increase your involvement in the rural areas, but you would not be fighting the fire - or any of the fires - in the urban area
30 of Canberra; is that your state of mind when you left this afternoon planning --

35 A. On the Wednesday, yes. There was potential for involvement from the ACT Fire Brigade on the ensuing days in support of the Bushfire Service was my state of mind and I was concerned with ensuring that if there was a need for another level of escalation that (a) we could have the capacity to meet that demand, but then also to
40 sustain that demand. They were the primary thoughts I think that I left.

45 Q. If I could take you to 0020 0370 - if we could go to the second paragraph, it says under the "planning issues" from that meeting that you attended:

"Mr McRae warned that if the fire reached any

of the worst case containment lines, then there was potentially public land, infrastructure, property and assets impacted upon."

5

Do you recall him saying that?

A. Words to that effect, yes.

Q. What did that mean to you? What did you understand him to be saying?

10 A. Well, my understanding was at the time, and part of the planning of the Bushfire Service was that there was a sequence of containment lines and that if each of those containment lines of those
15 fallback positions had been breached or compromised there would be assets or property in the rural area that could be impacted upon by those particular fires.

20 Q. So were you relying for your level of understanding about what was happening on interpreting what people said at the planning meetings?

25 A. Essentially, yes. From a personal point of view, I guess I was relying on the outcomes of those meetings, what either the tactics or the strategies were going to be for the next 24 hours to assist me to formulate what level of involvement the ACT Fire Brigade may or may not
30 have.

Q. But up until the morning of 16 January nobody from the Bushfire Service said to you, "You need to do some planning. It could come into the urban
35 areas"?

40 A. No, not directly. Not at all. I mean, there may well have been assumption by the Bushfire Service that the fire brigade was undertaking that role but, at an active level as of that Wednesday, we were not. My concentration was on (a) meeting our level of commitment, capability, one, to the urban environment; and, two, to continue to provide the level of support that had been requested by the Bushfire Service at that
45 telephone conversation on 9 January.

Q. So that was your focus. Did anybody say

anything at the meeting about a meeting between Mr Koperberg and Mr Lucas-Smith earlier that day?

5 A. At some stage that day, I think I was aware of their meeting. But whether or not it was as a result of a conversation I had potentially in the corridor with Mr Lucas-Smith or whether it was raised in that particular meeting - I was aware that at some stage Mr Lucas-Smith had met with Mr Koperberg.

10

Q. What were you told about that meeting?

15 A. I guess essentially that there had been, I believe, an agreement for additional resources, as I understand it, to be made available to Mr Lucas-Smith if that was deemed appropriate.

20 Q. Were you told at all that Mr Koperberg had made essentially an open-ended offer of assistance to Canberra to resource the firefighting efforts in relation to the fires in the Brindabella and Namadgi?

25 A. I think it is my understanding, whether those particular words, but certainly - you know, it appeared to me that the level of cooperation between the ACT Bushfire Service and New South Wales Rural Fire Service was very high and that in itself probably gave me cause for a degree of comfort as at that particular point in time.

30 MS CRONAN: I am sorry, is that a convenient time, your Worship?

THE CORONER: Yes. We will adjourn until tomorrow morning at 10 o'clock.

35

**HEARING ADJOURNED AT 4.10PM UNTIL WEDNESDAY,
3 MARCH 2004 AT 10.00AM**

45